THE CONSTITUTION (FORTY-FOURTH AMENDMENT) BILL, 1976
—contd.

MR. CHAIRMAN: When the House adjourned on the 9th November, 1976, the House considered upto clause 13. Discussion on clause 14 did not commence. Consideration of clause 14 may therefore, be taken up.

Clause 14—(*Amendment of article* 77)

SHRI BIR CHANDRA DEB BURMAN (Tripura): Sir, I move:

*52. "That at page 5, line 15 after the words 'Government of India' the words 'except in cases where such production is necessary to prevent failure of justice or misuse of power.' be inserted."

The question was proposed.

SHRI BIR CHANDRA DEB BURMAN: Sir, article 77 of the Constitution runs as follows:

"(1) All executive action of the Government of India shall be expressed to be taken in the name of the President.

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(3) The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business."

The amendment is as follows:

"No court or other authority shall be entitled to require the production of any rules made under clause (3) for the more convenient transaction of the business of the Government of India."

We have heard that we are curtailing the power of the court for maintaining the supremacy of Parliament. We endorse the idea of supremacy of Parliament. It does not mean supremacy of the Executive. In article 77, not a single word is there about the power of Parliament. It is all about the executive power of the President. It says that all the executive powers of the Government shall be exercised in the name of the President. How is it made? It is to be made according to the rules made by the President and authenticated in the manner specified in rules referred to in clause (3). This clause says that the President shall make rules for the more convenient transaction of the business. Why this curtailment of the power of the court in respect of rules made under clause (3). It is very curious that production of any rules made under clause (2) is not curtailed, but the production of rules made under clause (3) is curtailed. It is this curtailment of the power of the court which is the most dangerous thing in this respect. Now, Sir, there is much bungling in the use of this power. Many orders are passed in the name of the President by the Secretaries concerned and it is necessary to see whether these executive orders are according to the procedures laid down in the rules framed for the convenient transaction of the business of the Government and for that purpose the courts have to call for the production, where necessary, of the concerned rules and they

*The amendment also stood in the names of Shri Bhupesh Gupta, Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran and Shri Lakshmana Mahapatro.

have to be produced in the court and we have to see whether they are in accordance with the procedure laid down and whether the procedure laid down in the rules framed for the convenient transaction of the business of the Government has been properly complied with. Now, Sir, an amendment has been made to the effect that no court or other authority shall be entitled to require the production of any rules made under clause (3). Now, the situation will be such that, when we say that rule (2) has not been complied with, the executive will automatically say that it has done it under clause (3) for the more convenient transaction of the business of the Government of India. So, it is curious that while we are defending the supremacy of Parliament, we are now defending the executive, that is, the bureaucracy. We know what sort of a bureaucracy we have in our country. They have completely the imperialist temper which they have inherited from the Britishers and they are not tuned to the socio-economic changes that are taking place in the country and that are to be brought about. But now we are making the Judiciary a scapegoat for the non-implementation of the Directive Principles. But, Sir, the bureaucracy is not less responsible in the least for the non-implementation of these Directive Principles. We have also seen that even in the implementation of the 20-point programme, this bureaucracy stands in the way and all sorts of obstacles are created by the bureaucrats because they are tuned only to the old fashion of the British bureaucracy and they are not at all tuned to the present socio-economic changes that are taking place in the country. So, this restriction on the power of the courts to require the production of any rules made for the more convenient transaction of the business of the Government, that is, the executive action, is the curtailment of the power of the courts in actuality and there is not a word here which is pertaining to the parliamentary power or sovereignty of Parliament. So, we are giving here to the executive a safeguard which it did not ask for. We are not here to maintain the sovereignty of the executive or bureaucracy. So, this curtailment of the power of the court in the matter of requiring the production of any rules made under clause (3) is a direct infringement of the rights and powers of the judiciary. The judiciary must look into the work of the executive in order to see whether it has been properly done. I say this because we all know that people go to the court when any executive action has been taken against them wrongly and the court is the only forum where the citizens can seek redress against any executive wrong. Therefore, this restriction on the power of the courts to require the production of any rules made under clause (3) for the more convenient transaction of the business of the Government is a direct infringement of the right of the judiciary. The same position is there with regard to article 166, which is in respect of the executive action taken in the name of the Governor. In the case of the State Government also, all executive action of the Government of a State shall be expressed to be taken in the name of Governor and orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in the rules to be made by the Governor. And then, Sir, it says that the Governor shall make rules for the more convenient transaction of the business of the Government of the State. The same thing has been said in the amendment to article 166 and the clause says that no court or other authority shall be entitled to require the production of any rules made under clause (3) for the more convenient transaction of the business of the Government of the State. No rule made under clause (3) shall be produced in any court for any purpose. We apprehend that this unfettered right given to the Executive will give them liberty to do anything whatever they like and redress sought by the poor citizens will be curtailed. We are here maintaining the sovereignty

[Shri Birchandra Deb Burman]

of the Executive, not of Parliament. I want this amendment to be accepted.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): Mr. Chairman, Sir, as the hon. Member will see, the original article 77 which is now sought to be amended by this clause refers to orders and other instruments made and executed in the name of the President. It says:

> "Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President..."

This is not altered.

> "....and the validity of an order or instrument which is so authenticated shall not be called in question..."

This is also not altered.

> "...on the ground that it is not an order or instrument made or executed by the President."

So the whole clause (2) is left as it is. It is only in clause (3) of the article that there is an amendment. It says:

> "The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business."

Sir, it is clear that the President is required to make two different categories of rules, one for the convenient transaction of business and the other about allocation amongst Ministers of the said business. With regard to the allocation amongst Ministers, the present amendment does not make any change, because it is proper that every one concerned, all citizens, should be in the know of which Minister has been given which business of the Government of India, so that he can reach that Minister or Ministry. So far as the question of obtaining relief is concerned, that is not being touched. What is being touched is only the rules which are made for the internal administration. For example, it might be said that in a given case a certain decision can be taken by the Minister but, say, only subject to the approval of the Prime Minister. In other cases, it might be said that a certain matter which is not of that significance might not even reach the Minister; it might be the Secretary who will take care of it. This is the convenient transaction of business of Government. The question of doing injustice to anybody on account of the convenient transaction of the internal business of the administration does not come at all, because ultimately the citizen is concerned with the final decision of the Government, which may be taken by the Minister himself or with the approval of the Prime Minister, as the case may be, as may be required under the rules. Therefore, there is no question of any injustice being done on account of the fact that these rules are not allowed to be produced in a court of law, so long as the decision is open to challenge in a court of law.

The second thing is that the hon. Member referred to the supremacy of Parliament. With all respect to him, the question of supremacy here does not arise at all. Actually, the whole Executive functions are vested in the Government of India under the Constitution. It is always subject to the supremacy of Parliament. Therefore, the question of supremacy of Parliament by making this provision, in my view, does not arise at all. Frankly, I am not able to appreciate the argument that we are doing something wrong in respect of the supremacy of Parliament.

SHRI BHUPESH GUPTA (West Bengal): Mr. Gokhale, you should come to our side and give arguments. You are capable of great elasticity.

SHRI H. R. GOKHALE: It is extremely difficult for me to meet the arguments made by them. I am at pains sometimes to meet their argu-

ments. They are so competent—the people sitting there who are opposing this. Mr. Bhupesh Gupta is not right in saying that I should sit there and make arguments on their behalf. It is because of their very capable arguments which are made there that I am required to stand up and explain to the House that the purpose is not as made out by the hon. Member.

SHRI BHUPESH GUPTA: I did not mean it in that sense. I only wanted to get you here to demonstrate to the world how elastic you are in giving arguments; you can make out a good case for the murderer and also for the murdered.

SHRI H. R. GOKHALE: Sir, this is the position. There is no need to accept this amendment.

MR. CHAIRMAN: Now I shall put the amendment to vote.

The question is:

52. "That at page 5, line 15, after the words 'Government of India' the words 'except in cases where such production is necessary to prevent failure of justice or misuse of power.' be inserted."

The motion was negatived.

MR. CHAIRMAN: There are no amendments to clauses 15 and 16. So, we proceed to clause 17.

Clause 17—Amendment of article 83

SHRI BHUPESH GUPTA: Sir, I move:

*53. "That at page 5, for the existing Clause 17, the following clause be substituted, namely:—

'17. In article 83 of the Constitution, for clause (2) the following clause shall be substituted, namely:—

'(2) The House of the People, unless sooner dissolved, shall continue for a period of not less than five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House.'"

The question was proposed.

SHRI BHUPESH GUPTA: This is rather an important clause. As we are in Rajya Sabha, we have all got six years' term. Therefore, sometimes we are liable to be misunderstood by our friends in the Lok Sabha as to why they should not be put on an equal footing with us in this matter. I will meet all the arguments. Kindly bear with me. This is one of the important things. First of all, we do not see any reason as to why, all of a sudden, in a constitutional amending Bill which is intended for facilitating socio-economic reforms and measures by removing the obstacles of the judiciary, there should be a provision of this kind saying that the term of the Lok Sabha should now be six years instead of five years. In fact, some people in the Lok Sabha wanted it to be 7 years. It was merciful on their part that they did not want it to be 13 years; number may be unlucky but the term would have been longer. Anyway, Sir, we have tried to find out from whatsoever source we could, including the Government, the rationale behind the sudden change from five years to six years. The only argument we have been given by very responsible quarters is that the Lok Sabha Members feel that since Rajya Sabha Members have six years, they must also have six years. I ask them: What prevents them from coming to Rajya Sabha?

*The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Barman and Shri Lakshmana Mahapatro.

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Anyway, that is what they said. Of course, there are others who do not believe in any arguments. They want to have six years, if not longer. Now, the matter has to be seriously considered. It has some political aspects, some moral aspects and some practical aspects. I first deal with the moral aspect. Is it proper for a Lok Sabha which has outrun its tenure to use its authority in this manner to extend the future Lok Sabha to six years? It seems that they have tasted blood. Having got six years, the Fifth Lok Sabha thought that what would follow should also go on for six years. Is it logic? It is not. I must now take the House into confidence as I always do in many matters. I now relate a story which the Law Minister would neither be able to confirm or deny. I know because that is the way of law. But, Sir, in the month of August, some people rushed to my house in the morning. They told me: Don't you know what has happened last night? A decision has been taken—no session was on then—to extend the term of Lok Sabha to seven years. I was a little taken aback. I could not believe it. Why should there be such a decision suddenly? He said: Yes I know it has happened. That is why I came to inform you. I made some inquiries as to how this decision came to be taken. Sir, that story should not be related. Here I leave it to the commission. Some pressure groups . . .

SHRI KRISHNARAO NARAYAN DHULAP (Maharashtra): You wanted to take us into confidence, Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Some pressure groups worked who have no faith in parliamentary democracy except that it provides a pedestal for career and climb-up to positions of authority. This group made out a case and they wanted on false, flimsy grounds that there should be six years. Sir, that is how it came to seven years. Ultimately, it came down to six years. Always it is done like that. When you want something to be done, put the demand very high so that when you climb down, still you get something out of it. This is the technique of those people who know how to bargain in such matters. Mr. Chavan, I am not saying you know how to bargain. But this is for your information. Sir, am I to believe that people who have been got elected to Lok Sabha do not know it? Sir, it was done for other reasons. There is no rationale. The only argument given to us is that Rajya Sabha is for six years and Lok Sabha also should be for six years. Why not make Lok Sabha permanent also? Rajya Sabha is a permanent institution. Lok Sabha *also should be a permanent institution,* one-third retiring every two years. You can take it that way. If you accept the logic of going with the Rajya Sabha, then go like that. Soon it will come to it that both the Houses would be reduced to such a position that you can have a Presidential system. No matter what Sabha you will sit in, you will have little power left. Well, Sir, I cannot view it except in the background of such a move.

Now, Sir, let me go into the question of the Constituent Assembly. The matter was discussed by what you call the founding fathers of the Constitution. The founding children are rather becoming fastidious in such matters. I am worried more about the founding children rather than founding fathers. Well, I do not know how their children will behave. Sir, coming to this, it was discussed in the Constituent Assembly by people who had great experience in public life, including parliamentary life. They came to their conclusion after a thorough discussion that in our country with a parliamentary system at the Centre and also in the States, it will be better to have five years. Indeed we were having it in the old days under the British. And in many countries, longer terms are not there. Yes, I can give the example of one or two socialist countries. But they have the Soviets at the bottom, they have the committees at the bottom. Anyhow, we chose independently five years. Our Constitution-makers considered that five years will be good and they

chose it. What is the basis for changing this? There must be some overriding reason. I went through the debate in the Lok Sabha. And I got more advocacy than argument. A question which has to be met with arguments cannot be disposed of by a mere vehement advocacy as it was done in that House. Sir, now the Constituent Assembly proposition is changed. Now, the Assemblies will also get like that.

Then, Sir, the argument is given that it is necessary for fulfilling the programmes. Sir, there will be bitter laughter in democratic circles all over the world. Has any other Party been in Government at the Centre since the commencement of the Constitution? In fact, we had during the past period only three Prime Ministers, the same party in power. Except for some time what is called a stepney Prime Minister, Mr. Gulzari Lal Nanda, we have got three Prime Ministers only. So, you had continuity of the leadership, continuity of the party rule, and whether it is five years or six years, it makes no difference because the same party ruled, the same party chose its Prime Minister. And generally our Prime Minister, except Mr. Lal Bahadur Shastri, has also got a longer period that way because they have the abundant confidence of the ruling party. Then, Sir, the argument that a longer Lok Sabha is required in order to fulfil the plan or carry out the programme is a specious argument. Only children can be a sort of humoured with it. But no grown-up person will accept it. There has never been an occasion when Parliament has not been there. There has never been an occasion when Lok Sabha has not been there except once when it was permanently dissolved or there has not been the Congress ruling the country or a Congress Prime Minister. What comes in the way? Implementation of the programme does not depend on whether the Lok Sabha has a four-year term or a five-year term or a seven-year term. Implementation of a programme depends on the policies of the Government, will of the members of the ruling party and others and also above all, on the willing co-operation of the people. That is how it should be viewed. Sir, that is all forgotten now. In the case of the present Lok Sabha, it had a six-year term instead of the usual five. May I know if during the last one year there has been a bigger implementation of the 20-point programme? On the contrary, at the meetings of the Government Ministers and others we are told that implementation has been slow. Longer the period, lesser the accountability to the people and lesser the accountability to the people, slower the implementation of the programme. Now this could only create difficulties for the speedy and quick implementation of the progressive and democratic policies and the programmes of the Government. That is what I say. Therefore that argument is also wrong. What other argument then? Sir, other arguments I do not know. I was searching for other arguments. Somebody should come and tell us. Mr. Gokhale will give us some new argument. But that new argument if he gives will not be any better argument than he gave. Mr. Gokhale is an able advocate and an ex-Judge. Arguments come to him like the Niagara Falls and we would be flooded with his arguments now. But there is no argument whatsoever except that we must have seven years, if not seven years, six years, and they have got it. May I know, Sir, is it necessary to establish the supremacy of Parliament? Is supremacy of Parliament not established if we continue the present practice of having a 5-year term? Must it require a six-year term to establish the supremacy of Parliament? No, it is not required for establishing the supremacy of Parliament because the supremacy of Parliament is expressed through the will of the people, as the Prime Minister herself said, and people had a chance of exercising their adult franchise, our precious possession, for expressing their will, constituting the Lok Sabha and they have been denied the right at least for one year longer. Who authorised? This is not the way to assert the supremacy of Parliament.

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May I know, Sir, why the Swaran Singh Committee, being a wise committee, did not make such a recommendation? Nobody in the A.I.C.C. made the suggestion that the Lok Sabha term should be extended to six years, nobody. None in the Working Committee said so. Sir, even in the A.I.C.C. Session some people suggested to have Agriculture out of the Concurrent List and they bowed to the suggestion unfortunately. We went through the proceedings of the A.I.C.C. and not one person of the Congress Party got up and said that the Lok Sabha should have a six-year term. In the country nobody suggested that. Not one Congress-man, to my knowledge, publicly said in any part of the country that Lok Sabha term should be extended to six or seven years and not even any Member of the Lok Sabha belonging to the ruling party said so. Now, therefore, their opinions were immaterial in the context. What about the opposition? None of us supported it. Then, the Congress Working Committee should have discussed this problem. The Congress A.I.C.C. should have discussed this problem. And, here is a problem which concerns the nation, our parliamentary institution, which we share together. Parliament means the Government and the people in the opposition. The Government should discuss the matter with us those who are not non-cooperating in such matters as to whether there should be a five-year term or a six-year term, but there is no discussion. Sir, I may tell you that when I met the members of the Swaran Singh Committee where Mr. Gokhale was present, nobody ever made a suggestion about this six-year business or seven-year business.

Sir, it was absolutely outside the scope of discussions. Nation did not discuss it, people did not discuss it; Congress Party did not discuss it the wellknown forums of the Congress did not discuss it. No member had stated, no opposition party claimed it and when we were discussing the electoral matters before the emergency, nobody suggested it. Suddenly, Sir, how it could have come in the Bill the legislative *coup d'etat* in the form of introduction of the Constitution (Amendment) Bill where the period is extended? Sir, is it the way to run democracy? Over such a matter you did not consult anybody. This is not an issue over which the Government must have its own views always. These are issues which should be commonly discussed and decided upon. There should be a national concensus over a matter of this kind. Sir, this matter, does not involve fundamental policies of the Government. You have to take the views of others whether an extension is needed or not. Why should others be not taken into confidence? Why others should not be consulted? Why others' opinion should be so brushed aside in a cavalier fashion. I cannot understand it. These are wrong trends. These are dangerous trends in running a parliamentary institution. Sir, I cannot recall any instance where such a decision has been taken so unilaterally even by some people in the ruling party. Sir, I would have understood if the Congress, at its plenary session, had called for a seven years' term or six years' term. I could have understood if the AICC at its last session in Delhi had counselled that there should be six years' term, although I would not have agreed with it. But they did not do so. It never entered into anybody's head at that time. We have discussed many matters of Constitution over the years. We have said many things against the judiciary, and rightly so. We have done many things to assert the supremacy of Parliament and the sovereign will of the people. Sir, have we ever suggested—anyone of us from this House or in the other House—before the Forty-fourth Amendment Bill came, that there should be six years for Lok Sabha? Nobody. It was the remotest thing from the thrust of all Members belonging to all parties. And now we are called upon to endorse this thing. Sir, we are asked to do the command performance. I could have understood if the command

came from very competent authorities and discussed. Sir, I say, the command in fact, has come from a small caucus and then we are asked to support it. What arguments have been given to the Lok Sabha? All kinds of arguments have been bandied above. I share these arguments with my colleagues. You must have heard them about seven years' term, otherwise you are old and you would not get nominations because the youth will come. I agree, young people should replace the old people. But, why further extension? So, the old people would prevail. This is how we know that you will get extension that way. Then the other argument can be that it may be difficult to get another extension for the Lok Sabha, having got already for one year. So, make it seven years so that constitutionally one year is sanctioned, no matter what happens after that. Going is good. Let us make the best of it. Make hay when the sunshines. That was there. That was the idea. So they make it to seven years. In fact, some people told me that it is better to have this extension by a constitutional amendment rather than going for another extension Bill which would not look nice. That is how things have been told. Sir, if the stories are told and written and, Sir, if the book is prefaced by you, it will be the best seller in the country. I can bet if you agree to write the preface of a book of how things have been handled, I may write about it and I can assure you that it will be one of the best sellers in the country. Such things are happening. Such underground methods, Sir, are being used in that manner. Therefore, I say it is not necessary. And what are the people thinking now? We were supposed to come here to pass enactments to strengthen the legislature against the judiciary. We were to remove the obstacles in the way of social life, to make our Constitution, what the President called, living and dynamic. But then, it seems, we believe in our own dynamism, more than others in the Lok Sabha.

So, Sir, this clause has been included in this manner. There is no justification for it, no rationale for it, no warrant for it at all.

It has created a bad odour in the country. People are interpreting things specially when you have got another extension. We shall speak about this when the Bill comes up here. A compromise was arrived at. They said 'Do not insist on seven years'. 'We shall stick to six years'. Now, the term of the Lok Sabha has been increased to six years. We will be also having the other thing, extension of the life of the present Lok Sabha by an Act of Parliament. The Bill will come up here for discussion. The Lok Sabha had already passed it. That is how things have been arranged.

May I know, do not the people have a say in the matter? Must not we take into account the adult franchise and its operation in this country? We have seen the way in which our Parliamentary system has worked. We can be proud of our people. Despite all kinds of aberrations, obstructions and other tactics, by and large, our multi-million electorate has exercised its voting right with good sense, with patriotism, and also, if I may say so, with a certain amount of foresight and so on. Otherwise, how could you defeat the Grand Alliance in 1971? Therefore, we are penalising the people in such matters. You should have taken into confidence the wishes of the people, reflected not merely through some people in your party, but through others also. That is how it should have been done. Therefore, the whole thing is entirely wrong. What I fear is that this move—I cannot understand it—unfortunately, is in isolation from the other political moves that are going on. There are attempts to denigrate elections, there are attempts to denigrate Parliament and there are attempts to undermine people's faith in the system. Before the Emergency, we have been discussing the question of electoral reforms with

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the Prime Minister and the Law Minister. Unfortunately, the rightist parties behaved in a most irresponsible manner and they were responsible, not the Government, for breaking that dialogue.

Sir, if anything is to be done in regard to the electoral system, to begin with, adult franchise should be extended to persons up to 18 years of age. You have rejected that. If you think of making Parliament better reflect the will of the people, it can be done not by extending its tenure, but by introducing proportional representation, which will be a proper reflection of the will of the people in the Legislatures. We gave that proposal to the Government when we were discussing the question of electoral reforms. The matter was under consideration, as many other matters were; not that the Government made any commitment. But such things should be done, rather than extending the term of the Lok Sabha in this arbitrary, peremptory and unilateral manner. The Rajya Sabha cannot be put on the same footing. The Rajya Sabha is a permanent body. We have our views on that. I am not on that. Every two years, one-third of its Members retire it is adjusted to the term of the State Assemblies and so on. I do not know how things are going to work now. But why should this analogy be brought in here? It was settled at the time of the Constituent Assembly. Now, to argue that because the term of the Lok Sabha has been increased to six years, our term should also be increased, is not valid. Some Members of the Rajya Sabha are asking 'Why not give us nine years?' Many of them are saying. They are saying it. They will not move a motion. When you extend the life of the Lok Sabha without any reason from five to six years Rajya Sabha Members may also claim by that analogy. They may ask for seven years, if not nine years. You cannot blame them. But who cares for you? I am not at all supporting the proposal that the term of the Rajya Sabha should be extended. When I did not support the extension of the life of the Lok Sabha, how could I support this? Things are being argued in this manner by some friends of the Rajya Sabha. Therefore, Sir, we are totally opposed to this extension. There is no warrant for it; there is no moral and political justification for it. The manner in which it has been done is absolutely wrong. This has been done even over the Members of the ruling party. Now, of course, every body will support it. But even after the Bill was introduced, nobody spoke on this subject. Only when Mr. Gokhale gave the argument that it is good, people started supporting it. When the amendment came up for discussion, all of them supported it, and some of them, some Congress Party Members, gave amendments for seven years. Until the Bill came up on the 31st August, nobody, no Congress Member, demanded that the term of the Lok Sabha should be extended from five to six years. What has happened between that time and now as to warrant this significant change in the structure of our Parliamentary institutions, extending the life, not only of the Lok Sabha, but of other things also?

Sir, we see a sinster move behind it. I am not blaming everybody who has supported six years but there are people who are out to denigrade the parliamentary institution, to create lack of faith in it, to shake people's confidence towards it and thereby undermine the system that we have worked, which certainly needs to be strengthened but what are you doing? You are doing a wrong thing. Strangely enough we are supposed to assert supremacy of Parliament and we have done it in some provisions. Very good. But at the same time, you have brought in the extension of the term of Lok Sabha. It does not go well with the better provisions of your Bill. On the contrary it makes some people highly suspect in the eyes of the public. Certainly, Sir, people must have a say. In any case, Lok Sabha which has outrun its

course should not have taken upon itself the responsibility of extending not only its life but also imposing on the country six years' term for our Legislatures, particularly when the five-year term was working very well.

SHRI KRISHNARAO NARAYAN DHULAP: Mr. Chairman, Sir, I oppose this provision in the proposed clause 17 for the extension of the life of Lok Sabha from five years to six years. I examine each amendment proposed in this amending Bill under the touchstone of the aims and objects declared by the hon. Minister in the Statement of Objects and Reasons. The hon. Minister has stated in the Statement:

> "The question of amending the Constitution for removing the difficulties which have arisen in achieving the objective of socio-economic revolution, which would end poverty and ignorance and disease and inequality of opportunity...."

Again in paragraph 3 it is stated:

> "It is, therefore, proposed to amend the Constitution to spell out expressly the high ideals of socialism, secularism and the integrity of the nation, to make the directive principles more comprehensive and give them precedence over those fundamental rights which have been allowed to be relied upon to frustrate socio-economic reforms for implementing the directive principles."

These are the aims and objects behind this Bill which is before this august House. Sir, I do not know how this extension of life of Parliament from five years to six years is going to bring about a socio-economic revolution which is contemplated by the hon. Minister in his Statement which is before the House. With whatever emphasis at my command, I am opposing this only because the tendency which is underlying behind this particular measure is dangerous to the country itself.

There is a provision of extension of the life of Lok Sabha in article 83 of the Constitution. The founding fathers in their wisdom at that time thought it proper that five years' time was sufficient for the representatives of the people to do the business and then go to the people to give account of what they have done during that period. The only exception that has been made in article 83 is when Emergency is in operation. It has been embodied:

> "Provided that the said period, may while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate."

So, during the period of Emergency only this term has been extended by one year and in any case the elections should immediately be held after the Emergency is over. Of course, only six months' period is given. So, the founding fathers of the Constitution were very particular about the duration of the life of the Lok Sabha. But during an emergency, as the provision is there in the Constitution, the life of the Lok Sabha may be extended by one year. And when those who wanted this duration to be extended came to know that this was being tolerated by the people, they wanted to make it a permanent feature. It was never recommended by the Swaran Singh Committee and even the AICC did not approve of it, and there is no discussion on this issue. Therefore, there is no rationale whatsoever behind extending the life of the Lok Sabha by one year more. And automatically, one of my friends from that side put forth the view about extending the life of the Rajya Sabha. So, this is going to be a vicious circle and even at the State level where there are two Houses, there will be a demand for the extension of the term. There is no rationale

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behind this particular amendment and it is not in consonance with the Objects and Reasons set out by the hon. Minister. I oppose this provision tooth and nail.

SHRI V. V. SWAMINATHAN (Kerala): Sir, we oppose the amendment to article 83 which extends the life of Parliament. We want to invite the attention of the House to articles 74 and 77 because article 83 deals with the intention behind these articles. According to the new article 74 the President is subjected to the absolute obligation of the Prime Minister who heads the Council of Ministers. The previous article was—"There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions." The new article places the President under an obligation to the head of the Council of Ministers. That means, as it is now, the President has no discretion whatsoever. Referring to the Prime Minister . . .

MR. CHAIRMAN: It is not relevant.

SHRI V. V. SWAMINATHAN: We do not refer to the present Prime Minister or the ruling party. But a situation may arise in the future where, according to new article 74, there will be concentration of power in the Cabinet. It might produce a constitutional Brezhnev or Tito in this country.

Outside Parliament, people say that especially the ruling party has exhausted the undefined or the defined mandate they got in 1971 which reflected the will of 26 per cent of the total electorate. You are at the fag end of the tenure of office. There is no moral or political sanction behind the extension of the life of Parliament. Some of the students were saying that under the emergency we are now permitted to extend the life of Parliament to any number of years, year by year, even up to 20 years. Thereby we can create even a Long Parliament in India just as it was in existence in England during the time of Charles I. As the House is aware and as all the parties are aware, there is now no danger to this country because after the emergency was proclaimed, there is normalisation of relations with our neighbouring State, Pakistan, and also with China. By this provision, there will be concentration of much power in the hands of the Prime Minister or the Cabinet. The ruling party had to say about the economic gains and benefits.

MR. CHAIRMAN: It is not relevant at all.

SHRI V. V. SWAMINATHAN:... on the platform and in the press and through pamphlets and books yet they would not hesitate to postpone the polls in order to consolidate them. Sir, extending the life of the Lok Sabha from five to six years is not justifiable in any manner. That is why I oppose this clause 17 to amend article 83.

SHRI BHUPESH GUPTA: Sir, my amendment can be disposed of by a voice vote, but on this clause we shall demand a division.

MR. CHAIRMAN: The Minister will have to reply first.

SHRI H. R. GOKHALE: Mr. Chairman, Sir, the entire speech of my hon. friend, Mr. Bhupesh Gupta, seemed to show that he was more worried about our party than about his own because he said that we have not obtained the support of the AICC and that this was not recommended by the Swaran Singh Committee. Well, certainly when we are bringing a proposal of this type, let not Mr. Bhupesh Gupta worry whether the AICC will be with us or not. Also if it is to be a cause of worry, it should be a cause of worry to us. And we know that it is not a cause of worry to us because we know our party, we know our people, better than he does, and I am quite sure that although this particular proposal was not discussed in the last AICC meeting, had it not been for the fact that we had sensed fully the reactions of our members all over the country, we would not have brought this proposal.

Sir, I have full confidence that in the next AICC session which is going to be held soon, not only this question but the entire Constitution Amendment will be put in the form of a resolution and will be discussed by the AICC, and I have no doubt that after mature discussion, the AICC will accept all these proposals. So, you need not worry about what happens in our party.

SHRI BHUPESH GUPTA: Not only will the AICC vote for it, but they will vote with two hands. I concede that point. My point is, the public did not know anything...

SHRI H. R. GOKHALE: Sir, I am very reluctant to use strong language at any time, but this discloses a feeling of vanity that in their party people express their views and when they vote, it is not with both hands but with one hand, while in our party when people vote in support of any proposal they do it with both hands, suggesting thereby that in our party, people might not think for themselves. Sir, the history of our country has shown that if there is any party in this country where things have been openly discussed, it is our party, where sometimes views entirely contrary to each other have been expressed and discussed and ultimately the decision of the party as a whole has been accepted. What I am saying is this: he may oppose this proposal, and there are other grounds which he has given, to which I will refer immediately. But the argument that it was not discussed in the AICC or that it was not discussed in the Swaran Singh Committee, at any rate, should not be a cause of anxiety to my friend, Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Sir, I seek your protection. My friend always distorts me. That was not my main point. All I say is, before the Bill was introduced, it was not before any authorised forum of any political party. No political party demanded it, not even an individual politician demanded it publicly. Therefore, Sir, it came as a surprise to us. This is all I say. Far be it from me to enter into your party. May God bless you—well, if you believe in God.

SHRI H. R. GOKHALE: Sir, I have no difficulty about following Mr. Bhupesh Gupta's speech, and I am quite sure that he did refer to the AICC and he did refer to the Swaran Singh Committee. Of course, he referred to other political parties, but it is not that he did not refer to the AICC and the Swaran Singh Committee's recommendations.

SHRI S. KUMARAN: What is wrong in that?

SHRI H. R. GOKHALE: There is nothing wrong. All I am telling you is, leave our worries to us; do not unnecessarily take them on your head.

SHRI BHUPESH GUPTA: My charge against the Government was, you suddenly introduced this proposition without having any publicly given opinion from any quarter, including your own party.

SHRI H. R. GOKHALE: Well, Sir, he said that ever since independence we have been having the same party in power and we have been having one Prime Minister for a long period. Who prevented their party from coming to power and having their own Prime Minister? It is not we who did it. It is the people who did it. It is not our fault. In this country if there are other parties commanding the support of the people, this would not have happened. But the fact is, year after year, election after election people have recognised that this is the party which can deliver the goods and therefore, our party has come to power. You cannot make any complaint if our party comes to power. And if our party comes to power, it is for our party to decide who shall be our leader. And when

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ever we had to replace a leader either because of his unfortunate death or for other unfortunate reasons—in this country there has never been a void —our party has always projected the proper leader to lead our party and the whole country. This can hardly be an argument for opposing this particular measure. The other point is: Why make it six years? I know it will be asked: Why not seven years? It is arguable. Here I have to say what I did say the other day in the Lok Sabha while dealing with this particular clause. I looked up the discussion in the Constituent Assembly with regard to the period of the Lok Sabha and the Rajya Sabha. I know in the case of Rajya Sabha the period could not be less than six years because it has got to be an even number of years so that every two years or three years there is a rotation of old members going out and new members coming in. But I have found no justification except that a decision was taken in the case of the Lok Sabha that it should be five years. I have not been able to ascertain from those debates in the Constituent Assembly any reason why Lok Sabha and Rajya Sabha should not be on par so far as the tenure or period is concerned.

The other argument is that Rajya Sabha is a permanent House whereas the other House is not. What is meant by 'permanent'? Except that this House is for six years and it is never dissolved, it is also not permanent because after every two years old members go out and new members come in. The composition of the House is not permanent for all these six years. In that sense Lok Sabha is also permanent for a period of five years. So, this concept of permanent House does not carry us anywhere so far as this particular clause is concerned. There was reference to pressure groups. Some reference to the Constituent Assembly was also made, though it is not relevant here. In all democratic parties you may refer to pressure groups. I would call them opinion groups. I think it is natural that in a party of this nature there should be opinion groups. I said in the other House that our party is disciplined, but not regimented. Let not other parties decide as to what is the nature of our party from their own experience. We are here a party having free discussions on all issues and there are no doubt members in this party who have differed sometimes and even have absolutely contradictory views. They air them in a democratic way in the forum of the party and even in Parliament. But ultimately the party has stood as a rock behind the decisions taken by the party. I do not see any pressure about this. This was particularly with reference to the Constituent Assembly that I said in the Lok Sabha when Shri Indrajit Gupta spoke on behalf of his party there. There were people who took a certain view or a contradictory view, but ultimately the entire membership of the House there and the entire membership of the House here also so far as the party is concerned will stand by the ultimate decision of the party. That perhaps does not happen in some other party. I do not want to criticise any particular party. It is because of the fact we have no regimentation, although we insist on discipline. There is nothing wrong about it. Some members moved that it should be seven years, rather than six years. Many arguments were given and I said there, and I will repeat it here also, that not all those arguments which were made were without substance. But it was not on the basis of those arguments that we accepted six years and we did not accept the proposition that it should be seven years and it was also asked as to why we do it for the future Lok Sabha. I think it is as it should be. It is better that the Lok Sabha does not extend its own life when it is in session. In fact, what we do here is in respect of a future House and, unfortunately, my friend fell into the trap of the arguments of some other Opposition parties and not his party, in which they have

said the same in respect of some other Constitutional amendments, and they have asked: "Why are you doing it so as to bind the future Lok Sabha?". Now, unfortunately, Sir, I am astonished to hear this argument coming from Mr. Bhupesh Gupta, because he took a very constructive line with reference to the need and necessity for making these Constitutional amendments. Therefore, it is proper that if the period is to be extended, it should not be left to the next House, which would be benefited by this extension, but it is better if it is done by a House which itself is not going to be benefited by that extension. I say this because, as everyone knows, the period of this House, so far as this House is concerned, I mean the Lok Sabha, is already over and therefore, by this extension in a constitutional way, by this extension by changing the Constitution, this Lok Sabha is not going to be benefited. My other honourable friend said that this provision is such that we can extend it for one year, then for ten years, then for twenty years and so on. He did not say that it can be extended for another hundred years. But his logic can carry it to hundred years. But this was not done in any Constitutional amendment. Our founding-fathers realised that circumstances might exist in the country in which, in the interest of the country as a whole, we should not hold elections. This proviso to this particular article, article 83, was not put by any one of us, but it was put by the very far-sighted founding-fathers who knew that in a big country like India, difficulties might arise either because of external aggression or internal disturbances when we would have to declare an emergency situation and may be that it should be open to the proper and appropriate Parliament at that time to decide whether the elections should be held or not. Now, to argue in this way, as I have said in respect of some other arguments, is only *reductio ad absurdum*, I mean the arguments like: why not 100 years, why not 200 years and so on. There need be no elections at all and things like that. But that does not carry the argument any further. The argument really is that in every case where you ask for an extension, you have to justify it before the House and it is not that you can extend the tenure of this Parliament even by one year without coming to the House and not only you cannot do it without coming to the Lok Sabha, but also you cannot do it without even coming to this House which is not concerned with the elections to the Lok Sabha. But this House is a part of Parliament which includes the President also. So, extension being of such an important nature, where you depart from the normal tenure of the House, it is required to be done by legislation and not by the President by an executive order. Now, what is the use of complaining that because we have extended it for one year, we will extend it for twenty years? I have no hesitation in saying that the tendency and the attitude of the Government concerned is not to extend if extension is not necessary for the purposes for which the proviso gives the power to extend, and we know that a situation exists when we have to extend it this time. But, as Mr. Bhupesh Gupta rightly pointed out, this is a subject on which I will speak later when the other Bill comes before this House. But this argument is used to say that because we have already secured the extension under the proviso to article 83, now the present Lok Sabha need not worry. Therefore, to argue that we have made it as six years and that this is really for the benefit of the present Lok Sabha, is obviously fallacious. It is all right, Sir, that in this country they are talking of proportional representation. The argument is that they want proportional representation. Apart from the difficulties in accepting that proposition otherwise, the argument is that unless you do this, no other party in this country has the confidence of securing the requisite representation in Parliament because the people are

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not going with them. Unless a kind of a sectional representation, based on proportional representation, is given, they have no chance of coming to the House in a majority and that, in fact, is the difficulty of the Opposition which is unfortunately for them and fortunately for the people of this country is true. The last four elections have shown that year after year in every election this Party has come not because my friend, Shri Bhupesh Gupta or, for that matter, any other person on the other side has obliged us. We have not come under anybody's obligation; we have come with the support and mandate of the people and we are not at all apologetic about it. Therefore, Sir, I do not wish to cover the whole ground now. But I will deal with it when the other Bill comes. Unfortunately, Sir, I am not in a position to accept the amendment of Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Actually it is for deletion. Well, you put it to vote. When the clause comes, we shall vote against it, but I press it for vote.

MR. CHAIRMAN: The question is:

53. "That at page 5, for the existing Clause 17, the following clause be substituted, namely:—

17. In article 83 of the Constitution, for clause (2) the following clause shall be substituted, namely:—

'(2) The House of the People, unless sooner dissolved, shall continue for a period of not less than five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House.'"

The motion was negatived.

Clause 18—*Amendment of article* 100.

MR. CHAIRMAN: This is a negative amendment (No. 55).

SHRI KRISHNARAO NARAYAN DHULAP: But I would like to speak on this.

Sir, clause 18 is like this:

"In article 100 of the Constitution, clauses (3) and (4) shall be omitted."

This is the amendment proposed by the Government.

Sir, clauses (3) and (4) of article 100 read like this:

'(3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number of members of the House."

"(4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjourn the House or to suspend the meeting until there is quorum."

So, there is already a provision in sub-clause (3) that Parliament can make law for deciding what is going to constitute the quorum for the meeting of the House. But I do not understand why clause (4) is being deleted from here. Sir, the founding fathers of the Constitution wanted that there should be some percentage of the Members of the House present in the House when the transaction of business is carried out in the House, so that the people's representatives should be very alert in the House to see that whatever proposal is there in the House is being attended to and is being given due thought. So it is not a minor thing. The founding fathers of the Constitution wanted that a certain percentage of the people should be in the House and the quorum should be there. If quorum is not there, then the Chairman will not allow the proceedings to continue; either House should be suspended or

the House should be adjourned. So I do not understand why this sub-clause is being deleted. Why is this being omitted?

With these words, Sir, I conclude.

SHRI H. R. GOKHALE: It will be a short reply, because I wish that the hon. Member, when he was talking of article 100, should also have seen the amendment to article 118, which is coming later. Sir, the idea is that instead of making a rigid constitutional provision with regard to quorum now in the provision which is sought to be made, which is coming later in article 118, Parliament itself—I mean, both the Houses—will have the power to make rules relating to quorum. Nobody is suggesting that there should be no provision for quorum or without quorum the House can go on. Therefore, looking at this clause in isolation with the other clause which is really material, does not help anybody.

MR. CHAIRMAN: This is a negative amendment and, therefore, I will not put it to vote. There are no amendments on clause 19. Now, we take up clause 20. There are 5 amendments.

Clause 20—Substitution of new article for article 103.

SHRI BHUPESH GUPTA: Sir, I move:

*56. "That at page 6, lines 19 and 20, for the words 'President and his' the words 'House and its' be substituted."

*57. "That at page 6, lines 19 and 20, for the words 'the President and his decision shall be final' the words 'the House to which the member belongs and the decision of the House shall be final' be substituted."

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I move:

58. "That at page 6, for lines 21 to 23, the following be substituted, namely

'(2) Before giving any decision on any such question, the President shall obtain opinion of the Election Commission and shall give due weightage to such opinion while deciding the question as referred to in sub-clause (1).'"

SHRI V. V. SWAMINATHAN: Sir, I move:

60. "That at page 6, line 23, after the words 'as it thinks fit' the words 'and the President shall act according to the opinion of the Election Commission' be inserted."

The question was proposed.

SHRI BHUPESH GUPTA: Sir, these are very simple amendments. Here also, if I may say so, in common man's language, some little trick has been done. This deals with the cases of disqualification as to who takes the decision with regard to disqualification of Members of Parliament or the State Legislatures. This is the proposition. This question was considered by the Swaran Singh Committee. The Swaran Singh Committee laid down that the decision as to the disqualification should be taken by a 9-member committee—3 elected from the Rajya Sabha, 3 elected from the Lok Sabha and 3 appointed by the President, which means by the Government or on Government's advice by the President. That was the recommendation of the Swaran Singh Committee. Partially at least, the Swaran Singh Committee brought Parliament into the picture; that is to say, the Parliament should have a say in the matter of pronouncing disqualification through the committee

*The amendments also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Sing Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman and Shri Lakshmana Mahapatro.

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through its members. Now, we were not satisfied with that thing because we did not like the nomination by the President which means nomination by the Government. The ruling party often is a party to the election dispute as much as opposition parties are and an important member of the ruling party may have more weight with the Government than other members. Therefore, our idea was to keep the Government out of the picture altogether. No one should be a Judge in his own cause. That was the principle. What we suggested to the Swaran Singh Committee is that there should be a sub-committee of Members of Parliament who would pronounce the disqualification without having on it any nominee of the President which means, the nominee of the Government. That has not been accepted. What has happened in this Bill is quite interesting. Swaran Singh Committee's recommendation has been abandoned. What have they done? I just read the relevant portion. It says that the question shall be referred for a decision of the President and his decision shall be final. Now, you and I will not come into the picture at all. The President will decide. In other words, the executive will decide. It is explicit and I do not oppose that clause which says that the President shall act only on the advice of the Council of Ministers that is to say, a decision will be on the advice of the Council of Ministers. It means that the Government will decide as to what disqualification should be imposed on a member who has been found guilty of corrupt practices under the law. This militates against the concept of natural justice. Why should Parliament be kept out? Why should Lok Sabha and Rajya Sabha be kept out, especially when we are taking about the supremacy of Parliament and rightly so? Here the authority of Parliament is being taken away and that is being given to the executive. Now, you may say that the executive is responsible to Parliament. That way you can give any power to any Sub-inspector of Police on the ground that the Home Minister is answerable for his action. That is not the concept of jurisprudence. That is not the concept of our political system. That is not the democratic standard. That is no respect for democratic values and decencies in public life to argue in this manner.

In an election case, sometimes the Members of various parties are involved. Why should it be left to one party or the Government to decide as to what should be the disqualification? Why can't you entrust it to a committee of Parliament where, in the nature of things, the ruling party will be in a majority? They do not trust even them. The whole idea of this thing is to shut out the opposition completely, even the private Members of the ruling Party.

They do not have faith in themselves, talking of regimentation, talking of democracy and all that. You should have some faith in your own partymen. The Swaran Singh Committee suggested, let the majority remain with the ruling party but with the private Members in a matter of this kind rather than with the executive. They have put it. You have ignored it. Is it serving the supremacy of Parliament or is it undermining or weakening the supremacy of Parliament? This is an intrusion into the supremacy of Parliament, this is an insult to the supremacy of Parliament, if I may say so.

Then, Sir, what happened? The next clause is, before giving any decision on any such question, the President shall consult the Election Commission and the Election Commission may, for this purpose, make such enquiry as it thinks fit. Previously, those who were giving the decision were to act on the advice of the Election Commission. Now, they may

consult the Election Commission, not even having faith in your constitutionally created independent body, namely the Election Commission. Now see how things are done? Why should it be done, I cannot understand. Is it also for social reform? Is it also for asserting the supremacy of Parliament over the judiciary when you are taking away some of the privileges of Parliament in such a matter? Sir, we are of the view that the judiciary should not have a say in this matter. The question of how a Member should be punished because of his electoral malpractices should be decided here by his colleagues in the Parliament or the State Assemblies as the case may be.

I am talking of the Parliament. This is a fair reasonable suggestion. Normally, in such matters, it has been our experience that Members of Parliament, even acting from the Government side, take a reasonable, dispassionate, objective view of a thing. Now, nothing will be done. What has happened to the Government, I cannot understand, to the Swaran Singh Committee's recommendation. They should give an explanation. In the Statement of Objects and Reasons given to the Bill which was introduced in the other House, there is no such mention of such a thing as to why such changes are made. There is no justification given. It is all that you are assuming power. You know what will happen. Today you may not do it. Tomorrow some other Government may do it. And you may suffer. You are not to sit only in the Treasury Benches. You may sometimes sit in the opposition benches also as you have done in some States already in the past. What then? If a Government comes which is not very much concerned about the democratic rules and norms, on a trivial ground, they may do worse things than the Allahabad High Court Judgment. I can tell you that much. Everybody knows the Allahabad judgment. Then, suppose the DMK Government is in power and they manipulate to get a kind of charge against you for electoral malpractices. You may be a very important leader of Tamil Nadu. What can you do suppose such Government were in power? If they will not be in power, they will do something else. Therefore, in principle, it is wrong. We are shifting from one position to another. We are for curbing the judiciary to assert the supremacy of Parliament.

We are for curbing the judiciary in some respects in order to get the powers which belong to us. We are not for undermining or weakening the judiciary to vest powers in the executive, in the officers and so on. We are not here asking for asserting the supremacy of the executive. If you want it say so, that you want under the cover and camouflage of the slogan of supremacy of Parliament on your part to assert the supremacy of the executive. That will not be. We are for the supremacy of Parliament. (*Time bell rings*).

You have brought in some very good provisions in the Bill, which we are supporting fully. But why this kind of a thing? Sir, this thing is absolutely uncalled for. They are a blemish on this Constitution. They will expose us all. I know, Sir, a better Government will modify all these things. Amendments will be brought in. Well, if this Government has better sense, they will change it. I know. But, why this kind of a thing? Specially having regard to the background in which you are doing it, people will read meaning in it. I may not. But people will read meaning into it and you cannot stop the people. Therefore, I say that this is absolutely unnecessary that this was done and it is derogatory to us.

Even the Swaran Singh Committee wanted to give us some powers in the Bill. But the Bill has been drafted by the bureaucracy and they have chosen to take away even what the Swaran Singh Committee promised to us. It is a matter of deep regret, disappointment and does not augur well

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for our Parliamentary institutions. People will anyhow suspect the motivation behind an amendment of this kind and this you have done as a disservice to the people, to the good purpose that you meant. Therefore, Sir, I am opposing it. I have given a suggestion. My amendment is that the question shall be referred to the decision of the House to which the Member belongs Very simple. Let the House decide. (*Time bell rings*). If I have been found guilty of an electoral malpractice, let my House condemn me. House means the majority also and in the majority you can always have your say. I have not even said a two-thirds majority. That should have been accepted. Mr. Gokhale is in a posture where they want the people, the world, to know that they are so convinced about themselves that they are not prepared to accept any amendments given by anybody because they say: we are the country, we are the party. Yes, you are a great party, you are not the country, you are only ruling the country. It is a historical fact and I do not deny it. Hence your responsibility is to listen to others who make reasonable and sensible suggestions. (*Time bell rings*) At least listen to the Committee, you had appointed yourselves, namely, the Swaran Singh Committee.

SHRI KRISHNARAO NARAYAN DHULAP: Sir, off and on we have been told that Election Commission is an independent body and elections in this country are held under the supervision of the Election Commissioner, who being an independent authority will ensure that fair elections are held. The article of the Constitution which is sought to be amended is regarding the disqualification of the Members and the decision on the disqualification of a Member of either House of Parliament. Now, in old sub-clause (2) it was provided that before giving any decision on any such question the President shall obtain the opinion of the Election Commission and shall act according to such opinion. It was only because the opinion of the Election Commission was binding on the President that it was enshrined in an article of the Constitution itself. Now, Sir, the Swaran Singh Committee went a step further. Instead of giving this right, this authority to an officer who is independent—and there is no doubt about it; up till now he was independent—they recommended that there should be a committee of the Members elected from both the Houses of Parliament. The recommendation reads like this:

> "Under article 71 and article 329(a) of the Constitution, disputed decisions in relation to the offices of the President, Vice-President, Prime Minister and Speaker, are to be decided by an authority or body to be created by a law of Parliament. It is felt that the Constitution should provide for another body or authority to determine all questions of disqualifications, including the period of such disqualification, of Members both of Parliament and of State legislature. This body or authority may consist of 9 members, three each from the Rajya Sabha and Lok Sabha and three to be nominated by the President. At present, this power is exercised by the President or Governor after consulting the Election Commission and in accordance with the Commission's advice."

So, instead of bringing in any amendment to this effect, the hon. Minister has come before this House with an amendment which is derogatory to the original provision that was there in the Act and in article 103. Now, he says, according to this amendment, that the question shall be referred to for decision of the President and his decision shall be final. That was there in the original provision also.

Sub-clause (2) says:

> "Before giving any decision on any such question, the President shall consult the Election Com-

mission and the Election Commission may, for this purpose, make such inquiry as it thinks fit."

The President refers this matter to the Election Commission and it may make inquiry into the matter. The Election Commission is being consulted; its opinion is not obtained and that is not binding on the President. So, this is going one step backward instead of going forward. The Swaran Singh Committee went a step or two forward but the hon. Minister has gone a step or two backward from what was already provided in the original article. So, Sir, I have no alternative but to oppose tooth and nail the amendment proposed by the hon. Minister.

SHRI V. V. SWAMINATHAN: I fully support the amendment moved by Mr. Bhupesh Gupta and my colleague Mr. Dhulap, because, according to the new amendment, the decision of the President is final. We welcome it. But, according to the old section, "the President before giving his opinion shall consult the Election Commission and act according to the opinion of the Election Commission". The Election Commission, as my colleague has already said, is an independent body created by the Constitution and till now all such matters have been dealt with by the Election Commission and they did very well in all the elections, General Elections and By-Elections and the Election Commission deserves glowing tributes from all parties. But, Sir, to say that the President can consult but need not act according to the Election Commission's advice, is not conducive to the growth of democracy and is not in the interest of the opposition parties. Here, I would invite the attention of the House to article 74 where the President is not independent. His opinion can be shaped by the Council of Ministers. So, indirectly according to the new article 74, there is a possibility of his not being independent and also he is being advised by the head of the Council of Ministers. So, Sir, in the interest of democracy, I would support the amendment and oppose new clause.

SHRI H. R. GOKHALE: Mr. Chairman, Sir, before I answer some of these arguments, I think it is necessary to see the object of proposing this amendment Article 103 (1) subclause (b) as it is proposed now, is a new clause. It was not there before. And the purpose of providing for a new clause is obvious. Sir, under the existing provision, before the amendment of the Representation of the Peoples Act, the disqualification automatically followed for a period of six years when once a corrupt practice was proved. The actual thing has been so insignificant. For example, a man might have exceeded the limit of expenditure, say by one rupee. Even this is called corrupt practice. It is so defined unfortunately. Similarly, the violation may be so insignificant. But it will still be called a corrupt practice. Even the Courts had no option but to decide that this disqualification will be for a period of six years. There was no discretion anywhere to decide, after taking into consideration the particular nature, the extent or the magnitude or the corrupt practice, whether there should be a disqualification at all; if there should be, what should be the length of that disqualification, and if the disqualification has been incurred, whether there are appropriate and good reasons for removing the period of disqualification altogether or for a limited period. That was done away by an amendment of the statute But again, those decisions were subject to review by Courts, and it is for the first time that a decision in this regard has been made final, with the result that whatever is decided under the provisions of this clause will have certain finality. There is also a provision with regard to a person who is disqualified from being chosen as a Member and also a person who is disqualified from being a Member. 'Being chosen as' would really mean, before his election, he might have

[Shri H. R. Gokhale]

incurred certain disqualifications. These disqualifications are separately mentioned in article 102. A person may become a Member, and later on, for example, he may accept an office of profit and, therefore might be disqualified from being a Member of the House. All these things are taken care of by this provision. It is true that in the past, before this amendment, the Courts had the powers to impose disqualifications and there was no remedy anywhere to consider whether a particular disqualification was out of proportion, altogether out of proportion, to the violation or lapse on the part of a particular candidate. It is now provided that the disqualification may be incurred, but it may be incurred for a shorter period, and if it had been incurred already for a longer period, it may be reduced.

Now, Sir, the whole objection is with regard to the power given to the President and with regard to the functions of the Election Commission. It is no doubt true that under the existing article 103, the Election Commission had to decide and that decision was to be binding on the President. Now, this was a very anomalous position to involve the President and then to say that the President is only nominal, that the Election Commission will decide and that the President is bound to accept the advice of the Election Commission. The position is reversed now. What is reversed is this. The Election Commission will, in the first instance, hold an enquiry and then the President will decide whether the disqualification should be incurred, and if so, for what duration. It is very heartening to see that for the first time, some Members on the other side have spoken well of the Election Commission. They were very vocal when we were discussing the amendments to the Election Laws and they were complaining about the Election Commission. They were saying 'Although it is a Constitutional body, it is not an independent body'. Today, of course, the tone is different. Today, what is said is that the Election Commission is a very independent body.

SHRI BHUPESH GUPTA: No, Sir. I have not said it. I say 'Leave it to Parliament'.

SHRI H. R. GOKHALE: Did I mention your name, Mr. Bhupesh Gupta?

SHRI BHUPESH GUPTA: You should mention the name.

SHRI H. R. GOKHALE: I did not mention your name.

SHRI BHUPESH GUPTA: The hon. Minister should not speak in terms of pronouns, but nouns he can use.

MR. CHAIRMAN: For some time, he had gone out.

SHRI H. R. GOKHALE: I was very deeply involved in those negotiations and discussions which were held with the Opposition parties and we know that the party of Mr. Bhupesh Gupta had taken a constructive attitude. They did not raise it. I did not say 'Mr. Bhupesh Gupta'. I said some Members on the other side had been criticising and they were saying that the Election Commission is not independent. Of course, I am very glad that they have now realised that the Election Commission is independent. I have no quarrel with them. It is independent. It is intended to be independent. But this has been realised, fortunately for the first time, though belatedly.

The Election Commission makes a recommendation. It is unthinkable that an independent body like the Election Commission makes a recommendation and the President will turn it down even capriciously or without any reason. In fact, I expect that invariably, almost in all cases, the President will go by the advice of the Election Commission, although theoretically or constitutionally, that advice is not binding on him. We have trusted the President for more im-

portant things. He can appoint the Chief Justice and the Judges of the Supreme Court. He can appoint the Chief Justices and the Judges of the High Court. Many other appointments, like the Public Service Commission members, can be made by the President. I can give many more illustrations under the existing constitutional provisions where nobody has questioned the integrity and independence of the President in making this. If we can trust him for these purposes, I do not know why a person who has reached that stature, perhaps the highest stature in the country, holding the office of the President, cannot be trusted to take an independent and impartial view. Moreover, it is there that the Election Commission has to recommend. The Election Commission will hold enquiries. Obviously, the President cannot himself hold an enquiry in any case. And as a result of those enquiries the Election Commission can make recommendations for either extending the disqualification or curtailing it. Therefore, the recommendation of the Swaran Singh Committee was, as Mr. Bhupesh Gupta rightly pointed out, that it should be with a committee. The composition of the committee should be three from Lok Sabha, three from Rajya Sabha and three nominated by the President—so altogether nine. But I have heard in the other House and from some other opposition parties, making a serious complaint about this. What they were saying was that if you are taking three from Rajya Sabha and three from Lok Sabha, there you are already in the majority and, therefore, a majority of these six will be your own people. Then, they said that the three nominated persons by the President means that they will again be your persons. In any case, they argued, the Committee will be highly loaded in your favour. What I am saying is that even that proposal was not free from controversy. There had been a serious controversy raised with regard to this proposal that by giving it a shape of a parliamentary committee you will really be enabled to load it in such a way that ultimately it will not be an independent committee. Therefore, just as in that case, it can be argued, for the sake of argument, in this case. But I do not think if one looks at the safeguards, the obligation to consult the Election Commission, the President acting after the advice tendered by the Election Commission, it is very difficult to imagine that a person of that stature, that high office, will, merely, for reasons of politics, say that whatever the Election Commission has recommended I am not going to accept this recommendation. I can even go further that while it is true that the President is bound by the advice of the Council of Ministers, the Council of Ministers is hardly likely to interfere in these individual cases. In fact, they will not, when particularly the President has been given the power, and the advice of the Election Commission is to be taken. Therefore, I think most of the arguments against this clause have been more of a political nature rather than based on the merits or demerits of this clause.

MR. CHAIRMAN: The question is:

56. "That at page 6, lines 19 and 20, for the words 'President and his the words 'House and its' be substituted.

57. "That at page 6, lines 19 and 20, for the words 'the President and his decision shall be final' the words 'the House to which the member belongs and the decision of the House shall be final' be substituted."

The motions were negatived.

SHRI BHUPESH GUPTA: Sir, may I follow the Prime Minister's advice whereby if there are seven Noes and one Aye, the Ayes have it.

SHRI H. R. GOKHALE: Yet, the hon. Member referred to the Presidential system. He did not support it but that was the main thing which was raised by him.

SHRI BHUPESH GUPTA: I do not. The trouble is that even without voting you are taking Ayes with you.

MR. CHAIRMAN: The question is:

58. "That at page 6, for lines 21 to 23, the following be substituted, namely:—

'(2) Before giving any decision on any such question the President shall obtain opinion of the Election Commission and shall give due weightage to such opinion while deciding the question as referred to in sub-clause (1).'"

The motion was negatived.

MR. CHAIRMAN: The question is:

60. "That at page 6, line 23, after the words 'as it thinks fit' the words and the President shall act according to the opinion of the Election Commission.' be inserted."

The motion was negatived.

Clause 21—(*Amendment of Article* 105)

SHRI BHUPESH GUPTA: Sir, I move:

*61. "That at page 6, line 30, for the word 'evolved' the words 'laid down by law' be substituted."

The question was proposed.

SHRI BHUPESH GUPTA: Sir, this is a simple amendment. I have only changed the wording.

[Mr. **Deputy Chairman** in the Chair]

Where it says "each House shall be such as may, from time to time, be evolved by such House of Parliament", I have suggested that it should be "each House shall be such as may, from time to time, be laid down by law by such House of Parliament." This is with regard to the amendment of article 105 relating to powers, privileges etc. of the two Houses. It reads:

"(3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House shall be such as may, from time to time, be evolved by such House of Parliament."

I am in favour of the words "as laid down by Law" by both Houses of Parliament. Now, I do not think it is just a quibbling about a phrase. In that case, there should be no difficulty on his part to accept it. But the fact that he is not accepting is that it is not merely quibbling. What is 'evolving'? I cannot understand it. It is a very vague term. I think, if we want to have it in that way, then there should be a clear mandate under the Constitution that "the House should discuss it and lay down by law." Let it lay down by whatever means it wants to; that should be the position. It may enact some legislation here or some other way you can have. 'Evolve'—I cannot understand what it means. 'Evolving' has many ways, and it is open to being misused. I do not know what kind of Presiding Officers we may have; I do not know what kind of Houses we may have It all depends upon them. It may create confusion. It should be a more definite term, "laid down by law" should be better. The privileges of the Members of Parliament and their amenities are a very important subject. And in

*The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman and Shri Lakshmana Mahapatro.

determining them, the House should have the final and decisive and clear say. And the procedure for determining them should also be very concrete and specific, beyond all ambiguity or doubt. That is how I propose it to be. But my friend, Mr. Gokhale—I find—has an argument for everything. He will now say something, I know. He will go into that. "The House will evolve"—we are not for it because we find that there are tendencies in some circles to weaken the privileges and amenities of Members of Parliament. Sir, when we say this thing, we naturally have in mind those who want to play according to the ground rules of parliamentary democracy. I do not have in mind those who are interested in destroying parliamentary democracy, either through total revolution or by the imposition of the Presidential system or by convening a Constituent Assembly. I am not talking about them. They, in any case, are bent upon their course; they will go their way, unless they are checked. Therefore, here we should be zealous of our privileges in the interests of the institution and in the interests of the people and the country. It is not a question of being touchy about them. It is necessary for the efficient and democratic functioning of our parliamentary institution. Sir, we find that Members of Parliament are even handcuffed today, that Members of Parliament are treated shabbily in some places for no reason or rhyme whatsoever. Yet, some other Members of Parliament behave in a very derogatory manner which calls for condemnation and structure. So, all these problems remain. But who will decide? How will they be decided? You say, 'evolve'. 'Evolve' what? You give a ruling or evolve something. Suddenly, another Presiding Officer may come and may feel that you are not laying down something which is of relevance to this House or the other House. Suppose taking protection or cover under this formula of 'evolving', some Presiding Officer or Vice-Chairman or the Deputy Speaker or even a member of the Panel of Vice-Chairman—when he functions from the Chair, he is, to all intents and purposes, the Chairman—gives a ruling with regard to certain things or makes a certain statement—that is how the privilege of the Members of Parliament should be conceived—am I to take that such rules are being evolved? Somebody may argue that they should be taken as such. Therefore, this is not a right thing. We should be very clear about it.

Before I sit down, I would say that it does not require very many arguments. What I have suggested is only to make the provision proper. This word I do not like; about this word, I smell a rat, if I may say so. The persons who have put this word "evolve" surely are not so ignorant as not to know that a better formulation could have been laid down by law. They have avoided that and they have chosen this word "evolve". What is the purpose? They should explain. Why this preference for this word rather than what we have always been using when dealing with such matters, I should like to know. Somehow or the other, I have the fear and feeling that there is an attempt to nibble at the privileges of Members of Parliament and to weaken them. Sir, this has been going on for some time, and we should not be a party to it in this manner. On the contrary, we should be very, very vigilant about protecting what is due to us for the efficient discharge of our democratic and patriotic responsibilities, especially now when we are hearing so many things. You do not know how some people talk about Members of Parliament, even amongst our colleagues, nowadays as if it is all a waste, as if the Lok Sabha and the Rajya Sabha are all a waste, as if we do not need privileges. If they are not Ministers or privileged people, what they would say, I do not know. But having been placed in a very privileged position, they are now taking a sort of cynical attitude towards these privileges. As far as the misuse of the privileges and rights of Members of Parliament is

[Shri Bhupesh Gupta]

concerned, certainly it should be dealt with. We are not for it. But then, Sir, there is need for giving assurance of such rights and privileges and immunities as would make our democratic institutions, institutions of character and integrity and would not create an atmosphere of fear or apprehension. This is very, very important. This clause may be a simple clause. But, Sir, behind it is hidden perhaps much more which may not be intelligible today but will be understandable tomorrow when we proceed to deal with the practical problems posed by this amendment which is being suggested. I know he will not accept my amendment. I know it absolutely. Do you think I have come here to convince him? No. It is because we wish to put it on record. History will have the last word. Perhaps the last word never comes in history. But there will be others, when we are gone from the scene, to judge our conduct as we are judging the conduct of the founding fathers—as you call them—of the Constitution. Therefore, we should not go by default. I say, Sir, hon. Members opposite have been asked to support the clause. Many of them perhaps would share my views and sentiments over a matter of this kind. But today you have regimented them. It is regimentation you are indulging in. Give them the right to vote free from whip. I have not the least doubt, if the vote comes without regimentation, that many of my amendments will be supported by them. I have not the least doubt because I have not conceived these amendments out of nothing. They have been conceived out of the collective experience of all of them, including our friends opposite. But we are sorry for our good friends, the regimented members of the Congress Party.

SHRI H. R. GOKHALE: : Mr. Deputy Chairman, Sir, I am surprised that the hon. Member is opposing this clause because if there is anything in this Bill which very greatly affirms the supremacy of the two Houses, it is this clause. Sir, you know what the existing position is. We had a provision that the privileges and immunities of the Members of the House of Commons would be the privileges and immunities of the Members of the Lok Sabha and the Rajya Sabha. So naturally we felt that after 29 years of independence, that our Constitution should mention the privileges of the Members of the House of Commons....

SHRI BHUPESH GUPTA: I have not said that.

SHRI H. R. GOKHALE: No, you have not said that. But this reply is not only for you.

SHRI BHUPESH GUPTA: Sir, on a point of order. Nobody else has spoken on this clause. Only I have spoken. And I have not mentioned it. He says he is replying. To whom is he replying? Nobody has raised that point. Sir, this is the way this is the technique of killing an argument.

MR. DEPUTY CHAIRMAN: Now listen to me also. After all when the Minister is replying to you, he has a right to trace the background and say why this amendment was at all proposed. That is what he is doing.

SHRI BHUPESH GUPTA: I understand that on this subject he can speak on American mafia and he can bring in sex stories, if he likes. I am not saying that. But he speaks as if some of them have said that. Nobody wants the House of Commons to guide us.

SHRI H. R. GOKHALE: He wants to go on record. But he does not concede my right to go on record. While dealing with a clause like that it is necessary to understand it in its correct perspective and as you rightly said it is the duty and privilege of the Minister in charge of the Bill to put before the House the background

on account of which certain amendment to a certain article is proposed. I know Shri Bhupesh Gupta is certainly the last person to object to the removal of reference to the House of Commons. I was not replying to him. The main thing is that all these 26 or 27 years after independence we have the term "House of Commons" mentioned in our article. Therefore, we said that in any case this reference to the Parliament of a foreign country is absolutely impossible to be kept in our Constitution. That is what has led us to consider what change should be made in the provision relating to the privileges of the Members of the House or its committees. After this is passed and the reference to House of Commons removed we cannot leave a void or vacuum. That would mean that the members will have no privileges or immunities left. Therefore the provision is made that such as are existing or are in reality in England so far as the House of Commons is concerned will apply. That is not the final word. This is only till they are evolved by Parliament. My friend's main objection is to this word 'evolved'. He referred to the fact that Members of the House are handcuffed. I am aware of a case which recently came up before the Privileges Committee with regard to handcuffing a Member of Parliament and if my memory does not fail me, the Privileges Committee took the view that it is one of the privileges of a Member of Parliament that he will not be handcuffed...

SHRI BHUPESH GUPTA: What about telephone tapping? We cannot talk to you. Bugging and tapping of telephones are rampant.

SHRI H. R. GOKHALE: The hon. Member is giving instances which will lend further support to my argument. What occurred to him just now is telephone tapping. There are many such things which will occur to him or others and to put all the privileges of the House in the strait-jacket of a law is more dangerous than what is being done. New privileges come when new situations arise and in those situations it is possible to say that this must not happen with reference to a member of the House. Therefore, taking into consideration each situation it should be possible for us to say whether a particular thing will result in the breach of privilege of the House or the Committee or not. We have already a provision in our Constitution. But till now why was no law framed on the subject under this provision? That is for the simple reason that for all time to come in the future it is not desirable to put all the privileges in a strait-jacket and say these are the privileges and no other. Privileges have to be determined by the House as and when new situation arise. You may look for guidance if you want or you may not, to the privileges in other countries, particularly England, because this has been our historical tradition. But you may depart from what is existing and you may lay down new privileges and you may provide new immunities. How does my honourable friend expect that in a codified law we can lay down that if this happens, then it will be a breach of privilege? In fact, what is there today now is only to widen the scope of the rights and privileges of the Members of Parliament, to take every situation into account and then say that a certain thing is a privilege or it is not a privilege. And, Sir, he has said that somebody will decide it. The honourable Member has certainly a very long experience and I do not have that much experience. He has been here in this House right from 1952 and he of all persons knows that both the Houses of Parliament have their own Committees on Privileges and he also knows that the Chairman or the Speaker, as the case may be, is a person elected by the respective House and they are the people to whom everyday we go and you go saying "Sir, you are the custodian of our privileges and our rights" and

[Shri H. R. Gokhale]

so on. Why do we say that? It is because of the fact that the Members of the House repose confidence in the people who occupy that august Chair. Therefore, in a given situation, you decide or, in certain other circumstances, the matter goes to the Privileges Committee and the Privileges Committee in respect of each case, decides whether there is a breach of privilege or not. This is what is meant by the word "evolve". A new case may come and you may decide whether it is a privilege or not and that is how it happens.

SHRI BHUPESH GUPTA: I hope the Chairman of the Committee will not be Mr. A. P. Sharma.

SHRI H. R. GOKHALE: I do not know what his grievance is about Mr. Sharma. But the point is this: After all, whether it is Mr. Sharma or somebody else, whoever occupies the Chair, whoever sits there as the Chairman, does not impose himself on the Committee. You elect them and send them there to the Privileges Committee. Therefore, what is the difficulty about it? The fact is that all the Members of the Privileges Committee are not outsiders, but they are Members of this or that House and it is also known that this House has its own Privileges Committee and the other House has its own Privileges Committee.

SHRI BHUPESH GUPTA: You said something about "evolve".

SHRI H. R GOKHALE: I was mentioning that. But you did not hear me probably. The Privileges Committee, as the situation arises, decides and you are not bound in future by any law which can be made and which says in a straight jacket that these are the privileges and no more or nothing else.

MR. DEPUTY CHAIRMAN: Even that is evolution.

SHRI H. R. GOKHALE: Yes, even that is evolution.

SHRI BHUPESH GUPTA: What is it?

SHRI H. R. GOKHALE: I was surprised to hear this. I say this because when a thing is put much beyond any limitation and when the House is its own master in respect of the privileges of its Members and the Members of its Comittees, what else is it if it is not the supremacy of the House in respect of this very vital and important matter? I entirely agree with him that privileges and immunities of a Member of Parliament is a very important matter and therefore it is only that House or this House of Parliament which should be in charge of those privileges or those immunities. So, I should have expected that rather than oppose this, Mr. Bhupesh Gupta would have said that we have put it so wide.

SHRI BHUPESH GUPTA: Mr. Law Minister, it is for your information, Sir, he may know that despite article 105, as far as this House is concerned, we had appointed a Committee in order to define the rules...

SHRI H. R. GOKHALE: All right.

SHRI BHUPESH GUPTA: And, Sir, we go by them and we do not go by theirs. When the Constitution was adopted, it was mentioned that we would go by the procedure obtaining in the House of Commons till we decided ours. So, Sir, as far as we are concerned, the rules of procedure we have decided for ourselves. But the Lok Sabha, unfortunately, has not done it. But we had a Committee appointed for this purpose and it went into the question and our present rules, I mean, the Rules of Procedure and Conduct of Business in the Rajya Sabha are the ones which had been independently worked out by this House.

SHRI H. R. GOKHALE: That is a very good thing. But I am not talking about the Rules of Procedure. There is a Procedure Committee in the other House, as you know, and they have also certain rules. But now I am on the question of privileges and immunities. We are now dealing with the privileges and immunities issue which is not a simple procedure or a simple thing. In fact, my anxiety is that in respect of protecting the privileges and immunities of the Members of the two Houses, there should be no limitation at all and the respective House should be in a position to decide in every case whether there has been a breach of privilege or not. But then, Sir, my honourable friend wants the Law Minister to sit down and codify these privileges. He anticipated telephone-tapping. Some others may anticipate some other things and some of them may not anticipate those or other things. Some others might say that what is laid down here will be the privileges for all times to come. Is that a very happy situation? That is why, Sir, the word "evolve" really means that the House is seized of every case and decides whether there is a breach of privilege or not and then rules that it is a breach of privilege or that it is not a breach of privilege. A new privilege is evolved and that is how it goes. How do they do in England? There is no law in England relating to privileges. Why do they refer to Erskine May's "Parliamentary Practice"? Why do they refer to it all the time? Why do we refer to it? They have not taken those things from the statute law. If they have done so in England, surely this Parliament is not less competent to deal with its own privileges. So, Sir, it is a misunderstanding with regard to this provision.

MR. DEPUTY CHAIRMAN: Are you withdrawing your amendment, Mr. Bhupesh Gupta?

SHRI BHUPESH GUPTA: I am not withdrawing. You should ask, "Are you pressing it?"—because suggestions should not be made by you.

MR. DEPUTY CHAIRMAN: All right, are you pressing it?

SHRI BHUPESH GUPTA: Yes.

MR. DEPUTY CHAIRMAN: The question is:

61. "That at page 6, line 30, for the word 'evolved' the words 'laid down by law' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Clause 22. No amendments.

Clause 23—(*Insertion of new article* 131*A*)

MR. DEPUTY CHAIRMAN: There is one amendment by Shri Abdulla Koya. But it is a negative amendment. So, it is barred. Yes, Mr. Swaminathan.

SHRI V. V. SWAMINATHAN: Sir, I beg to move:

63. "That at page 6, line 40, for the words 'of any Central Law' the words 'of any Central Law or State Law' be substituted."

The question was proposed.

SHRI V. V. SWAMINATHAN: According to article 131A, to test the validity or otherwise of a Central law only the Supreme Court is given the power. Our country is very big and we are poor people. I remember that lawyers belonging to the ruling party passed a Resolution in Madras stating that it will be very difficult for the lawyers and clients to test the validity of a Central law by going so far as to the Supreme Court. We say that we are for quicker and cheaper justice, but at the same to say that only the Supreme Court has got the exclusive authority to test the validity or otherwise of a Central

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law is contrary to our principles. Moreover, people also suffer on account of the exorbitant and prohibitive court fees. During the course of the discussions on this Bill many Members, and especially the hon. Member Shri D. K. Borooah, stated—and it was appreciated by the Prime Minister and the Law Minister—that there is need for re-structuring the course of study in law. In this connection I would like the Law Minister to see that the prohibitive and heavy court fees are done away with. And, to give an idea about the prohibitive and heavy court fees, I would quote what the leading Supreme Court Judge, Justice V. R. Krishna Iyyar observed:

> "It is surprising that a Welfare State with a socialistic claim should bleed the litigants by an initial insistence on payment of more than a tithe of the very claim."
>
> "There is no moral or social justification for such a heavy levy unknown in any other country."

We want a speedier and cheaper justice. We must do away with prohibitive court fees, and also to make some provision for the Supreme Court to go to the South to render justice to the people who cannot travel up to the Supreme Court to test the validity or otherwise of a Central law.

SHRI H. R. GOKHALE: Sir, the objection is somewhat difficult to understand, because it is our experience that almost in every case where a Central law is challenged in the High Court the matter ultimately does go to the Supreme Court. The stage of the Supreme Court is not avoidable. In respect of the expenses involved, to which the hon. Minister referred, we are really cutting down one stage. We have seen that in most cases the lawyers who are practising in the High Court or practising in the Mofussil have to travel to go to the High Court first and later to the Supreme Court. Now this is sought to be avoided.

There is another very solid reason. That reason is that on many issues involving the validity of a Central law, contradictory and differing judgments have been given by different High Courts. Kerala High Court may declare a Central law valid whereas the Bombay High Court may declare it invalid with the result that until the matter comes to the Supreme Court and we get a final determination from the Supreme Court, we do not really know whether the law is valid or invalid. In order to avoid this multiplicity and conflicting decisions, in the case of a Central law which is in operation all over the country as against a State law which operates in the State only, it is desirable that the highest court in the country should decide it. It may be that when we get some experience after the working of this new provision, we will have to do something to see that the Supreme Court is properly equipped to deal with these cases.

With regard to the Bench, it is not possible that any Bench of the Supreme Court will be constituted in the South or for that matter anywhere else. But these are matters which do not involve the amendment of the Constitution. Also, the setting up of a bench or increasing the number of Judges in the Supreme Court does not require an amendment of the Constitution. These are better left for being judged after seeing what the experience shows.

MR. DEPUTY CHAIRMAN: Now, I shall put the amendment to vote.

The question is:

> 63. "That at page 6, line 40, for the words 'of any Central Law' the words 'of any Central Law or State Law' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Now, we shall take up clause 24.

Clause 24—(Insertion of new article 139A)

SHRI V. V. SWAMINATHAN: Sir, I move:

64. "That at page 7, line 28, after the words 'made by' the words 'any aggrieved party' be inserted."

The question was proposed.

SHRI V. V. SWAMINATHAN: In this, the Advocate General alone is authorised to move the Supreme Court. My grievance is that an individual person, if he is really aggrieved, is not given an opportunity to move the court. Either an aggrieved party must be permitted to move the court or at least the Advocate General on his own or on petition or application by an aggrieved party must be able to move the courts. The whole thing has been entrusted to the Advocate General. Suppose the Advocate General does not find it fit in his wisdom to move the High Court. Then there is no remedy for the aggrieved. Sometimes there are cases especially in criminal matters where the Public Prosecutor must file an appeal. Suppose he does not file an appeal. There is no provision for the aggrieved party. We should not stop the privilege of the aggrieved party to move the court. I want to add the words "any aggrieved party".

SHRI H. R. GOKHALE: There is no Advocate General. There is Attorney General. I am sure the hon. Member also meant that. Now the question whether the parties themselves should be allowed to move the Supreme Court has been considered very carefully. The whole object of the clause is that if similar questions of law arise in various High Courts, then somebody must be there to bring it to the notice of the Supreme Court so that the Supreme Court can withdraw the case to itself. Now, the parties are interested in their own cases naturally. Merely to delay the proceedings in the High Court, a number of applications will be made or a flood-gate will open where private parties will make applications to the Supreme Court saying that the Supreme Court should be seized of the matter. Against this, the Attorney General is not interested in any case. He is the highest authority under the Constitution. He is the highest legal adviser of the Government of India. He can consider each case objectively. If he is satisfied that a particular matter really deserves the intervention of the Supreme Court, he will move the Supreme Court for action under this clause. But the result will be exactly the contrary if this is left to the parties concerned.

MR. DEPUTY CHAIRMAN: The question is:

64. "That at page 7, line 28, after the words 'made by' the words 'any aggrieved party' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: There is a negative amendment on Clause 25. So, it is barred. There are no amendments to Clauses 26 to 29. We proceed to Clause 30.

Now, we will take up clause 30. Mr. Dhulap's amendment No. 66 is negative and barred. Now, amendment No. 132.

SHRI SANAT KUMAR RAHA: Sir, I move:

*132. "That at page 9, for the existing clause, the following clause be substituted, namely:

'30. In article 172 of the Constitution, for clause (1), the fol-

*The amendment also stood in the names of Shri Bhupesh Gupta, Shri Yogendra Sharma, Dr. Z. A. Ahmed, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman and Shri Lakshmana Mahapatro.

[Shri Sanat Kumar Raha]

lowing shall be substituted, namely:

"(1) Every Legislative Assembly of every State unless sooner dissolved shall continue for a period not exceeding five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly."'".

The question was proposed.

SHRI SANAT KUMAR RAHA: Sir, this clause 30 is regarding the life of a State Assembly. Sir, the duration of life of the State Assembly is being extended and we are against it. Why should the life of a State Assembly as well as of Parliament be extended? The Minister of Law gave arguments in favour of extension of life of Parliament but they were not convincing at all to me. Similarly, in the matter of State Assemblies also, the life should not be extended from five years to six years. The arguments which have been given by my party leader, Mr. Bhupesh Gupta, are valid in this case also. Sir, I shall only read the amendment:

"Every Legislative Assembly of every State unless sooner dissolved shall continue for a period not exceeding five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly."

Sir, this should be inserted instead of clause 30. The new clause as proposed by me should be there. Sir, I moved this amendment and I know the House will not accept it, the Minister will not accept it. But we should raise the voice against the extension of life from five years to six years.

SHRI KRISHNARAO NARAYAN DHULAP: Sir, in clause 30, the tenure of the office of the members of the Legislative Assemblies has been extended from five years to six years. Sir, a plea has been made in the Lok Sabha at the time of extension of the life of the Members of the Lok Sabha that their constituencies are very big and to meet their voters they find that five years time is not sufficient and, therefore, they wanted to extend the life of the Members of the Lok Sabha from five years to six years. Again, a plea was made that as the tenure of office of the Member of Rajya Sabha is for six years, the tenure of office of the Members of Lok Sabha also should be for six years. There is no doubt that the constituencies of the Members of the Lok Sabha are very big. Taking into consideration that argument, the life of the Lok Sabha has been extended from five years to six years. But, Sir, the constituencies of the members of a Legislative Assembly, as a matter of fact, particularly in cities are very small. So, why the life of the member of the Legislative Assembly has been extended, I cannot understand. The argument put forth in the respect of the extension of the Lok Sabha does not hold water as far as this amendment is concerned.

With this, Sir, I oppose the proposed amendment.

SHRI V. V. SWAMINATHAN: Sir, about the extension of life of the Legislative Assemblies, I want to say a few words. Sir, this extension of life is not in accordance with the Statement of Objects and Reasons given in the Bill, especially when there is a President's Rule in Pondicherry and other places. In those States—Pondicherry, Kerala, etc.,—the people and ruling party, want elections. By extending the life from five years to six years you are only postponing the poll. You say that we, the Parliament, are supreme. But, Sir, people are more supreme than the Parliament. By postponing the elections we are denying the opportunity to young people from coming to the State Assemblies and also Rajya Sabha.

In the case of one State the elections are being denied and in the case of the other these are being postponed. In Tamil Nadu about 21 M. L. Cs. and 6 Rajya Sabha members must have been elected by the Assembly but it is now under the President's rule and the result is further postponement of elections. There is thus no likelihood of electing any M.L.Cs. as also Members to the Rajya Sabha. So, it is not in consonance with the principles of democracy and also the objectives laid down in the Statement of Objects and Reasons attached to the Bill.

DR. V. A. SEYID MUHAMMAD: Sir, for two reasons it is not possible or desirable to accept these amendments. Firstly, the proposed substitution of article 172(1) creates a situation, if it is accepted, that the power to extend the life of the Assembly during an emergency will be lost. Secondly, the expression 'not exceeding five years' is very vague. When you fix the life of an Assembly or any legislative body, it must be definite. 'Not exceeding five years' may mean anything, one year, two years or three years. That sort of a vague expression cannot be accepted. For these two reasons I regret that we cannot accept the proposed amendments.

MR. DEPUTY CHAIRMAN: The question is:

132. "That at page 9, for the existing clause, the following clause be substituted, namely:

'30. In article 172 of the Constitution, for clause (1), the following shall be substituted, namely:

'(1) Every Legislative Assembly of every State unless sooner dissolved shall continue for a period not exceeding five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly.'"

The motion was negatived.

MR. DEPUTY CHAIRMAN: Clauses 31 and 32. There are no amendments.

Clause 33—Substitution of new article 192.

SHRI SANAT KUMAR RAHA: Sir, I move:

*67. "That at page 9, lines 35 and 36, for the words 'President and his' the words 'Houses of the Legislature of a State to which the Member belongs and its' be substituted."

*133. "That at page 9, in line 35, for the word 'President' the words 'House of the Legislature of a State to which the member belongs' be substituted."

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I move:

68. "That at page 9, for lines 37 to 39, the following be substituted, namely:—

'(2) Before giving any decision on any such question, the President, shall obtain opinion of the Election Commission and shall give due weightage to such opinion while deciding the question as referred to in sub-clause (1).'"

SHRI V. V. SWAMINATHAN: Sir, I move:

70. "That at page 9, line 39, after the words 'as it thinks fit'

*The amendments also stood in the names of Shri Bhupesh Gupta, Shri Yogendra Sharma, Dr. Z. A. Ahmed, Shri Indradeep Singh, Shri Kalyan Roy, Shri Bhola Prasad, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman and Shri Lakshmana Mahapatro.

[Shri V. V. Swaminathan]

the words 'and the President shall act according to the opinion of the Election Commission' be inserted."

The questions were proposed.

MR. DEPUTY CHAIRMAN: The clause and the amendments are now open for discussion. Yes, Mr. Raha.

SHRI SANAT KUMAR RAHA: Sir, this is rather a consequential amendment. In the case of the Parliament all the arguments have been made by our leaders. I want to say with all the emphasis that these apply equally in the case of the State Legislatures also. So, I think there should be some provisions and some mechanism whereby the President alone will not give his own opinion because it has been stated that the President will not need any consultation with the Commissioner. That is why I have proposed my amendment No. 68, *i.e.*, before giving a decision on any such question, the President shall obtain the opinion of the Election Commission and shall give due weightage to such opinion while deciding the question as referred to in sub-clause (1). This has been specially emphasised by our amendment No. 68. I think if the discretionary power of the President can be used, the House and opinion of the Commissioner should not be neglected because on account of the House the President is there. So, I urge upon the Ministry that the President should be advised to have consultation with the Election Commission before giving his final judgment. With these words, Sir, I move:

SHRI KRISHNARAO NARAYAN DHULAP: Sir, in the original article it was provided that the opinion of the Election Commission would be taken by the President and that opinion was binding upon the President while giving a decision. Now, under the new clause he is only to consult the Election Commission and he can call for the report from the Commission and the Commission can make such inquiries as it deems fit. So, the inquiry is made by the Election Commission. A plea was made in the other House by one of the hon. Members that he was obtaining advice of the Election Commission and the advice cannot be binding. So, my argument is that while considering the report or the opinion of the Election Commission before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall give due weightage to such opinion while deciding the question as referred to in sub-clause (1). As the honourable Law Minister said at the time of the discussion regarding provision to this effect about the disqualification of Members of both Houses of Parliament, the President is going to take into consideration the advice tendered by the Election Commission. If this is going to be the convention hereafter, then there should not be any hesitation on the part of the Government to accept my amendment. There is nothing binding as such but the opinion should be given due weightage so that it is taken into consideration at the time of giving certain decisions because President is not going to make any inquiry as such. He will be making inquiries, as far as these affairs are concerned, through the Election Commission. Therefore, Sir, my amendment will suffice the purpose and I would request the hon. Minister to accept it.

SHRI V. V. SWAMINATHAN: In this amendment, Sir, as the previous speaker said, it is stated that the opinion of the President is final. But the opinion of the President may be shaped by the Head of the Council of Ministers as per new article 74. But under the old article, regarding the disqualification of Members of Legislatures, the Governor was authorised. His decision was final

and his decision was according to the findings of the Election Commission which is an independent body. But what is wrong now with the Governnors? Unless there is something substantial to allege against the institution of Governorship, there is no need to change the word 'Governor' and substitute it by the word 'President'. Even if it is substituted by President, Sir, the opinion of the President is not shaped according to the opinion of the Election Commission because the Election Commission conducts inquiry and it is a welcome feature but if it gives its opinion after due inquiry, the President is not bound to accept it. He is bound to accept only the advice or the opinion of the Head of the Council of Ministers. So, Sir, this provision does not seem to be conducive to the growth of democracy and seems to be intended to crush the opposition parties.

DR. V. A. SEYID MUHAMMAD: Sir, the proposed amendment No. 67 by Mr. Bhupesh Gupta and others has two draw backs according to our view. One is that it proposes not only the examination and determination by the House of the disqualification of a Member but also disqualification of the election under corrupt practices. That is practically impossible for the House to decide where various evidences have to be gone into as a regular trial. Secondly, there is the main question which has been discussed and debated upon whether the House itself should decide or somebody outside the House should decide. It has been the opinion of the Government and there seems to be a consensus that somebody who is outside the House, like the President, should decide the matter.

In his amendment No. 63, Sir, Shri Dhulap proposes that since President himself is deciding, it must be on the advice of the Election Commission. This matter was considerably discussed at various places both inside the House and outside. In the process, it may delay things. This will be a cumbersome process and it is not necessary. For these things, we cannot accept these amendments.

MR. DEPUTY CHAIRMAN: The question is:

67. "That at page 9, lines 35 and 36, for the words 'President and his' the words 'House of the Legislature of a State to which the member belongs and its' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

133. "That at page 9, in line 35, for the word 'President' the words 'House of the Legislature of a State to which the member belongs' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

68. "That at page 9, for lines 37 to 39, the following be substituted, namely:—

'(2) Before giving any decision on any such question, the President shall obtain opinion of the Election Commission and shall give due weightage to such opinion while deciding the question as referred to in sub-clause (1)'"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

70. "That at page 9, line 39, after the words 'as it thinks fit' the words and the President shall act according to the opinion of the Election Commission' be inserted."

The motion was negatived.

Clause 34—Amendment of article 194

SHRI SANAT KUMAR RAHA: Sir, I beg to move:

71. "That at page 9, line 47, for the words 'be evolved' the words 'laid down by law' be substituted."

The question was proposed.

SHRI SANAT KUMAR RAHA: Sir, this is a very simple amendment. This has already been moved by Mr. Bhupesh Gupta. This is in regard to the powers, privileges and immunities of the Members. Similarly, I want that the words "be evolved" should be replaced by the words "laid down by law".

DR. V. A. SEYID MUHAMMAD: The law Minister, Mr. Gokhale, had already replied to it.

MR. DEPUTY CHAIRMAN: The question is:

71. "That at page 9, line 47, for the words 'the evolved' the words 'laid down by law' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: There are no amendments to clauses 35, 36 and 37.

Clause 38—Substitution of new article for article 226

SHRI BIR CHANDRA DEB BURMAN: Sir: I beg to move:

**72. "That at page 10, line 30, the words 'of a substantial nature be deleted."

†73. "That at page 11, lines 3 and 4, the words 'where such illegality has resulted in substantial failure of justice" be deleted.

†77. "That at page 11, lines 31 to 33, the words 'unless the said requirements have been complied with before the expiry of that period and the High Court has continued the operation of the interim order' be deleted."

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I beg to move:

74. "That at page 11, line 4, for the words 'substantial failure of justice' the words 'failure of justice' be substituted."

The questions were proposed.

SHRI BIR CHANDRA DEB BURMAN: Sir, this is a very important article of the Constitution. This is in regard to the powers of the High Courts to issue writs in the nature of *habeus corpus* and so on. The power of the High Courts to issue writs is now proposed to be restricted. We have endorsed the proposal to restrict the power of the High Courts to issue writs so far as the Directive Principles and Central laws are concerned. This is because the Directive Principles have been given precedence over the Fundamental Rights. Central laws have been taken out of the jurisdiction of the High Courts. We accept all this. But I fail to understand this. We claim the supremacy of the people and the supremacy of Parliament. Parliament is supreme because it represents the people. Why should you curtail

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**The amendment also stood in the names of Shri B. V. Abdulla Koya, Shri S. A. Khaja Mohideen, Shri A. K. Refaye. Shri Bhupesh Gupta, Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran and Shri Lakshmana Mahapatro.

†The amendments also stood in the names of Shri Bhupesh Gupta, Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran and Shri Lakshmana Mahapatro.

the right of the people to go to the High Courts for issue of writs? You have said here:

> "for the redress of any injury of a substantial nature by reason of the contravention of any other provision of this Constitution or any provision of any enactment or Ordinance or any order, rule, regulation, bye-law or other instrument made thereunder; or"

or "by reason of the contravention of any other provisions of this Constitution or any provision of any enactment or Ordinance or any order, rule, regulation, bye-law", that itself is a suffiicent ground for coming before the High Court for issuing a writ. Why are the words "substantial injury" put here? Are we going to restrict the right of an individual to come to the court? Now, what is the nature of 'substantial injury'? A fine of a Re. 1 to an honest person may be substantial injury, while fine of Rs. 1 lakh to a black-marketeer or a smuggler may not be substantial. So, whenever any person has got any inquiry done by reason of the contravention of the constitution or by reason of the contravention of any provision of enactment, Ordinance, etc., he has the right to approach the High Court, why is that right going to be curtailed by putting the words "substantial injury"? By adding these words the right of the people whose supremacy we declare here is going to be curtailed because the court will say that the injury that you have suffered is not substantial so as to bring you within the jurisdiction of the High Court for issuing a writ or whatsoever you want.

Secondly, Sir, the provision contained in sub-clause (c), *i.e.* for the redress of any injury by reason of any illegality in any proceedings by or before any authority under any provision referred to in sub-clause (b), is sufficient. If any illegality has been done by reason of any proceeding under the provision referred to in sub-clause (b), this provision is sufficient. But you have further added the words: "where such illegality has resulted in substantial failure of justice". I think the word 'substantial' has deliberately been used here to curb the rights of ordinary people to come to the High Court for getting redress which we get from writ petition. These writ petitions are most efficacious. Ordinary people can come to the High Court for redress under this article 226. Why are you going to curtail it? Is it for maintaining the supremacy of Parliament? I say it is not at all for the supremacy of Parliament, it is for the supremacy of the executive or the bureaucracy against whom an ordinary person cannot proceed because of the illegal work done by them in contravention of the Constitution, or in contravention of the provision of the law or by reason of illegality done in proceedings launched by them. So, by adding these words you are going to curtail the rights of the people. We claim to be the representatives of the people and here you are going to curb their rights. If we at all say that people are supreme, or this Parliament is supreme because they are the elected representatives of the people, we are curtailing the very rights conferred on the people to come to the High Court for redress given to them. Is there any other forum? If there is any other forum for the people to get the redressal, it is all right. But I can at least say that they have got no other forum. Writ petition is the most efficacious remedy. If it is going to be curtailed, it will mean we are cutting the very roots of the tree, upon which we are standing. So, it will be foolish to say that by curtailing the power of the people whom we represent here, we are maintaining the supremacy of Parliament. On the other hand, I want to say that so far as the injunction is concerned, we are more strict. Regarding the amendment No. 77, I want to say that any interim order passed by the High Court in any writ petition will stay only for 14 days. But here

[Shri Bir Chandra Deb Burman]

is one proviso that "unless the said requirements have been complied with before the expiry of that period and the High Court has continued the operation of the interim order." The law as proposed to be amended is:

"(4) No interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceedings relating to, a petition under clause (1) unless—

(a) copies of such petition and of all documents in support of the plea for such interim order are furnished to the party against whom such petition is filed or proposed to be filed; and

(b) opportunity is given to such party to be heard in the matter."

"(5) The High Court may dispense with the requirements of sub-clauses (a) and (b) of clause (4) and make an interim order as an exceptional measure if it is satisfied for reasons to be recorded in writing that it is necessary so to do for preventing any loss being caused to the petitioner which cannot be adequately compensated in money but any such interim order shall, if it is not vacated earlier, cease to have effect on the expiry of a period of fourteen days from the date on which it is made."

I think it is sufficient. An interim order will be operative only for 14 days and in the meantime copies should be submitted and the opportunity to be heard should be given to the other party. We think that the words "unless the said requirements have been complied with before the expiry of that period and the High Court has continued the operation of the interim order" are no longer necessary. Within 14 days the party should be heard and the documents should be submitted, and the order should be made absolute. We are very strict in this matter because we know that the stay order, the interim order, passed by the High Court continue month after month, year after year, causing much inconvenience to the execution of any beneficial act. I am very much strict in this matter that in the matter of the interim order, only 14 days are sufficient and in the meantime, copies should be given to the parties and they should be heard and the order should be made absolute in this matter. But so far as the right of the individual is concerned, there should not be any curtailment by putting the words 'injury of a substantial nature' or 'substantial failure of justice.' By this we are cutting the very root of the tree on which we are standing. We say that the people are supreme, that Parliament is supreme; it is only because we are elected representatives of the people. We are here to vindicate the supremacy of the people. We must not curtail their right of going to the High Court by these expressions. This curtailment of the power of the judiciary is not at all necesasry for the fulfilment of the Directive Principles or for setting aside any Central Act which has been put beyond the purview of the jurisdiction of the High Court.

SHRI KRISHNARAO NARAYAN DHULAP: Article 226 is before the House in an amended form. This amendment had been engaging the attention of the ruling party since 1954 when a special Sub-Committee was appointed under the Chairmanship of Pandit Jawaharlal Nehru to go into the provisions of this article and it recommended that the words 'for any other purpose' should be deleted. Because of this new amended article, the existing power of the High Court to issue writs for the disposal of the Fundamental Rights will continue but the scope of the jurisdiction of the High Courts has been curtailed because of the deletion of the words "for any other purpose." And because of that, there will be no remedy for the citizen against bureaucratic excesses. And as was stated by

one of the hon. Members in the other House, there are no other remedies for the citizen to go against the State for redress. Sir, this provision in the article will go against the interests of the citizen in a different way altogether. I had the opportunity of being a member of the Joint Committee on the Civil Procedure Code Bill. At that time, the promise was given, while removing the revision provision from the Civil Procedure Code, that there was ample opportunity for citizens to go to the High Court under article 226. That was the plea given at that time when the revision provision in the Civil Procedure Code was deleted. The members of the Joint Committee were told at that time that the citizen could resort to the provision in article 226 for redress. Now this is also being dropped. So, a very anomalous situation has been created and I want an explanation from the hon. Minister on this point.

Then the use of the words "substantial injury" will give wide scope to the High Courts in the matter of interpretation. Different High Courts will interpret the provision in different ways. So why give this sort of a long rope to the judges about whom so much has been said on the floor of this House? Judges, as they are coming from the upper strata of the society, belong to a particular class, and with that bias, they sit in judgment and deliver their judgments according to their own likes. Taking that into consideration, why has this wide power of interpretation of the words "substantial injury" been given to the High Courts who may interpret it in their own way? With these words, Sir, I conclude.

DR. V. A. SEYID MUHAMMAD: Sir, by this time, I am sure it is very clear from the debate in both the Houses and from the national debate which was going on outside for the last eight or nine months, that the High Court has, on various grounds, expanded its jurisdiction beyond what was originally intended by article 226, based mostly on technicalities and technical pleas. Now the intention of the proposed provision in the amendment Bill is to take away those technical pleas and technical grounds by which unnecessarily, as it has been said, interference has been going on with justice ultimately becoming the victim and sufferer. It is to eliminate this that the expression "substantial justice" has been used; that is to say, on a mere technical plea or technical ground, relief should not be granted unless it is well established that there is substantial failure of justice. Now, Mr. Burman was discussing about the possible injury to the individual and the people. I do not know how it would cause any injury to the people because "substantial justice" is not a quantifiable or quantified concept. Like justice, "substantial justice" also must depend upon the facts and circumstances of each case and the concerned law. It is not as if there is a standard "substantial justice" and that would have to be applied to any case which has got entirely different circumstances. No. Justice and "substantial justice" will definitely depend upon the facts and circumstances of each case and also the applicable law. So there is no need to have any apprehension on the basis that there is a definitely defined and quantified concept of "substantial justice" which may not fit in with the necessities of the ordinary man. That, I think, is an absolutely unnecesasry apprehension.

Regarding Shri Dhulap's suggestion that instead of the words "substantial failure of justice" the words "failure of justice" may be substituted, I would like to say that there is a subtle difference between these two expressions. "Failure of justice" is not the same as "substantial failure of justice". If we accept his amendment, the subject may be brought back to the framework of technicalities and it may open up the floodgates of technicalities. On this ground I am not in a position to accept both these amendments.

MR. DEPUTY CHAIRMAN: The question is:

72. "That at page 10, line 30, the words 'of a substantial nature' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

73. "That at page 11, lines 3 and 4, the words 'where such illegality has resulted in substantial failure of justice' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

77. 'That at page 11, lines 31 to 33, the words 'unless the said requirements have been complied with before the expiry of that period and the High Court has continued the operation of the interim order' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

74. "That at page 11, line 4, for the words 'substantial failure of justice' the words 'failure of justice' be substituted."

The motion was negatived.

Clause 39—Insertion of new article 226A

MR. DEPUTY CHAIRMAN: Shri Abdulla Koya is not present to move his amendment No. 78. Further, it is a negative amendment. Shri Raha may move his amendment.

SHRI SANAT KUMAR RAHA: Sir, I move:

*79. "That at page 12, line 2, after the words 'Central law' the words 'which seeks to give effect to the principles laid down in Part IV' be inserted."

The question was proposed.

SHRI SANAT KUMAR RAHA: It is good that article 226 is going to be amended. The amended provision is not bad. The provision, as it is, runs as follows:

> "Notwithstanding anything in article 226, the High Court shall not consider the constitutional validity of any Central law in any proceedings under that article."

That is all. I want to specifically mention here the words "which seeks to give effect to the principles laid down in Part IV" after the word "law". This amendment seeks to give effect to the principles laid down in Part IV, namely, Directive Principles. This is very vital because the main purpose of the Constitution Amendment Bill is to give Directive Principles precedence over the Fundamental Rights. So far Fundamental Rights in the name of property have been ruling our country. Now our Government woke up and decided to insert article 226A. After passing this Bill my district will benefit because there the Balrampur multi-purpose co-operative society has 501 bigas of land. That land was held by a zamindar and to evade ceiling law he constituted a fake co-operative and appointed his own son as the sole executive officer of that co-operative. I am pursuing this and am trying to expose the malpractices of this executive officer. The Government audi-

*The amendment also stood in the names of Shri Bhupesh Gupta, Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman and Shri Lakshmana Mahapatro.

tor who went there to scrutinise the accounts of the co-operative has ultimately found cut that the executive officer has misappropriated the whole amount drawn from the co-operative. Article 226 empowers the executive officer to go to the High Court. He went there and got the stay order. I wrote about this to the Chief Minister and the Chief Minister's letter tells me that the statement about the misappropriation of money is correct, that the statement that the ceiling law has been evaded by the zamindar is correct and that they are trying to vacate the injunction. But the injunction has not been vacated at all and in many cases years on end the injunction has been there and in respect of those lands grabbed from the agriculturists, the zarmindars are going to the High Court for seeking protection under article 226 and they get injunctions and stay orders. So, Sir, this time, the Government, in order to give the Directive Principles precedence over the Fundamental Rights, has come forward with this new article 226A which I whole-heartedly support. I am very happy about it and I think the entire nation would be happy to see that their fate hereafter will not lie at the mercy of the zamindars and the monopolists. Though I support this provision, I want the Minister to clearly state that the High Courts shall not consider the validity of any Central law in the light of this new article which seeks to give effect to the Directive Principles mentioned in Part IV of the Constitution. All these things should be incorporated in the same provision. Sir, this provision seeks to exclude the jurisdiction of the High Courts. I would like to read out certain portions which are in our favour, in favour of the agriculturists, the small property owners and which are against the big property owners. Now, the jurisdiction of the High Courts is sought to be excluded. So, the provision says that there shall be no interim order, whether by way of injunction or stay or any other thing or in any other manner, in respect of the proceedings relating to a petition under clause (1) and there should be no such injunction or stay in cases where the orders will have the effect of delaying any investigation or inquiry into any offence punishable with imprisonment or delaying any inquiry into a matter of public importance or any action for the execution of any work or project of public utility, or the acquisition of any property for such execution, by the Government or any corporation owned or controlled by the Government. All these have been stated in sub-clause (6) and all these are very good. But, Sir, when the new article 226 is incorporated in the Bill, the relevant Directive Principles should also be quoted and that is my demand. This article is harmless, not only harmless, but also very useful, and I support it. But I press my amendment also.

DR. V. A. SEYID MUHAMMAD: Sir, in connection with the jurisdiction of the Supreme Court, the matter has been elaborately dealt with by Mr. Gokhale and others who have participated in the debate. Regarding the question as to why the Central laws are to be challenged in the Supreme Court only, I need not repeat the arguments put in favour of that. Now, what is proposed is only to make an exception in the case of the High Courts regarding the Central laws where legislation in the field of the Directive Principles is involved. Perhaps the amendment suggests that the High Courts should have jurisdiction to examine even the Central laws. I should have thought that with greater force the argument in favour of retaining the jurisdiction regarding the Central laws for the Supreme Court would apply particularly in regard to the Directive Principles. Because of the importance of the Directive Principles and because we have to legislate in pursuance of these Directive Principles, we have made it even dominant over the Fundamental Rights. It is necessary so that the Directive Principles being in a key position in the scheme of the Constitu-

[Dr. V. A. Seyid Muhammad]

tion, it should not be left to the vagaries which have been described by various speakers. In the case of Directive Principles particularly, I would say, it will be safer and it will be advisable and necessary to leave it entirely to the Supreme Court jurisdiction. For that reason, I cannot accept the amendment.

MR. DEPUTY CHAIRMAN: The question is:

79. "That at page 12, line 2, after the words 'Central law' the words 'which seeks to give effect to the principles laid down in Part IV' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Now, we go to clauses 40 and 41. There are no amendments. Then, clause 42. There is one amendment, which is a negative amendment. Then, we come to clause 43.

SHRI KRISHNARAO NARAYAN DHULAP: Sir, let us have half-an-hour's recess, and after that we will see that all the amendments are moved before we adjourn.

MR. DEPUTY CHAIRMAN: I think we have done enough work. So the House stands adjourned till 2-30 P.M. today.

The House then adjourned for lunch at fifty-six minutes past one of the clock.

The House reassembled after lunch at thirty-two minutes past two of the clock, **the Vice-Chairman (Shri Lokanath Misra)** in the Chair.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Now, we take up clause 43. There are 5 amendments in all. Amendment No. 81 is a negative amendment. Yes Mr. **Dhulap.**

Clause 43—(Insertion of new article 257A)

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I move:

82. "That at page 13, line 11, after the word 'may' the words 'in aid of the civil power' be inserted."

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Shrimati Sumitra Kulkarni is absent. Shri Bhupesh Gupta.

SHRI BHUPESH GUPTA: Sir, I move.

*84. "That at page 13, for Clause 43, the following be substituted, namely:—

'257A. (1) The Government of India may deploy any armed force of the Union or any other force subject to the control of the Union for dealing with any grave situation of law and order in any State, if the State concerned seeks such deployment.

(2) Any armed force or other force or any contingent or unit thereof deployed under clause (1) in any State shall act in accordance with such directions as the State Government concerned may issue and be subject to the superintendence or control of the State Government or any officer or authority subordinate to the State Government.

(3) The State Government shall specify the powers, functions, pri-

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*The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Birchandra Deb Burman and Shri Lakshmana Mahapatro.

vileges and liabilities of the members of any force or any contingent or unit thereof deployed under clause (1) during the period of such deployment.' "

The questions were proposed.

SHRI V. V. SWAMINATHAN: Sir, the founding fathers could imagine grave situations. Therefore, they have provided adequate articles to meet any situation or any emergency, internal or external, or even grave disturbance. When there are adequate provisions under part VIII to meet any kind of emergency, grave situation, disturbance, etc., internal or external, why should you now visualise a thing which is not there? By inserting article 257A, you are adding one more weapon in the armoury of the Central Government. In the past there were language riots in some States like Tamil Nadu and Assam. There were communal riots in Gujarat, very grave strikes and riots in Andhra and Bombay etc. In Bihar in the recent past fascist forces paralised the Government. But in all States in the past we have successfully faced many grave situations and in all these situations, the Central Government was able to control the situation and bring about law and order. Even when the State Ministry is not prepared to obey the directions of the Central Government, we have got instances when such Ministries were dismissed. The Namboodripad Ministry was dismissed in Kerala and recently the moment it was discovered not desirable the Karunanidhi Government has been dismissed because he was not obeying the instructions of the Central Government. If the Government feels that there is danger to the Central Government property, I request the hon. Minister see sub-clause (3) of article 257 which says that the executive power of the Union Government shall be extended to the giving directions to State Government as to the measures to be taken for the protection of the Government property, like the railways alone. If you say the new clause is to prevent destruction of Central Government properties you are at liberties to amend the Article 257(3) so that besides the railways, we can include radio station, post offices and other Central Government properties. By simply amending sub-clause (3) of article 257, we can meet any grave situation. But to bring in another new article—article 257A—is not proper. Even now, the Central Government can send the armed forces to any State. In Bihar we have seen that the armed forces and even the air force was used. When there are sufficient provisions by which the Central Government is armed with adequate powers, why should they bring about this new clause 257A, we are not able to understand. And they say that once the armed forces are sent to a State, they must be under the control of the Central Government and not of the State executive, namely the Chief Minister of that State. There may be some Chief Ministers who might be found wrong for not using their power or over doing their power. To down all Chief Ministers is not justifiable. No doubt, if any CRP goes to a State, it must be under the direction and control of the State Government otherwise there will be a conflict and a confrontation. Sir, as it is, there is a comfortable position between the States and the Centre. And it is not decent nor necessary to disturb that comfortable position. So, I feel that the new clause is bloody thirsty superfluous and it should be dropped.

SHRI KRISHNARAO NARAYAN DHULAP: Sir, the amendment which is sought here as clause 43 smacks of dangerous things because, Sir, under this article, the Government of India may deploy any armed force of the Union or any other force subject to the control of the Union for dealing with any grave situation of law and order in any State. Sir, there is no doubt that the Central Government should be strong but at the same time, the Central Government should see

[Shri Krishnarao Narayan Dhulap]

that the federal relations, relations with the States are not jeopardised. Here, the Central Government *suo moto* sends armed force to the State to control the situation there even if there is no report from the Governor or a request from the Chief Minister of the State. Sir, in a State, whatever Government is there, that Government is also elected by the people and as long as that Government is there, if there is any agitation or a threat to the law and order situation, they will see that it is brought under control. They will use their discretion. And if they are not in a position to cope up with the situation, then they will definitely request the Central Government to help them to ease out the situation. Here, as the provision stands at present *suo moto* the Central Government sends the army to the State. Sir, there is ample provision in the Constitution under article 257 for the Union to have control over the State, and many instances are enumerated under that article. Again, Sir, there is a provision under the Constitution that the President's Rule can be declared in a State if the situation so warrants and it can be dismissed. If there is a bad rule by the elected representatives of the people, let there be the President's Rule. But sending the army there means that the Central Government wants to rule the State through armed force. That means, the Central Government, instead of going to the people and instead of having faith in the people, are taking the help of the military. That means, they want to rule a particular State through military. This is something which is dangerous. Therefore, Sir, I have given my amendment. The amendment is that this army should be sent "in aid of the civil power". It would therefore read: The Government of India may in aid of the civil power deploy any armed force of the Union or any other force subject to the control of the Union for dealing with any grave situation of law and order in any State. I am adding the words "in aid of the civil power." The intention is that that force should go there to aid the civil administration and unless and until there is a request from the Governor who is the representative of the President there or there is a request from the Chief Minister, this army should not be sent. Sir, I have used the words "in aid of the civil power". These words have been used by the framers of this amendment at page 18, clause 57, sub-clause 2A, which reads: "Deployment of any armed force of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power". So these words are actually used for making rules under this article 257. Therefore, these words are being used by me in my amendment.

Secondly, Sir, even the Swaran Singh Committee have said in their recommendation regarding Centre-State co-ordination like this: "The Centre's help is often sought when there is a grave situation of law and order in a State. The Swaran Singh Committee has referred to Central State relations thus: "If the Centre is to be able to render help effectively to the States in such a situation it should have power to deploy police or other force under its own superintendence and control in any State. Suitable provision may be made in the Constitution for this purpose. Generally however the Centre should consult the States if possible before exercising this power."

This is the recommendation of the Swaran Singh Committee. So they have brushed aside this recommendation and this power has been taken by the Central Government which is going to jeopardise the federal relations with the States.

With these words, Sir, I conclude.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Yes, Mr. Bhupesh Gupta.

SHRIMATI SUMITRA G. KULKARNI: Sir, may I move my amendment? I was just coming when the amendments were being moved. Please show indulgence.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): All right.

SHRIMATI SUMITRA G. KULKARNI: Sir, I move:

83. "That at page 13, line 14, after the word 'State' the words 'upon the report of the Governor' be inserted."

85. "That at page 13, line 22, the word 'privileges' be deleted."

The questions were proposed.

SHRIMATI SUMITRA G. KULKARNI: Sir, my amendment relates to article 257A. It reads: The Government of India may deploy any armed force of the Union or any other force subject to the control of *the Union for dealing with any grave* situation of law and order in any State. To this, Sir, I want to add the words,—I am not taking out any word—a small further sub-clause that it will be "upon the report of the Governor". These are the words that I want to add, namely, that the Central Government can deploy any armed force in any State on the report from the Governor.

Sir, article 257A (1) is the clause whereby power is sought in addition to the power vested in the Government of India under article 355 of the Constitution. Sir, please let me have the privilege of reading article 355 for the benefit of the House as well as for you. Article 355 is already existing on the statute book and it reads: "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 the Constitution." Sir, you will see that it enjoins upon the Government of India to take care of the law and order situation in any State. The words used are 'it shall be the duty' and not 'may'. It is not 'may take *action' depending on its convenience* or its sweet will.

Now, my submission is that here is a thing where the government has to help in the maintenance of law and order. Now the proposed amendment also seeks the power to deploy armed forces or any other forces to deal with any grave situation of law and order in any state. Now, this amendment means that the Government of India 'may' do so whereas the existing provision which I just now read, makes it obligatory upon the Government of India to do so. Therefore, it passes one's comprehension as to what is the need for this additional amendment under 257A. The Government of India, under the present Constitution, has got ample and adequate powers and it is a positive duty of the Government of India to go to *the rescue of any State wherever* they think that there is necessity. Now, here, this amendment means that it is not at all obligatory and it leaves it to the choice of the Government. Therefore, it is not as strong as it is under article 355. Why should we have a redundant clause which increases confusion rather than clarifies the situation? Therefore, I would request the honourable Law Minister to explain where was the necessity of adding this kind of clause when we have all the power under article 355.

Now, suppose, the Government of India feels that they do want to deploy the armed forces. There may be a necessity for law and order. In that case, Sir, my amendment is very useful which I would like to recommend to the Law Minister. It reads: "....upon the report of the Gover*nor". For the present, it is usually* on the report of Central information agency or any other agency. Now, Sir, Governor is the agent of the President in the State. He knows

[Shrimati Sumitra G. Kulkarni]

the full situation as prevailing there. He is aware of everything that is happening and he is the best person on the spot to report as to the law and order situation in any State. Sir, such a serious matter, such a grave situation of law and order which calls for deployment of armed forces, must be based on a Governor's report rather than on any other bureaucratic agency. Sir, the bureaucratic agencies can develop some vested interest but the Governor is the representative of the President. His understanding of the local conditions is far superior to that of anybody else and, therefore, it is my humble submission that if we must have this kind of clause, then it should be based on the advice and report of the Governor. This is my first amendment.

Another amendment that I have given in the matter is about article 257A (3). The sub-clause reads:

> "Parliament may, by law, specify the powers, functions, privileges and liabilities of the members of any force or any contingent or unit thereof deployed under clause (1) during the period of such deployment."

Sir, I have many reasons for suggesting my amendment which is to drop the word 'privileges' from this sub-clause (3) of article 257A. The reason is that when we are deploying armed forces, what kind of privileges do we want to confer on them? The armed forces can have their duties; they can have their responsibilities; they can have their functions but certainly they cannot claim any privileges. For the armed forces to claim privileges is a great contradiction. Army and privileges are two contradictory terms. No powers and no privileges can be conferred on the armed forces which are sent out on a duty for maintaining law and order in a State. So, this is a very serious lacuna and I do not know how such a word has crept into this drafting because if we provide privileges, I do not know what will be the result. We can indemnify them; they may exceed some power and authority and they may commit some action which is more than what is imagined or what is provided for. For that, there are provisions to indemnify the army personnel and for that also there is a provision in the Constitution. Article 34 of the Constitution says:

> "Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area."

Here, the words used are "martial law" We are not, in the least, contemplating, under article 257A, martial law. We are contemplating the maintenance of law and order. Now, if some members of the armed forces exceed their authority, we can always pass a law, according to the Constitution, to indemnify them and protect them for what they have done in the course of their duty. But certainly, to confer privileges will be going out of the way. This is a very dangerous word. Today, an army which claims privileges may claim anything tomorrow. It will claim something which may come in the way of maintenance of law and order and the smooth working of the Government. Therefore, it is my suggestion that this word "privileges" should be deleted altogether. Otherwise, we are in for very difficult days *vis-a-vis* the armed forces of this country. This should be considered seriously.

SHRI BHUPESH GUPTA: Sir, I must thank Shrimati Sumitra Kulkarni. She spoke on this subject expressing, more or less, the same views and ap-

prehensions that many of us share. We consider this provision, as it is contained in this Constitution (Forty-fourth Amendment) Bill, a serious encroachment upon what we have regarded as the autonomy of the State, in the context of division of powers, responsibility and authority. In our view, it was not at all warranted from the point of view of maintaining, what you call, law and order, or, for that matter, the integrity of the country. Let me read out my amendment first and then I will explain. We have given a substitute clause. Since you have brought in this clause, if we ask for deletion, it will be rejected as a negative amendment. Therefore, what we have done is, we have given a substitute amendment for this. We have rewritten your amendment to change the original idea contained in your proposal. My amendment reads like this:

"257A. (1) The Government of India may deploy any armed force of the Union or any other force subject to the control of the Union for dealing with any grave situation of law and order in any State, if the State concerned seeks such deployment."

This is a very material consideration, in our view, that the State must ask you to send such troops or armed forces; the sanction must come from the State concerned. Then, we have said:

"(2) Any armed force or other force or any contingent or unit thereof deployed under clause (1) in any State shall act in accordance with such directions as the State Government concerned may issue and be subject to the superintendence or control of the State Government or any officer or authority subordinate to the State Government.

(3) The State Government shall specify the powers, functions, privileges and liabilities of the members of any force or any contingent or unit thereof deployed under clause (1) during the period of such deployment."

Sir, it is most unfortunate that in a Bill of this kind, suddenly, a political provision of this kind should have been introduced. It has nothing to do with economic matters; it has nothing to do with technical matters. It is by itself a very important addition to the Constitution which the Constituent Assembly rejected and did not find favour in the Constitution that we have got before us. First of all, let me make it clear that we are also for a strong Centre. The Prime Minister, the other day, used the words, 'the country needs a strong Centre'. We share that view but I wish she had also added the word 'democratic'. We want a strong and a democratic Centre, not just a strong Centre because strong Centre minus democracy and minus the federal principles to the extent they are enforceable or accepted in our country would be an authoritarian Centre. We do not want any authoritarian Centre in the country. We repeat we want a strong and a democratic Centre. Therefore, it is necessary for us to strengthen it from the point of view not of authoritarianism but of democracy, and to strengthen democracy at the Centre is to strengthen the unity of the country, and in the process also provide a Central Government which will play the due role in keeping the integrity and unity of the country and also carrying the processes of economic and other development. That is how we look at it. Let it not be thought that we are for a weak Centre. We know that if the Centre is weak, unity will not be maintained. There is no doubt about it. The country needs a strong Centre, States too need a strong Centre, people need a strong Centre and our future needs a strong Centre, but then they need a strong Centre which is at the same time a democratic Centre. Without democracy being ensured we cannot have the kind of strong Centre. Mere show of a fist is not the style of strength. The strength must come from the willing acceptance by the people of the Centre that the nation needs. It must depend on the co-operation between the Central Government and the State Govern-

[Shri Bhupesh Gupta]

ments on the basis of democracy and patriotic policies. That is how we should view the strong Centre. Therefore, the issue is not one of having a strong or weak Centre. That is not the debatable point. Rightly or wrongly, in our view rightly, we chose the concept of a quasi-federal Constitution. Our Constitution is not exactly federal in that classical term. Many of the feature of the American Constitution, in so far as the federal principles are concerned, are not to be found in our Constitution. There has been in the formulation of the Constitution some measure of compromise between what is called, unitary concept and federal concept and still we have given some preference in certain very vital matters to the principles of a federation. Must we alter the structure? Not that you are altering it completely but that is how you begin to change it and this is a very vital point, you are making a change.

In this connection, let us take another point. Law and order is still retained in our Constitution as a State subject. Law and order has not been made... Mr. Bansi Lal has come. Kindly sit here. You should listen to us. You seem to have all kinds of ideas. We would like to hear you. You are opposed to the Constituent Assembly. Anyway I will come to you later.

That is what we say. Defence is a national subject. It should remain a national subject. State does not come into the picture here and very rightly so. Only I expect our Defence Minister will be more democratic in attitude a little. Well, that is a different matter. Now, Defence is a Central subject. It should remain with the Centre. We would like to strengthen our Defence. Here there is no compromise. But law and order is a State subject. Mr. Bansi Lal has been a Chief Minister. He knows it and can it be said that he had not administered law and order? In fact, his strong point was law and order. The only thing, I expect you not to introduce that law and order in the Defence or the Central Government to that extent. Please, do not take it, Mr. Bansi Lal, that India is Haryana. That is my request to you. Have we ever complained against him when he was dealing with law and order there or said that we should intervene in his domain? No, we never did it. Law and order is retained in our Constitution, as I said, as an exclusive State subject. That you have not touched. Very good. But why this trespass into their domain by this kind of constitutional amendment? Now, here, in a police matter, the Centre can enter the State in disregard of the Chief Minister of that State and the State Government and send its force even without being asked by the State Government to send it. I am sure. If Mr. Bansi Lal had been in Haryana, he would not have liked it because it is an encroachment on his domain. Unless of course you make out a very strong case, the Chief Ministers...

श्री कमलनाथ झा : भूपेश बाबू से मैं पूछना चाहता हूं कि क्या सी० पी० एम० का बंगाल वह हिन्दुस्तान में देखना पसंद करेंगे ?

श्री भूपेश गुप्त : उसे हिन्दुस्तान को देखना चाहिए ।

Do you think that our Constitution makers did not have Hindustan in mind but only Bihar, Haryana and West Bengal in mind? Surely, they had Hindustan in mind. I am showing you how provisions are there in the Constitution. Do not think that the Constitution has not provided for it. What I am saying is, having given law and order to them, you are entering the State; without the consent of, and consultation with, the State Governments, you can just go whenever you like, irrespective of whether a State Government, even though belonging to your party, wants it or not, irrespective of whether the Chief Minister and the State Government are capable of dealing with the situation or not. In the first instance, this a aspersion cast on the State Government and this does not put the State Government in the best light

telling those State Governments that they have no power. This is the most objectionable thing to do. There may not be clashes today; tomorrow there may be clashes. I can bet—if in the mid-50s this thing had been passed on to the State Governments, most or all of the Chief Ministers of the Congress Party would have refused it, would not have accepted it. In fact, Jawaharlal Nehru would never have made this suggestion that they should accept the position that the Centre could send the armed forces without the consent of the State Governments or without being asked by them to send them. Nowadays, we are having so many new things, new concepts, new ideas, and this is one of them. I should like to know from the Law Minister whether he consulted the State Governments and, if so, how many were consulted before coming to the conclusion that a change in article 257 should be made. Then let us know the opinion of the State Governments before the Bill was drafted. We are entitled to know about it. Parliament should be taken seriously; precisely because we are in Parliament, we are entitled to know about it; it is more so because we are in the Rajya Sabha; our job is to look after the interests of the States as a whole, not constituencies only that way. We have a special status. Over such matters, we must apply our minds. The Council of States should not abdicate its authority in a matter so vital, relating to the autonomy and the power of the State Government Over the last 25 or 26 years nothing has happened to warrant this Now, they will go there and operate, not under the Chief Minister but under the Central Government. I can understand the Defence Minister sending troops in a kind of big upheaval. We have a provision in our Constitution for that, but nothing here. You have the Border Security Force, the CRP and other armed forces, not the army. The army of course, can be sent, but I am not talking about that. Now they will not be functioning under the State Government, yet they will be functioning within the State which has an administration responsible to the people, which has a legislature functioning there and which has a Minister of Law and Order accountable to the legislature. These forces will be functioning there completely outside their jurisdiction and authority. What sort of thing is this? I should like to know. Sir, no State has demanded it in the past. My friend very rightly said "What about Hindustan?" We are concerned about Hindustan. But the unity of India has to be maintained amidst diversities. That is why we struck a kind of balance between the unitary and the federal concepts of Constitution, with proper division of power, with three lists, List I, List II and List III—the Union List, the State List and the Concurrent List—in our Constitution. These are all well defined and these had been done with utmost care, I must say, so that while the unity of the country is strengthened and its integrity maintained, within the boundaries and frame-work of unity, the State Governments do enjoy as much power as should be given to them, specially in a law and order matter of this type. Now, Sir, suppose one State Government does not behave properly and suppose the situation there is threatening and it does not make a request for help. What are you going to do? We have power under article 256 to give directions to the State. If the directions are not carried out, we have other powers to take action. We have powers to dismiss the Government, to dismiss the legislature and establish President's rule and take the State under our direct control. These powers are given under the Constitution as it stands today. We are not suggesting the deletion of this provision of the Constitution. Now, Sir, if the State Government becomes such an irresponsible Government, completely unconcerned for the unity of the country and for the security of the people and all the rest of it, such a Government does not deserve to remain. The first thing to do is to dismiss that Government, for which we have got power. You have dismissed Governments wrongly. We have been your victim at least three times: we know. But you have got that power. You can

[Shri Bhupesh Gupta]

do it. When we are in majority in Kerala with one or two or three votes, and there is no chance of your diminishing the majority, you dismiss the Government. You had the power. You have dismissed now the DMK Government despite the fact that it had a big majority in the Assembly. Of course, there are a lot of sins to call for it and you did it rightly in that situation. But you did not lack powers to take that action. You had intervened in Gujarat also. Gujarat has President's rule now despite the fact that there is a legislature there which is suspended. Even with the legislature in existence, you can intervene through President's rule. You are doing it. When the Uttar Pradesh Assembly could not produce a Chief Minister, you just suspended the Assembly and intervened with a short-time President's rule there in order to settle your affairs. And then you revoked President's rule and then a Government came into existence. I can cite many many examples from the constitutional history of our country since independence when, on grounds right or wrong, you had the power to intervene and you did intervene. Therefore, Sir, it was absolutely unnecessary to do it in this manner as it has been done. Therefore, I have moved my amendment. Sir, this clause has created a very bad impression. Today you may not face the problem of conflict. But you may face it in future. You may not face it, but your successor Government may face it. This is a point of potential discord. It is not a point for strengthening unity. Is it our contention that the country's unity has been weakened over these 25 years since we did not have this provision, since law and order had been left entirely in the hands of the States? No, Sir. Over the past 26 years the unity of the country has grown strong. The national cohesion is of the highest order now. At one time it was thought that the formation of the linguistic States would weaken the unity of the country. But after the sacrifice of Potti Sriramulu when the linguistic States were formed, that only strengthened the unity and this unity must be further strengthened by building it on the edifice of diversities. That is the history. Now this is only an attempt to assume more and more power in the hands of the Central executive and the Central Government here, that is to say.....

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Please conclude.

SHRI BHUPESH GUPTA: I will sit, but will ask others to speak.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): One speaker has taken 25 minutes.

SHRI BHUPESH GUPTA: Every member has a right to speak on this. If I sit, I will allow other people to speak. I am finishing. You said that I have taken 25 minutes. I can speak for the whole day on the subject.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): You can speak for 25 years.

SHRI BHUPESH GUPTA: This calls for a speech from 10 in the morning till the evening.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): In fact you have spoken for 25 years in this House.

SHRI BHUPESH GUPTA: But you have not heard all those speeches. Anyway they have made no sense to you at least.

Therefore, this has to be strongly opposed. It is not necessary at all. You have all the provisions in the Constitution. You have intervened whenever you wanted to intervene. This is highly provocative. It may not be misused today. Any other Government can misuse it. Why should I assume that the Congress Party with all these friends will always remain in power? It may be, some misfortune may come and some other party may be there for five years and they may play havoc under this provision. Constitutional provision is not to be tackled

from a short-term point of view. For that the Acts of Parliament are there. Such provisions have to be viewed in the context of longer perspective keeping in view the norms and standards of democracy. I am sure every State Chief Minister will be feeling in his heart that this is a no confidence against him. They are not children, though I know some State Chief Ministers are not behaving like aged people. Some of them behave as if they are teenagers. But the institution of Chief Minister is very responsible. Chief Ministers are expected to know how to run their Governments. Whether they like it or not, this is a most wrong thing. My fear is this will be used in order to get into the States whenever they can. May be certain democratic movement is there. On the very legitimate demand from the workers. There may be a peasants' agitation in a State. Immediately you will say: "Intervene". Or, you may ask the State Government to do something. From every point of view, this is going against the spirit of our Constitution. This is also defying some of the things we have built up over the years. Our States and the Centre are closer today and a measure of unity has been achieved over the past years by working the existing system. There is no need at all to disturb it in the present situation. We tackled the separatist movement in the Andhra Pradesh without this provision...

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Please conclude now. Won't you like to know the reaction of the hon. Minister who does not have much time left to reply?

SHRI BHUPESH GUPTA: Sir, I would like to hear the Minister repeat the stock arguments in respect of this. But I will launch my strong protest against this provision. Such things we have never discussed anywhere. Suddenly, Sir, they have brought in this thing. Here again, Sir, you see the stamp of the bureaucracy. Certain authoritarian tendencies are incorporated in these provisions of the Bill. As such, it is deplorable that such a provision should have been included in a Constitution Amendment Bill whose object otherwise is good.

SHRI H. R. GOKHALE: Sir, if I can hear the stock arguments of my friend, now let him hear my stock arguments.

Sir, whenever he raises his voice, I am a little nervous and I must confess that. But I am not so much nervous about the arguments which he makes. Sir, let us look at the clause and let us not be carried away by general impressions or considerations which do not really arise from the provision which has been made in this clause.

First of all, it is very important to see that the use of this power is only for dealing with any grave law and order situation. If words have any meaning, Sir, then the word "grave" also has some meaning and when we are talking of a grave situation of law and order, it certainly does not mean an ordinary situation of law and order which is supposed to be dealt with by the State Government under the power which is given to it by the specific entry relating to law and order in the State List. Therefore, it is obvious that the power to be used by the Central Government for sending the armed forces to the States is not intended even under this provision to deal with ordinary situation of law and order. It is only in the case of a grave situation of law and order that the question of sending armed forces may, if at all, arise.

Then, Sir, the second thing which I wanted to mention is that any Central Government which has to carry on here—here I am not referring to a Congress Central Government, but I am saying that on a future date there may be any other Government—cannot carry on normally by a mere imposition without the consent of the State Government concerned and I am quite sure that even if the power is there to send or to deploy armed forces without consulting the State Governments, no Central Government is ordinarily

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likely to do so, for no Central Government would like any confrontation or any conflict with any State Government, whether it is a State Government of the party which is in power at the Centre or a State Government of any other party. Therefore, the apprehension that, whether or not a State Government likes it, every time the State Government will be imposed upon by the use of this power is not at all justified. But, in grave situations and in exceptional situations, if I may say so, even this may become necessary and it is only when it becomes necessary that such a provision is made in law where this power to send or to deploy the armed forces of the Union in a State is provided for.

Sir, we have known of agitations in the past. I do not want to highlight any particular agitation because I do not want to revive memories which are unfortunate. But I know that in certain situations, even the State Governments were willing to take a stiff attitude, but they were not able to do so because of the peculiar nature of that particular agitation and this has largely arisen in cases where, for example, emotional issues are involved, when there is a disturbance involving emotional issues, say, the language issue. The State Government, in such cases, though it knows that it has got to enforce order and that it has to maintain law and order, is not able to do so and it is hardly possible for any State Government in such a situation, when it is so much embarrassed because of its too close an involvement in the local situation, to act and while they may not say so, they really desire that the Central Government should come and assist them in quelling that agitation and in maintaining law and order. Therefore, on more hypothetical considerations to say that there should be no Central intervention at all at any stage when something happens creating a grave law and order situation in any part of the country is, I think, with all respect to my learned friend, putting it too high.

SHRIMATI SUMITRA G. KULKARNI: For the very same purpose, Sir, I have also given an amendment.

SHRI H. R. GOKHALE: Just a minute, Mrs. Kulkarni. Yours is only a minor point. I will come to it later because now I am going through the major issues which Mr. Bhupesh Gupta has raised. Let me have done with them first before I turn to you to give replies to your questions.

SHRI BHUPESH GUPTA: You should go by the rule. Ladies first.

SHRI H. R. GOKHALE: But this lady was considerate to Mr. Bhupesh Gupta ... (*Interruptions*).

Therefore, Sir, I was saying that there is a talk that now there is an attempt to take everything to the Centre and all that. He did not use these words. Some others have said at an earlier stage: You are really destroying the federal structure. It is really quarrelling with words. The main thing is—as I had occasion to say in the morning—that we did not have that kind of federation in India. That is why it was not called a Federation of India. The wise people who made our Constitution, after consideration of this, called it Union of India. The reason was there was already a considerable bias in favour of the Centre. Our Federation did not come into existence as some other federations did. In this country there were so many independent States and then all independent States decided to come together to form a federation. In our country there were administrative units in the States even under the Government of India Act. But they were not independent political units, and it was a reorganisation of the governments of the country by the Constitution of India to make it into a Union of India, having a federal character but with a strong Central bias. The purpose and the objective was that unless there is a strong Centre in this vast country with

diversity—and happily, a great deal of unity in diversity—even then, circumstances could be envisaged where it is necessary for the Centre to act. That is the objective of this provision, and no other. And I can say with confidence that even in the future, wherever it is necessary, there is no doubt that this power will ordinarily be used in consultation with the State Government. Although the power is there, consultation may be made. I think those situations will be very extraordinary and very rare, and normally this power will not be used in that way.

Sir, all that I want to say is that here is a provision which had not been there for all these years. Even then, here and there certain armed forces—I do not mean, military armed forces, there are armed forces other than military armed forces—were used for the purpose quelling disorder in the States. All that is now being done is to legalise the position by making a special provision.

SHRI BHUPESH GUPTA: Was it illegal so far?

SHRI H. R. GOKHALE: It was not illegal. But it was not in the Constitution. There were certain enactments. For instance, there is the Delhi Special Police Establishment Act, of which the hon. Member is aware. There is a provision in that. But it is a limited provision and all situations could not be met. Now all situations of a grave nature can be met after this is introduced.

Now, my friend, Mrs. Sumitra Kulkarni said, that it must be on the report of the Governor. In the first instance, the Governor is not an elected Governor. He is appointed by the President . . .

SHRIMATI SUMITRA G. KULKARNI: I have not said that. I have said that he is the agent of the President.

SHRI H. R. GOKHALE: I am not saying that you said it. But I am only answering your argument. My friend will have to be a little patient. I do not want to put any words in her mouth. I am dealing with her argument. In order to meet that argument, I am mentioning a certain feature, which is important to remember, and that feature is that in this country the Governor is not an elected Governor. You did not say so, I know. The Governor, therefore being an appointee of the President, normally—not normally but always—will have to function on the instructions of the President. When a situation arises in a State, the President is not supposed to have information on his own. He can in certain circumstances, but normally he will go through the ordinary channels for obtaining information which obviously is the channel of asking the Governor. No special provision saying that the Governor should make a report seems to be necessary at all. Even in article 356, it is not exactly the same. It is not identical. But there is some analogy. When the President's rule is to be imposed, the express provision is that on a report of the Governor or otherwise, . . . Even there, although there is a reference made to the report of the Governor, the possibility that the President may act otherwise than on the report of the Governor is not ruled out for the simple reason that there you are dealing with a different kind of situation. There you are dealing with a situation where there is an elected Ministry and the Government has come to the conclusion that the constitutional machinery in that State has failed. There it is the Governor who has to bring to the notice of the President that these are the facts and the reasons on the basis of which I think that constitutional machinery in the State cannot function. Normally it is on the basis of the report of the Governor. But the fact is that even otherwise the Presi-

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dent can act. It is not an innovation. The other thing which she mentioned to me yesterday set me thinking. I gave some thought to it. It is not that the point is not well taken. I considered the matter. In the first instance, I could not satisfy her. I myself wanted to look into it. I have looked into it. You normally feel that by inserting a special clause in favour of the Armed Forces, you are creating some kind of a privileged class. That is not the situation. I have looked at various other laws. We have got the Navy Act. We have got the Police Establishment Act. We have got the Armed Forces Act. When a person is in a State outside his normal jurisdiction, he has to be protected in certain matters. They are all individuals and human beings. Civil litigations may be pending against some persons. Therefore, while he is on duty somewhere else, his absence from the court will not be put against him and the court will not, for example, pass a decree say of Rs. 10,000 against him simply because he did not present himself in court. It is a privilege given to a person performing his duties. I give only one illustration. There can be others. Take the revenue matters under the various laws relating to land reforms. Many of them have small patches of land. All of them mostly come from villages. The mere fact that a man has been sent away on duty should not deprive him of his privileges and rights which would have normally accrued to him had he been on the land. For example, he cannot be treated as an absentee tenant or an absentee landlord. My friend draws my attention to another example. If there is an election, he has the right to vote as a citizen and he will have the privilege of voting through the special channel for such people even if he is on duty somewhere else. He has to be provided some housing and certain other facilities which will be required for the performance of his normal duties.

SHRIMATI SUMITRA G. KULKARNI: What the hon. Minister is speaking about are the service conditions which can be governed by various statutes and rules of service conditions. It cannot be brought on the Constitution. The Constitution is a very important document which cannot be cluttered with these kinds of expressions. Otherwise, it can lead to a lot of litigation and to much more misuse than we can conceive of today. All the facilities and other things can be provided under the various rules and service conditions.

SHRI H. R. GOKHALE: First of all, these are not the conditions of service. *(Interruptions)* Let me complete. I am incapable of giving an answer in one sentence. Unfortunately, I take a little longer to put forth my point of view. The first thing is that these are not conditions of service. These are actually the conditions which arise in abnormal circumstances when a man is away. Apart from that, Sir, I agree with her that the Constitution is something important. It is not the same as anything else. Here also privileges are not laid down. As she must have noticed, here the provision is that they will be laid down by law made for that purpose. Therefore, the law will come before you. It may be that if there is anything wrong in the law, my friend will have an ample opportunity to say that this should not be there or this should be there. All these things are again going to be done by Parliament. But the legislative competence to pass such a law which is somewhat otherwise discriminatory because other people do not get these privileges and only these people are going to get. So, a provision in the Constitution is necessary. You cannot discriminate unless such a discrimination is permitted by the Constitution as is done in any other case. And I do not want to underrate the importance of the Constitution and there I fully agree with you. But the point is that unless a thing needs to be done by

a Constitutional provision, how can you make a law? You are allowed to make the law. And surely as vigilant as she is, when this will come before the House, she can certainly point out that this is wrong and this is right. Ultimately, the Parliament is going to do it. That is the whole position.

SHRIMATI SUMITRA G. KULKARNI: Thanks for the compliment. But still I feel that we cannot allow this kind of a thing to creep into the Constitution. This is a thing which should be taken care of when the thing will come up. But today there is no need for such a thing to be put in. This is my submission.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): I will now put the amendments to vote. Amendment No. 81 of Mr. V. V. Swaminathan is negative.d Now, Mr. Dhulap's amendment No. 82.

The question is:

82. "That at page 13, line 11, after the word 'may' the words 'in aid of the civil power' be inserted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Now we will take up Shrimati Sumitra Kulkarni's amendment. Are you pressing it?

SHRIMATI SUMITRA G. KULKARNI: I only want to say one sentence. I understand that he cannot accept my amendment just now but he should bear this in mind when the future time comes because this is important. Subject to that I will withdraw my amendment.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): The question is:

"That leave be granted to the Mover to withdraw her amendments (Nos. 83 and 85)."

The motion was adopted.

The amendments (Nos. 83 and 85*) were, by leave, withdrawn.*

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Now, Mr. Bhupesh Gupta's amendment. Are you withdrawing it?

SHRI BHUPESH GUPTA: Why are you asking us to withdraw it? You have only recently joined the Congress.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): When I am in the Chair, there is no point in saying that I have joined the Congress. I belong to no party when I am in the Chair. So, are you pressing it?

SHRI BHUPESH GUPTA: Yes. But we reserve our right that when the clause comes, we shall seek a division.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): The question is:

84. "That at page 13, for clause 43, the following be substituted, namely:—

'257A. (1) The Government of India may deploy any armed force of the Union or any other force subject to the control of the Union for dealing with any grave situation of law and order in any State, if the State concerned seeks such deployment.

(2) Any armed force or other force or any contingent or unit thereof deployed under clause (1) in any State shall act in accordance with such directions as the State Government con-

*For text of amendments, *vide* col. 89 *supra*.

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cerned may issue and be subject to the superintendence or control of the State Government or any officer or authority subordinate to the State Government.

(3) The State Government shall specify the powers, functions, privileges and liabilities of the members of any force or any contingent or unit thereof deployed under clause (1) during the period of such deployment.'"

The motion was negatived.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Now, we shall take up clause 44. There are two amendments.

SHRI BHUPESH GUPTA: Sir, I beg to move :

*86. "That at page 13 lines 26 to 30 be deleted."

*87. "That at page 13, for lines 33 to 37, the following be substituted, namely:—

'Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry after giving such person adequate opportunity of making representation on the penalty proposed.'"

The question was proposed.

SHRI LAKSHMANA MAHAPATRO: Sir, this is a provision which gives me an impression that somehow for no reason or for no fault of theirs, the civil service is tried to be sternly dealt with.

Sir, when this matter came up before the Swaran Singh Committee, they said that this provision of second show cause notice delays the matter. This is what they said: "However, the second notice to show cause why a particular punishment should not be awarded does not serve any purpose except to delay the proceedings unduly."

And, Sir, I have gone through the proceedings of the Lok Sabha in relation to this particular clause and the hon. Law Minister also made the same point and nothing beyond that that it only delays the matter. Sir, with all respects to the Swaran Singh Committee I am not able to agree with their saying that it does not do any good and nor does this serve any purpose, for I am fortified when I say this by the history of records as far as the cases relating to civil services are concerned. I had the good opportunity of dealing with many a case in relation to civil service matters that it is this second show cause notice which serves the purpose of those people who are sought to be punished for nothing that was there on record when the inquiry was made and the evidence was taken. Therefore I say that this second show cause notice, after an inquiry is held and after a particular penalty is proposed to be imposed and is brought to his notice enables him to have a say in the matter.

Now, in relation to this thing I shall just allude to something that happened in 1963 when the Fifteenth Amendment was brought. At that time the civil service organisations came on a representation to the then Law Minister, Shri Ashok Sen, and he brought forth an amendment and that amendment now forms part of the Constitution and this amend-

*The amendments also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman and Shri Lakshmana Mahapatro.

ment which Mr. Ashok Sen himself brought forward in 1963 is now sought to be thrown away and so also the second show cause notice. My amendment is a little bit different from what was proposed by Mr. Ashok Sen and which is now in our Constitution. We say that it should not be limited as Mr. Sen wanted to have it. This is how the law at present reads: "No such person as aforesaid shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of evidence adduced during such inquiry." Now, this is what was said, *i.e.*, by that provision or by that amendment which Mr. Sen brought forth, he wanted to say that the representation that he could make should be limited to the evidence that is there on record. But our amendment is like this: "Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry after giving such person adequate opportunity of making a representation on the penalty proposed; ". We are saying this because we are apprehensive —why apprehensive—because we have been seeing cases where there have been extraneous matters which influenced the findings of the inquiry officer and he had proposed a particular finding which was not borne out by the record or evidence on record. Therefore it should be on the basis of evidence adduced during an inquiry and after giving such persons an adequate opportunity of making a representation on the penalties proposed. This is how we want the amendment to be because this second opportunity entitles him and enables him to say not only what all is wrongly arrived at by the inquiry officer but also gives him an opportunity of saying that the penalty is not warranted or that the penalty is too severe. Therefore the second show cause notice was definitely doing good to the civil service especially in matters of dismissal, reduction in rank and such other major punishments that were being inflicted on these people. This was serving a great deal so far as the civil service persons were concerned. But, you know, Sir, in the recent days the events that have come to our notice, give a dismal picture of how the civil service are being dealt with. You know, Sir, that the Government have now got the authority to retire a person compulsorily after the age of 50 years and after a service of 25 years and this is being used very badly. And this is badly being used. The information with me is that there are 17,000 cases in the Railways and 5,000 cases of persons serving in the civil department under the Defence services where services were terminated for no fault of the employees and after it was brought to the notice of the authorities, many cases were found to have been decided wrongly and the employees had been retired most arbitrarily and thereafter reinstatement orders were issued. If we look to the judicial pronouncements in relation to such dismissals that are covered under Civil Services Classification Control and Appeal Rules, we find that in 9 out of 10 cases, so referred to the courts, the findings of the department have been reversed and persons were found to have been dismissed most arbitrarily, most whimsically and on no ground or evidence on record. Therefore, it is this second show-cause notice that has been provided for after due deliberation and after the stiff battle put up by the service organisations. And today when we want to do so many democratic things, why this undemocratic act should be done? Why should there be this stern hand on the civil service personnel?

SHRI H. R. GOKHALE: As the hon. Members know, the substantial provision in article 311 with regard to the giving of an opportunity is not done away with. Actually, even after the amendment is made, the provision that it will be after a reasonable opportunity, is still going to be there. Therefore, it is not as if there is not going to be any opportunity. The only thing which is sought to be done is that after the opportunity is given, after the employee of the Government has been heard and after the evidence is recorded and a conclusion is reached by the inquiring authority, then a second opportunity need not be given. That is what the present amendment says. And I think it is quite right to say that experience in the past shows that this second authority requirement has led to such a delay. There were cases which were mentioned in this House and we know there are cases outside also where the decisions with regard to these inquiries were arrived at even after the man had retired. There should be some limit to the necessity of an inquiry, where an inquiry should end and I think the basic requirement that nobody should be dismissed or reduced in rank without being given an opportunity, is not being taken away. It is still there. Moreover, perhaps, only in our Constitution such a provision is there. We have brought it from the Government of India Act. It is really a legacy of the British. There was a provision in, I think, section 240, if I am not wrong, in the Government of India Act which was to this effect. That was again incorporated in the Constitution and that is how it is there. I am not aware of any provision anywhere else even in democratic countries where this great deal of protection is given to State employees and I do not think, as the hon. Member said, what is undemocratic in it when you are giving an opportunity of being heard and after giving an opportunity, you come to the conclusion if the man has committed some misconduct or things like that and whether he should be dismissed or removed or reduced in the rank There is nothing undemocratic about it. In fact, in most cases, the rule of master and servant applies but it is not done so in the case of Government employees, and the employees of the State because they are the people who may be given some protection in respect of the security of their employment. Therefore, Sir, I am not in a positior to agree either that there is any undemocratic step or without giving the second opportunity, one inquiry is something which is against the principles of natural justice.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): The question is :

86. "That at page 13, lines 26 to 30 be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): The question is :

87. "That at page 13, for lines 33 to 37, the following be substituted, namely :

'Provided that where it is proposed after such inquiry, to impose upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such inquiry after giving such person adequate opportunity of making representation on the penalty proposed.'"

The motion was negatived.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Then we come to clause 45. There are no amendments. So we go over to clause 46. There are 18 amendments. Now, Mr. Bhardwaj to move his amendments.

Clause 46—Insertion of new Part XIVA

SHRI JAGAN NATH BHARDWAJ: Sir, I move :

88. "That at page 14, line 15, for the heading 'Tribunals' the heading 'Conciliation Panels and Tribunals be substituted."

89. "That at page 14, line 16, for the word 'adjudication' the words 'conciliation or adjudication' be substituted."

92. "That at page 14, line 17, for the words 'by administrative tribunals' the words 'by conciliation panels or administrative tribunals' be substituted."

95. "That at page 14, line 21, after the words 'establishment of' the words 'conciliation panels and' be inserted."

96. "That at page 14, line 36, after the word 'Union' the words 'and separate conciliation panel or panels' be inserted."

97. "That at page 14, line 36, after the words 'each such' the words 'conciliation panel and' be inserted."

98. "That at page 14, lines 38-39, after the word 'such' in each line, the words 'panels and' be inserted."

102. "That at page 15, line 13, after the word 'disputes' the words 'where conciliation efforts fail and arbitration is not agreed' be inserted."

SHRI N. H. KUMBHARE: Sir, I beg to move :

90. "That at page 14, for lines 16 to 22, the following be substituted, namely:—

'323A(1) Parliament may by law provide for the decision or adjudication or trial, by administrative Tribunals of matters disputes and complaints with respect to recruitment and condition of service of persons appointed to services and also in regard to reservation in services for the members of Scheduled Castes and Scheduled Tribes, in connection with the affairs of the Union or of any State or of any local or other authority or public service undertakings or educational institutions within the territory of India, or under the control of the Government of India or of any corporation owned or controlled by the Government'."

101. 'That at page 15, line 13, after the word 'disputes' the words 'including claims of workers under labour laws' be inserted."

SHRIMATI SUMITRA G. KULKARNI: Sir, I beg to move :

91. "That at page 14, line 17, after the word 'tribunals' the words 'consisting of persons eligible to be appointed as Judges of the High Court' be inserted."

99. "That at page 15, line 5, after the word 'tribunals' the words 'consisting of persons eligible to be appointed as Judges of the High Court' be inserted."

103. "That at page 15, after line 26, the following be inserted, namely:—

'(gi) disputes relating to in connection with the co-operative societies'."

134. "That at page 15, line 13, after the word 'disputes' the words 'and disputes relating to agricultural labour' be inserted."

136. "That at page 14, line 22, after the word 'Government' the words 'or a University estabished by law or any recognised educational institution' be inserted."

SHRI BHUPESH GUPTA: Sir, I beg to move :

*93. "That at page 14, line 13, for the words 'and conditions of service' the words 'conditions of service, reversion, discharge, removal, dismissal from service, premature or compulsory retirement' be substituted."

*94. "That at page 14, line 18, after the word 'persons' the words 'including members of the public service commission judges of the Supreme Court and High Courts, representatives of the employees and eminent public figures other than retired administrators' be inserted."

*100. "That at page 15, line 13, after the words 'labour disputes' the words 'including disputes concerning agricultural labour' be inserted."

The questions were proposed.

SHRI JAGAN NATH BHARDWAJ: Sir, I would like to speak on my amendment Nos. 88, 92, 95 and 102. By these amendments, I seek some addition to clause 46, as it stands in the Bill. This is a good step and Government have done a good thing. Two new articles, 323A and 323B are proposed to be included. With this, I think, most of the ills which prevail at present could be cured. For example, this clause provides that new laws will be made to constitute tribunals for adjudicating service matters and so on. By this, the long delays in the Courts will be, to some extent, reduced. I have a bitter experience. In the High Court at Chandigarh, there was a case between the members of a recognised union and the members of a fake union belonging to the Jan Sangh. The hon. Judge took eleven days to hear that case. There were witnesses and counter-witnesses. The drama went on for eleven days. Ultimately, it was decided that the case was not a material one and the case was dismissed. I feel that with the insertion of these two articles, things will be remedied to a great extent.

Now, Sir, I propose a two-tier system. The first tier should be conciliation. I think, conciliation is very important for good relations between the employers and the employees. If you have only adjudication, there will be a sort of bitterness left behind. Although the case will be settled, the relations between the employers and the employees will be strained. Therefore, our efforts should be to see that the case is settled through conciliation. If conciliation is not successful, if arbitration is not agreed to, then only the case should go for adjudication. In this way, I think, much good is going to come. Firstly, delays will be cut short. If we instil good sense, most of the things will be solved. A process of education for the employers and the employees will start. Otherwise, there is no one to put in a word of sanity. When there is a dispute, people say 'Go to the Courts, go to the Tribunals'. There is generally a tendency to see people raise complaints. It is very necessary that this sort of tendency should be countered. If there are conciliation panels this will be a sort of education for them with the result that a healthy atmosphere will prevail in the services. Justice will be speedier; justice will be less costly, and, at the same time, good employer—employees relations will prevail. With these words, I would request the hon. Minister to accept these four amendments.

*The amendments also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman and Shri Lakshmana Mahapatro.

SHRI N. H. KUMBHARE: Sir, I am seeking amendments to the proposed articles 323A and 323B. So far as the amendment to article 323A is concerned, my object is two-fold. In the first place I have, among other matters, desired that the tribunals should have unrestricted power to deal with all matters arising out of service. Under the present provision an aggrieved employee would get relief only when there is a dispute or there is some sort of complaint. By this amendment I wanted that all matters, whether they are disputes or complaints, should also be adjudicated by the tribunal. As the purpose for which I have sought this amendment, I wanted to enlarge the scope because this is a Constitutional provision and if you restrict it only to the disputes and complaints, then there would be a difficulty to cover other matters. Even while enacting a law you will not enlarge the scope of that law because it will have to fit in within the framework of the article. Therefore, I cannot understand the restriction on the authority of the tribunal. Therefore, my amendment should be considered.

Then, Sir, the objective of my amendment is to provide for a forum to the members of the Scheduled Castes and Scheduled Tribes where they can approach these tribunals to secure expeditious remedy against any action, against any executive action. At present, under the Government of India scheme providing for reservation for Scheduled Castes and Scheduled Tribes, there is no forum which could be approached by an aggrieved employee to secure relief. If an employee has got a grievance that his promotion has been wrongly upheld, that he has been wrongly superseded, that he was competent to hold the post but his selection has not been made, then under the existing provisions, he can only make an application to the higher authority and the higher authority is not duty bound to give the reply. And normally, the tendency of the higher authority is to uphold the order of the appointing authority, howsoever wrong it may be. It could be the wrong order but they are not going to revise it. They will uphold the wrong order of the appointing authority. (*Time bell rings*). For how many minutes have I spoken?

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Kindly try to finish because ultimately at 5.30 we have to put it to Vote.

SHRI N. H. KUMBHARE: But is it applicable to me only?

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA) I wanted that you should kindly try to finish.

SHRI N. H. KUMBHARE: You have given the Bell when I have not touched even two points. I cannot understand this.

Sir, my submission is that now we are being told, Oh, here is the authority, the Commissioner for Scheduled Castes and Scheduled Tribes, who could be approached for the redressal of the grievances. Sir, according to us, the Commissioner for Scheduled Castes and Scheduled Tribes has no power or authority to decide the matters. According to us, so far as the service matters are concerned, he is nothing but a dignified clerk. If you make a complaint to him, he can forward the same to the concerned authority. The concerned authority gives the comments and the comments are sent to the employee and nothing substantial is being done to give relief to the aggrieved employee. Therefore, Sir, it is very necessary that there should be a forum to adjudicate all disputes arising out of the Government policy of reservation in services.

My submission is that there are provisions in the Constitution. Articles 16(4), 46 and 335 deal with reservation for the Scheduled Castes and the Scheduled Tribes. In article 335, there is a provision to the effect that the claims of the Scheduled Castes and the Scheduled Tribes will be consider-

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ed consistent with the efficiency of administration. Now, this efficiency is very much coming in the way of appointment of the Scheduled Castes and the Schedued Tribes. I will give a very concrete case of the Bombay High Court. It is the case of a Civil Judge belonging to a backward class for whom there is reservation. His petition in the High Court having been dismissed, he has moved the Supreme Court. Naturally, the Bombay High Court being the appointing authority has filed a return and in that return they have flatly denied the right of this Civil Judge to be appointed. You better understand this case. I will read out from the return itself for a better appreciation of the facts of the case:—

> "Since the petitioner had put in seven years' service and was within the prescribed age limit, he had the requisite qualifications for being considered for selection and appointment as an Assistant Judge and he was in fact considered. But eligibility does not mean suitability...."

This is the argument.

> "The absence of adverse remarks is only a negative aspect. When promotion is to be made by strict selection on merit and when a few officers are to be selected from amongst a large number of eligible officers, the mere fact that no adverse remarks are communicated to an officer is not sufficient; he must posses adequate positive merit and must be found to be suitable. I say that although the petitioner had the requisite qualifications for being considered for promotion, he was not found to be suitable for selection and promotion and was not, therefore, selected."

In this connection, I would like to make a reference to the other fact....

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Please wind up now. You have taken 12 minutes already.

SHRI N. H. KUMBHARE: It is only five minutes.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): To you it appears to be only five minutes.

SHRI N. H. KUMBHARE: I will take only three more minutes. Sir, I was about to say that as many as 83 candidates were called for interview out of whom there were four Scheduled Caste people also. But none was selected. They have cited in their return article 335 and said that it is their discretion to decide whether he is suitable or not. This is how article 335 is being construed, in a manner so as to defeat the claim of the employees.

Sir, even though there is reservation for them in the Constitution, which is a right which flows from the Constitution, I must say what is their present represenation in the services. Hardly 3 per cent are there in Class I, and hardly 5 per cent are there in Class II, and as regards the representation of the Scheduled Castes, it is almost negligible. What is the reason? I must say that there is apathy, indifference, on the part of the executives. I should also say that there is opposition to this policy. And it is because of these things that in spite of hundreds of Government directives it is not possible to secure adequate representation for the Scheduled Castes and the Scheduled Tribes. I must also say that far from promoting the service interests of the Scheduled Castes and the Scheduled Tribes, there is a systematic move, and it has been evidenced from the fact that though the Constitution provides that there should be reservation for them in respect of all new posts and appointments, the executive instructions have made a lot of exemptions and exceptions by which certain posts and services have been excluded from the purview of reservation.

I will give an example, Sir, No reservation is made applicable to the Army, the Navy and the Air Force.

No reservation is applicable to appointments which are made to Class I posts. No reservation is made applicable to what they call scientific and technical posts. These are the exceptions. Sir, the Government had decided that the reservation policy should also be followed by the private sector. They wanted the private sector also to fall in line with the Government in the matter of reservation. The Government then wrote to all private sector undertakings. But nobody responded. Nobody even sent a reply to the Government. Therefore, we approached the Government and said "Unless you formulate a statutory scheme, no private sector undertaking would willingly provide for reservation for the Scheduled Castes, the Scheduled Tribes and other backward classes. "Now when these several amendments to the Constitution came, we expected that they would also deal with the problem of the Scheduled Castes and Scheduled Tribes. But there is not a single clause which deals with the problem of the Scheduled Castes and Scheduled Tribes. It was our natural expectation that when you had examined the working of the various provisions of the Constitution, you would have also examined the working of the welfare measures which have been incorporated in the Constitution and you would have also found ways and means to see how best we could secure effective implementation of the provisions relating to the Scheduled Castes and Scheduled Tribes. But, Sir, unfortunately this aspect has been totally ignored. We feel that the Government should have amended the Constitution even to the extent of providing for reservation in the private sector. If they do it without making a constitutional provision, the law will be challenged tomorrow on the ground that it is encroaching on the freedom of the private sector and they will say: "We have the right to administer the affairs of our industry in our own way. You cannot compel us to appoint a particular person on the ground that he belongs to the Scheduled Castes or the Scheduled Tribes". This has not been done. Therefore, it is high time that something was done to ensure that the Scheduled Castes and Scheduled Tribes are adequately represented. And I would like to have a small clarification from the hon. Minister whether this tribunal can also deal with the problem of the Scheduled Castes and Scheduled Tribes in the matter of reservations in services.

SHRIMATI SUMITRA G. KULKARNI: Sir, I have got five amendments to clause 46. For the sake of saving time, I would take two of them together and the other three together separately. The proposed article 323A reads :

> "Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority ..... etc."

[**Mr. Deputy Chairman** in the Chair.]

My amendment would make the clause read as follows :

> "Parliament may, by law, provide for the adjudication or trial by administrative tribunals consisting of persons eligible to be appointed as Judges of the High Court ....."

This applies to the tribunal both at the State level and at the Central level. These are two of my five amendments. Sir, for the first time in the history of India and in the history of our Constitution, we are bringing this new institution of tribunals. For the first time we are removing some powers of the High Courts and withdrawing some cases from the High Court and giving them over to adjudication by these tribunals. It is a very good idea and I wholeheartedly welcome it. But as it stands today, nowhere the qualifications of

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the presiding officers of these tribunals are prescribed. As it stands today I will not be surprised—it has been voiced in the House in the last three days and particularly the House will remember what Dr. Chakrabarty had said—if these posts become the monopoly of retired I.A.S. officers. Every I.A.S. officer will ultimately be heading each of these tribunals. Is this what we want? Are they qualified to perform these duties? If this happens the very purpose of having these tribunals will be totally defeated. What we want is speedy adjudication, speedy justice to the people and for this purpose this should not be in the hands of bureaucracy but in the hands of somebody outside and above the bureaucracy. If we do not take care of it just now, then it will become a prized post and every personal influence will be exercised in order to get into these tribunals. I am sure the House will agree with me. I won't be surprised if the judgment is delivered over telephones. There will be judgments over telephones if these tribunals are left in the hands of bureaucracy. We do not want such things. Before independence, when we never expected any kind of justice from the then British Government, there was a rule that some of the ICS officers could be made Judges. They could be raised to the Benches. But then there was a very strict rule which was followed very implicitly that such officers should never become the Chief Justices of High Courts. If this could be so and if there was a bar against administrative personnel becoming Chief Justice, should we not in our days of freedom and when we understand the weaknesses of the bureaucracy much better and when we want to usher in a socio-economic revolution in the country, put a stop to this? Therefore, it is my suggestion that the tribunal should always be manned and headed by presiding officers who are of the rank of High Court Judges so that the people have confidence in them. Only judicial officers can handle this job properly. Unless this is done both at the Central and State levels, we may not be able to attain the objective we have in our mind.

Another thing that occurs to me is that if we keep this thing open for all kinds of persons, the executive can always have the privilege of nominating people who may not be quite competent also. It is within our knowledge and experience that there are many public institutions, especially of a technical nature, where the people who are heading them are not technically competent. To avoid these things it is necessary that the qualifications of the Chairmen of these tribunals should be put in the Constitutional statute. Then only we can safeguard against the inroads by administrative personnel into these tribunals. This is so far as my first set of amendments is concerned.

My next amendment is that in 323A (1) after the word "Government" in line 22, the words "or a University established by law or any recognised educational institution" may be inserted. There is a big list of tribunals and there are also powers given to them. We have in this country about 50 lakhs of college and university teachers and innumeral primary schools teachers. Why should we take out of the purview of these tribunals these teachers who are engaged in preparation of the future generation? They are educators and they are the persons who are taking care of our children and still this provision does not cover universities and educational institutions. We want to have expeditious judiciary and we want to give expeditious legal remedies to all the people. Then, Sir, why should you debar the university professors? Many of the Members sitting here will agree with me that there are cases where the teachers are paid half the salary and their signatures are taken for the full salary. Where will these people go for justice? They will have to go to the High Courts. Why can't you open the portals of these tribunals for the benefit of the university and college teachers? They are the persons who are in need of help and they are not highly paid staff and they are very

poor and they are very much neglected in this country. Therefore, it is my very earnest recommendation to the Law Minister that universities and the educational institutions should be included in this. Then, Sir, this brings me to my next amendment.

Sir, under this article, that is, 323B, there is a whole list of things on which there can be tribunals like industrial and labour disputes, for levy, assessment, collection and enforcement of any tax, land reforms, ceiling on urban property and so on. My amendment is to the effect that after the word "disputes" the words "and disputes relating to agricultural labour" be inserted. I want these words to be added to that. Sir, the Law Minister has added here labour disputes. I fully agree that labour disputes should be given to these tribunals and they need not be made to go to the High Court. But this country is an agricultural country primarily and we have got about five crores of agricultural labour in the rural areas. Have we forgotten them? Sir, the 20-point programme has been in force for the last twenty months and every day we are saying that the rural agricultural labour should be taken care of and that their wages should be raised and so on. But here is the drafting of the amendment, I mean, the Forty-fourth Constitution Amendment Bill and in this we have forgotten these people, the five crores of these poor agricultural labourers, the poorest of the poor, the dumb millions of this country. Sir, these people have been forgotten in this Constitution. This is a very serious thing. That is why I say that these words should be included in the clause. Unless we allow the facility of these tribunals to these poor agricultural labourers, all our efforts to make this country secular as well as socialist will be nullified because a large section of the people will be debarred from the benefits of these tribunals and they do not have anything to eat, they do not have two meals a day and, therefore, they cannot go to the portals of the High Courts and get justice in the bargain. Therefore, I say that this is a very essential thing and this has not been included and this is a very serious and grave omission. Somebody somewhere has forgotten to include it. Every day we are talking about the 20-point programme of the Prime Minister and here is the basic tenet of the 20-point programme which is forgotten. Therefore, Sir, it is my submission to the Law Minister that this defect or omission, whatever it is, must be rectified and it should be done without any loss of time because this is a very serious omission.

Then, Sir, the last thing that I want to say is that apart from disputes relating to agricultural labourers, there are disputes relating to or in connection with the co-operative societies. During the last 27 years, we in this country are trying to spread the co-operative movement and we are trying to strengthen the co-operatives and we want that the people should learn to progress and benefit from the co-operative methods of functioning and we have succeeded to a great degree in this regard. All over the country we have got co-operative societies and there are innumerable cases of litigation going on with regard to these co-operatives. A lot of difficulties crop up in the administration of these co-operatives. So, why should they be debarred from these tribunals? They are the village-level organisations and our economy is developing there only and our administration is developing there and it is there only that our socialism is being practised and is developing. Do you want to bring about complete socialism in this country? Then, Sir, we have to add the co-operative societies also here in this list so that they do not have to go to the High Courts and the Supreme Court and spend their time and money and energy in settling their disputes. Further, they do not have their own lawyers also. So, for these people, the only method is to have a new institution which is now available in the form of tribunals and these tribunals will give them tremendous relief.

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One last word about the tribunals. Just as I have said that we have to finalise about the qualifications of the presiding officers of these tribunals, etc., I would like to say that we should also make a rule in this connection, a provision in this regard, whether in the Constitution or elsewhere. We are aware of it. In a tribunal the party should be permitted to go with his legal adviser. Unless the legal adviser is there, the party will be defeated, will be tricked into all kinds of difficulties. Therefore, it will be a wrong thing if we do not permit legal advice in the tribunals. These are some of the essential things. The hon. Minister may not have the opportunity of amending it right now. But this is a Constitution (Amendment) Bill and the socio-economic development is a continuous process. But this should be borne in mind so that we do not leave this sort of thing with gaps which are found in the rural agricultural co-operatives, University professors, teachers, etc. in the educational system of this country.

SHRI LAKSHMANA MAHAPATRO: Sir, my amendment Nos. 93 and 94 relate to the new article 323A. This is in relation to the formation of tribunals, and we have provided for Parliament being capable of making law for making provisions about administrative tribunals in relation to disputes and complaints in regard to recruitment conditions of persons appointed to Public Service. Now, the Swaran Singh Committee wanted that all service matters should be taken out of the purview of the jurisdiction of the courts and will be dealt with by administrative tribunals and they also wanted that such tribunals shall be constituted under a Central law. And it is in consonance with this recommendation that this provision has been brought. We do not have any quarrel with the establishment of such tribunals. But what we are really concerned with is what are the matters that have to be taken up by these tribunals. Here it is said that they shall be dealing with disputes and complaints with respect to recruitment and conditions of service of that personnel. Now, Sir, if we say that the jurisdiction of courts is barred in relation to other matters, in the matter of services, we will be definitely doing them wrong. Now, if we do not permit these tribunals to look into cases of dismissal, reduction, reversal, removal, etc., then it will be harsh and doing too much of wrong to these people.

Therefore, our first amendment, No. 93, is to the effect that there should be a provision for the tribunals being capable of deciding matters relating to dismissal from service, pre-mature or compulsory retirement, etc. This is the first amendment.

Then, the second thing is that, as you will see, in clause it is said:

> "A law made under clause (1) may—
>
> (a) provide for the establishment of an administrative tribunal....
>
> (b) specify the jurisdiction, powers.....
>
> * * * * *
>
> (g) contain such supplemental, incidental and consequential provisions.....".

This will definitely be dealt with by the law that we will be making in Parliament. But we have not said anything about the composition of the tribunals that we are going to have to deal with the civil services. Therefore, our second amendment is to the effect that the tribunal so constituted or so established shall include Members of the Public Service Commissions, Judges of the Supreme Court or High Courts, representatives of the employers and eminent public figures other than the retired administrators. We are very particular about

making mention of the words "other than retired administrators" because you know that there is a talk to the effect that it is only these retired administrators who will man these tribunals. My experience during the past few years is that our administrators are seduced to act in a particular way at the fag end of their service so that they may get the opportunity of filling in some of these offices which are very lucrative, according to them. Therefore, we very much oppose the idea of retired administrators. Howsoever, big an administrator may be, he normally falls in such a groove that he cannot get out of it. Therefore, we are opposed to such an officer manning the tribunal which will deal with civil services. If we decide to do away with the powers and the rights given to them under article 311 and limit the jurisdiction of the Supreme Court only to matters which are provided in clause (1) of this new clause, a retired administrator is not the proper person. Although article 136 does give power to the Supreme Court to deal with these matters, it is now so restricted by the new provision. In these circumstances, we are not able to appreciate the idea of a retired administrative officer being put as a member of the tribunal to dispose of such very important matters relating to the service personnel. You know that there are many persons who, during recent times, have been sent out of service after they have put over 20 to 25 years of very honest and satisfactory service. You can well visualise the frustration of such people. For them to get redress of their grievances is almost a closed chapter. Therefore, when a tribunal is formed, there should be an avenue for them to get redressal of these types of grievances. Also, they should have proper personnel in the administrative tribunals.

SHRI H. R. GOKHALE: Sir, in this part, the provision is for tribunals of different kinds. But mostly the discussion has been with regard to the administrative tribunals relating to disputes concerning employees serving in the Union or the States.

SHRI SANAT KUMAR RAHA: Sir, Shri Lakshmana Mahapatro has spoken on Amendments No. 93 and 94. Amendment No. 100 still remains.

MR. DEPUTY CHAIRMAN: I thought he was speaking on all the amendments. Since the Minister has started, let him reply.

SHRI H. R. GOKHALE: I have seen that amendment also. Sir, the point is that in dealing with the disputes relating to Government employees, my hon. friend, Mr. Bhardwaj, would like to import the idea of conciliation. Now, it is wrong to regard these disputes relating to Government employees as on par with the industrial disputes. Government is not an industry. Let us be very clear about it. The Government performs the sovereign functions of a State which it is allowed to do by legislation or by Parliament or by the Constitution. Therefore, any suggestion which puts these disputes on par with the other industrial disputes is, I think,....

SHRI JAGAN NATH BHARDWAJ: It is not meant only for Government servants.

SHRI H. R. GOKHALE: The amendment seems to suggest that in respect of this, there should be a conciliation panel or conciliation machinery and all that. My friend there has been objecting to the conciliation even in industrial disputes. That is a different matter.

SHRI JAGAN NATH BHARDWAJ: But there is a mention that the industrial disputes will also be dealt with.

SHRI H. R. GOKHALE: With regard to industrial disputes, there is already a provision for conciliation. Why are you making this recommendation? There is the Industrial Disputes Act

[Shri H. R. Gokhale]

under which there is a provision for conciliation.... (*Interruption by Shri Jagan Nath Bhardwaj*). I thought you were talking of conciliation, not of industrial disputes. I think you know that in industrial disputes, already conciliation procedures are there. I was saying that that idea should not be imported in respect of disputes relating to Government employees. If you agree with that, I have nothing more to say.

The second thing is, if you look at the language of this, it talks of tribunals for disputes and complaints in respect of recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or the State. There are other things. But for the time being, this is relevant. All these amendments which are given say, for example, reduction in rank should also be taken in, removal from service should also be taken in, disputes under article 311 also should be taken in, etc. Now, I believe that 'conditions of service' in such a wide expression, if there is a constitutional provision made a protection given under article 311 that no employee can be dismissed or reduced in the rank without giving an opportunity, whether or not such a provision is there in the service rules, it becomes a most important condition of service. Therefore, to say by enumeration that these are the conditions of service is really so dangerous from the point of view of the employees themselves, that by exclusion you say that the others are not. Therefore, whatever is the condition of service is a matter which goes to the tribunal. Moreover, there are service rules in respect of State Government employees as well as Central Government employees. There are provisions when a man can be compulsorily retired and for what reason, when a disciplinary action for dismissal can be taken, when other penalties can be imposed. Now all these, because of the statutory rules which exist, have become part of the conditions of service of the employees. Therefore, all will be automatically taken in in the broad expression of conditions of service, and enumeration according to me by any law will become a more dangerous thing. Then it will mean only these things are taken in and nothing else is taken in. That is, Sir, with regard to this demand for further enumeration of these conditions of service.

Sir, the other thing is, my friend there said that how the tribunal would be composed should be stated. It is true that it is not stated here. It is not stated here because we are in this Chapter dealing with different categories of tribunals, a tribunal for industrial disputes, a tribunal for Government employees, for various other matters which are enumerated here, for example, foreign exchange, import and export, across custom frontiers, levy and assessment and collection of tax, etc., etc., I do not read all this. But there are so many. Therefore, you cannot say that the same type of tribunals, a composition which is the same can be regarded as suitable for all. Therefore, depending on what the nature of the tribunal is that you are constituting, you will have to decide as to what the constitution of the tribunal should be. But the general suggestion which is made is that particularly dealing with Government employees and certain other important matters, these tribunals should also be made up of people who had some judicial experience. Now, it may be as in the case of income-tax appellate tribunals where we have a provision that there will be at least two or three judicial members and one may be an accountant member. Therefore, some such thing can be worked out when we make the composition possibly by an appropriate law made. One thing I must clarify. The tribunals are not being set up under this provision. This is only a provision which enables a law to be made for that purpose. And when a law will be made for this purpose, I am sure, both the composition of the tribunal

and various other matters as to whether the Evidence Act should or should not apply, how the proceedings before a tribunal should go on, whether administrators should be there or not, and all these matters will be taken into account. All these will be taken into account when the law is brought before Parliament for adoption. And these are some of the matters that are important and relevant, but they are not relevant now. That is what I am saying for the time being. Sir, the other thing which was stated was university employees.

SHRIMATI SUMITRA G. KULKARNI: The qualifications of the presiding officers should find a place in the Constitution.

SHRI H. R. GOKHALE: Need not be, that is not necessary.

MR. DEPUTY CHAIRMAN: What he says is that there will be another law.

SHRIMATI SUMITRA G. KULKARNI: This is very important. Otherwise there is a serious danger.

SHRI H. R. GOKHALE: There will be different qualifications for the presiding officers of different tribunals. We may require certain basic qualifications for one tribunal and for another tribunal we may not need those qualifications. I agree that qualifications will have to be specified but those need not be specified in the Constitution itself. Actually, in one of the clauses it is mentioned here that the law will lay down many things specifying jurisdiction, providing for the procedure, composition, etc. Everything is mentioned with regard to which the law is to be made. When the law is made certainly the qualifications will also be prescribed. Therefore, Sir, it does not mean that the idea that there should be some minimum qualifications is forgotten. It was said that a person who is eligible to be a High Court Judge should be mentioned.

SHRIMATI SUMITRA G. KULKARNI: I said that.

SHRI H. R. GOKHALE: What is the qualification for being a High Court Judge: a person with ten years' standing at the Bar. Now, we know that a mere experience of ten years standing at the Bar though enough for the appointment of a Judge of a High Court is neither here nor there. Therefore, would it be enough if you just said a mere ten years experience at the Bar? I started practice in 1940 and in 1950 became eligible to become a High Court Judge. Therefore, mere use of the words does not take us anywhere. Ultimately you have got to trust somebody to see that proper composition of the tribunals is made. It is not merely a question of technical qualifications but it is a question of consideration of merit, consideration of the requirements of the job to be performed and I am quite sure that all these will be taken into account when the law will be made.

Now, Sir, for instance, here it was mentioned about the universities. I would particularly draw the attention of the hon. Members here that it is specifically mentioned here affairs of the Union or of any State or of any local or other authority. Now, authority is defined in article 12. State includes an authority. The Supreme Court has also held that all statutory authorities which are constituted are authorities which come under the definition of State under article 12. Therefore, all authorities which are university bodies, for example, created under a statute, will automatically be covered by the expression 'authority', which is covered by article 12. But I do not agree that institutions which are privately set up and which have no statutory basis—may be good institutions, I am not saying that they are neces-

[Shri H. R. Gokhale]

sarily bad—which have not got their foundation in a statute, should also be covered for the purpose of adjudication of disputes.

SHRIMATI SUMITRA G. KULKARNI: I mean recognised institutions.

SHRI H. R. GOKHALE: Recognition is only for the purposes of a grant. It means nothing more and the second thing is that even if it means anything more, recognition does not mean anything even today. The idea that in future they will not be able to go to High Courts unless you include them here is not correct. They are not able to go to High Courts even today. Actually, all these non-statutory bodies are not entitled to go to High Courts under article 226 even today. Therefore there is nothing which is there today and is being taken away. It is true in respect of them nothing further is given which was not there. But I think, it is rightly so done because private institutions cannot be the basis of adjudications under a constitutional provision which are mainly intended for the purposes of employees of a State or the Union or other authorities like the universities or local bodies, municipalities and so on and so forth.

Then, a reference was made to co-operatives. Now, my friends must be knowing that invariably in almost every law relating to co-operative societies there is a provision for a tribunal for these disputes. The whole idea was that all these cases which go in great number to the High Courts need not go there and instead they should go to tribunals. But the number of cases which go to High Courts in respect of co-operative societies are negligible. Even if some injustice is there because the tribunals have wrongly decided, what does it matter if they go to a High Court if they are statutory bodies? The idea is not to take away everything from the High Courts. The idea is to take away a bunch of cases which are so large in number and which are of a specialised nature in their character where the setting up of a tribunal is considered necessary. Therefore, the remedy to go to the High Court in such cases, at the most, may not be barred.

Now, with regard to agricultural labour, first of all, these disputes are not industrial disputes but there may be disputes, for example, with regard to minimum wages. There is a provision under the Minimum Wages Act in respect of agricutural labour. These Acts themselves provide for authorities for settlement of these disputes and this could be done even without making any provision in the Constitution and the constitutional provision is mainly for the purpose of taking it out of the jurisdiction of the High Court; otherwise, tribunals could have been set up even under the ordinary law but then the jurisdiction of the High Court would have remained and it was for that purpose that the tribunals had been set up....

SHRIMATI SUMITRA G. KULKARNI: This explains but it does not satisfy....

MR. DEPUTY CHAIRMAN: We do not want any more comments. We are not inviting any comments on it.

SHRI H. R. GOKHALE: Then, Sir, a reference was also made to the Scheduled Castes and the Scheduled Tribes. That is the last point which, I think, remains to be dealt with. Now, in the Constitution itself, the provision of reservation etc., for the Scheduled Castes and the Scheduled Tribes is there. If there is a dispute relating to recruitment or conditions of service if they are employees of the Union or of the State, it will, of course, be covered under that because they do not cease to be Union or the State Government employees because they are Scheduled Castes and if they are under conditions of ser-

vice, they are given a certain protection and that protection is not given actually by the administrative authorities. It is a dispute relating to recruitment and conditions of service. So, excepting for the fact that the Scheduled Castes and the Scheduled Tribes are not mentioned specifically which, according to me, need not be mentioned, these disputes will be covered by this provision.

So, Sir, I think the doubts with regard to these are, to my mind, not well-founded.

MR. DEPUTY CHAIRMAN: I will put the amendments to vote.

SHRI NABIN CHANDRA BURAGOHAIN: Sir,....

MR. DEPUTY CHAIRMAN: No, I am sorry, I am not going to allow any more comments. Now, amendments Nos. 88, 92, 95, 96, 97, 98 and 102 by Shri Bhardwaj. Do you want to press them?

SHRI JAGAN NATH BHARDWAJ: Sir, I withdraw these amendments.

MR. DEPUTY CHAIRMAN: The question is:

"That leave be granted to the Mover to withdraw his amendments (Nos. 88,* 92,* 95,* 96,* 97,* 98* and 102.*)

The motion was adopted.

**The amendments* (*Nos.* 88, 92, 95, 96, 97, 98 and 102) *were by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: Now, Mr. Kumbhare's amendments.

SHRI N. H. KUMBHARE: I am fully satisfied with the present article. I withdraw my amendments.

MR. DEPUTY CHAIRMAN: The question is:

"That leave be granted to the Mover to withdraw his amendments (Nos. 90 and 101.)"

The motion was adopted.

The amendments (*Nos.* 90* *and* 101*) *were, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: Shrimati Kulkarni, do you want to press your amendments?

SHRIMATI SUMITRA G. KULKARNI: Sir, I withdraw them.

MR. DEPUTY CHAIRMAN: The question is:

"That leave be granted to the Mover to withdraw her amendments (Nos. 91, 99, 103, 134 and 136.)"

The motion was adopted.

The amendments (*Nos* 91,* 99,* 103*, 134* and 136*) *were, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: Now, Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Sir, I want to press my amendments.

MR. DEPUTY CHAIRMAN: The question is:

93. "That at page 14, line 18, for the words 'and conditions of service' the words 'conditions of service, reversion, discharge, removal, dismissal from service, premature or compulsory retirement' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

94. "That at page 14, line 18 after the word 'persons' the words 'including members of the the public

*For text of amendments, *vide* Cols. 117-18 *supra.*

[Mr. Deputy Chairman]

service commission, judges of the Supreme Court and High Courts, representatives of the employees and eminent public figures other than retired administrators' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

100. "That at page 15, line 13, after the words 'labour disputes' the words 'including disputes concerning agricultural labour' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Now, we go to clause 47. There are no amendments. So, we go to clause 48. There are two amendments by Shri Bhupesh Gupta.

Clause 48—Amendment of article 352

SHRI BHUPESH GUPTA: Sir, I move:

*104. "That at page 16, line 29, for the words 'specified in the Proclamation' the words 'resolved by Parliament' be substituted."

*105. "That at page 16, lines 30 to 38 be deleted."

The questions were proposed.

SHRI BHUPESH GUPTA: Sir, it is another controversial clause, absolutely unnecessary, in this Bill but yet, it has been smuggled in like some other provisions in this Bill through the back door, behind the back of many people, including, I believe, many people in the ruling party and opposition.

Sir, we are in the midst of two emergencies, not one. We are under double emergency. One was declared in December 1971, external emergency under which the country is today. Then, there was another emergency, internal emergency as we call it. There is no such thing called as internal emergency under the provisions of the Constitution; it is due to some internal disturbance, and so on, whatever you call it. So, not satisfied with the double emergency, they have now decided to make a provision here for what they call regional emergency. That is to say, an emergency could be proclaimed in certain parts of India. Now, Sir, this matter was discussed before also and an attempt was made to bring a Bill. Then, it was thought by the Government themselves that in view of the fact that the country was already under, what they call, external emergency, it was, perhaps, not necessary to go into this sort of thing at that time. Now, Sir, added to that, they have got the power for another emergency. Now, we have got this Bill. Some good things have been brought in and their idea is, why not bring in more things under the cover of this amendment.

Now, I have given my amendments and I will read out. There are words "in respect of the whole of India or of such part of the territory thereof...." That is how you amend the present provision of the Constitution "as may be specified in the Proclamation." Our amendment reads "resolved by Parliament". We have known Proclamations only too well to shift our emphasis to Parliament now. This is because, some day, we shall see we are living in Proclamation. Proclamation starts our day. Proclamation ends our day. Proclamation is our life; Proclamation is our death. We do not want such a state of affairs. What we say is, if you think this must be there, leave it to Parliament. Therefore, we have said that the territory should be specified by Parliament. You may ask the question 'What will happen if some emergency

*The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman, Shri Lakshmana Mahapatro.

situation arises?'. Government have powers to declare Emergency for the whole country. If something arises in some area, and if Government thinks Emergency should be proclaimed, Parliament may be summoned to discuss it. We can decide as to what should be done. This should not be left to the executive. Let us not again and again say that the executive is responsible to Parliament. We know what kind of responsibility it is and how it is operating nowadays. How many Cabinet Ministers know some of the things which have been decided today? I would ask them to put their hands on their hearts and tell me whether they know every decision that is being announced from different places even or private individuals. Let there not be such kind of hair-splitting in such matters. Therefore, to assert the authority of Parliament, I have suggested this amendment. The other is deletion of the rest of the things from line 30 to line 38. Here, the idea of Proclamation comes in. To cut short the argument, I say....

MR. DEPUTY CHAIRMAN: Please do. We are running short of time.

SHRI BHUPESH GUPTA: You seem to be in a hurry. I am quite conscious of it. I will fully cooperate with you. Do you think we are making good sense to the treasury benches? No. To the Ministers in-charge? No. But things should go on record. We are putting things on record so that the people who come tomorrow may know who said what? Let it not be that we shall all be shining as we are shining today. May be, some will dim and fade out also. Therefore, Sir, I have suggested this deletion as far as this clause is concerned. I say, this was not really necessary. The statement of objects and reasons does not really justify the incorporation of a provision of this kind. You have got so many laws, repressive laws. Why should you have another? What will the people think? We have two Emergencies. We are providing for another, regional Emergency. My fear is this. Sometimes, there may be attempts to proclaim Emergency for a region when it is not really called for. That tendency will be there. This is because, Sir, such laws, sometimes, feed very wrong tendencies in political life, feed wrong political trends, strengthen them, weaken democracy, democratic ideals and the capacity and courage to face the people by way of democratic means. On the contrary, the rule of big stick comes whenever you do not deal with other matters. Take the case of MISA, for example. How it has been misuse-for example. How it has been misused? Despite Mr. Brahmananda Reddy's repeated assurances, that MISA will not be misused, the misuse of MISA is more than its use. Thereby, you have violated every single promise made to the House. That way, MISA has become a means of intimidation. Similarly, these things can also be. These are suddenly taken up. It is not good. It is very wrong; absolutely wrong. You could have discussed it later. There is no urgency. You have enforced two Emergencies. Immediately, you have such a measure, which, in its projection and in its elaboration, is very complicated. Therefore, Sir, I have moved these amendments. I know they will not be accepted. I have repeatedly said this. I know nothing will be accepted. When commonsense itself is not accepted, what else is going to be accepted? I know they will not be accepted. But let these words remain because there should be something on record that some people in the House got up and opposed some of the things and made some constructive suggestions which were rejected outright by the Government for no rhyme or reason.

Sir, with this I move my amendments, and the rest I will come later on.

DR. V. A. SEYID MUHAMMAD: Sir, as rightly anticipated, we are not in a position to accept the amendments. The reason is that emergency may arise at a time when the Parliament is not in session or it may not be possible to summon the Parliament and get its prior approval or there may be various other issues involved

[Dr. V. A. Seyid Muhammad]

which it may not be quite necessary or advisable to discuss in an open discussion and that may defeat the purpose of the emergency. So, in the situation, even though some valid, reasons Shri Bhupesh Gupta gave, I am constrained to say that we are not in a position to accept for the reasons given. Similarly, regarding the second amendment which he has proposed, for the same reason that the proclamation of emergency cannot be determined by Parliament, the variations also cannot be determined. So, I am not able to accept the amendments.

MR. DEPUTY CHAIRMAN: The question is:

104. "That at page 16, line 29, for the words 'specified in the Proclamation' the words 'resolved by Parliament' be substituted."

105. "That at page 16, lines 30 to 38, be deleted."

The motion was negatived.

Clause 49—Amendment of article 353.

SHRI BHUPESH GUPTA: Sir, I move:

*106. "That at page 17, for lines 1 to 6, the following be substituted, namely:—

'(ii) the power of Parliament to make laws under sub-clause (b) shall not extend to any State other than a State in which or in any part of which the Proclamation of Emergency is in operation.'"

The question was proposed.

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*The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman, Shri Lakshmana Mahapatro.

SHRI BHUPESH GUPTA: Do you know about what this clause 49 is? It is an elaboration of that. Rather the offence here is aggravated. If the earlier thing calls for condemnation, the next thing calls for punishment. Here they say emergency will be proclaimed in a region. Not being satisfied, they say:

"(ii) the power of Parliament to make laws under sub-clause (b) shall also extend to any State other than a State in which or in any part of which the Proclamation of Emergency is in operation if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation."

Sir, my amendment says: "the power of Parliament to make laws under sub-clause (b) shall not extend to any State other than a State in which or in any part of which the Proclamation of Emergency is in operation." This is very simple.

If you have a regional emergency or an emergency for a particular area or a State, confine the punitive or other powers of the Government, in this regard, to that particular area.

Now, under this provision you may proclaim emergency, shall we say, in Bihar. You can find an *alibi* to pursue this emergency and exercise the same mechanism of power for Uttar Pradesh, for Orissa, for West Bengal. In other words, partial emergency or emergency for partial area, for a regional area, takes in the character of widening the scope of operation through the intervention of the Government by the mechanism of getting something passed.

Is it proper? Suppose, something happens in Bihar and Orissa. You can extend emergency there, if you like. It is not bad. But this thing will arm

the bureaucracy and the police with unnecessary power to harass the other State and create a very bad situation. Not necessarily, they will create the situation in every case, I am not saying that, but the law that you are passing is very very bad from that point of view. Therefore, it is not just regional emergency or a partial emergency for a part area of India which they are proposing here. It is in a way emergency for certain areas and then giving power to project this emergency, carry forward the impact and the law and whatever authority is given under emergency, under one pretext or the other—and the pretext can always be found—to other areas also. This is absurd, this is wrong. That is why I have suggested deletion of these few lines in the present Bill.

The whole thing is exposed by these lines. What they have in mind is exposed. Sometimes things are done frontally. Now there is the technique of entering by the back door and trying to get out by the front door, taking away a lot of such things. We shall not allow such things. In this way, you are trying to smuggle into this something which is absolutely uncalled for. At least, let us be vigilant; let us exercise our vigilance in this matter and tell you frankly that it is a wrong thing that you are doing. In any case—I repeat again—it was not so urgent and necessary to have these things incorporated into this Bill. We could have discussed this matter as to how to deal with such contingencies that you have in mind. But you have chosen the path of ignoring everybody else and of using the rule of thumb and getting away with whatever you want, exploiting our sentiments for the good amendments which we have been supporting.

SHRI H. R. GOKHALE: Sir, the answer is also simple. The hon. Member proceeded on the basis that a partial emergency not for the whole country but for any region or State may be necessary. Now, if we proceed on that basis, this provision becomes equally necessary. If there is an emergency declared in Kerala, for example and if any action that has to be taken in relation to that emergency in Kerala is rendered nugatory by the activities carried on in Tamil Nadu, the adjoining State, then it is necessary, to deal with those elements who are creating disorder in Kerala, to deal with those people in Tamil Nadu also. Here these words are embodied; it is hedged in by these safeguards—

> "....if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India in which the Proclamation of Emergency is in operation."

One condition is that these activities should have a relation to the activities in the area in which the emergency is proclaimed and the second condition is that it threatens the security of India. How can we take objection to it if we accept that we have to have an emergency in any part of the territory of India?

MR DEPUTY CHAIRMAN: The question is:

> 106. "That at page 17, for lines 1 to 6, the following be substituted, namely:—
>
> '(ii) the power of Parliament to make laws under clause (b) shall not extend to any State other than a State in which or in any part of which the Proclamation of Emergency is in operation.' "

The motion was negatived.

Clause 50—*Amendment of article* 356.

MR. DEPUTY CHAIRMAN: Mr. Dhulap's amendment is negatived. So, it is barred.

We take up Amendment No .108 Mr. Anand.

SHRI JAGJIT SINGH ANAND: Sir, I move:

*108. "That at page 17, for lines 7-8, the following be substituted, namely:—

'50. In article 356 of the Constitution, in clause (4), for the words "six months", wherever they occur, the words not exceeding six months shall be substituted'."

The question was proposed.

SHRI JAGJIT SINGH ANAND: I want to submit that this amending Bill has been brought forward by the hon. Minister in order to strengthen the power, the sovereignty, of Parliament. In this Bill he should not have brought in something which restricts the power of Parliament. At present Parliament, every six months, can go on extending the emergency in relation to any State and it can go up to three years. After every six months there is a review by Parliament and Parliament can look into the working of the emergency there. On behalf of Parliament, power is exercised by the President and that way, Parliament can exercise some control over the bureaucracy which is running the State during that emergency. I only wish to submit that President's rule is not always a very healthy thing; in our opinion, President's rule has been misused by the majority party in this country during the last 24 years. I am not going into it. I would say that Parliament feels no difficulty at all in guaranteeing President's rule after every six months. Therefore, it is not even from any experience of difficulties in the past that this amendment is called for. Therefore, I would request the hon. Minister either to leave things as they are or to accept my amendment that it should not exceed six months at a time so that after the expiry of every six months, the Government has to come to Parliament in order that Parliament may examine how things are functioning in the State which is under President's rule. Thank you.

SHRI H. R. GOKHALE: Sir, it is true that the period of six months is now being increased to one year, but the reason is obvious. This has been done because of our experience. Of course, my friends say that it has been misused. I do not agree with them. It has been used only when it was necessary. But the point is, you have got to use it. And if experience has shown that when the constitutional machinery has failed, invariably it has been found necessary to continue President's rule for a longer period than six months, I do not think there is any objection to making it one year.

MR. DEPUTY CHAIRMAN: The question is:

108. "That at page 17, for lines 7-8, the following be substituted, namely:—

'50. In article 356 of the Constitution, in clause (4), for the words 'six months,' wherever they occur, the words 'not exceeding six months' shall be substituted'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Now we go on to clause 51. There is one amendment by Mr. Bhupesh Gupta.

Clause 51—(*Amendment of article* 357)

SHRI BHUPESH GUPTA: Sir, I move:

†109. "That at page 17, lines 16, for the words 'after the Proclamation has ceased to operate, continue

*The amendments also stood in the names of Shri Bhupesh Gupta, Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalayan Roy, Shri Bhola Prasad, Shri Santa Kumar Raha, Shri S. Kumaran, Shri Birchandra Deb Burman, Shri Lakshmana Mahapatro.

†The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Birchandra Deb Burman, Shri Lakshmana Mahapatro.

in force altered or repealed or amended by a competent Legislature or other authority" the words 'after the proclamation has ceased to operate, continue in force for not more than one year' be substituted."

The question was proposed.

SHRI BHUPESH GUPTA: Sir, I have moved my amendment. What is the position now under article 357 of the Constitution? The present position is that laws passed during President's rule in a State shall automatically cease to operate after one year. That is to say, during President's rule if laws are passed, they cease to operate after one year automatically. This is the provision. What do they want to do now? They want to provide that laws passed during President's rule shall continue till they are revoked. That applies to any law. Any law will continue till it is repealed. There is nothing novel in it. But why it was done, I should like to know. President's rule is an extraordinary situation when there is no responsible Government in the State, when it might be necessary to pass laws. Surely the State legislature should have the right to go into them. Even so we give them one year's grace period. For one year, they will continue. After that, it is for them to adopt such laws by necessary legislation. But why are you imposing? If you impose President's rule rightly or wrongly, may be sometimes justifiably, may be sometimes not justifiably, and if you pass such laws in that extraordinary situation, why do you compel the State to live under those laws even if they do not want them? Then you say, they can repeal them. Of course, they can repeal any law. Everybody knows it. But it should have been the other way round. What is the need for disturbing the present arrangement? Again I do not want to say much but it indicates another tendency that while they talk about the supremacy of Parliament, which we should uphold at all costs undoubtedly, there is an attempt to take away some of the well-accepted and established powers of our legislatures and thereby create a situation which may lead to complications later. In any case, Sir, it may mean an imposition which is not necessary. The present arrangement, therefore, is a good one. It should have been retained undisturbed. I, therefore, move this amendment.

SHRI H. R. GOKHALE: Sir, I really do not understand how any objection can be taken to this clause. The present provision is that if any law is made by the President or by Parliament when there is President's rule in a State, then it remains in operation for a period of one year after President's rule is lifted. But it does not remain in operation after the period of one year. And even within that period of one year, the State legislature has the power to repeal it. All that is done now is that the law will continue unless it is repealed. It will not automatically lapse. The State Government may repeal it or may not repeal it. If it is repealed, the Central law goes away. Excepting for this provision that instead of automatically lapsing, the law will go if the State legislature repeals it, there is no change and the power of the State legislature to repeal the laws made here is not taken away at all.

MR. DEPUTY CHAIRMAN: The question is:

109. "That at page 17, line 16, for the words 'after the Proclamation has ceased to operate, continue in force until altered or repealed or amended by a competent Legislature or other authority' the words 'after the Proclamation has ceased to operate, continue in force for not more than one year' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Clause 52. There are no amendments.

Clause 53—(*Amendment of article* 359)

SHRI BHUPESH GUPTA: Sir, I move:

*110. "That at page 17, for lines 36 to 44, the following be substituted, namely:—

'Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India no such law may be made and no such executive action may be taken under this article in relation to or in any State or Union territory specified in the First Schedule in which, or in any part of which the Proclamation of Emergency is not in operation'."

*111. "That at pages 17 and 18 lines 45 to 47 and lines 1 to 6, respectively, be deleted."

The questions were proposed.

SHRI BHUPESH GUPTA: My amendments are only consequential. I need not give any argument. I have already explained my stand on the previous amendment. This is consequential to what I have said then and logical to the stand I have taken over the matter of taking emergency from one State to another. That is to say, you want to be hawkers of emergency and you are involving Parliament into doing all these things.

SHRI H. R. GOKHALE: The hon. Member has not given any new argument and I also do not wish to add anything new. I stand by what I have said earlier.

MR. DEPUTY CHAIRMAN: The question is:

110. "That at page 17, for lines 36 to 44, the following be substituted, namely:—

'Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India no such law may be made and no such executive action may be taken under this article in relation to or in any State or Union territory specified in the First Schedule in which, or in any part of which the Proclamation of Emergency is not in operation'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

111. That at pages 17 and 18, lines 45 to 47 and lines 1 to 6, respectively, be deleted.

The motion was negatived.

MR. DEPUTY CHAIRMAN: Clause 54. There are no amendments.

Clause 55—(*Amendment of article* 368)

SHRI B. V. ABDULLA KOYA: Sir, I move:

†112. "That at page 18, lines 41-42 the brackets and words (including the provisions of Part III) be deleted."

†113. "That at page 18, after line 49, the following be inserted, namely:

'(6) Notwithstanding anything contained in this article no amendment of fundamental rights (excluding those specifically mentioned in the proviso hereof) made pursuant to sub-clause (1) shall be effective unless and until it is confirmed by a majority of those competent to elect the Lok Sabha, and provided that no amendment shall be made that infringes, cur-

*The amendments also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Ehri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sant Kuar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman, Shri Lakshmana Mahapatro.

†The amendments, also stood in the names of Shri S. A. Khale Mohideen, Shri A. K. Rafaye.

tails or erodes the special safeguards or rights conferred directly or indirectly on the minorities, or the scheduled castes or the scheduled tribes or backward classes under the Constitution'."

The questions were put and the motions were negatived.

Clause 56—(Amendment of article 371F)

SHRI BHUPESH GUPTA: Sir, I move:

*114. "That at page 19, for lines 1 to 4, the following be substituted, namely:

'56. In article 371F of the Constitution, in clause (c) for the words 'five years' the words 'not exceeding five years' and for the words 'four years' the words 'not exceeding four years' shall be substituted'."

The question was proposed.

SHRI BHUPESH GUPTA: This is about the extension of the tenure of the legislature. I have already spoken on it. We stand for five years and not for six years. This is consistent with the stand we have taken.

SHRI H. R. GOKHALE: My reply is also consistent with what I have said.

MR. DEPUTY CHAIRMAN: The question is:

"114. That at page 19, for lines 1 to 4, the following be substituted, namely:—

'56. In article 371F of the Constitution, in clause (c) for the words 'five years' the words 'not exceeding five years' and for the words 'four years' the words 'not exceeding four years' shall be substituted'."

The motion was negatived.

Clause 57—(Amendment of the Seventh Schedule)

SHRI V. V. SWAMINATHAN: Sir, I move:

115. "That at page 19, for clause 57, the following be substituted, namely:—

57. In the Seventh Schedule to the Constitution, in List III—concurrent List after entry 20, the following entry shall be inserted, namely:—

'20A Population control and family planning'."

SHRI BHUPESH GUPTA: Sir, I move:

*116. "That at page 19, line 12, after the words 'on such deployment' the words 'at the request of the State Government concerned' be inserted."

*118. That at page 19, line 25, after the words 'the High Court' the words 'and fees taken in any court except Supreme Court' be inserted."

SHRI BHUPESH GUPTA: Sir, I move:

*119. "That at page 19, line 36, for the figure '29' the figures and word '26 and 46' be substituted."

*121. "That at page 19, line 34, after the word 'Courts' the words 'and fees taken in any Court except Supreme Court' be inserted."

*124. "That at page 19, line 45, after the words 'education and universities' the words, sports and physical culture' be inserted."

*125. "That at page 19, after line 47, the following be inserted, namely:—

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†The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman, Shri Lakshmana Mahapatro.

[Shri Bhupesh Gupta]

'25A. Agriculture including land reform agricultural development and agricultural income tax'."

SHRI B. V. ABDULLA KOYA: Sir, I beg to move:

*117. "That at page 19, after line 12, the following be inserted, namely:—

'2B. Population policy and family planning without resorting to any sort of compulsion or coercion'."

*122. "That at page 19, lines 39 to 41 be deleted".

SHRIMATI SUMITRA G. KULKARNI: Sir, I beg to move:

120. "That at page 19, after line 28, the following be inserted, namely:—

'(iv) agriculture water resources and power'."

135. "That at page 19, after line 38, the following entries be inserted, namely:

'17C. Agriculture including agriculture education and research, protection against pests and prevention against plant diseases.

'17D. Inter-State rivers'."

SHRI KAMALNATH JHA: Sir, I beg to move:

123. "That at page 19, line 44, after the words 'including technical education' the words 'agricultural education and research' be inserted."

The questions were proposed.

SHRI V. V. SWAMINATHAN: Sir, this clause deals with the allocation of powers between the Centre and the States. As it is, the States want more powers. If we are not prepared to give more powers, at least let us not take away the powers from the States. But now, Sir, as per the new clause, subjects like Education, Forests, Wild Life, Birds, administration of Justice, Constitution of courts below high Courts level etc. are taken away from the State List and are being added to the Concurrent List Even as it is, Sir, Industry and Commerce should remain as State Subjects. But Parliament passed the Industries (Development and Regulation) Act in 1951, specifying those industries which, in the public interest, had to be controlled by the Centre. Sir, without any amendment to the Constitution many industries have been virtually transferred to the Union List. For instance, the Centre has extended its control over as much as 93 per cent of the industries in terms of value and even items like razor blades, paper, shoes, match boxes, household electrical appliances, soap and other toilet items have been brought under the domain of the Centre. For instance, Sir, in Tamil Nadu, we have not been able to put up roads because this task involves a huge cost. So, Sir, as it is, the Status must be strengthened and we should not weaken them. Not only the parties belonging to the Opposition, but also others have said the same thing and here is a statement by the Chief Minister of Maharashtra, Shri S. B. Chavan, which appeared in "the Hindustan Times" on 28-4-76. He has said:

> "The Cabinet is of the view that the Constitution in its present form has edequate provisions for automatic readjustment of State-Center relations in special situations and, as such, there was no need to transfer to the Centre any powers with regard to the subjects listed in the State or Concurrent Lists."

Such is the view of not only the Chief Minister of Maharashtra but also it

*The amendments also stood in the names of Shri S. A. Khaja Mohideen, Shri A. K. Refaye.

the view of all the Chief Ministers of the States in the country. But we are going on taking away subjects from the State List which amounts to a sort of no-confidence motion against all the Chief Ministers of the States. I would, therefore, like to submit that if we are not prepared to give more powers to the States, at least we should not take away the powers from the States.

SHRI BIR CHANDRA DEB BURMAN: Sir, this is a matter regarding court fees. Sir, it is the recommendation of the Law Commission that the court fees should be minimum, that they should not be regarded as a source of revenue and that they will be uniform throughout the territory of India. So long the excuse has been that it is in the State List and so the Centre has nothing to do with that. Now, Sir, we are amending the Constitution and almost all the major items of the Constitution are being amended. Now, this matter is in the State List—Item 3. And, Sir, it is being added to the Concurrent List and in this case, the words "fees taken in all courts except the Supreme Court" have not been included. I think it is high time that we should add the subject of court fees in the Concurrent List so that the court fee matters could be settled. Now, Sir, we have a Directive Principle in regard to legal aid to the poor. Until and unless we give up the idea that court fee is a source of revenue, there is no justification for saying that the lawyers should reduce their fees and all that. The State must first reduce the court fees and must see that it is uniform throughout the country. Therefore, I feel that this matter should be included in the Concurrent List.

SHRI BHUPESH GUPTA: He has spoken. I need not say anything on that. These really relate to the amendment to the Schedule. They are consequential to some of the amendments already there in the earlier clauses.

First of all, I should like to move my amendment with regard to the inclusion of agriculture, land reforms, agricultural income-tax, which should be included in the Concurrent List. The Swaran Singh Committee suggested this which the A.I.C.C. rejected—well, under circumstances wellknown to hon. Members and wellknown to the country.

Sir, agriculture should be included in the Concurrent List. You have taken over Education. Why not agriculture now? Sir, we know that land ceiling laws have ben violated and thwarted and they have not been implemented due to the pressure and lobbies of landlords and 'kulaks' with which some Ministries are closely connected. The Centre does not suffer. The 'kulak' pressure and the landlord pressure, so to say did not reach Delhi as they are available in Bombay, Calcutta, Orissa and Bihar. Therefore, it is all the more reason that agriculture should be taken in the Concurrent List.

Then, there is the agricultural income-tax which most of the State Governments want to impose. If it is brought in the Concurrent List, we can also think of using the Central authority to impose agricultural income-tax to cover the resources from the rural sector. The Raj Committee and many other committees have made recommendations to that effect. But, Sir, in the vast sector of our economy, where 45 per cent of the national income is generated, it stands to reason that we have fiscal and other measures in the hands of Parliament to collect revenue from them. Apart from that, we look to the development of agriculture and land reforms on modern lines. Hence it is necessary that this should be brought within the Central planning in such a manner as to leave the State in the matter of modernising our agriculture. I do not know why the A.I.C.C. rejected it. Do rectify that mistake. Sir, we broke our heads with the Swaran Singh Committee. But, Sir,

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again there was the stone wall of 'kulaks' and landlords. Therefore, we are appealing to you to accept it, although to appeal to Mr. Gokhale to accept it is something blaspheme according to his morality today. But today, I feel, that appeal should be made.

Then, I have suggested that sports and physical culture should also be included in the Concurrent List. You have included Education in Universities. We are supporting it. Now we say that sports and physical culture can also be included. That is very, very important. Young generations should come up. We are talking of discipline. We are talking of youth power. But let the youth have good health. Let the youth be educated in sports before they take over power. We do not like the youth to be depleted and sick—sick in ideas and rich in health. They should be good sportsmen even in politics.

Now, these are the suggestions that I have made. Agriculture should be included in the Concurrent List. I do not know why Mr. Antulay Committee's recommendations were rejected by the A.I.C.C. I do not understand it. But I do realise the difficulty of the Government. But why should you yield to such lobby? I find there is a tendency to yield to the wrong lobbies all the time.

Well, Sir, I have spoken. But before I sit down, sooner or later if you want to develop our agriculture liberate it from the clutches of the landlords and 'kulaks', as also other vested interests in the rural areas. If you want to gather revenue for national developmental purposes in this sector of the economy, you have to take agriculture also in the Central list.

Then, by my amendment No. 116 I want that the deployment of the armed forces should be with the consent of the State. Sir, these are the amendments on this clause.

SHRI JAGJIT SINGH ANAND: I would only say that originally it was only vocational and technical training. I would request the hon. Minister that though he did not accept my plea of including physical culture and sports in the Directive Principles, he should kindly include these three words here in this amendment. I am talking of my amendment No. 124. I am quoting from clause 25 at page 19 from line 45 onwards. As I have already stated yesterday, it is very good that you have put 'Education' in the Concurrent List. It will make our education come forward on scientific and modern lines. It will lead to integration also. We want to build healthy, active, energetic and enterprising India. We also want to eliminate factionalism and regionalism in sports. There are no two opinions about it. Only if you have it on the Concurrent List, you will be able to fight many evils. Already our sports and culture have brought us a lot of shame after our defeat in hockey. I would request that these two or three words may be included in this clause. I wanted to speak on Amendment No. 125 also. I am not speaking because of shortage of time.

SHRI B. V. ABDULLA KOYA: Sir, this amendment of mine is regarding the population policy and family planning. I would suggest that after 20A, a new clause 20B, be inserted. It relates to population policy and family planning without resorting to any sort of compulsion or coercion. This is self-explanatory. In this, I am only supporting the stand taken by our Prime Minister and also the Health Minister saying everywhere that no coercive methods are to be adopted in propagating the family planning. But, in spite of that declaration, we find that in some States bureaucracy or the police authorities are resorting to all kinds of coercive methods.

SHRI BHUPESH GUPTA: Take the instance of Punjab, Andhra Pradesh, Delhi. All these States are leading.

SHRI B. V. ABDULLA KOYA: There is Muzaffarnagar and so many other places. Therefore, I would request the Minister that my amendment regarding population policy and family planning without resorting to any sort of compulsion or coercion be inserted. This is no addition. It will only make it clear.

SHRIMATI SUMITRA G. KULKARNI: I have got two amendments on this clause 57. These are in relation to the Concurrent List, List III, Schedule VII. My amendment is simple. In addition to forests and the protection of wild animals and the birds, we should have agriculture, including agriculture education and research, protection against pests and prevention against plant diseases. My second amendment deals with inter-State rivers.

Sir, as we all know, 75 per cent of our population is made up of agriculturists; 52 per cent of our gross national produce comes from the agricultural products and even industrial income and the national product is based on the agricultural produces. Sugar cane is necessary for the sugar industry. Tobacco industry is based on the tobacco grown by the farmers. Jute industry is based on the cotton grown by the farmers. Oil mills depend on the oil-seeds. We depend on the groundnut and other oil seeds. How important is our agriculture is well known. Therefore, it requires to be added to the Concurrent List. Another reason why I recommend this earnestly to the hon. Law Minister for adding this to the Concurrent List is that only, I think, about 3-4 months ago, we have passed the Essential Commodities Act in this very House and the other House. Under the Essential Commodities Act, we have taken the responsibility of providing food to every citizen at a reasonable rate all over the country. Sir, if we have taken this responsibility, I have one question to ask of this House and also of the Law Minister: How are we going to provide this food unless agriculture is within our control? If the agriculture is a State subject, it cannot be controlled and from where will we discharge our responsibility that we have taken upon ourselves in this august House. So, it is very essential that agriculture should be added to the Concurrent List.

Sir, I want to congratulate the Law Minister that he has added education, he has added forest and wild life to the Concurrent List. Along with these, we should have also the courage to add agriculture to this Seventh Schedule, List III.

Sir, another amendment of mine is regarding inter-State rivers. Sir, we all know that for the last 20 years, inter-State rivers are a bone of contention. To this day, the Narmada has not been decided. Innumerable tribunals have been formed and unformed. Crores of rupees have been lost on the administration of the tribunals. Sir, please note this fact. I am not talking about the sweet water that is thrown away to the ocean and is not useful for agricultural purposes. and for producing food in the country. But what I am talking is about the administrative expenses incurred on these various tribunals, for their air journeys, for their maintenance, for their TA and DA, etc. And yet for 27 years, the rivers of this country have languished and drained away into the ocean. So, it is my submission that if we want to have speedy development of agriculture, if we want to provide food to the country and if we do not want to import food in future, we must nationalise rivers and we must put the inter-State rivers on the Concurrent List. Unless this is done, we cannot help the country in its development at all.

Thank you, Sir.

श्री कमलनाथ झा : उपसभापति महोदय, मेरा संशोधन बहुत छोटा सा है हमारे विधि मंत्री उसको मंजूर करें तो निहायत ही अच्छा हो, नहीं तो कम से कम आगे भी उस पर विचार करने का आश्वासन दें। संशोधन इस प्रकार हैं :

"Under entry 25 of the List III (Concurrent List), please add the following:

'After the words 'including technical education', the words 'agricultural education and research' be inserted'."

उपसभापति महोदय, एग्रिकलचर (कृषि) का महत्व हम सब मानते हैं और जानते हैं ; इसके बारे में कुछ कहना नहीं है और हम लोग इस पक्ष में हैं कि खेती को कान्करेन्ट लिस्ट में जोड़ दिया जाए लेकिन अगर वह संभव नहीं है तो कम से कम एग्रिकल्चर से सम्बन्धित शिक्षा और रिसर्च, तो कान्करेन्ट लिस्ट में ज़रूर डाल देना चाहिए। हमारे यहां केरानी-पन का ज्ञान, डाक्टर बनने का ज्ञान, इन्जीनियर बनने का ज्ञान, इन सब को महत्व दिया जा रहा है लेकिन जैसा गीता में कहा है कि "अन्नाति भवंति भूता"—अन्न से ही सृष्टि चलती है—और वेस्टर्न सिविलाइजेशन का असर और इंगलैंड का असर हमारे कानून के संशोधन पर विधि मंत्री करना चाहते हैं लेकिन इंगलिस्तान वाले खेती के मुताल्लिक क्या जानते हैं ? उनकी परिस्थिति और हमारी परिस्थिति में बुनियादी अन्तर है। वे 75 दिन का खाना भी नहीं उपजाते। तो उनकी शिक्षा का, उनके कानून का जहां जहां हम पर असर है, उसके भिन्न दिशा में जाना होगा और हिन्दुस्तान के लोगों को अगर किसी शिक्षा की सबसे अधिक जरूरत है तो खेती की शिक्षा की जरूरत है क्योंकि खेती पर ही हमारी सारी अर्थ-नीति निर्भर करती है। इसलिए हम अपने सुयोग्य विधि मंत्री महोदय से यह आश्वासन चाहेंगे कि अगर अभी इस संशोधन को मानने में कठिनाई हो तो आश्वासन कम से कम दीजिए कि आगे चलकर इसको जोड़ा जाएगा।

SHRI H. R. GOKHALE: Sir, the observations of hon. Members disclosed a very interesting feature because some of them were very critical of our amendments on the ground that we had been encroaching on the State field. They themselves had suggested this encroachment. But the point is that when we include something in the Concurrent List, it does not mean that the States' power to legislate in respect of those matters is taken away. The position is that in addition to the States, the Centre is also competent to legislate in respect of these matters.

Much has been said about agriculture. We all realise the importance of agriculture. It is not necessary at all to emphasise this. In fact, the very fact is that in our party this was discussed at great length and at some stage it was thought that we should not do it now. We all know that this is a very important matter. After all when we take away certain matters—not take away but put them in the Concurrent List—it is better and desirable that as far as possible we should do it with a consensus. We had discussed with the States and some sort of a consultation had taken place. It is only in those matters where there is a consensus that they have been brought into the Concurrent List. Now, the same applies to agricultural education. Now, the present entry is in the State List because agricultural education is connected with agriculture. Therefore, to remove agricultural education and to leave agriculture there would not be desirable. But all other education has been brought along with the entry of education in the Concurrent List.

I really, Sir, did not understand what was meant by the amendment given by Mr. Swaminathan because population control and family plan-

ning even in the proposed amendments has been put in the Concurrent List, unless his idea was that only those should be brought in the Concurrent List and all other suggestions ought to be turned down. That is a different matter.

Sir, a reference was made to water resources, inter-State rivers and also addition of agriculture about which I have already spoken. Now the same arguments do apply here also. Not that its importance is being minimised but we try to do things as far as possible by an understanding with the States and may be we do that at a later stage, I think as Mr. Bhupesh Gupta said if not now sooner or later we should consider it. I am quite sure that at the appropriate time these matters will not be lost sight of.

Then, Sir, court fees have been mentioned. It is true that court fees are in the State List. We have not touched the court fees although I agree that this great disparity in the application of court fees in the various States is not desirable. But even without bringing it in the Concurrent List, we are trying our best to rationalise the structure of court fees.

MR. DEPUTY CHAIRMAN: The question is:

115. "That at page 19, for, clause 57, the following be substituted, namely:—

'57. In the Seventh Schedule to the Constitution, in List III—concurrent list after entry 20, the following entry shall be inserted, namely:—

'20A. Population control and family planning,'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

116. "That at page 19, line 12, after the words 'on such deployment' the words 'at the request of the State Government concerned' be inserted."

118. "That at page 19, line 25, after the words 'the High Court' the words "and fees taken in any court except Supreme Court" be inserted."

119. "That at page 19, line 26, for the figure '29' the figures and word '26' and '46' be substituted."

121. "That at page 19, line 34, after the word 'Courts;' the words 'and fees taken in any Court except Supreme Court' be inserted."

124. "That at page 19, line 45, after the words 'education and universities' the words 'sports and physical culture' be inserted."

125. "That at page 19, after line 47, the following be inserted, namely:

'25A. Agriculture including land reform agricultural development and agricultural income tax'."

The motions were negatived.

MR. DEPUTY CHAIRMAN: The question is:

117. "That at page 19, after line 12, the following be inserted, namely:—

'2B. Population policy and family planning without resorting to any sort of compulsion or coercion'."

122. "That at page 19, lines 39 to 41 be deleted."

The motions were negatived.

MR. DEPUTY CHAIRMAN: Yes, Shrimati Kulkarni.

SHRIMATI SUMITRA G. KULKARNI: Sir, I wish to withdraw my amendments Nos. 120 and 135.

MR. DEPUTY CHAIRMAN: The question is:

"That leave be granted to the Mover to withdraw her amendments (Nos. 120 and 135)."

The motion was adopted.

The amendments (Nos. 120 and 135*) were, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: Yes, Mr. Kamalnath Jha.

SHRI KAMALNATH JHA: Sir, I wish to withdraw my amendment No. 123.

MR. DEPUTY CHAIRMAN: The question is:

"That leave be granted to the Mover to withdraw his amendment (No. 123)."

The motion was adopted.

The amendment (No. 123) was, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: There are no amendments to clause 58.

Clause 59—Power of the President to remove difficulties.

MR. DEPUTY CHAIRMAN: Amendment No. 126 is a negative amendment. It is barred. So we take up the next amendment. Yes, Mr. Bhupesh Gupta:

SHRI BHUPESH GUPTA: Sir, I move:

†127. "That at page 21, line 13, for the words the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution, as appear to him to be necessary or expedient for the purpose of removing the difficulty' the words 'Parliament may make such provisions, including any adaptation or modification of any provision of the Constitution as appear to be necessary for the expedient purpose of removing the difficulty' be substituted."

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I move:

128. "That at page 21, lines 14-15, the words 'including any adaptation or modification of any provision of the Constitution' be deleted."

129. "That at page 21, line 17, for the words 'two years' the words 'one year' be substituted."

The questions were proposed.

MR. DEPUTY CHAIRMAN: The clause and the amendments are now open for discussion.

SHRI BHUPESH GUPTA: Sir this is the last amendment. I would say that our friends are late. They have come when we have the last amendment. Sir, clause 59 looks very innocent and it is not that innocent I make out. Secondly, Sir, it is claimed that this is necessary for overcoming difficulties. But, Sir, that is also not necessary. Sir, we should examine this amendment very carefully. We argued with the Government spokesmen and we were told that the Constitution had a similar provision in order to facilitate transition from the Government of India Act to the Constitution that was adapted in 1949 and came into force in 1950. Now, there are two arguments. If a difficulty is there, we should make a provision for it; we have no quarrel with it. The arguments are that it is necessary because of the past experience. What was the past experi-

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*For the texts of the amendments *vide* col. 159 *supra.*

†The amendment stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman, and Shri Lakshmanna Mahapatro.

ence? Sir, I hope, the hon. Members will listen to me, because after talking about the supremacy of Parliament, we need not make the President supreme even by inadvertance. That is what I say.

Sir, under the Government of India, when we passed from the Government of India Act 1935 to the new Constitution, well, it was a radical revolutionary changeover and naturally there was nothing in between. The Constitution came into effect at that time and we abandoned the Government of India Act and it was necessary to give to the President, for a short period, certain powers. Sir, those powers were given under article 392 of the Constitution which you will not find in the present edition of the Constitution because this has been deleted. What did it say? It said:

> "The President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by order direct that this Constitution shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient:
>
> Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V, of the Constitution.
>
> (2) Every order made under clause (1) shall be laid before Parliament.
>
> (3) The powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391 shall, before the commencement of this Constitution, be exercisable by the Governor-General of the Dominion of India."

Are we, in that situation, passing from one constitutional Act to another constitutional Act? No. That transition does not come here. We are amending our Constitution. That remains our basic foundation on which we are building up certain structures. Some may be good and some are not so good; but, anyhow, we are passing not from one Constitution to another Constitution. We are improving our Constitution which is in force. Therefore, the analogy of the transition of 1950 does not arise here because it is not a sort of contradiction between the Government of India Act on the one hand and the Constitution of the Republic that we adopted, on the other. Here the problem is, how to give effect to the amendments that we are incorporating in the Constitution. Sir, that analogy does not hold good. Even in that, Sir, they have added something more.

> "If any difficulty arises in giving effect to the provisions of the Constitution...."

There is no such word as 'transition'. Understandable. "(including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of the President's assent to this Act to the provisions of the Constitution as amended....)" So, we move within the four corners of the Constitution, including any adaptation or modification of any provision of the Constitution. Sir, here it is stated that any provision of the Constitution can be modified. It is not said in the bold language in this manner. Therefore, Sir, what is the power we are giving here to the President? Power to make amendment to the provisions of the Constitution. What are the provisions of the Constitution? The articles are the provisions of the Constitution. How will the President exercise these powers, is a different matter but we are giving him power, written power in a written Constitution whereby he is empowered, in the name of our coming difficulties, to amend even an article of the Constitution. Is it supremacy of Parliament? Is it giving unto ourselves what right belongs to us? On the one

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hand, we are very rightly taking away the powers from the judiciary and there are constituent powers. On the other hand, illogically and absolutely unnecessarily, we are investing certain powers in the President which are not called for by the situation at all. Sir, here again, we have suggested this. Sir, for whom the bell tolls, I do not know. I hope it does not toll for the end of democracy. I want you to toll the bell for democracy.

MR. DEPUTY CHAIRMAN: Don't dwell on the bell.

SHRI BHUPESH GUPTA: In that case, take the powers in the hands of Parliament. If any difficulty arises in the implementation of the provisions of the Constitution which you are adding now to the Constitution, come to Parliament, which will be in Session. I hope you will not liquidate Parliament. I hope Presidential system will not over-shadow all of us, either mentally or physically. Therefore, Sir, we are here. We can overcome these difficulties. Parliament should be brought into the picture. Therefore, my amendment is a simple one. I tried to accommodate them as far as possible. I understand some difficulties may arise. But we should have the power. Why should I give the power to the President? This is abhorrent to the concept of supremacy of Parliament. I should not like any provision of our Constitution to speak to the world as if he has given powers to the President of India to amend the Constitution, no matter what our intentions are. Way to hell, sometimes, is paved with good intentions. But whatever that may be, projections of our Constitution to the world and to the people at large, above all, the people within our country, is very very important. Government's proposal is a departure from certain principles which they had been advocating. Sir, it was most uncharitable and not proper to have brought in the analogy of transition from the Government of India Act, 1935 to the present Constitution, made some years ago, to justify this kind of thing. We are opposed to this kind of thing. Being a lawyer, Mr. Gokhale is ready for any argument. If he joins my party, he will give the opposite argument, I know. There is no doubt about it. We can hear arguments, but not legal arguments, Mr. Gokhale. This is a political question. Why should you say this thing in the Constitution that the President can amend any provision of the Constitution? On the face of it, this is a repellant utterance and statement inscribed in the Constitution, which is wholly uncalled for and unnecessary. We are here to overcome difficulties. We can do it. But you want to smuggle something into it. You do not let slip by your finger any opportunity of smuggling things like that. It is our duty, therefore, to be vigilant and call you to account, if not to this Parliament at least to the future generations.

SHRI KRISHNARAO NARAYAN DHULAP: Sir, by this provision in clause 59, the right of Parliament is being usurped by the President. There was a similar provision under article 392. At the time of transition from the provisions of the Government of India Act, 1935, to the provisions of the present Constitution, a right was given to the President. Parliament itself was not in existence at that time. This specific provision was made under article 392.

> "Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V."

After the coming into existence of Parliament, the right which was given to the President under the provisions of article 392 came to an end. Now, Sir, Parliament is in existence. The right is being given to the President to adopt or modify any provisions of the Constitution. Modification means, alteration, qualification and change. Therefore, the Constitution

will be changed or altered by the President even when Parliament is in Session. Therefore, Sir, my first objection to this clause is that Parliament's right is being usurped by the President and the executive is given more powers than Parliament itself.

[**Mr. Chairman** in the Chair]

Sir, the duration of two years is too long a period. As the hon. Minister stated, the measures taken in the present amendment Bill are revolutionary, bringing an end to poverty and ignorance. There is a spirit of urgency. Then why do you give more powers to the President, two years to modify or adapt the Constitution which is alreay amended by this Bill after a prolonged discussion. So, even if my first amendment is not accepted, this period should be restricted to one year.

SHRI H. R. GOKHALE: I have spoken about this a number of times in the Lok Sabha and here. Therefore, I do not wish to take very long. But all that I wish to point out is that the very words which Mr. Bhupesh Gupta pointed out as objectionable are really the words which curtailed the power of the President which words were not there in article 392 and are added here; the argument that we have added something to widen the power is entirely wrong because these words really indicate that the power of the President is only to give effect to the provisions of the Constitution and nothing more. For example, he cannot add anything, he cannot remove anything but if there is anything and if there is difficulty in giving effect to that thing which is there, definitely for that purpose this can be exercised. He was really saying that we have added something which is a departure, which widens the power. I do not understand how. On the contrary, it very seriously curtails the power of the President which was with him when originally the Constitution was framed, when article 392 was introduced in the Constitution. In other respects also, the power in regard to addition particularly was there in article 392, which is not there now. This is not a substantive power, this is only a power for the removal of difficulties. For this, the period of two years is necessary. The hon. Member asked "Why two years?". Now, there are new provisions for which laws are required to be made. For example, about the setting up of tribunals, the law might take a few months to be made. And difficulties can even be there after the law has been made. There are various other provisions also where difficulties can arise at a later period. And these will naturally go by efflux of time. After two years, this will not exist. Therefore, it is necessary, in a provision of this type, to give a reasonable period when action can be taken by the President to give effect to the provisions in the Constitution.

MR. CHAIRMAN: The question is:

127. "That at page 21, line 13 for the words 'the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution, as appear to him to be necessary or expedient for the purpose of removing the difficulty' the words 'Parliament may make such provisions, including any adaptation or modification of any provision of the Constitution as appear to be necessary for the expedient purpose of removing the difficulty.' be substituted."

The motion was negatived.

MR. CHAIRMAN: The question is:

128. "That at page 21, lines 14-15, the words 'including any adaptation or modification of any provision of the Constitution' be deleted."

The motion was negatived.

MR. CHAIRMAN: The question is:

129. "That at page 21, line 17, for the words 'two years' the words 'one year' be substituted."

The motion was negatived.

MR. CHAIRMAN: I have received intimation from some Members that the following clauses may be put separately for voting:

Clauses 5, 17, 30, 43, 44, 53, 57 and 59.

Therefore I will put these clauses separately. After the voting on these clauses is completed, I will put the rest of the clauses together for voting. Clause 1, the Enacting Formula and the Title will be put to vote last.

Now, I shall put clause 5 of the Bill to vote.

MR. CHAIRMAN: The question is:

"The clause 5 stand part of the Bill".

The House divided.

MR. CHAIRMAN: Ayes—178; Noes—12.

AYES—178

Abid, Shri Kasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Amarjit Kaur, Shrimati
Amla, Shri Tirath Ram
Amjad Ali, Shri Sardar
Anandam, Shri M.
Antulay, Shri A. R.
Arif, Shri Mohammed Usman
Avergoankar, Shri R. D. Jagtap
Balram Das, Shri
Banerjee, Shri B. N.
Banerjee, Shri Jaharlal
Bansi Lal, Shri
Barman, Shri Prasenjit
Basar, Shri Todak
Berwa, Shri Jamnalal
Bhagwan Din, Shri
Bhagwati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri N. K.
Bhupinder Singh, Shri
Bisi, Shri Pramatha Nath
Borooah, Shri D. K.
Bose, Shrimati Pratima
Buragohain, Shri Nabin Chandra
Chakrabarti, Dr. Rajat Kumar
Chanana, Shri Charanjit
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D. P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.
Chundawat, Shrimati Lakshmi Kumari
Das, Shri Bipinpal
Desai, Shri R. M.
Deshmukh, Shri Bapuraoji Marotraoji
Dhabe, Shri S. W.
Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Gadgil, Shri Vithal
Ghose, Shri Sankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri K. S. Malle
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath

Hashmi, Shri Syed Ahmad
Himmat Sinh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.
Koya, Shri B. V. Abdulla
Kripalani Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kumbhare, Shri N. H.
Kureel, Shri Piare Lal urf Piare Lall Talib
Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyomo
Madhavan, Shri K. K.
Mahanti, Shri Bhairab Chandra
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekhar, Shai Govindrao Ramchandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath
Mishra, Shri Mahendra Mohan
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mohideen, Shri S. A. Khaja
Mondal, Shri Ahmad Hossain
Mukerjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Nurul Hasan, Prof. S.
Pai, Shri T. A.
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Qasim, Syyed Mir
Rachaiah, Shri B.
Rahamathulla, Shri Mohmmad
Rai, Shri Kalp Nath
Rajasekharam, Shri Palavalasa
Raju, Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha

Refaiye, Shri A. K.
Roshan Lal, Shri
Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Soloman
Savita Behen, Shrimati
Sethi, Shri P. C.
Seyid Muhammad, Dr. V. A.
Shahi, Shri Nageshwar Prasad
Sharma, Shri Kishan Lal
Shastri, Shri Bhola Paswan
Shilla, Shri Showaless K.
Shyamkumari Devi, Shrimati
Singh, Shri Bhanu Pratap
Singh, Shri D. P.
Singh, Shri Irengbam Tompok
Singh, Shrimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sisodia, Shri Sawaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swu, Shri Scato
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.
Vaishampayen, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.
Wajd, Shri Sikander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal
Zawar Husain, Shri

NOES—12

Ahmad, Dr. Z. A.
Anand, Shri Jagjit Singh
Deb Barman, Shri Bir Chandra
Dhulap, Shri Krishnarao Narayan
Gowda, Shri U. K. Lakshmana
Gupta, Shri Bhupesh
Kumaran, Shri S.
Mahapatro, Shri L.
Prasad, Shri Bhola
Raha, Shri Sanat Kumar
Sinha, Shri Indradeep
Swaminathan, Shri V. V.

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

Clause 5 was added to the Bill.

MR. CHAIRMAN: I shall now put clause 17 to vote. The question is:

"That clause 17 stand part of the Bill."

The House divided.

MR. CHAIRMAN: Ayes—178; Noes—11.

AYES—178

Abid, Shri Kasim Ali
Abu Abraham, Shri
Adviarekar, Shrimati Sushila Shankar
Amarjit Kaur, Shrimati
Amla, Shri Tirth Ram
Amjad Ali, Shri Sardar
Anandam, Shri M.
Antulay, Shri A. R.
Arif, Shri Mohammed Usman

Avergoankar, Shri R. D. Jagtap
Balram Das, Shri
Banerjee, Shri B. N.
Banerjee, Shri Jaharlal
Bansi Lal, Shri
Barman, Shri Prasenjit
Basar, Shri Todak
Berwa, Shri Jamnalal
Bhagwan Din, Shri
Bhagawati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri N. K.
Bhupinder Singh, Shri
Bisi, Shri Pramatha Nath
Borooah, Shri D. K.
Bose, Shrimati Pratima
Buragohain, Shri Nabin Chandra
Chakrabarti, Dr. Rajat Kumar
Channa, Shri Charanjit
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D. P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.
Chundawat, Shrimati Lakshmi Kumari
Das, Shri Bipinpal
Desai, Shri R. M.
Deshmukh Shri Bapuraoji Marotraoji
Dhabe, Shri S. W.
Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Gadgil, Shri Vithal
Ghose, Shri Sankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri K. S. Malle
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath
Hashmi, Shri Syed Ahmad
Himmat Sinh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Kharpade, Shrimati Saroj
Kollur, Shri M. L.
Koya, Shri B. V. Abdulla
Kripalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kumbhare, Shri N. H.
Kureel, Shri Piare Lall urf Piare Lall Talib
Lalbuiah, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyomo
Madhavan, Shri K. K.
Mahanti, Shri Bhairab Chandra
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ramchandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath

Mishra, Mahendra Mohan
Mittal, Shri Sat Paul
Mohan Singh Shri
Mohideen, Shri S. A. Khaja
Mondal, Shri Ahmad Hossain
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Nurul Hasan, Prof. S.
Pai, Shri T. A.
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Qasim, Syyed Mir
Rachaiah, Shri B.
Rahamathulla, Shri Mohmmad
Rai Suri Kalp Nath
Rajasekharam, Shri Palavalasa
Raju, Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha
Refaye, Shri A. K.
Roshan Lal, Shri
Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Soloman
Savita, Behen, Shrimati
Sethi, Shri P. C.
Seyid Muhammad, Dr. V. A.
Shahi, Shri Nageshwar Prasad
Sharma, Shri Kishan Lal
Shastri, Shri Bhola Paswan
Shilla, Shri Showaless K.
Shyamkumari Devi, Shrimati
Singh, Shri Bhanu Pratap
Singh, Shri D. P.
Singh, Shri Irengbam Tompok
Singh, Shrimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sisodia, Shri Sawaisingh
Soni, Shrimaati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swu, Shri Scato
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.
Vaishampayen, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.
Wajd, Shri Sikander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal
Zawar Husain, Shri

NOES—11

Ahmad, Dr. Z. A.
Anand, Shri Jagjit Singh
Deb Barman, Shri Bir Chandra
Dhulap, Shri Krishnarao Narayan
Gupta, Shri Bhupesh
Kumaran, Shri S.
Mahapatro, Shri L.
Prasad, Shri Bhola
Raha, Shri Sanat Kumar
Sinha, Shri Indradeep
Swaminathan, Shri V. V.

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

Clause 17 was added to the Bill.

MR. CHAIRMAN: I shall now put clause 30 to vote. The question is:

"That clause 30 stand part of the Bill."

The House divided.

MR. CHAIRMAN: Ayes—175; Noes—11.

AYES—175

Abid, Shri Kasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Amarjit Kaur, Shrimati
Amla, Shri Tirath Ram
Amjad Ali, Shri Sardar
Anandam, Shri M.
Antulay, Shri A. R.
Arif, Shri Mohammed Usman
Avergoankar, Shri R. D. Jagtap
Balram Das, Shri
Banerjee, Shri B. N.
Banerjee, Shri Jaharlal
Bansi Lal, Shri
Barman, Shri Prasenjit
Basar, Shri Todak
Berwa, Shri Jamnalal
Bhagwan Din, Shri
Bhagawati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri N. K.
Bhupinder, Singh Shri
Bisi, Shri Pramatha Nath
Borooah, Shri D. K.
Bose, Shrimati Pratima
Buragohain, Shri Nabin Chandra
Chakrabarti, Dr. Rajat Kumar
Chanana, Shri Charanjit
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D. P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.
Chundawat, Shrimati Lakshmi Kumari
Das, Shri Bipinpal
Desai, Shri R. M.
Deshmukh, Shri Bapuraoji Marotraoji
Dhabe, Shri S. W.
Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Gadgil, Shri Vithal
Ghose, Shri Sankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri K. S. Malle
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath
Hashmi, Shri Syed Ahmad

Himmat Sinh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.
Kripalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kumbhare, Shri N. H.
Kureel, Shri Piare Lall urf Piare Lall Talib
Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyomo
Madhavan, Shri K. K.
Mahanti, Shri Bhairab Chandra
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ramchandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath
Mishra, Mahendra Mohan
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mondal, Shri Ahmad Hossain
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.
Nathi Singh, Shri
Nizam ud-Din, Shri Syed
Nurul Hasan, Prof. S.
Pai, Shri T. A.
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Qasim, Syyed Mir
Rachaiah, Shri B.
Rahamathulla, Shri Mohmmad
Rai Shri Kalp Nath
Rajasekharam, Shri Palavalasa
Raju, Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha

Roshan Lal, Shri
Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Soloman
Savita Behen, Shrimati
Sethi, Shri P. C.
Seyid Muhammad, Dr. V. A.
Shahi, Shri Nageshwar Prasad
Sharma, Shri Kishan Lal
Shastri, Shri Bhola Paswan
Shilla, Shri Showaless K.
Shyamkumari Devi, Shrimati
Singh, Shri Bhanu Pratap
Singh, Shri D. P.
Singh, Shri Irengbam Tompok
Singh, Shrimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sisodia, Shri Sawaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swu, Shri Scato
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.
Vaishampayen, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.
Wajd, Shri Sikander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal
Zawar Husain, Shri

NOES 11

Ahmad, Dr. Z. A.
Anand, Shri Jagjit Singh
Dhulap, Shri Krishnarao Narayan
Gowda, Shri U. K. Lakshmana
Gupta, Shri Bhupesh
Kumaran, Shri S.
Mahapatro, Shri L.
Prasad, Shri Bhola
Raha, Shri Sanat Kumar
Sinha, Shri Indradeep
Swaminathan, Shri V. V.

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

Clause 30 was added to the Bill.

MR. CHAIRMAN: The question is:

"That clause 43 stand part of the Bill."

The House divided.

MR. CHAIRMAN: Ayes—179; Noes—11.

AYES—179

Abid, Shri Kasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Amarjit Kaur, Shrimati
Amla, Shri Tirath Ram
Amjad Ali, Shri Sardar
Anandam, Shri M.
Antulay, Shri A. R.
Arif, Shri Mohammed Usman

Avergoankar, Shri R. D. Jagtap
Balram Das, Shri
Banerjee, Shri B. N.
Banerjee, Shri Jaharlal
Bansi Lal, Shri
Barman, Shri Prasenjit
Basar, Shri Todak
Berwa, Shri Jamnalal
Bhagwan Din, Shri
Bhagwati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri N. K.
Bhupinder Singh, Shri
Bisi, Shri Pramatha Nath
Borooah, Shri D. K.
Bose, Shrimati Pratima
Buragohain, Shri Nabin Chandra
Chakrabarti, Dr. Rajat Kumar
Chanana, Shri Charanjit
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D. P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.
Chundawat, Shrimati Lakshmi Kumari
Das, Shri Bipinpal
Desai, Shri R. M.
Deshmukh, Shri Bapuraoji Marotraoji
Dhabe, Shri S. W.
Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Gadgil, Shri Vithal
Ghose, Shri Sankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri K. S. Malle
Gowda, Shri U. K. Lakshmana
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath
Hashmi, Shri Syed Ahmad
Himmat Sinh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.
Koya, Shri B. V. Abdulla
Kripalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kumbhare, Shri N. H.
Kureel, Shri Piare Lall urf Piare Lall Talib
Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyomo
Madhavan, Shri K. K.
Mahanti, Shri Bhairab Chandra
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash
Mehta Shri Om
Menon, Shrimati Leela Damodara

Mhaisekar, Shri Govindrao Ramchandra
Mirda, Shri Ram Niwas
Misra, Shri Lokanath
Mishra, Mahendar Mohan
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mohideen, Shri S. A. Khaja
Mondal, Shri Ahmad Hossain
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey

Nanda, Shri Narsingha Prasad
Narasiah, Shri H. S.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Nurul Hasan, Prof. S.

Pai, Shri T. A.
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota

Qasim, Syyed Mir

Rachaiah, Shri B.
Rahamathulla, Shri Mohammad
Rai, Shri Kalp Nath
Rajasekharam, Shri Palavalasa
Raju, Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha
Rafaye, Shri A. K.
Roshan Lal, Shri

Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Soloman
Savita Behen, Shrimati
Sethi, Shri P. C.
Seyid Muhammad, Dr. V. A.
Shah, Shri Nageshwar Prasad
Sharma, Shri Kishan Lal
Shastri, Shri Bhola Paswan
Shilla, Shri Showaless K.
Shyamkumari Devi, Shrimati
Singh, Shri Bhanu Pratap
Singh, Shri D. P.
Singh, Shri Irengbam Tompok
Singh, Shrimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sisodia, Shri Sawaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swu, Shri Scato

Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.

Vaishampayen, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.

Wajd, Shri Sikander Ali

Yadav, Shri Ramanand
Yadav, Shri Shyam Lal

Zawar Hussain, Shri

NOES—11

Ahmad, Dr. Z. A.
Anand, Shri Jagjit Singh
Deb Barman, Shri Bir Chandra
Dhulap, Shri Krishnarao Narayan
Gupta, Shri Bhupesh
Kumaran, Shri S.
Mahapatro, Shri L.
[illegible]asad, Shri Bhola
[illegible]ha, Shri Sanat Kumar
[illegible]nha, Shri Indradeep
Swaminathan, Shri V. V.

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

Clause 43 was added to the Bill.

MR. CHAIRMAN: The question is:

"That clause 44 stand part of the Bill."

The House divided.

MR. CHAIRMAN: Ayes—179; Noes—11.

AYES—179;

Abid, Shri Kasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Amarjit Kaur, Shrimati
Amla, Shri Tirath Ram
Amjad Ali, Shri Sardar
Anandam, Shri M.
Antulay, Shri A. R.
Arif, Shri Mohammed Usman
Avergoankar, Shri R. D. Jagtap
Balram Das, Shri
Banerjee, Shri B. N.
Banerjee, Shri Jaharlal
Bansi Lal, Shri
Barman, Shri Prasenjit
Basar, Shri Todak
Berwa, Shri Jamnalal
Bhagwan Din, Shri
Bhagawati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri N. K.
Bhupinder Singh, Shri
Bisi, Shri Pramatha Nath
Borooah, Shri D. K.
Bose, Shrimati Pratima
Buragohain, Shri Nabin Chandra
Chakrabarti, Dr. Rajat Kumar
Chanana, Shri Charanjit
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D. P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.
Chundawat, Shrirmati Lakshmi Kumari
Das, Shri Bipinpal
Desai, Shri R. M.
Deshmukh, Shri Bapuraoji Marotraoji
Dhabe, Shri S. W.
Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Gadgil, Shri Vithal
Ghose, Shri Sankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri K. S. Malle

Gowda, Shri U. K. Lakshmana
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath
Hashmi, Shri Syed Ahmad
Himmat Sinh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.
Koya, Shri B. V. Abdulla
Kripalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kumbhare, Shri N. H.
Kureel, Shri Piare Lall *urf* Piare Lall Talib
Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyomo
Madhavan, Shri K. K.
Mahanti, Shri Bhairab Chandra
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ramchandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath
Mishra, Shri Mahendra Mohan
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mohideen, Shri S. A. Khaja
Mondal, Shri Ahmad Hossain
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.
Nathi Singh, Shri
Nizam-ud-din, Shri Syed
Nurul Hasan, Prof. S.
Pai, Shri T. A.
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Qasim, Syyed Mir
Rachaiah, Shri B.
Rahamathulla, Shri Mohammad
Rai, Shri Kalp Nath
Rajasekharam, Shri Palavalasa
Raju, Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C. Kesava

Ratan Kumari, Shrimati
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha
Refaye, Shri A. K.
Roshan Lal, Shri
Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Soloman
Savita Behen, Shrimati
Sethi, Shri P. C.
Seyid Muhammad, Dr. V. A.
Shahi, Shri Nageshwar Prasad
Sharma, Shri Kishan Lal
Shastri, Shri Bhola Paswan
Shilla, Shri Showaless K.
Shyamkumari Devi, Shrimati
Singh, Shri Bhanu Pratap
Singh, Shri D. P.
Singh, Shri Irengbam Tompok
Singh, Shimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sisodia, Shri Sawaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swu, Shri Scato
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.
Vaishampayen, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.
Wajd, Shri Sikander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal
Zawar Husain, Shri

NOES

Ahmad, Dr. Z. A.
Dhulap, Shri Krishnarao Narayan
Gupta, Shri Bhupesh
Sinha, Shri Indradeep
Barman, Shri B. D.
Prasad, Shri Bhola
Kumaran, Shri S.
Anand, Shri J. S.
Raha, Shri Sanat Kumar
Mahapatro, Shri L.
Swaminathan, Shri V. V.

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

Clause 44 was added to the Bill.

MR. CHAIRMAN: The question is:

"That clause 53 stand part of the Bill."

The House divided.

MR. CHAIRMAN: Ayes 179; Noes 11.

AYES—179

Abid, Shri Kasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Amarjit Kaur, Shrimati

Amla, Shri Tirath Ram
Amjad Ali, Shri Sardar
Anandam, Shri M.
Antulay, Shri A. R.
Arif, Shri Mohammed Usman
Avergoankar, Shri R. D. Jagtap
Balram Das, Shri
Banerjee, Shri B. N.
Banerjee, Shri Jaharlal
Bansi Lal, Shri
Barman, Shri Prasenjit
Basar, Shri Todak
Berwa, Shri Jamnalal
Bhagwan Din, Shri
Bhagwati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri N. K.
Bhupinder Singh Shri
Bisi, Shri Pramatha Nath
Borooah, Shri D. K.
Bose, Shrimati Pratima
Buragohain, Shri Nabin Chandra
Chakrabarti, Dr. Rajat Kumar
Chanana, Shri Charanjit
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D. P.
Chaturvedi Shrimati Vidyawati
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.
Chundawat, Shrimati Lakshmi Kumari
Das, Shri Bipinpal
Desai, Shri R. M.
Deshmukh, Shri Bapuraoji Marotraoji
Dhabe, Shri S. W.
Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Gadgil, Shri Vithal
Ghose, Shri Shankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri K. S. Malle
Gowda, Shri U. K. Lakshmana
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath
Hashmi, Shri Syed Ahmad
Himmat Singh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.
Koya, Shri B. V. Abdulla
Kipalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kumbhare, Shri N. H.
Kureel, Shri Piare Lall *urf* Piare Lall Talib
Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyomo
Madhavan, Shri K. K.
Mahanti, Shri Bhairab Chandra
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash

Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ramchandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath
Mishra, Mahendra Mohan
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mohideen, Shri S. A. Khaja
Mondal, Shri Ahmad Hossain
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Nurul Hasan, Prof. S.
Pai, Shri T. A.
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Qasim, Syyed Mir
Rachaiah, Shri B.
Rahamathulla, Shri Mohmmad
Rai Shri Kalp Nath
Rajasekharam, Shri Palavalasa
Raju, Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha
Refaye, Shri A. K.
Roshan Lal, Shri
Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Soloman
Savita Behen, Shrimati
Sethi, Shri P. C.
Seyid Muhammad, Dr. V. A.
Shahi, Shri Nageshwar Prasad
Sharma, Shri Kishan Lal
Shastri, Shri Bhola Paswan
Shilla, Shri Showaless K.
Shyamkumari Devi, Shrimati
Singh, Shri Bhanu Pratap
Singh, Shri D. P.
Singh, Shri Irengbam Tompok
Singh, Shrimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sisodia, Shri Sawaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swu, Shri Scato
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.
Vaishampayen, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.
Wajd, Shri Sikander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal
Zawar Husain, Shri

NOES—11

Ahmad, Dr. Z.A.

Anand, Shri Jaggit Singh

Deb Barman, Shri Bir Chandra

Dhulap, Shri Krishnarao Narain

Gupta, Shri Bhupesh

Kumaran, Shri S.

Mahapatro, Shri L.

Prasad, Shri Bhola

Raha, Shri Sanat Kumar

Sinha, Shri Indradeep

Swaminathan, Shri V. V.

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

Clause 53 was added to the Bill.

MR. CHAIRMAN: The question is:

"That Clause 57 stand part of the Bill."

The House divided.

MR. CHAIRMAN: Ayes—188; Noes—2.

AYES—188

Abid, Shri Kasim Ali

Abu Abraham, Shri

Adivarekar, Shrimati Sushila Shankar

Ahmad, Dr. Z. A.

Amarjit Kaur, Shrimati

Amla, Shri Tirath Ram

Amjad Ali, Shri Sardar

Anand, Shri Jagjit Singh

Anandam, Shri M.

Antulay, Shri A. R.

Arif, Shri Mohammed Usman

Avergoankar, Shri R. D. Jagtap

Balram Das, Shri

Banerjee, Shri B. N.

Banerjee, Shri Jaharlal

Bansi Lal, Shri

Barman, Shri Prasenjit

Basar, Shri Todak

Berwa, Shri Jamnalal

Bhagwan Din, Shri

Bhagwati, Shri B. C.

Bhardwaj, Shri Jagan Nath

Bhatt, Shri N. K.

Bhola Prasad, Shri

Bhupinder Singh Shri

Bisi, Shri Pramatha Nath

Borooah, Shri D. K.

Bose, Shrimati Pratima

Bhuragohain, Shri Nabin Chandra

Chakrabarti, Dr. Rajat Kumar

Chanana, Shri Charanjit

Chandrasekhar, Shrimati Maragatham

Chattopadhyaya, Prof. D. P.

Chaturvedi, Shrimati Vidyawati

Chaudhari, Shri N. P.

Chaurasia, Shri Shiv Dayal Singh

Chettri, Shri Krishna Bahadur

Choudhury, Shri Nripati Ranjan

Chowdhary, Dr. Chandramanilal

Chowdhri, Shri A. S.

Chundawat, Shrimati Lakshmi Kumari

Das, Shri Bipinpal

Deb Barman, Shri Bir Chandra

Desai, Shri R. M.

Deshmukh, Shri Bapuraoji Marotraoji

Dhabe, Shri S. W.

Dinesh Chandra, Shri Swami

Dutt, Dr. V. P.

Dwivedi, Shri Devendra Nath

Gadgil, Shri Vithal

Ghose, Shri Sankar

Gill, Shri Raghbir Singh

Goswami, Shri Sriman Prafulla

Gowda, Shri K. S. Malle

Gowda, Shri U. K. Lakshmana
Gupta, Shri Bhupesh
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath
Hashmi, Shri Syed Ahmad
Himmat Sinh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.
Koya, Shri B. V. Abdulla
Kripalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kumaran, Shri S.
Kumbhare, Shri N. H.
Kureel, Shri Piare Lall *urf* Piare Lall Talib
Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyomo
Madhavan, Shri K. K.
Mahanti, Shri Bhairab Chandra
Mahapatro, Shri Lakshmana
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ramchandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath
Mishra, Mahendra Mohan
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mohideen, Shri S. A. Khaja
Mondal, Shri Ahmad Hossain
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Nurul Hasan, Prof. S.
Pai, Shri T. A.
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Qasim, Syyed Mir
Rachaiah, Shri B.
Raha, Shri Sanat Kumar
Rahamathulla, Shri Mohmmad
Rai Shri Kalp Nath
Rajasekharam, Shri Palavalasa
Raju, Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.

Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha
Refaye, Shri A. K.
Roshan Lal, Shri
Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Soloman
Savita Behen, Shrimati
Sethi, Shri P. C.
Seyid Muhammad, Dr. V. A.
Shahi, Shri Nageshwar Prasad
Sharma, Shri Kishan Lal
Shastri, Shri Bhola Paswan
Shila, Shri Showaless K.
Shyamkumari Devi, Shrimati
Singh, Shri Bhanu Pratap
Singh, Shri D. P.
Singh, Shri Irengbam Tompok
Singh, Shrimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sinha, Shri Indradeep
Sisodia, Shri Sawaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swu, Shri Scato
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.
Vaishampayen, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.
Wajd, Shri Sikander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal
Zawar Husain, Shri

NOES—2

Dhulap, Shri Krishnarao Narayan
Swaminathan, Shri V. V.

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

Clause 57 was added to the Bill.

MR. CHAIRMAN: I shall not put clause 59 of the Bill to vote.

The question is:

"That clause 59 stand part of the Bill."

The House divided.

MR. CHAIRMAN: Ayes—178; Noes—12.

AYES—178

Abid, Shri Kasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Amarjit Kaur, Shrimati
Amla, Shri Tirath Ram
Amjad Ali, Shri Sardar
Anandam, Shri M.
Antulay, Shri A. R.
Arif, Shri Mohammed Usman
Avergoankar, Shri R. D. Jagtap
Balram Das, Shri
Banerjee, Shri B. N.

Banerjee, Shri Jaharlal
Bansi Lal, Shri
Barman, Shri Prasenjit
Basar, Shri Todak
Berwa, Shri Jamnalal
Bhagwan Din, Shri
Bhagawati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri N. K.
Bhupinder Singh, Shri
Bisi, Shri Pramatha Nath
Borroah, Shri D. K.
Bose, Shrimati Pratima
Buragohain, Shri Nabin Chandra
Chakrabarti, Dr. Rajat Kumar
Chanana, Shri Charanjit
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D. P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.
Chundawat, Shrimati Lakshmi Kumari
Dass, Shri Bipinpal
Desai, Shri R. M.
Deshmukh, Shri Bapuraoji Marotraoji
Dhabe, Shri S. W.
Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Gadgil, Shri Vithal
Ghose, Shri Sankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri U. K. Lakshmana
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath
Hashmi, Shri Syed Ahmad
Himmat Sinh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manisanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.
Koya, Shri V. V. Abdulla
Kripalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kumbhare, Shri N. H.
Kureel, Shri Piare Lall *urf* Piare Lall Talib
Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyomo
Madhavan, Shri K. K.
Mahanti, Shri Bhairab Chandra
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ramchandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath

Mishra, Mahendra Mohan
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mohideen, Shri S. A. Khaja
Mondal, Shri Ahmad Hussain
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Nurul Hasan, Prof. S.
Pai, Shri T. A.
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Qasim, Syed Mir
Rachaiah, Shri B.
Rahamathulla, Shri Mohmmad
Rai, Shri Kalp Nath
Rajasekharam, Shri Palavalasa
Raju, Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V C. Kesava
Ratan Kumari, Shrimati
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha
Refaye, Shri A. K.
Roshan Lal, Shri
Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Soloman
Savita Behen, Shrimati
Sethi, Shri P. C.
Seyid Muhammad, Dr. V. A.
Shahi, Shri Nageshwar Prasad
Sharma, Shri Kishan Lal
Shastri, Shri Bhola Paswan
Shilla, Shri Showaless K.
Shyamkumari Devi, Shrimati
Singh, Shri Bhanu Pratap
Singh, Shri D. P.
Singh, Shri Irengbam Tompok
Singh, Shrimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sisodia, Shri Sawaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swu, Shri Scato
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.
Vaishampayen, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.
Wajd, Shri Sikander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal
Zawar Husain, Shri

NOES—12

Ahmad, Dr. Z. A.
Anand, Shri Jagjit Singh
Deb Barman, Shri Bir Chandra
Dhulap, Shri Krishnarao Narayan
Gowda, Shri K. S. Malle
Gupta, Shri Bhupesh
Kumaran, Shri S.
Mahapatro, Shri L.
Prasad, Shri Bhola
Raha, Shri Sanat Kumar
Sinha, Shri Indradeep
Swaminathan, Shri V. V.

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

Clause 59 was added to the Bill.

MR. CHAIRMAN: I shall now put clauses 2 to 4, 6 to 16, 18 to 29, 31 to 42, 45 to 52, 54 to 56 and 58 of the Bill to vote.

The question is:

"That clauses 2 to 4, 6 to 16, 18 to 29, 31 to 42, 45 to 52, 54 to 56 and 58 stand part of the Bill."

The House divided.

MR. CHAIRMAN: Ayes—190; Noes—Nil.

AYES—190

Abid, Shri Qasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Ahmad, Dr. Z. A.
Amarjit Kaur, Shrimati
Amla, Shri Tirath Ram
Amjad Ali, Shri Sardar
Anand, Shri Jagjit Singh
Anandam, Shri M.
Antulay, Shri A R.
Arif, Shri Mohammed Usman
Avergoankar, Shri R. D. Jagtap
Balram Das, Shri
Banerjee, Shri B. N.
Banerjee, Shri Jaharlal
Bansi Lal, Shri
Barman, Shri Prasenjit
Basar, Shri Todak
Berwa, Shri Jamnalal
Bhagwan Din, Shri
Bhagawati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri N. K.
Bhola Prasad, Shri
Bhupinder Singh, Shri
Bisi, Shri Pramatha Nath
Borooah, Shri D. K.
Bose, Shrimati Pratima
Buragohain, Shri Nabin Chandra
Chakrabarti, Dr. Rajat Kumar
Chanana, Shri Charanjit
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D. P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.
Chundawat, Shrimati Lakshmi Kumari
Das, Shri Bipinpal
Deb Burman, Shri Bir Chandra
Desai, Shri R. M.
Deshmukh, Shri Bapuraoji Marotraoji

Dhabe, Shri S. W.
Dhulap, Shri Krishnarao Narayan
Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Gadgil, Shri Vithal
Ghose, Shri Sankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri K. S. Malle
Gowda, Shri U. K. Lakshmana
Gupta, Shri Bhupesh
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath
Hashmi, Shri Syed Ahmad
Himmat Sinh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.
Koya, Shri B. V. Abdulla
Kripalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kumaran, Shri S.
Kumbhare, Shri N. H.
Kureel, Shri Piare Lall urf Piare Lall Talib
Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyomo
Madhavan, Shri K. K.
Mahanti, Shri Bhairab Chandra
Mahapatro, Shri Lakshmana
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ramchandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath
Mishra, Mahendra Mohan
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mohideen, Shri S. A. Khaja
Mondal, Shri Ahmad Hossain
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Nurul Hasan, Prof. S.
Pai, Shri T. A.
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati

Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Qasim, Syyed Mir
Rachaiah, Shri B.
Raha, Shri Sanat Kumar
Rahamathulla, Shri Mohmmad
Rai, Shri Kalp Nath
Rajasekharam, Shri Palavalasa
Raju, Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha
Refaye, Shri A. K.
Roshan Lal, Shri
Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Soloman
Savita Behen, Shrimati
Sethi, Shri P. C.
Seyid Muhammad, Dr. V. A.
Shahi, Shri Nageshwar Prasad
Sharma, Shri Kishan Lal
Shastri, Shri Bhola Paswan
Shilla, Shri Showaless K.
Shyamkumari Devi, Shrimati
Singh, Shri Bhanu Pratap
Singh, Shri D. P.
Singh, Shri Irengbam Tompok
Singh, Shrimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sinha, Shri Indradeep
Sisodia, Shri Swaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swaminathan, Shri V. V.
Swu, Shri Scato
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.
Vaishampayen, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.
Wajd, Shri Sinkander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal
Zawar Hussain, Shri

NOES—Nil

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

Clauses 2 to 4, 6 to 16, 18 to 29, 31 to 42, 45 to 52, 54 to 56 and 58 were added to the Bill.

MR. CHAIRMAN: I shall now put Clause 1, the Enacting Formula and the Title to vote.

The question is:

"That Clause 1, the Enacting Formula and the Title stand part of the Bill."

The House divided.

MR. CHAIRMAN: Ayes—190; Noes Nil.

AYES— 190

Abid, Shri Kasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Ahmad, Dr. Z. A.
Amarjit Kaur, Shrimati
Amla, Shri Tirath Ram
Amjad Ali, Shri Sardar
Anand, Shri Jagjit Singh
Anandam, Shri M.
Antulay, Shri A. R.
Arif, Shri Mohammed Usman
Avergoankar, Shri R. D. Jagtap
Balram Das, Shri
Banerjee, Shri B. N.
Banerjee, Shri Jaharlal
Bansi Lal, Shri
Barman, Shri Prasenjit
Basar, Shri Todak
Berwa, Shri Jamnalal
Bhagwan Din, Shri
Bhagawati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri N. K.
Bhola Prasad, Shri
Bhupinder Singh, Shri
Bisi, Shri Pramatha Nath
Borooah, Shri D. K.
Bose, Shrimati Pratima
Buragohain, Shri Nabin Chandra
Chakrabarti, Dr. Rajat Kumar
Chanana, Shri Charanjit
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D. P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.
Chundawat, Shrimati Lakshmi Kumari
Das, Shri Bipinpal
Deb Burman, Shri Bir Chandra
Desai, R. M.
Deshmukh, Shri Bapuraoji Marotraoji
Dhabe, Shri S. W.
Dhulap, Shri Krishnarao Narayan
Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Gadgil, Shri Vithal
Ghose, Shri Sankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri K S. Malle
Gowda, Shri U. K. Lakshmana
Gupta, Shri Bhupesh
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath
Hashmi, Shri Syed Ahmad
Himmat Sinh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.

Koya, Shri B. V. Abdulla
Kripalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kumaran, Shri S.
Kumbhare, Shri N. H.
Kureel, Shri Piare Lall urf Piare Lall Talib
Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyomo
Madhavan, Shri K. K.
Mahanti, Shri Bhairab Chandra
Mahapatro, Shri Lakshmana
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ramchandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath
Mishra, Mahendra Mohan
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mohideen, Shri S. A. Khaja
Mondal, Shri Ahmad Hossain
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Nurul Hasan, Prof. S.
Pai, Shri T. A.
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Qasim, Syyed Mir
Rachaiah, Shri B.
Raha, Shri Sanat Kumar
Rahamathulla, Shri Mohmmad
Rai, Shri Kalp Nath
Rajasekharam, Shri Palavalasa
Raju, Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha
Refaye, Shri A. K.
Roshan Lal, Shri
Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Soloman
Savita Behen, Shrimati
Sethi, Shri P. C.
Seyid Muhammad, Dr. V. A.
Shahi, Shri Nageshwar Prasad
Sharma, Shri Kishan Lal
Shastri, Shri Bhola Paswan
Shilla, Shri Showaless K.
Shyamkumari Devi, Shrimati
Singh, Shri Bhanu Pratap
Singh, Shri D. P.

Singh, Shri Irengbam Tompok
Singh, Shrimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sinha, Shri Indradeep
Sisodia, Shri Sawaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swaminathan, Shri V. V.
Swu, Shri Scato
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.
Vaishampayen, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.
Wajd, Shri Sikander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal
Zawar Hussain, Shri

NOES—Nil

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

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

MR. CHAIRMAN: The House stands adjourned till 10 A.M. tomorrow:

The House then adjourned at seventeen minutes past six of the clock till ten of the clock on Thursday, the 11th November, 1976.

GMGIPND—LS II—980 RS— 16-12-76—595.