

[Secretary-General] message received from the Lok Sabha signed by the Secretary-General of the Lok Sabha:

"I am directed to inform Eajya Sabha that Lok Sabha, at its sitting held on the 37th May, 1976 further extending the time for presentation of the House on the Constitution (Thirty-second Amendment) Bill 1973: —

MOTION

That this House do further extend up to the last day of the next Session, the time for the presentation of the Report of the Joint Committee on the Bill further to amend the Constitution of India."

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

THE VICE-CHAIRMAN (SHRI MATI PURABI MUKHOPA DHYAY) : Before I call upon the next speaker, I have to announce that the discussion would conclude at 3 P.M. The hon. Minister will reply at 3 P.M. His reply will be over by 3.15 P.M. and then there will be the necessary voting. I would request hon. Members to adhere to the time-schedule.

. SHRI SHYAM LAL YADAV (Uttar Pradesh): Madam Vice-Chairman, I rise to support the Bill. The objectives enumerated in the Bill are quite laudable. As we all know, the widest possible discussion is going on throughout the country on the proposed amendments to the Constitution. The hon. Member who spoke before me said that there had been no discussion. I am afraid it is not correct. There have been various conferences and seminars on this question. We have been discussing, both in this House as well as outside, the desirability of introducing certain vital and fundamental amendments to the Constitution. I think the supremacy of

I Parliament to amend the Constitution needs hardly any emphasis. For this purpose, we have to devise various ways to amend the onstitution. We have to amend the Constitution suitably so that the judiciary, exercising its own powers as provided for in the Constitution, does not pronounce such judgements which may in any way affect or diminish the right of Parliament.

So far as part I of the Bill is concerned, there is hardly any difference of opinion. Earlier, this provision was amended and the expression 'continental shelf was included. As explained by the hon. Minister, now he is going to introduce another phrase, 'exclusive economic zone'.

The second thing is a welcome amendment. Formerly, the areas cffi^ territories were being denned by Presidential proclamation; it has been done several times. Now this power i_s being conferred on Parliament and I think it is in the fitness of things that Parliament, as a sovereign body, should define what are the limits of our territorial waters, what are the limits of continental shelf or what is "exclusive economic zone" so that there may not be any doubt or dispute.

Regarding the second part of the A amendment, Madam, I would like to say that there seems to be some confusion as to the purpose and extent of this Ninth Schedule. Originally this Schedule was introduced in the year 1951 when article 31B was inserted for the first time. At that stage, certain land reform Acts passed by some State Legislatures were given this protection. Protection under this article means that any lelfislation Passed by Parliament or by any State Legislature is not declared void by a court of law or by any authority on ⁴ the ground that that Act infringes certain articles of the Constitution. For example, article 14, "Equality before law" or right to equal protec-

tion in law, is there; article 19—right to freedom—is there; article 31—right to property—is there. Therefore, when protection is extended in article 31B, under the Ninth Schedule, it only means that *vires* of the Act cannot be challenged in any court of law. The purport of the Act, interpretations of the different provisions, whether a thing comes under that Act or not, whether an offence is covered under certain sections of the Act or not—all these things—will have to be proved in a court of law. The only protection available to the Executive is that that Act cannot be challenged on the ground that a certain Act infringes a certain right provided in the Fundamental Rights— Chapter III. Although that protection is there for example, the Prevention of Publication of Objectionable Matters Act was there, objection was taken to that. I think protection will mean that uires of this Act cannot be challenged on the ground that this Act infringes the right to freedom or the right to publish something. This is the only purpose of this protection.

Madam, if we go through the history of the amendments that have taken place we would see that the Ninth Schedule is ever-expanding. Always some new Acts are being added to it, beginning from the first ^amendment in 1951 when 13 land reform Acts were covered. Then in 1955, seven Acts were brought under this scheduled. By the 17th Amendment Act of 1964, 44 Acts were added; by the 29th amendment Act, two Acts were added; by the 34th Amendment Act of 1975, 38 Acts were added. This makes a total of 104 Acts. This 42nd Amendment Bill adds 64 Acts. But submission for your consideration is that we have to find out certain guidelines as to what are the principles on which any Act proposed by some State Government or the Central Government should be given this protection. I think if we look at all these Acts, We will find that the Acts suggested by

the State Governments have been included in the ninth Schedule without any serious consideration being given at the Central level. I would, Madam, point out to one Act. In this Bill, entry 149, there is the Kerala Chitties Act, 1975. The Acts are placed today in the Parliament Library. I had just gone there only a short while ago, and I could see that this Kerala Chit-ties Act is like other chit fund Acts or like other lottery Acts. What is the necessity to give protection to such an Act when almost all the State Governments have passed similar types of legislation and chit fund Acts are there and lottery Acts are there? Certain rules and regulations have been provided in order to protect the interests of the persons who invest their money, in such chit funds or lottery. That is the purpose of those Acts. I do not think there are any valid reasons for inclusion of this Act. And if there are any reasons, I would like the hon'ble Minister to explain why this Act alone has been included here,.

Madam, there is another Act, which I would like to point out, the Kerala Prevention of Eviction Act, 1966, en try 142. This Act was enacted when there was the President's Rule in the State. As we know after the lapse of the President's Rule an Act ceases to exist after one year, unless the Act is revived. (*Time bell rings*).

Madam, I am concluding. So, when the Act has already been revised—it must have been revised by the State Legilslature^that Act should have been placed here, instead of the old Act.

Now, Madam, I would like to say two more things. So many Acts have been included; there ar_e Act.....

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): Mr Shyam Lai Yadav, I am sorry, I cannot give you any more time.

SHRI SHYAM LAL YADAV: Just one minute.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): Not today.

SHRI SHYAM LAL. YADAV: There are certain Acts of Orissa which are 24 years old or 18 years old. All those Acts have been brought in though all of them . . .

SHRI U. K. LAKSHMANA GOWDA: You get all the States Acts and put them together.

THE VICE-CHAIRMAN: Ramlal Parikh.

PROF. RAMLAL PARIKH (Gujarat): Madam Vice-Chairman, I am really amazed and astonished at the manner in which such an important Bill touching some of the vital features of the Constitution is being brought in and is being hurried through. It appears that the Government wants that the Members should not have any opportunity to even read or study the enactments which they are going to include today in the Ninth Schedule.

Madam Vice-Chairman, I thought Government would at least think it proper to provide us with a summary of these Acts. While I fully realise the anxiety of the Government—and I fully share it—to provide protection to such measures which will help the weaker sections of our society, here is a Bill which contains so many things under one Bill, and Members have absolutely no opportunity to study its implications, to study the various kinds of Bills. Now, there are more than 60 Acts which have been included in its list. We do not know what they are. One cannot study by just glancing through a bunch of papers in the Library. It would certainly need more time. If Parliament is a sovereign body, then every Member of the House shares that sovereignty and every Member has a right to understand what is going on here. I am sorry to say that the manner in which this Bill is being

brought forward is not respectful to the sovereignty of this House. I therefore, protest against the method and the manner in which this Bill is being brought forward. Secondly, coming to the Bill itself, there are three types of provisions in the same Bill. It is rather unusual that under the same Bill there are three different types of provisions, three different kinds of matters put under one bunch having no connection with each other. Madam, on the question of the authority of the Union to protect our interests in what is now called in this Bill 'the exclusive economic zone', this provision is certainly welcome. One can hardly dispute it; in so far as it protects the interests of the nation, the interests of our sovereignty and the interests of our maritime freedom, it is a welcome proposition, and I welcome it and support it with one comment that the Government would take care, while implementing this authority or power which they are acquiring through this amended article 297 of the Constitution, that they do it in a manner which is consistent with friendliness with our neighbours. Otherwise, I do not think there can be any dispute about article 297 being amended as it is.

Then, the next most important * point is about the bunch of agrarian legislations passed by the State Governments. It is understandable that it is very necessary to provide protection to these measures which are going to provide immediate relief to the weaker and poorer sections of the society. The only thing is that perhaps we should have been educated about their contents, apprised of them, so that we know what we are passing. We do not know the contents of the measures that are listed here. Perhaps, we could have improved * upon them,, we could have suggested to the State Governments that the protection that Parliament is providing to their legislations is all right

but that they should go ahead, that there are certain things where they need to go still further. Therefore, so far as these agrarian reform measures are concerned, I welcome the Government's move to provide protection under article 31B. But I cannot understand, I cannot agree; and I strongly protest and object to certain other laws like the Prevention of Publication of Objectionable Matter Act, Entry No. 130, an Act that we passed only during the last Session. This has been included under article 31B. I cannot agree, and no Member of this House in his conscience will agree to it because it does not need this kind of treatment. Why do you extend protection to this Act? Why do you deny the possibility of scrutinising the mistakes in this legislation which we also passed very hurriedly? "We have not had any experience about the implementation of this legislation which we passed only last month, and this also is being pushed through hurriedly. Why is this being done? As I said, if it is agrarian reform providing relief to the weaker sections I do not mind it, I welcome it and support it. But I cannot understand why the Government is interested in squeezing out some of the little liberties which are left over in the Constitution. Why do you assume that the Members will not have something to say against it even after the passing of the Act? In spite of the almost brutal majority here of one party, there may be differences and these are not matters which can be prevented from being debated. I therefore feel that the inclusion here of the Prevention of Publication of Objectionable Matters Act—and there are such other Acts—is really irrational. If you felt that the Act was inadequate then bring an amendment to this Central Act 27 of 1976. If you still feel that it does not give adequate authority, you can ask for more authority from Parliament. One can understand this. But there is absolutely no justification for giving permanent protection to it and

depriving the public from getting it judicially scrutinised or reviewed. This certainly leads us to question the intentions of the Government as to why they are doing it. It is not at all necessary to do it. If you think you do not have enough powers, if your powers are challenged, if the courts come out with a judgment different from what was intended by Parliament here, then you come with a fresh Bill and get more authority. But it is really difficult to understand the way the Government is trying to push in some other Bills. Now I have no material with me to know what is the content of the Motor Vehicles Act or what is the content of the Levy Sugar Price Equalisation Fund Act. I do not know why these are being grouped in this Bill. Madam, subject to this comment, I do not mind the Bill being approved so far as the first two parts are concerned—one is about the Exclusive Economic Zone and the second is about agrarian reforms. But as regards the third part, especially the inclusion of the Prevention of Publication of Objectionable Matter Act, I strongly protest. Thank you.

SHRI SANTOSH KUMAR SAHU (Orissa): Madam Vice-Chairman, I support this Bill because it is very much in tune with the time and the need of the hour. Constitutional law must express the desire of the nation of this time. As a consequence of that, in the preamble of our Constitution, also, when the founding fathers drafted the Constitution they said We promise to the people not only justice political but also social and economic. We have been trying as to how to give social and economic justice to the vast majority of poor people who depend upon agriculture. If we just analyse clause 3 of the Bill under which we are giving protection to 64 Acts against judicial review, we see that almost 50 of the Acts are dealing with agrarian reforms Acts, enacted by the different States of our country. I congratulate the Ministry because the oldest Act, the Orissa Estates Abolition Act has been included. We

[Shri Santosh Kumar Sahu.] know that many of the tenants who were to be given benefit under this Act have not got what they desired because litigations are continuing till now. When it is the accepted principle of the Government and the country that the tiller must have ownership of the land it is necessary that such enabling provisions must be made so that these litigations do not continue. Further, one of the most important maxims of jurisprudence is that justice delayed is justice denied. So if the poor peasants do not get justice, they go on running from court to court. And the propertied people people who have grown vested interests, can afford to continue litigations for years. So the poor peasants will never receive any social or economic justice. So it is a very timely thing that these agrarian reforms Acts of different States which have been the subject matter of litigation, have been included in the Ninth Schedule of the Constitution after entry 124.

Now, coming to the other category of Acts which have been passed earlier and which we want to include in the Ninth Schedule the Bonded Labour Abolition Act, 1976 is the very basis of social justice to the most suffering persons. Are we not aware that this system of bonded labour is a remnant of the feudal primitive society? Are we not seeing that today when the emergency has been proclaimed and the 20-point economic programme as enunciated by the Prime Minister is being implemented in many parts of the country where the people are backward, we find that the bonded labour is continuing to be forced in many parts of the country. So, untill and unless we give protection to these people also who have been working without getting any remuneration and who have been deprived of their minimum social justice, they will have to serve their masters again who have been enjoying many benefits for generations together. These people must be well protected

and this Act must be protected by-being included in this Schedule so that these people are able to become free.

Coming to the other thing, Madam, we know about the Smugglers and Foreign Exchange Manipulators (Forefeiture of Property) Act and the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act. I think that basically these two things are very much linked with the economic growth of our country. We also know how, before the emergency was imposed, these nefarious activities of the smugglers had a great impact on the economy and price rise in our country and we also know, how those persons who were indulging in such nefarious activities were ruthlessly pursued and it is a matter of great pleasure for all of us and it has benefitted the country—try since the action taken against these people had a tremendous impact on our economy. So, these are all very well-considered aspects and the different Acts with the same aims and objects should also get the protection. If we analyse this we would recall the legal battles that we had to fight and we can see as has been pointed out by an honourable Member, that in the year 1951 after independence, when the Zamindari Abolition Act was passed and when we wanted to give benefits to the tenants, we were drawn to the courts and this question could not be pursued to its end as a result of which the first Amendment Act was passed in 1951 and it was followed also by another Amendment Act in 1955. We also know that in consequence of these things, the 25th Amendment Act was passed which was challenged in the Keshavananda Bharati case in the Supreme Court and we know the stand taken by the Supreme Court in that case. Mr. Justice Khanna has rightly pointed out in that case that the right to property is not a basic right. Shri B. N. Rau, the eminent jurist who had studied the different constitutions and discussed with the different jurists in the world has said that when an Act is passed

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or an enactment is made in pursuance of the policy of giving economic justice and social justice to the people and if it is in pursuance of the Directive Principles as mentioned in the Constitution, it should not be debarred just because it is said to have come in the way of the right to property or any other Fundamental Right. There are fundamental principles for bringing forward legislation and it has been laid down clearly as to what should be our policy to further the cause of economic growth or to achieve the ends of economic and social justice. So, these things are very important and very necessary. Therefore it is a good thing that these Acts find a place for protection in the Constitution Amendment Bill which is before the House today.

— Coming to clause 2 of the Bill, I would say that it is very important clause and every Member of the House has almost agreed that we must see that in this modern world the question of territorial waters has been one of prime importance and every country has been framing laws as to what should be its territorial waters and so on. So, this is very important and also timely and it is a good thing that we have done it. Even today, Madam the question of fishing rights in the sea is a matter of conflict between the U.K. and Iceland.

We also know the early history of Japan which wanted to have undisturbed fishing rights in the sea had to conduct a war with other countries on this account because the Japanese had to depend a lot on the wealth of the sea, which in turn had helped the growth of the Japanese economy. So also, in India, it is very much needed. Clause 2 of the amending Bill provides that all lands, minerals and other things of value underlying the ocean within the territorial waters, or the continental shelf, or the exclu-

sive economic zone of India shall vest in the Union and be held for the purposes of the Union. Clause (2) says that all other resources of the exclusive economic zone of India shall also

vest in the Union and be held for the purposes of the Union. Therefore, these features are very important. But I would like to point out one thing. While the Minister was replying to the many questions by many members in the Lok Sabha a question was asked as to how retrospective effect could be given to the laws concerning agrarian reform and other enactments by the inclusion of these enactments in the Ninth Schedule. As I have already pointed out, Madam, the oldest Act in this respect is the Orissa Act of 1951. Many years have passed since then and still we are dealing with the question as to how the present enactment would help us in giving effect to the Act of 1951. Many consequential changes must have been made and many rights would have to be changed in future. So, it is very necessary that this point must very carefully be examined and I think the honourable Minister has already done it and I hope he will explain it in this House. During the last many years, Madam many changes have taken place and the people have a lot of aspirations and they are to be judged properly and taken into account before passing any legislation. Unless we give retrospective effect to these enactments, I think they can not be properly implemented and the poor people will, therefore, suffer.

Sir, about the question whether this House has a right to amend these Fundamental Rights, I was going through the view of Shri Gajendra-dhar on Mohan Kumar Mangalam lectures. He has very analytically told that the makers of the Constitution very rightly thought that the Constitution must show the desires, the rights and the duties of the people of the present time. So the framers of the Constitution considered this issue and made it flexible.

With these words, Sir I support this Bill, and I hope the hon. Minister will explain these things.

SHRI VISWANATHA MENON
(Kerala): As usual, the Government

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[Shri Viswanatha Menon.] has brought a Bill which has got a progressive colour. But actually the motive behind the Bill is, if you go deep into it you will see that they are not anxious about land reforms and they are anxious about prevention of publication of any material. Land reforms issue is considered to be a progressive, social and economic measure and it should be put in this Bill, so that the courts may not challenge them. In that respect, if you look into this you will see that the hon. Minister has smuggled in one or two other measures in it so that somehow or other he can get them passed. Everybody who spoke was in favour of socioeconomic changes. We are for that. We are for changing the Constitution according to the situation. But that should not be against the interests of the people. When anti-people measures are brought in, they must be challenged in a court of law. That right has been taken away by including one or two measures, especially about accounts section and newspaper publications. Sir, we oppose these two provisions. About territorial waters, about economic zone and other such matters we have no objection although these things have to be explained more by the hon. Minister himself.

The Congress Government have been ruling this country for the last about 28 years and they could have implemented many of the land reforms. But they have actually failed to do so. Now, they are finding fault with High Courts and the Supreme Court. They wanted alibis for their failures. That is why I want to press that it is a failure not because of interpretations by the courts. But it is actually the failure of the Government the Congress Government, which ruled this country.

Sir courts, are naturally the custodians of the existing things. They stand there. They have no progressive ideas. But when the Government has got the powers to introduce progressive measures, they have not done

that; they have miserably failed in that.

In the Ninth Schedule, many Acts have been put. I do not know what the contents are. Anyhow, I will take the word of the Minister that almost all the legislations about land are progressive legislations. But has the Minister himself gone through all these things? Whether these are as progressive as our Kerala Land Act? I do not know whether the Minister has made a study of that. Anyhow, I have not done it. The question is that whatever rights we have got to express, have been curtailed.

Sir, I do not claim that the Constitution is a holy book like the Quran or the Bible. I am not claiming that. It has to be changed. My party wants a lot of amendments in that. There is, the fundamental question of 'right to property'. Yesterday there was a discussion in this House. What was the attitude of the Government? The Government is not taking any strong steps on the fundamental questions. They are coming before this House and saying that these Acts should be saved from the jurisdiction of the courts. The actual motive behind your action is to curtail the freedom of expression of the press. The position is very difficult. In my State, my party has got newspaper. It has got pre-censorship. Even the news coming from Samachar must pass through the local censors. This is the position. You cannot express anything now. My friend from the Congress side was saying about the Marxists that my party has changed its policy. We have not changed our policy. Our position about the Constitution is that it is not holy Quran or something like that. It should be changed according to the developments of the country. It should have progressive amendments. We have suggested our own amendments and "We want a national debate on these things. There is no point in curtailing these freedoms and not going deeply into the fundamental question about the right to property. They are saying that they

are progressive and, at the same time, are putting obstacles in the way of right of expression. We cannot agree to this. I have moved two amendments. These two amendments are about the Prevention of Publication of Objectionable Matter Act, 1976 and the Departmentalisation of Union Account (Transfer of Personnel) Act, 1976. According to our stand, these two Acts must be removed from the Ninth Schedule. I have not gone through all the other Acts and measures. I cannot do it. Almost all the speakers have said that. We have not been given a synopsis of the things that are contained in the various Acts. Anyhow, we take it that they are all socio-economic progressive measures, although the Motor Vehicles Act is a doubtful thing.

Madam, the point I want to stress is that the Government which failed to implement land reforms and other legislations are now finding fault with the courts. Take the Golaknath and Keshavananda Bharati cases. I am not going deeply into these cases. As an eminent lawyer, I am sure the Law Minister will deal with these subjects. Take the question of right to property. Has it got more sanctity than the question of press publications? I cannot see how you are going to progress in this country. In the name of the supremacy of Parliament, if a Bill is brought forward tomorrow, saying that one party system is going to be introduced in this country, what will be the position of the other parties? All the other parties will be disbanded or banned. If you are going to pass that by two-thirds majority, what will be the position? These things should be thought of. I do not want to take much time. But I request the hon. Minister to agree to my amendments and the two Acts mentioned by me may be deleted. Thank you.

श्रीमती सरोज खापड़े (महाराष्ट्र) :
अध्यक्ष महोदय, इस संविधान संशोधन
विधेयक का स्वागत करती हूँ। मुझे प्रसन्नता

है कि सरकार प्रधानमंत्री के 20-सूत्री कार्यक्रम को कार्यान्वित करने के लिए पुर्णतया दृढ़ प्रतिज्ञा है। जैसा कि इस विधेयक से स्पष्ट है, इस विधेयक में केवल उन्हीं कानूनों को न्यायपालिका के हस्तक्षेप से मुक्त किया है जो अधिक व्यवस्था हमें परिवर्तन लाकर भारत को कोटि कोटि जनता को सदियों से चला आ रहा गुलामी से मुक्ति दिलाना चाहते हैं। वरन् ऐसे कानूनों को भाँ न्यायपालिका के हस्तक्षेप से मुक्त रखा जा रहा है जो अधिक कानूनों को लागू करने में बाधा डालने वालों को रोकने के लिए बनाये गए हैं। जो अधिनियम समाजविरोधी तत्वों को रोकने के लिए बनाये गए हैं उनको कार्यान्वित करने में किसी प्रकार की बाधा कैसे कोई सरकार कर सकता है। विशेषकर

(130) The Prevention of Publication of Objectionable Matter Act, 1976;

(133) The Departmentalisation of Union Accounts (Transfer of Personnel) Act, 1976.

पर आपत्ति उठाई गई है। इन लोगों से मैं पूछती हूँ कि क्या कुछ पूजापतियों, नामत-वादियों, फिरकापुस्तों को भोला भाला गरीब जनता को गुमराह करने की पूरी छूट दे दी जाय। इस तरह की छूट का अर्थ होगा अपने अधिक कार्यक्रमों में जानबूझ कर बाधा डालना। अतः सरकार ने अच्छा ही किया कि ऐसे कानूनों को भी नाइब जेडबूल में डाला जा रहा है। इसी प्रकार एन्ट्री 133 एडमिनिस्ट्रेशन में सुधार लाने में किसी प्रकार की बाधा न हो, इसलिए लाया गया है।

मूलतः इस विधेयक के सम्बन्ध में किसी को आपत्ति करने की आवश्यकता नहीं है क्योंकि जहाँ तक स्टेट्स के ऐक्ट का सम्बन्ध है इनके बारे में सदन के सभी सदस्य एक

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[श्रीमती सरोज खापड़े]

मत से समर्थन करने हैं। केवल कुछ केन्द्रीय अधिनियमों के विषय में मतभेद है। पर क्या जब हमने इन अधिनियमों को पारित किया था तो क्या हमारा इरादा उनको पूरी तरह से अमल में लाने का नहीं था। और यदि उनके अमल में लाने में कोई बाधा पहुँचनी है तो क्या उसको दूर नहीं करना चाहिए ?

यह शिकायत कि उन कानूनों को न्याय-पालिका में मुक्त करने से प्रजातन्त्रवाद को खतरा है, बे-सिर पैर है। अगर देश के हित में कुछ लोगों की मनचाही स्वतंत्रता पर रोक लगाई जाती है तो इस सदन को ऐसी रोकों का समर्थन ही करना चाहिए।

देश में न्याय पालिका ने आर्थिक कानूनों को इम्प्लीमेंट करने में जो बाधा डाली है वह असहनीय है। मैं तो सरकार से आशा करूँगी कि संविधान में बार बार संशोधन करने के बजाय ऐसे मूलभूत परिवर्तन किए जायँ जिससे सदैव के लिए सामाजिक आर्थिक परिवर्तन लाने के लिए नियमित कनाये गए कानूनों में कोई भी बाधा न डाल सके।

जहाँ तक धारा 297 का संबंध है, मैं नहीं समझती कि किसी को इस पर आपत्ति है।

मेडम, संविधान का यह 42वाँ संशोधन देश की प्रगति के इतिहास में स्वर्ण अधरों में लिखा जायेगा। यह वह कदम हम उठा रहे हैं जिससे समाज के प्रगतिशील परिवर्तन के समय कानूनी कमजोरियों का फायदा लेकर समाज विरोधी तत्व अपने आपकों न केवल बचा ही पाते हैं अपितु समाज विरोधी कार्यवाहियों बेरोक चलाते भी पाते हैं। स्वतंत्रता के 29 वर्षों में हमने जो कुछ पाया वह हम इन समाज विरोधी तत्वों की कान्ची करतूतों से बहुत कुछ खोने ही गए हैं। यह वैसा ही है जैसे किसान तेज धूप में भारी वर्षा में या की सड़ों में पशुधम की पराकाष्ठा

करके इनाज उगाये और गत के अंधेरे में चूहे उसे खा जायँ। यह संशोधन हम समाज में स्थित ऐसे ही चूहों की समाप्ति के लिए कर रहे हैं। गत वर्ष देश में आपातस्थिति की घोषणा के बाद राष्ट्र नेता प्रधान मंत्री जी ने 20-मूत्री आर्थिक कार्यक्रम की घोषणा की। समाज के सबसे आखिरी आदमी का जीवन सुसह्य हो, उस पर सदियों से जो अन्याय हुआ, साहूकारों ने, जमींदारों ने, मुताफा खोरों ने तथा जमाखोरों ने उसे जो ब्रेतहाणा लूटा, यह अन्याय दूर हो, उसकी यह सदियों से चली आयी लूट समाप्त हो, यही तो 20-मूत्री कार्यक्रम का अर्थ है। प्रधान मंत्री जी के नेतृत्व में केंद्रीय शासन तथा राज्य शासन पूरे जोश-खरोश के साथ उस कार्यक्रम को क्रियान्वित करने के लिए कटिबद्ध हुए। अनेक कार्यक्रम हाथ में लिए गए, अनेक कानून बनाये गए। परन्तु समाज विरोधी तत्वों ने उनमें से भी हमेशा की तरह भागने का सन्ता निकाला।

कांटे का सहारा लेकर, रिट आफ मैन्डेमस कर के लेकिन हमारा संविधान निबरन है इसलिये चोर चोर है यह मानूँगे तो पर भी उसके प्रतीकूपन के कागज ठीक नहीं हैं इसी बात पर उसे रिहायी मिल जाती है। वह मुक्त और स्वतन्त्र हो जाता है। हमारी स्वतंत्रता क्या इसी लिये है कि चोर चोरी करता रहे, काला बाजारी, काला धन जमा करता रहे, साहूकार गरीबों की जमीन, घर, जेवरों की लूट करता रहे, मुताफाखोर आम लोगों का गला काट कर अपनी निजीरियाँ भरता रहे, और यह सब लूट मार, गला काटी और जानसाजी हम अपनी आँखों से देखते रहें और कुछ भी नहीं करें। इन्दिरा जी के नेतृत्व में आया हुआ यह संविधान संशोधन का धिन और कुछ नहीं, बस यही है कि इन समाज के दुष्मनों की अब नहीं चलेगी। इन की कान्ची करतूतों रोकने के लिये अब संविधान भी आड़े आता है तो उसे भी हम ठीक करेंगे।

संविधान के इस संशोधन द्वारा हम कमजोर वर्गों को न्याय देना चाहते हैं। आर्थिक गुनाहगारों को उनकी कर्तव्यों से रोकना चाहते हैं। सामाजिक न्याय देना चाहते हैं, आर्थिक न्याय देना चाहते हैं, समाज में आत्म सम्मान की भावना भर कर प्रगति की दिशा में आगे बढ़ना चाहते हैं।

इस संशोधन में समाज की जागृति के लिये और उसके आगे बढ़ने के लिये उनकी आशा और आकांक्षा निहित है। बदलती हुई इन स्थिति को संविधान में सम्मिलित करना आवश्यक है। समाज में हुए परिवर्तनों को ध्यान में रखते हुए, इस विधेयक को मदन के सामने प्रस्तुत किया गया है।

संविधान में विचार और मत स्वातन्त्र्य दिया गया है। स्वतन्त्रता के बाद हमने इस स्वातन्त्र्य को बहुत भोगा है। इसी से हमें जो कलम स्वातन्त्र्य की प्राप्ति हुई है उसका लाभ देश में कुछ कम नहीं लिया गया। परन्तु इन कुछ वर्षों में जिस तरह से इस स्वातन्त्र्य का उपयोग लिया गया, आप सभी उससे आगाह हैं। कैंसी कैंसी मनगढ़न्त कहानियाँ रची गयीं, कैसे कैसे बे मिर पैर के आरोप लगाये गये, कैसे कैसे गोबेल्स को भी शर्म से मिर झुकाना पड़े इस तरह के प्रचार किये गये, अथक और अविरत प्रचार किया गया। कैसे किसी गलत बात को सौ बार कहिये तो लोग उसे सच मान लेंगे इस वृत्ति से आसक बातें फैलायी गयीं और बैसे लोगों ने अपने इन उद्देश्यों की पूर्ति के लिये अपने कलम का उपयोग किया, मानों जैसे जैसे कलम में स्याही की जगह विष भर दिया गया हो। हमारी अनेक असफलताओं का मूल भी तो यही विष भरा कलम था। इन्हीं कलमों ने तो कारखानों का चक्र और खेतिहरों का हल चलने से बन्द करने की कोशिश की। इन्हीं कलमों ने समाज में आने वाली जिन्दा दिली को रोकने की कोशिश की, देश में होने वाले क्रान्तिकारी परिवर्तनों के मार्ग में पत्थर

डाले। राजा, महाराजाओं और जमींदार, जागीरदारों को संरक्षण देकर गरीबों के हित के विरुद्ध उभराया। यही तो वह कलम है जिन्होंने मेहनतकों और गजमन्दों को गुमराह किया। वे यही कलम हैं जिन्होंने सेना और पुलिस को भड़काने की कोशिश की। आप को याद होगा नैट का कमाल। नैट जब बनने वाला था तो वह उड़ेगा कि नहीं इसकी शंका इन्हीं काली कलमों ने व्यक्त की थी और सुरक्षा के उत्पादन के मार्ग में अड़ेंगे पैदा किये थे।

आफतकालीन स्थिति लागू करने के पहले पैने वालों के और साम्प्रदायिक तत्वों के हाथों में जो अखबार थे उनकी कलमों से जो स्याही के धब्बे गिरे थे वे इस देश पर और समाज पर कलंक हैं। इस कलंक को हटाना तथा वह कभी न उभर आये ऐसा प्रयत्न करना हमारा कर्तव्य है। मेरा ऐसा विश्वास है कि संविधान का यह संशोधन इस अपेक्षा की पूर्ति करेगा।

शासन ने पूरी सूज बूझ के साथ समय के तकाजे को ध्यान में रखते हुए संविधान में यह जो संशोधन प्रस्तुत किया, मैं आशा करती हूँ कि वह देश को प्रगति की राह पर ले जाते हुए समाज के सबसे कमजोर आदमी को सदियों के अन्धधायों से मुक्ति देगा और देश का कारवाँ प्रगतिशील समाजवाद के रास्ते पर आगे बढ़ता जायेगा। इन शब्दों के साथ मैं इस विधेयक का स्वागत और समर्थन करती हूँ।

SHRI G. LAKSHMANAN (Tamil Nadir): Madam, Vice-Chairman, I have very great pleasure in welcoming this Constitution (Forty-second Amendment) Bill, 1976, conditionally. But there are two enactments which have been included here. I do not know why they have been included in this Bill. They are, the Prevention of Publication of Objectionable Matter Act, 1976, and the Departmentalisation of Union Accounts Act, 1976. Why

1976

[Shri G. Lakshmanan.] these have been included, we are not able to understand. Has it got any relation to the proposed visit of Shrimati Indira Gandhi to the Soviet Union? I do not know. But, anyhow, if these enactments had not been included, definitely we would have welcomed it and my party would have welcomed it.

Sir, when such constitutional amendments are brought in, as was suggested by the honourable Sardar Amjad Ali, there should be a national debate. The people of this country do not know what these constitutional amendments are; they do not know-how the vested interest are not allowing the people, the legislatures and the Parliament to do good to the people. Therefore, they should have been told at least through some advertisement; they should have been educated as to how they are going to bring in such a constitutional amendment. In order to escape from the reality that for 28 years in this country there has been a one-party rule, they had the majority, they now want to put blame completely on the courts. They have not done anything for the people. And now they want to go to the people—because elections might come or might not come—that we could have done lot of things and the courts stood in the way. Therefore, Sir, I would suggest that whenever such constitutional amendments are brought in, there should be a national debate. I do not know whether you will accept it, because you are in a big majority. All the opposition parties should also be consulted. You may be having more than two-thirds majority but may I ask how many people have voted against the Congress Party in the last elections? Forty-five or forty six per cent. Therefore, we represent that forty-six per cent. We have not been consulted. We have not been told till a week back that you are going to bring in such a constitutional amendment. In the interest of the people, therefore, whenever such constitutional amendments are brought in, the various political parties in this country must be consulted and

the opposition parties must be consulted and then a national debate should be held among the people of this country so that the people can become politically conscious. I make this suggestion but I do not know whether they would agree to it. Sir these two Acts; which have been included: I have mentioned about them. I do not know why this Government, run by the Congress Party with such a majority, should stealthily include these two Acts. Sir, freedom of speech and freedom of association are the fundamental principles in democracy. And what is happening here that I am opposing this amendment? Sir, for instance there is only one paper if I am correct, which has been subjected to pre-censorship, and that is *Murasoli* the official organ of the D.M.K. We filed a case in the High Court of Judicature at Madras. And it was said that pre-censorship should not be insisted upon. And then we continued publication. Suddenly, Mr. Shukla comes to Madras on the 6th of May and when he comes there, I do not know what happened there. Immediately, one order comes from the Censor stating *Murasoli* must have pre-censor again. Then we filed a case in the High Court; stay was granted and within two days it was vacated. A forty-page judgment has been given. No other paper has been insisted upon to have pre-censorship. Only *Murasoli* is insisted upon to have pre-censorship. I would just quote the lines which had been objected to by the Censor at Madras:

"We will do our duty. Time alone can decide. DMK came to power in 1967. From that day, innumerable cycles must wear helmets..."

"Charge was laid about misappropriation about the renowned world Tamil Conference held at Madras.

When orders were passed, that those driving scooters and motor cycles must wear helmets. . ." THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS, DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE RE-

FORMS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI OM MEHTA): All these are being enquired into by the Commission of Enquiry.

SHRI G. LAKSHMANAN: The Commission of Enquiry cannot control me. It may control you.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): Mr. Lakshmanan, kindly adhere to the time-schedule.

SHRI G. LAKSHMANAN: If they do not interrupt, I will adhere to the time-schedule.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): You should be relevant to the amend-^{ing} Bill.

SHRI G. LAKSHMANAN: It cannot be relevant to all. I quote again:

"When orders wer_e passed, that those driving scooters and motor cycles, must - wear helmets, it was given out that Karunanidhi had received bribe from helmet manufacturers."

This was objected to by the censors. There is another thing. An article was published in the Congress (O) paper, 'Nava Sakthi'. We wanted to reproduce k. it. This was also objected to. Actually, when I begin to speak, many people become nervous. I do not know why. It is we who should be nervous because many of our MPs and leaders have been arrested. But the position is reverse. That is why I am surprised when they become nervous. As a matter of fact, I must become nervous.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): Why are you wasting the time of the House?

y SHRI G. LAKSHMANAN: They are unnecessarily interrupting me.

You must control them. You are not controlling them. *YOM* are controlling me only.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): Please mention your points. Do not reply to them.

SHRI G. LAKSHMANAN: Why should they become nervous?

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): Because you are provoking them.

SHRI G. LAKSHMANAN: Madam, the censor acts in a politically motivated way. I take the responsibility of making this statement. Mr. Shukla came to Madras the other day. He contacted the censors. He is somehow revengeful towards us. I do not know why. I am told he has been made to understand that our party is anti-Brahmin. Unfortunately, he happens to be a Brahmin. Therefore, he order-_{ed} the censors on the day...

SHRI JAHARLAL BANERJEE: Madam, this kind of a personal attack against a Minister should not be allowed.

SHRI KAMESHWAR SINGH: This should be expunged.

SHRI G. LAKSHMANAN: I am making a specific charge. (Interruptions). Earlier, pre-censorship was not there. On the same day when he came, we received a notice from the censors stating that pre-censorship ha_s again been introduced. The Minister was there on that day. I want an enquiry on this. Political leaders should not behave in this way. That is why I say this protection should not be there. This Act should not be included in the Ninth Schedule. It is not only in regard to our party. Tomorrow, the Congress Party may sit in the opposition.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): Please sit down. Your time is up. Mr. Banerjee.

SHRI G. LAKSHMANAN: Madam Vice-Chairman, I take very strong objection. Because Mr. Om Mehta came and told you, you are not allowing me to speak.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): Please sit down. I am not giving you any more time.

SHRI OM MEHTA: Madam Vice-Chairman, I strongly protest against what Mr. Lakshmanan has said. It is very unfair.

{Interruptions}

THE VICE-CHAIRMAN (SHRI MATI PURABI MUKHOPADHYAY): Please sit down, Mr. Lakshmanan. *(Interruptions)*... Do you want me to name you? *(Interruptions)* you cannot behave like this. Please sit down. Otherwise I will name you.

SHRI G. LAKSHMANAN: I am sitting down. But *(Interruptions)* _____

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): You are misbehaving, Mr. Lakshmanan. You cannot go on like this.

SHRI MOHAMMAD YUNUS SALEEM (Andhra Pradesh): On a Point of order.

SHRI G. LAKSHMANAN: Why are you *(Interruptions)*...

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): You are causing indiscipline in this House. I have called Mr. Banerjee.

SHRI MOHAMMAD YUNUS SALEEM: I rise on a point of order.

THE VICE-CHAIRMAN (SHRIMATI PURABI MUKHOPADHYAY): No point of order. Mr. Banerjee will speak.

SHRI B. N. BANERJEE (Nominated): Madam Vice-Chairman, I thank you for giving me the opportunity of making my, what is called in Parliamentary language, 'maiden speech' in this House. At the outset, Madam, I must express my gratefulness to the House for the very kind and complimentary words expressed the other day—I mean, on 2nd April—about me. of course in my other

capacity. I feel that the House had been rather over-generous to me in showering "compliments for my services to this House as Secretary-General, and I doubt if I really deserved them.

(Mr. Deputy Chairman in the chair)

Nevertheless, I can assure the House that the proceedings of the House of 2nd April. After the Question Hour will be the proudest possession of my life.

Sir, I can say without any fear of contradiction that of all the Members present in the House today, I hold the record of listening to the proceedings of the House for the longest period of time. But, Sir, today my role has been reversed and I am also to speak and not only to listen.

SHRI BHUPESH GUPTA: You had[^] spoken through the Chairman, Deputy Chairman and the Vice-Chairman. You had very good spokesmen in them!

SHRI B. N. BANERJEE: But I can assure you that I do not propose to claim another record and I have no ambition to challenge the record held by my esteemed colleague, Shri Bhup'esh Gupta for having spoken in the House for the longest period of time. On the other hand, I propose to follow the traditions left by other distinguished nominated Members of this House who spoke on rare occasions and also made very short speeches. Thus I do not propose to encroach upon the time of the elected representatives in the House. Sir, with these preliminary remarks I now come to the Bill proper.

Sir, there are two effective clauses in this Bill. Clause 2 substitutes a new article for article 297; in fact it amends article 297 of the Constitution. Sir, this article, as originally enacted, only mentions about territorial waters, but while amending the Constitution in 1963 by the Constitution Fifteenth Amendment Act, the concept of continental shelf was also introduced in this article. Sir, the concepts of terri-

torial waters and continental shelf are well-known concepts in the international law and, therefore, our Constitution, in article 297, now very rightly provides that all lands, minerals and other things of value under the ocean within the territorial waters of India and the continental shelf of India shall vest in the Union and shall be held for the purposes of the Union. Sir, in recent years, resources of the sea have become very important and, as such, there has been a good deal of thinking and, I should say, a good deal of development in the law relating to the seas.

Sea is no longer considered only as a means of transport or as a source of fisheries of other live food. Recently scientific and technological developments have brought to the forefront the importance of sea for many other purpose-, useful to the world com-

Amunity. Sea is now considered to be a very important source of salt, minerals, fuel, energy and what not. With the population explosion, all the countries of the world will have to rely more upon the potentials of the sea, and, this is very necessary for a country like India with a very vast population. At the United Nations Conference on the Law of the Sea which has been holding its session every year since December, 1973, a new concept has come to the forefront and that is the concept of an exclusive economic zone. And the consensus among the countries of the world is that a coastal country has got an exclusive economic zone and that this exclusive economic zone extends to about 200 nautical miles. A coastal country which has sovereign rights over the water or over the land, under it in the exclusive economic zone will also have the exclusive right of scientific research in that particular area. But that does not mean that the ships of the other countries will not have passage over that economic zone. You will see, Sir, that the exclusive economic zone is neither territorial water nor does it have the status of high seas. It is a new concept of international law relating to the sea. Several coun-370 RS—7

tries have already passed laws on the subject. The US Congress by law extended the fishery rights to the US to 200 miles. Similarly, Mexico has also passed a law; so also Bangladesh, our neighbour. It is high time that we, by this particular amendment of the Constitution, recognised in our Constitution the concept of the exclusive economic zone. As you will see, Sir, in subclause (3) of the new article, there is a provision that Parliament may, by law, determine or define the limits of all the maritime zones including the exclusive economic zone. In fact, the day before yesterday I got a copy of the Bill that the External Affairs Minister proposes to introduce in the House for this particular purpose. I congratulate the Government for taking prompt action in this matter. This is so far as clause 2 is concerned.

Now, I come to clause 3. Some controversy has been raised about this clause. By this clause, nine Central laws and 55 State laws are proposed to be included in the Ninth Schedule to the Constitution. Sir, you will remember that soon after the enactment of the Constitution, by the Constitution (First Amendment) Act, 1951 certain State laws dealing with the abolition of Zamindari were included. They were challenged and they had to be saved. Therefore, the Constitution was amended. Article 31B was introduced, the Ninth Schedule came and these 13 State laws were put in the Ninth Schedule. The idea was that if these 13 State laws were put in the Ninth Schedule, they would be immune from attack that they were inconsistent with the provisions of the Fundamental Rights. And I can tell you that between 1951 and now, altogether 124 Acts have been brought under this Schedule. If one were to make a survey of these Acts, one will find that mostly they are Acts relating to land reforms or abolition of the Zamindari regulation of land ceilings. I may say that there is a tendency also now to put some Central Acts below that. But so far as the State Acts in the Bill, under consideration are concerned, the

[Shri B. N. Banerjee.]

Law Minister in the Statement of Objects and Reasons annexed to the Bill has clearly explained why they have been incorporated. It is primarily being done so that these land ceiling laws or agricultural reform laws are not challenged in a court of law. And on scrutiny, you will find that most of them are amendments to some earlier laws which are already included in the Schedule.

Sir, in the short time available to us—the Bill was introduced only the other day—I am sure none of the Members has been able to look into the State Acts. Therefore, we have to accept the statement of the Law Minister that it is very necessary to give protection to these Acts from being challenged in a court of law.

So far as the Central laws are concerned, there are nine Central laws here. They were laws passed by the House at a time when I was occupying a seat on the other side of the House and so I am more or less familiar with them, I tried to see whether those laws should be protected. Sir, I must say that I came to the *prima facie* conclusion that they deserve protection by being included in the Ninth Schedule of the Constitution, and I will tell you briefly the reasons. I will take only two minutes. The first one is Section 6GA of the Motor Vehicles Act, 1939, and Chapter IVA dealing with nationalisation of road transport. Sir, these Acts are very frequently challenged in the State High Courts very often on flimsy grounds, creating impediments in the way of nationalisation of road transport. If that be so, then Parliament must give protection to these Acts. I believe that there is no one in the House who would seriously object to the inclusion of the Essential Commodities Act in the Ninth Schedule so that the policy and the programme of the Government relating to procurement, distribution and supply of essential commodities, so vital to the citizens, are not obstructed by dishonest traders or hoarders through resort to action in a court of law. The third one, the Smugglers and Foreign Exchange

Manipulators (Forfeiture of Property) Act, 1976, as its name implies, must in my opinion, be included in the Ninth Schedule so that illegally acquired properties by these anti-social elements can be successfully forfeited by the Central Government, and recourse to a court of law, rather dilatory legal action in a court of law, should not be permitted. Then everyone in this House, I am sure, agrees that the system of bonded labour must go. If that be so, what is wrong in giving protection to the Bonded Labour System (Abolition) Act, 1976?

Then, Sir, we have already included the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, called the COFEPOSA Act, in the Ninth Schedule. It follows that its amendment must also be there. Then the next Act is the Prevention of Publication of Objectionable Matter Act, 1976, about which there are some amendments in the House. Sir, in my opinion, this Act is reasonably protected under clause (2) of article 19. But possibly this Act has been included in the Ninth Schedule to keep it outside the pale of any challenge in a court of law. So I only go to this extent in regard to this Act.

The Urban Land (Ceiling and Regulation) Act, 1976, though belated, is undoubtedly a very progressive legislation and on no account should it be allowed to be challenged in a court of law, mainly on the ground that the compensation provided by the Act for excess vacant land is illusory. We have included all the ceiling and regulation laws relating to agricultural land in the Ninth Schedule. If that be so, there is a stronger case for including the urban land ceiling Act in the Ninth Schedule. But I am not, however, very clear why the Departmentalisation of Union Accounts (Transfer of Personnel) Act, 1976, is proposed to be included in the Ninth Schedule. Perhaps the intention is to avoid time-consuming litigation. If that be so, I have no serious—I underline the word 'serious'—objection.

Sir, before I conclude, I have a request to make to the Law Minister who is generally responsible for introduction of Constitution Amendment Bills and for their passage in Parliament. It is true that the legislative device of including a statute, Central or State statute, in the Ninth Schedule to give it constitutional protection under article 31B, is now a well-accepted and judicially recognised device. But I think that he would agree with me that his Ministry should examine the ease of each statute very carefully before it is proposed to include it in the Ninth Schedule. Such inclusion, I submit, should not be made as a matter of course or under pressure from the State Governments or the other Ministries of the Government of India and the Law Minister should personally be satisfied that there is a good case for such inclusion so that Parliament can lend its full support to the proposal when it comes up before it.

With these words, Sir, I support the Bill.

MR. DEPUTY CHAIRMAN: Yes, Dr. Muhammad.

SHRI MOHAMMAD YUNUS SALEEM: Sir, before you call the Minister to speak, I want to make a submission.

Sir, before you occupied the Chair an honourable Member from the DMK had just concluded his speech and at that time,, Mr Om Metha, the honourable Minister of State in the Ministry of Home Affairs and in the Department of Parliamentary Affairs, went to the Chair and discussed something with the Chair. But the DMK Member thought that he was suggesting to the Chair to ask the former to finish his speech and he also suggested that only on account of » that that the Chair stopped him from speaking. These remarks have gone on record. I respectfully submit that the remarks of the honourable Member should be expunged because they are uncalled for remarks and they are a

reflection not only on the Chair, but also on the Minister who is the Minister in charge of Parliamentary Affairs. He only went to the Chair to make some other suggestions and why it should be objected to, I do not know.

SHRI BHUPESH GUPTA: Sir, I think these things should not be brought into controversy. After all, Sir, the Members can request you to stop somebody and it is for you to decide. Therefore, why should we take it so seriously?

MR. DEPUTY CHAIRMAN: I think the Chair has enough wisdom to decide as to when a Member should start and when he should stop. I think the matter ends there I do not think that the Chair is guided by others.

SHRI MOHAMMAD YUNUS SALEEM: Yes, Sir. But these remarks have gone on record.

MR. DEPUTY CHAIRMAN: It is unfortunate that the Member has made these remarks.

SHRI KAMESHWAR SINGH: Sir, these remarks should be expunged.

MR. DEPUTY CHAIRMAN: It cannot be expunged it is unfortunate that he made these remarks.

SHRI MOHAMMAD YUNUS SALEEM: But Mr. Om Mehta repudiated them also.

SHRI BHUPESH GUPTA: The Chair is so invulnerable.

MR. DEPUTY CHAIRMAN: Yes, Mr. Minister.

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I do not know why I have not been given an opportunity to speak.

MR. DEPUTY CHAIRMAN: It was announced that the Minister will speak at 3-15 P.M.

SHRI KRISHANARAO NARAYAN DHULAP: But on this important Constitution Amendment Bill, Sir, I should also be allowed to speak

MR. DEPUTY CHAIRMAN: You can speak on the Third Reading.

SHRI KRISHNARAO NARAYAN DHULAP: I walk out in protest, Sir.

(At this stage, the honourable Member left the Chamber.)

DR. V. A. SEYID MUHAMMAD : Sir, there was unanimous support for this Bill except that some Members gave qualified support. I am very thankful to those who supported this Bill and also to those who offered bona fide criticism and supported the Bill. By expressing' their bona fide criticism and their qualifications in respect of this they were discharging an essenfail duty so far as proceedings in this House are concerned and, therefore, I welcome their bona fide criticism.

SHRI BHUPESH GUPTA: Mr. Muhammad, I know why you are saying so. I know that Mr. Bansi Lai is coming now for your defence.

DR. V. A. SEYID MUHAMMAD: Sir, Mr. Lakshmanan and one or two others tried to drag the entire discussion into a political controversy. To be fair to them and to the House, Sir, I do not propose to drag myself into that sort of controversy on the floor of the House. Those who are straining at their leash should not be under the impression that I am shying away from replying to that controversy. But we will do so in the appropriate forum and on the appropriate plat-from.

Sir, obsering and being present in the other House as well as here, I had a feeling that there are some haziness, some misunderstanding and some apprehensions about the character and antecedents of the Bill and about

wisdom of putting certain Acts in the Ninth Schedule. I wish to clarify the legal implications as well as the character of the amendment by which certain Acts are proposed to be put in the Ninth Schedule. By doing so, Sir, I will not only be discharging my duty, but also would be replying to the criticisms made by some honourable Members regarding the legal consequences and also the various other criticisms.

As already stated in my introductory remarks, the object of putting certain Acts in the Ninth Schedule is that Acts which should be considered to be progressive and necessary in public interest should get the protection under Part III of the Constitution. This is precisely what article 31B provides for. By the expression 'progressive', I mean not only positive progressive legislation but also legislations which are intended to prevent anti-democratic as well as reactionary entities of certain groups and individuals. It is in this sense that the expressions 'progressive' and 'in public interest' have been used in the Objects and Reasons attached to this Bill.

Sir, by way of clarification, I wish to say that an apprehension was expressed here whether it has retrospective effect, etc. The wording of article 31B shows that you need not put in a specific amendment that it has retrospective effect. The expressions in article 31B are "...shall not be deemed to be void, or ever to have become void" and the expression "Notwithstanding any judgement decree or order of any court or tribunal to the contrary...". These expressions clearly show, and the courts have held, that putting them in the Ninth Schedule would have retrospective effect and prospective effect.

Another thing which has to be made clear is what will be the effect of putting these in the Ninth Schedule? There are two or three consequences which follow. One is the consequence-

uence regarding matters which are now pending before the courts. That I have already said, is covered by the expressions used in article 31B. Then, what about matters which have been pending, in the sense that certain actions have been challenged, certain Acts have been challenged, which are in the Ninth Schedule, after the emergency or before the emergency, and by reason of the operation of article 359 the proceedings have been stayed, stay applications have been made, stay has also been granted in some matters? The question is what will be the effect of putting the Acts in the Ninth Schedule? Two or three questions follow. Will the putting of the Acts in the Ninth Schedule automatically vacate the pending proceedings before the court? It will not _ automatically vacate them. Some action has to be taken. Somebody must go and move the court and say: This is the position; unlike the previous situation now it has been put in the Ninth Schedule. Once it is put in the Ninth Schedule, the court is debarred or the person is debarred from questioning' it on the ground that it violates article. .

SHRI BHUPESH GUPTA: That you are saying. I understand your good sentiments. But not the court

DR. V. A. SEYID MUHAMMAD: I am stating my view,. If you want to accept it, you may.

On the ground where petitions have been filed in connection with *ultra vires* Acts, once it is put in the Ninth Schedule, the Government or the Advocate-General can go before the court and say: In view of the fact that the matter was here and during the emergency this particular thing is now put in the Ninth Schedule . . .

(Interruptions)

SHRI BHUPESH GUPTA: This is the crucial point. What prevents you from amending the Ninth Schedule in the Constitution in such a manner that all those cases which are pending will abate? For example, the Constitution can give a mandate while incorporating this amendment that whatever is pending ceases or abates. Nobody will have to go to the court. The courts will have no other go but to respect the amendment to the Constitution unless, of course, the Supreme Court strikes down that particular amendment.

DR. V. A. SEYID MUHAMMAD: It was because of this that Article 31B was introduced. What I am saying is that once these Acts are put in the Ninth Schedule in respect of Article 359, whatever proceedings are pending, they will be suspended. The Government advocate or the Advocate-General will go before the court and say that in view of this amendment, any challenge is not possible. Therefore, those proceedings should be thrown out. That is possible and that can be done. But there are certain other matters which are pending before the courts. They are matters which have arisen because of the executive action which violates fundamental rights and not because they are *ultra vires* of the Act. There may be some difficulty in cases where the violation of the fundamental right is challenged not because it is *ultra vires* of the Act but because of an executive action which violates the fundamental rights. Such cases are also pending and they can be suspended under Article 359. It is debatable that they can also be stopped.

SHRI BHUPESH GUPTA: After emergency, there will not be any debate.

DR. V. A. SEYID MUHAMMAD: I think certain doubt which have been expressed here as well as in the other House have been clarified.

[Dr. V. A- Seyid Muhammad] Nqw, Sir, one of the matters which Dr. Ahmad has raised in regarding the pending matter, which I have replied. What will be effect of this? I have, described the various legal consequences which follow.

Dr. Ahmad raised the question as to why we do not make it retrospective. I have said that we do not think it is necessary. By the very operation of the workings of Article 359, retrospective effect, is there. Mr. Ahmad made an objection to the Prevention of Publication of Objectionable Matter Act. His objection was not on account of the inclusion of the Act. But he was apprehending that those who are acting under the Act may abuse their powers. My reply to that is that that sort of situation is contemplated and sections 18, 24 and 25 of the Act provide for such a situation. When an authority takes an action under the Act, he has to forward his decision, along with materials and other relevant papers, to the Government. The Government will examine it, have a hearing if necessary and decide the matter under section 18. Against that decision of the Government, you can go in appeal to the High Court. Suppose a Magistrate has given a decision or taken an action, you can take it in appeal to the High Court under section 25. This is the only thing which a Government can do to protect the rights of the individuals and not make it arbitrary. To protect the individual from arbitrary action is to provide a machinery by which he can ventilate his grievances before an appropriate and effective authority. So, the apprehension of Dr. Ahmad is met in all these three sections. I do not think it is necessary to further explain the matter.

The main attack has been or the guns have been turned, if I may use that expression, against two Acts which have been mentioned at Items 130 and 133 of the Amending Bill.

Those are: (130) The Prevention of Publication of Objectionable Matters;

and (133) The Departmentalisation of Union Accounts. In this connection a question was raised suggesting that by resorting to this amending procedure, the Government is really abusing the power given under article 31B...

SHRI BHUPESH GUPTA; Very much.

DR. V. A. SEYID MUHAMMAD: The idea was—the wrong idea, I should say with your permission, Sir, that article 31 B's ambit, scope, object and intention is only to give protection to agrarian reforms or reforms or acts of that nature. I must say, with great respect, that it is a wrong conception. The wording of article 31 B does not justify it. The courts have said, and in the recent *Bharati* case the Supreme Court has said unequivocally and clearly that article 31 B is not confined only to agrarian reforms or land reforms.

SHRI B. N. BANERJEE: The whole trouble has been because, unfortunately, it came in article 31. I think, this question was raised several times in the High Courts and the Supreme Court and they said that it may be a thing in article 31, but it protects from any challenge against contravention of Fundamental Rights. It does not include property alone, and that has been made clear.

DR. V. A. SEYID MUHAMMAD: I am very thankful to you. This is not only consistent but it supports or it supported our strength by the decision of the court. But the practice has also been so, Sir. Somebody thought, wrongly again, that it is for the first time that Acts which are non-agrarian have been put in the Ninth Schedule. That is not so.

[Mr. Chairman in the Chair]

The Fourth Amendment Act of 1951, where 31 B was introduced is there in which, a casual check, up showed me that there are three such Acts at least which are not agrarian—Item Nos. 17, 18 and 19. So, also in the Thirty-

ninth Amendment, there are at least about 15 or 16 Acts which are not agrarian in nature. So, Sir, either by the consistent practice or by the wording of the article itself or by the judicial interpretation of article 31 B, one cannot say that article 31 B and its ambit and scope and objects are confined to agrarian reforms alone.

Then, Sir, certain minor arguments—I do not say that they deserve less attention—I means, more ephemeral arguments have been put forward regarding the inclusion of the Kerala Chitties Act, the Kerala Prevention of Eviction Act, etc. The objections were not fundamental but comparatively speaking, they said, in the other States, the Chit Fund Acts are there and why should they be included. I think that is not an objection either of substance or even of form.

Sir, I feel that I have met most of the important objections which have been raised here. And by giving a clarification of the ambit, scope, nature and character of article 31 B and the legal consequences which follow by putting certain amendments in the Ninth Schedule, I have sufficiently clarified the position. I will not take any more time of the House, Sir. I am very grateful to all the Members who participated in the discussion, and I commend the Bill to the House, Sir.

MR. CHAIRMAN: The question is:

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

The House divided..

MR. CHAIRMAN : Ayes—176; Noes —
Nil.

AYES—176

Adivarekar. Shrimati Sushtta
K Shankar
Ahmad, Dr. Z. A.
Alva, Shrimati Margaret
Amarjit Kaur. Shrimati
Amla, Shri Tirath Ram

Amjad Ali, Shri Sardar

Anand, Shri Jagjit Singh

Anandam, Shri M.

Arif, Shri Mohammed Usman

Avergoankar, Shri R. D. Jagtap-

Balram Das, Shri

Banerjee, Shri B. N.

Banerjee, Shri Jaharlal

Bansi Lai, Shri

Barman, Shri Prasenjit

Basar, Shri Todak

Berwa, Shri Jammalal

Bhagwan Din, Shri

Bhagwati, Shri B. C

Bhardwaj, Shri Jagan Nath Bisi, Shri

Pramatha Nath Borooah, Shri D. K. Bose,

Shrimati Pratima Buragohain, Shri Nabin

Chandra Chakrabarti, Dr. Raj at Kumar

Chandrasekhar, Shrimati Maraga -tham

Chattopadhyaya, Prof. D. P. 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 Maro-

traoji Dinesh Chandra, Shri Swami

Dutt, Dr. V. P.

Dwivedi, Shri Devendra Nath

Gadgil, Shri Vithal

Ghose, Shri Sankar
Gill, Shri Raghubir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri U. K. Lakshmana
Gupta, Shri Bhupesh
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Himmat Singh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Mani-
shanker
Ka'aniya, Shri Ibrahim Kalp Nath, Shri
Kamble, Prof. N. M. Kameshwar Singh,
Shri Kapur, Shri Yashpal Kesri, Shri
Sitaram Khan, Shri F. M. Khan, Shri
Khurshed Alam Khan, Shri Maqsood Ali
Khan, Shrimati Ushi Khaparde, Shrimati
Saroj Kollur, Shri M. L. Krishna, Shri M.
R. Krishnaswamy, Shri K. A. Kulkarni,
Shrimati Sumitra G. Kumbhare, Shri N. H.
iKureel, Shri Piare Lall urf Piare Lall
Talib
Lalbuaia, Shri Lokesh Chandra, Dr.
Madhavan, Shri K. K. Mahanti, Shri
Bhairab Chandra Mahida, Shri Harisinh
Bhagubava Majhi, Shri C. P. Makwana,
Shri Yogendra Malaviya, Shri Harsh Deo
Mali, ?hri Ganesh, Lai
Malik Shri Syed Abdul

Mehrotra, Shri p'rakash
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ram-
chandra
Mirdha, Shri Ram Niwas
Misra Shri Lokanath
Mishra, Mahendra Mohan
Mishra, Shri Rishi Kumar
Miital, Shri Sat Paul
Mohan Singh, Shri
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Mulla, Shri Suresh Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Natarajan, Shri C. D.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Oberoi, Shri Mohan Singh
Pai, Shri T. A.
Panda, Shri Brahmananda
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
Raha, Shri Sanat Kumar
Rahamaihulla, Shri Mohammad
Rajasekharam, Shri Palavalasa Raju,
Shri V. B.
Ranbir Singh, Shri
Ranganathan, Shri S.

Rao, Shrimati Rathnabai Sreenivaga
 Rao, Shri V. C. Kesava
 Ratan Kumari, Shrimati
 Reddi, Shri K. Brahmananda
 Reddy, Shri Janardhana
 Reddy, Shri K. V. Paghunatha
 Reddy, Shri Mulka Govinda
 Reddy, Shri R. Narasimha
 Roshan Lai, Shri
 Roy, Shri Kalyan
 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 Lai
 Shastri, Shri Bhola Paswan
 Shilla, Shri Showaless K.
 Shyamkumari Devi, Shrimati
 Singh, Shri Bhishma Narain
 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
 Sukhdqv Prasad, Shri
 Sultan, Shrimati Maimoona
 Sultan Singh, Shri
 Swaminathan, Shri V. V.
 Swu, Shri Scato
 Talib, Shri Niranjana Singh
 Tanvir, Shri Habib
 Thakur, Shri Gunanand
 Tilak, Shri J. S.
 Tiwari, Shri Shankarlal
 Totu, Shri Gian Chand
 Triloki Singh, Shri

Tripathi, Shri Kamalapati Trivedi, Shri
 H. M. Vaishampayan, Shri S. K.
 Venigalla Satyanarayana, Shri Verma,
 Shri Shrikant Vyas, Dr. M. R. Wajd,
 Shri Sikander Ali Yadav, Shri
 Ramanand Yadav, Shri Shyam Lai
 Zawar Husain, 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.

MR. CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill. The question is:

"That Clause 2 stand part of the Bill."

The House divided..

MR CHAIRMAN ; Ayes.—175; Noes — Nil.

AYES—175

Adivarekar.	Shrimati	Sushila
Shankar		
Ahmad, Dr. Z. A.		
Alva, Shrimati Margaret		
Amarjit Kaur, Shrimati		
Amla, Shri Tirath Ram		
Amjad Ali, Shri Sardar		
Anand, Shri Jagjit Singh		
Anandam, Shri M		
Arif, Shri Mohammed Usman		
Avergoankar, Shri R. D. Jagtap		
Basar, Shri Todak		
Banerjee, Shri B. N.		
Banerjee, Shri Jaharlal		
Bansi Lai, Shri		
Barman, Shri Prasanjit		

Berwa, Shri Jamnalal
Bhagwan Din, Shri
Bhagawati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bisi, Shri Pramatha Nath
Borooah, Shri D. K.
Bose, Shrimati Pretima
Buragohain, Shri Nabin Chandra
Chakrabarti, Dr. Rajat Kumar
Chandrasekhar, Shrimati Mara-
gatham
Chattopadhyaya, Prof. D. P.
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhry, Shri A. S.
Chundawat, Shrimati Lakshmi
Kumari Das, Shri
Bipinpal
Deb Burman, Shri Bir Chandra Desai, Shri
R. M.
Deshmukh, Shri Bapuraoji Maro-traoji
Dinesh Chandra, Shri Swami Dutt,
Dr. V. P.
Dwivedi, Shri Devendra Nath Gadgil,
Shri Vithal Ghose Shri Sankar Gill,
Shri Raghibi, Singh Goswami, Shri
Sriman Prafulla Gowda, Shri U. K.
Lakshmana Gupta, Shri Bhupesh
Gupta, Shri Gurudev Habibullah,
Shrimati Hamida Himmat Singh, Shri
Imam, Shrimati Aziza Jain, Shri
Dharamchand Jha, Shri Kamalnath
Joshi, Shri Jagdish Joshi, Shri Krishna
Nand
Joshi, Shrimati Kumudben Mani-
shanker

Kalaniya, Shri Ibrahim Kalp Nath, Shri
Kamble, Prof. N. M. Kameshwar Singh,
Shri Kapur, Shri Yashpal Kesri, Shri
Sitaram Khan, Shri F. M. Khan, Shri
Khurshed Alam Khan, Shri Maqsood Ali
Khan, Shrimati Ushi Khaparde, Shrimati
Saroj Kollur, Shri M. L. Krishna, Shri M.
R. Krishnaswamy, Shri K. A. Kulkarni,
Shrimati Sumitra G. Kumbhare, Shri N. H.
Kureel, Shri Piare Lall *urf* Piare
Lall Talib Lalbuaia, Shri Lokesh
Chandra, Dr. 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, Lai Malik,
Shri Syed Abdul Mehrotra, Shri Prakash
Mehta, Shri Om Menon, Shrimati Leela
Damodara
Mhaisekar, Shri Govindrao Ram-
chandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath
Mishra, Mahendra Mohan
Mishra, Shri Rishi Kumar
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain

Mulla, Shri Suresh Narain
Munda, Shri Bhaiya Ram
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Natarajan, Shri C. D.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Oberoi, Shri Mohan Singh
Pai, Shri T. A.
Panda, Shri Brahmananda
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Patbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pawar, Shri D. Y.
Poddar, Shri R. K. P Pradhan,
Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Raha, Shri Sanat Kumar
Rahamathulla, Shri Mohmmad
Rajasekharam, Shri Palavalasa
Ranbir Singh, Shri
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C. Kesava
Ratan Kumari, Shrimati ¹ Reddi,
Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. Narasimha
Roshan Lai, Shri
Roy, Shri Kalyan
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 Lai Shastri, Shri Bhola
Paswan Shilla, Shri Showaless K.
Shyamkumari Devi, Shrimati Singh,
Shri Bhishma Narain 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 Talib, Shri Niranjana Singh
Tanvir, Shri Habib Thakur, Shri
Gunanand Tilak, Shri J. S. Tiwari, Shri
Shankarlal Totu. Shri Giaa Chand
Triloki Singh, Shri Tripathi, Shri
Kamlapati Trivedi, Shri H. M.
Vaishampayan, Shri S. K. Venigalla
Satyanarayana, Shri Verma, Shri
Shrikant Vyas, Dr. M., R. Wajid, Shri
Sikander Ali Yadav, Shri Ramanand
Yadav, Shri Shyam Lal Zawar
Husain, 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 2 was added to the Bill.

Clause 3—Amendment of the Ninth Schedule.

MR. CHAIRMAN: There are two amendments to clause 3 by Shri Bhupesh Gupta.

SHRI BHUPESH GUPTA: Sir, I move:

(1) That at page 2, lines 10 and 11 be deleted.

(2) That at page 2, lines 16 and 17 be deleted.

The questions were proposed.

SHRI BHUPESH GUPTA: There are two amendments; I wish to concentrate on one. I want the deletion of entry 130. The Prevention of Publication of objectionable Matter Act, 1976, and also another entry, The Departmentalisation of Union Accounts (Transfer of Personnel) Act, 1976. Now, Sir, you have seen, I was waiting for the day because Mr. D. K. Borooah is here; the General Secretary is here; all of them are here. It is not easy to get them. But now, they will not go. You can go if you like. I know they will not go.

Sir, I rise to demand the deletion of these two entries. First of all, I should make clear one thing. You have seen that when the voting was taken, in the initial stage, everyone of us supported this measure. There was not even a single dissenting voice or a dissenting vote or an abstention. By and large, taken as a whole, the measure is good. I am not going into the details of each and every entry. The measure is good. Therefore, we have supported it and we stand by it. But the stigma is there. We have to remove the stain and the stigma. The stain and stigma are contained in

these, perhaps motivated, entries. What was the necessity for inclusion of these two entries? The point has been made again and again that in the matter of Constitutional amendments, there should be a national debate. Specially when there is likely to be a controversy within the framework of a broad agreement as in this case, such consultation would be even more necessary and judicious. But unfortunately, in this case, Government did not even care to find out what was the reaction of others, including members of the Congress Party. Members of the Congress Party have been expressing their reservations and unhappiness over these two entries. I think we could have easily avoided it. These two Acts, the Prevention of Publication of Objectionable Matter Act and the Departmentalisation of Union Accounts (Transfer of Personnel) Act, are proposed to be included in the Ninth Schedule. Sir, the leader of the Congress Party is here; the President of the Congress Party is here. They talked about a national debate. They say good things. I congratulate them. They say such things. I also think they seriously mean it. But in a matter of this kind, when there is so much agreement over such a measure, was it not possible for the Government to discuss the matter with the opposition leaders and others in the ruling party? It was possible. It would have added to the grace of the measure. Unfortunately, this has not been done. When you have not done it, I have to seek an explanation as to why you have not done it. You are insisting upon the inclusion of these two Acts despite our reservations. The other House did not delete these two Acts.

As far as entry No 130 is concerned, the Prevention of Publication of Objectionable Matter Act, it was not only absolutely unnecessary and uncalled for, but if it is, in a way, a blot on this good measure. This is what I would say. The Act has been passed. I am not going to discuss the merits of the Act. We opposed it. In the other House also, we opposed it. We divi.

ded on it. I am not going into these things now. The provisions of this Act are highly controversial. Earlier, there was the British Act of 1931 to which the Congress took serious exception and Gandhiji wrote about it in his journal, Pandit Jawaharlal Nehru spoke against it. It became an issue between the then British Government on the one hand and the Congress Party and the national movement on the other. This was the 1931 Act. Well, the genesis of this Act is there. Then came the Rajaji Act of 1951. Pandit Jawaharlal Nehru, in his wisdom—he always responded to public opinion—without people even asking him, went through the recommendations of the Press Commission and decided to repeal that Act. This was done in 1956. Now, we have the Shukla Act or whatever it is. This is sought to be included in the Ninth Schedule. It is worse than the earlier two Acts, the British Act or the Act which was passed after Independence, at the instance of Shri Rajaji.

Now, Sir, why have they included it? There should be some explanation. The explanation that has been given is no explanation at all. But I will give you the explanation. It is a pre-emptive action. The inclusion is a pre-emptive measure. Honourable Members there are learned; the law adviser is ^ there; there are eminent lawyers. They would have thought that after the emergency is lifted, this Press Objectionable Matter Act will not stand any scrutiny of the court, the journalistic profession and public men would take it to the court and get it set aside as violative of certain basic principles of the Constitution. Hence, in anticipation, the Government has decided to include it here to give protection under this Act so that nobody can challenge it in a court of law. Is it right? Now, Sir, we have a tradition in this House. As far as the Ninth Schedule is concerned, we have always tried to give protection, by inclusion in that Schedule, to progressive legislation—generally non-controversial. Reactionaries may

oppose it but that has been the tradition. See the speeches of Pandit Jawaharlal Nehru when he pleaded the inclusion of measures in the Ninth Schedule. He always spoke not as the leader of the Party from one side of the House or as the leader of the Government but as the voice of the people. He expressed the anguish and the urges of the people and wanted to translate them into legal and constitutional language by inclusion of such things as he did in the Ninth Schedule by the Constitution Fourth Amendment Act. Now you are smuggling into this Ninth Schedule a highly controversial measure. Therefore I say it is a pre-emptive section.

What is happening now? I was in Orissa the other day. I was told by important journalists that even without the Press Objectionable Matter Act coming into force, they had been told by the officials, ministers and other officials—I do not blame you that any report saying that the 20-point programme is not being implemented or any report pointing out laxity in the matter of its implementation would be regarded as an offence under the Press Objectionable Matter Act, although I think it is not so. But that is how they are being intimidated now. And whenever an officer thinks that something should not be published or whenever some people—in whatever position they are—think that something should not be published, they send a person with a message to the press, "Look here; there is this Press Objectionable Matter Act and you will come under its mischief if you publish such and such a thing." Therefore, Sir, a kind of unwritten censoring by telephone, censoring by oral messages, censoring by chits passed without any stamp of the Government or of the authority is continuing to prevent any publication which is in national interest. I may mention that last Tuesday there was a question here about Vinay Shah's house being searched. For that matter, many houses have been searched. You allowed that question—good—and replies—were given. We took the replies—

[Shri Bhupesh Gupta] there was no controversy. The matter ended there. Such questions and answers had appeared in this very session. But the same evening, a message was passed on the telephone that nothing about the searches of Vinay Shah's house and premises should be published in the papers. Under what law was it done? No law at all! Is it because Vinay Shah happens to be the son of a Governor that nothing about him should be published? Why is it so? v . . . (Interruption) ... I asked you this morning. (Time bell rings). The Prime Minister was present. She should ask her representative there to find out as to why such reports are killed. I have verified it from the man. Now, these things are happening.

Then what happens? You see the newspapers nowadays. Suppression of incitement to violence or rightist propaganda of the worst type or scurrilous things I can understand. But what do you find? *Pada yatra* conducted by the CPI by association with the Congress party and others in various parts of the country, No report, nothing appeared except for casual references here and there. Is it good? I ask you frankly. How is it that the national press has left it out? Who is responsible for that? Who has told it to do such things? Would it not have been better if the news of our efforts towards the implementation of the 20-Point Programme were given publicity in the press? Then the nation would have been aroused; people would have had a sense of participation in it; people would have known that all the political parties committed to the programme are moving sincerely and seriously towards its implementation. That would have added credibility to the 20-Point Programme and would also have attracted people towards us and towards our efforts. But that was not done. On the 20th of this month I held a press conference. It was suggested that a press conference should be held after my four-day *pada yatra* in Orissa, I told

my press friends, "You will not publish anything". They said, "No, hold it." I said, "It would be expensive for me without any return whatsoever." The press conference was held. What happened you know. For the first time in my life, not a word appeared in the national press at all except one or two papers in Orissa. The Samachar killed it. What is wrong with the Opposition? We are the spokesmen of the Opposition just as Mr. Borooah, who belongs to the other side and who is the leader of the Congress Party. Why should not our common effort be reflected in the press? Maybe, we may not always agree over the method of doing things. But after all, a common front is there. But that was not done. Yet, Sir, you see here. Here is today's Statesman. A big picture is published. There is no dearth of space. What is ^ the caption?

"A forest of arms raised in salute by Right wing Phalangists during a ceremony at tomb of General Franco at the Valley of the Fallen about 30 miles from Madrid, last week. The ceremony was attended by the General's widow, Dona Carmen."

A very important name. Now, alongside, is published a story with the caption:

"The Alpint Italians in fear of Communism".

It is in double column. This is not considered to be an objectionable matter. The other day some papers had published the photo of a mistress of an American Congressman almost a nude pronographic picture had been published in the press; the mistress of an American House of Representatives was published last week. There is no abjection at all; such things could be published. But there is no news of the *pada yatra*, whether that *pada yatri* is Shrimati Purabi Mukhopadhyay or others. This is what I call the most objectionable attitude. I can give you instances. Therefore, we should challenge this thing. I do not like to include this in the Schedule

Then, take the case of our Samachar. Sir, I cannot understand what kind of *durachar* it would be as far as Samachar is concerned. The name is very good,, Samachar. But what is the samachar in it? You have established this national agency, *Samachar*. But it does not know: it does not give the news of the national-wide pada yatra for the implementation of the 20-Point Programme, when hundreds and thousands of people are on the move. After the formation of this news agency, it should have been the most prominent news in the newspapers. But it is not done. Yet, many other things are coming. I need not go into them. Therefore, I say that you need to be a little cautious in including this thing. About the managing committee of the Samachar, how it runs it, nobody knows. I can tell you:

>*"one gentleman w,ho was the Chairman of the PTT was arrested after the emergency; he _was released, and he is now on the Board of Samachar. No representation is given to the employee's organisation ; either of the PTI or of the UNI or to the journalists' organisations. Mr. Asoka Mehta used to speak of back-seat driving. I do not know where he is and how he is. But Samachar is giving an example of back seat driving. Visible and invisible hands are driving it and driving it from the back-seat.

f- 4 P.M. It is journalism? Who is going to believe the press if this kind of thing goes on? I have many other things to say about this matter but I do not wish to take your time. Sir, injustice is being done. (*Interruption*) I know, I can speak at length but I do not wish to take your 'time. But it has to be said. Put your hand on your heart and ask yourself whether what I am saying is wrong. Please be honest. I know many of you like it and most of you like me to say these things but you have some ^r inhibitions and difficulties for reasons obvious or not so obvious. Therefore, I say that this is the situation. As far as Parliament proceedings are con-

cernedj you can see how they are being dealt with. I have again and again asked you to go into it and see how Samachar circulates these things. I can understand written orders, the Censor's administrative orders and other things^ but I cannot understand invisible censoring, unauthorised cen-soring, censoring' by messages, censoring by intimidation, censoring by temptation censoring by offer or position. I know, for example, in the case of Samachar a person was placed in a very lhigh position and he created all kinds of situations. And now he has been reverted to some other position. I can give you many such instances. Even before this Prevention of Publication of Objectionable Matter Act has come to existence in a proper way, see how it is being administered. They are applying the Defence of India Rules, and this Prevention of Publication of Objectionable Matter Act is also being applied in this manner. And even outside these Acts many things are being done. Therefore, we are very much worried about it. The only thing that I would like to suggest to the Government since they have come with this Bill for including this Act—they have the votes; they will pass it—is that Samachar should be an institution under an Act of Parliament. This is what I want. Bring such a Bill and given it protection if you like. And on the Board of Directors of Samachar, there should be representatives of the industry and profession including' journalists, technical staff, laymen, people from the universities and Members of Parliament. Sir, there are people here in this House and in the other House who have got journalistic experience, who are actually working journalists. Why can't they be on the Board of Samachar—I cannot understand it—when many other people are there? I think Samachar should be reconstituted in that manner. This is very very important. No censorship should be exercised informally yOu direct them that if

[Shri Bhupesh Gupta.]

any body can prove that an attempt has been made for informal censorship then the person concerned will be liable to punishment as if he has committed a cognizable offence. It should be done. Let the Censor own up all the orders he gives. "The Coffee House was demolished. An informal order was passed in Delhi that nothing should appear in the press. Then Turkman Gate—nothing appeared. There were many other things. Nothing appeared. All were informal orders. As a newspaperman connected with a number of newspapers, I know which are formal orders and which are informal orders. But this informal order is becoming very serious. For example, notice has been served on a press—I am not naming it—for forfeiture of the press for publishing a photograph, simply a photograph—nothing to do with the rightists—a photograph of people who support the emergency, who are fighting the rightists. Now in that connection, some photograph of the workers were published. An order was sent—why the press should not be forfeited? Now the Government has not pursued the order—a good thing. But such things are happening. Therefore, the implementation of the Act is in the hands of the local officials and it is going to create serious problems. That is why I have brought it to the notice of the House. I can say many things. For goodness' sake, save us from this conspiracy of Samachar. We expected that Samachar, after the fusion of PTI, UNI and other agencies, will be a truly democratic national news agency, objective and fair. To-day, well, its character you can judge. You can ask your Secretary to give a review of what is appearing there. But reading the newspapers do you get any news that we exist in the country? or, do you get any news of what the members of our party or even their party are; saying or doing in the country? No. Everything is blacked out

and everything is, as they call it in the newspaper language, "killed", killed by the Samachar informally, and it is not even an execution in the legal way, under a legal decree, but it is a plain and simple murder and not likely to be prosecuted and punished for this kind of murder. That is what is happening. Therefore, it is most unfair that the Government has included such a controversial measure in the Ninth Schedule and thus tarnished it. Otherwise, Sir, it is a good Bill and we are very happy to welcome many of the entries in it.

MR. CHAIRMAN: Please finish now.

SHRI BHUPESH GUPTA: I do not know why the Government has done this thing by including this measure in the Ninth Schedule.

Again, Sir, I say that there is the invisible and smiling and unsmiling interference by the Samachar. I say this because I find some people are smiling on the other side of the House and they know very well as to what is happening in the newspaper world and what is happening in the Samachar. Sometimes a smile is more eloquent and more eloquent than my speech. But a smile cannot be recorded. Therefore, Sir, I demand that the question of Samachar should be discussed. As far as the other papers I are concerned, all I can say is that they know the art of shifting their loyalty and I have enjoyed it. We all know what kind of stuff they were writing only last year and what kind of pictures and write-ups they are producing now. What a wonderful *volte face*. Sir, I know you are enjoying my speech. But see what a wonderful *volte face* it is. But do not go by that. After all, the situation changes and they will also change. They did not publish our Press statements. But, Sir, do you know that Mr. Jayaprakash Narayan even under the treatment of dialysis, made a Press statement recently announcing the formation of a new party? What it stands for, we do not

know. Now, Sir, that has been given good publicity in "The Times of India" and the other papers of the country. Such a great news, it has become! But "whatever we say in the interest of the working people, about the 20-point economic programme, for the implementation of that programme against corruption or about certain policies of the Government which require to be changed or even about the amendments to the Constitution, is not published; nothing is published. Now-a-days, Sir, it has come to such a point that even what they say—many of them say many things publicly—in their meetings and elsewhere is not being published and I hope that this scandal would end. It is anti-democratic and it is anti-people.

Then, about the other things, I do not know why certain other measures have been included. I do not know "why the Departmentalisation of Union Accounts Act has been included in this. It was not really necessary to do so. But the Government has done it; I do not know why and I think they should not have done it.

Sir, Mr. Chalapathy Rao, I say again, is a very eminent journalist and he is the Editor of "The National Herald". That party supports this paper and this paper supports that party also and he did not participate in the discussions held for formulating the Journalistic Ethics Code. Probably he thought that everything seemed to be topsy-turvy. He was in the Press Commission and he knows that the Press Commission's recommendations are being given a go-by. Instead of delinking the Press and ending the monopoly control over the Press, they are doing something else. Mr. K. K. Birla, who is the Chairman of the Board of Directors of "The Hindustan Times" has been put on the Board of Directors of "The Indian Express". Others also have been put like that. Mr. Benoy Shah, whose house has been searched, is also on the Board of Directors of "The Indian Express". Mr. Borooah, I think I have

given you some food for thought to day.
is J

MR. CHAIRMAN: Mr. Bhupesh Gupta, would you like to speak on your second amendment also?

SHRI BHUPESH GUPTA: I have already said what I have to say,

MR. CHAIRMAN: Yes, Mr. Viswanatha Menon.

SHRI VISWANATHA MENON (Kerala): Sir, I move my amendment.

MR. CHAIRMAN: No; the amendments have already been moved. You have only to speak now.

SHRI VISWANATHA MENON: Sir, I do not want to make a speech like Mr. Bhupesh Gupta because I have no illusions about this Bill. One after another, the democratic rights of the people are being killed in this country. Mr. Bhupesh Gupta has got 'some illusions; but I do not have any. I have no illusion about the Congress Party because it is being run by the Birlas, the Tatas and the Mundhraas and it is being run by the monopolists in the country. They are not for the poor people. Their 20-point programme is only an empty slogan to cheat the people. I know it. I have no illusions—(Interruptions). My only request to Mr. Bhupesh Gupta and his party is to come to the side of the people and to fight this reactionary Government.

With these words, Sir, I propose my amendment.

MR. CHAIRMAN: The question is:

"That at page 2, lines 10 and 11 be deleted."

The House divided.

MR. CHAIRMAN: Ayes—14; Noes—172.

AYES.... 14

Ahmad, Dr. Z. A.
Anand, Shri Jagjit Singh
Deb Burman, Shri Bir Chandra
Gowda, Shri U. K. Lakshmana
Gupta, Shri Bhupesh
Khan, Shri Ghayoor Ali
Kumaran, Shri S.
Lakshmananan, Shri G.
Menon, Shri Vishwanatha
Raha, Shri Sanat Kumar
Rajan, Shri Pattiam
Roy, Shri Kalyan
Singh, Shri Irengbam Tompok
Tyagi, Shri Omprakash

NOES.—172

Abid, Shri Kasim Ali
Adivarekar, Shrimati Sushila Shankar
Alva, Shrimati Margaret
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 Lai, 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.
Bisi, Shri Pramatha Nath
Borooah, Shri D. K.,
Bose, Shrimati Pratima
Buragohain, Shri Nabin Chandra ,
Chakraborty, Dr. Raj at Kumar

Chandrasekhar, Shrimati Maraga-tham
Chattopadhyaya, Prof. D. P.
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranj'an
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.
Chudawat, Shrimati Lakshmi Kumari
Das, Shri Bipinpal
Desai, Shri R. M.
Deemukh, Shri Bapuraoji Marotrao-
ji Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Diwedi, Shri Devendra Nath
Gadgil, Shri Vithai
Ghose, Shri Sankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
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
Manishankar
Kalaniya, Shri Ibrahim
Kalp Nath, Shri
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.

Krishna, Shri M. R. Krishnaswamy, Shri K. A. Kulkarni, Shrimati Sumitra G. Kumbare, Shri N. H. Kureel, Shri Piare La]urf. Piare

Lall Talib Lalbuaia, Shri Lokesh Chandra, Dr. 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 Lai Malik, Shri Syed Abdul Mehrotra, Shri Prakash ^Mehta, Shri Om

Menon, Shrimati Leela Damodara

Mhaisekar, Shri Govindrao Ram-chandra

Mirdha, Shri Ram Niwas Mishra, Mahendra Mohan Mishra, Shri Rishi Kumar Mittal, Shri Sat Paul Mohan Singh, Shri Mukherjee, Shri Kali Mukherjee, Shri Pranab f" Mukhopadhyay, Shrimati Purabi Mulla, Shri Anand Narain Mulla, Shri Suresh Narain Munda, Shri Bhaiya Ram Murahari, Shri Godey Nanda, Shri Narasingha Prasad Natarajan, Shri C. D. Nathi Singh, Shri Nizam-ud-Din, Shri Syed Oberoi, Shri Mohan Singh Pai, Shri T. A. Panda, Shri Brahmananda Pande. Shri Bishambhar Nath Parashar, Shri Vinaykumar

Ramlal Prabhu 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 Mi,

Rahamathulla, Shri Mohammad

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 Lai, 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 Lai

Shastri, Shri Bhola Paswan

Shilla, Shri Showaless K.

Shyamkumari Devi, Shrimati

Singh, Shri Bhishma Narain

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 Swaminathan, Shri V. V. Swu, Shri Scato Talib, Shri Niranjana Singh Tanvir, Shri Habib Thakur, Shri Gunanand Tilak, Shri J. S. Tiwari, Shri Shankarlal Totu, Shri Gian Chand Triloki Singh, Shri Tripathi, Shri Kamalapati Trivedi, Shri H. M. Vaishampayan, Shri S. K. Venigalla Satyanarayana, Shri Verma, Shri Shrikant Vyas, Dr. Mr. Wajid, Shri Sikander Ali Yadav, Shri Ramanand Yadav, Shri Shyam Lai Zawar Hussain, Shri

The motion was negatived.

MR. CHAIRMAN: Now, I put Amendment No. 2 to vote.

SOME HON. MEMBERS: We do not insist on a division.

MR. CHAIRMAN: The question is:

That at page 2, lines 16 and 17 be deleted.

The motion was negatived.

SHRI VISWANATHA MENON (Kerala): We do not want to take part in the proceedings. So, we walk out.

SHRI G. LAKSHMANAN (Tamil Nadu): On behalf of the D.M.K. party, I would say that democracy in this country has been killed by including these two items. As a protest, I am walking out on behalf of my party.

श्री श्रीम प्रकाश त्यागी : अध्यक्ष महोदय, मैं अपनी पार्टी की ओर से, चूंकि यह प्रजातंत्र की भावनाओं के संबंध में विरुद्ध विधेयक है, सदन से वाक आऊट करना हूँ।

1 (At this stage, some hon. Members left the Chamber).

MR. CHAIRMAN: The question is:

That clause 3 stand part of the Bill.

The House divided.

MR. CHAIRMAN: Ayes—180- Noes—Nil:

AYES—180 4,

Abid, Shri Kasim Ali

Adivarekar, Shrimati Sushila Shankar Ahmad, Dr. Z. A.

Alva, Shrimati Margaret

Amarjit Kaur, Shrimati

Amla, Shri Tirath Ram

Amjad Ali, Shri Sardar

Anandam, Shri M.

Antulay, Shri A. R. Jf

Arif, Shri Mohammed Usman

Avergoankar, Shri R. D. Jagtap

Balram Das, Shri

Banerjee, Shri B. N.

Banerjee, Shri Jaharlal

Bansi Lai, Shri

Barman, Shri Prasenjit

Basar, Shri Todak

Berwa, Shri Jamnalal

Bhagwan Din, Shri

Bhagawati, Shri B. C. 'A

Bhardwaj, Shri Jagan Nath

Bhatt, Shri N. K.

Bisi, Shri Pramatha Nath

Borooah, Shri D. K. "-."

1976

Bose, Shrimati pratima
 Buragohain, Shri Nabin Chandra
 Chakrabarti, Dr. Rajat Kumar
 Chandrasekhar, Shrimati Mara-gatham
 Chattopadhyaya, Prof. D. P.
 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 Maro,
 ^* traoji
 ,
 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 Prafula Gowda,
 Shri U. K. Lakshmana Gupta, Shri Bhupesh
 Gupta, Shri Gurudev , Habibullah, Shrimati
 Hamida ' 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 Kumpdben Mani-shanker
 Kalaniya, Shri Ibrahim , Kalp
 Nath, Shri Kamble, Prof. N. M.
 Kameshwar Singh, Shri Kapur,
 Shri Yashpal

Kesri, Shri Sitaram
 Khan, Shri F. M.
 Khan, Shri Khurshed Alam
 Khan, Shri Maqsood Ali
 Khan, Shrimati Ushi
 Khaparde, Shrimati Saroj
 Kollur, Shri M. L.
 Krishna, Shri M. R.
 Krishnaswamy, Shri K. A.
 Kulkarni, Shrimati Sumitra GV
 Kumaran, Shri S.
 Kumbhare, Shri N. H.
 Kureel, Shri Piare Lall urf Piare Lall
 Talib
 Lalbuaia, Shri
 Lokesh Chandra, Dr.
 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 Lai
 Malik, Shri Syed Abdul
 Mehrotra, Shri Prakash
 Mehta, Shri Om
 Menon, Shrimati Leela Damodara
 Mhaisekar, Shri Govindrao Ram
 chandra
 Mirdha, Shri Ram Niwas Mishra,
 Mahendra Mohan Mishra, Shri Rishi
 Kumar Mittal, Shri Sat Paul Mohan Singh,
 Shri Mukherjee, Shri Kali Mukherjee, Shri
 Pranab Mukhopadhyay, Shrimati Purabi
 Mulla, Shri Anand Narain Mulla, Shri
 Suresh Narain Munda, Shri Bhaiya Ram
 Murahari, Shri Godey Nanda, Shri
 Narasingha Prasad Natarajan, Shri C. D.

1976

Nathi Singh, Shri
 Nizam-ud-Din, Shri Syed
 Oberoi, Shri Mohan Singh
 Pai, Shri T. A.
 Panda, Shri Brahmananda
 Pande Shri Bishambhar Nath
 Parashar, Shri Vinaykumar Ramlal
 Parbhu Singh, Shri
 Patfi 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, Syeed Mir
 Raha, Shri Sanat Kumar
 Rahamathulla, Shri Mohammad
 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 Lai Shri
 Roy, Shri Kalyan 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 Lai Shastri, Shri Bhola Paswan
 Shilla, Shri Showaless K.

Shyamkumari Devi, bhnmau
 Singly Shri Bishma Narain
 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
 Talib, Shri Niranjana Singh
 Tanvir, Shri Habib
 Thakur, Shri Gunanand
 Tilak, Shri J. S.
 Tiwari, Shri Shankarlal
 Totu Shri Gian Chand
 Triloki Singh, Shri
 Tripathi, Shri Kamalapati
 Trivedi, Shri H. M.
 Vaishampayan, Shri S. K.
 Venigalla Satyanarayana, Shri
 Verma, Shri Shrikant
 Vyas, Dr M. R.

*

Wajd, Shri Sikander Ali
 Yadav, Shri Ramanand
 Yadav, Shri Shyam Lai
 Zawar Husain, 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 pre-sent and voting.*

Ckiwe 3 was added to the Bill.

MR. CHAIRMAN: The question is:

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

1976

The House divided.

MR. CHAIRMAN- Ayes—180; Noes — Nil.

AYES—180

Abid, Shri Kasim Ali
 Adivarekar, Shrimati Sushila Shankar
 Ahmad, Dr. Z. A.
 Alva, Shrimati Margaret
 Amarjit Kaur, Shrimati
 Amla, Shri Tirath Ram
 Amjad Ali, Sardar
 Anandam, Shri M.
 Antulay, Shri A. R.
 Aril, Shri Mohammed Usman Avergoankar,
 Shri R. D. Jagtap
 Balram Das, Shri
 Banerjee, Shri B. N. ►-
 Banerjee, Shri Jaharlal
 Bansi Lai, Shri
 Barman, Shri Prasenjit
 Basar, Shri Todak
 Berwa, Shri Jamnalal
 Bhagwan Din, Shri
 Bhagawati, Shri B. C.
 Bhandari, Shri Sunder Singh
 Bhardwaj, Shri Jagan Nath
 Bhatt, Shri N. K.
 Bisi, Shri Pramatha Nath Borooah, Shri
 D. K. Bose, Shrimati Pratima Buragohain,
 Shri Nabin Chandra Chakrabarti, Dr.
 Rajat Kumar
 Chandrasekhar, Shrimati Marga-
 tham Chattopadhyaya, Prof. D. P.
 Chaudhari, Shri N. P. Chaurasia, Shri Shiv
 Dayal Singh Chettri, Shri Krishna Bahadur
 Choudhury, Shri Nirpati 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 Maro traoji
 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 Bhupesh
 Gupta, Shri Gurudev
 Habibullah, Shrimati Hamida
 Hashmi, Shri Syed Ahmad
 Himmat Sinh, Shri
 Imam, Shrimati Aziza
 Jain, Shri Dharamchand
 Jha, Shri Kamanlnath
 Joshi, Shri Jagdish
 Joshi, Shri Krishna Nand
 Joshi, Shrimati Kumudben Mani-
 shanker
 Kalaniya, Shri Ibrahim Kalp Nath, Shri
 Kamble, Prof. N. M. Kameshwar Singh,
 Shri Kapur, Shri Yashpal Kesri, Shri
 Sitaram Khan, Shri F. M. Khan, Shri
 Khurshed Alant Khan, Shri Maqsood Ali
 Khan, Shrimati Ushi Khaparde, Shrimati
 Saroj Kollur, Shri M. L. Krishna, Shri M.
 R. Krishnaswamy, Shri K. A. Kulkarni,
 Shrimati Sumitra G. Kumaran, Shri S.
 Kumbhare, Shri N. H. Kureel, Shri Piare
 Lall urf Piare Lall Talib

Lalbuaia, Shri
Lokesh Chandra, Dr.
Madhavan, Shri K K
Mahanti, Shri Bhairab Chandra
Mahida, Shri Harisinh Bhagubava
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri HaFsh Deo
Mali, Shri Ganesh Lai
Malik, Shri Syed Abdul
Mehrotra, Shri Prakash
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ram-
chandra
Mirdha, Shri Ram Niwas
Mishra, Mahendra Mohan
Mishra, Shri Rishi Kumar
Mittal, Shri Sat Paul
Mohan Singh, Shri
Mukhtjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Miilla, Shri Anand Narain
Mulla, Shri Suresh Narain
Munda, Shri Bhaiya Ram¹
Murahari, Shri Godey
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.
Nataranjan, Shri C. D.
Nathi Singh, Shri '
Nizam-ud-Din, Shri Syed
Oberoi, 'Shri Mohan Singh
Pai, Shri T. A.
Panda, Shri Brahmananda
Pande, Shri Bishambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deorao
Patil, Shri Gulabrao
Pa war, Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. tf.

Punnaiah, Shri Kota Qasim, Syeed Mir
Raha, Shri Sanat Kumar Rahamathulla, Shri
Mohammad 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 Lai, Shri Roy, Shri Kalyan Sahu,
Shri Santosh Kumar Saleem, Shri
Mohammad Yurius Saring, Shri Leonard
Soloman Savita Behen, Shrimati Sethi, Shri
P. C. Seyid Muhammad, Dr. V. A. Shahi,
Shri Nageswar Parsad Sharma, Shri Kishan
Lai Shastri, Shri Bhola Paswan Shilla, Shri
Showaless K. Shyamkumari Devi, Shrimati
Singh, Shri Bhishma Narain Singh, Shri D.
P. Singh, Shri Irengbam Tompko 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

Talib, Shri Niranjan Singh

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

Vaishmpayen, Shri S. K. Venigalla
Satyanarayana, Shri Verma, Shri
Shrikant Vyas, Dr. M. R. Wajid, Shri
Sikander Ali Yadav, Shri Ramanand
Yadav, Shri Shyam Lai Zawar Husain,
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 pre. sent an^ voting*

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

DR. V. A. SEYID MUHAMMAD: Sir, I
move:

"That the Bill be passed."

The question was proposed.

MR. CHAIRMAN • The question is :

"That the Bill be passed." *The
House divided.*

MR CHAIRMAN : Ayes—178
Noes—Nil

AYES—178

Abid, Shri Kasim Ali
Adivarekar, Shrinati Sushila Shan-
kar Ahmad, Dr. Z. A. Alva,
Shrimati Margaret 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 Lai, 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.

Bisi, Shri Pramatha Nath

Borooah, Shri D. K.

Bose, Shrimati Pratima

Buragohain, Shri Nabin Chandra

Chakrabarti, Dr. Rajat Kumar

Chandrasekhar, Shrimati Maragatham

Chattopadhyaya, Prof. D. P.

Chaudhuri, Shri N. P.

Chaurasia, Shri Shiv Dayal Singh

Chettri, Shri Krishna Bahadur

Choudhury, Shri Nripati Ranjan

Chowdhary, Dr. Chandramanilal

Chowdhri, Shri A. S.

Chundwat, Shrimati Lakshmi Kumari

Das, Shri Bipinpal

Deb Burman, Shri Bir Chandra

Desai, Shri R. M.

Deshmukh, Shri Bapuraoji Marotraoji

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 Bhupesh
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hashmi, Shri Syed Ahmad
Himmat Singh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nan<j
Joshi, Shrimati Kuvnudben Mani-
shanker Kalaniya, Shri
Ibrahim Kalp Nath, Shri
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri YashpaL Kesri,
Shri Sitaram
Khan, Shri F. M.
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khan, Prof. Rasheeduddin
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj Purashot-
tam Kollur, Shri M. L. Krishna, Shri M. R.
Krishn.aswamy, Shri K. A. Kulkarni, Shrimati
Sumitra G. Kumaran, Shri S. Kumbhare, Shri
N. H. Kureel, Shri Piare Lall urf Piare Lall
Talib Lalbuaia,
Shri
Lokesh Chandra, Dr. 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 Lai Malik, Shri
Syed Abdul Mehrotra, Shri Prakash
Mehta, Shri Om

Menon, Shrimati Leela Damodara MhaiGekar,
Shri Govindrao Ram-chandra
Mirdha, Shri Ram Niwas
Mishra, Shri Mahendra Mohan
Mishra, Shri Risihi Kumar
Mittal. Shri Sat Paul
Mohan. Singh Shri
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri Anand Narain
Mulla, Shri Suresh Narain
Munda. shri Bhaiya Ram ;
Murahari, Shri Godey
Nanda, Shri Narsingha Prasad
Natrajan, Shri C. D.
Nathi Singh, Shri
Nizam-ud-Din, Shri Syed A
Oberai, Shri Mohan Singh
Pai, Shri T. A.
Pande. Shri Bislambhar Nath
Parashar, Shri Vinaykumar Ramlal
Parbhu Singh, Shri
Patil, Shri Deo Rao
Patil. Shri Gulabrao
Pawar. Shri D. Y.
Poddar, Shri R. K.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N. 4
Punnaiah, Shri Kottah
Qasim, Shri Syeed Mir
Rahamnathullla, Shri Mohammad
Rajejekharam, 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. Reghunatha
Reddy, Shri Mulk_a Goviada l

Reddy, Shri R. Narasimha Roshan Lai,
 Shri Roy, Shri Kalyan Sahu, Shri
 Santosh Kumar Saleem, Shri
 Mohammad Yunus Saring, Shri
 Leonard Solomon Savita Behen,
 Shrimati Sethi, Shri P. C. Seyid
 Muhammad, Dr. V. A. Shahi, Shri
 Nageshwar Prasad Sharma, Shri
 Kishan Lai Shastri, Shri Bhola
 Paswan Shilla, Shri Showale_{ss} K.
 Shyamkumari Devi, Shrimati Singh,
 Shri Bhishma Narain Singh, Shri D.
 P. Singh, Shri Irengbam Tompok
 Singh, Shrimati Jahanara Jaipaf 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 Talib, Shri Niranjart Singh
 Tanvir, Shri Habib Thakur, Shri
 Gunanand Tilak, Shri J. S. Tiwari,
 Shri Shankarlal Totu, Shri Gian Chand
 Triloki Singh, Shri

Tripathi, Shri Kamlapati Trivedi, Shri
 H. M. Vaishampayan, Shri S. K.
 Venigalla Satyanarayana, Shri Verma.
 Shri Shrikant Vyas, Dr. M. R. Wajd,
 Shri Sikander Ali Yadav, Shri
 Ramanand Yadav, Shri Shyam Lai
 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.

[Mr. Deputy Chairman: in the Chair.]

MR. DEPUTY CHAIRMAN: Yes, Madam Deputy Minister.

THE ADDITIONAL EMOLUMENTS (COMPULSORY DEPOSIT) AM- ENDMENT BILL, 1976

THE DEPUTY, MINISTER IN THE
 MINISTRY OF FINANCE (SHRIMATI
 SUSHILA ROHATGI): Sir, with your
 permission I move:

"That the Bill to amend the Additional
 Emoluments (Compulsory-Deposit) Act,
 1974, as passed by the Lok Sabha, be taken
 into consideration."

Sir, the House is aware of the highly
 inflationary situation which prevailed at the
 time of promulgation of the Additional
 Emoluments (Compulsory Deposit)
 Ordinance by the President on 6th July, 1974
 and the subsequent enactment of the Addi-