

## PRESENTATION OF REPORT OF THE COMMITTEE ON PETITIONS

DR. Z. A. AHMAD (Uttar Pradesh): Sir, I beg to present the Forty-eighth Report of the Committee on Petitions.

## MOTION FOR ELECTION TO THE NATIONAL FOOD AND AGRICULTURE ORGANISATION LIAISON COMMITTEE

THE DEPUTY MINISTER IN THE MINISTRY OF AGRICULTURE AND IRRIGATION (SHRI PRABHUDAS PATEL): Sir, I beg to move the following:—

“That in pursuance of the Ministry of Agriculture (Department of Agriculture) Resolution No. F/10-11/65-FAIT, dated the 9th September, 1966, as amended, this House do proceed to elect, in such manner as the Chairman may direct, one member from among the members of the House to be a member of the National Food and Agriculture Organisation Liaison Committee.”

*The question was put and the Motion was adopted.*

## MESSAGE FROM THE LOK SABHA

The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Bill, 1975

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha signed by the Secretary General of the Lok Sabha:

“In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Bill, 1975, as passed by Lok Sabha at its sitting held on the 23rd July, 1975.”

Sir, I lay the Bill on the Table.

## THE CONSTITUTION (THIRTYNINTH AMENDMENT) BILL, 1975

MR. CHAIRMAN: Before we proceed, I would like to suggest to the members that this Bill will have to be finished before

lunch and they may take their time accordingly and adjust. I say this so that all of you should know beforehand.

Yes, Mr. Gokhale.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): Sir, I move:

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

The Bill seeks to amend the provisions of Articles 123, 213, 239B, 352, 356, 359 and 360 of the Constitution.

The provisions of the Constitution relating to the powers of the President to issue Proclamations of Emergency are quite clear. Similarly, the provisions of the Constitution relating to the power of the President to promulgate Ordinances during recess of Parliament and the power of the Governor and the Administrator of a Union Territory to promulgate such Ordinances during recess of the Legislature are also clear. Certain doubts and controversies have of late been raised and the Government propose to set them at rest by the proposed Constitutional Amendment before the House.

I may first refer to the amendments proposed to the provisions of articles 123, 213, 239B, 352, 356 and 360 to the effect that the “satisfaction” mentioned in those Articles is subjective and outside the scope of judicial review and hence cannot be canvassed or questioned before a court of law. As a matter of fact, these amendments are merely of a clarificatory nature. On a plain reading of the provisions of these Articles, it will be clear that the satisfaction of the President for the purpose of promulgating an Ordinance under Article 123 and for issuing Proclamations of Emergency under Articles 352, 356 and 360 is purely subjective. The same thing can be said with regard to the power of the Governor and Administrator of Union Territory to issue an Ordinance under Article 213 and 239B respectively.

Decisions of the Privy Council, the Federal Court and the High Courts all reiterate the principle that the Governor-General and the Governor-General alone should

decide whether an emergency existed requiring the promulgation of an Ordinance. These decisions were on the interpretation of corresponding provisions of the Government of India Act. The Privy Council observed in one of its judgments:—

“A state of emergency is something that does not permit of any exact definition; it connotes a state of matters calling for drastic action, which is to be judged as such by some one. It is more than obvious that that some one must be the Governor-General and he alone. Any other view would render utterly inept the whole provision. Emergency demands immediate action and that action is prescribed to be taken by the Governor-General. It is he alone who can promulgate the Ordinance.”

After more than a decade, the Privy Council reiterated the same principle in another leading case.

Coming to the decisions of the Federal Court, I may refer to leading case where a similar question had arisen. Affirming the principle that the issue was outside the scope of judicial review, the Court observed:

“But the ‘Emergency’ was the apprehended danger to peace and public safety, likely to arise from the release of thousands of detenus in obedience to the decision of this Court. It is not within the province of the Court to examine the justification for the apprehension or assess the extent of the possible danger.”

There are similar decisions of the High Courts placing the same construction on section 72 of the Government of India Act.

A Division Bench of the Orissa High Court has held in a recent decision that the emergency provisions under articles 352, 356 and 360 in Part XVIII of the Constitution are not justiciable.

The Supreme Court also had occasion to consider in a recent case the scope of the Ordinance-making power of the Governor under article 213. The Court observed:—

“It is however well settled that the necessity of immediate action and of promulgating an Ordinance is a matter purely for the subjective satisfaction of the Governor. He is the sole judge as to the existence of the circumstances necessitating the making of an Ordinance. His satisfaction is not

a justiciable matter. It cannot be questioned on ground of error of judgement or otherwise in court.”

I may also refer to the decision of the Supreme Court in a recent case under the Maintenance of Internal Security Act, 1971.

Where one of the contentions raised was that there was no real emergency and yet the proclamation remained unretracted with consequential peril to Fundamental Rights. Negating this contention, Justice Krishna Iyer observed:—

“We have to reject summarily the last submission as falling outside the orbit of para-political, not justiciable issue and the appeal should be to the polls and not to the courts.”

Hon. Members will see, therefore, that the legal position is clear and leaves no room for any doubt, difficulty or controversy. Nevertheless, the issue is being raised in courts again and again. The Bill seeks to place the matter beyond a shadow of doubt.

The second important aspect covered by the Bill is, again, clarificatory in nature. The language of article 352 clearly permits issue of a Proclamation or more than one if the President is so satisfied, as envisaged in that article. Despite the plain meaning employed in this article, contentions have been raised in some writ petitions that, while the original proclamation of Emergency was in operation, no further proclamation could be made under article 352. The Bill seeks to bring out clearly the real intention and remove any doubt in this regard by providing that the President may issue different proclamations on different grounds, irrespective of whether a proclamation is already in existence and in operation.

The third aspect of the Bill is to expressly bring out the intention underlying article 359. Under article 358, when a proclamation is in operation, article 19 is rendered inoperative and, at the same time, nothing in that article shall restrict the power of the State to make any law or to take any executive action. The intention underlying article 359 is also the same. The Supreme Court in a case decided in 1968 held that articles 13(2) and 359 being parts of the same Constitution, stand on equal footing and the two provisions have to be read harmoniously in order that the intention behind

[Shri H. R. Gokhale]

article 359 is carried out and not destroyed altogether by article 13(2). An order under article 359 derives its force from article 359 and takes effect in accordance with its tenor and cannot be affected by article 13(2). The Bill seeks to provide that while an order made under clause (1) of article 359 regarding any of the rights conferred by Part III is in operation, nothing in that Part conferring these rights shall restrict the power of the State to make any law or to take any executive action.

I have mentioned the salient features of the Bill. I now commend the Bill for the consideration of the House.

*The question was proposed.*

**श्री योगेंद्र शर्मा (बिहार) :** सभापति महोदय, संविधान संशोधन के इस प्रस्ताव का मैं समर्थन करता हूँ। अभी श्री गोखले ने इस बात को साफ किया कि इस संशोधन के द्वारा कोई नई बात नहीं की जा रही है। बल्कि संविधान की जो सही समझ है उसी का खुलासा किया जा रहा है। मैं कोई विधि विशेषज्ञ नहीं हूँ जैसा कि गोखले साहब या दूसरे लोग हैं। लेकिन यह आम समझ है कि इमरजेंसी की हालत या इमरजेंसी का ऐलान करने का हक राष्ट्रपति को है। यह हक ऐसा नहीं है कि अदालत बैठकर फैसला करे कि यह सही है या गलत। अगर ऐसा होता है तो फिर इमरजेंसी के कोई माने नहीं रह जाते। इधर हमारे देश में मुकदमेबाजी की यह हालत है कि कुछ लोगों का निहित स्वार्थ है मुकदमेबाजी में। हर बात में मुकदमेबाजी होती है। कोई ऐसी बात नहीं जिसमें मुकदमेबाजी न हो।

पिछले 35-40 वर्षों का राजनीतिक जीवन का हमारा अनुभव है कि हमारे देश में जो धनी वर्ग है जिनके पास सम्पत्ति है और जिनके पास अधिकार है वे हमेशा मुकदमेबाजी का हथियार इस्तेमाल करते हैं अपने अधिकारों की रक्षा के लिये और जो शोषित और पीड़ित तबका है उनको उनके अधिकारों से वंचित रखते हैं। यह हमारा 40 वर्ष का

राजनीतिक जीवन का अनुभव है। श्रीमान्, हमारा ख्याल है कि आपका अनुभव और दूसरे लोगों का अनुभव भी ऐसा ही होगा कि कुछ लोग हर बात में मुकदमेबाजी करते हैं।

जब आजादी के बाद इस देश में जमींदारी उन्मूलन का सवाल पेश हुआ तो बहुत सी विधान सभाओं ने इस संबंध में विधेयक पास किया इससे तमाम जमींदार कोर्ट में चले गए। वर्षों तक यह मामला कोर्ट में अटका रहा। जमींदारी उन्मूलन नहीं हो सकता है यह मामला वर्षों तक कोर्ट में अटका रहा इसके बाद सुप्रीम कोर्ट के गोलकनाथ के केस को सब जानते हैं। यह फैसला हुआ कि यह नहीं हो सकता जो हो गया सो हो गया जब नहीं हो सकता क्योंकि प्रोपर्टी का राइट फंडामेंटल राइट है और पार्लियामेंट इसे बदल नहीं सकती है। ऐसी हालत में क्या किया जाए? इस देश में यदि मुकदमेबाजी का यह सिलसिला रहेगा तो इस देश में प्रगति नहीं हो सकती, कोई परिवर्तन नहीं हो सकता है। आर्थिक, सामाजिक और राजनीतिक परिवर्तन नहीं हो सकता और संविधान में जो राजनीतिक, सामाजिक और आर्थिक न्याय के उद्देश्य घोषित किए गए उनकी प्राप्ति नहीं हो सकती इसलिए कुछ तो मुकदमेबाजी पर अंकुश लगाना आवश्यक है। जैसा कि गोखले महोदय ने बताया खुद हमारे संविधान में इस बात की व्यवस्था है। कुछ मुकदमेबाजियों पर अंकुश लगाया गया है और कुछ चीजों को मुकदमेबाजी से अलग कर दिया गया है। यह कोई नई बात नहीं है। हमारा ख्याल है कि 17, 18 ऐसे आर्टिकल हैं जिन पर मुकदमेबाजी नहीं हो सकती, जो जस्टिसेबिल नहीं हैं। और यदि ऐसा नहीं होता है तो जो कुछ भी आर्थिक और सामाजिक सुधार हुए हैं वह इस देश में नहीं हो सकते थे। जमींदारी उन्मूलन की बात मैंने बताई। इसके बाद बैंक नेशनलाइजेशन का अनुभव हम लोगों के सामने है। शुरू में सुप्रीम कोर्ट ने उसको नाजायज करार

दिया। सौभाग्य से सुप्रीम कोर्ट को बनावट बदली और वही सुप्रीम कोर्ट इस नतीजे पर पहुंचा कि फंडामेंटल राइट्स में प्रापर्टी का जो राइट है उसमें संशोधन किया जा सकता है। बहुत से लोग इसी से नाराज हैं जो जुडिशियल और पोलिटिकल और दूसरे "ग्रुप" कर के राज सत्ता पर कब्जा करना चाहते थे और जिनके नापाक इरादे को हराने के लिए इमरजेंसी लागू की गई। वह इससे परेशान हैं। वह नहीं चाहते थे कि बैंकपतियों के स्वार्थों पर किसी तरह की आंच आए। वह नहीं चाहते थे कि जमीन के सम्बन्ध में अर्धसामंती जो प्रभुत्व है उस को तोड़ा जाए। वह नहीं चाहते कि इस देश में इजारेदारों का जो आर्थिक प्रभुत्व है उस को तोड़ा जाय। तो इस सिद्धांत का स्वागत किया जा सकता है कि देश के सामाजिक और आर्थिक विकास में बहुत सी चीजों को मुकद्देबाजी से अलग किया जाना चाहिए। यह कोई नई बात नहीं है। इसलिए यह सवाल नहीं उठता जैसा कि लोगों ने उठाया कि इस संविधान संशोधन के जरिये से डिमोक्रेसी की हत्या हो रही है, डिक्टेटरशिप की तरफ कदम तेज [किये जा रहे हैं]। श्रीमान हम लोगों का तजुर्बा यह है कि मान लीजिए कि एक औद्योगिक विवाद होता है और उसमें एक पंच फैसला हुआ लेकिन वह मालिक को मान्य नहीं है तो वह उसे लेकर अदालत में चला जाता है और अदालत में जा कर वह हरचन्द कोशिश करता है कि वह पंच फैसला हमेशा के लिए सड़ता रहे। उससे मजदूर परेशान होते हैं। आप देखें कि पंच फैसला ट्रेड नियम का फैसला नहीं होता लेकिन उसके बाद भी मुकद्देबाजी के जरिये वह उस पंच फैसले को खत्म कर देता है और इसीलिए बहुत सी ट्रेड यूनियन इस नतीजे पर पहुंची है कि इस तरह की चीजों को मुकद्देबाजी से अलग कर दिया जाय। इसी तरह से लैंड रिफॉर्मस की बात चल रही है। अभी उत्तर प्रदेश में आर्डिनेंस

जारी किया गया कर्ज गुलामी के खिलाफ मैं समझता हूं कि कोई भी प्रगतिशील व्यक्ति ऐसा नहीं होगा कि जो कर्ज गुलामी को फायम रखना चाहता हो। लेकिन वह लोग जो कर्ज गुलामी से फायदा उठा रहे हैं वह जायेंगे कोर्ट में। कचहरी में जायेंगे पहले और फिर हाई कोर्ट में जायेंगे और फिर सुप्रीम कोर्ट में जायेंगे और वह बेचारे जो कर्ज गुलाम हैं वह गुलाम ही बने रहेंगे। तो यह जो हमारा सामाजिक, आर्थिक और राजनीतिक न्याय का उद्देश्य है, जो हमारे डाइरेक्टिव प्रिंसिपल में हैं उन पर इनकी वजह से अमल नहीं हो सकता जब तक कि हम मुकद्देबाजी को इन कुछ चीजों से अलग न कर दें। यह तो उसूल की बात है। बहुत से लोग इसी उसूल का विरोध करते हैं। उनका उसूल अजीब उसूल है। हमारे देश में एक्जीक्यूटिव हैं लेजिस्लेचर हैं और जुडिशियरी हैं और हम इस सिद्धांत को मानते हैं कि इन तीनों में कोई भी निरंकुश नहीं रहना चाहिए। एक्जीक्यूटिव भी निरंकुश नहीं हों, लेजिस्लेटिव भी निरंकुश नहीं हों, जुडिशियरी भी निरंकुश नहीं हों। एक्जीक्यूटिव निरंकुश नहीं हो इसका संस्थागत नियंत्रण कौन करेगा? हमारे संविधान के मुताबिक उसका संस्थागत नियंत्रण पार्लियामेंट करती है। पार्लियामेंट भी निरंकुश नहीं हो, हमारे संविधान में इसका नियंत्रण कौन करे? ग्राम चुनाव होते हैं और ग्राम चुनाव के जरिये जनता अपने प्रतिनिधि निर्वाचित करती है। जुडिशियरी की निरंकुशता का नियंत्रण कौन करेगा? हम इस संशोधन का समर्थन करते हैं, मगर समर्थन के पक्ष में गोखले साहब ने जो दलील दी है उससे हम सहमत नहीं हैं—उन्होंने प्रिवी काउंसिल और गवर्नर जनरल, यानी कि हमारे कांस्टीट्यूशन के पहले की बातों का हवाला दिया। हम समझते हैं कांस्टीट्यूशन के पहले की बातें हमारे यहां लागू नहीं होती हैं क्योंकि नया राजतंत्र, एक नयी व्यवस्था बाद में यहां

[श्री योगेंद्र शर्मा]

कायम हुई है, एक नया संविधान कायम हुआ है। वे पुरानी बातें कैसे लागू होंगी? लेकिन हमारी मान्यता यह है कि जुडिशरी को भी हमारे देश में निरंकुश नहीं होना चाहिए क्योंकि यदि जुडिशरी निरंकुश होती गई होती तो हम अपने देश में बैंकों का नेशनलाइजेशन नहीं कर सकते थे, जमींदारी अवालियन हम नहीं कर सकते थे, हम कोई भी सामाजिक और आर्थिक प्रगति का कदम नहीं उठा सकते थे, । लेकिन जिस तरह से एक्जीक्यूटिव पर अंकुश, पार्लियामेंट पर अंकुश की व्यवस्था है उसी तरह से जुडिशरी पर अंकुश की क्या व्यवस्था है? यदि जुडिशरी निरंकुश नहीं होनी चाहिए तो उसके लिये क्या व्यवस्था है? हम समझते हैं, जुडिशरी पर अंकुश की व्यवस्था का एक ही रूप होता है जोकि हमारे संविधान में निहित है, कि कुछ चीजें मुकद्दमेबाजी के दायरे से बाहर कर दी जाएं। मगर एक रूप और है, दूसरा रूप, कि उसकी बनावट में परिवर्तन हो; जैसे कि सुप्रीम कोर्ट की बनावट में परिवर्तन का यह नतीजा हुआ कि जहां पर प्रापर्टी का फण्डामेंटल राइट अक्षुण्ण था, पवित्र था, उसको कोई छू नहीं सकता था, हिन्दुस्तान की जनता के प्रतिनिधि भी उसे नहीं बदल सकते थे, तो उस स्थिति में, भी परिवर्तन आया। तो जुडिशरी पर अंकुश लगाने के क्या रूप हों, क्या उपाय हों, यह भी सोचना चाहिए। यह नहीं होना चाहिए कि देश में कोई सामाजिक और आर्थिक प्रगति नहीं हो सके। प्रगति होनी चाहिए। तो उसके होने का यह रूप है कि कुछ चीजें जस्टि-सिएबल नहीं हो, मुकद्दमेबाजी के दायरे से बाहर कर दी जाए। अब इस सिलसिले में कुछ लोग डेमोक्रेसी का सवाल उठाते हैं, डिक्टेटरशिप का सवाल उठाते हैं। सुनने वाले सब भागे हुए हैं और आप लोगों को सिखाने से कोई फायदा नहीं है।

**एक माननीय सदस्य :** हम लोगों को सिखाने से फायदा होगा।

**श्री योगेंद्र शर्मा :** अगर सिखाने से फायदा होगा तो इस सिलसिले में मैं एक बात आपसे अर्ज करूं। क्या मानव समाज में जब से व्यक्तिगत संपत्ति पैदा हुई है और समाज में वर्ग विभाजन हुआ है तब से यह संभव रहा कि डेमोक्रेसी एक्साल्यूट हो या डिक्टेटरशिप एक्साल्यूट हो? वर्ग समाज में डेमोक्रेसी एक्साल्यूट नहीं है, वर्ग समाज में डिक्टेटरशिप एक्साल्यूट नहीं है। वर्ग समाज में एक चीज जो एक वर्ग के लिए डेमोक्रेसी है वह दूसरे वर्ग के लिए डिक्टेटरशिप है। हमारे वे बंधु जिन्होंने राज-सत्ता पर कब्जा करना चाहा, यदि यह इमरजेन्सी नहीं घोषित होती और देश के दुर्भाग्य से उनके मंसूबे पूरे होते, तो हममें से बहुत से लोग आज जेलों में बन्द होते। पिछली 29 तारीख को उनकी योजना थी बहुत से पार्लियामेंट के मेम्बरों का घेराव करना—उसी तरह का घेराव जिस तरह का घेराव बिहार के विधायक भुगत चुके हैं।

घेराव करना और घेराव करके कुछ भी किया जा सकता है। उनकी योजना यहां पर एक समानान्तर पार्लियामेंट की स्थापना करने की थी। उनकी योजना यहां पर आकाशवाणी पर कब्जा करने की थी और जनता की सरकार के नाम पर, जनता की आकाशवाणी के नाम पर, जनता की अदालत के नाम पर उन्होंने इस तरह की योजना बनाई थी ताकि यहां देश की राज सत्ता पर कब्जा कर लिया जाय। यदि उनका कब्जा हो जाता, तो हम में से बहुत से लोग आज जेलों में बन्द होते। आज वे लोग जेलों में बन्द हैं और उस स्थिति में हम लोग जेलों में बन्द होते। जो लोग इस देश में जनतंत्र के नाम पर साम्राज्यवादियों की कठ-पुतली सरकार कायम करना चाहते थे, जो इस देश में इजारेदारी और सामन्तवादी सरकार की स्थापना करना चाहते थे तथा उनके स्वार्थों की रक्षा करने के लिये यहां पर एक कठपुतली सरकार कायम करना चाहते थे, उनके लिये तो यह डिक्टेटरशिप हो गई। लेकिन भारत की वह जनता जो देश की आजादी में, जो देश की

प्रगति में, सामाजिक न्याय में तथा देश में आर्थिक भेदभाव को दूर करने की दिशा में काम करती रहती है और उस काम को आगे बढ़ाना चाहती है, उनके लिये यह डेमोक्रेसी है। इस तरह से डेमोक्रेसी किस के लिए है और डिक्टेटरशिप किस के लिये है, इस प्रश्न को देखे बिना डेमोक्रेसी और डिक्टेटरशिप का फैसला नहीं हो सकता है। जो चीज भारत की शोषित और पीड़ित जनता के लिए तो डेमोक्रेसी है वह भारत के शोषक लोगों के लिये डिक्टेटरशिप है। आज जो डिक्टेटरशिप की बात चिल्लाते हैं वे आज देशी और विदेशी शत्रुओं की बात करते हैं। हमें आज इस बात की खुशी है कि ऐसे लोग आज जेलों में हैं और हमें इस बारे में अफसोस नहीं है क्योंकि हम जानते हैं कि भारतीय जनता डिक्टेटरशिप नहीं चाहती है और न ही उसकी यहा पर स्थापना हो सकती है। लेकिन मैं एक बात जरूर अर्ज करना चाहता हूं और वह यह है कि जैसा कल हमारे कामरेड श्री भूपेश गुप्त ने अर्ज किया था और ऐसी स्थिति में यह आवश्यक हो जाता है कि जो हमारी पार्लियामेंट है, जो हमारी विधान सभाएं हैं, वे बकवास करने की जगह न हों जहां पर हम लोगों का समय बरबाद हो। सही मानों में ये काम करने वाली संस्थाएं होनी चाहिए। वे टाकिंग पार्लियामेंट नहीं होनी चाहिये बल्कि वर्किंग पार्लियामेंट होनी चाहिए और वर्किंग पार्लियामेंट का काम आगे बढ़ाने के लिये यह आवश्यक है कि पार्लियामेंट की बहुत सी कमेटियां होनी चाहिए, स्टैंडिंग और परमानेंट कमीशन होने चाहिये ताकि उनमें जनता के चुने हुए प्रतिनिधि जनता के हित के लिये काम कर सकें। इस तरह की जो कमेटियां या दूसरी संस्थाएं बनेंगी वे विधि मंत्रालय के काम का भी निरीक्षण कर सकेंगी और उस पर अंकुश रख सकेंगी। इस तरह की कमेटियों में जनता के प्रतिनिधियों का समावेश होगा तो इस बात की गारन्टी होगी कि वे जनता की भलाई के ही कार्य करेंगे। तो मैं समझता हूं कि कल उन्होंने इस दिशा में जो सुझाव दिये थे डेमोक्रेसी

को मजबूत बनाने के लिये, उस पर सरकार को उचित ध्यान देना चाहिये। इन शब्दों के साथ मैं इस बिल का समर्थन करता हूं।

SHRI D. P. SINGH (Bihar): Mr. Chairman Sir, I rise to support this amending Bill which is of a clarificatory nature and the necessity of which had been realised for a long, long time. Some of us dealing with these matters in courts have felt that the conventions, as a result of which both the Courts and the Legislatures exercised certain amount of restraint and decided not to trespass into the field reserved for each other, seemed to be thinking down. That seemed to be disappearing and occasionally it was a matter of alarm for us. The powers which the Supreme Court of America has been exercising have been laid down in a series of decisions, particularly four decisions. They have scrupulously restrained themselves from going into questions which they described were political. They said, We are not Judges to decide what is a political question, what is good for the people, what is in the public interest and the extreme example given was the war-making power. Now, how can the judiciary and the courts decide when it is necessary to fight a war, when to fight with the enemy, when to resist, when to have peace, when is the treaty-making power to be exercised and what is the executive power of a diplomatic nature and so on? On that basis the courts have always refrained from exercising their powers in this field. Sir, happily today we can say with pride that our courts are different and our courts are realistic, But we could not say the same thing some-time back and two decisions of the Supreme Court raised serious apprehensions in our minds when these matters were particularly debated and they were wanting to go into the question of the ordinance making powers. Even in respect of article 123, the right of the President to make ordinances was seriously questioned. Happily, at last, they did not decide that matter and they said, "Well, it does not arise. But there is no restraint on us so far as a future occasion is concerned and we might go into that question". Sir, here in the Central Hall, while discussing some of the amendments of the Constitution, I was asked a question as to whether the Judges would go into the prices of vegetables. That was the moment

[Shri D. P. Singh]

when the prices of cars were being determined and those questions were gone into. But happily, Sir, we find that the Judges, the great Judge who presides over the Supreme Court today, the great Judges who constitute the different Benches of the Supreme Court, are judges who are realistic and who respect the Constitution and who uphold the Constitution. Therefore, there is not the slightest feeling that it is necessary to curb their powers or circumscribe their powers in order that they can work within limits. Sir, some indication is given in the Constitution itself. Article 121, as it is, indicates certain broad guidelines and it contains certain restrictions on the discussion in the Parliament itself and we also should not discuss about the conduct of the judiciary as such. Likewise, in article 122, there is a certain inhibition and there is a certain restriction and it is this that the courts shall not discuss the procedure in the Parliament and so on. So, Sir, this is how our Constitution-makers have indicated and made certain broad limits within which we keep the different wings and this will be conducive to the harmonious working of the Constitution in the service of the people and for the betterment of the people. Of course, occasionally, there have been some trespasses. The legislatures themselves have done it. Take, for instance, the case of the UP Legislature. Sir, seven or eight years ago, a case came to the Supreme Court against what was described as an encroachment of the powers claimed by the UP State Legislature to arrest some people and subject them to some humiliation and disgrace. Orders were also issued to the effect that all the 36 Judges of the High Court should be arrested and brought before the Legislature. Now, Sir, these are extreme cases where the conventions are not respected and the language of the Constitution is not respected and such things bring about a situation in which the machinery and the instrumentality of the Constitution itself will bring about chaos and anarchy and its own break-down. Sir, it is not these things that are contemplated in this amendment. But what is suggested here is of a clarificatory nature indicating that there may be a situation where such things may crop up and such things may arise. Now, the emergency has been declared. Many of us had grave doubts ourselves

and cases have been filed in the Delhi High Court questioning the propriety of declaring the second emergency taking into account the disturbances at home when already there is an emergency on account of the threat of external aggression. The emergency was declared and there was an argument that the courts would not act in redundancy. The question is this: If you have an emergency which is already in operation, why should you have a second emergency? Sir, this question is answered here in this amendment. I myself, speaking in this House on certain other issues, raised the question of financial legislation and I asked, "If there is a specific provision in the Constitution under article 360 which will regulate the financial legislation, then how can it be done by the declaration of emergency under article 352?". Happily, Sir, we feel that all these doubts have been set at rest, and by these various amendments to the Constitution a situation has been created which will help the working of the Constitution, so that both the limbs, both the Parliament as well as courts, function within limits, and there are no break-downs. A few years ago there were threats given here in this House and outside that a situation of confrontation is coming. That situation is no more, and when the Thirty-ninth Constitutional (Amendment) Bill becomes part of the Constitution itself, we feel that this will be conducive to the proper and smooth running of the machinery of the Constitution.

Thank you.

SHRI VITHAL GADGIL (Maharashtra):

Sir, I will not deal with the legal aspect very much, because the Law Minister and my friend, Mr. D. P. Singh, have dealt with it. (*Interruption*). I will certainly deal with the historical aspect, and I will tell you something very interesting there.

Sir, In a sense it is said that this Bill is redundant, because the courts have already held that the question of the satisfaction of the President is a subjective matter. But it seems that this Bill has been brought by way of abundant caution, as an insurance against the ingenuity of lawyers and fallibility of Judges, because we have experienced that courts over-rule their own decisions of 20 years standing. That happened in the banks' nationalization case. They over-

ruled their own decision given one year earlier. That happened in the Privy Purses case. And, therefore, in that sense, to make the matters very clear such a Bill is necessary.

Sir, somebody asked: What about history? I tried to look up the history of the article about emergency provision, and I found some very interesting things. When one goes through the debates of the Constituent Assembly, one finds that one criticism of this article about emergency was that it is a very weak article, very diluted article. And Dr. Ambedkar was criticized on that ground, saying that it should be made very strong. Who made that suggestion? That suggestion was made by Mr. Mahavir Tyagi. According to him the article is very weak and some more power should be given to the Central Government and the President in case of emergency.

Now, a very interesting thing is that when the draft Constitution was prepared and the draft was circulated to the public, several suggestions were received, and one suggestion given by an important political leader was this. The suggestion made by him was that the original article 188 should be replaced by another article which he proposed, and it read like this. Please listen very carefully:

"If public safety and order be seriously disturbed..."

This is the suggestion:

"...in any part of the Republic and the Government of the State concerned fails to restore public order, the President of the Federation may restore public safety and order..."

Mark the next words:

"...with the help of armed forces. Under such circumstances, all authorities of the State concerned shall assist and obey the instructions of the executive authority of the President and his duly authorised agents in the restoration of public order."

This was the suggestion.

The other was—and it is much more important—by the same person:

"If public safety and order be seriously disturbed, the executive authority of the Federation may also suspend the provi-

sions of the Constitution concerning freedom of speech, freedom of association and assembly, inviolability of persons and home, and correspondence in the manner and extent determined by the federal law."

And who do you think was the person who made this suggestion? No other than Mr. Jayaprakash Narayan. This was his suggestion, that armed forces should be used, all rights should be suspended and so on. Fortunately for us the Constituent Assembly did not accept this and the Drafting Committee itself said that it was unnecessary.

Sir, it is true that in every democratic country emergency arises and certain provisions have to be made. In England, for example, you have the Defence of the Realm Act. In America you have the Internal Security Act. In England they further have the Emergency Powers of 1929. And mind you, it was not used only during wartime. It was used, as Dr. Z. A. Ahmad knows, during the general strike which was resorted to by the working class of England for establishment of their rights. So it is not as if only during war time the powers are used. In England I find another thing. Frankly, I was astounded when I started collecting material because much is heard about the Westminster model and the great civil liberty that prevails in England, the freedom of the Press and the civil and personal liberties and so on. Now, for purposes of record I want to bring certain facts to the notice of this House. I too who had the fortune or otherwise of having been educated in England was also under the impression that great liberty prevails in England. But this is what I find. In the first place civil service is open to only certain political parties. A statement made by no less a person than the Prime Minister Mr. Attlee in March 1948 in the House of Commons is this:—

"Government has reached the conclusion that the only prudent course to adopt is to ensure that no one who is known to be a member of the Communist Party or has association with it in such a way as to raise legitimate doubts as to his reliability ... shall be admitted in the civil service."

So, the only course he stated was either to bar his entry into government service or to



[Shri Vithal Gadgil] dismiss him. And accordingly, 167 civil servants were dismissed because they were in some way associated with the Communist Party.

The matter does not end there. An instance is quoted in one of the books that the Imperial Chemical Industries Co. had an Assistant Solicitor. The Government in 1956 brought pressure on the company and he was dismissed. And what was his fault? What was his crime? The crime was that five years earlier he married a lady who was an ex-member of the Communist Party. So that is the civil liberty in England. And we here talk a lot about the Westminster model and the liberties in England.

What about the freedom of Press? Here also there are some surprises. Mr. Cecil King, as you know, of the famous Daily Mirror—he is almost the owner and is supposed to be big monopoly house—in one of his lectures has said that for all practical purposes censorship exists in England. One of the instances given in another book is when King Edward the VIII decided to marry Mrs. Simpson. All the editors were called at the Prime Minister's office and were told not to publish this news. And for more than two months no news was published. Not only that, American magazines like the Newsweek, the Times and others which were published at that time were censored. The Postmaster's office cut out those pages which contained news about King Edward's marriage. And this continued for three months.

Not only that, there is an instance of Anthony Howard, one of the journalists. What happened to him? This is what he describes in one of the articles in the New York Times. Sources of official information tend to dry up and the reporters may be driven out in the wilderness. The extract reads:

"What happened to him when he decided to abandon the traditional charades at Westminster to concentrate on happenings in the real centre of power, the White Hall. He found that the real power is not in Parliament but it is in White Hall which is the centre of power. And, therefore, he started collecting news from there."

He was summoned by the Prime Minister's office and told:—

"all conventional sources of information would remain shut off until such time as he was willing to return to the personally cosy but essentially sham game played out at Westminster."

He refused and he himself says, "I was exiled from England." He had to go to Washington and stay there. This is the freedom of press. Not only that. There are a number of such instances of the so-called freedom of the press in the Westminster model. I can do no better than quote Lord Radcliffe, how in a subtle way it is done and I cannot better his language. He has expressed very beautifully in these words: "All the subtle arts of pressure the nods, the winks, the jogging of the elbow, the smile at what is called the responsible reporter, and frown at the man who does not see clearly the Government's point of view." This was said by Lord Radcliffe in the House of Lords on 6 July, 1962. This is the freedom of the press in England.

Then, what about telephone tapping because the complaint is that telephones are tapped and that this is an encroachment on civil liberties. A Privy Council Committee was appointed to inquire into the interception of Communication and the Committee in its report says that the practice of interception is inherently objectionable but necessary." Another interesting instance is, a question was put to Mr. Wilson when he was the Prime Minister about it. And he gave an assurance that the telephones of MPs will not be tapped. That is an admission that others' telephones were tapped. A few days later, Sir Tuffon Beamish, M. P., protested in the House of Commons that in spite of the Prime Minister's assurance there were 15 MPs whose telephones are tapped. And more interesting is that we are shadowed by the Police and the CID and what is more interesting is that it was done at the instance of his own Party." This is the civil liberty in England. Sir Tuffon Beamish, narrated a very interesting thing. He said, "My telephone was tapped." Then the Minister said, "It was not tapped." Then Sir Tuffon Beamish said, "I can be hundred per cent sure because there was a technical defect in the tapping with the result that my own conversation was played back to me on the telephone and I heard it." So, Sir, this is the liberty there.

Then, as you all must know, there is that famous De-Notice Committee. It is a kind of informal censorship. Although it is informal, it is so *pakka* that several editors have found that there is hardly any public document. And there was a committee called Grigg Committee on Departmental Records to enquire into the matter. And that Committee itself says in its report of 1954 that the definition of public document is not that it is accessible to public; it only means that it is a document which is kept with the Central Government. That is the definition of public document.

Every year thousands of public documents are marked as confidential and as one of the authors has said the only document that is not marked confidential in the Civil Service of England is the toilet paper in the lavatory. He further says, "There also, I found on it marked, 'Government property. Wash your hands'." This is what one of the authors has said. So, thousands of documents are marked confidential every year, and 30 years later, they may have first review, second review and third review and then they may release the document for public consumption. This is a typical English attitude because they feel that like a good whisky, a public document must have some ageing of 30 years and only after 30 years, it becomes good for public consumption. Therefore, Sir, whether it is a question of freedom of the press or whether it is a question of personal liberty, the record of Westminster is not the kind that is made out by some of the English people. What about mail? Here is an admission by Mr. Anthony Barber who later became the Chancellor of the Exchequer. He was an Economic Secretary to the Treasury in 1961.

He said on the 30th March, 1961 in the House of Commons that every year they open roughly three lakhs of letters, *i.e.*, every year the post office opens so many letters. Then there is a system and there is a gadget by which the photo copies are taken and those copies are sent to the security department to have a check on the political leanings of the people which the Government does not like.

What about the Universities? Mr. R.A. Butler, the Home Minister, once made a statement in 1952 that it was true that they kept surveillance and control over the records and personal life of several academic

people but that it would not be in the interest of the people to disclose as to by what methods they did it. That is academic freedom. I myself know of a case in the college where I studied where one of my professors committed suicide because of the pressure that was brought on him for the political views.

Then, again, this is what Daily Express published in 1967 by a reporter called Chapman Pincher. He said that all overseas telegrams without exception are routinely examined and copies are sent to the Security Department. Therefore, it is wrong to say that no other democratic country uses such methods. In the emergency they have to be used. In England we find that these methods are used even at times when there is no emergency. In other words, Sir, for extraordinary situations, you have to have extraordinary methods. Therefore, I do not find anything inherently objectionable in this thing.

DR. Z. A. AHMAD (Uttar Pradesh): Can you tell us something about America, the great democracy?

SHRI VITHAL GADGIL : There are a number of instances with which you are already familiar. That is why I did not bring all those to your notice. If you want, I tell you one interesting thing. There is a company called the Truth Verification Corporation. It is a limited company and mind you it is used by the Government and they have something called E.P.Q., Embarrassing Personal Questions, and if you want interesting details, the heads are financial weakness, personal integrity, sexual deviations. All these forms are filled in and material is collected by the C.I.A. and other Government agencies through such Corporation about each civil servant, numbering about 8 millions. Millions of civil servants records are kept in this fashion through such Corporations. All this is done by means of computer technology. Therefore, America is much worse, fantastic. Now, in that sense again I say that I do not find anything inherently objectionable in the kind of powers which you have to take during the emergency.

Now, the courts have held a number of times from Makhan Singh's case onwards—Law Minister has already told us and

[Shri Vithal Gadgil]

Shri D.P. Singh has also elaborated—that the satisfaction has to be a subjective matter which cannot be questioned by courts. There are other rulings which say that once the Proclamation is issued by the President and the rights are suspended, no further proof is necessary about its existence and this ruling was given by a Bench of seven Judges, including Mr. Justice Hegde. Therefore, it is quite clear that the courts have consistently held that this is not a matter in which the courts can go into. Nevertheless, the Bill has to be brought, as I stated at the outset, to ensure against the ingenuity of the lawyers and the fallibility of the judges. We also find from the records of the Constituent Assembly that whether it was Dr. Ambedkar or Sir Alladi Krishnaswamy Iyer, they consistently contended, and rightly, that these powers are necessary, temporary suspension is necessary. If any further authority is needed, I went through the Munshi Papers yesterday in the library and there also, Shri K.M. Munshi strongly advocated that in emergency all these rights have to be suspended and such power must be given to the Government. Therefore, whether it is the rulings of the courts or debates of the Constituent Assembly or the Writings of jurists—one finds that all these powers are necessary. Not only that. There was a conference of international jurists in Laos in 1961 and that conference also endorsed that in emergency such powers can legitimately be taken by the Government and certain rights have to be controlled.

Therefore, in short I would say that looked at from any point of view this Bill is necessary, suspension temporarily of certain rights is necessary because, as it is said, when there is a clash of arms the laws are silent. When there is emergency and when an extraordinary situation prevails, certain curtailment is necessary because, after all, security is the foundation of liberty.

Therefore, Sir, with these words I support this Constitution (Amendment) Bill and request the House to adopt it.

SHRI N. H. KUMBHARE (Maharashtra): Sir, I support the Constitution

(Thirty-ninth Amendment) Bill. Ours is a short duration session and we are meeting under emergency and, I think, in the context of this emergency we have to dispense with long speeches and it is always desirable to make specific suggestions because there is no time. We have got other important work in the country for which we have to make ourselves available. So, personally I feel that it is better to dispense with long speeches which otherwise could be made in peace time.

Now, I have risen to make one suggestion. We have a Constitution and we have also given certain powers to the judiciary which will administer justice. I personally feel that the time has come when we must thoroughly examine the functioning of the judiciary so as to find out to what extent the judiciary has helped us to achieve our goal of social equality, economic equality. My personal experience is otherwise. I will give you one example in respect of an enactment which the Government of India has made with a view to giving relief to 20 lakhs of exploited workers employed in the bidi industry. That enactment is entitled "The Bidi and Cigar Workers Act". It was passed in the year 1965 and brought into operation in the year 1967. The validity of this enactment was challenged in the High Court, not one High Court because the bidi industry is spread over several States. All the bidi manufacturers challenged this in as many as seven High Courts and they succeeded in obtaining stay of operation of the Act with the result that for a period of three years the whole enactment was nothing but a dead letter. The workers continued to be exploited as before and did not get any relief. The battle was not won. The employers, after having lost partly in the High Court moved the Supreme Court and it is the year 1974 that final verdict had come from the Supreme Court upholding the validity of the entire Act. The Act was passed by Parliament in 1965 and the workers could get benefit only in the year 1974; All these years Government was a silent spectator.

I am giving this one example only 12 NOON to show how our objective of social equality or our objective of establishing economic equality has been frustrated because of the present set-up

embodied in the Constitution. Therefore, I suggest that it is high time that Government instead of coming with piecemeal amendments should examine the whole thing. If the "satisfaction" cannot be a subject-matter for scrutiny for certain reasons, I think it is high time that the Government should thoroughly examine as to the scope of judicial interference, so far as the objectives are concerned. If this is not done I think the judiciary will not help us. On the contrary, my impression is that it will hamper towards the achievement of our goal where we want to do something for the poor.

**श्री सिकन्दर अली वज्र (महाराष्ट्र) :**  
आली जनाब चेयरमैन साहब, इस अमेंडमेंट के बारे में हमारे दोस्त श्री गाडगिल ने बहुत सफाई से सारी बातों के बारे में बता दिया है और मेरे लिए इस मिलसिले में कुछ कहना जरूरी नहीं है। मैं सिर्फ दो प्वाइंट के बारे में ही अर्ज करना चाहता हूं।

हमारे दोस्त उमा शंकर जोशी साहब ने कुछ बातें कहीं थी और श्री गोरे ने भी कुछ बातें कही। मैंने उनसे पूछा कि डिक्टेटरशिप के बारे में आपकी क्या राय है आपने इन्दिरा जी की तकरीर सुनी है उस तकरीर का आपके ऊपर क्या असर हुआ? मुझे हैरत हुई यह जानकर कि जिस तकरीर में सच्चाई के साथ, सफाई के साथ और दिल से हकीकत बयानी से काम लिया गया है, उसका असर हमारे शायर दोस्त यह ले रहे हैं कि उन्हें डराया जा रहा है। जब मैंने इमर्जेन्सी के बारे में गोरे साहब से बात की तो उनसे कहा कि आप तो महाराष्ट्र के रहने वाले हैं, और मैं भी महाराष्ट्र का रहने वाला हूं, आपका इस बारे में क्या ख्याल है? वह कहने लगे कि इमर्जेन्सी की क्या जरूरत थी, यह काम तो इंडियन पीनल कोड और किमिनल प्रोसीजर कोड के तहत भी हो सकता था। मैं भी महाराष्ट्र का रहने वाला हूं और बम्बई में रहता हूं। मैं आपको बताना चाहता हूं कि जब मैं कांग्रेस में आया और यहां पार्लियामेंट में करीब तीन साल से हूं, लोगों ने मुझ

से पूछा कि आप पर पार्लियामेंट में आजकल क्या गुजर रही है? मैंने कहा कि यह तो एक अच्छी बात है कि मैं पार्लियामेंट में हूं, लेकिन मुझे वहां तीन साल हो गये हैं और हम इस असें में वहां सिर्फ गालियां सुन रहे हैं। मैं इन्दिरा जी की बहादुरी और शराफत से ज्यादा उनके सन्न की तारीफ करूंगा क्योंकि इतने दिनों से उनकी जात पर हमले किये जा रहे हैं। लेकिन उन्होंने इसका कोई जवाब नहीं दिया। लेकिन जब मुल्क की आजादी के लिए खतरा हो गया तो इमरजेन्सी का एलान किया गया जिन हालात में इमरजेन्सी का एलान किया गया है उससे बढ़कर और क्या हालत हो सकती थी।

मैं आपको बताना चाहता हूं कि जब हम बम्बई में एयर पोर्ट से जे० जे० हास्पिटल जाते थे, तो चूकि उस रास्ते से कोई मुसलमान नहीं जा सकता था। रास्ते में हिन्दू टैक्सी ड्राइवर यह कहता था कि रास्ते में शिवाजी पार्क पड़ता है और आपके साथ बच्चे हैं इस हालत में इस रास्ते से जाना मुनासिब नहीं है। इसके अलावा शिवसेना वाले लोग प्राइम मिनिस्टर से कहते थे कि हम तुमको पूना और बम्बई में नहीं आने देंगे। यह उनकी हिम्मत थी! फिर जो मराठी नहीं बोलते हैं, उनसे कहा जाता है कि वे महाराष्ट्र में नहीं रह सकते हैं। कल मेरे दोस्त श्री धावे ने ठीक ही कहा था कि—

“बाल ठाकरे पर पाबन्दी क्यों नहीं?” इसी को कहते हैं—गाढ़ार एक दिन में वफ़ादार बन गये। वह एक दिन में बदल गये। उन्होंने कह दिया कि हम अब हकूमत की मुखालफत नहीं करेंगे। ठीक है, मगर उनकी पार्टी को तो बैन कीजिये। क्या उनके वर्क्स भी एक दिन में बदल गये? शिव सेना महाराष्ट्र गवर्नमेंट में जगह जगह फली हुई है। वह सब बदल गये? हमारी गवर्नमेंट को इसका भी ख्याल करना चाहिये।

[श्री सिकन्दर अली • वज्द]

इमरजेंसी की बाबत तो हम यही कह रहे हैं कि बहुत देर में आयी है। लेकिन हमारी लीडर जानती है कि किस वक्त क्या करना चाहिये। फारसी में कहते हैं “देर आयद दुस्त आयद” काम देर में हुआ लेकिन ठीक हुआ, अच्छा हुआ।

दूसरी बात सेसरशिप की है। मैं भी उस कमेटी में था। मैं क्या अर्ज करूँ। अभी इंग्लैंड की प्रेस के बारे में श्री गाडगिल ने कहा कि वहाँ कितनी अच्छी प्रेस है, उसकी खूबियाँ क्या हैं, खराबियाँ क्या हैं। मुझे अपनी प्रेस में खूबियाँ तो नजर नहीं आईं। मैं एक सामूली वाक्या रायट्स का बता रहा हूँ। जलगांव में एक मुसलमान औरत के घर को आग लगा दी गयी जिसमें 9 आदमी जल कर मर गये। जलगांव में 39 आदमी जला दिये गये, मार दिये गये, जिसको देखकर हमारे यशवन्तराव रो पड़े, इन्दिरा जी भी रहीं, वे भी बहुत मुतास्सिर हुईं। उस मकान वाली का नाम था आयशा बी। अब टाइम्स आफ इंडिया का ईमानदार नामानिगार, कारेस्पोंडेंट लिखता है—“जलगांव में बहुत बड़ा फिसाद हुआ, आशाबाई के 9 बालबच्चे जला दिये गये।” आयशा बी की आशाबाई हो गयी, मुसलमान से हिन्दू हो गयी। उसका नतीजा यह हुआ कि महाड़ में भी मुसलमानों के घर जलाये गये। यहां भी मुसलमानों के घर जलाये गये, और वहां भी मुसलमानों के घर जलाये गये। यह हमारी प्रेस है।

हमारी प्रेस वाले पेपर टाइगर बना रहे थे जिनका हथ हमने देख लिया। जर्मनी में हिटलर के आने से पहले रीस्टाग में फासिस्टों ने आग लगा दी थी। यहां पर भी कांग्रेस का घेराव, लीडरों का घेराव, पार्लियामेंट का घेराव यह डेमोक्रेसी थी? फिर बम्बई का घेराव, महाराष्ट्र का घेराव, तो फिर आखीर में इंदिरा गांधी ने जार्ज फर्नांडिस का घेराव कर दिया। जिन मुसलमानों ने महाराष्ट्र में जिन्दगी गुजारी

हमारे दोस्तों को मालूम है कि जलगाव, भिवंडी, महाड़ में क्या हुआ। यहां पर महाराष्ट्र के जो लोग बैठे हुए हैं उनसे पूछो वहां वह क्या देखते थे। कत्ल हो रहे थे। लेकिन वह पेपर टाइगर नहीं थे, वह तो न्यूजपेपर टाइगर थे, इन्हीं अखबारों के बनाये हुए थे। प्रेस वाले सेंट्रल हाल में मक्खियों की तरह भिन-भिनाते थे। एम०पीज के आस-पास कारेस्पोंडेंट्स मक्खियों की तरह भिन-भिनाते थे। एक कारेस्पोंडेंट ने मुझ से तीस रुपये मांगे थे। तो मैंने अपने साथियों से पूछा कि इन कोरेस्पोंडेंट का किस्सा क्या है तो बताया गया कि यह साहब तो सब लोगों से कर्ज लेते हैं। मैं समझता हूँ कि सैन्सर इससे कुछ ज्यादा ही होना चाहिए। मैं आजादी का कायल हूँ लेकिन फसाद पैदा करने वाली लोगों को बर्बाद करने वाली आजादी नहीं दी जानी चाहिये। कातिल को आजादी नहीं दी जा सकती। कातिल को तो फांसी के तख्ते पर कानून से चढ़ा दिया जाता है। हमारा मुल्क भी बहुत दिलचस्प है। गांधी जी के कातिलों के लिये भी कहा जाता था कि उनको माफ कर दो, अगर गांधी जी जिन्दा होते तो माफ कर देते।

हमने अपने लीडरों के बारे में बहुत कुछ सुना। हमारे जोशी साहब ने संस्कृत के बहुत श्लोक पढ़े। संस्कृत आला दर्जे की जवान है, मुझे आती नहीं। अपोजीशन की कुर्सियाँ खाली हैं, वह होते तो बात होती। जो इन्टेलेक्चुअल्स हैं वह तो दिल रखते हैं। लेकिन वह भी कनविन्स होते नहीं हम अपोजीशन को कनविन्स नहीं कर सकते। जगाया तो उसको जाय जो सोता हो, लेकिन जो बनकर सोता हो उसको कैसे जगायेंगे। और वह यही आर्गुमेंट देंगे कि यह सब कुछ गलत हुआ। क्या कोई डिक्टेटर तीन बरस गालियाँ खाता है? किसी ने नादिरशाह से पूछा कि यह दिल्ली में कत्लेआम कैसे हुआ? उसने कहा: “गुफ्त मो शुद” मैंने कहा इसलिये हो गया। क्या इंदिरा गांधी ने भी ऐसा कहा। वह चार साल

तक गालियां सुनती रहीं। क्या यह डिक्टेटर का मिजाज है, और क्या-क्या नहीं कहा गया। जयप्रकाश नारायण से अपोजीशन के लोगों ने चाहा कि उनसे कुछ फायदा उठाया जाय इसलिये कि उनका कुछ अमर है और फिर उन्होंने भी सोचा कि इन सारी पार्टियों से क्यों न खुद भी कुछ फायदा उठाया जाय। तो दोनों तरफ बेईमानी थी। मैं तो कहता हूँ कि जयप्रकाश ले डूबे इन लोगों को। मोरारजी देसाई ने उनसे कहा कि आप गुजरात न आइये, उन्होंने कहा कि मैं वहाँ इसलिये जा रहा हूँ कि लोग यह न समझे कि हमारी उनसे लड़ाई है। हमारे मुद्दक की तो यह हालत है। "The best lack all conviction, while the worst are full of passionate intensity," "और यह intensity क्या है Full of sound and fury signifying nothing." यह सब हालत थी और फिर भी लोग कहते थे कि इंदिरा गांधी सोर्स आफ करप्शन है। जैसे यह सब दूध के धुले हुए लोग हैं और हिन्दुस्तान की एक खातून सोर्स आफ करप्शन है। हम एखलाक की बहुत बात करते हैं लेकिन हमारे जयप्रकाश जी कहते हैं कि उनको कुछ दिन का स्टे मिला है यह नहीं मिलना चाहिये था। सिन्हा का जजमेंट बहुत अच्छा है। आधा जजमेंट बहुत अच्छा है लेकिन स्टे आर्डर नहीं होना चाहिये था और उन्होंने रिजाइन नहीं किया यह शोमफूल है। इसमें एखलाक की क्या बात है। हमारे हिन्दुस्तान की कुछ तबीज और कुछ तहजीब है और उसके बाद भी हिन्दुस्तान की एक खातून के खिलाफ हमारे बड़े नेता ऐसे अल्फाज का इस्तेमाल करते हैं। इन्दिरा गांधी ने कभी किसी का नाम नहीं लिया। शायद उन लोगों को बड़ी शिकायत है इसकी कि उन्होंने नाम नहीं लिया। जब कुछ लोग यहां से जा रहे थे तो मुझे कहने लगे कि हम विदड़ा कर रहे हैं। मैंने कहा कि आप तो वाक आउट कर रहे हैं। थोड़ा बहुत कानून तो मैं भी जानता हूँ। उन्होंने सिर्फ इसलिये वाक आउट किया कि उनकी तकरीर बाहर नहीं छपेगी और इस की उन को बहुत फिक्र थी इसलिये वह वाक आउट कर गये। अकबर कहते हैं कि "अखबार में जो छप गये, हसरत निकल गयी।" उनकी हसरत सिर्फ यही थी कि उनकी तकरीर

अखबार में छप जाये। मैं तो चाहता हूँ कि हमारे होम मिनिस्टर साहब उनकी तकरीरें छाप दें और जब यह इमरजेंसी खत्म हो जाय तो क्रिमिनल कोर्ट में उन पर मुकदमे चलाये जायें। उन लोगों ने बहुत बड़े-बड़े खिलाफतियां की हैं। कानून की ऐसी खिलाफतों की हैं कि उनको छोड़ा नहीं जाना चाहिये। हम उनसे कहते हैं कि भर्त्ता, कोई आपकी माकूल बात हो तो ठीक है, हम लोग उसे मान सकते हैं, लेकिन कब तक उनकी गालियां सुनी जा सकती हैं। हमारे लीडरों को, कांग्रेस प्रेसीडेंट को तो जयप्रकाश जी ने बड़े-बड़े खिताब दिये, लेकिन उन्होंने कोई जवाब नहीं दिया। हम भी जवाब दे सकते हैं, हम भी बहुत खतरनाक शेर कह सकते हैं। चालीस, पचास साल तक हमने शायरी की है, मगर हम नहीं चाहते कि कि अपने अग्रभार को बेस्ट करें। हम आइन्दा जेनरेशन के लिये शायरी करते हैं, आज के लिये नहीं। मैंने इन्दिरा गांधी पर कुछ शेर लिखे थे लोगों ने कहा कि इमरजेंसी पर भी लिखो, मैंने कहा कि उस की जरूरत नहीं, लेकिन आज मैं वह शेर सुना देना चाहता हूँ कि वह डम इमरजेंसी पर कैसे ठीक उतरते हैं: शेर—

तेरा जमाल शराफत की आन रखता है ।  
तेरा जलाल बगावत की शान रखता है ॥  
दिलों पे कैफियते खुशगवार छाई है ।  
तेरे जुनू से चमन में बहार आई है ॥  
खुदा वने ये जो बुन सब गिरा दिये तूने ।  
वो ऐहदमाज करिश्मे दिखा दिये तूने ॥  
सितमकशों के लिये लुफ का पयाम है तू ।  
सितमगरों के लिये तेरो बेनियाम है तू ॥  
जहादे अमन है, सहने चमन की सैर नहीं ।  
नई फिजा में बतन दुश्मनों की खैर नहीं ॥  
अगर यह तंग नजर कामयाब हो जाते ।  
सदा बहार गुलिस्ता खराब हो जाते ॥  
मुसीबतों के अंधेरे में अब उजाला है ।  
खुशी की सुभ का सूरज निकलने वाला है ॥  
रहे हयात में नाजुक मकाम और भी हैं ।  
तेरे लिए कई दुश्वाग काम और भी हैं ॥  
हरेक गुनचये दिल नेर दम से खिल जाए ।  
मेरी हयाते गजलखा भी तुझको मिल जाए ॥

SHRIMATI MARGARET ALVA (Karnataka): Sir, there comes a time in the history of every nation that it pauses for a brief moment and turns its gaze backwards to assess its achievements and to analyse the failures perhaps, if any. I believe the time for reckoning has come to this country and to this House, and this House has decided to consider in all seriousness what has been happening in the last few years. It was nothing but the rule of the minority as against the elected majority in the two Houses. We have been watching with dismay the spread of violence, of agitations, of even disunity being propagated by certain interested forces with the hope that the Congress may go out of office. It was self-interest which was being used all the time in order to undermine the very system of democracy in this country. We were being told that we have lost the faith of the people. And the people who claimed that they had the faith of the people were doing nothing more than gathering the helpless people around them and using them for their own selfish motive. In fact, they disrupted the very normal life of the common man in the country. And then at last—and I would say after a good deal of patience—it was decided that the time had come to act, and the emergency was declared. As to why this has come, I think there is no need for me [to elaborate further; the Prime Minister's speech in this House has laid bare the facts for the entire nation. And we have during the last three years seen the forces that were at work. It was in this situation that it was felt that a few concrete steps would have to be taken if the rule of majority was really to mean a meaningful experience in this country. We speak of democracy. We speak of the Constitution. We speak of the rights of the individual. We speak of many things without really knowing what these rights mean. Let us not forget that every right has a responsibility and duty which goes with it. The Opposition cannot have its right unless it knows its duty towards the people and towards the parliamentary system. The same is true with every other aspect.

Speaking about the Constitution itself, Mr. Chairman, we have heard over and over again in the country the Press, the Opposition, the lawyers, the intellectual saying

that the Congress has been responsible, this Party has been responsible for tampering with the Constitution, that we have repeatedly kept changing the provision to suit our own interest. I wish to say a few words on that. After all, what is the Constitution? The Constitution is nothing but a document which represents the sovereign will of a sovereign people. It is the united will of the people of this country which threw up that document. I do not think that there is any document which is above the will of the people, again.

And what was really this Constitution? I feel, and I feel very strongly, that this Constitution was in many ways a strange mixture. We borrowed from the British, something from America, something from somewhere else, and we put it together with the hope that we could avoid the problem of developing over the years a system for ourselves. We tried, as it were, a short cut. After all, the British parliamentary system did not grow in 25 years. The British parliamentary system developed over 700 years in the course of which many legal and political battles had to be fought. The same was the case with many other Constitutions. Still, I think, they were not the last word on every thing. Now, our Constitution is only 25 years old. The Constitution as it was originally framed could not take roots in this soil to which it was completely foreign unless certain adjustments were made from time to time in order that it may be absorbed into our own social, political system. Therefore, if today in its 28 years we are passing the 39th Amendment Bill it is really nothing to be ashamed of. I think it only shows the vitality of this country and the capacity of our people to think and to adjust ourselves to the changing circumstances. After all, even the amending clauses of the Constitution come from the Constitution itself and so on and are not beyond the provisions laid down by the founding fathers.

Coming to the Thirty-Ninth Amendment that is before the House, we have heard very enlightened speeches this morning. I cannot claim to throw more light on it than what has already been done. I think, Mr. Chairman, I would like to say that articles 123, 213 and 239(b) deal with the powers for the promulgation of ordinances

in our country whether it be at the Centre, the states or in the Union territories. Now what is being sought to do in this amendment is not saying anything much but just to say that when the ordinance is passed the provisions of the Constitution itself say that the decision of the authority in this matter, whether it is the Governor or the President or the Administrator is to be taken as a final word. In other words, it is said that we would have to remove this decision from controversy and from the review of the court. Now what has been happening in this country these days? We have seen that at every little issue—I am not at all trying to pick up a quarrel with our legal system; I think we have the finest system in the world—people who think that they can hold others to ransom have been using this process in order to destroy the very basis of our democratic system very often. We have seen the case of smugglers. It was hoped that with the measures taken by the Government we would be able to face the social, economic problem which we were facing. But what happened? the court decided that individual liberties of these smugglers were more important than the economic life of the country and of the majority of our people. Now, if this is going to happen, if individuals in position, who are able to hold the country to ransom, are going to use our legal system and our courts in order to spread chaos, in order to create confusion, then, I think time has come when this body, the Parliament in this country, should take measures to see that certain safeguards are built into our Constitution so that such things do not keep happening at all times.

Now regarding the amendments to articles 352, 356 and 359, here again we come to the declaration of emergency. We have seen that already some people are thinking of challenging the very fact of emergency in the law courts. If a State is in a state of emergency, if the President of the State has decided that the country is facing a grave internal threat to its security or external aggression and if individuals are going to take it to the courts and say "We do not agree with this; this is wrong; the emergency cannot hold good; it is not legal", is it going to be possible at any time, whether it is a

question of internal security or external aggression, for a country to stand together and take measures to put things right? Emergency itself means that everyone has got to forget about some individual rights, about certain other aspects of their life which they may think important in normal life, and think only in terms of national unity and security. After all, I think individual liberty nowhere in the world can have precedence over the unity and security of the country. Whatever rights a citizen draws, he or she draws them from the unity and security of the nation. Therefore I feel that these amendments have become a real necessity and that if perhaps we are to-day discussing it at such short notice with so much of unanimity and, I would add, without any confusion, it is because we have realised that the time has come when, with or without the opposition, we have got to take measures to put things right because unless we act in time, it may be too late to act at all. I think already we have lost enough time trying to prove that we are democratic, trying to prove that everything is going according to a set pattern, whether or not it suits our national life.

I do not want to say very much more. I know we want to finish this Bill this morning. I only want to say in conclusion that I support these amendments and I am sure the citizens of this country do feel that these measures are going only to add to the sense of security and the sense of, I would say, emergency which we have got to take a little more seriously if it is to mean anything at all. Thank you.

[Mr. Deputy Chairman in the Chair]

श्री श्यामलाल यादव (उत्तर प्रदेश) : माननीय उप मन्त्रिपति महोदय, जो संविधान का संशोधन करने का बिल लाया गया है, मैं उसका समर्थन करते हुए निवेदन करना चाहता हूँ कि इस संशोधन के माध्यम से जो भ्रम दूर करने का प्रयास किया गया है, वह प्रशंसनीय है क्योंकि जो आपातकालीन स्थिति की घोषणा हुई है उसके संबंध में अदालतों में या दूसरी जगहों पर शंकाएँ उठाई जा सकती हैं और उन परिस्थितियों में यह आवश्यक था कि अदालतों के जो मान्य फैसले हैं उन्हें



[श्री श्याम लाल यादव]

हम अपना आधार न बनायें बल्कि संविधान में इस प्रकार से संशोधन कर स्पष्ट कर दिया जाय कि जिससे किसी प्रकार की कोई संदेह की बात न रहे। राष्ट्रपति महोदय के जो अधिकार आपातकालीन स्थिति की उद्घोषणा के संबंध में हैं या अध्यादेश जारी करने के संबंध में हैं या जो दूसरे अधिकार अनुच्छेद 356 के अन्तर्गत हैं उनके अनुसार अगर राज्यों में संवैधानिक संकट उत्पन्न हो जाय तो वहां पर भी राष्ट्रपति को शासन प्रबन्ध अपने हाथ में लेने का अधिकार है। इस संबंध में राष्ट्रपति महोदय का जब इस प्रकार की स्थिति के संबंध में समाधान हो जाता है तो वे राज्य का शासन-प्रबन्ध, अपने हाथ में लेते हैं। यह समाधान ऐसा है जो व्यक्ति परख है, लेकिन व्यक्ति परख समाधान में भी केन्द्रीय मंत्रिमंडल की सलाह उपलब्ध रहती है और उसके पश्चात् ही राष्ट्रपति अपना निर्णय करते हैं। राज्यों के अन्दर जब राज्यपाल देखते हैं कि वहां पर एसेम्बली नहीं बैठ रही है, विधान सभा नहीं रहती है तो वे स्वयं इस बात का निश्चय करते हैं कि कोई अध्यादेश जारी किया जाय या नहीं। इन तमाम परिस्थितियों में हर समय राष्ट्रपति अथवा राज्यपाल या जो यूनियन टेरिटरीज के प्रशासक हैं वे सही तरीके से फैसला करते हैं और अगर इस प्रकार के प्रश्न अदालतों के अन्दर उठते रहे और बार-बार आते रहे कि राष्ट्रपति ने जो अध्यादेश निकाला है या जो उद्घोषणा की है उसके लिये पर्याप्त कारण थे अथवा नहीं, तो इस तरह की उद्घोषणा करने का कोई लाभ नहीं होगा। क्योंकि जैसे यहां पर अनुच्छेद 352 के अधीन जो आपातकालीन स्थिति की घोषणा की गई थी, तो पहिले बाहरी आक्रमण और युद्ध का खतरा था और देश के किसी भाग में सुरक्षा का खतरा था। उस समय इस प्रकार की घोषणा की गई थी, लेकिन उसी तरह की घोषणा दुबारा की गई है, जब कि देश में आन्तरिक अशान्ति की संभावना थी। तो इस तरह की संभावना को देखते हुए इस तरह

की बात का निर्णय करना कि देश में अशान्ति की संभावना है, यह एक कठिन कार्य है, और इस तरह का निर्णय वास्तविक घटना होने के पूर्व ही किया जाता है।

मान्यवर, जिस तरह से पिछले दिनों देश में आपात स्थिति की घोषणा की गई है, उसके बारे में सभी लोगों ने यह माना है कि राष्ट्रपति जी को इस बारे में यह संभावना हो गई थी कि देश में इस तरह का आन्तरिक संकट पैदा होने वाला है, तब ही उन्होंने इस तरह की घोषणा की। उन्हें संकट की संभावना पर विचार करना होता है और जब वे संतुष्ट हो जाते हैं कि देश में आपातकालीन घोषणा करने की आवश्यकता है, तब ही वे करते हैं। अगर घटना घटित हो जाय और उसके बाद आपातकालीन स्थिति की घोषणा की जाय तो फिर ऐसे समय में स्थिति का मुकाबला अच्छी तरह से नहीं किया जा सकता है और न उसमें लाभ ही होता है। संभावना होने से पहिले ही यह कार्य किया जाय तो फिर इस तरह की संकट की स्थिति पैदा नहीं होती है।

मान्यवर, हमारे देश में काफी समय पहिले से ही हिंसा का बातावरण पैदा किया जा चुका था और देश में संवैधानिक शासन को नष्ट करने का प्रयास चल रहा था। यहां पर कानून और व्यवस्था को समाप्त कर देने की चेष्टा की जा रही थी और किसी तरह से सत्ता हथियाने की हर प्रकार की कोशिश की जा रही थी। इस तरह की स्थिति की संभावना को देखते ही राष्ट्रपति जी ने देश में आपातकालीन स्थिति की घोषणा की। अगर इस प्रकार का कदम न उठाया गया होता तो मैं समझता हूं कि इस समय तक देश में जनतंत्र समाप्त हो गया होता। जैसा कि प्रधान मंत्री जी ने कहा कि जो लोग इस तरह का कार्य कर रहे थे, वे बराबर इस बात की दुहाई देते हैं कि वे जनतंत्र की रक्षा करने के ही लिए यह कार्य कर रहे हैं। लेकिन यह बात समझ में नहीं आती कि जब हमारे देश में

संविधान है और उसके अन्तर्गत समय समय पर चुनाव होते हैं, तो उन चुनावों में प्रत्येक दल को यह मौका मिलता है कि वह अपने विचारों को लेकर जनता के बीच में जाय और उसका समर्थन प्राप्त करे। तो मैं यह जानना चाहता हूँ कि ऐसा कौन सा अवसर आ गया था कि बीच में ही इस प्रकार के उपद्रव खड़ा करने का प्रयास किया गया? मैं तो इसका एक ही मतलब यह समझता हूँ कि विरोधी लोगों के अन्दर निराशा की भावना उत्पन्न हो गई थी। उन्होंने देखा कि जिस तरह से प्रधान मंत्री का सम्मान बढ़ता ही चला जा रहा है, वैसी स्थिति में उनके सामने केवल एक ही रास्ता रह गया था और उन्होंने यह तरीका उचित समझा कि जिस तरह का परीक्षण गुजरात में किया गया था, जैसा बिहार में किया गया, उसी प्रकार का षड्यन्त्र, उसी प्रकार का वातावरण सारे देश में उत्पन्न किया जाय। देश में अशांति और हिंसा का वातावरण उत्पन्न किया जाय ताकि उन्हें अपने ध्येय में सफलता मिल सके।

मान्यवर, मैं प्रधान मंत्री जी को धन्यवाद देता हूँ कि उन्होंने समय से पहिले ही इस तरह के संकट को मालूम कर लिया और देश को एक भयंकर स्थिति में जाने से बचाने के लिए इस तरह का साहस पूर्वक कदम उठाया। इस कदम का देश के ऊपर जो प्रभाव पड़ा, जो असर पड़ा, वह स्वयं मैं इस बात को सिद्ध करता हूँ कि जो कदम उन्होंने उठाया, वह ठीक था, समुचित था और आवश्यक था। अन्यथा मान्यवर, जनता का इस सम्बन्ध में पूरा समर्थन उन्हें प्राप्त नहीं होता तथा उन पर संदेह हो सकता था। इस तरह के कदम उठाने से जिस तरह से बाजार भावों पर असर पड़ा है, जिस प्रकार से चीजों के मूल्यों में गिरावट आई है, उससे आम जनता को संतोष हुआ है। जनता ने इस कदम का हार्दिक स्वागत किया है और संतोष की सास ली है और उसने अपनी यह राय प्रकट की कि इस तरह का कदम पहिले ही क्यों नहीं लिया गया? अगर इस तरह की घोषणा पहिले ही कर दी गई होती तो और अधिक लाभ होता। इस आपात-

स्थिति की घोषणा करने से पहिले जिस तरह से देश में अनुशासनहीनता की बात हो रही थी, चाहे वह सरकारी क्षेत्र में हो, चाहे प्रशासनिक क्षेत्र में हो, चाहे साधारण जीवन में रही हो, कानून व्यवस्था से संबंधित बात रही हो, उस समय देश में इस तरह का वातावरण पैदा हो गया था जिनमें कोई भी अपने को सुरक्षित अनुभव नहीं करता था। लेकिन मान्यवर, इस आपातकालीन घोषणा के होने के बाद तुरन्त ही सारे देश में, शहरों में, कस्बों में और गांवों में शान्ति का वातावरण उत्पन्न हो गया है और सब लोग शान्तिपूर्वक तथा लगन के साथ अपना कार्य कर रहे हैं। यही कारण है कि आज इस घोषणा के प्रति चारों तरह से समर्थन की ही भावना व्यक्त की जा रही है।

दूसरी बात मैं यह निवेदन करना चाहता हूँ कि जब गृह मंत्री जी संविधान में संशोधन करने का बिल लाये हैं और जिस तरह की स्थिति हमारे देश में इस समय उत्पन्न हो गई है और जिसके निराकरण करने का प्रयास किया जा रहा है, उसके लिए यह संशोधन लाना उचित ही है। इस सम्बन्ध में मैं दो बातों की तरफ उनका ध्यान दिलाना चाहता हूँ। अनुच्छेद 226 का भी जिस प्रकार का आज उपयोग हुआ है देश में, मैं समझता हूँ कि संविधान निर्माताओं की यह मंशा न रही हो। आज अनुच्छेद 226 में एक प्रकार से बिना किसी कानून के अपील का अधिकार दे दिया गया है। राज्य विधान सभाएं और संसद जो कानून बनाती हैं उनमें लिखा रहता है कि अदालत को इस कानून में हस्तक्षेप करने का कोई अधिकार नहीं है। लेकिन इसके बावजूद उच्च या उच्चतम न्यायालय अपना फैसला देते हैं, अनुच्छेद 226 में अदालत को अधिकार प्राप्त हो जाता है और एक प्रकार से उच्च न्यायालय अपील अदालत की हैसियत से फैसला देता है। जैसा आज समाचारपत्रों में लिखा है, अनुच्छेद 226 अपील का अधिकार उच्च न्यायालय को नहीं

[श्री श्याम लाल यादव]

देता, लेकिन वास्तविक रूप से हो यह रहा है कि किसी साधारण घटना में, किसी जिला परिषद के कर्मचारी, किसी निकाय के छोटे से छोटे चपरासी का तबादला हो उस सम्बन्ध में भी उच्च न्यायालय में अनुच्छेद 226 में रिट दाखिल हो जाती है और सारा का सारा मामला रुक जाता है। इस बारे में भी सोचने की आवश्यकता है। उच्चतम न्यायालय में देखा जाय तो आधे मुकदमे अनुच्छेद 226 के अन्तर्गत आ जाते हैं। इसको बदलने की आवश्यकता है यह स्पष्ट किया जाना चाहिये कि किन परिस्थितियों में अनुच्छेद 226 में किसी न्यायालय को अधिकार प्राप्त है।

मैं एक उदाहरण देना चाहता हूँ। उत्तर प्रदेश में चकवन्दी कानून लागू हुआ। उस कानून में जो चकवन्दी का अधिकारी है, डिप्टी डाइरेक्टर है, डाइरेक्टर है उसको अन्तिम अधिकार प्राप्त है, लेकिन आज कोई भी चकवन्दी का मामला नहीं जिसमें कोई पक्ष जो पैसा खर्च कर सकता हो उच्च न्यायालय में न जाता हो, चाहे अधिकार का सवाल हो, चाहे उसके चक का सवाल हो। चकवन्दी के मामले में उम्मीद की गयी थी कि साल दो, साल में समाप्त हो जायगा। लेकिन आज 15 वर्ष होने को आ रहे हैं, उसका अन्त दिखाई नहीं देता। मुकदमे 226 में बराबर उच्च न्यायालय में पड़े हुए हैं। कर्मचारियों के जितने मामले होते जा रहे हैं, जो आदेश दिये जाते हैं वे सब 226 में चले जाते हैं। कोई भ्रष्टाचार पर निकाला गया, कोई कम्पलसरीली रिटायर किया गया, वे सारे के सारे आदेश पड़े रह जाते हैं और जितने काल उसे सेवा करने का अवसर मिलता उतने काल तक स्थगन आदेश प्राप्त कर वह सेवा कर लेता है। इसने उस आदेश की मंशा पूरा नहीं होता। सरकार ने अनुच्छेद 226 के सम्बन्ध में गम्भीरतापूर्वक विचार करके यह स्पष्ट कर देना चाहिये कि संविधान में

किन परिस्थितियों में, किन तथ्यों पर, किन कानूनी आधारों पर उच्चतम न्यायालय या उच्च न्यायालय रिट पिटीशन को स्वीकार कर सकते हैं।

दूसरा अनुच्छेद 311 है। इस अनुच्छेद में भी कर्मचारियों को इतना अधिकार दिया हुआ है कि उनके ऊपर अनुशासन बनाए रखना मुश्किल हो जाता है। आज आपात घोषणा के बाद यह सही है कि कर्मचारियों में थोड़ी बहुत चुस्ती आयी है, समय पर आना, काम करना, पूरे समय कार्यालय में रहना, लेकिन इसके अलावा उनमें और जितनी खामियां हैं उनका निराकरण होना संभव नहीं दीखता क्योंकि अनुच्छेद 311 में उन्हें इतना अधिक संरक्षण प्राप्त है कि उनके विरुद्ध कार्यवाही करना शासन के लिये मुश्किल हो जाता है। उस सम्बन्ध में भी सरकार को सोचना चाहिये। जब अनेक शंकाओं को दूर करने के लिये सरकार ने संविधान के इतने अनुच्छेदों में इस प्रकार के परिवर्तन किये हैं, जिनका स्वागत होगा, उसके साथ ही अगर इन दो अनुच्छेदों के सम्बन्ध में माननीय मंत्री जी सदन को आश्वासन दे सकें, अपने विचारों से अवगत करा सकें कि उस पर गम्भीरतापूर्वक विचार करके कोई संशोधन ला सकेंगे तो मैं समझता हूँ कि संविधान की जो वास्तविक मंशा है उसके अंतर्गत जो नागरिकों के हितों की सुरक्षा का सवाल है उसको वे आगे बढ़ा सकेंगे और जो स्कावट पड़ती है उनको दूर कर सकेंगे। इन शब्दों के साथ मैं इस विधेयक का स्वागत करना हूँ।

SHRI H. R. GOKHALE : Sir, I have heard all the speeches of the honourable Members very carefully and I really wonder whether there is anything left for me to say because all the honourable Members have not only supported the Bill, but also have dealt with the various aspects of this Constitution (Amendment) Bill and it is gratifying to note that not only a general debate involving political issues

and other issues has taken place, but also the legal aspects of this amendment have been dealt with by the honourable Members in the course of their speeches.

Sir, I am particularly desirous of congratulating my young friend, Mr. Vithal Gadgil, for making a brilliant speech—a speech of the type I have not heard for a very long time. I congratulate him also because he did not very much confine to the legal issues but dealt with the broader aspects, because these are the issues which really offer a good background, good understanding, of the reasons for which a measure like this is brought before the House.

Sir, in my opening speech I have already given, in brief, the object of bringing a Constitutional (Amendment) Bill of this type. I would like to repeat that the idea is not to do anything new, because I have always taken the view, and the courts have also taken the view, that the article which are sought to be amended are articles which are relating to matters which, in their very nature, cannot be justiciable. For example take the question whether there is a threat of external aggression or not. Now, is it ever thinkable that the material in relation to the possible threats of external aggression, which can be only in the possession of the Executive and which in the interest of security of the country itself, is not only not desirable to be shown to the courts or to others, can be disclosed anywhere at all? If things like this, whether there is a threat of external aggression, are made justiciable, is it thinkable that this material can be brought before the court in the case of the parties appearing before the court? As you know, our courts function in the public gaze. It is not possible that a court can adjudicate on the question whether there is external aggression or a threat of external aggression or not. Therefore, these are essentially matters of a political nature, where political judgment is involved, and they may be left to political judgment rather than to judicial scrutiny.

When I referred to some cases of the Privy Council or the Federal Court, I certainly did not wish to give the impression—and if there is any such impression, I want to repel it—that we have any

love for the three Acts of 1915, 1919 and 1935 of the British days. In fact, we hated them and we fought against those Acts. And that is why we brought a Constitution in its place. But I have a special reason for quoting these things because, in spite of the Constitution coming into force, even today decisions of the Privy Council and the Federal Court are referred to; if not binding, at least for persuasive value the courts or the High Courts in this country have relied on these decisions for coming to their conclusions that these matters are not justiciable. It was the legal aspect which I had in mind when I referred to the judgments of the Federal Court or the Privy Council, and I had no love for the Government of India Act or the Privy Council or the Federal Court at all. In fact, unlike many other countries which have become independent and which have accepted, after independence, the jurisdiction of the Privy Council as a court of appeal, we very rightly rejected it and substituted it with our own Supreme Court. Why did we do it? Because we did not want even remotely any idea or any authority sitting anywhere outside the country deciding on any matter, including judicial matters. Therefore, if there is any such impression—as I thought it existed at least in the mind of one hon. Member who spoke—I want to repel it. I only wanted to show that not only now but in the past also these matters have already been regarded as non-justiciable.

The same applies to the declaration of Emergency with reference to internal disturbances. Now, if you go on telling people how there is a danger of external aggression, I think this is the best way of telling the enemy how to attack and how to act against us. It is ridiculous that these things should be known anywhere. Similarly, in respect of internal disturbances, these are matters which, in the interest of the security of the State, the Executive alone has to take into consideration, and if everything is laid bare on the Table for people to know, the very object of declaring the Emergency with reference to internal disturbances, will be defeated. That was the object, and that is why in the Constitution—not amended by us after independence but as framed by the Constituent Assembly itself—this power has

[Shri H. R. Gokhale]

been made subject only to one control; and that is a very legitimate control. That control is that within two months after the proclamation of Emergency, it will receive the support of the two Houses of Parliament. In a democracy, there cannot be a greater control than the approval of the duly elected representatives of the people who sit in the two Houses of Parliament. That has not been removed by any one of these amendments. Why should there be judicial control? They themselves have said rightly that these are not matters for judicial scrutiny. We have said it expressly. In spite of the position which obtained for a number of years writ petitions are being filed. The same questions are being raised over and over again. In a critical situation as at present which exists both because of external aggression as well as internal security, matters are brought before the courts. Now, there are matters pending in the Supreme Court and in various High Courts which we are fighting at different levels in which the power of the President not only initially to proclaim emergency but also the fact of continuance of the emergency, though validly proclaimed, have been challenged. Therefore, in this Bill, we have taken care of both the aspects, that is, you cannot challenge the proclamation of emergency itself, whether it is for external aggression or internal disturbance and also that you cannot challenge the continuance of that emergency at any time so long as the executive wants and desires that in the interest of the country it is necessary to continue the emergency.

Sir, similar questions have been raised in some forums and courts saying that when we had issued an earlier proclamation in 1971, we could not issue a fresh proclamation unless we had revoked the earlier one and when the earlier emergency was there, the second one was redundant. They challenged on the ground of redundancy. Care has been taken in this amendment to deal with such situations also.

There is one more aspect of the matter which does not directly deal with the question of justifiability of amendment of Article 359 of the Constitution. As some hon. Members, know, during a period of

emergency, there is the power to suspend any of the fundamental rights. The Government has not, at any time, suspended all the fundamental rights. For example, the rights relating to minorities and religious rights have never been touched and it has not been done now. It is not the intention of the Government to touch them. Only such rights as come in the way of proper and effective control of the situation arising out of the emergency are suspended. Now, there is an article already, Article 358, which is not touched by this amendment. It says that Article 19 automatically get suspended when an emergency is proclaimed. Now, we are not suspending any other articles automatically by this amendment. The right of suspension still continues with the President is in respect of such of the articles as are suspended by the President during the period of the proclamation of emergency. The effect will be the same as under Article 358 namely, laws which are passed by Parliament or orders which are made by the executive are immune from attack on the ground that these rights still survive. That is because it has been held that during the suspension of these rights the rights are not abolished, but stand, suspended and get revived when the emergency is lifted. To take care of this situation, Article 359 has been amended.

I do not want to deal any further in this matter. Everything has been clarified by the hon. Members in their speeches in the course of this debate. I thank the hon. Members for the support which they have given to this Bill and I commend it for the consideration of the House.

MR. DEPUTY CHAIRMAN : Now, as it is a Constitution (Amendment) Bill, it will have to be 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.

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. DEPUTY CHAIRMAN :

Ayes—162; Noes—Nil.

AYES—162;

Abid, Shri Kasim Ali  
 Abu Abraham, Shri  
 Adivarekar, Shrimati Sushila Shankar  
 Ahmad, Dr. Z.A.  
 Alva, Shrimati Margaret  
 Amla, Shri Tirath Ram  
 Amjad Ali, Shri Sardar  
 Anand, Shri Jagjit Singh  
 Anandam, Shri M.  
 Arif, Shri Mohammed Usman  
 Avernoankar, Shri R.D. Jagtap  
 Banerjee, Shri Jaharlal  
 Basar, Shri Todak  
 Berwa, Shri Jamnalal  
 Bhagwati, Shri B.C.  
 Bhardwaj, Shri Jagan Nath  
 Bhatt, N. K.  
 Bisi, Shri Pramatha Nath.  
 Bobdey Shri S. B.  
 Borooah, Shri D. K.  
 Bose, Shrimati Pratima  
 Buragohain, Shri Nabin Chandra  
 Chakrabarti, Dr. Rajat Kumar  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P.  
 Chaturvedi, Shrimati Vidyawati  
 Chaudhari, Shri N. P.  
 Chaurasia, Shri Shiv Dayal Singh  
 Chettri, Shri Krishna Bahadur  
 Choudhury, Shri Nripati Ranjan  
 Chowdhary, Dr. Chandramanilal  
 Chowdhri, Shri A. S.  
 Chundawat, Shrimati Lakshmi Kumari  
 Das, Shri Balram  
 Das, Shri Bipinpal  
 Deb Burman, Shri Bir Chandra  
 Dhabe, Shri S. W.  
 Dikshit, Shri Umashankar  
 Dutt, Dr. V. P.  
 Dwivedi, Shri D. N.  
 Gadgil, Shri Vithal  
 Goswami, Shri Sriman Prafulla

Gujral, Shri Inder Kumar  
 Gupta, Shri Bhupesh  
 Hashmi, Shri Syed Ahmed  
 Himmat Singh, Shri  
 Imam, Shrimati Aziza  
 Jain, Shri Dharamchand  
 Jha, Shri Kamalnath  
 Joshi, Shri Jagdish  
 Joshi, Shrimati Kumudben Manishanker  
 Kalaniya, Shri Ibrahim  
 Kalp Nath, Shri  
 Kamble, Prof. N. M.  
 Kapur, Shri Yashpal  
 Kesri, Shri Sitaram  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan Prof. Rasheeduddin  
 Kollur, Shri M. L.  
 Koya, Shri B. V. Abdulla  
 Kripalani, Shri Krishna  
 Krishnaswamy, Shri K. A.  
 Kulkarni, Shri Arvind Ganesh  
 Kulkarni, Shrimati Sumitra G.  
 Kumaran, Shri S.  
 Kumbhare, Shri N. H.  
 Kureel, Shri Piare Lal urf Piare Lal Talib  
 Lalbuaia, Shri  
 Lokesh Chandra, Dr.  
 Lotha, Shri Khyomo  
 Mahanti, Shri Bhairab Chandra  
 Mahanti, Shri B. K.  
 Majhi, Shri Chaitanya Prasad  
 Makwana, Shri Yogendra  
 Malaviya, Shri Harsh Deo  
 Mali, Shri Ganesh Lal  
 Mehta, Shri Om  
 Menon, Shrimati Leela Damodara  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Rishi Kumar  
 Mondal, Shri Ahmad Hossain  
 Mukherjee, Shri Kali  
 Mukherjee, Shri Pranab  
 Mukhopadhyay, Shrimati Purabi  
 Mulla, Shri Anand Narain  
 Munda, Shri Bhaiya Ram  
 Murthy, Shri B. P. Nagaraja  
 Musafir, Shri Gurmukh Singh

Narasiah, Shri H. S.  
 Nizam-ud-Din, Shri Syed  
 Nurul Hassan, Prof. S.  
 Pai, Shri T. A.  
 Panda, Shri Brahmananda  
 Parashar, Shri Vinaykumar Ramlal  
 Patil, Shri Deorao  
 Patil, Shri Gulabrao  
 Poddar, Shri R. K.  
 Pradhan, Shrimati Saraswati  
 Prasad, Shri Bhola  
 Prasad, Shri K. L. N.  
 Punnaiah, Shri Kota  
 Puri, Shri D. D.  
 Rachaiah, Shri B.  
 Raha, Shri Sanat Kumar  
 Raju, Shri V. B.  
 Ranganathan, Shri S.  
 Rao, Shri Katragadda Srinivasa  
 Rao, Shrimati Rathnabai Sreenivasa  
 Rao, Shri V. C. Kesava  
 Reddi, Shri K. Brahmananda  
 Reddy, Shri Gaddam Narayana  
 Reddy, Shri Janardhana  
 Reddy, Shri K. V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Roshan Lal, Shri  
 Sangma, Shri Emonsing M.  
 Sardesai, Shri S. G.  
 Savita Behen, Shrimati  
 Seyid Muhammad, Dr. V. A.  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Kishan Lal  
 Sharma, Shri Yogendra  
 Shilla, Shri Showaless K.  
 Shishir Kumar, Shri  
 Shukla, Shri Chakrapani  
 Shukla, Shri M. P.  
 Shyamkumari Devi, Shrimati  
 Singh, Shri D.P.  
 Singh, Shri Inder  
 Singh, Shri Irengbam Tompok  
 Singh, Shrimati Jahanara Jaipal  
 Singh, Shri Kameshwar  
 Singh, Shri Mahendra Bahadur  
 Singh, Shri Mohan

Singh, Shri Nathu  
 Singh, Shri Parbhu  
 Singh, Shrimati, Pratibha  
 Singh, Shri Ranbir  
 Singh, Shri Sultan  
 Singh, Shri Triloki  
 Singh, Dr. V. B.  
 Sinha, Shri Awadheshwar Prasad  
 Sisodia, Shri Sawaisingh  
 Sukhdev Prasad, Shri  
 Sultan, Shrimati Maimoona  
 Swu, Shri Scato  
 Talib, Shri Niranjan Singh  
 Tanvir, Shri Habib  
 Thakur, Shri Gunanand  
 Tilak, Shri J. S.  
 Tiwari, Shri Shankarlal  
 Tiwary, Pt. Bhawaniprasad  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamlapati  
 Trivedi, Shri H. M.  
 Varma, Shrimati Narayanidevi Manaklal  
 Venigalla Satyanarayana, Shri  
 Vyas, Dr. M.R.  
 Wajid, Shri Sikander Ali  
 Yadav, Shri Shyam Lal

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 : 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. DEPUTY CHAIRMAN :

Ayes—162; Noes—Nil

AYES—162

Abid, Shri Kasim Ali  
 Abu Abraham, Shri  
 Adivarekar, Shrimati Sushila Shankar  
 Ahmad, Dr. Z. A.

Alva, Shrimati Margaret  
Amla, Shri Tirath Ram  
Amjad Ali, Shri Sardar  
Anand, Shri Jagjit Singh  
Anandam, Shri M.  
Arif, Shri Mohammed Usman  
Avergoankar, Shri R. D. Jagtap  
Banerjee, Shri Jaharlal  
Basar, Shri Todak  
Berwa, Shri Jamnalal  
Bhagawati, Shri B. C.  
Bhardwaj, Shri Jagan Nath  
Bhatt, Shri N. K.  
Bisi, Shri Pramatha Nath  
Bobdey, Shri S. B.  
Borooah, Shri D. K.  
Bose, Shrimati Pratima  
Buragohain, Shri Nabin Chandra  
Chakrabarti, Dr. Rajat Kumar  
Chandrasekhar, Shrimati Maragatham  
Chattopadhyaya, Prof. D. P.  
Chaturvedi, Shrimati Vidyawati  
Chaudhari, Shri N. P.  
Chaurasia, Shri Shiv Dayal Singh  
Chettri, Shri Krishna Bahadur  
Choudhury, Shri Nripati Ranjan  
Chowdhary, Dr. Chandramanilal  
Chowdhri, Shri A. S.  
Chundawat, Shrimati Lakshmi Kumari  
Das, Shri Balram  
Das, Shri Bipinapal  
Deb Burman, Shri Bir Chandra  
Dhabe, Shri S.W.  
Dikshit, Shri Umashankar  
Dutt, Dr. V. P.  
Dwivedi, Shri D. N.  
Gadgil, Shri Vithal  
Goswami, Shri Sriman Prafulla  
Gujral, Shri Inder Kumar  
Gupta, Shri Bhupesh  
Hashmi, Shri Syed Ahmad  
Himmat Singh, Shri  
Imam, Shrimati Aziza  
Jain, Shri Dharamchand  
Jha, Shri Kamalnath  
Joshi, Shri Jagdish  
Joshi, Shrimati Kumudben Manishanker

Kalaniya, Shri Ibrahim  
Kalp Nath, Shri  
Kamble, Prof. N. M.  
Kapur, Shri Yashpal  
Kesri, Shri Sitaram  
Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Ali  
Khan, Prof. Rasheeduddin  
Kollur, Shri M. L.  
Koya, Shri B.V. Abdulla  
Kripalani, Shri Krishna  
Krishnaswamy, Shri K. A.  
Kulkarni, Shri Arvind Ganesh  
Kulkarni, Shrimati Sumitra G.  
Kumaran, Shri S.  
Kumbhare, Shri N. H.  
Kureel, Shri Piare Lall urf Piare Lall Talib  
Lalbuaia, Shri  
Lokesh Chandra, Dr.  
Lotha, Shri Khyomo  
Mahanti, Shri Bhairab Chandra  
Mahanti, Shri B. K.  
Majhi, Shri Chaitanya Prasad  
Makwana, Shri Yogendra  
Malaviya, Shri Harsh Deo  
Mali, Shri Ganesh Lal  
Mehta, Shri Om  
Menon, Shrimati Leela Damodara  
Mirdha, Shri Ram Niwas  
Mishra, Shri Rishi Kumar  
Mondal, Shri Ahmad Hossain  
Mukherjee, Shri Kali  
Mukherjee, Shri Pranab  
Mukhopadhyay, Shrimati Purabi  
Mulla, Shri Anand Narain  
Munda, Shri Bhaiya Ram  
Murthy, Shri B. P. Nagaraja  
Musafir, Shri Gurmukh Singh  
Narasiah, Shri H. S.  
Nizam-ud-Din, Shri Syed  
Nurul Hassan, Prof. S.  
Pai, Shri T. A.  
Panda, Shri Brahmananda  
Parashar, Shri Vinaykumar Ramlal  
Patil, Shri Deorao  
Patil, Shri Gulabrao  
Poddar, Shri R. K.



Pradhan, Shrimati Saraswati  
 Prasad, Shri Bhola  
 Prasad, Shri K. L. N.  
 Punnaiah, Shri Kota  
 Puri, Shri D. D.  
 Rachaiiah, Shri B.  
 Raha, Shri Sanat Kumar  
 Raju, Shri V. B.  
 Ranganathan, Shri S.  
 Rao, Shri Katragadda Srinivasa  
 Rao, Shrimati Rathnabai Sreenivasa  
 Rao, Shri V. C. Kesva  
 Reddi, Shri K. Brahmananda  
 Reddy, Shri Gaddam Narayana  
 Reddy, Shri Janardhana  
 Reddy, Shri K.V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Roshanlal, Shri  
 Sangma, Shri Emonsing M.  
 Sardesai, Shri S. G.  
 Savita Behen, Shrimati  
 Seyid Muhammad, Dr. V. A.  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Kishan Lal  
 Sharma, Shri Yogendra  
 Shilla, Shri Showaless K.  
 Shishir Kumar, Shri  
 Shukla, Shri Chakrapani  
 Shukla, Shri M. P.  
 Shyamkumari Devi, Shrimati  
 Singh, Shri D.P.  
 Singh, Shri Inder  
 Singh, Shri Irengbam Tompok  
 Singh, Shrimati Jahanara Jaipal  
 Singh, Shri Kameshwar  
 Singh, Shri Mahendra Bahadur  
 Singh, Shri Mohan  
 Singh, Shri Nathi  
 Singh, Shri Parbhu  
 Singh, Shrimati Pratibha  
 Singh, Shri Ranbir  
 Singh, Shri Sultan  
 Singh, Shri Triloki  
 Singh, Dr. V. B.  
 Sinha, Shri Awadheshwar Prasad  
 Sisodia, Shri Sawaisingh

Sukhdev Prasad, Shri  
 Sultan, Shrimati Maimoona  
 Swu, Shri Scato  
 Talib, Shri Niranjan Singh  
 Tanvir, Shri Habib  
 Thakur, Shri Gunanand  
 Tilak, Shri J. S.  
 Tiwari, Shri Shankarlal  
 Tiwary, Pt. Bhawaniprasad  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamlapati  
 Trivedi, Shri H. M.  
 Varma, Shrimati Narayanidevi Manaklal  
 Venigalla Satyanarayana, Shri  
 Vyas, Dr. M. R.  
 Wajid, Shri Sikander Ali  
 Yadav, Shri Shyam Lal

#### 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*

MR. DEPUTY CHAIRMAN : The question is:

“That clause 3 stand part of the Bill.”

*The House divided.*

MR. DEPUTY CHAIRMAN :

Ayes—162; Noes—Nil.

#### AYES—162

Abid, Shri Kasim Ali  
 Abu Abraham, Shri  
 Adivarekar, Shrimati Sushila Shankar  
 Ahmad, Dr. Z.A.  
 Alva, Shrimati Margaret  
 Amla, Shri Tirath Ram  
 Amjad Ali, Shri Sardar  
 Anand, Shri Jagjit Singh  
 Anandam, Shri M.  
 Arif, Shri Mohammed Usman  
 Avernoankar, Shri R.D. Jagtap  
 Banerjee, Shri Jaharlal

Basar, Shri Todak  
 Berwa, Shri Jamnalal  
 Bhagawati, Shri B. C.  
 Bhardwaj, Shri Jagan Nath  
 Bhatt, Shri N. K.  
 Bisi, Shri Pramatha Nath  
 Bobdey Shri S. B.  
 Borocah, Shri D. K.  
 Bose, Shrimati Pratima  
 Buragohain, Shri Nabin Chandra  
 Chakrabarti, Dr. Rajat Kumar  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D.P.  
 Chaturvedi, Shrimati Vidyawati  
 Chaudhari, Shri N. P.  
 Chaurasia, Shri Shiv Dayal Singh  
 Chettri, Shri Krishna Bahadur  
 Choudhury, Shri Nripati Ranjan  
 Chowdhary, Dr. Chandramanilal  
 Chowdhri, Shri A. S.  
 Chundawat, Shrimati Lakshmi Kumari  
 Das, Shri Balram  
 Das, Shri Bipinpal  
 Deb Burman, Shri Bir Chandra  
 Dhabe, Shri S.W.  
 Dikshit, Shri Umashankar  
 Dutt, Dr. V. P.  
 Dwivedi, Shri D. N.  
 Gadgil, Shri Vithal  
 Goswami, Shri Sriman Prafulla  
 Gujral, Shri Inder Kumar  
 Gupta, Shri Bhupesh  
 Hashmi, Shri Syed Ahmed  
 Himmat Singh, Shri  
 Imani, Shrimati Aziza  
 Jain, Shri Dharamchand  
 Jha, Shri Kamalnath  
 Joshi Shri Jagdish  
 Joshi, Shrimati Kumudben Manishanker  
 Kalaniya, Shri Ibrahim  
 Kalp Nath, Shri  
 Kamble, Prof. N. M.  
 Kapur, Shri Yashpal  
 Kesri, Shri Sitaram  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Prof. Rasheeduddin

Kollur, Shri M. L.  
 Koya, Shri B.V. Abdulla  
 Kripalani, Shri Krishna  
 Krishnaswamy, Shri K. A.  
 Kulkarni, Shri Arvind Ganesh  
 Kulkarni, Shrimati Sumitra G.  
 Kumaran, Shri S.  
 Kumbhare, Shri N. H.  
 Kureel, Shri Piare Lall urf Piare Lall Talib  
 Lalbuaja, Shri  
 Lokesh Chandra, Dr.  
 Lotha, Shri Khyomo  
 Mahanti, Shri Bhairab Chandra  
 Mahanti, Shri B. K.  
 Majhi, Shri Chaitanya Prasad  
 Makwana, Shri Yogendra  
 Malaviya, Shri Harsh Deo  
 Mali, Shri Ganesh Lal  
 Mehta, Shri Om  
 Menon, Shrimati Leela Damodara  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Rishi Kumar  
 Mondal, Shri Ahmad Hossain  
 Mukherjee, Shri Kali  
 Muherjee, Shri Pranab  
 Mukhopadhyay, Shrimati Purabi  
 Mulla, Shri Anand Narain  
 Munda, Shri Bhajya Ram  
 Murthy, Shri B. P. Nagaraja  
 Musafir, Shri Gurmukh Singh  
 Narasiah, Shri H. S.  
 Nizam-ud-Din, Shri Syed  
 Nurul Hassan, Prof.  
 Pai, Shri T. A.  
 Panda, Shri Brahmananda  
 Parashar, Shri Vinaykumar Ramlal  
 Patil, Shri Deorao  
 Patil, Shri Gulabrao  
 Poddar, Shri R.K.  
 Pradhan Shrimati Saraswati  
 Prasad, Shri Bhola  
 Prasad, Shri K.L.N.  
 Punnaiah Shri Kota  
 Puri, Shri D.D.  
 Rachaiah, Shri B.  
 Raha, Shri Sanat Kumar  
 Raju, Shri V. B.

Ranganathan, Shri S.  
 Rao, Shri Katragadda Srinivasa  
 Rao, Shrimati Rathnabai Sreenivasa  
 Rao, Shri V.C. Kesava  
 Reddi, Shri K. Brahmananda  
 Reddy, Shri Gaddam Narayana  
 Reddy, Shri Janardhana  
 Reddy, Shri K.V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Roshan Lal, Shri  
 Sangma, Shri Emonsing M.  
 Sardesai, Shri S. G.  
 Savita Behen, Shrimati  
 Seyid Muhammad, Dr. V.A.  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Kishan Lal  
 Sharma, Shri Yogendra  
 Shilla, Shri Showaless K.  
 Shishir Kumar, Shri  
 Shukla, Shri Chakrapani  
 Shukla, Shri M. P.  
 Shyamkumari Devi, Shrimati  
 Singh, Shri D.P.  
 Singh, Shri Inder  
 Singh, Shri Irengbam Tompok  
 Singh, Shrimati Jahanara Jaipal  
 Singh, Shri Kameshwar  
 Singh, Shri Mahendra Bahadur  
 Singh, Shri Mohan  
 Singh, Shri Nathi  
 Singh, Shri Parbhu  
 Singh, Shrimati Pratibha  
 Singh, Shri Ranbir  
 Singh, Shri Sultan  
 Singh, Shri Triloki  
 Singh, Dr. V. B.  
 Sinha, Shri Awadheshwar Prasad  
 Sisodia, Shri Sawaisingh  
 Sukhdev Prasad, Shri  
 Sultan, Shrimati Maimoona  
 Swu, Shri Scato  
 Talib, Shri Niranjan Singh  
 Tanvir, Shri Habib  
 Thakur, Shri Gunanand  
 Tilak, Shri J. S.  
 Tiwari, Shri Shankarlal

Tiwary, Pt. Bhawaniprasad  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamapati  
 Trivedi, Shri H. M.  
 Varma, Shrimati Narayanidevi Manaklal  
 Venigalla Satyanarayana, Shri  
 Vyas, Dr. M. R.  
 Wajid, Shri Sikander Ali  
 Yadav, Shri Shyam Lal

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 3 was added to the Bill.*

MR. DEPUTY CHAIRMAN : The question is :

“That clause 4 stand part of the Bill.”

*The House divided.*

MR. DEPUTY CHAIRMAN :

Ayes—162; Noes—Nil.

AYES—162

Abid, Shri Kasim Ali  
 Abu Abraham, Shri  
 Adivarekar, Shrimati Sushila Shankar  
 Ahmad, Dr. Z. A.  
 Alva, Shrimati Margaret  
 Amla, Shri Tirath Ram  
 Amjad Ali, Shri Sardar  
 Anand, Shri Jagjit Singh  
 Anandam, Shri M.  
 Arif, Shri Mohammed Usman  
 Avernoankar, Shri R. D. Jagtap.  
 Banerjee, Shri Jaharlal  
 Basar, Shri Todak  
 Berwa, Shri Jamnalal  
 Bhagawati, Shri B. C.  
 Bhardwaj, Shri Jagan Nath  
 Bhatt, Shri N. K.  
 Bisi, Shri Pramatha Nath  
 Bobdey, Shri S. B.  
 Borooah, Shri D. K.  
 Bose, Shrimati Pratima  
 Buragohain, Shri Nabin Chandra  
 Chakrabarti, Dr. Rajat Kumar  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P.

Chaturvedi, Shrimati Vidyawati  
 Chaudhari, Shri N. P.  
 Chaurasia, Shri Shiv Dayal Singh  
 Chettri, Shri Krishna Bahadur  
 Choudhury, Shri Nripati Ranjan  
 Chowdhary, Dr. Chandramanilal  
 Chowdhri, Shri A. S.  
 Chundawat, Shrimati Lakshmi Kumari  
 Das, Shri Balram  
 Das, Shri Bipinpal  
 Deb Burman, Shri Bir Chandra  
 Dhabe, Shri S. W.  
 Dikshit, Shri Umashankar  
 Dutt, Dr. V. P.  
 Dwivedi, Shri D. N.  
 Gadgil, Shri Vithal  
 Goswami, Shri Sriman Prafulla  
 Gujral, Shri Inder Kumar  
 Gupta, Shri Bhupesh  
 Hashmi, Shri Syed Ahmad  
 •Himmat Singh, Shri  
 Imam, Shrimati Aziza  
 Jain, Shri Dharamchand  
 Jha, Shri Kamalnath  
 Joshi, Shri Jagdish  
 Joshi, Shrimati Kumudben Manishanker  
 Kalaniya, Shri Ibrahim  
 Kalp Nath, Shri  
 Kamble, Prof. N. M.  
 Kapur, Shri Yashpal  
 Kesri, Shri Sitaram  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Prof. Rasheeduddin  
 Kollur, Shri M. L.  
 Koya, Shri B. V. Abdulla  
 Kripalani, Shri Krishna  
 Krishnaswamy, Shri K. A.  
 Kulkarni, Shri Arvind Ganesh  
 Kulkarni, Shrimati Sumitra G.  
 Kumaran, Shri S.  
 Kumbhare, Shri N. H.  
 Kureel, Shri Piare Lal urf Piare Lal Talib  
 Lalbuai, Shri  
 Lokesh Chandra, Dr.  
 Lotha, Shri Khyomo  
 Mahanti, Shri Bhairab Chandra

Mahanti, Shri B. K.  
 Majhi, Shri Chaitanya Prasad  
 Makwana, Shri Yogendra  
 Malaviya, Shri Harsh Deo  
 Mali, Shri Ganesh Lal  
 Mehta, Shri Om  
 Menon, Shrimati Leela Damodara  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Rishi Kumar  
 Mondal, Shri Ahmad Hossain  
 Mukherjee, Shri Kali  
 Mukherjee, Shri Pranab  
 Mukhopadhyay, Shrimati Purabi  
 Mulla, Shri Anand Narain  
 Munda, Shri Bhaiya Ram  
 Murthy, Shri B. P. Nagaraja  
 Musafir, Shri Gurmukh Singh  
 Narasiah, Shri H. S.  
 Nizam-ud-Din, Shri Syed  
 Nurul Hasan, Prof. S.  
 Pai, Shri T. A.  
 Panda, Shri Brahmananda  
 Parashar, Shri Vinaykumar Ramlal  
 Patil, Shri Deorao  
 Patil, Shri Gulabrao  
 Poddar, Shri R. K.  
 Pradhan, Shrimati Saraswati  
 Prasad, Shri Bhola  
 Prasad, Shri K. L. N.  
 Punnaiah, Shri Kota  
 Puri, Shri D. D.  
 Rachaiah, Shri B.  
 Raha, Shri Sanat Kumar  
 Raju, Shri V. B.  
 Ranganathan, Shri S.  
 Rao, Shri Katragadda Srinivasa  
 Rao, Shrimati Rathnabai Sreenivasa  
 Rao, Shri V. C. Kesava  
 Reddi, Shri K. Brahmananda  
 Reddy, Shri Gaddam Narayana  
 Reddy, Shri Janardhana  
 Reddy, Shri K. V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Roshan Lal, Shri  
 Sangma, Shri Emonsing M.  
 Sardesai, Shri S. G.

Savita Behen, Shrimati  
 Seyid Muhammad, Dr. V. A.  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Kishan Lal  
 Sharma, Shri Yogendra  
 Shilla, Shri Showaless K.  
 Shishir Kumar, Shri  
 Shukla, Shri Chakrapani  
 Shukala, Shri M. P.  
 Shyamkumari Devi, Shrimati  
 Singh, Shri D. P.  
 Singh, Shri Inder  
 Singh, Shri Irengbam Tompok  
 Singh, Shrimati Jahanara Jaipal  
 Singh, Shri Kameshwar  
 Singh, Shri Mahendra Bahadur  
 Singh, Shri Mohan  
 Singh, Shri Nathi  
 Singh, Shri Parbhu  
 Singh, Shrimati Pratibha  
 Singh, Shri Ranbir  
 Singh, Shri Sultan  
 Singh, Shri Triloki  
 Singh, Dr. V. B.  
 Sinha, Shri Awadheshwar Prasad  
 Sisodia, Shri Sawaising  
 Sukhdev Prasad, Shri  
 Sultan, Shrimati Maimoona  
 Swu, Shri Scato  
 Talib, Shri Niranjana Singh  
 Tanvir, Shri Habib  
 Thakur, Shri Gunanand  
 Tilak, Shri J. S.  
 Tiwari, Shri Shankarlal  
 Tiwary, Pt. Bhawaniprasad  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamalapati  
 Trivedi, Shri H. M.  
 Varma, Shrimati Narayanidevi Manaklal  
 Venigalla Satyanarayana, Shri  
 Vyas, Dr. M. R.  
 Wajd, Shri Sikander Ali,  
 Yadav, Shri Shyam Lal

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 4 was added to the Bill*

I P. M.

MR. DEPUTY CHAIRMAN : The question is:

"That clause 5 stand part of the Bill."

*The House divided.*

MR. DEPUTY CHAIRMAN :  
 Ayes—162. Noes—Nil.

AYES—162.

Abid, Shri Kasim Ali  
 Abu Abraham, Shri  
 Adivarekar, Shrimati Sushila Shankar  
 Ahmad, Dr. Z. A.  
 Alva, Shrimati Margaret  
 Amla, Shri Tirath Ram  
 Amjad Ali, Shri Sardar  
 Anand, Shri Jagjit Singh  
 Anandam, Shri M.  
 Arif, Shri Mohammed Usman  
 Avergankar, Shri R. D. Jagtap  
 Banerjee, Shri Jaharlal  
 Basar, Shri Todak  
 Berwa, Shri Jamnalal  
 Bhagawati, Shri B. C.  
 Bhardwaj, Shri Jagan Nath  
 Bhatt, Shri N. K.  
 Bisi, Shri Pramatha Nath  
 Bobdey, Shri S. B.  
 Borooah, Shri D. K.  
 Bose, Shrimati Pratima  
 Buragohain, Shri Nabin Chandra  
 Chakrabarti, Dr. Rajat Kumar  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P.  
 Chaturvedi, Shrimati Vidyawati  
 Chaudhari, Shri N. P.  
 Chaurasia, Shri Shiv Dayal Singh  
 Chettri, Shri Krishna Bahadur  
 Choudhury, Shri Nripati Ranjan  
 Chowdhary, Dr. Chandramanilal  
 Chowdhri, Shri A. S.  
 Chundawat, Shrimati Lakshmi Kumari  
 Das, Shri Balram  
 Das, Shri Bipinpal  
 Deb Burman, Shri Bir Chandra

Dhabe, Shri S. W.  
 Dikshit, Shri Umashankar  
 Dutt, Dr. V. P.  
 Dwivedi, Shri D. N.  
 Gadgil, Shri Vithal  
 Goswami, Shri Sriman Prafula  
 Gujral, Shri Inder Kumar  
 Gupta, Shri Bhupesh  
 Hashmi, Shri Syed Ahmad  
 Himmat Singh, Shri  
 Imam, Shrimati Aziza  
 Jain, Shri Dharamchand  
 Jha, Shri Kamalnath  
 Joshi, Shri Jagdish  
 Joshi, Shrimati Kumudben Manishanker  
 Kalaniya, Shri Ibrahim  
 Kalp Nath, Shri  
 Kamble, Prof. N. M.  
 Kapur, Shri Yashpal  
 Kesri, Shri Sitaram  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Prof. Rasheqduddin  
 Kollur, Shri M. L.  
 Koya, Shri B. V. Abdulla  
 Kripalani, Shri Krishna  
 Krishnaswamy, Shri K. A.  
 Kulkarni, Shri Arvind Ganesh  
 Kulkarni, Shrimati Sumitra G.  
 Kumaran, Shri S.  
 Kumbhare, Shri N. H.  
 Kureel, Shri Piare Lall urf Piare Lall Talib  
 Lalbuaia, Shri  
 Lokesh Chandra, Dr.  
 Lotha, Shri Khyomo  
 Mahanti, Shri Bhalrab Chandra  
 Mahanti, Shri B. K.  
 Majhi, Shri Chaitanya Prasad  
 Makwana Shri Yogendra  
 Malaviya, Shri Harsh Deo  
 Mali, Shri Ganesh Lal  
 Mehta, Shri Om  
 Menon, Shrimati Leela Damodara  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Rishi Kumar  
 Mondal, Shri Ahmad Hossain  
 Mukherjee, Shri Kali  
 3—253RSS/75

Mukherjee, Shri Pranab  
 Mukhopadhyay, Shrimati Purabi  
 Mulla, Shri Anand Narain  
 Munda, Shri Bhaiya Ram  
 Murthy, Shri B. P. Nagaraja  
 Musafir, Shri Gurmukh Singh  
 Narasiah, Shri H. S.  
 Nizam-ud-Din, Shri Syed  
 Nurul Hasan, Prof. S.  
 Pai, Shri T. A.  
 Panda, Shri Brahmananda  
 Parashar, Shri Vinaykumar Ramlal  
 Patil, Shri Deorao  
 Patil, Shri Gulabrao  
 Poddar, Shri R. K.  
 Pradhan, Shrimati Saraswati  
 Prasad, Shri Bhola  
 Prasad, Shri K. L. N.  
 Punnaiah, Shri Kota  
 Puri, Shri D. D.  
 Rachaiiah, Shri B.  
 Raha, Shri Sanat Kumar  
 Raju, Shri V. B.  
 Ranganathan, Shri S.  
 Rao, Shri Katragadda Srinivasa  
 Rao, Shrimati Rathnabai Sreenivasa  
 Rao, Shri V. C. Kesava  
 Reddi, Shri K. Brahmananda  
 Reddy, Shri Gaddam Narayana  
 Reddy, Shri Janardhana  
 Reddy Shri K. V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Roshan Lal, Shri  
 Sangma, Shri Emonsing M.  
 Sardesai, Shri S. G.  
 Savita Behen, Shrimati  
 Seyid Muhammad, Dr. V. A.  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Kishan Lal  
 Sharma, Shri Yogendra  
 Shilla, Shri Showaless K.  
 Shishir Kumar, Shri  
 Shukla, Shri Chakrapani  
 Shukla, Shri M. P.  
 Shyamkumari Devi, Shrimati  
 Singh Shri D. P.

Singh, Shri Inder  
 Singh, Shri Irengbam Tompok  
 Singh, Shrimati Jahanara Jaipal  
 Singh, Shri Kameshwar  
 Singh Shri Mahendra Bahadur  
 Singh, Shri Mohan  
 Singh, Shri Nathi  
 Singh, Shri Parbhu  
 Singh, Shrimati Pratibha  
 Singh, Shri Ranbir  
 Singh, Shri Sultan  
 Singh, Shri Triloki.  
 Singh, Dr. V. B.  
 Sinha, Shri Awadheshwar Prasad  
 Sisodia, Shri Sawaisingh  
 Sukhdev Prasad, Shri  
 Sultan, Shrimati Maimoona  
 Swu, Shri Scato  
 Talib, Shri Niranjana Singh  
 Tanvir, Shri Habib  
 Thakur, Shri Gunanand  
 Tilak, Shri J. S.  
 Tiwari, Shri Shankarlal  
 Tiwary, Pt. Bhawaniprasad  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamalapati  
 Trivedi, Shri H. M.  
 Varma, Shrimati Narayanidevi Manaklal  
 Venigala Satyanarayana, Shri  
 Vyas, Dr. M. R.  
 Wajid, Shri Sikander Ali  
 Yadav, Shri Shyam Lal

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 5 was added to the Bill.*

MR. DEPUTY CHAIRMAN : The question is:

“That clause 6 stand part of the Bill.”

*The House divided.*

MR. DEPUTY CHAIRMAN: Ayes—162;

Noes—Nil.

AYES—162

Abid, Shri Kasim Ali  
 Abu Abraham, Shri  
 Adivarekar Shrimati Sushila Shankar  
 Ahmad, Dr. A. Z.  
 Alva, Shrimati Margaret  
 Ama, Shri Tirath Ram  
 Amjad Ali, Shri Sardar  
 Anand, Shri Jagjit Singh  
 Anandam, Shri M.  
 Arif, Shri Mohammed Usman  
 Avergankar, Shri R. D. Jagtap  
 Banerjee, Shri Jaharlal  
 Basar, Shri Todak  
 Berwa, Shri Jamnalal  
 Bhagawati, Shri B. C.  
 Bhardwaj, Shri Jagan Nath  
 Bhatt, Shri N. K.  
 Bisi, Shri Pramatha Nath  
 Bobdey, Shri S. B.  
 Borooah, Shri D. K.  
 Bose, Shrimati Pratima  
 Buragohain, Shri Nabin Chandra  
 Chakrabarti, Dr. Rajat Kumar  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P.  
 Chaturvedi, Shrimati Vidyawati  
 Chaudhari, Shri N. P.  
 Chaurasia, Shri Shiv Dayal Singh  
 Chettri, Shri Krishna Bahadur  
 Choudhury, Shri Nripati Ranjan  
 Chowdhary, Dr. Chandramanilal  
 Chowdhri, Shri A. S.  
 Chundawat, Shrimati Lakshmi Kumari  
 Das, Shri Balram  
 Das, Shri Bipinpal  
 Deb Burman, Shri Bir Chandra  
 Dhabe, Shri S. W.  
 Dikshit, Shri Umashankar  
 Dutt, Dr. V. P.  
 Dwivedi, Shri D. N.  
 Gadgil, Shri Vithal  
 Goswami, Shri Sriman Prafulla  
 Gujral, Shri Inder Kumar  
 Gupta, Shri Bhupesh  
 Hashmi, Shri Syed Ahmad  
 Himmat Singh, Shri

Imam, Shrimati Aziza  
 Jain, Shri Dharamchand  
 Jha, Shri Kamalnath  
 Joshi, Shri Jagdish  
 Joshi, Shrimati Kumudben Manishanker  
 Kalaniya, Shri Ibrahim  
 Kalp Nath, Shri  
 Kamble, Prof. N. M.  
 Kapur, Shri Yashpal  
 Kesri, Shri Sitaram  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Prof. Rasheeduddin  
 Kollur, Shri M. L.  
 Koya, Shri B. V. Abdulla  
 Kripalani, Shri Krishna  
 Krishnaswamy, Shri K. A.  
 Kulkarni, Shri Arvind Ganesh  
 Kulkarni, Shrimati Sumitra G.  
 Kumaran, Shri S.  
 Kumbhare, Shri N. H.  
 Kureel, Shri Piare Lall urf Piare Lall Talib  
 Lalbuaja, Shri  
 Lokesh Chandra, Dr.  
 Lotha, Shri Khyomo  
 Mahanti, Shri Bharrab Chandra  
 Mahanti, Shri B. K.  
 Majhi, Shri Chaitanya Prasad  
 Makwana, Shri Yogendra  
 Malaviya, Shri Harsh Deo  
 Mali, Shri Ganesh Lal  
 Mehta, Shri Om  
 Menon, Shrimati Leela Damodara  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Rishi Kumar  
 Mondal, Shri Ahmad Hussain  
 Mukherjee, Shri Kali  
 Mukherjee, Shri Pranab  
 Mukhopadhyay, Shrimati Purabi  
 Mulla, Shri Anand Narain  
 Munda, Shri Bhaiya Ram  
 Murthy, Shri B. P. Nagaraja  
 Musafir, Shri Gurmukh Singh  
 Narasiah, Shri H. S.  
 Nizam-ud-Din, Shri Syed  
 Nurul Hasan, Prof. S.  
 Pai, Shri T. A.

Panda, Shri Brahmananda  
 Parashar, Shri Vinaykumar Ramlal  
 Patil, Shri Deorao  
 Patil, Gulabrao  
 Poddar, Shri R. K.  
 Pradhan, Shrimati Saraswati  
 Prasad, Shri Bhola  
 Prasad, Shri K. L. N.  
 Punnaiah, Shri Kota  
 Puri, Shri D. D.  
 Rachaiah, Shri B.  
 Raha, Shri Sanat Kumar  
 Raju, Shri V. B.  
 Ranganathan, Shri S.  
 Rao, Shri Katragadda Srinivasa  
 Rao, Shrimati Rathnabai Sreenivasa  
 Rao, Shri V. C. Kesava  
 Reddi, Shri K. Brahmananda  
 Reddy, Shri Gaddam Narayana  
 Reddy, Shri Janardhana  
 Reddy, Shri K. V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimaha  
 Roshan Lal, Shri  
 Sangma, Shri Emonsing M.  
 Sardesai, Shri S. G.  
 Savita Behen, Shrimati  
 Seyid Muhammad, Dr. V. A.  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Kishan Lal  
 Sharma, Shri Yogendra  
 Shilla, Shri Showaleess K.  
 Shishir Kumar, Shri  
 Shukla, Shri Chakrapani  
 Saukla, Shri M. P.  
 Shyamkumari Devi, Shrimati  
 Singh, Shri D. P.  
 Singh, Shri Inder  
 Singh, Shri Irengbam Tompok  
 Singh, Shrimati Jahanara Jaipal  
 Singh, Shri Kameshwar  
 Singh, Shri Mahendra Bahadur  
 Singh, Shri Mohan  
 Singh, Shri Nathi  
 Singh, Shri Parbhu  
 Singh, Shrimati Pratibha  
 Singh, Shri Ranbir



Singh, Shri Sultan  
 Singh, Shri Triloki  
 Singh, Dr. V. B.  
 Sinha, Shri Awadheshwar Prasad  
 Sisodia, Shri Sawaisingh  
 Sukhdev Prasad, Shri  
 Sultan, Shrimati Maimoona  
 Swu, Shri Scato  
 Talib, Shri Niranjan Singh  
 Tanvir, Shri Habib  
 Thakur, Shri Gunanand  
 Tilak, Shri J. S.  
 Tiwari, Shri Shankarlal  
 Tiwary, Pt. Bhawaniprasad  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamlapati  
 Trivedi, Shri H. M.  
 Varma, Shrimati Narayanidevi Manaklal  
 Venigalla Satyanarayana, Shri  
 Vyas, Dr. M. R.  
 Wajd, Shri Sikander Ali  
 Yadav, Shri Shyam Lal

NOES—Nil.

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

*Clause 6 was added to the Bill.*

Mr. DEPUTY CHAIRMAN : The Question is :

"That clause 7 stand part of the Bill".

**SHRI BHUPESH GUPTA (West Bengal):**  
 Sir, I think I would like to say one or two words on this clause. This is not really a fundamental change in the Constitution or any such thing. This relates to certain rights enjoyed by the citizens.

I think you will agree that emergency is not meant to harass or persecute those who have been fighting the rightist and disruptive forces in the country. On the contrary I take it that emergency is meant for strengthening the struggle of the secular, democratic and truly national forces in order

to strengthen the position of our democratic institutions and democracy. Here, Sir, I find that some gross abuses have already begun to take place. I have brought to the notice of Mr. Om Mehta the things that have taken place in Himachal Pradesh and also in Jammu. Two members of our party in Himachal Pradesh were arrested under MISA. In Jammu, the Secretary of the Trade Union, AITUC Local Secretary, they were also put under detention. I have written to Sheikh Abdullah about it.

Now we have disturbing reports from Bihar, from the Secretary of our Party, Jagannath Sarkar, according to which a large number of CPI members have been arrested in Bihar under MISA and DIR. In Madhubani district, Harijan Jha, Mukhia of Jatra Panchayat, Benipatti; Lal Jha of Sariso village, member of district council of Madhubani; and Gulab Thakur, member of Barha Anchal Committee of Benipatti—they have been held under MISA. This is in a particular district. I now come to Aurangabad. Two members of district executive committee of our party have been arrested. They are: Sheo Kumar Tiwary and Akhileshwar Singh of Nabinagar. Then on June 29, or so, more than two dozen persons were arrested under Section 69 of the DIR. They are from police stations—Riga, Bajipatti, Sonebarsa, Belsand, Patnaha and Sitamarhi town. Among them are five members of the district council of our party, one member of district executive committee and one member of district secretariat of our unit. In Patnaha, Sangharash Samiti boys have been left out although they had cut the telephone wires. I am not going into this at the moment. But 9 members of Harijans of Kisanpur village were arrested and severely beaten up in police lock-up. On July 5, 1975, in Saran district, three of our members, Chandreswar Singh, Lalbabu Singh and Chandrajyoti Singh, were arrested under Section 69 of the DIR.

We have got some other reports from some other States also, but I am not going into that. What I am saying is that why anybody should have been arrested at all. Now this is a matter which should receive serious attention of the Government. I understand there is a Cabinet sub-committee to deal with administration of the emer-

gency power. May I make a suggestion that a sub-committee with Mr. Om Mehta presiding or somebody else taking over the charge should be set up to deal with day to day cases of such abuse of power, emergency power or power under Defence of India Rules or power under the MISA. Such misuse of power defeats the very purpose for which we have all supported the emergency and given ample powers to the Government. Now, Sir, this is not merely a question of some individuals being put under detention or any harassment being caused to them. That is not my main complaint. My main complaint is that if these things develop, then movement gets weakened, democratic forces get weakened, people get somewhat paralysed, and, what is more, the hostile elements, the anti-democratic, communal, right reactionary elements, many of whom have gone underground, take advantage of such a situation to mislead the masses again, to again exploit their legitimate protest and anger and direct them in the wrong channel. Therefore, it is a political question. It is very very important today, having taken emergency powers, in order to deal with the forces of reaction let loose by imperialism, as also for the Government to set up a machinery to see that the emergency powers are so used as to strengthen the forces of democracy and instead of tempering encourage democratic activities. Therefore, I would suggest to Mr. Om Mehta and other senior Ministers who are here to consider seriously setting up a committee. I know, none of you have issued orders of arrest but the power can be abused by the policemen, the magistracy, against the local people to settle their own score. That you know very well. And even good Congressmen will be the victims of such abuse of power. Therefore, it is necessary today for the Emergency Sub-Committee of the Cabinet or any other body, to set up a sort of active machinery to look into these cases instantaneously. The moment such cases are brought to the notice of the Government, they should be looked into by the appropriate authorities. The matter should be taken up with the State Governments. I think that way we can overcome the difficulties and prevent much misuse of the power. It is quite possible to do so; it is quite practicable and I am sure those who are fighting the right reaction will bring to the notice

of the Government and the Government will reciprocate by giving to the representations made to them, instant attention. It is very very urgent and important.

Already Mr. Om Mehta has suggested to me to send him these telegrams. Everything will be sent to you, Mr. Om Mehta. In fact I have got the paper. I think what nobody in the world will know, at least you should know what has happened. At least some of you will know, apart from what we know, about what has happened. And, therefore, I have brought it to the notice of the Government. I stress that it is of vital importance and crucial importance that the Central Government assume a direct active operative responsibility in this matter to see that the State Governments or the local authorities in such cases do not misbehave with the help of the police and magistracy and so on. People who have been fighting the rightist forces, who are interested—and very genuinely interested—in implementing the programme which you have announced—no matter which party they belong to—are prosecuted. To put a stop to this kind of abuse of power and persecution of such people is a very great responsibility which must be assumed directly by the Central Government and for this purpose what we need is proper machinery as I have suggested.

**SHRI JAGJIT SINGH ANAND (Punjab):** Sir, I want to say something. It is for the Union Territory, Chandigarh. I have received a letter from the Secretary of the Chandigarh Communist Party that the day the emergency was declared, Mr. Hit Abhilashi, President of the Punjab State Jan Sangh was there and the security people informed him and made him escape in the night.

Number two—Not a single arrest from the Jan Sangh cadre was effected till they went and demonstrated according to the plan of their party.

Number three—A student leader of the Communist Party has been debarred, on the asking of the Commissioner, from his studies and in the list of Jan Sangh boys, his name was also seen. His name is Parnit Kumar. Last year also, I repeatedly brought to the notice of the Home Ministry that such things are going on in the Chandigarh

[Shri Jagjit Singh Anand]

Administration and these are to be looked into and the Chandigarh Commissioner specially has to be taken to task. I want to bring these facts to the notice of the Government.

SHRI H. R. GOKHALE: This is a matter which has to be brought to the notice of the Minister concerned.

MR. DEPUTY CHAIRMAN : The question is :

That clause 7 stand part of the Bill.

*The House divided.*

MR. DEPUTY CHAIRMAN :

Ayes—164; Noes—Nil.

AYES—164;

Abid, Shri Kasim Ali  
 Abu Abraham, Shri  
 Adivarekar, Shrimati Sushila Shanker  
 Ahmad, Dr. Z. A.  
 Alva, Shrimati Margaret  
 Amla, Shri Tirath Ram  
 Amjad, Ali Shri Sardar  
 Anand, Shri Jagjit Singh  
 Anandam, Shri M.  
 Arif, Shri Mohammed Usman  
 Avergankar, Shri R. D. Jagtap  
 Banerjee, Shri Jaharlal  
 Basar, Shri Todak  
 Berwa, Shri Jamnalal  
 Bhagawati, Shri B. C.  
 Bhardwaj, Shri. Jagan Nath  
 Bhatt, Shri N. K.  
 Bisi, Shri Pramatha Nath  
 Bobdey, Shri S. B.  
 Borooah, Shri D. K.  
 Bose, Shrimati Pratima  
 Buragohain, Shri Nabin Chandra  
 Chakrabarti, Dr. Rajat Kumar  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P.  
 Chaturvedi, Shrimati Vidyawati  
 Chaudhari, Shri N. P.  
 Chaurasia, Shri Shiv Dayal Singh  
 Chettri, Shri Krishna Bahadur  
 Choudhury, Shri Nripati Ranjan  
 Chowdhary, Dr. Chandramanil

Chowdhri, Shri A. S.

Chundawat, Shrimati Lakshmi Kumari

Das, Shri Balram

Das, Shri Bipinpal

Deb Burman, Shri Bir Chandra

Dhabe, Shri S.W.

Dikshit, Shri Umashankar

Dutt, Dr. V. P.

Dwivedi, Shri D. N.

Gadgil, Shri Vithal

Goswami, Shri Sriman Prafulla

Gujral, Shri, Inder Kumar

Gupta, Shri Bhupesh

Hashmi, Shri Syed Ahmad

Himmat Singh, Shri

Imam, Shrimati Aziza

Jain, Shri Dharamchand

Jha, Shri Kamalnath

Joshi, Shri Jagdish

Joshi, Shrimati Kumudben Manishanker

Kalaniya, Shri Ibrahim

Kalp Nath, Shri

Kalyan Chand, Shri

Kamble, Prof. N. M.

Kapur, Shri Yashpal

Kesri, Shri Sitaram

Khan, Shri Khurshed Alam

Khan, Shri Maqsood Ali

Khan, Prof Rasheeduddin

Kollur, Shri M. L.

Koya, Shri B.V. Abdulla

Kripalani, Shri Krishna

Krishnaswamy, Shri K. A.

Kulkarni, Shri Arvind Ganesh

Kulkarni, Shrimati Sumitra G.

Kumaran, Shri S.

Kumbhare, Shri N. H.

Kureel, Shri Piare Lall urf Piare Lall Talib

Lalbuaia, Shri

Lokesh Chandra, Dr.

Lotka, Shri Khyomo

Mahanti, Shri Bhairab Chandra

Mahanti, Shri B. K.

Mahapatro, Shri Lakshmana

Majhi, Shri Chaitanya Prasad

Makwana, Shri Yogendra

Malaviya, Shri Harsh Deo

Mali, Shri Ganesh Lal  
 Mehta, Shri Om  
 Menon, Shrimati Leela Damodara  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Rishi Kumar,  
 Mondal, Shri Ahmad Hossain  
 Mukherjee, Shri Kali  
 Mukherjee, Shri Pranab  
 Mukhopadhyay, Shrimati Purabi  
 Mulla, Shri Anand Narain  
 Munda, Shri Bhaiya Ram  
 Murthy, Shri B. P. Nagaraja  
 Musafir, Shri Gurmukh Singh  
 Narasiah, Shri H. S.  
 Nizam-ud-Din, Shri Syed  
 Nurul Hasan, Prof. S.  
 Pai, Shri T. A.  
 Panda, Shri Brahmananda  
 Parashar, Shri Vinaykumar Ramlal  
 Patil, Shri Deorao  
 Patil, Shri Gulabrao  
 Poddar, Shri R. K.  
 Pradhan, Shrimati Saraswati  
 Prasad, Shri Bhola  
 Prasad, Shri K. L. N.  
 Punnaiah, Shri Kota  
 Puri, Shri D. D.  
 Rachaiiah, Shri B.  
 Raha, Shri Sanat Kumar  
 Raju, Shri V. B.  
 Ranganathan, Shri S.  
 Rao, Shri Katragadda Srinivasa  
 Rao, Shrimati Rathnabai Sreenivasa  
 Rao, Shri V. C. Kesava  
 Reddi, Shri K. Brahmanada  
 Reddy, Shri Gaddam Narayana  
 Reddy, Shri Janardhana  
 Reddy, Shri K.V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Roshan Lal, Shri  
 Sangma, Shri Emonsing M.  
 Sardesai, Shri S. G.  
 Savita Behen, Shrimati  
 Seyid Muhammad, Dr. V. A.  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Kishan Lal

Sharma, Shri Yogendra  
 Shilla, Shri Showalees K.  
 Shishir Kumar, Shri  
 Shukla, Shri Chakrapani  
 Shukla, Shri M. P.  
 Shayamkumari Devi, Shrimati  
 Singh, Shri D. P.  
 Singh, Shri Inder  
 Singh, Shri Irengbam Tompok  
 Singh, Shrimati Jahanara Jaipal  
 Singh, Shri Kameshwar  
 Singh, Shri Mahendra Bahadur  
 Singh, Shri Mohan  
 Singh, Shri Nathi  
 Singh, Shri Parbhu  
 Singh, Shrimati Pratibha  
 Singh, Shri Ranbir  
 Singh, Shri Sultan  
 Singh, Shri Triloki  
 Singh, Dr. V. B.  
 Sinha, Shri Awadheshwar Prasad  
 Sisodia, Shri Savaisingh  
 Sukhdev Prasad, Shri  
 Sultan, Shrimati Maimoona  
 Swu, Shri Scato  
 Talib, Shri Niranjana Singh  
 Tanvir, Shri Habib  
 Thakur, Shri Gunanand  
 Tilak, Shri J. S.  
 Tiwari, Shri Shankarlal  
 Tiwary, Pt. Bhawaniprasad  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamalapati  
 Trivedi, Shri H. M.  
 Varma, Shrimati Narayani Devi Manaklal  
 Venkalla Satyanarayana, Shri  
 Vyas, Dr. M. R.  
 Wajid, Shri Sikander Ali  
 Yadav, Shri Shyam Lal

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 7 was added to the Bill.*

MR. DEPUTY CHAIRMAN : The question is:

"That clause 8 stand part of the Bill."

*The House divided.*

MR. DEPUTY CHAIRMAN: Ayes:—164  
Noes—Nil.

AYES—164

Abid, Shri Kasim Ali  
Abu Abraham, Shri  
Adivarekar, Shrimati Sushila Shankar  
Ahmad, Dr. Z. A.  
Alva, Shrimati Margaret  
Amla, Shri Tirath Ram  
Ajmad Ali, Shri Sardar  
Anand, Shri Jagjit Singh  
Anandam, Shri M.  
Arif, Shri Mohammed Usman  
Avergoankar, Shri R. D. Jagtap  
Banerjee, Shri Jaharlal  
Basar, Shri Todak  
Berwa, Shri Jamnalal  
Bhagawati, Shri B. C.  
Bhardwaj, Shri Jagan Nath  
Bhatt, Shri N. K.  
Bisi, Shri Pramatha Nath  
Bobdey, Shri S. B.  
Borooah, Shri D. K.  
Bose, Shrimati Pratima  
Buragohain, Shri Nabin Chandra  
Chakrabarti, Dr. Rajat Kumar  
Chandrasekhar, Shrimati Maragatham  
Chattopadhyaya, Prof. D. P.  
Chaturvedi, Shrimati Vidyawati  
Chaudhari, Shri N. P.  
Chaurasia, Shri Shiv Dayal Singh  
Chettri, Shri Krishna Bahadur  
Chaudhury, Shri Nripati Ranjan  
Chowdhary, Dr. Chandramanilal  
Chowdhri, Shri A. S.  
Chundawat, Shrimati Lakhshmi Kumari  
Das, Shri Balram  
Das, Shri Bipinpal  
Deb Burman, Shri Bir Chandra  
Dhabe, Shri S. W.  
Dikshit, Shri Umashankar

Dutt, Dr. V. P.  
Dwivedi, Shri D. N.  
Gadgil, Shri Vithal  
Goswami, Shri Sriman Prafulla  
Gujral, Shri Inder Kumar  
Gupta, Shri Bhupesh  
Hashmi, Shri Syed Ahmad  
Himmat Singh, Shri  
Imam, Shrimati Aziza,  
Jain, Shri Dharamchand  
Jha, Shri Kamalnath  
Joshi, Shri Jagdish  
Joshi, Shrimati Kumudben Manishanker  
Kalaniya, Shri Ibrahim  
Kalp Nath, Shri  
Kalyan Chand, Shri  
Kamble, Prof. N. M.  
Kapur, Shri Yashpal  
Kesri, Shri Sitaram  
Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Ali  
Khan, Prof. Rasheeduddin  
Kollur, Shri M. L.  
Koya, Shri B. V. Abdulla  
Kripalani, Shri Krishna  
Krishnaswamy, Shri K. A.  
Kulkarni, Shri Arvind Ganesh  
Kulkarni, Shrimati Sumitra G.  
Kumaran, Shri S.  
Kumbhare, Shri N. H.  
Kureel, Shri Piare Lall urf Piare Lall Talib  
Lalbuaia, Shri  
Lokesh Chandra, Dr.  
Lotha, Shri Khyomo  
Mahanti, Shri Bhairab Chandra  
Mahanti, Shri B. K.  
Mahapatro, Shri Lakshmana  
Majhi, Shri Chaitanya Prasad  
Makwana, Shri Yogendra  
Malaviya, Shri Harsh Deo  
Mali, Shri Ganesh Lal  
Mehta, Shri Om  
Menon, Shrimati Leela Damodara  
Mirdha, Shri Ram Niwas  
Mishra, Shri Rishi Kumar  
Mondal, Shri Ahmad Hossain  
Mukherjee, Shri Kali

Mukherjee, Shri Pranab  
Mukhopadhyay, Shrimati Purabi  
Mulla, Shri Anand Narain  
Munda, Shri Bhaiya Ram  
Murthy, Shri B. P. Nagaraja  
Musafir, Shri Gurmukh Singh  
Narasiah, Shri H. S.  
Nizam-ud-Din, Shri Syed  
Nurul Hasan, Prof. S.  
Pai, Shri T. A.  
Panda, Shri Brahmananda  
Parashar, Shri Vinaykumar Ramlal  
Patil, Shri Deorao  
Patil, Shri Gulabrao  
Poddar, Shri R. K.  
Pradhan, Shrimati Saraswati  
Prasad, Shri Bhola  
Prasad, Shri K. L. N.  
Punnaiah, Shri Kota  
Puri, Shri D. D.  
Rachaiiah, Shri B.  
Raha, Shri Sanat Kumar  
Raju, Shri V. B.  
Ranganathan, Shri S.  
Rao, Shri Katragadda Srinivasa  
Rao, Shrimati Rathnabai Sreenivasa  
Rao, Shri V. C. Kesava  
Reddi, Shri K. Brahmananda  
Reddy, Shri Gaddam Narayana  
Reddy, Shri Janardhana  
Reddy, Shri K. V. Raghunatha  
Reddy, Shri Mulka Govinda  
Reddy, Shri R. Narasimha  
Roshan Lal, Shri  
Sangma, Shri Emonsing M.  
Sardesai, Shri S. G.  
Savita Behen, Shrimati  
Seyid Muhammad, Dr. V. A.  
Shahi, Shri Nageshwar Prasad  
Sharma, Shri Kishan Lal  
Sharma, Shri Yogendra  
Shilla, Shri Showaless K.  
Shishir Kumar, Shri  
Shukla, Shri Chakrapani  
Shukla, Shri M. P.  
Shyamkumari Devi, Shrimati  
Singh, Shri D. P.

Singh, Shri Inder  
Singh, Shri Irengbam Tompok  
Singh, Shrimati Jahanara Jaipal  
Singh, Shri Kameshwar  
Singh, Shri Mahendra Bahadur  
Singh, Shri Mohan  
Singh, Shri Nathi  
Singh, Shri Parbhu  
Singh, Shrimati Pratibha  
Singh, Shri Ranbir  
Singh, Shri Sultan  
Singh, Shri Triloki  
Singh, Dr. V. B.  
Sinha, Shri Awadheshwar Prasad  
Sisodia, Shri Sawaisingh  
Sukhdev Prasad, Shri  
Sultan, Shrimati Maimoona  
Swu, Shri Scato  
Talib, Shri Niranjan Singh  
Tanvir, Shri Habib  
Thakur, Shri Gunanand  
Tilak, Shri J. S.  
Tiwari, Shri Shankarlal  
Tiwary, Pt. Bhawaniprasad  
Totu, Shri Gian Chand  
Tripathi, Shri Kamlapati  
Trivedi, Shri H. M.  
Varma, Shrimati Narayanidevi Manakla  
Venigalla Satyanarayana, Shri  
Vyas, Dr. M. R.  
Wajd, Shri Sikander Ali  
Yadav, Shri Shyam Lal

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 8 was added to the Bill.*

MR. DEPUTY CHAIRMAN : The question is:

“Clause 1, the Enacting Formula and the Title stand part of the Bill.”

*The House divided.*

MR. DEPUTY CHAIRMAN : Ayes—16  
Noes—Nil.

## AYES—1

Abid, Shri Kasim Ali  
 Abu, Abraham, Shri  
 Adivarekar, Shrimati Sushila Shankar  
 Ahmad, Dr. Z. A.  
 Alva, Shrimati Margaret  
 Amla, Shri Tirath Ram  
 Amjad Ali, Shri Sardar  
 Anand, Shri Jagjit Singh  
 Anandam, Shri M.  
 Arif, Shri Mohammed Usman  
 Avergoankar, Shri R. D. Jagtap  
 Banerjee, Shri Jaharlal  
 Basar, Shri Todak  
 Berwa, Shri Jamnalal  
 Bhagawati, Shri B. C.  
 Bhardwaj, Shri Jagan Nath  
 Bhatt, Shri N. K.  
 Bisi, Shri Pramatha Nath  
 Bobdey, Shri S. B.  
 Borooah, Shri D. K.  
 Bose, Shrimati Pratima  
 Buragohain, Shri Nabin Chandra  
 Chakrabarti, Dr. Rajat Kumar  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P.  
 Chaturvedi, Shrimati Vidyawati  
 Chaudhari, Shri N. P.  
 Chaurasia, Shri Shiv Dayal Singh  
 Chettri, Shri Krishna Bahadur  
 Choudhury, Shri Nripati Ranjan  
 Chowdhary, Dr. Chandramanilal  
 Chowdhri, Shri A. S.  
 Chundawat, Shrimati Lakshmi Kumari  
 Das, Shri Balram  
 Das, Shri Bipinpal  
 Deb Burman, Shri Bir Chandra  
 Dhabe, Shri S.W.  
 Dikshit, Shri Umashankar  
 Dutt, Dr. V. P.  
 Dwivedi, Shri D. N.  
 Gadgil, Shri Vithal  
 Goswami, Shri Sriman Prafulla  
 Gujral, Shri Inder Kumar  
 Gupta, Shri Bhupesh  
 Hashmi, Shri Syed Ahmad  
 Himmat Singh, Shri  
 Imam, Shrimati Aziza

Jain, Shri Dharamchand  
 Jha, Shri Kamalnath  
 Joshi, Shri Jagdish  
 Joshi, Shrimati Kumudben Manishanker  
 Kalaniya, Shri Ibrahim  
 Kalp Nath, Shri  
 Kalyan Chand, Shri  
 Kamble, Prof. N. M.  
 Kapur, Shri Yashpal  
 Kesri, Shri Sitaram  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Prof. Rasheeduddin  
 Kollur, Shri M. L.  
 Koya, Shri B.V. Abdulla  
 Kripalani, Shri Krishna  
 Krishnaswamy, Shri K. A.  
 Kulkarni, Shri Arvind Ganesh  
 Kulkarni, Shrimati Sumitra G.  
 Kumaran, Shri S.  
 Kumbhare, Shri N. H.  
 Kureel, Shri Piere Lall urf Piere Lall Talib  
 Lalbuaia, Shri  
 Lokesh Chandra, Dr.  
 Lotha, Shri Khyomo  
 Mahanti, Shri Bhairab Chandra  
 Mahanti, Shri B. K.  
 Mahapatro, Shri Lakshmana  
 Majhi, Shri Chaitanya Prasad  
 Makwana, Shri Yogendra  
 Malaviya, Shri Harsh Deo  
 Mali, Shri Ganesh Lal  
 Mehta, Shri Om  
 Menon, Shrimati Leela Damodara  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Rishi Kumar  
 Mondal, Shri Ahmad Hossain  
 Mukherjee, Shri Kali  
 Mukherjee, Shri Pranab  
 Mukhopadhyay, Shrimati Purabi  
 Mulla, Shri Anand Narain  
 Munda, Shri Bhaiya Ram  
 Murthy, Shri B. P. Nagaraja  
 Musafir, Shri Gurmukh Singh  
 Narasiah, Shri H. S.  
 Nizam-ud-Din, Shri Syed  
 Nurul Hasan, Prof. S.

Pai, Shri T. A.  
 Panda, Shri Brahmananda  
 Parashar, Shri Vinaykumar Ramlal  
 Patil, Shri Deorao  
 Patil, Shri Gulabrao  
 Poddar, Shri R. K.  
 Pradhan, Shrimati Saraswati  
 Prasad, Shri Bhola  
 Prasad, Shri K. L. N.  
 Purnaiah, Shri Kota  
 Puri, Shri D. D.  
 Rachaiah, Shri B.  
 Raha, Shri Sanat Kumar  
 Raju, Shri V. B.  
 Ranganathan, Shri S.  
 Rao, Shri Katragadda Srinivasa  
 Rao, Shrimati Rathanabai Sreenivasa  
 Rao, Shri V. C. Kesava  
 Reddi, Shri K. Brahmananda  
 Reddy, Shri Gaddam Narayana  
 Reddy, Shri Janardhana  
 Reddy, Shri K. V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Roshan Lal, Shri  
 Sangma, Shri Emomosing M.  
 Sardesai, Shri S. G.  
 Saita Behen, Shrimati  
 Seyid Muhammad, Dr. V. A.  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Kishan Lal  
 Sharma, Shri Yogendra  
 Shilla, Shri Showalees K.  
 Shishir Kumar, Shri  
 Shukla, Shri Chakrapani  
 Shukla, Shri M.P.  
 Shyamkumari Devi, Shrimati  
 Singh, Shri D. P.  
 Singh, Shri Inder  
 Singh, Shri Irengbam Tompok  
 Singh, Shrimati Jahanara Jaipal  
 Singh, Shri Kameshwar  
 Singh, Shri Mahendra Bahadur  
 Singh, Shri Mohan  
 Singh, Shri Nathi  
 Singh, Shri Parbhu  
 Singh, Shrimati Pratibha

Singh, Shri Ranbir  
 Singh, Shri Sultan  
 Singh, Shri Triloki  
 Singh, Dr. V. B.  
 Sinha, Shri Awadheshwar Prasad  
 Sisodia, Shri Sawaisingh  
 Sukhdev Prasad, Shri  
 Sultan, Shrimati Maimoona  
 Swu, Shri Scato  
 Talib, Shri Niranjana Singh  
 Tanvir, Shri Habib  
 Thakur, Shri Gunanand  
 Tilak, Shri J. S.  
 Tiwari, Shri Shankarlal  
 Tiwary, Pt. Bhawaniprasad  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamalapati  
 Trivedi, Shri H. M.  
 Varma, Shrimati Narayanidevi Manaklal  
 Venigalla Satyanarayana, Shri  
 Vyas, Dr. M.R.  
 Wajid, Shri Sikander Ali  
 Yadav, Shri Shyam Lal

NOES—Nil.

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

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

SHRI H. R. GOKHALE : Sir, I beg to move :

“That the Bill be passed.”

MR. DEPUTY CHAIRMAN : The question is :

“That the Bill be passed”.

*The House divided.*

MR. DEPUTY CHAIRMAN :

Ayes—164; Noes—Nil.

AYES—164

Abid, Shri Kasim Ali  
 Abu Abraham, Shri  
 Adivarekar, Shrimati Sushila Shankar  
 Ahmad, Dr. Z. A.  
 Alva, Shrimati Margaret  
 Amla, Shri Tirath



Amjad Ali, Shri Sardar  
 Anand, Shri Jagjit Singh  
 Anandam, Shri M.  
 Arif, Shri Mohammed Usman  
 Avergankar, Shri R. D. Jagtap  
 Banerjee, Shri Jaharlal  
 Basar, Shri Todak  
 Berwa, Shri Jamnalal  
 Bhagawti, Shri B. C.  
 Bhardwaj, Shri Jagan Nath  
 Bhatt, Shri N. K.  
 Bisi, Shri Pramatha Nath  
 Bobdey, Shri S. B.  
 Borooah, Shri D. K.  
 Bose, Shrimati Pratima  
 Buragohain, Shri Nabin Chandra  
 Chakrabarti, Dr. Rajat Kumar  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P.  
 Chaturvedi, Shrimati Vidhyawati  
 Chaudhari, Shri N. P.  
 Chaurasia, Shri Shiv Dayal Singh  
 Chettri, Shri Krishna Bahadur  
 Choudhury, Shri Nripati Ranjan  
 Chowdhary, Dr. Chandamanilal  
 Chowdhari, Shri A. S.  
 Chundawat, Shrimati Lakshmi Kumari  
 Das, Shri Balram  
 Das, Shri Bipinpal  
 Deb Burman, Shri Bir Chandra  
 Dhabe, Shri S. W.  
 Dikshit, Shri Umashankar  
 Dutt, Dr. V. P.  
 Dwivedi, Shri D. N.  
 Gadgil, Shri Vithal  
 Goswami, Shri Sriman Prafulla  
 Gujral, Shri Inder Kumar  
 Gupta, Shri Bhupesh  
 Hashmi, Shri Syed Ahmad  
 Himmat Singh, Shri  
 Imam, Shrimati Aziza  
 Jain, Shri Dharamchand  
 Jha, Shri Kamalnath  
 Joshi, Shri Jagdish  
 Joshi, Shrimati Kumudben Manishankar  
 Kalaniya, Shri Ibrahim  
 Kalp Nath, Shri

Kalyan Chand, Shri  
 Kamble, Prof. N. M.  
 Kapur, Shri Yashpal  
 Kesri, Shri Sitaram  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khan, Prof. Rasheeduddin  
 Kollur, Shri M. L.  
 Koya, Shri B.V. Abdulla  
 Kripalani, Shri Krishna  
 Krishnaswamy, Shri K. A.  
 Kulkarni, Shri Arvind Ganesh  
 Kulkarni, Shrimati Sumitra G.  
 Kumaran, Shri S.  
 Kumbhare, Shri N. H.  
 Kureel, Shri Piare Lal urf Piare Lal Talib  
 Lalbuaia, Shri  
 Lokesh Chandra, Dr.  
 Lotha, Shri Khyomo  
 Mahanti, Shri Bhairab Chandra  
 Mahanti, Shri B. K.  
 Mahapatro, Shri Lakshmana  
 Majhi, Shri Chaitanya Prasad  
 Makwana, Shri Yogendra  
 Malaviya, Shri Harsh Deo  
 Mali, Shri Ganesh Lal  
 Mehta, Shri Om  
 Menon, Shrimati Leela Damodara  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Rishi Kumar  
 Mondal, Shri Ahmad Hossain  
 Mukherjee, Shri Kali  
 Mukherjee, Shri Pranab  
 Mukhopadhyay, Shrimati Purabi  
 Mulla, Shri Anand Narain  
 Munda, Shri Bhaiya Ram  
 Murthy, Shri B. P. Nagaraja  
 Musafir, Shri Gurmukh Singh  
 Narasiah, Shri H. S.  
 Nizam-ud-Din, Shri Syed  
 Nurul Hasan, Prof. S.  
 Pai, Shri T. A.  
 Panda, Shri Brahmananda  
 Parashar, Shri Vinaykumar Ramlal  
 Patil, Shri Deorao  
 Patil, Shri Gulabrao  
 Poddar, Shri R. K.

Pradhan, Shrimati Saraswati  
 Prasad, Shri Bhola  
 Prasad, Shri K. L. N.  
 Punnaiah, Shri Kota  
 Puri, Shri D. D.  
 Rachaiah, Shri B.  
 Raha, Shri Sanat Kumar  
 Raju, Shri V. B.  
 Ranganathan, Shri S.  
 Rao, Shri Katragadda Srinivasa  
 Rao, Shrimati Rathnabai Sreenivasa  
 Rao, Shri V. C. Kesava  
 Reddi, Shri K. Brahmananda  
 Reddy, Shri Gaddam Narayana  
 Reddy, Shri Janardhana  
 Reddy, Shri K. V. Raghunatha  
 Reddy, Shri Mulka Govinda  
 Reddy, Shri R. Narasimha  
 Roshan Lal, Shri  
 Sangma, Shri Emonsing M.  
 Sardesai, Shri S. G.  
 Savita, Behen, Shrimati  
 Seyid Muhammad, Dr. V. A.  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Kishan Lal  
 Sharma, Shri Yogendra  
 Shilla, Shri Showaless K.  
 Shishir Kumar, Shri  
 Shukla, Shri Chakrapani  
 Shukla, Shri M. P.  
 Shyamkumari Devi, Shrimati  
 Singh, D. P.  
 Singh, Shri Inder  
 Singh, Shri Irenbam Tompok  
 Singh, Shrimati Jahanara Jaipal  
 Singh, Shri Kameshwar  
 Singh, Shri Mahendra Bahadur  
 Singh, Shri Mohan  
 Singh, Shri Nathi  
 Singh, Shri Prabhu  
 Singh, Shrimati Pratibha  
 Singh, Shri Ranbir  
 Singh, Shri Sultan  
 Singh, Shri Triloki  
 Singh, Shri V. B.  
 Sinha, Shri Awadheshwar Prasad  
 Sisodia, Shri Sawaisingh

Sukhdev Prasad, Shri  
 Sultan, Shrimati Maimoona  
 Swu, Shri Scato  
 Talib, Shri Niranjana Singh  
 Tanvir, Shri Habib  
 Thakur, Shri Gunanand  
 Tilak, Shri J. S.  
 Tiwari, Shri Shankarlal  
 Tiwary, Pt. Bhawaniprasad  
 Totu, Shri Gian Chand  
 Tripathi, Shri Kamlapathi  
 Trivedi, Shri H. M.  
 Varma, Shrimati Narayanidevi Manaklal  
 Venigalla Satyanarayana, Shri  
 Vyas, Dr. M. R.  
 Wajid, Shri Sikander Ali  
 Yadav, Shri Shyam Lal

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: The House stands adjourned till 2.30 P.M.

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

The House reassembled after lunch at thirty-two minutes past two of the clock, Mr. Deputy Chairman in the chair.

#### MESSAGE FROM THE LOK SABHA

**The Pondicherry Appropriation (No. 2) Bill, 1975**

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha signed by the Secretary-General of the Lok Sabha :

"In accordance with the provisions of Rule, 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith the Pondicherry Appropriation (No. 2) Bill 1975 as passed by Lok Sabha at its sitting held on the 23rd July, 1975.