

Now, so far as Mr. Niren Ghosh's matter is concerned, it was raised during the last Session. He was arrested and whatever action was taken against him was in connection with some criminal matter....

SHRI NIREN GHOSH: What criminal matter?(Interruptions).

SHRI MONORANJAN ROY: What is that criminal matter?..(Interruptions).

MR. CHAIRMAN: I am sorry, Mr. Gokhale. Please wait.

Now, it was in the last Session and not during this Session that this matter was raised. Mr. Niren Ghosh was informed that no action was being taken by me because it was not a matter connected with the privileges of this House. Now, this was in the last Session.

श्री राजनारायण : श्रीमन्, अब प्रश्न उठता है कि श्री निरेन घोष के सम्बन्ध में आपने यह व्यवस्था दी थी कि हम इस मामले को गृह मन्त्रालय को देते हैं और फिर वह जो जवाब देगे उसको सदन में रखा जायेगा ।

श्री सभापति: नो, नो ।

श्री श्यामलाल यादव : अगर सदन में एक बात होती है....

MR. CHAIRMAN: No, please, I did not say this.

श्री श्याम लाल यादव : श्रीमन्, मैं यह बात सदन में कहना चाहत हूँ कि सूची यह मामला मेम्बर के प्रिविलिज से सम्बन्ध रखता है..

श्री सभापति: आप का कहना गलत है ।

श्री श्यामलाल यादव : श्रीमन्, जब आपने घोषणा कर दी तो फिर मेम्बर को सुरक्षा मिलनी चाहिए ।

12 Noon

श्री सभापति: मैंने यह कहा था कि प्रिविलिज नहीं होता, मैं होम मिनिस्ट्री को आपके पेपर्स भेज देता हूँ । सिर्फ यह कहा था । यह कभी नहीं कहा था कि हाउस में रखेंगे । आज मुझसे कहा आकर कहते या सेशन के शुरू होने के समय कहते ।

SHRI NIREN GHOSH: I thought it was your duty to take up the matter..(Interruptions)

SHRI MONORANJAN ROY: If you do not, who else will give protection?..(Interruptions).

MR. CHAIRMAN: Please sit down, Mr. Monoranjan Roy. Don't disturb the proceedings of the House...

SHRI MONORANJAN ROY: We shall sit. But we want to know..

MR. CHAIRMAN: You are disturbing the proceedings of the House, Mr. Monoranjan Roy..(Interruptions).

श्री राजनारायण : श्रीमन्, मेरा आप से विनम्र निवेदन है । आप कृपा करके इस सदन की (Interruption) जब आप यह कहते हैं कि मैंने यह कर दिया, मैंने वह कर दिया तो क्या.....

SHRI S. P. GOSWAMI (Assam): Sir, on a point of order.....(Interruptions).

श्री राजनारायण : आप की पर्सनेलिटी अनलिमिटेड नहीं है, आप सदन के नियम के मुताबिक चलेगे । यदि आप की व्यवस्था सदन के नियमों का उल्लंघन करती है तो आपकी व्यवस्था को मानने के लिए हम मजबूर नहीं है ।

श्री सभापति : अब आप बैठ जाइए ।

श्री राजनारायण: You are a man of limited personality. You don't have unlimited personality.

श्री सभापति: अब आप काम चलने दीजिए ।

श्री लाल अदवाणी : मुझे लगता है कि कोई गलत-फहमी खड़ी हुई है निरेन घोष के मामले में । मेरा निवेदन यह है कि आप इस चीज को सचिवालय से दिखवा लें । उनका इम्पेशन यह है कि सदन में जो हुआ और जो कहा गया उससे उनको ऐसा आभास हुआ कि आप के द्वारा वह सदन में रखा जायेगा । आप को स्मरण है कि ऐसा नहीं हुआ और आप ने केवल गृह मन्त्रालय को कहा था । मैं निवेदन करूंगा कि सचिवालय अभी भी देख ले कि वास्तव में क्या हुआ था और उसके अनुसार कार्यवाही की जाये । उनका इम्पेशन है कि आप की ओर से 'सो-मोटो' यह चीज आनी चाहिए थी और इसी आधार पर उन्होंने उठाया है ।

श्री सभापति: वह गलत है :

SHRI SUBRAMANIAN SWAMY (Uttar Pradesh): Sir, this is a matter....(Interruptions)

MR. CHAIRMAN: No, please. Sit down. I request you to sit down now..(Interruptions)

THE CONSTITUTION (THIRTY-THIRD AMENDMENT) BILL, 1974—contd.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. GOKHALE): With your permission, Mr. Chairman, I resume my reply by repeating again that I am thankful to hon. Members on both sides..

श्री राजनारायण (उत्तर प्रदेश): कोई फेवरबिल नहीं है ।

SHRI H.R. GOKHALE: A large number of them have favoured it. I am thankful to them for supporting the Bill. I am also thankful to those who were critical, because they are entitled to be critical about any measure like that. But, as I said, I am all the more thankful to the hon. Members who have supported the Bill....

SHRI NIREN GHOSH (West Bengal): Nobody is going to support it.....

SHRI H.R. GOKHALE: Sir, I think it is not necessary for me to refer to all the points made by each hon. Member. I have analysed the points; many of them are common and they are overlapping. I will deal with the major points which have been raised in the course of this debate.

One point which has been made by some hon. Members is that if the proposed amendment to Art. 101 and 190 goes through, it curtails or abridges the full freedom of an hon. Member to resign. Sir, I repudiate this suggestion also. First of all, there is no curtailment or abridgement of the freedom of an hon. Member to resign. The freedom to resign continues, as some of the hon. Members have already stated in the course of their speeches. In England, for example, an hon. Member simply cannot resign; he has an office of profit. But in India the right to resign had been recognized from the very initiation of the Constitution. And that right continues to be recognized even after the amendment goes through.

Sir, the right to resign or the freedom to resign also presupposes the freedom of the Member not to resign. Here, Sir, the question is that when you compel a Member to resign, his freedom to decide whether he will continue as a Member or will not continue as a Member has been seriously abridged by the actions of so many parties, of so many people, who by acts of violence, duress or acts of coercion, bring pressure on the Members to put in their resignations against their will. Therefore, the freedom to resign is not at all affected.

श्री राजनारायण : आन ए. प्वाइन्ट आफ आर्डर : उनको कहिए कि बैठ जाय।

श्री सभापति : वह थोड़ा नहीं कर रहे हैं।

श्री राजनारायण : प्वाइन्ट आफ आर्डर [पर थोड़ा करना ही होगा।

श्री सभापति : कहिए, क्या प्वाइन्ट आफ आर्डर

श्री राजनारायण : मेरा प्वाइन्ट आफ आर्डर यह है कि क्या सदन में कोई मन्त्री यह अधिकार रखता है कि वह असत्य बोलें जानबूझ कर। न तो गुजरात में और न ही बिहार में किसी से जबरदस्ती इस्तीफा लिया गया है। वहाँ विलिंगली (स्वेच्छा से) सब ने इस्तीफा दिया है और अभी 5 जून को, उसके पहले ही तमाम जनसंघ और संसोध के सदस्य फिर इस्तीफा देगे। यह मन्त्री जी असत्य बोल रहे हैं।

MR. CHAIRMAN: This is no point of order. I overrule it.

श्री राजनारायण : तो मैं इसके लिए प्रिविलिज के मोशन का नोटिस देता हूँ।

MR. CHAIRMAN: I overrule it.

श्री राजनारायण : आप इसे ओवर रूल कैसे कर सकते हैं। Under what rule?

MR. CHAIRMAN: I overrule you. Please sit down now.

SHRI H.R. GOKHALE: The amendment does recognise that a Member of Parliament or an Assembly has the right to tender his resignation if he voluntarily decides to resign from the membership of the House. That position which was recognised by the Constitution from the beginning of the Constitution has not been affected at all by the proposed amendment. Even in the proposed amendment, the normal course proposed is that a resignation tendered by an hon. Member will be accepted by the Speaker or the Chairman as the case may be and only in certain circumstances which are mentioned in the proviso, viz., if the Speaker or the Chairman is satisfied that the resignations were not genuine or voluntary, then the question of the Speaker or the Chairman coming to a contrary conclusion arises. Therefore, the basic assumption that the normal thing is not the acceptance of the resignation but the rejection of the resignation is basically wrong. This is, I may say with all respect, a total misunderstanding of the provisions of the proposed amendment.

Sir, what is the present position? It has been said that because of the proposed amendment, the Speaker or the Presiding Officer will be dragged to the court. Some cases were quoted. An hon. Member quoted a case dating back to 1952. There was another case of Allahabad High Court. I have seen these cases. Even when the amendment was

not there and even under the existing provision, it was asserted that a resignation by itself inherently means a voluntary and genuine resignation and the person concerned could take the matter to the court for determining whether the resignation should be treated as effective or not effective on the ground that it was voluntary or genuine or not. In the Travancore-Cochin case, in fact it was held that although the resignation was signed by the hon. Member, it was not a resignation which was genuine or voluntary. Even in this case, the Speaker or the Presiding Officer was dragged to the court even when the amendment was not there. So, nothing new has happened even now.

A criticism has been made that there is no provision about the kind of enquiry that will be made by the Speaker or the Presiding Officer. All the lawyers knew the expression used in this amendment "...if from information received or otherwise and after making such inquiry as he thinks fit..." are expressions which are very commonly used in this country and all over the world where the English language is used. When an enquiry is contemplated, it means that the decision of the Speaker or the Presiding Officer will not be capricious. An enquiry contemplates that a decision will be made by him after following the ordinary and well-accepted rules of fairplay and justice. If after following that procedure, the Speaker or the Presiding Officer or the Chairman comes to the conclusion that the resignation is not voluntary or that it has been tendered under pressure, duress or threat of violence, then only on such an enquiry or on receiving such information, the Speaker can decide that the resignation should not be accepted because it is not a voluntary or genuine resignation.

Sir, recent experience has shown and it is so recent that hardly any reminder of these events is necessary, at some stage, to a certain extent I was very closely concerned with what was happening in Gujarat. Sir, I have information of some instances—they have been reported in the Press also—where very much undesirable methods were used by small sections of people to pressurize Members to resign. Sir, in one case, the head of a Member was shaven off and he was paraded on the streets on the back of a donkey in order to compel him to resign. In another case, a Member was dragged from his house by a mob of people and taken physically to the Speaker

to tender his resignation. There are some amendments that the resignation should be given in person and that would be enough. Now, it can be given in person by physically dragging a person to the Speaker. Therefore, an amendment which merely says that it will be tendered in person does not really meet the situation. A large number of instances have happened and this is not an isolated instance. Instances have occurred in Gujarat where resignations that were given were definitely not voluntary and not genuine, and they have been given under compulsion or duress.

Therefore, Sir, while it is very necessary to preserve the right and the freedom of a Member to resign whenever the Member likes, it is also necessary to preserve his freedom not to resign under pressure and coercion.

SHRI SUBRAMANIAN SWAMY (Uttar Pradesh): Sir, on a point of information...

MR. CHAIRMAN: No, please. Not now. Let him continue.

SHRI H. R. GOKHALE: Sir, a mention has been made in the course of speeches and one or two Amendments also referred to what is described as the right of recall. I know, Sir, first of all such a suggestion as a substitute for this Amendment really gives the implication or an understanding that as long as a right to recall is not provided for, acts of violence in order to recall a Member by obtaining his resignations are justified. Recall is a very difficult thing. One can appreciate the suggestion. But I cannot appreciate the argument that as long as the right to recall is not there, all these things which take place, which are violent and which are under duress to compel the Member to resign, are justified because the right of recall is not there. Even with regard to the right of recall, the hon. Members referred to some countries, particularly the East European countries where the kind of democratic framework which exists in India does not exist, where the multi-party system which exists in India does not exist, this has been there. In fact, in some countries, even in the East European countries, the right of recall was originally provided for but on experience was withdrawn. I know that it exists in some of the States, perhaps, one or two only, in the United States of America. It does exist in one or two States in Europe. But the experiences has shown that a right to recall, for

[Shri H. R. Gokhale]

example, cannot be merely by obtaining 51 per cent or 60 per cent signatures. Wherever the right of recall is there, Sir, the matter has to go back to the people. The people have to vote on the question whether the elected representatives should continue or should not continue. In small countries the situation is quite different from here; there the electorate is not expected to be nearly to the tune of 350 million people. And in a country where the voting strength in each constituency is sometimes as large as ten or eleven lakhs, a right to recall is easier said than done. Sir, I would not in any case support the argument that as long as you do not provide for the right of recall the present situation should be allowed to continue and forced resignations should be accepted and they should be regarded as genuine and voluntary. Sir, it was said that violence cannot be stopped by legislation. I agree, Sir, mere legislation cannot stop violence. Perhaps, it can be stopped, if not stopped, at least curbed, if some of the Parties who are today encouraging violence stop doing so. Therefore, Sir, law is only one method by which protection is granted to a person to maintain his freedom, to maintain his choice, to maintain the voluntary character of his action. And that is exactly what the present Amendment seeks to do. The two parts of the Amendment are really one. One pertains to the right of the Members of the Parliament and the other pertains to the right of the Members of the Legislatures in the States. Basically, the concept underlying the Amendments of both the Articles being the same, it is not necessary to refer to each one of them separately because there is no separate point raised in respect of each of them. I would submit that this is a simple Amendment. This is an Amendment which proceeds on the theory and the basis that voluntariness in action should be the basis of all action, including resignations by hon. Members, and just as a Member has a right to resign, he has also a right to remain in his position and not being forced to resign by pressure or violence or undue influence or duress.

Sir, I commend that this Bill be taken into consideration.

MR. CHAIRMAN: I shall first put the amendment of Mr. Rajnarain.

SHRI SUBRAMANIAN SWAMY: May I ask for a clarification?

MR. CHAIRMAN: No, this is not the occasion.

DR. K. NAGAPPA ALVA (Karnataka): Sir, the Minister...

MR. CHAIRMAN: No, please; I am sorry. I shall first put the amendment of Mr. Rajnarain to vote.

The question is:

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri Shyam Lal Yadav
2. Shri Omprakash Tyagi
3. Shri Parkash Vir Shastri
4. Shri Mahavir Tyagi
5. Shri Banarsi Das
6. Shri Rabi Ray
7. Shri Rajnarain

with instructions to report, within a month from the date of making the motion."

The motion was negatived.

MR. CHAIRMAN: I shall now put the motion to vote. The question is:

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

Under article 368 of the Constitution, the motion will have to be adopted by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of the House present and voting. A division may accordingly be called.

The House divided.

MR. CHAIRMAN: Ayes—159; Noes—30

AYES—159

Abdul Samad, Shri A.K.A.
 Abid Shri Qasim Ali
 Abu Abraham, Shri
 Adivarekar, Shrimati Sushila Shankar
 Ahmad, Dr. Z.A.
 Alva, Shrimati Margaret
 Amla, Shri Tirath Ram
 Anandam, Shri M.
 Arif, Shri Mohammed Usman

Barman, Shri B.D.
 Berwa, Shri Jamna Lal
 Bhagwati, Shri B.C.
 Bhardwaj, Shri Jagan Nath
 Bhatt, Shri Nand Kishore
 Bisi, Shri P.N.
 Bobdey, Shri S.B.
 Borooah, Shri D.K.
 Buragohain, Shri Nabin Chandra

Chakrabarti, Dr. R.K.
 Chandra Shekhar, Shri
 Chanrasekhar, Shrimati Maragatham
 Chattoadhyaya, Prof. D.P.
 Chaturvedi, Shrimati Vidyawati
 Chaudhari, Shri N.P.
 Chettri, Shri K.B.
 Choudhury, Shri N.R.
 Chowdhary, Shri C.L.
 Chowdhri, Shri A.S.
 Chundawat, Shrimati Lakshmi Kumari

Das, Shri Balram
 Das, Shri Bipinpal
 Devandra Nath, Shri
 Dhabe, Shri S.W.
 Dikshit, Shri Umashankar
 Dutt, Dr. Vidya Prakash

Gadgil, Shri Vithal
 Gian Chand, Shri
 Goswami, Shri S.P.
 Gowda, Shri U.K. Lakshmana
 Gujral, Shri I.K.
 Gupta, Shri Bhupesh

Hashmi, Shri S.A.
 Himmat Singh, Shri

Imam, Shrimati Aziza

Jagdish Chandra, Shri
 Jagtap, Shri R.D.
 Jain, Shri Dharamchand
 Jairamdas Daulatram, Shri
 Jha, Shri Kamalnath
 Joshi, Shrimati Kumudben Manishankar

Kalan'ya, Shri Ibrahim
 Kalpanath, Shri
 Kalvan Chand, Shri
 Kambale, Shri N.M.
 Kapur, Shri Yashpal
 Kesri, Shri Sitaram
 Khan, Shri Khurshed Alam
 Khan, Shri Maqsood Ali
 Khan, Prof. Rasheeduddin
 Kishan Lal, Shri

Kollur, Shri M.L.
 Kripalani, Shri Krishna
 Krishan Kant, Shri
 Krishna, Shri M.R.
 Kulkarni, Shri A.G.
 Kulkarni, Shrimati Sumitra G.
 Kumbhare, Shri N.H.
 Kureel Urf. Talib, Shri P.L.

Lalbuaia, Shri
 Lotha, Shri Khyom.

Mahanti, Shri B.K.
 Mahapatre Shri L.
 Majhi, Shri C.P.
 Makwana, Shri Yogendra
 Malaviya, Shri Harsh Deo
 Mali, Shri Ganesh Lal
 Mehta, Shri Om
 Menon, Shrimati Leela Damodara
 Mirdha, Shri Ram Niwas
 Mohideen, Shri S.A. Khaja
 Mukherjee, Shri Kali
 Mukherjee, Shri Pranab
 Mukhopadhyay, Shrimati Purabi
 Mulla, Shri A.N.
 Munda, Shri B.R.
 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 V.R.
 Patil, Shri D.S.
 Patil, Shri G.R.
 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, Shrimati Rathnabai Sreenivasa
 Rao, Shri V.C.
 Reddi, Shri K. Brahmananda
 Reddi, Shri Papi
 Reddy, Shri Janardhana
 Reddy, Shri K.V. Raghunatha
 Reddy, Shri Mulka Govinda
 Reddy, Shri R.N.
 Refaye, Shri A.K.
 Rishi Kumar, Shri

Saleem, Shri Mohammad Yunus
 Sangma, Shri E.M.
 Sardar Amjad Ali, Shri
 Sardesai, Shri S.G.
 Savita Behen, Shrimati
 Seyid Muhammad, Dr. V.A.
 Shah, Shri Manubhai
 Shahi Shri, Nageshwar Prasad
 Sharma, Shri Yogendra
 Shastri, Shri Bhola Paswan
 Shishir Kumar, Shri
 Shukla, Shri Chakrapani
 Shukla, Shri M.P.
 Shyamkumari Devi, Shrimati
 Singh, Shri D.P.
 Singh, Shri I.D.
 Singh, Shri Inder
 Singh, Shri Jagjit
 Singh, Shrimati Jahanara Jaipal
 Singh, Shri Kameshwar
 Singh, Shri Mahendra Bahadur
 Singh, Shri Mohan
 Singh, Shri Nathi
 Singh, Shrimati Pratibha
 Singh, Shri Ranbir
 Singh, Shri Shivdayal
 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
 Tanvir, Shri Habib
 Thakur, Shri Gunanand
 Tilka, Shri J.S.
 Tiwari, Shri Shankarlal
 Tiwary, Pt. Bhawaniprasad
 Tripathi, Shri Kamalapati
 Trevedi, Shri H.M.
 Varma, Shrimati Narayani Dev Manaklal
 Venigalla Satyanarayana Shri
 Vyas, Dr. M.R.
 Wajid, Shri Sikander Ali

Noes—30

Advani, Shri Lal K.
 Alva, Dr. K. Nagappa
 Dhulap, Shri K.N.

Ganguli, Shri Salil Kumar
 Ghosh, Shri Niren
 Goray, Shri N.G.
 Gupta, Shri Shyamlal

Mahadeo, Shri
 Mandal, Shri B.N.
 Mathew Kurian, Dr. K.
 Mathur, Shri Jagdish Prasad
 Menon, Shri Viswanathan
 Misra, Shri Lokanath
 Mullick Choudhury, Shri Suhrid
 Rajnarain, Shri
 Ray, Shri Rabi
 Roy, Shri Monoranjan
 Sakhlecha, Shri V.K.
 Sanyal, Shri Sasankasekhar
 Shastri, Shri Prakash Vir
 Shekhawat, Shri B.S.
 Singh, Shri Bhupinder
 Singh, Shri Sitaram
 Singh, Shri T.N.
 Sinha, Dr. Ramkripal
 Swamy, Shri Subramanian
 Tohra, Sardar Gurcharan Singh
 Tyagi, Shri Mahavir
 Tyagi, Shri O.P.
 Yadav, Shri Shyam Lal

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

SHRI T.K. SRINIVASAN (Tamil Nadu):
 I have to explain to the House and the Chairman the reasons for our abstention.

[MR. DEPUTY CHAIRMAN in the Chair]

We abstained from taking part in the discussion only to safeguard the dignity and the status of the office of the Chairman. We fear that this may involve the Chair and it may lead to judicial interference. So what we feel is it is better to abstain from voting and walk out as a protest.

[The hon. Member then left the Chamber along with some other hon. Members.]

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

Clause 2—Amendment of Article 110

SHRI SHYAM LAL YADAV (Uttar Pradesh): Sir, I move:

1. "That at page 1, lines 12 to 17 be deleted".

SHRI LAL K. ADVANI (Delhi): Sir, I move:

5. "That at page 1, for the existing clause 2, the following clause be substituted, namely:

2. In article 101 of the Constitution, after clause (4), the following clause shall be inserted, namely:

(5) The constituency or electoral college which elects a member shall have the right to recall him in accordance with provisions made by Parliament by law in this regard; and if he is so recalled, his seat shall become vacant."

6. "That at page 1, for lines 8 to 11, the following be substituted, namely:

"(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and submitted to the Chairman or the Speaker, as the case may be, by the member in person."

SHRI BHUPESH GUPTA (West Bengal): Sir, I move:

7. "That at page 1, line 17, for the words "not voluntary or genuine" the words 'caused by the use or threat of force or is not genuine' be substituted."

SHRI SALIL KUMAR GANGULI (West Bengal): Sir, I move:

8. "That at page 1, after line 17, the following be inserted, namely:

Provided further that the function of the Chairman or the Speaker, as the case may be, in accepting or not accepting any such resignation shall not be considered to be conduct of business in Parliament within the meaning of Article 122 of the Constitution."

The questions were proposed

श्री श्यामलाल यादव: श्रीमन्, मैंने जो संशोधन पेश किया है, उसके सम्बन्ध में मैं निवेदन करना चाहता हूँ कि जिस प्रकार से सरकार की तरफ से विधेयक लाया गया है, उससे ऐसा मालूम होता है कि वह संविधान की मूल धारणा के विपरीत काम कर रही है। मान्यवर ऐसा नहीं है कि केवल विधान सभा और विधान परिषद ..

श्रीमन्, अपने संशोधन के पक्ष में दलील देते हुए मैं यह निवेदन करना चाहता था कि इस्तीफा देने का जो प्रोबिजन हमारे संविधान में है वह केवल विधान सभा, विधान

परिषद अथवा संसद के सदस्यों के लिए ही नहीं है, जिसके लिए यह विधेयक प्रस्तुत किया गया है, बल्कि अगर राष्ट्रपति को भी त्यागपत्र देना हो तो वे त्यागपत्र लिखकर उपराष्ट्रपति को दे सकते हैं। इसी प्रकार से उपराष्ट्रपति को जब त्यागपत्र देना हो तो राष्ट्रपति को लिखकर दे सकते हैं। ठीक इसी प्रकार की स्थिति सुप्रीम कोर्ट के जजेज के बारे में, उनके लिए भी व्यवस्था संविधान में है कि वे अपना त्यागपत्र लिख कर दे दें। हाईकोर्ट के जजेज किस प्रकार त्याग पत्र देगे इसकी भी व्यवस्था संविधान में वर्णित है। जिस भाषा को संविधान में लिखा गया है वही भाषा तमाम पदाधिकारियों के सम्बन्ध में वर्णित है तो फिर केवल संसद-सदस्यों अथवा विधानमण्डल के सदस्यों के लिए ही उसमें क्यो संशोधन किया जा रहा है। मेरा निवेदन यह है कि जो यह संशोधन है यह असंवैधानिक है और मान्यताओं के विरुद्ध है। दूसरी तरफ़ इस परिवर्तन को लाकर सदन के जो अध्यक्ष होंगे उनको एक प्रकार से पुलिस इस्पेक्टर का अधिकार दिया जा रहा है कि वे इसकी जांच पड़ताल करे कि यह दबाव से दिया गया था या स्वेच्छा से दिया गया था। अब तक जो व्यवस्था थी वह पर्याप्त थी इस बात को देखने के लिए कि वे सन्तुष्ट हो जाएं कि वह स्वेच्छा से है, वास्तविक है अथवा नहीं है। अगर कही सन्देश पैदा होता है अथवा कोई माननीय सदस्य असंतुष्ट है अध्यक्ष की व्यवस्था से तो वह हाई कोर्ट और सुप्रीम कोर्ट में जा सकता है। पीछे कई केंसेज हुए हैं केरल में और हाई कोर्ट ने यह फैसला दिया कि जो अध्यक्ष ने त्यागपत्र स्वीकार कर लिया वह ठीक नहीं है, जो सदस्य का पत्र था वह त्यागपत्र नहीं था। मेरा निवेदन यह है कि जो संविधान में त्यागपत्र देने की वर्तमान में व्यवस्था है वह पर्याप्त है। मेरा एग्जम्पल यह है कि खंड 2 में लाइन 11 से 13 तक हटा दी जाए। मैं क्यो ऐसा कहता हूँ? मेरा अनुरोध है कि अभी तक जो हमारा अध्यक्ष रहा है वह ब्रिटिश पार्लियामेन्टरी पद्धति के अनुसार रहा है, जिसके अनुसार अध्यक्ष देखता नहीं है, सुनता नहीं है, बोलता नहीं है। इस प्रकार की हमारी मान्यता रही है। हमने उस व्यवस्था को माना है। आज अध्यक्ष को इस तरह विवाद में डाल रहे हैं। हमारे देश में आज यह परिस्थिति है कि जैसे कांग्रेस पार्टी के सदस्यों ने त्यागपत्र दिया गुजरात में तो यह नहीं कहा जा सकता कि उन्होंने दबाव में दिया। अगर सरकार को यह आशंका होती, उसकी ऐसी मान्यता होती तो जिस सदस्य ने त्यागपत्र दिया उसके त्यागपत्र को हाईकोर्ट में चैलेंज करती, कांग्रेस पार्टी चैलेंज करती या वह माननीय सदस्य हाई कोर्ट में जाता कि दबाव डाल कर हमसे त्यागपत्र लिया गया है। उसके ऊपर गुजरात हाई कोर्ट फैसला देता, वह सही बात होती। जब देश में जनआन्दोलन होंगे तो इस प्रकार की भावनाएं उठेंगी। उनको दबाने के लिए सरकार यह विधेयक लाई है। आज अध्यक्ष विधान सभाओं में, संसद में किस प्रकार चुने जाते हैं। जिस पार्टी का बहुमत होता है उसका आदमी को अध्यक्ष चुन लिया जाता है। कोई सा उदाहरण

[श्री श्यामलाल यादव]

नहीं है कि कोई ऐसा अध्यक्ष चुना गया हो जो रूलिंग पार्टी का मेम्बर न हो। अब परम्परा यह भी हो गई है कि अध्यक्ष चुन जाने के बाद वे रूलिंग पार्टी की पार्टी मीटिंग में शिरकत करते हैं, वोटिंग में हिस्सा लेते हैं। अध्यक्ष बन जाने के बाद भी इस प्रकार से दलगत राजनीति में भाग लेने के कारण वह निष्पक्ष नहीं हो पाते। वे रूलिंग पार्टी के सिम्बल पर चुनाव लड़ते हैं, रूलिंग पार्टी उन्हें सहायता देती है, धन देती है, उनके लिए प्रचार करती है तो फिर कैसे हम यह मान सकते हैं। इस महत्वपूर्ण प्रश्नों पर कि सदस्य ने इस्तीफा दिया या नहीं दिया, अगर वह रूलिंग पार्टी का मेम्बर हो तो किस प्रकार अध्यक्ष निष्पक्षता के साथ, अपने भविष्य को सामने रखते हुए, अगले चुनाव को सामने रखते हुए, चुनाव में सहायता को सामने रखते हुए निर्णय दे सकेगा। अगर हाई कोर्ट में प्रश्न जाता है या सुप्रीम कोर्ट में जाता है तो दूसरी बात होती है। सुप्रीम कोर्ट या हाई कोर्ट के जज निष्पक्षता के साथ फैसला करते हैं। उन्हें कोई भय नहीं होता कि बल को पांच साल के बाद चुनाव के मैदान में जाता होगा। तो मैं समझता हूँ कि इस प्राविधान का सदा दुरुपयोग होगा और सत्तारूढ़ दल के पक्ष में इसका दुरुपयोग होगा। कुछ अध्यक्ष अपवाद हो सकते हैं, लेकिन देश में यह भावना रहेगी कि अध्यक्ष ने अपनी मर्जी से निर्णय कर दिया। तो उस के पद की गरिमा को बचाने के लिए मेरा निवेदन है कि ...

श्री उपसभापति : आप कितना समय और लेंगे ?

श्री श्यामलाल यादव : तो मेरा निवेदन है कि अध्यक्ष के पद की गरिमा को बचाने के लिए...

MR. DEPUTY CHAIRMAN: Now you have to wind up.

श्री श्यामलाल यादव : तो मान्यवर, इस प्रकार की व्यवस्था या नियम दुनिया की किसी समद या पार्लियामेंट में नहीं है; क्योंकि जैसे ब्रिटेन की पार्लियामेंट है, वहाँ पर तो त्याग पत्र देने की कोई व्यवस्था ही नहीं है। वहाँ पर तो सदस्य चांसलर आफ एक्सचेंजर को कहना है और उस को वह स्टालवर्ट नियुक्त कर देता है। ज़्यादा उस को वहाँ नियुक्त होती है अगली शाम वह इस्तीफा दे देता है और वह उस पद पर बना रहता है और बाद में उस पद से वह अपना त्यागपत्र दे देता है ताकि दूसरे सदस्यों को यदि इस्तीफा देना हो तो वह सुविधा उन को प्राप्त रहे। जहाँ तक अमरीका का सवाल है वहाँ हाउस आफ रिप्रेजेंटेटिव्स के अध्यक्ष को लिख कर दे दिया जाता है और उसे मान लिया जाता है। लंका में यह है कि नेशनल स्टेट असेम्बली का स्पीकर और वहाँ तो स्पीकर भी नहीं है, वहाँ के क्लर्क आफ दि हाउस का सदस्य अपना इस्तीफा दे देता है और वह मान लिया जाता है। जापान में भी इस प्रकार की शब्दावली है और वहाँ सदन के अध्यक्ष को त्यागपत्र दिया जाता है और नहीं तो प्रेसीडेंट

आफ दि हाउस को त्यागपत्र दिया जाता है। तो ऐसी स्थिति में कौन सा कारण है कि कानून मन्त्री जी ने ...

MR. DEPUTY CHAIRMAN: Mr. Yadav, you are speaking on the amendment.

श्री श्यामलाल यादव : यह क्या है। मैं समझता हूँ कि मन्त्री जी ने जन भावना के विपरीत यह किया है। उन्हें तो गर्व है कि हिन्दुस्तान का विशाल बहुमत उनके साथ है। इस वक्त जनता ने उनका इतना समर्थन किया है तो वह क्यों डर रहे हैं। यह इस बात की तरफ इशारा करता है कि सत्तारूढ़ दल के विपरीत ज्यो-ज्यो इस देश की जनता होनी जायेगी, ज्यो-ज्यो उसकी नीतियाँ असफल होती जायेंगी, देश भुखमरी के कगार पर पहुँचना जायेगा। सत्तारूढ़ दल देश के बहुमत का लाभ उठा कर जनजीवन पर कुठाराघात करना चाहता है और जो जनता के आन्दोलन है, उन को दबाना चाहता है। तो इस प्रकार का अनैतिक और गैर-कानूनी ...

MR. DEPUTY CHAIRMAN: Now you have to wind up, Mr. Yadav.

श्री श्यामलाल यादव : आप देखेंगे कि यह बड़ा मौलिक प्रश्न है। एक ऐसा अधिकार सरकार लेना चाहती है कि जिससे इस देश के जनतन्त्र को हत्या होगी। आखिरी बात मैं यह कहना चाहता हूँ कि ...

(Time bell rings)

MR. DEPUTY CHAIRMAN: Now you will have to take your seat. For the last ten minutes you have been speaking.

श्री श्यामलाल यादव : आखिरी बात एक दो वाक्य में कह दूँगा। उसके बाद समाप्त कर रहा हूँ।

MR. DEPUTY CHAIRMAN: No more. I will not allow you to speak any more. I have been waiting patiently for you to end your speech. At least I have asked you ten times to wind up, but you do not seem to listen to me.

श्री श्यामलाल यादव : मैं आपकी बात का शिरोधार्य करता हूँ और एक दो वाक्य में कहना चाहता हूँ कि अगर सरकार यह समझती है कि इस तरह से संविधान में अवांछित परिवर्तन करके वह इस देश की जनता को रोक पाएगी और इस प्रकार अपना बहुमत कायम रख पायेगी तो यह रहने वाला नहीं है। असम्भव है। सगोनों के बल पर जो सत्तारूढ़ दल के पीठासीन अधिकारी होंगे उनकी सहायता से विधान सभा या सदन की सरकार नहीं बचा सकती। आज गुजरात में जो हुआ है, बिहार में उसकी आग फैल गयी है। आप बिहार में जाकर घूमिये। यहाँ पर प्वाइन्ट आफ आर्डर रोज कर रहे हैं। बिहार में कोई मन्त्री जाने को तैयार नहीं है। आज जो आपके सदस्य हैं वह गृह मन्त्री और न्याय मन्त्री बिहार में जा कर जनता की हालत को देखें और समझें। आपके मन्त्री वहाँ बैठानों में घूम नहीं सकते। आप में हिम्मत नहीं कि

आप जा कर देहात में जनता को कुछ कह सकें। आप यह बैठ कर यह अधिकार लेना चाहते हैं। यह अधिकार संगीनों के बल पर नहीं चल सकता। जिस जनता ने आप को यहाँ बिठाया वही जनता आप को यहाँ से उठा कर फेंक देगी। मान्यवर, आप क्यों ऐसी इजाजत देते हैं जिससे सर्विशन की हत्या की जाए, जिससे देश में जनतन्त्र की हत्या की जाए।

SHRI LAL K. ADVANI: Sir, am I to speak on both the amendments?

MR. DEPUTY CHAIRMAN: Yes.

SHRI LAL K. ADVANI: I have tabled two amendments, No. 5 and No. 6. The first is a substitute to clause 2 which, in a way, is the main clause, and clause 3 is the one relating to MLAs and Assemblies. My first amendment is that in place of the present clause 2, we should substitute another amendment saying that—

“In article 101 of the Constitution, after clause (4), the following clause shall be inserted, namely:—

“(5) The constituency or electoral college which elects a member shall have the right to recall him in accordance with provisions made by Parliament by law in this regard; and if he is so recalled, his seat shall become vacant.”

Sir, first of all, my objection is to the present clause and my objection is that this Bill is essentially born-out of a political crisis. It is a political problem that is sought to be tackled. And I think that the Government's big to tackle this political problem by a constitutional remedy is basically ill-conceived. It should not have been done. A political problem should have been tackled in a political manner and, I think, in a political way, and solutions, if any, should have been political. Instead, Government has offered us this constitutional remedy. I think the Government has made the Constitution a ludicrous document. I would only like to illustrate—today reference has been made to the resignation by an MLA and if an MLA resigns, then the Constitution warrants that the Speaker or the Chairman, as the case may be, would make an enquiry whether the resignation is genuine or not, whether it has been submitted under duress or not, and only after that enquiry would he accept it. I was in a mind to give another amendment or rather a series of amendments. I would only illustrate one, I will not deal with the others. Suppose, for instance, we were to

make an amendment in the Constitution, in article 56, which deals with the term of office of the President. Presently the Constitution says under article 56 that ‘the President shall hold office for a term of five years from the date on which he enters upon his office’. And it goes on to say ‘Provided that—(a) the President may, by writing under his hand addressed to the Vice-President, resign his office’. It is the same wording which we find in the articles sought to be amended now. Suppose, for instance, we were to amend this article 56 and add another proviso saying that ‘Provided further that in the case of such a resignation by the President, if from information received or otherwise and after making such enquiry as he thinks fit, the Vice-President is satisfied that such resignation is not voluntary or genuine, he shall not accept such a resignation.’ I am indebted to the Law Ministry for this wording; it is not mine I have just picked up ..

SHRI BHUPESH GUPTA: There is no danger of Anand Margis entering the Rashtrapati Bhawan.

SHRI LAL K. ADVANI: Who knows who enters the Rashtrapati Bhawan some day?

I only want to highlight the ludicrous nature of this amendment. It is ludicrous, it is absurd. I doubt whether any country in the world has a constitution of this kind where a resignation by an MLA is to be investigated into, is to be enquired into, first by the Speaker and then accepted. I might like to stress that any coercion or duress to secure a resignation of legislators is wrong. I deplore it, I condemn it, I do not approve of it. But at the same time, I would like to submit that if we have Gujarat in mind, there might have been a few instances, one or two, where there might have been an element of coercion or duress. But, by and large, an overwhelming majority of the legislators in Gujarat have resigned voluntarily. As my colleague yesterday pointed out, it is an amendment but it is an amendment which really goes to the root of the whole matter. And, therefore, I would seek your permission to make my point. My colleague yesterday pointed out that two ex-Chief Ministers of Gujarat, Shri Ghanshyam Oza and Mr. Chimanbhai Patel, not only resigned themselves but they asked all their colleagues, all their followers, all those who subscribed to their viewpoint to follow suit, and quite a large number

[Shri Lal K. Advani]

of Congress and Opposition MLAs voluntarily tendered their resignation . . .

AN HON. MEMBER : May I ask a question ?

MR. DEPUTY CHAIRMAN : No more questions, please.

SHRI LAL K. ADVANI : I have no objection to answering questions but I only want to point out that it was a political situation. In that context I would also ask the Government that considering the situation in Gujarat the President imposed the President's Rule. The Assembly was first suspended and later on it was dissolved. Mr. Chimanbhai Patel was asked to tender his resignation as Chief Minister, the Central Government acting under duress. Was the Central Government submitting to violence or coercion ? Of course, some one can say "Yes". But I feel that essentially it was respecting the wishes of the people. And if in respecting the wishes of the people it asks the Chief Minister to resign, or if it suspended the Assembly or later on dissolved the Assembly, I think it did a wise thing, although it was delayed, and that delay cost Gujarat a larger number of lives a heavy toll.

The Law Minister was just now saying that the amendments referring to the provision of recall do not arise from this Bill, or they seem to suggest that if the provision of recall is not there coercion is justified. I would not hold that view. I would be happier if a special provision for recall were made by an independent Bill. I would be happy. But, as I said, this Bill is a constitutional remedy for political relief. And if at all a constitutional remedy is to be sought then, I would come to recall; otherwise I would not have come to recall. On many an occasion recall acts because Government seeks to have constitutional remedy for a political problem. If a constitutional remedy is to be sought let us go to the root. What happened in Gujarat ? In Gujarat the situation arose because the Government which came into being failed to honour the promises it made to the people and it forfeited the confidence of the people. Under the Constitution, as it stands today, the people of Gujarat would have to wait for five long years or three or four long years as many remained. Now they were impatient and the impatience of the people knew no bounds and the

situation developed that way because of which the Government had to accede to the wishes of the people and dissolve the Assembly. Now fresh elections are in the offing. My submission is that this touches the root of the problem. The Government, if it is to prescribe a constitutional remedy, should prescribe a proper constitutional remedy. This is no argument that the provision of recall does not obtain in many countries. But this is no argument. On that argument this Bill should fall absolutely because this does not obtain in any constitution of the world. But the provision of recall is essential and is a democratic provision.

I have not stated in my amendment that there should be 51 voters who should sign the recall document. I think that what the Law Minister just now said is a proper course that if there is to be a recall then the matter should go to the electorate afresh. There should be a minimum percentage of voters who should seek recall. Therefore, I have mentioned "constituency" or the "electoral college" because I do not agree that the Rajya Sabha Members or the Members of the Legislative Council, which means the Members of the Upper House, are not answerable to the people. They are also answerable to the people. If we make the Members of the Lower House answerable to the people, Members of the Upper House should also be answerable to the people. Therefore, the electoral college which elects them, that electoral college will have the right to recall them.

SHRI BHUPESH GUPTA: If you put it that way, then Rajya Sabha Members will be in great danger. The Congress Party, having a majority, will recall all of us.

SHRI LAL K. ADVANI: I know it very well. Therefore, I have very cautiously said that the constituency or the electoral college which elects a member shall have the right to recall him in accordance with the provisions made by Parliament by law. There has to be a special law for that. Simply providing for 51 per cent blanket authority, I do not think would be a proper course of action.

My second amendment is, in fact, a kind of compromise amendment. I think that the Constitution as it stands today is sufficient; it should not create any problems. But if at all anyone feels that there are problems arising out of this, because it is merely said that a

resignation addressed to the Speaker or the Chairman by itself becomes effective, then that can be remedied by this small interpolation, namely, that the member who resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, "and submitted to the Chairman or the Speaker, as the case may be, by the member in person". If he comes and personally submits it to the Chairman or the Speaker, I think it should be accepted and there should be no cause for an enquiry.

Sir, the Law Minister referred to the fact that the Speakers are also being dragged into the court of law, and so this kind of thing need not be objected to on that ground. My objection is not to their being dragged into the court of law so much as to the fact that they become centres of political controversy. In this context, I would like to conclude by quoting an article written by the present President of the country, who was then the Chairman of this House as Vice-President. He wrote something on the office of Speaker. Dr. V.V. Giri said in this article, dealing with the powers of the presiding officers in Indian legislatures:

"It is conceded on all hands that the presiding officer should stand apart from party strifes and he should be sufficiently withdrawn from the hurly-burly of stormy State politics to be able to command respect from all sides. Even now when so much debate is going on about the necessity of curtailing the enormous powers enjoyed by the presiding officers through the amendments of Rules of Procedure, I am personally of the view that we should attempt to establish and follow sound traditions and conventions rather than depend unduly on laws and regulations. Once we go on tinkering with the rules, cases may occur when even on a frivolous pretext, attempts may be made by some sections of the House, when they are unjustly dissatisfied with the presiding officer, to demand even his removal."

This is tinkering with the Constitution. He had advised against tinkering with even the rules. Therefore, I commend both my amendments to the House.

MR. DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, do you want to say anything?

SHRI BHUPESH GUPTA: Yes. Otherwise why do I give an amendment? Only for you to read?

MR. DEPUTY CHAIRMAN: For it to be passed or rejected by the House. Giving an amendment does not mean that you must speak.

SHRI BHUPESH GUPTA: That may be your way of thinking. My way is different.

This Bill has given rise to a controversy in the country. There is no doubt about it. I have gone through the editorials in most of the leading papers in different languages—naturally I cannot follow all the languages; English and Bengali, I have gone through—and I find that there is a controversy. It is understandable. If there is a controversy over a matter of this kind, it is I who made this suggestion in the beginning of this session that in view of the attempt to secure forced resignations from the members of Assemblies, and of Parliament perhaps later, it would be advisable for us to consider at the political level as to how we could meet this situation. I also suggested that we might have a look at the Constitutional provision which seems to be defective and would not stand the test of time. Later on I was told that this Bill was forthcoming. But unfortunately, the Leader of the House or the Minister of Parliamentary Affairs or the Law Minister did not care to consult the Opposition or members of their own party who are not in the treasury benches, to find out what is the best formulation of this Bill. When we pass a measure of this kind, it is necessary to inform public opinion. It is necessary to take the people, as far as possible, with us. It should not be a dictated thing dropped suddenly on the floor of the House with a view to getting it passed.

That is not a good practice over a matter of this kind. Naturally much has not been debated. The controversy is there. I have given an amendment. I wish that things were avoided I do not know why Mr. Om Mehta did not take necessary steps to discuss this matter with all the representatives of various political parties with a view to evolving a possible and agreed formula in order to make the necessary amendment if it was thought that an amendment should be made to the Constitution. I do not like the wording in the Bill. What does it say? It says that "Chairman, as the case may be, resignation is not voluntary or genuine, he shall accept such resignation". Two things are there. One

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thing is either it is not voluntary and the other is it is not genuine. About this it is not so much an objective test here. Therefore in view of what is happening in this country, I suggested that—instead of what is put down here—"resignation caused by the use or threat of force," because a forced resignation would be deemed a resignation which is not genuine and that should be rejected. Now what are the other resignations? A resignation may take place as a result of a public meeting calling upon some member to resign. There is no apparent force in it. It is a public opinion expressed. It should not be put in the same category as when some group of people, as it was pointed out, go with a gun and at gun point ask the man to sign a resignation letter. (Time bell rings) Sir, why are you ringing the bell?

MR. DEPUTY CHAIRMAN: To indicate that you have taken enough time.

SHRI BHUPESH GUPTA: Sometimes you give wrong indications...

MR. DEPUTY CHAIRMAN: No, it is a correct indication I gave.

SHRI BHUPESH GUPTA: Please do not break the thread of my argument. Let me explain my point. This should be discussed. Many people asked me: "Why are you supporting it?" I can understand why people are asking me this question I did not have a chance of explaining as to why we are supporting this Bill from this side of the House. I believe we are the only ones who are supporting it. Naturally I would like to explain my position as to why we are supporting while we accept the apprehensions on the part of many Members on this side of the House.

Therefore, Sir, I say let it be restricted, "resignation caused by the use or threat of force". Let this element be there. Let it not be confused with the other thing. Resignations may follow as a result of many things. I see the absurdity of legal profession. You see the wording here, "not voluntary". Suppose you are a married man. Hypothetically speaking, you are a married man and a Member of this House, not a Deputy Chairman. Suppose you had a very intransigent wife and you are a henpecked husband...

MR. DEPUTY CHAIRMAN: Fortunately I am not married.

SHRI BHUPESH GUPTA: I said suppose you are a married man.

SHRI MAHAVIR TYAGI (Uttar Pradesh): You cannot accuse the Chair like that.

SHRI BHUPESH GUPTA: I am not accusing him. I said suppose he is a married man. I say suppose you are a bachelor.

MR. DEPUTY CHAIRMAN: Please finish now.

SHRI BHUPESH GUPTA: Suppose you are a henpecked husband and your wife is bellicose and intransigent. She compels you for whatever reasons to tender your resignation. Now, what do you call it? Would it be called voluntary or involuntary?

SOME HON. MEMBERS: Voluntary.

SHRI BHUPESH GUPTA: Yes; then it would be a problem. Suppose you have a brother-in-law and he goes to the court and contests and you go to the court and file affidavits. But your wife says I wanted my husband to get out of this thing, but he would not listen, he is creating scenes in the house. Ultimately, she says, I withheld my conjugal relations and compelled him to resign. Is it voluntary or involuntary?

SHRI MAHAVIR TYAGI: I am glad you are safe that way.

SHRI BHUPESH GUPTA: I am giving a juristical argument. Now here you have defined what is voluntary or what is involuntary. Yet you have in mind resignation taken by force. Put it that way. We do not want resignations to be brought about by force or threat of force. I am surprised that some of my friends, for instance, Shri Rajnarain and Shri Tyagi of the CONGO and others are opposing this thing. There was recently a meeting of the Opposition MLAs in Bihar. This was published in the Hindustan Standard of 13th May. The meeting was on the 12th May. I will just read it.

The pressure tactics students agitators used in forcing Opposition legislators to resign their seats for the dissolution of the Assembly has boomeranged. Opposition legislators met last night under presidency of Sardar Harihar Singh, former Chief Minister and leader, Congress(O) Legislature Party, and reviewed the situation since

Opposition legislators decided to voluntarily resign and the student pressure tactics. All members felt that it was time that the Frankenstein they helped to nurse should be decently buried before it destroyed the democratic fabric of the country. Members described how they had been abused or gheraoed or forcibly made to sign letters of resignation by students. The Socialist Party leader Mr. Kapildeo Singh former Minister narrated how students forced him to sign a resignation letter at Monghyr the other day by holding a dagger near his chest. Mr. Aziaul Haque, General Secretary, Bihar SSP—he belongs to my friend Shri Rajnarain's Party—Mr. Harihar Singh, CONGO, and Mr. Bindheswariprasad Mandal, SSP, informed the meeting that students had threatened that their telephone, electricity and water lines would all be cut if they failed to resign by May 15, that is, by tomorrow.

This is what your colleagues in Patna have said about the Frankenstein...

SHRI RAJNARAIN : My information is that it is all wrong. आप बैठ जाएं तो मैं बतला दूँ। यह बिल्कुल गलत खबर है आज भी हम को खबर मिली है कि 25 को उनकी मीटिंग हुई और संगठन कांग्रेस, संसोपा और जनसंघ और सोशलिस्ट पार्टी के सब लोगो ने मिल कर यह तय किया है कि 5 जून के पहले पहले सब लोग इस्तीफा दे देंगे। जो लोग पटना में नहीं हैं उनको बुलाया गया है और वह लोग आ कर अपना इस्तीफा स्वेच्छा से देंगे। यह कम्युनिस्ट पार्टी का प्रचार है और यह एल० एन० मिश्र के पैसे से उनका प्रचार चल रहा है।

SHRI BHUPESH GUPTA : There is another paper—Indian Nation of Bihar.

श्री राजनारायण : यह एल०एन० मिश्र का पेंपर है।

SHRI BHUPESH GUPTA : Which Narain's paper, I do not know. I am just reading out from the Indian Nation. This also says that the Socialist Party Leader Mr. Kapildeo Singh who was also present at the meeting narrated how the students took his resignation letter after showing a dagger...

SHRI RAJNARAIN : Indian Nation is talking all sorts of nonsense. यह सपोर्ट कर रहे हैं या इसको अपोज कर रहे हैं।

SHRI BHUPESH GUPTA : Anyway, I have brought it to your notice. These are to be curbed. That is why I am supporting this Bill.

SHRI RAJNARAIN : Your argument is against the Bill.

MR. DEPUTY CHAIRMAN : Your time is already over. You will have to wind up now.

SHRI BHUPESH GUPTA : Now, Sir....

1 PM

MR. DEPUTY CHAIRMAN : Please come to the point. He has not asked for your support.

श्री राजनारायण : आप सपोर्ट कर रहे हैं या. .

SHRI BHUPESH GUPTA : Sir, my friend, Shri Rajnarain...

MR. DEPUTY CHAIRMAN : Mr. Bhupesh Gupta, I will not allow this cross-discussion. Do not answer Mr. Rajnarain. Say what you want to say and complete your speech.

SHRI RAJNARAIN : Let him say so.

SHRI BHUPESH GUPTA : Sir, the article in the Constitution says:—

"If a Member of either House of Parliament—

(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, his seat shall thereupon become vacant."

So, Sir, all that is needed is that a letter should be addressed and that is all.

SHRI RAJNARAIN : Yes.

SHRI BHUPESH GUPTA : It need not even reach him. The fact is that this is the wrong way of putting it here. It does not say that even as a matter of courtesy he should announce it here. It does not say that the Chairman or the Speaker must accept it and it is so categorical as that. Now, Sir, I will give you an instance. I go to a Bihar village and Mr. Rajnarain comes there, as you know, in a frightening manner and if he brings with him a gun or a dagger or, for that matter, even a lathi, and I am forced to sign a resignation letter and send it here, now it is accepted! Is it to be permitted? Is this to be permitted or, for that matter, a forced signature? They say that the Speaker is brought into this controversy. We do not think so. If anybody, has brought the Speaker into this controversy, it is the Constitution only...

SOME HON. MEMBERS : No, no.

SHRI BHUPESH GUPTA : It has brought the Speaker into this and it does not even ask him to look into the facts, to see whether it

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is forced or voluntary. Therefore, I say that this is a very wrong thing especially when we find that certain forces are out to destroy the very fabric of parliamentary institutions out to blackmail and pressurise in order to gain political ascendancy in life or out to destroy such institutions, and they are taking recourse to this kind of methods. Naturally, Sir, Mr. Charan Singh has said that not only he believes in extra-constitutional methods, but also in violence.... (Interruptions)....

श्री श्यामलाल यादव : यह बिल्कुल गलत बात कह रहे हैं। ऐसा बिल्कुल नहीं कहा। Sir, he should withdraw this.

SHRI BHUPESH GUPTA: Sir, I am very glad. . .

श्री श्यामलाल यादव : आप रिपोर्ट पढ़ लीजिए। यह नहीं लिखा है। बिल्कुल गलत कह रहे हैं।

SHRI BHUPESH GUPTA: It has been reported in the papers.

श्री राजनारायण : यह कम्युनिस्ट पार्टी को भीटिंग में कहा गया होगा।

SHRI BHUPESH GUPTA: Even if I bring those papers, you will say this then also.

SHRI BHUPESH GUPTA: Mr. Hare Krishna Mahatab has said it.

श्री राजनारायण : गन प्वाइन्ट क्या दिखायेंगे, यह तो भाग जाते हैं।

SHRI BHUPESH GUPTA : Sir, I am making a contribution to this because he has at least denied Mr. Charan Singh having said it.

SHRI SHYAM LAL YADAV: He has never said it.

SHRI BHUPESH GUPTA: Mr. Hare Krishna Mahatab has said it. Sir, this is the position today and it is being implemented this way. Sir, I stand for recall and I know that many Members should naturally be taken out of the House when they betray the people, but I am not saying which party they belong to or other things. But this should be there and the method of fascism should be stopped. The moment you give the dagger to destroy the orderly functioning of the parliamentary system, you are heading not for the defence or the preservation of it, but only for the destruction of it. That is why I say that at gun point things should not be done. Therefore, I say

MR. DEPUTY CHAIRMAN: All right. It is enough. I am calling Mr. Ganguli.

• श्री लाल आडवाणी : रेल मंत्री स्टेटमेंट भी तो करेंगे।

संसदीय कार्य विभाग तथा निर्माण और आवास मंत्रालय में राज्यमंत्री (श्री ओम् मेहता) इसके बाद करेंगे

MR. DEPUTY CHAIRMAN: Yes, Mr. Ganguli. Mr. Rajnarain, please take your seat.

SHRI BHUPESH GUPTA: All right, Sir. You have not allowed me time now. I will come to the point later.

SHRI SALIL KUMAR GANGULI: Sir, I have proposed two amendments, No. 8 and No. 13. One relates to the Parliament and the other to the Assembly. So, I will take them up together.

MR. DEPUTY CHAIRMAN: We shall finish this Bill and then adjourn for lunch... (Interruptions).

SHRI T.N. SINGH (Uttar Pradesh): We should be permitted to have lunch. . .

SHRI OM MEHTA: You can go and take your lunch....

(Interruptions)

SHRI T.N. SINGH: Don't make us sit at gun-point. . .

(Interruptions)

MR. DEPUTY CHAIRMAN: Don't talk in that language....

(Interruptions)

Don't say, 'gun-point'... (Interruptions). It is a question of adjustment..

(Interruptions)

श्री लाल आडवाणी : सभापति जी, मैं निवेदन करूँ, भाग्य और गयेगा, इसलिए लंच आगर हो जाना चाहिए। मैंने सुबह कहा गया—ओम् मेहता जी ने कहा था—कि 2 बजे तक समाप्त हो जायेगा। इसलिए, जरूर लंच ब्रेक देना।

श्री उपसभापति : कोई कह सकता है इतनी जल्दी खत्म हो जायेगा ?

श्री लाल आडवाणी : अगर लोगों की राय है तो उसमें क्या दिक्कत है। इसका कारण एक और भी है कि रेल मंत्री भी नहीं है।

SHRI OM MEHTA: After this Bill, we will adjourn for lunch. There is another Bill also for consideration.

श्री राजनारायण : अनावश्यक ढंग पर अपने आप देर कर गते हो। अगर लंच कर देंगे तो इतना हल्ला नहीं करेंगे

श्री सभापति : मिस्टर गंगुली।

SHRI SALIL KUMAR GANGULI : Article 122 and Article 212 of the Constitution are similar; they relate to the Legislative Assemblies and Parliament. So long as the matter is not related to the conduct of business in Parliament, the matter can be justiciable. So far there was no provision for the Speaker to accept a letter of resignation, although the Travancore-Cochin State High Court in a case reported in AIR 58, Travancore-Cochin, and the Allahabad High Court reported in 1965, held that notwithstanding the provisions of the Constitution the Speaker was under a bounden duty to make enquiries as to the genuineness and voluntary nature of resignations. This was possible because it was not a part of the duty of the Speaker. I will read out the provision of Art. 122 (2) :

“No officer or member of Parliament in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in Parliament shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers”.

Now, after this amendment, the position will be some what different. It can be argued that because this is a matter which, under the Constitution, has been made the duty of the Speaker or the Chairman, this means conduct of business relating to the House, and the courts will lose their jurisdiction. It may mean ouster of the jurisdiction, and that argument will be strengthened by these amendments. I think the Government is thinking on those lines, because the hon. Member who spoke earlier to me yesterday specifically mentioned that it was the intention to see that these matters are left to the sole discretion of the Speaker or the Chairman, as the case may be, and there should not be any interference by a court. That was the implication. It is anomalous. The Law Minister just now cited an instance where a member was forcibly taken before the Speaker and forced to resign. What did the Speaker do in such a situation ? This was not mentioned by the Law Minister. I ask him, through you, after this amendment, if such a situation arises, what will be the remedy ? In this particular case, the Speaker did nothing. After this amendment, he will be *functus officio*.

What is the guarantee that the Government which cannot give protection to so many

M.L.As. will be able to protect their Speakers or Chairmen ? Therefore, I have brought this amendment to make it clear and beyond all doubt that this matter, in spite of the amendment, remains justiciable. I have proposed an amendment that the function of the Speaker or the Chairman, as the case may be, under this amended provision of the Constitution shall not be deemed to be a function relating to the conduct of business in the House. If that amendment is there it will resolve many difficulties. In a case where the Speaker is intimidated or in a case where the Speaker deliberately causes seats to be vacated in his personal interest or in the interest of some political party, there should be some remedy open for the Members concerned to go to the court. That remedy should not be blocked. Therefore, Sir, my amendment is in the nature of abundant caution and I think it will be necessary even if the Law Minister says that he is satisfied that such a situation will not arise.

MR. DEPUTY CHAIRMAN : Please wind up.

SHRI SALIL KUMAR GANGULI : Therefore, I say that my amendment should be accepted.

SHRI H.R. GOKHALE : I had anticipated all this because I had known the amendments. I would only request the hon. Members to withdraw these amendments. I would particularly request my hon. friend, Mr. Bhupesh Gupta, who has been supporting the Bill, to withdraw the amendment.

MR. DEPUTY CHAIRMAN : The question is :

1. “That at page 1 lines 12 to 17 be deleted.”

The motion was negatived.

SHRI BHUPESH GUPTA : Sir, I had given notice that my name should also be included in Amendment No 5.

MR. DEPUTY CHAIRMAN : The question is :

5. That at page 1, for the existing clause 2, the following clause be substituted, namely :

(2) In article 101 of the Constitution, after clause (4) the following clause shall be inserted, namely :—

(5) The constituency or electoral college which elects a members shall have

[Mr. Deputy Chairman]

the right to recall him in accordance with provisions made by Parliament by law in this regard ; and if he is so recalled, his seat shall become vacant."

The House Divided

MR. DEPUTY CHAIRMAN : Ayes 32;
Noes. 147.

AYES—32

Advani, Shri Lal K.
Ahmad, Dr. Z.A.
Deo, Shri K.P. Singh
Desai, Shri Suresh J.
Dhulap, Shri K.N.
Ganguli, Shri Salil Kumar
Ghosh, Shri Niren
Gupta, Shri Bhupesh
Mahadeo, Shri
Mahapatre, Shri L.
Mandal, Shri B.N.
Mathew Kurian, Dr. K.
Mathur, Shri Jagdish Prasad
Menon, Shri Viswanatha
Kunjachen, Shri P.K.
Pawar, Shri D.Y.
Rajnarain, Shri
Raha, Shri S.K.
Ray, Shri Rabi
Roy, Shri Monoranjan
Sakhelcha, Shri V. K.
Sanyal, Shri Sasankesekhar
Sharma, Shri Yogendra
Shastri, Shri Prakash Vir
Shekhawat, Shri B.S.
Singh, Shri I.D.
Singh, Shri Sita Ram
Singh Shri, T. N.
Sinha, Dr. Ramkripal
Swamy, Shri Subramanian
Tyagi, Shri O.P.
Yadav Shri Shayam Lal

NOS.—147

Abdul Samad, Shri A. K. A.
Abid, Shri Qasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar

Alva, Shrimati Margaret
Amla, Shri Tirath Ram
Anandam, Shri M.
Arif, Shri Mohammed Usman

Berwa, Shri Jamna Lal
Bhagwati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatti Shri Nand Kishore
Bisi, Shri P. N.
Bobdey, Shri S. B.
Borooah, Shri D. K.
Buragohain, Shri Nabin Chandra

Chakrabarti, Dr. R. K.
Chandra Shekhar, Shri
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D. P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N. P.
Chetri, Shri K. B.
Chaudhury, Shri N. R.
Chowdhary, Shri C. L.
Chowdhri, Shri A. S.
Chundawat, Shrimati Lakshmi Kumari

Das, Shri Balram
Das, Shri Bipinpal
Devendra Nath, Shri
Dhabe, Shri S. W.
Dikshit, Shri Umashankar
Dutt, Dr. Vidya Prakash

Gadgil, Shri Vithal
Gian Chand, Shri
Goswami, Shri S. P.
Gujral, Shri I. K.

Hashmi, Shri S. A.
Himmat Singh, Shri

Imam, Shrimati Aziza

Jagdish Chandra, Shri
Jagtap, Shri R. D.
Jain, Shri Dharamchand
Jairamdas Daulatram, Shri
Jha, Shri Kamalnath
Joshi, Shrimati Kumudben Manishankar

Kalaniya, Shri Ibrahim
Kalpanath, Shri
Kalyan Chand, Shri
Kamble, Shri N. M.
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khan, Prof. Rasheeduddin

Kishan Lal, Shri
Kollur, Shri M. L.
Kripalani, Shri Krishna
Krishan Kant, Shri
Krishna, Shri M. R.
Kulkarni, Shri A. G.
Kulkarni, Shrimati Sumitra G.
Kumbhare, Shri N. H.
Kureel Urf. Talib, Shri P. L.

Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Khyom Shri

Mahanti, Shri B. K.
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mirdha, Shri Ram Niwas
Mohideen, Shri S. A. Khaja
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Munda, Shri B. R.
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 V. R.
Patil, Shri D. S.
Patil, Shri G. R.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Puri, Shri D. D.

Rachaiiah, Shri B.
Raju, Shri V. B.
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C.
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Reghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. N.
Refaye, Shri A. K.
Rishi Kumar, Shri

Saleem, Shri Mohammad Yunus
Sangma, Shri E. M.
Sardar Amjad Ali, Shri
Savita Behen, Shrimati
Seyid Muhammad, Dr. V. A.
Shah, Shri Manubhai
Shahi, Shri Nageshwar Prasad
Shastri, Shri Bhola Paswan
Shukla, Shri Chakrapani
Shukla, Shri M. P.
Shyamkumari Devi, Shrimati
Singh, Shri D. P.
Singh, Shri Inder
Singh, Shrimati Jahanara Jaipal
Singh, Shri Kameshwar
Singh, Shri Mahendra Bahadur
Singh, Shri Mohan
Singh, Shri Nathi
Singh, Shrimati Pratibha
Singh, Shri Ranbir
Singh, Shri Shivdayal
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

Tanvir, Shri Habib
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Tiwary, Pt. Bhawaniprasad
Tripathi, Shri Kamalapati
Trivedi, Shri H. M.
Tyagi, Shri Mahavir

Verma, Shrimati Narayani Devi Manaklal
Venigalla Satyanarayana, Shri
Vyas, Dr. M. R.

Wajd, Shri Sikander Ali
The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

6. "That at page 1, for lines 8 to 11, the following be substituted, namely:—

(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and submitted to the Chairman or the Speaker, as the case may be, by the member in person,"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is.

7. "That at page 1, line 17, for the words 'not voluntary or genuine, the words 'caused by the use or threat of force or is not genuine' be substituted."

The motion was negatived

MR. DEPUTY CHAIRMAN: The question is:

8. "That at page 1, after line 17, the following be inserted, namely:—

Provided further that the function of the Chairman or the Speaker, as the case may be, in accepting or not accepting any such resignation shall not be considered to be conduct of business in Parliament within the meaning of Article 122 of the Constitution."

The motion was negatived

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

The house Divided

MR. DEPUTY CHAIRMAN: Ayes—152
Noes—27.

AYES—152

Abdul Samad, Shri A.K.A.
Abid, Shri Qasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Ahmad, Dr. Z.A.
Alva, Shrimati Margaret
Amla, Shri Tirath Ram
Anandam, Shri M.
Arif, Shri Mohammed Usman

Berwa, Shri Jamna Lai
Bhagwati, Shri B.C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri Nand Kishore
Bisi, Shri P.N.
Bobdey, Shri S.B.
Borooah, Shri D.K.
Buragohain, Shri Nabin Chandar

Chakrabarti, Dr. R.K.
Chandra Shekhar, Shri
Chandrasekhar, Shrimati Maragatham

Chattopadhyaya, Prof. D.P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N.P.
Chettri, Shri K.B.
Choudhury, Shri N.R.
Chowdhary, Shri C.L.
Chowdhri, Shri A.S.
Chundawat, Shrimati Lakshmi Kumari

Das, Shri Balram
Das, Shri Bipin pal
Devendra Nath, Shri
Dhabe, Shri S.W.
Dikshit, Shri Umashankar
Dutt, Dr. Vidya Prakash
Gadgil, Shri Vithal
Gian Chand, Shri
Goswami, Shri S.P.
Gujral, Shri I.K.
Gupta, Shri Bhupesh

Hashmi, Shri S.A.
Himmat Singh, Shri
Imam, Shrimati Aziza
Jagdish Chandra, Shri
Jagtap, Shri R.D.
Jain, Shri Dharamchand
Jairamdas Daulatram, Shri
Jha, Shri Kamalnath
Joshi, Shrimati Kumudben Manishankar

Kalaniya, Shri Ibrahim
Kalpanath, Shri
Kalyan Chand, Shri
Kamble, Shri N.M.
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khan, Prof. Rasheeduddin
Kishan Lal, Shri
Kollur, Shri M.L.
Kripalani, Shri Krishna
Krishan Kant, Shri
Krishna, Shri M.R.
Kulkarni, Shri A.G.
Kulkarni, Shrimati Sumitra C.
Kumbhare, Shri N.H.
Kureel Urf. Talib, Shri P.L.

Lalbuaia, Shri
Lokesh Chandra, Dr
Lotha, Shri Khyom

Mahanti, Shri B.K.
Mahapatre, Shri L.
Majhi, Shri C.P.

Makwana, Shri Yogendra
 Malaviya, Shri Harsh Deo
 Mali, Shri Ganesh Lal
 Mehta, Shri Om
 Menon, Shrimati Leela Damodara
 Mirdha, Shri Ram Niwas
 Mohideen, Shri S.A. Khaja
 Mukherjee, Shri Kali
 Mukherjee, Shri Pranab
 Mukhopadhyay, Shrimati Purabi
 Munda, Shri B.R.
 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 V.R.
 Patil, Shri D.S.
 Patil, Shri G.R.
 Poddar, Shri R.K.
 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 Shrimati Rathnabai Sreenivasa
 Reddi, Shri K. Brahamananda
 Reddy, Shri Janardhana
 Reddy, Shri K.V. Raghunatha
 Reddy, Shri Mulka Govinda
 Reddy, Shri R.N.
 Refaye, Shri A.K.
 Rishi Kumar, Shri

Saleem, Shri Mohammad Yunus
 Sangma, Shri E.M.
 Sardar Amjad Ali, Shri
 Sardesai, Shri S.G.
 Savita Behen, Shrimati
 Seyid Muhammad, Dr. V.A.
 Shah, Shri Manubhai
 Shahi, Shri Nageshwar Prasad
 Sharma, Shri Yogendra
 Shastri, Shri Bhola Paswan
 Shukla, Shri Chakrapani
 Shukla, Shri M.P.
 Shyamkumari Devi, Shrimati
 Singh, Shri D.P.
 Singh, Shri I.D.
 Singh, Shri Inder

Singh, Shrimati Jahanara
 Singh, Shri Kameshwar
 Singh, Shri Mahendra Bahadur
 Singh, Shri Mohan
 Singh, Shri Nathi
 Singh, Shrimati Pratibha
 Singh, Shri Ranbir
 Singh, Shri Shivdayal
 Singh, Shri Sultan
 Singh, Shri Triloki
 Singh, Dr. V.B.
 Sinha, Shri Awadheskwar Prasad
 Sisodia, Shri Sawaisingh
 Sukhdev Prasad, Shri
 Sultan, Shrimati Maimoona
 Swu, Shri Scato

Tanvir, Shri Habib
 Thakur, Shri Gunanand
 Tilak, Shri J.S.
 Tiwari, Shri Shankarlal
 Tiwary, Pt. Bhawaniprasad
 Tripathi, Shri Kamlapati
 Trivedi, Shri H.M.

Varma, Shrimati Narayani Devi Manaklal
 Venigalla Satyanarayana, Shri
 Vyas, Dr. M.R.
 Vajd, Shri Sikander Ali

NOES—27

Advani, Shri Lal K.
 Banarsi, Das Shri
 Deo, Shri K.P. Singh
 Dhulap, Shri K.N.
 Ganguli, Shri Salil Kumar
 Ghosh, Shri Niren
 Mahadeo, Shri
 Mandal, Shri B.N.
 Mathew, Kurian, Dr. K.
 Mathur, Shri Jagdish Prasad
 Menon, Shri Viswanatha
 Kunjachen, Shri P.K.
 Pawar, Shri D.Y.
 Rajnarain, Shri
 Rav, Shri Rabi
 Roy, Shri Monoranjan
 Sakhlecha, Shri V.K.
 Sanyal, Shri Sasankesckhar
 Shastri, Shri Prakash Vir
 Shekhawat, Shri B.S.
 Singh, Shri S.taram

Singh, Shri T.N.

Sinha, Dr. Ramkripal

Swamy, Shri Subramanian

Tyagi, Shri Mahavir

Tyagi, Shri O.P.

Yadav, Shri Shayam Lal

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

New Clause 2A

SHRI SHYAM LAL YADAV: Sir, 1 move:

2. "That at page 1, after line 11, the following new clause be inserted, namely:—

'2A. In article 101 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

'(3A) In case 51 per cent of the voters in the current electoral rolls of a constituency demand the recall of the member elected from that constituency by writing to the Chairman or the Speaker, as the case may be, the seat of the member shall be deemed to be vacant after the Chairman or the Speaker, as the case may be, has satisfied himself in that regard in accordance with the prescribed procedure."

SHRI BHUPESH GUPTA: Sir, 1 move:

9. "That at page 1, after line 17, the following new clause be inserted, namely:—

"2A. In article 101 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

(3A) The Chairman or the Speaker, as the case may be, shall not reject any genuine resignation if such resignation has been tendered following the representation of the majority of the voters of the constituency of the member concerned to the Chief Election Commissioner, such representation being in the nature of a recall of the member by the electorate which elected him".

The questions were proposed

श्री श्यामलाल यादव : मान्यवर, इस तरह की नई व्यवस्था हम अपने यहां नहीं करना चाहते हैं बल्कि ऐसी व्यवस्था दुनिया के बहुत से देशों में है। खामकर मैं उदाहरण देना चाहता हूँ—स्विटजरलैण्ड, रूस, रोमानिया, पोलैण्ड, बल्गेरिया, हंगरी, चेकोस्लोवाकिया, युगोस्लोवाकिया, मे भी इस तरह की रिकाल की व्यवस्था है। अमेरीका में भी और 12 राष्ट्रों के संविधान में यह बात रखी हुई है और दूसरे 12 राष्ट्रों में जो सिटीज हैं उसमें यह व्यवस्था रखी हुई है। अगर आज अपने देश में मान्यवर, इस तरह की व्यवस्था रख दें तो मैं समझता हूँ कि आज जो जन-आन्दोलन होता है, किसी सदन के सदस्य से त्यागपत्र दिलाने के लिए, अथवा विधान सभा को भंग कराने के लिए, यह जन-आन्दोलन नहीं होगा। इस तरह की व्यवस्था हमारे साम्यवादी दल के साथी भी मानेंगे। क्योंकि उनके गुरु देश, रशिया में भी इस तरह की व्यवस्था है, कि जो डिप्टी है वह अपने इलेक्टिड लोगों के सामने जाकर रिपोर्ट देता है और फिर वहां के लोग अगर चाहे तो उसे वापस बुला सकते हैं। जब इस तरह की व्यवस्था दूसरे देशों में है और हमारा यहां की सरकार यह उचित समझती है कि अध्यक्ष अथवा सभापति के पास यह अधिकार होना चाहिए कि कोई त्यागपत्र इच्छा से दिया गया है...

श्री महाबीर प्रसाद शुक्ल (उत्तर प्रदेश): यह तो आप पहले भी कह चुके हैं।

श्री श्यामलाल यादव : इस संशोधन में दूसरी बात कही गई है और यह मैंने पहले नहीं कही। मैं यह कहना चाहता हूँ कि आप धैर्य के साथ सुनने का कष्ट करें।

मैं कहना चाहता हूँ कि अगर यह व्यवस्था कर दी जाए तो जो शंका है, मतारूढ़ दल की जो शंका है वह समाप्त हो जाती है और जो निर्वाचन क्षेत्र है वहां के निर्वाचकों को यह अवसर मिलेगा कि वे अपनी राय देकर अपने चुने हुए प्रतिनिधि को वापस कर सकते हैं।

मान्यवर, मैंने दो बातें कहने की कोशिश की है। एक तो यह कि 51 प्रतिशत मतदाता की राय हो। ऐसा न हो कि अल्पसंख्यक लोग या निर्वाचक मण्डल के लोग जाकर उसे वापस बुला लें। दूसरी बात यह कि किस प्रकार से यह प्रक्रिया चलाई जायेगी? मैं बताना चाहता हूँ कि अध्यक्ष और सभापति प्राप्त आवेदनो पर फैसला करे इसके लिए संसद एक कानून बनाए तब जाकर यह प्रक्रिया चलाई जा सकती है।

मैं सदन के सदस्यों से प्रार्थना करूंगा कि वे इस संशोधन को स्वीकार कर लें। इससे आज जो विशेष परिस्थिति पैदा हो गई है वह नहीं होगी और हिन्दुस्तान की जनता को एक अवसर मिलेगा अपने प्रतिनिधि को वापस बुलाने का। मैं यह कहूंगा कि आप मानें या न मानें लेकिन जब संविधान बना था उस समय संविधान सभा के सदस्यों ने, इनमें श्री कमलामणि त्रिपाठी भी थे जो यहां मौजूद हैं, उचित नहीं समझा कि

इस प्रकार का प्राविधान, त्यागपत्र देने के लिए रखा जाए। लेकिन आज की परिस्थिति में आपने यह समझा, मैं भी आपसे यह निवेदन करना चाहता हूँ कि मान्यवर, यह आवश्यक हो गया है कि अब निर्वाचकों को यह मौका रहे कि वह अपने प्रतिनिधियों को वापस बुला लें। मान्यवर, अन्तिम बात कह कर समाप्त करता हूँ कि जिस मैनडेट पर चुनकर सत्तारूढ़ दल आया, आज वही मैनडेट धीरे-धीरे देश से समाप्त होता जा रहा है। अगर निर्वाचकों को मौका नहीं मिलेगा तो पांच साल तक यह अल्पमत की सरकार देश पर लदी रहेगी, देश को बर्बाद कर देगी, देश को भूखा मार डालेगी, देश की सीमाओं को विदेशियों को सौंप देगी, देश में शासन व्यवस्था समाप्त हो जायेगी। (Interruptions) इसलिए मेरा आपसे निवेदन है कि कृपा करके आप इस सशोधन को स्वीकार करें। (Interruption) यशपाल कपूर जी शोर मचाने से मसला हल नहीं होता इस पर गंभीरता से विचार करें।

SHRI BHUPESH GUPTA : I have a request to make with regard to my amendment. I want to make a correction in the first sentence. Here I have said 'The Chairman or the Speaker, as the case may be, shall not reject any genuine resignation.....' I do not want the Chairman to be brought in here and therefore the amendment will read, 'The Speaker shall not reject any genuine resignation if such resignation has been tendered following the representation of the majority of the voters of the constituency of the member concerned to the Chief Election Commissioner, such representation being in the nature of a recall of the member by the electorate which elected him'. I am restricting this to the Lok Sabha and to the Assemblies; I am not including the Council of States or the Rajya Sabha and the Vidhan Parishads or Legislative Councils. I will tell you why. In Mr. Yadav's amendment it is said that in case 51 per cent of the voters in the current electoral rolls of a constituency demand the recall of the member elected from that constituency by writing to the Chairman or the Speaker, as the case may be. Now in the U.P. Assembly the Congress has a majority and they can get all of you out of this House. Are you ready to be recalled that way? You are not.

SHRI RAJNARAIN: It is 51 per cent of the electorate, not of the whole House. It should be 51 per cent of those who elected us.

SHRI BHUPESH GUPTA : My friend should understand. When I point out a mistake he should be ready to correct himself. It says 51 per cent of the electorate. Who is your electorate? Uttar Pradesh Assembly is

your electorate. There the Congress has the majority and they will recall all of you. Do not go in for that.

SHRI RAJNARAIN: It is single transferable vote.

SHRI BHUPESH GUPTA: Therefore leave that out from here. That is why I have confined it to the Assemblies and Lok Sabha only. If the other amendment on which we divided had been accepted this would not have been necessary. I am happy that the Jana Sangh for once at least have accepted one of our long-standing demands; a good thing you have done. A good thing in the name of *Go Mata* you have done. I am very glad you have voted for it. If that had been accepted this would have been unnecessary. What I say here is even if you do not provide for recall have something approximating recall. If the Speaker is satisfied that 51 per cent of the electorate of a constituency have demanded the resignation of a Lok Sabha Member or an Assembly Member I submit it should take effect at once. I say the slogans for dissolution of the Assemblies and reckless demands for resignation of Members have raised very grave issues today and I think I am trying to put this thing on democratic rails. This is very very important. It is not a question of party. Suppose a Member misbehaves, suppose a Member betrays the people, suppose a Member violates, as many of you are doing now, the mandate of his constituency the electorate of his constituency should have the right to call him back. That is why I have given this amendment and before I sit down I would urge upon the Law Minister here to seriously consider to make a provision in the Constitution for recall. In a democratic institution like ours, where you have got Assemblies and Parliament, where multi-party forms exist, where people's demands are rejected, where corruption takes place, where nepotism takes place, where violation of the mandate of the people has become the order of the day, it is necessary that the sovereignty of the people should be a living reality by investing in them the power to recall. I think the hon. Minister should hold consultations with the leaders of the Opposition and then make a provision.

MR. DEPUTY CHAIRMAN: That is all right.

SHRI BHUPESH GUPTA: You seem to be in a great hurry. I do not like that. Shall we divide on every single thing?

Many of us are not discussing.

MR. DEPUTY CHAIRMAN: But how will you take?

SHRI BHUPESH GUPTA: I am not taking much time, but why are you in such a hurry?

MR. DEPUTY CHAIRMAN: You are already ending.

SHRI BHUPESH GUPTA: Yes, but why are you in such a great hurry?

MR. DEPUTY CHAIRMAN: You have finished. The question is:

2. "That at page 1, after line 11, the following new clause be inserted namely:—

2A. In article 101 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

(3A) In case 51 per cent of the voters in the current electoral rolls of a constituency demand the recall of the member elected from that constituency by writing to the Chairman or the Speaker, as the case may be, the seat of the member shall be deemed to be vacant after the Chairman or the Speaker, as the case may be, has satisfied himself in that regard in accordance with the prescribed procedure."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

9. "That at page 1, after line 17 the following new clause be inserted namely :—

2A. In article 101 of the Constitution, after clause (3) the following clause shall be inserted, namely :—

(3A) The Speaker shall not reject any genuine resignation if such a resignation has been tendered following the representation of the majority of the voters of the constituency of the member concerned to the Chief Election Commissioner, such representation being in the nature of a recall of the member by the electorate which elected him."

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—27;

Noes:—150.

AYES—27

Advani, Shri Lal K.
Ahmad, Dr. Z. A.

Deo, Shri K. P. Singh

Ganguli, Shri Salil Kumar

Ghosh, Shri Niren

Goray, Shri N. G.

Gupta, Shri Bhupesh

Kumaran, Shri S.

Kunjachen, Shri P.K.

Mahapatra, Shri L.

Mandal, Shri B. N.

Mathew Kurian, Dr. K.

Mathur, Shri Jagdish Prasad

Menon, Shri Viswanatha

Pawar, Shri D. Y.

Raha, Shri Sanat Kumar

Rajnarain, Shri

Ray, Shri Rabi

Roy, Shri Monoranjan

Sakhlecha, Shri V. K.

Sanyal, Shri Sasankasekhar

Shastri, Shri Prakash Vir

Shekhawat, Shri B. S.

Singh, Shri Jagjit

Sinha, Dr. Ramkripal

Tayagi, Shri O. P.

Yadav, Shri Shyam Lal

NOES—150

Abdul Samad, Shri A. K. A.

Abid, Shri Qasim Ali

Abu, Abraham Shri

Adivarekar, Shrimati Sushila Shankar

Alva, Shrimati Margaret

Amla, Shri Tirath Ram

Anandam, Shri M.

Angre, Shri S. C.

Arif, Shri Mohammed Usman

Berwa, Shri Jamna Lal

Bhagwati, Shri B. C.

Bhardwaj, Shri Jagan Nath

Bhatt, Shri Nand Kishore

Bisi, Shri P. N.

Bobdey, Shri S. B.

Borooah, Shri D. K.

Buragohain, Shri Nabin Chandra

Chakrabarti, Dr. R. K.

Chandra Shekar, Shri

Chandrasekhar, Shrimati Maragatham

Chattopadhyaya, Prof. D. P

Chaturvedi, Shrimati Vidyawati

Chaudhari, Shri N. P.

Chettri, Shri K. B.
Choudhury, Shri N. R.
Chowdhary, Shri C. L.
Chowdhri, Shri A. S.
Chundawat, Shrimati Lakshmi Kumari

Das, Shri Balram
Das, Shri Bipinpal
Devendra Nath, Shri
Dhabe, Shri S. W.
Dhulap, Shri, K. N.
Dikshit, Shri Umashankar
Dutt, Dr. Vidya Prakash

Gadgil, Shri Vithal
Gian Chand, Shri
Goswami, Shri S. P.
Gowda, Shri U. K. Lakshmana
Gujral, Shri I. K.

Hashmi, Shri S. A.
Himmat Singh, Shri

Imam, Shrimati Aziza

Jagdish Chandra, Shri
Jagtap, Shri R. D.
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shrimati Kumudben Manishankar

Kalania, Shri Ibrahim
Kalpanath, Shri
Kalyan Chand, Shri
Kamble, Shri N. M.
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khan, Prof. Rasheeduddin
Kishan Lal, Shri
Kollur, Shri M. L.
Kripalani, Shri Krishna
Krishan Kant, Shri
Krishna, Shri M. R.
Kulkarni, Shri A. G.
Kulkarni, Shrimati Sumitra G.
Kureel Urf. Talib, Shri P. L.

Lokesh Chandra, Dr.
Lotha, Shri Khyom

Mahadeo, Shri
Mahanti, Shri B. K.
Majhi, Shri C. P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal

Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mirdha, Shri Ram Niwas
Mohideen, Shri S. A. Khaja
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Munda, Shri B. R.
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
Prashar, Shri V. R.
Patil, Shri D. S.
Patil, Shri G. R.
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Punnaiah, Shri Kota
Puri, Shri D. D.

Rachaiiah, Shri B.
Raju, Shri V. B.
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C.
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R. N.
Refaye, Shri A. K.
Rishi Kumar, Shri

Saleem, Shri Mohammad Yunus
Sangma, Shri E. M.
Sardar Amjad Ali, Shri
Savita Behen, Shrimati
Seyid Muhammad, Dr. V. A.
Shah, Shri Manubhai
Shahi, Shri Nageshwar Prasad
Shastri, Shri Bhola Paswan
Shukla, Shri Chakrapani
Shukla, Shri M. P.
Shyamkumari Devi, Shrimati
Singh, Shri D. P.
Singh, Shri Inder
Singh, Shrimati Jahanara Jaipal
Singh, Shri Kameshwar
Singh, Shri Mahendra Bahadur
Singh, Shri Mohan
Singh, Shri Nathi
Singh, Shrimati Pratibha

Singh, Shri Ranbir
Singh, Shri Shivdayal
Singh, Shri Sitaram
Singh, Shri Sultan
Singh, Shri T. N.
Singh, Shri Triloki
Singh, Dr. V. B.
Sinha, Shri Awadheshwar Prasad
Sisodia, Shri Sawaisingh
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Swu, Shri Scato

Tanvir, Shri Habib
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Tiwary, Pt. Bhawaniprasad
Tripathi, Shri Kamalapati
Trivedi, Shri H. M.
Tyagi, Shri Mahavir

Varma, Shrimati Narayani Devi Manaklal
Venigalia Satyanarayana, Shri
Vyas, Dr. M. R.

Wajd, Shri Sikander Ali

The motion was negatived.

Clause 3—Amendment of article 190

SHRI SHYAM LAL YADAV: Sir, I moved:

3. "That at page 2, lines 3 to 8 be deleted"

SHRI LAL K. ADVANI: Sir, I move:

10. "That at pages 1 and 2, for the existing clause 3, the following clause be substituted, namely:—

3. "In article 190 of the Constitution, after clause (4), the following clause shall be inserted, namely:

(5) The constituency or electoral college which elects a member shall have the right to recall him in accordance with provisions made by Parliament by law in this regard; and if he is so recalled, his seat shall become vacant."

11. "That at pages 1 and 2, for lines 21-22 and 1-2 respectively, the following be substituted, namely:—

"(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, and submitted to the Speaker or the Chairman,

as the case may be, by the member in person".

SHRI BHUPESH GUPTA: Sir, I move:

12. "That at page 2, line 8, for the words "not voluntary or genuine", the words caused by the use or threat of force or is not genuine be substituted."

SHRI SALIL KUMAR GANGULI: Sir, I move:

13. "That at page 2, after line 8, the following be inserted, namely:—

"Provided further that the function of the Speaker or the Chairman, as the case may be, in accepting or not accepting any such resignation shall not be considered to be conduct of business in the Legislature within the meaning of Article 212 of the Constitution."

The questions were proposed.

श्री सीताराम सिंह (बिहार). उपसभापति महोदय, मैं कहना चाहता हूँ कि यह विधेयक जन विरोधी है और इस में विरोधाभास है। इसमें कहा गया है कि अध्यक्ष या सभापति जांच करके बतलायेंगे कि यह इस्तीफा स्वेच्छा से दिया गया है या जबरदस्ती से दिया गया है लेकिन इसमें इसके लिए कोई प्रक्रिया नहीं दी गयी है और इसको अध्यक्ष या सभापति के विवेक पर ही छोड़ दिया गया है। यह विवेक सही दिशा में भी हो सकता है और गलत दिशा में भी हो सकता है और उसके लिए कोई प्रक्रिया इसमें नहीं है। जहां तक इस विधेयक के जरिये इसको रोकने का सवाल है, मैं जानना चाहता हूँ कि जो शक्ति विधान मंडल के सदस्यों से इस्तीफा दिलाने पर आमादा हो या दिलाती हो अगर वह शक्ति सभापति या अध्यक्ष से इस्तीफा दिला दे तो आगे उसके लिए कौन सी प्रक्रिया है? उसके लिए इस विधेयक में क्या किया गया है। उसके लिए इसमें कुछ है नहीं। यह विधेयक जन विरोधी है और खामखाह जो जन प्रतिनिधि हैं उन पर शका डालने वाला यह विधेयक है। महोदय, मैं कहना चाहता हूँ कि हमारे पास एक तार आया है बिहार से। वहां मीसा कानून के तहत अनेक लोगो को गिरफ्तार किया गया है और बिना, मुकदमा चलाए हुए, बिना उन को कोर्ट में पेश किये हुए उनको जलील किया जाता है जैसे श्री बिजली प्रसाद सिंह, वैशाली जिले के मनसा, रघुपति राम वैद्य, आदि को पकड़ कर रख दिया गया है। आज बिहार के प्रशासन के जरिये वहां आतक का राज कायम किया जा रहा है। श्रीमन्, तथा कथित बही कांग्रेस के लोग गया जिले में, मुजफ्फरपुर जिले में, पूर्णिया में छात्र सघर्ष समिति के लोगों को परेशान किये हैं, उनके साथ मारपीट किये हैं और पी० ए० सी० के जवान उन को किस प्रकार सुरक्षा देते हैं यह देखने की बात है। आज बिहार में कोई ला एण्ड आर्डर नहीं है। कोई नियम कायदा नहीं है,

कोई कानून नहीं है। वहाँ आज जंगल का राज है और मैं चाहता हूँ कि वहाँ के मन्त्रिमण्डल को भंग किया जाए और वहाँ पुनः चुनाव कराये जायें। आज वहाँ का जन जीवन सकट में पड़ गया है। जनरोष इतना उभर गया है कि वहाँ के अखबारों में एक बात छपी है कि बिहार के वित्त मन्त्री, मेट्रल के शिक्षा मन्त्री जो वहाँ गए थे उनके साथ दुर्व्यवहार हुआ, उन की पिटाई की गयी है। मैं कसई इस को पसन्द नहीं करता कि किसी को पीटा जाए या किसी के साथ जबरदस्ती की जाए, लेकिन वहाँ जन भावना की अग्नि उभर गयी है और उसको शान्त करने के लिए जब तक आप सामाजिक न्याय नहीं करेंगे, जब तक वहाँ की रोजी रोटी की समस्या का समाधान नहीं होगा तब तक यह अग्नि जलती रहेगी। मैं कहना चाहता हूँ कि हिन्दुस्तान में बिहार सबसे पिछड़ा हुआ प्रदेश है और वहाँ खनिज की कमी नहीं है। वहाँ कोयला, लोहा, अबरक काफी है और इतने खनिज पदार्थों के रहते हुए भी बिहार के लोग आज रोटी के मोहताज हैं, वहाँ के लोगों को तीन तीन दिन रोटी न मिले, उस की कोई व्यवस्था न हो यह स्थिति बरदाश्त नहीं की जा सकती। इस लिए मैं चाहता हूँ कि जल्दी से जल्दी वहाँ का मन्त्रिमण्डल भंग किया जाए।

(Interruptions)

श्रीमती विद्यावती बतुवेंदी (मध्य प्रदेश): मेरा प्वाइंट आफ आर्डर यह है कि इस अमेन्डमेंट से और माननीय सदस्य के भाषण से क्या संबंध है? आप इस पर अपना निर्णय दें।

MR. DEPUTY CHAIRMAN: You speak on the amendment and wind up.

श्री सीमाराम सिंह: आप को यह पता नहीं चलेगा श्रीमती जी, आप की ज़िन्दगी दूसरे ढंग पर बनी है। तो श्रीमन् मैं कहना चाहता हूँ कि आज इस देश में तमाम सरकारी कक्ष के जरिये अराजकता और बदअमनी और विद्रोह फैलाया जा रहा है। आज जन जीवन खतरे में पड़ गया है और एल० एन० मिश्र हमारे रेल मंत्री हैं उन के चलते आज देश की जनता त्राहि त्राहि कर रही है और सकट में पड़ गयी है। इस लिए मैं चाहता हूँ कि वह इस्तीफा दें।

SHRI LAL K. ADVANI: The amendments Nos. 10 and 11 which I moved are analogous to the earlier amendments. I had made a point which I expected the Law Minister to explain as to why the symmetry in the Constitution has been disturbed in respect of the Legislators. I would think that if an amendment of this kind is necessary, then a similar provision should be made in respect of the resignation of the Speaker. If the Speaker resigns then the Deputy Speaker should inquire and examine if the resignation of the Speaker is genuine. If the President resigns then the Vice-President should inquire and

examine whether the resignation of the President is genuine. But if you incorporate a provision of this kind then for the sake of symmetry in the Constitution all the provisions, where provision has been made by the Constitution-makers for resignation under one's hand addressed to such and such official or office, should also be made simultaneously.

SHRI MAHAVIR TYAGI: At least the Vice-Chairman's resignation must be examined.

SHRI LAL K. ADVANI: The person to whom resignation is tendered should be empowered also to examine whether that resignation is genuine or not.

The second amendment, I think, meets the requirements of the situation. If a person goes and submits his resignation in person to the Speaker or the Presiding Officer it should be accepted as genuine and voluntary and there should be no objection.

SHRI H.R. GOKHALE: I do not want to add anything.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 2, lines 3 to 8 be deleted".

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

10. "That at pages 1 and 2, for the existing clause 3, the following clause be substituted, namely:—

3. In article 190 of the Constitution, after clause (4), the following clause shall be inserted, namely:—

(5) The constituency or electoral college which elects a member shall have the right to recall him in accordance with provisions made by Parliament by law in this regard; and if he is so recalled, his seat shall become vacant."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

11. "That at pages 1 and 2, for lines 21-22 and 1-2, respectively, the following be substituted, namely:

(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, and submitted to the Speaker or the Chairman,

as the case may be, by the member in person”.

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

12. “That at page 2, line 8, for the words ‘not voluntary or genuine’ the words ‘caused by the use or threat of force or is not genuine’ be substituted.”

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

13. “That at page 2, after line 8, the following be inserted, namely:—

‘Provided further that the function of the Speaker or the Chairman, as the case may be, in accepting or not accepting any such resignation shall not be considered to be conduct of business in the Legislature within the meaning of Article 212 of the Constitution.’ ”

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

“That Clause 3 stand part of the bill”.

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—152:
Noes—25.

AYES—152

Abid, Shri Qasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Ahmad, Dr. Z.A.
Alva, Shrimati Margaret
Amla, Shri Tirath Ram
Anandam, Shri M.
Arif, Shri Mohammed Usman

Berwa, Shri Jamna Lal
Bhagwati, Shri B.C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri Nand Kishore
Bisi, Shri P.N.
Bobdey, Shri S.B.
Borooah, Shri D.K.
Buragohain, Shri Nabin Chandra

Chakrabarti, Dr. R.K.
Chandra Shekhar, Shri
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D.P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N.P.
Chettri, Shri K.B.
Choudhury, Shri N.R.
Chowdhary, Shri C.L.
Chowdhri, Shri A.S.
Chundawat, Shrimati Lakshmi Kumari

Das, Shri Balram
Das, Shri Bipinpal
Devendra Nath, Shri
Dhabe, Shri S.W.
Dhulap, Shri K.N.
Dikshit, Shri Umashankar
Dutt, Dr. Vidya Prakash

Gadgil, Shri Vithal
Gian Chand, Shri
Goswami, Shri S.P.
Gujral, Shri I.K.
Gupta, Shri Bhupesh

Hashmi, Shri S.A.
Himmat Singh, Shri

Imam, Shrimati Aziza

Jagdish Chandra, Shri
Jagtap, Shri R.D.
Jain, Shri Dharamchand
Jairamdas Daulatram, Shri
Jha, Shri Kamalnath
Joshi, Shrimati Kumudben Manishankar

Kalaniya, Shri Ibrahim
Kalpanath, Shri
Kalyan Chand, Shri
Kamble, Shri N.M.
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khan, Prof. Rasheeduddin
Kollur, Shri M.L.
Kripalani, Shri Krishna
Krishan Kant, Shri
Krishna, Shri M.R.
Kulkarni, Shri A.G.
Kulkarni, Shrimati Sumitra G.
Kumbhare, Shri N.H.
Kureel Urf. Talib, Shri P.L.

Lokesh Chandra, Dr.
Lotha, Shri Khyom

Mahanti, Shri B. K.
 Mahapatro, Shri L.
 Majhi, Shri C. P.
 Makwana, Shri Yogendra
 Malaviya, Shri Harsh Deo
 Mali, Shri Ganesh Lal
 Mehta, Shri Om
 Menon, Shrimati Leela Damodara
 Mirdha, Shri Ram Niwas
 Mukherjee, Shri Kali
 Mukherjee, Shri Pranab
 Mukhopadhyay, Shrimati Purabi
 Mulla, Shri A. N.
 Munda, Shri B. R.
 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 V. R.
 Patel, Shri D. K.
 Patil, Shri D. S.
 Patil, Shri G. R.
 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, Shrimati Rathnabai Sreenivasa
 Rao, Shri V. C.
 Reddi, Shri K. Brahmananda
 Reddi, Shri Papi
 Reddy, Shri Janardhana
 Reddy, Shri K. V. Raghunatha
 Reddy, Shri Mulka Govinda
 Reddy, Shri R. N.
 Rishi Kumar, Shri
 Saleem, Shri Mohammad Yunus
 Sangma, Shri E. M.
 Sardar Amjad Ali, Shri
 Savita Behen, Shrimati
 Seyid Muhammad, Dr. V. A.
 Shah, Shri Manubhai
 Shah, Shri Nageshwar Prasad
 Sharma, Shri Yogendra
 Shastri, Shri Bhola Paswan
 Shukla, Shri Chakrapani
 Shukla, Shri M. P.
 Shyamkumari Devi, Shrimati
 Singh Shri D. P.

Singh, Shri I. D.
 Singh, Shri Inder
 Singh, Shri Jagjit
 Singh, Shrimati Jahanara Jaipal
 Singh, Shri Kameshwar
 Singh, Shri Mahendra Bahadur
 Singh, Shri Mohan
 Singh, Shri Nathi
 Singh, Shrimati Pratibha
 Singh, Shri Ranbir
 Singh, Shri Shivdayal
 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
 Tanvir, Shri Habib
 Thakur, Shri Gunanand
 Tilak, Shri J. S.
 Tiwari, Shri Shankarlal
 Tiwari, Pt. Bhawaniprasad
 Tripathi, Shri Kamalapati
 Trivedi, Shri H. M.
 Varma, Shrimati Narayani Devi Manaklal
 Venigalla Satyanarayana, Shri
 Vyas, Dr. M. R.
 Wajd, Shri Sikander Ali

NOES—25

Advani, Shri Lal K.
 Angre, Shri S. C.
 Banarsi Das, Shri
 Ganguli, Shri Salil Kumar
 Ghosh, Shri Niren
 Goray, Shri N. G.
 Joshi, Shri Umashankar
 Mahadeo, Shri
 Mandal, Shri B. N.
 Mathew Kurian, Dr. K.
 Mathur, Shri Jagdish Prasad
 Pawar, Shri D. Y.
 Rajnarain, Shri
 Ray, Shri Rabi
 Roy, Shri Monoranjan
 Sakhlecha, Shri V. K.
 Sanyal, Shri Sasankasekhar
 Shastri, Shri Prakash Vir
 Shekhawat, Shri B. S.
 Singh, Shri Sitaram
 Singh, Shri T. N.
 Sinha, Dr. Ramkrupal

Tyagi, Shri Mahavir
Tyagi, Shri O. P.
Yadav, Shri Shyam Lal.

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.

New Clause 3A

श्री राजनारायण मै प्रस्तुत करता हूँ .

4 "3क सविधान के अनुच्छेद 190 में खण्ड (3) के पश्चात् निम्नलिखित खंड अन्तःस्थापित किया जाये, अर्थात्—

(3 क) यदि किसी निर्वाचन क्षेत्र की तत्समय प्रवृत्त निर्वाचक सूची के 51 प्रतिशत मतदाता, यथास्थिति, सभापति या अध्यक्ष से लिखित रूप में उस निर्वाचन क्षेत्र से चुने गए सदस्य को बापम बुलाने की मांग करे तो विहित प्रक्रिया के अनुसार, यथास्थिति, सभापति या अध्यक्ष के उस विषय में संतुष्ट हो जाने पर उस सदस्य का स्थान रिक्त समझा जाएगा।"

मेरा कहना है कि इसमें से 'सभापति या' काट दीजिए।

SHRI BHUPESH GUPTA (West Bengal) :
Sir, I beg to move:

That at page 2, after line 8, the following new clause be inserted, namely:—

14. "3A. In article 190 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

"(3A) The Speaker shall not reject any genuine resignation if such resignation has been tendered following the representation of the majority of the voters of the constituency of the member concerned to the Chief Election Commissioner, such representation being in the nature of a recall of the member by the electorate which elected him."

The questions were proposed.

श्री राजनारायण: श्रीमन्, मुझे बहुत ही दुःख के साथ कानून मंत्री जी को सुनाना पड़ रहा है। मैंने समझा था कानून मंत्री जी हमारी बात सुने हैं और जब वे जवाब देंगे तो पूरा उत्तर देंगे। अगर उनका सही उत्तर ही होता तो उन खण्डों

पर हमें फिर से बोलने की जरूरत न पड़ती न इस पर वोट कराने की जरूरत पड़ती। उन्होंने मेरे किसी एक सवाल का जवाब नहीं दिया। एक सवाल हमने यह किया था कि अगर किसी अध्यक्ष का या उपाध्यक्ष का इस्तीफा ले ले तो उस का इस्तीफा कौन देखेगा—उसके बारे में क्या इसमें प्रक्रिया अपनायी जाए? इस विधेयक में कहीं कोई चर्चा नहीं है। इसका उत्तर कानून मंत्री जी भी कहीं नहीं देते।

दूसरी बात हमने यह निवेदन किया था कि अध्यक्ष कितना समय तक जांच के लिए रख सकता है। अध्यक्ष चाहे तो 4 साल तक जांच करता रहे। कहीं इसमें अवधि निर्धारित नहीं है, इसकी जांच अध्यक्ष एक महीने में पूरा कर लेगा या 15 दिन में या साल भर में करेगा या 4 साल में करेगा। यह विधेयक इतना गलत है, इसकी बर्हिग इनकी गलत है कि वही सरकार जिसके दिमाग को नर्क कुण्ड का कीड़ा चाट कर छलनी का तरह छेद कर गया हो, वही ऐसा विधेयक ला सकती है। तो मैं कहना चाहता हूँ, आज सदन के सम्मानित सदस्यों को मस्तिष्क खोलना चाहिए। हमने कहा था कि यह कथ्युनिस्टी विधेयक है और आज बिलकुल स्पष्ट किया हमारे मित्र भूपेश जी ने कि हम इस विधेयक का विरोध नहीं करेंगे, हम इस विधेयक का साथ करेंगे। मुझे बड़ी खुशी है हमारे युजुर्ग श्री उमाशंकर दीक्षित जी, गृह मंत्री, भी बैठे हुए हैं, मैं उनसे निवेदन करना चाहूंगा: देखिए, उनका घर किनारा बिखर गया है। अब वे क्या कहते हैं कि अध्यक्ष को जज बना दे, अध्यक्ष को मिनिस्टर बना दे। मैंने कल भी अननय विनय किया था—शायद उस समय आग गद्दी पर विराजमान नहीं थे—कि अध्यक्ष के पद को विवादास्पद न बनाया जाए। अध्यक्ष सदन की मर्यादा है, अध्यक्ष सदन का माउथपीस है, अध्यक्ष की प्रतिष्ठा सदन की प्रतिष्ठा है और हमने कल भी यहीं कहा था कि अध्यक्ष वही होता है जो सदन में सर्वशक्तिमान हो, सदन के नेता का पद किसी भी क्षण आवश्यकता पड़ने पर लेने की जिसमें क्षमता हो। वही व्यक्ति अध्यक्ष 2 P. M. होता है। श्री कमलापति त्रिपाठी यहाँ पर विराजमान हैं। वे जानते होंगे श्री टन्डन जी पंत जी को डपट देते थे और विजयालक्ष्मी पंडित को बिठला देते थे। Sit down. Ministers should come prepared. आज मंत्री जैसा जवाब देते हैं, वैसा टन्डन जी की अध्यक्षता में जवाब नहीं दे सकते और वे कहते बाहर जाओ। तुम अपने कर्त्तव्य का पालन यहाँ पर अच्छी तरह से नहीं कर पा रहे हो। वे अध्यक्ष थे।

श्री कमलनाथ शा (बिहार): यह तो चेयर के ऊपर एनपरेशन करता है।

MR. DEPUTY CHAIRMAN: I know how to tackle him.

श्री राजनारायण : श्री कमलनाथ झा वहां जा कर के बिगड़ गये हैं। श्रीमन्, मैं यह कह रहा था कि श्री कमलापति त्रिपाठी जी को याद होगा कि मुस्लिम लीग ने एक प्रस्ताव पास किया था कि उन्हें टण्डन जी पर विश्वास नहीं है। इस खबर को अखबारों में टण्डन जी ने पढ़ा। टण्डन जी ने सदन में आते ही यह व्यवस्था दी कि अगर एक भी सदन का सम्मानित सदस्य यह समझता है कि हमने जो व्यवस्था दी है वह पक्षपातपूर्ण है, तो हम अभी सदन से इस्तीफा दे देंगे। इस पर मुस्लिम लीग के सदस्य खड़े नहीं हुए। सब लोगों ने मिल कर कहा कि जहां तक व्यवस्था का सवाल है टण्डन जी से बढ़ कर स्वस्थ, स्वतंत्र और पक्षपातपूर्ण रहित व्यवस्था और कोई दूसरा नहीं दे सकता है। वे अध्यक्ष थे। अगर टण्डन जी के ऊपर यह भार दे दिया जाए कि श्री कमलापति का इस्तीफा ले लिया जाये, श्री उमाशंकर दीक्षित का इस्तीफा ले लिया जाए, तो वे फिर घबने में पड़ जायेंगे।

श्रीमन्, मैं यह कहना चाहता हूँ कि इस बिल को लाने की जरूरत क्यों पड़ी? आज से चार साल या तीन साल पहिले लाने की जरूरत क्यों नहीं पड़ी? मैं यहां पर नई बात बोलूंगा। जो बोल चुका हूँ, उसको नहीं बोलूंगा। तो मैं यह कहना चाहता हूँ कि इस बिल को लाने की जरूरत इसलिए पड़ी कि 1971 में पालियामेंट के चुनाव हुए थे। इलेक्शन कमिशन ने तमाम विरोधी दलों के सदस्यों के विरोध के बाद भी काउंटिंग प्रणाली बदल दी। हम गये, श्री आडवाणी और श्री एम० एन० मिश्रा साहब इलेक्शन कमिशनर के पास गये थे और उनसे अनुनय विनय किया कि जिम तरह से पहिले काउंटिंग होती थी, उसी तरह से काउंटिंग होनी चाहिये। जिस तरह से पहिले पोलिंग स्टेशन वाइज काउंटिंग होती थी, उसी तरह से होनी चाहिये। इस चीज से यह पता चल जाता था कि किस पोलिंग स्टेशन में कितने वोट पड़े हैं। अब क्या होता है? खट, खट हर पोलिंग स्टेशन के वोट मिला दिये और फिर सब जगहों के पोलिंग स्टेशनों के वोटों की गिनती होती है। तो दीक्षित जी से कहना चाहता हूँ कि वे इस प्रणाली को बदलने के लिए इलेक्शन कमिशन से कहे और जो पहिले स्टेशन वाइज काउंटिंग होती थी उसको लागू किया जाये। लेकिन आजकल तो सब जगह के वोटों को एक जगह मिला दिया जाता है और फिर गिनती होती है, जिसमें बहुत गोलमाल हो जाता है। मान लीजिये, मैं हूँ और मेरी किसी अरबपति से कोई तिकड़म है और उसको लाइसेंस दे देते हैं।

श्री ओम् मेहता : वह तो है ही।

श्री राजनारायण : इस तरह से लाइसेंस देकर के 2 करोड़ रुपया हासिल कर लो और उसको आफिसर को खिला दो जो काउंटिंग करता है कि वोटों को हमारे पक्ष में मिला दिया जाए। अगर इस तरह का चुनाव होगा और जनता की सही भावना प्रकट नहीं होगी, तो क्या फिर जनता

चुप बैठी रहेगी। यही कारण है कि आज—जनता में यह मनोवृत्ति पैदा हो गई है कि जो गन्दे विधायक हैं, जो गलत विधायक हैं, उनसे इस्तीफा लिया जाये। मैं आपसे कहना चाहता हूँ कि इसके यत्नेक प्रमाण है। श्री शिवशंकर सिंह यादव लोक सभा के सदस्य हैं, उन्होंने एक चिट्ठी हमारे पास भेजी है और मैं चाहता हूँ कि उसको सदन की मेज पर रख दू।

माननीय उपसभापति जी, आप देखें, यह चिट्ठी है हिन्दुस्तान एल्यूमिनियम कारपोरेशन लिमिटेड की...

SHRI OM MEHTA : Sir, how is this allowed?

SHRI RAJNARAIN :

"S. S. Kothari,

President,

HINDALCO,

Renukoot.

Dear Sir,

We met the Prime Minister and her Private Secretary. We have paid a sum of Rs. 5.00 lakhs to the P. S. He has promised us that he will use all his influence to see that no trade union activity is allowed in the HINDALCO..."

MR. DEPUTY CHAIRMAN : Mr. Rajnarain, you cannot take shelter under this amendment to read out some other letter or some such thing. This is very unfair.

श्री राजनारायण : जरा सुना जाए। मैं आपसे निवेदन कर रहा हूँ, यह 7-11-67 की है...

(Interruptions)

MR. DEPUTY CHAIRMAN : What is the point of order?

श्री चन्द्रमणि लाल चौधरी (बिहार) : राजनारायण जी जो बोल रहे हैं उसका इस क्लाज से कोई ताल्लुक नहीं है, इसलिए इसका प्रोसीडिंग्स से निकाल दिया जाए।

MR. DEPUTY CHAIRMAN : Yes, Mr. Rajnarain, you must speak on the amendment.

श्री राजनारायण : श्रीमन्, मैं इससे यह प्वाइन्ट निकालना चाहता हूँ कि सत्ताधारी दल बड़े-बड़े पूंजीपतियों से बड़ी-बड़ी रकम लेकर चुनावों को भ्रष्ट कर रहा है, सत्ताधारी दल बड़े पैमाने पर खपया बांट रहा है। उत्तर प्रदेश के गत चुनाव के सम्बन्ध में श्री चन्द्रभानु गुप्त के पास एक टैप रिकार्डिंग है। मैंने उसको सुना। कोई मिस्टर अग्रवाल है। उनकी गाड़ी एस० पी० की कोठी में खड़ी रहती है। ये बैंक में बैठे हुए थे और चन्द्रभानु गुप्त भी बैठे हुए थे। उन्होंने एस० पी० को टैलीफोन किया कि हमारी गाड़ी भेज दो।

SHRI OM MEHTA : Sir, how is this relevant?

श्री राजनारायण : इसका अमेंडमेन्ट से संबंध है ।

MR. DEPUTY CHAIRMAN: Mr. Rajnarain, you will have to speak on the amendment. How is this relevant to the amendment? Now I will give you only one more minute.

श्री राजनारायण : आज जनता विधायकों को क्यों हटाना चाहती है, विधान सभा भंग होने की मांग क्यों, उत्तर प्रदेश की विधान सभा भंग होने की मांग क्यों, संसद भंग होने की मांग क्यों? ये मांगे इसलिए उठ रही हैं क्योंकि जनता को दिए गए वादे आज झुठलाए जा रहे हैं। धनिकों का पैसा, काला पैसा आज इममें बहाया जा रहा है और इस लिए जनता की ओर से मांग हो रही है। यह जो विधेयक है . .

श्री महावीर त्यागी : बैंक में क्या हुआ ?

श्री राजनारायण : एक मिनट, श्रीमन्, दे दिया जाय। बैंक में वह अग्रवाल गुप्ता जी से कहता है हमने बड़ा पाप किया है, 10 करोड़ रुपया लेकर आए थे, 5 करोड़ खर्च हुआ, 5 करोड़ गुजरात के लिए रखा है। यह उस टैप रिकार्डिंग में है कि हमने बड़ा पाप किया, एक भाई को हराया। गुप्ता जी के यहां वे खाने पर गए और गुप्ता जी के वहां उनके एक छात्र (बी०एच०यू०) रिश्तेदार भी थे, उन्होंने सारी बातें टैप कर लीं (Time bell rings) एक मिनट और।

श्री उपसभापति : तीन मिनट हो गए

श्री राजनारायण : मैं खत्म करता हूं। सरकार हमारी बात मानें, इसको वापस लें और हिन्दालको के एक अफसर की चिट्ठी जो उमने कोठारी को लिखी है, प्रधान मंत्री के पी० एस० को रुपया दिया उसकी जाच कराई जाए। इसको मैं टेबिल पर रख रहा हूँ।

(Interruption)

SHRI P. L. KUREEL URF. TALIB (Uttar Pradesh): Sir, whatever he has said should be expunged from the records . . .

(Interruptions)

SHRI BHUPESH GUPTA: The only change I will make is that it should be the Speaker. The words "or the Chairman, as the case may be", may be deleted. That is the correction I would like to make. I need not speak on this; I have already spoken.

MR. DEPUTY CHAIRMAN: The question is:

4. That at page 2, after line 2, the following new clause be inserted, namely:

"3A. In article 190 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

"(3A). In case 51 per cent of the voters in the current electoral rolls of a constituency demand the recall of the member elected from that constituency by writing to the Speaker, the seat of the member shall be deemed to be vacant after Speaker has satisfied himself in that regard in accordance with the prescribed procedure."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

14. "That at page 2, after line 8, the following new clause be inserted, namely:—

"3A. In article 190 of the Constitution, after clause (3), the following clause shall be inserted, namely:—

"(3A) The Speaker shall not reject any genuine resignation if such resignation has been tendered following the representation of the majority of the voters of the constituency of the member concerned to the Chief Election Commissioner, such representation being in the nature of a recall of the member by the electorate which elected him".

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:—

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

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—152; Noes—25.

AYES—152

Abid, Shri Qasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Ahmad, Dr. Z. A.
Alva, Shrimati Margaret
Amla, Shri Tirath Ram
Anandam, Shri M.
Arif, Shri Mohammed Usman

Berwa, Shri Jamna Lal
 Bhagwati, Shri B.C.
 Bhardwaj, Shri Jagan Nath
 Bhatt, Shri Nand Kishore
 Bisi, Shri P.N.
 Bobdey, Shri S.B.
 Borooah, Shri D.K.
 Buragohain, Shri Nabin Chandra

Chakrabarti, Dr. R.K.
 Chandra Shekhar, Shri
 Chandrasekhar, Shrimati Maragatham
 Chattopadhyaya, Prof. D.P.
 Chaturvedi, Shrimati Vidyawati
 Chaudhari, Shri N.P.
 Chettri, Shri K.B.
 Choudhury, Shri N.R.
 Chowdhary, Shri C.L.
 Chowdhri, Shri A.S.
 Chundawat, Shrimati Lakshmi Kumari

Das, Shri Balram
 Das, Shri Bipinpal
 Devendra Nath, Shri
 Dhabe, Shri S.W.
 Dikshit, Shri Umashankar
 Dutt, Dr. Vidya Prakash

Gadgil, Shri Vithal
 Gian Chand, Shri
 Goswami, Shri S.P.
 Gowda, Shri U.K. Lakshmana
 Gujral, Shri I.K.
 Gupta, Shri Bhupesh

Hashmi, Shri S.A.
 Himmat Singh, Shri

Imam, Shrimati Aziza

Jagdish Chandra, Shri
 Jagtap, Shri R.D.
 Jain, Shri Dharamchand
 Jairamdas Daulatram, Shri
 Jha, Shri Kamalnath
 Joshi, Shrimati Kumudben Manishankar

Kalaniya, Shri Ibrahim
 Kalyan Chand, Shri
 Kamble, Shri N.M.
 Kapur, Shri Yashpal
 Kesri, Shri Sitaram
 Khan, Shri Khurshed Alam
 Khan, Shri Maqsood Ali
 Khan, Prof. Rasheeduddin
 Kishan Lal, Shri
 Kollur, Shri M.L.

Kripalani, Shri Krishna
 Krishan Kant, Shri
 Krishna, Shri M.R.
 Kuklarni, Shri A.G.
 Kulkarni, Shrimati Sumitra G.
 Kumbhare, Shri N.H.
 Kureel Urf. Talib, Shri P.L.

Lalbuaia, Shri
 Lokesh Chandra, Dr.
 Lotha, Shri Khyom

Mahanti, Shri B.K.
 Mahapatre, Shri L.
 Majhi, Shri C.P.
 Makwana, Shri Yogendra
 Malaviya, Shri Harsh Deo
 Mali, Shri Ganesh Lal
 Mehta, Shri Om
 Menon, Shrimati Leela Damodara
 Mirdha, Shri Ram Niwas
 Mukherjee, Shri Kali
 Mukherjee, Shri Pranab
 Mukhopadhyay, Shrimati Purabi
 Mulla, Shri A.N.
 Mullick Choudhury, Shri Suhrid
 Munda, Shri B.R.
 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 V.R.
 Patil, Shri D.S.
 Patil, Shri G.R.
 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, Shrimati Rathnabai Sreenivasa
 Rao, Shri V.C.
 Reddi, Shri K. Brahmananda
 Reddy, Shri Janardhana
 Reddy, Shri K.V. Raghunatha
 Reddy, Shri Mulka Govinda
 Reddy, Shri R.N.
 Rishi Kumar, Shri

Saleem, Shri Mohammad Yunus
 Sangma, Shri E.M.
 Sardar Amjad Ali, Shri
 Savita Behen, Shrimati
 Seyid Muhammad, Dr. V.A.
 Shah, Shri Manubhai
 Shahi, Shri Nageshwar Prasad
 Sharma, Shri Yogendra
 Shastri, Shri Bhola Paswan
 Shukla, Shri Chakrapani
 Shukla, Shri M.P.
 Shyamkumari Devi, Shrimati
 Singh, Shri D.P.
 Singh, Shri I.D.
 Singh, Shri Inder
 Singh, Shri Jagjit
 Singh, Shrimati Jahanara Jaipal
 Singh, Shri Kameshwar
 Singh, Shri Mahendra Bahadur
 Singh, Shri Mohan
 Singh, Shri Nathi
 Singh, Shrimati Pratibha
 Singh, Shri Ranbir
 Singh, Shri Shivdayal
 Singh, Shri Sultan
 Singh, Shri Triloki
 Singh, Dr. V.B.
 Sinha, Shri Awadehshwar Prasad
 Sisodia, Shri Sawaisingh
 Sukhdev Prasad, Shri
 Sultan, Shrimati Maimoona
 Swu, Shri Scato

Tanvir, Shri Habib
 Thakur, Shri Gunanand
 Tilak, Shri J.S.
 Tiwari, Shri Shankarlal
 Tiwary, Pt. Bahwaniprasad
 Tripathi, Shri Kamlapati
 Trivedi, Shri H.M.

Varma, Shrimati Narayani Devi Manaklal
 Venigalla Satyanarayana, Shri
 Vyas, Dr. M.R.
 Wajd, Shri Sikander Ali

NOES—25

Advani, Shri Lal K.
 Angre, Shri S.C.
 Banarsi Das, Shri
 Ganguli, Shri Salil Kumar
 Ghosh, Shri Niren
 Goray, Shri N.G.
 Joshi, Shri Umashankar

Mahadeo, Shri
 Mandal, Shri B.N.
 Menon, Shri Viswanatha
 Mathew Kurian, Dr. K.
 Mathur, Shri Jagdish Prasad

Pawar, Shri D.Y.
 Rajnarain, Shri
 Ray, Shri Rabi
 Roy, Shri Monoranjan

Sakhlecha, Shri V.K.
 Sanyal, Shri Sasankasekhar
 Shastri, Shri Prakash Vir
 Shekhawat, Shri B.S.
 Singh, Shri T.N.
 Swamy, Shri Subramaniam

Tyagi, Shri Mahavir
 Tyagi, Shri O.P.

Yadav, Shri Shyam Lal

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 move:

"That the Bill be passed".

The question was proposed.

SHRI BHUPESH GUPTA: Sir, we are coming to the close of this session. After 25 years of the commencement of the Constitution, we have reached a situation when we have to pass a Bill like this to protect the Members of the Assemblies and Parliament against this fascist type of hindrance to their right to function as representatives of the people. This is a most extraordinary and serious development. It is necessary for us to know why today some people dare to attack our parliamentary institution in this manner. I think that we should go to the roots of the problem. Otherwise, no constitution and legal solution can be found.

Sir, our parliamentary institutions are undoubtedly passing through severe strain and a serious crisis because the urges and the aspirations of the people have not been fulfilled. Let us frankly admit here as a collective body that we have, in many ways, let down our people. We have done it here. We have done it in the Assemblies and the responsibility for this must be borne first and foremost by the ruling party,

those who occupy the Treasury Benches. Sir, I am sure, if the mandate of 1971 Lok Sabha elections had been faithfully implemented, we would have seen not this kind of attacks on parliamentary institutions, but an enrichment and extension of our parliamentary democracy. Sir, the monopolists, landlords, profiteers, speculators and others are responsible for polluting these institutions. Some politicians rely on the money power of these people and when elections are won, people begin to lose faith in our institution. In fact, the institution itself gets crippled. That is what has happened today.

Sir, today a big hiatus or gap has developed between the institutions, whether they are the Assemblies or the Parliament on the one hand and the starving, suffering and unemployed masses on the other. In a situation of this kind, I think it is possible for the forces which are opposed to democracy and socialism and believe in fascism to exploit the discontent of the people and take cover under our parliamentary institution and use its name to destroy it. This is what is happening. Therefore, I say that we must go to the root of the problem.

Sir, one thing is quite clear that this will offer no solution unless we find a common voice with the people, unless the functioning of the parliamentary institutions well represents the promptings of the millions of our people. They are always liable to change and they are liable to lose their substance and character. What is happening today? We are in the midst of a crisis. And against this background, these things should be understood. Sir, a great responsibility in the running of the parliamentary institutions devolves on those who occupy the Treasury Benches, the Government, the leader of the ruling party—the Prime Minister, and other members of the Cabinet. They owe a great responsibility to the nation. If they go wrong, much will go wrong. The history of parliamentary institutions has shown how the Treasury Benches have not only destroyed themselves but destroyed the institution and wrecked the future of the country also. My fear is, Sir, many of them are on the wrong tracks. Today, you find that the Ministers, instead of being respected, are being beaten up. I do not support the use of violent methods against them. But how is it that even after independence, after 25 years of our parlia-

mentary institution, it is impossible for Ministers in some cases to go out among the public and face the people? What has made it so? Our people are not bad, our people are not insane. There are some people who tried to misguide them, and I can say that. But, by and large, our people have a solid sense of patriotism. They are democratic-minded people. They have the heritage of a past and ancient culture. They cannot be easily taken off the rails of humanity. We know it. But at times it may be possible to mislead them. Therefore, I say that it is the Government who should do some rethinking today. We are passing this Bill all right. Protect them. Forcible resignation should not take place. In fact, it should be condemned by all people. Sir, in Bihar, some people are trying to get people resign by methods of force. And in Ranchi, some of the misguided youth are saying, that "Maneckshaw is our future". They are not talking about you; they are not talking about me; they are not talking about anybody. They are looking forward to Maneckshaw and they think that Maneckshaw should take charge of the nation. Don't treat it lightly. Today, it may be one voice, tomorrow it may be two, and then it will be more. This is how we are heading for a crisis of the worst type. I still say, Sir, the time is there. We can retrace our steps. We can live up to the mandate on which we were elected. We can implement the promises given to the people. But surrender to the rightist forces, to monopoly capital, to landlords, to wholesalers, to speculators, to foreign imperialists, monopolists, to multi-national corporations, to the merchants of black market who buy the politicians, is the surest way of ruining our parliamentary and democratic institutions. I strike this warning today. Don't think that you are protecting only some MLAs. You may protect these handful of MLAs by this legislation. But what is the guarantee that these institutions which we have built up for so many years will survive the onslaughts of counter-revolutionary fascist forces backed up by monopoly, backed up by landlords, backed up by others, all the time? Well, my friend Mr. Rajnarain has said that Bhupesh Gupta is not an authority on parliamentary democracy.

SHRI RAJNARAIN: Then what are you...

SHRI BHUPESH GUPTA: If you do not understand me, I would support along

[Shri Bhupesh Gupta]

with your *lathi* if there is something in your head, that also. Similarly, your brain is in your *lathi* and not in your tongue.

Sir, I am supporting the Bill despite the fact that I have moved some amendments because I want to protect the parliamentary institutions from demagogy, deceitful and cowardly acts which Anand Margis and some politicians are launching. I know the limitations of this institution. I know there are many weaknesses, many shortcomings and many things have to be overcome. But the kind of things which you and your leader, Mr. Charan Singh, are doing, will ruin the country.

SHRI RAJNARAIN: No one is more treacherous than the Communists. They are stabbing in the back of the national movements. (Interruptions)

SHRI BHUPESH GUPTA: Sir, I do not wish to enter into any controversy. He will be here for six years. I will be here for only two years. I shall have at least two years' of quarrel with him and you will have to bear with him for a longer time.

Mr. Rajnarain, you tried in 1971 with your grand alliance to capture parliamentary majority. But, having failed to do so, you have now taken to revolutionary, Fascist methods to destroy the country.

SHRI RAJNARAIN: You are counter-revolutionaries.

SHRI BHUPESH GUPTA: Let not Mr. Rajnarain be compared to Guy Fox who entered the House of Commons. At least, Guy Fox was an honourable man. Mr. Rajnarain is the political Guy Fox of the B.K.D. and he should be a warning to all of us.

श्री प्रकाशचौर शास्त्री (उत्तर प्रदेश) : उप-सभापति महोदय, महात्मा गान्धी जी से जब किसी ने पूछा कि आपकी स्वराज्य की परिभाषा क्या है, तब गान्धी जी ने स्पष्ट शब्दों में कहा कि सच्चे अर्थों में स्वराज्य उसको कहेंगे जब 18-20 साल की कोई युवती, सोन और चांदी के आभूषणों से लदी हुई अमावस्या की अर्ध रात्रि में, किसी भी नगर में निषिचन्त होकर निकले और तब हम समझे कि सच्चा स्वराज्य आया है। कोई किसी के जीवन में अनुचित हस्तक्षेप न करे, उसको स्वराज्य कहा जा सकेगा।

आज कानून-व्यवस्था की स्थिति बिहार, गुजरात और देश के दूसरे भागों में इतनी दयनीय हो गई है कि अब यहां

से उत्तर प्रदेश में 15 मील चल कर देखिए, तो आप पायेंगे कि सायंकाल 8 बजे के बाद सड़कों के ऊपर जब तक 10-20 मोटर इक्वटी न हो जाएं, उनका काफिला न बन जाए, तब तक वे सड़क पर नहीं चल सकती। दिल्ली के अन्दर भी इसी तरह से कानून-व्यवस्था की घटनाएं हो चुकी हैं। अभी कुछ दिन पहिले की बात है कि यहां पर आल इंडिया रेडियो के एक बड़े अधिकारी की पत्ति और लड़की की दिन दहाड़े हत्या कर दी गई थी। बिहार जैसे प्रदेश की स्थिति तो इतनी दयनीय हो चुकी है, वहां आज भी पुलिस निरीह बनी देखती है। अभी कल परसों वहां पर जो घटना पटना में घटी है, वे इस बात की परिचायक है कि बिहार के अन्दर कानून नाम की कोई स्थिति नहीं रही।

गुजरात की स्थिति क्या है। गुजरात एक शान्ति प्रिय प्रदेश है। वह गान्धी जी का प्रदेश है। गुजराती लोग आसानी से इस प्रकार की खूनी क्रान्ति के रास्ते पर उठते नहीं हैं। लेकिन जब पानी बिल्कुल नाक तक आ जाए, तो फिर गुजरात के लोग ही क्या करते? जो गल्ला गुजरात की जनता में वितरण के लिए दिया गया था, उस गल्ले को गुजरात के कुछ मन्त्रियों ने मिलकर समुद्र पार डुबाई भिजवाते रहे। जो अन्न गुजरात की जनता के पेट में जाना था, वह दूसरे देशों को भेज दिया गया। यही कारण है जो वहां की जनता ने विवश होकर आन्दोलन का रास्ता पकड़ा। वह यह शस्त्र न उठाती, तो और क्या करती? मेरे कहने का अभिप्राय यह है कि सरकार जो विधेयक पारित करना चाहती है, आखिर उस बिल के पीछे मूलभूत कारण क्या छिपा हुआ है? आखिर 26-27 वर्ष पश्चात् भी, देश में ऐसी स्थिति क्यों आई कि जनता को चुने हुए प्रतिनिधियों के सामने जाकर इस प्रकार का आन्दोलन करना पड़ा—आप अपने पद का त्याग कर दें और हमारा साथ दें। यही स्थिति गुजरात में भी बनी और अब इसी प्रकार की स्थिति बिहार में भी बनने जा रही है।

उप-सभापति जी, इससे दयनीय आर्थिक स्थिति और दशा किसी देश की क्या होगी, जिसका उत्पादन केवल 4 प्रतिशत ही बढ़ा हो?

उस देश के अन्दर करेन्सी नोट का उत्पादन 30 प्रतिशत बढ़ गया। हमारे देश में जो मुद्रास्फिति की स्थिति है, जो महंगाई बढ़ती चली जा रही है उसकी जड़ में कारण क्या है? जब जनता परेशानी में होती है तो वह आन्दोलन करती है और अपने जन-प्रतिनिधियों के सामने अपना रोष प्रगट करती है। आप उनको दूसरा विकल्प तो दीजिए। जिन प्रतिनिधियों को उसने विधान सभा या ससद में चुन कर भेजा है उनके सामने जनता रोष व्यक्त न करे तो किस ढंग से व्यक्त करे? मैं उस बात की पुनरावृत्ति नहीं करना चाहता जो मेरे कई मित्र कह चुके हैं इसमें सभापति या विधान सभा के अध्यक्ष के स्थान की जो पवित्रता है उसको

स्पर्श न किया जाए। लेकिन इतना मैं अवश्य कहना चाहता हूँ कि अब तक ये पद निष्पक्ष पद माने जाते रहे हैं। जनता की दृष्टि में और सदन की दृष्टि में, अगर कोई सदस्य ऐसा भी हुआ है जो किसी दल से चुनकर आया है और उसको इस आसन पर सदन ने सर्वसम्मति से या बहुसम्मति से बैठाया है तो उसने उस दल से त्याग पत्र दे दिया। लोकसभा की परम्परा को मैं जानता हूँ। वर्तमान अध्यक्ष ने ग्रामन ग्रहण करते ही यह घोषणा की कि अब मैं किसी दल का सदस्य नहीं, अर्थात् सदन के अन्दर जितने पक्ष हैं उन सबकी भावनाओं का प्रतिनिधित्व वह करते हैं। लेकिन जब इस प्रकार की स्थिति आ जायेगी कि विधान सभा को बचाने के लिए या पार्टी के कुछ सदस्यों को बचाने के लिए इससे पवित्र आसन का प्रयोग किया जायेगा तो मेरा ऐसा विचार है आवश्यकता आविष्कार की जननी होती है, गोखले साहब इस कानून को तो पास करा देंगे और विधान सभा अध्यक्ष को यह अधिकार भी दे देंगे कि वह त्यागपत्र को स्वीकार करे या न करे परन्तु जनता को दूसरा मार्ग अपनाने के लिए बाध्य कर देंगे। ऐसी स्थिति में हो सकता है जन-प्रतिनिधियों को उन स्थानों तक जाने ही न दिया जाए, त्यागपत्र देने की स्थिति तो बहुत पीछे आयेगी। इसलिए इस प्रश्न पर भी विचार करना चाहिए।

एक बात मैं विशेष रूप से कहना चाहता हूँ जो इस कानून में न्यूनता, मुझे दिखाई देती है क्योंकि जहाँ आपने अधिकार दिया है उनको यह निर्णय करने का कि त्यागपत्र वेध है या नहीं उचित कारण से, स्वेच्छा से दिया गया है या नहीं, वहाँ, उप-सभापति जी, इसमें यह कहा गया है—

“त्यागपत्र की दशा में यदि पर्याप्त जानकारी से या अन्यथा और ऐसी जांच करने के पश्चात्”

अन्यथा ऐसी जांच करते के पश्चात् कौनसी ऐसी मशीनरी है जिससे ऐसी जांच होगी। आप को इसमें कोई मशीनरी देनी थी, कोई वित्तीय व्यवस्था करनी चाहिए। अन्यथा जब तक ऐसी जांच करने का साधन नहीं है तो अपने सहयोगियों से, जिनके समर्थन से चुनकर वह गए थे, या उस आसन को ग्रहण किया था, उनके परामर्श से, उनकी राय से काम करेंगे और फिर उस आसन को कर्लकित करेंगे। ऐसी जांच का ऐसा ही परिणाम हो सकता है, दूसरा नहीं हो सकता।

तीसरी बात, जिसको कह कर अन्त में मैं बैठना चाहता हूँ, यह है कि जनता की आवाज जनादेन की आवाज होती है। इस प्रकार कानून बना कर त्यागपत्र देने से आप उनको रोक सकते हैं, लेकिन इसी बिहार में, जिसके प्रश्न को लेकर आप यह कानून बनाने की तैयारी कर रहे हैं, यह कानून पास करने जा रहे हैं, जब अपना देश स्वतन्त्र हो गया था और गांधी जी बिहार का भ्रमण कर रहे थे उस समय लाठी से, गोली से सरकार जनता की आवाज को दबाना चाहती थी। मैं अपने शब्दों में नहीं कहना चाहता

बल्कि आज की सरकार को गांधी जी के शब्दों में कह कर बैठना चाहता हूँ। उस समय गांधी जी ने ये शब्द कहे थे “अगर लाठी और गोली से जनता की आवाज को सरकार दबाने की कोशिश करेगी तो वह दिन दूर नहीं है जब सफेद टोपी वाले लोगों को जनता चुन-चुन कर मारेगी”। ये शब्द हैं जो गांधी जी ने अपनी प्रार्थना सभा में कहे हैं। मैं चाहता हूँ सरकार समय की आवाज को पहचाने और गांधी जी के उन शब्दों को याद करे और भविष्य के लिए स्वस्थ निर्णय ले।

श्री नवल किशोर (उत्तर प्रदेश) : उप-सभापति महोदय, जिन लोगों ने इस विधेयक का समर्थन किया है या जिन्होंने इसका विरोध किया है दोनों एक बात से सहमत हैं कि किसी विधायक का इन्तीफा जबरदस्ती न लिया जाए। श्रीमन्, सवाल केवल यह है कि यह एडमिनिस्ट्रेटिव ढंग से किया जाए या सविधान में संशोधन ला कर। मैं आपसे यह अर्ज करूंगा कि जो अगड़े की जड़ है वह इकोनॉमिक इण्डूज हैं। चाहे गुजरात हो या बिहार हो, जब आन्दोलन शुरू हुआ तो इस बात से शुरू हुआ कि कीमतों को थामा जाए, आवश्यक वस्तुओं का जो अभाव है उसको समाप्त किया जाए, भ्रष्टाचार खत्म किया जाए, अनएम्प्लायमेंट या बेकारी खत्म की जाए। आहिस्ता-आहिस्ता बढ़ कर वह माग यहाँ तक पहुँच जाती है कि असेम्बली को डिजाल्व किया जाए और वहाँ राष्ट्रपति का शासन किया जाए।

गुजरात के अन्दर जहाँ तक मैं समझता हूँ कभी भी असेम्बली डिजाल्व न होती अगर रूलिंग कांग्रेस के 86 या 80 सदस्यों ने इन्तीफा न दे दिया होता। जब उन्होंने इन्तीफा दे दिया तो असेम्बली अपनी जगह पर बेकार हो गयी। मैं एक बात स्पष्ट कर दूँ कि आज जो ट्रेंड चल रहा है उसमें बुनियादी सवाल यह है कि इस देश के अन्दर भीड़ तन्त्र चलेगा या जनतन्त्र चलेगा, मोनोक्रेसी चलेगी या डिमोक्रेसी चलेगी। मैं बड़ा हैरान होता हूँ। मैं इस बात का तो हामी हूँ कि अगर विधान सभा में कोई पार्टी अल्पमत में हो, दूसरी सरकार न बन पाये तो इन्तीफा होना चाहिए और वहाँ की विधान सभा भंग होनी चाहिए, मगर जो यह आवाज उठती है कि बेईमान लोग इन्तीफा दे तो एक बात मैं समझने में परेशान हूँ। जो विधायक है किसी पार्टी के वह तो बेईमान हैं और जो एजीटेशन कर रहे हैं वह देवता हैं और ईमानदार हैं। तो यह कौन तय करेगा कि कौन बेईमान है और कौन नहीं है। अगर किसी के खिलाफ बेईमान होने का सबूत हो तो वह भले ही एम०एल० हो या एम० पी० हो या मिनिस्टर हो, उस को निकाल देना चाहिए, लेकिन यह जो ट्रेंड बन रहा है उसका नतीजा यह होगा कि अगर जनता की आस्था-पोलिटिकल पार्टीज से उठ गयी तो देश में सिवाय डिक्टेटरशिप के और कुछ होने वाला नहीं है। मैं कहना चाहता हूँ कि आन्दोलन हो, शान्त ढंग से हो, मैं उसके पक्ष में हूँ। जो आर्थिक समस्याएँ हैं उनके लिए आन्दोलन किया जाए,

[श्री नवल किशोर]

लेकिन अगर हम सब को कह दे, उधर के लोग हम को कहे, हम उधर के लोगों को कहे कि तुम बेईमान हो तो जनता समझेगी कि सब बेईमान है।

जहाँ तक मवाल है इस विधेयक का, मैं एक बात कहना चाहता हूँ गोखले साहब से कि उनकी नीयत कुछ भी हो, मगर हम को इतनी जल्दी में वह लाये हैं यह अच्छा नहीं है। वैसे उनकी मिनिस्ट्री इम वान में दक्ष है कि हर काम को वह बहुत जल्दी में किया करती है। चाहे पांडुरेरी का मामला हो या मामला हो इस विधेयक का, वह सब काम जल्दी में हो जाता है। यह विधेयक तो पास हो गया, थर्ड रीडिंग हो रही है, मगर जो ईश्वर है वह अपनी जगह पर स्पष्ट नहीं हुए। जब इतनी बड़ी जिम्मेदारी आप चैयरमैन और स्पीकर को दे रहे हैं तो क्या आप ने इम बात को मुनासिब नहीं समझा कि उनकी एक कॉफरेस बुला कर उन से भी इम बात पर मशविरा किया जाए कि जो यह एडीशनल जिम्मेदारी उन पर डाली जा रही है वह इसके लिए तैयार है या नहीं? गोखले साहब ने कहा कि जैसा आर्टिकल 101 और 190 इस वक्त है उसमें स्पीकर्स के अधिकार हैं और उन्होंने तीन केंसेज की बात कही। एक केंस कोचीन का है और एक है इलाहाबाद का, मगर आज इस विधेयक के पास हो जाने के बाद तीन केंसेज नहीं होंगे, 20, 25 और सैंकड़ों केंस भी हो सकते हैं ऐसे, न हो तो अच्छी बात है। श्रीमान्, आप को याद होगा कि जिस समय हमारे स्पीकर को यू०पी० में 28 जजेज ने, उनकी एक बेच ने समन करने की कोशिश की तो हम ने उम को रिजिस्ट किया और हमने उन 28 जजेज के खिलाफ वारन्ट ईश्यू कर दिया असम्बली से। आप को यहाँ एक रेफरेंस हुआ है कि प्रेसीडेंट के चुनाव गुजरात की असम्बली के भंग रहने के बावजूद हो सकते हैं या नहीं। इसमें भी नोटिस की बात थी स्पीकर को और उस पर विधान सभा ने आपत्ति की और मैं समझता हूँ कि ठीक ही आपत्ति की। तीन केंसेज में कुछ तो हुआ है लेकिन यह कुर्सी ऐसी है कि जिस के लिए हम कोशिश करते हैं कि अदालतों में इसकी खोचातानी नहीं होनी चाहिए।

एक बात मैं और जानना चाहता हूँ गोखले साहब से कि हम कोअर्शन के अप्पेन्ड हैं, लेकिन आप कोअर्शन में और मोरेल प्रेशर में कैसे डिस्टिंगुइश करेंगे। अगर कोई पार्टी के आदेश से इस्तीफा दे दे, बिहार में सोशलिस्ट पार्टी के और जनसभ के दस आदमियों ने इस्तीफा दिया, (Interruptions) अच्छा स्वेच्छा से ही दिया, लेकिन उस को कोअर्शन कहा जायेगा या क्या कहा जायेगा। तो गोखले साहब बतलायें कि क्या स्पीकर यह मान कर चलेगा कि जो इस्तीफा आये है यह जेनुइन है या वालटियरी है या उनको वह मान कर चलेगा कि वे जेनुइन और वालटियरी नहीं हैं, यह मान कर चलेगा? और कैसे वह उनकी जांच करायेंगा।

श्री भूपेन्द्र नारायण मंडल (बिहार) उप सभापति जी, जब से इस देश में स्वतन्त्रता कायम हुई है तब से एक

पार्टी का लगातार शासन चल रहा है। शासन जिस ढंग से चल रहा है उसका नतीजा हर मायने में आप देख रहे हैं। देश का अर्थतन्त्र छिन्न-भिन्न हो गया है। इमका राजनीतिक संगठन भी करीबकरीब छिन्न-भिन्न हो गया है। मेरा कहना है ऐसी स्थिति आज देश में आ गई है।

जैसे-जैसे समय बीतता जाता है वैसे-वैसे जो शासक पार्टी है अपने को शक्ति में, शासन में रखने के लिए जो उपाय अपनाती है वह इतने गलत उपाय होते हैं कि उनका नतीजा भी गलत ही निकलता है। जैसा हम हाल में देख रहे हैं कि हर चुनाव जीतने के लिए करोड़ों रुपया इकट्ठा किया जाता है। इसके लिए लाठी का भी सहारा लिया जाता है। इमका नतीजा यह होता है, उस शासन का रिजल्ट यह निकलता है कि आर्थिक दृष्टि से या राजनीतिक दृष्टि से वह और भी खराब होता जाता है। आज समूचे देश में आर्थिक दृष्टि से और राजनीतिक दृष्टि से इतनी बेचनी हो गई है कि जो भी इस्टीम्यूसन है, डेमोक्रेटिक इस्टीम्यूसन, पार्लियामेन्टरी इस्टीम्यूसन देश में चल रहे हैं, जिसको हम सब पसन्द करते हैं, रखना चाहते हैं, वे भी अब खतरे में पड़ गए हैं। अब इम खतरे में पड़ने के बाद सरकार को सोचना चाहिए कि कौन सा ऐसा उपाय निकालें जिस उपाय से हम लोग उबर सकें।

हम देखते हैं कि वर्तमान-संविधान (संशोधन) विधेयक में जो एक प्राविजन होना चाहिए था रिक्काल का, उसके लिए कानून नहीं लाया गया है और कानून लाया गया है क्या? कानून लाया गया है कि जो कोई जनता असंतुष्ट होकर यह चाहेगी कि विधान सभा या लोकसभा भंग हो तो ऐसा करने के लिए जनता को अधिकार नहीं दिया जाता है और अगर जनता आन्दोलन करेगी, ऐसी फिजा बनाती है जिससे कि राजनीतिक दृष्टि से कपेल होकर विधानसभा या लोकसभा सदस्य इस्तीफा दे या ऐसा कुछ करे जिससे व्यवस्था बदले तो सरकार उसको जबरदस्ती तरीके से दबाती है लाठी-गोली के जरिये दबाती है। हाल में जनता ने उपाय निकाला है कि अगर विधान सभा या लोकसभा भंग नहीं होनी है तो हम एम०एल०ए० या ससद सदस्यों के जरिये से उसको भंग करवा देंगे, हो सकता है इसमें कुछ जबरदस्ती भी हो जाये, क्योंकि यह नेचुरल है जब बहुत दिनों तक कोई आन्दोलन चलता है तो जल्दी सफल होने की आशा में ऐसी स्थिति हो जाती है तो इस दबाव के लिए सरकार यह बिल लाई है। मैं पूछना चाहता हूँ कि इस बिल में सरकार ने क्या नहीं रिक्काल का प्राविजन दिया है? जो प्राविजन इनमें दिया गया है उसके जरिये स्पीकर या चैयरमैन के हाथ में सारी बात छोड़ दी गई है। चैयरमैन और स्पीकर क्या करेंगे यह भी उनके लिए सकट की बात है। जैसा देखते हैं कि साधारण तरीके से पार्टी लेबल का चैयरमैन या स्पीकर होता है और पार्टी की बात को महत्व देता तो है, फिर भी काफी हद तक निष्पक्ष होता है तो, इमसे पार्लियामे-

टरी इन्स्टीट्यूशन की निष्पक्षता और स्पीकर की निष्पक्षता के लिए खतरा हो सकता है। ऐसी हालत में यहाँ पर जो दो मुद्दाएँ आए हैं उनमें एक मुद्दा आया है कि जो सदस्य इस्तीफा देना चाहता है वह अपने आप जाकर दाखिल करे तो मैं समझता हूँ इसमें जो अभी की समस्या है उस समस्या का हल निकाला जा सकता है लेकिन उसको मन्त्री जी ने नहीं माना। और दूसरा मुद्दा, जो करीब-करीब विरोधी दल के सभी लोगों ने दिया है रिकाल की व्यवस्था के लिए, वह भी मन्त्री जी ने नहीं माना है। ऐसी हालत में मैं समझता हूँ कि जो उदा.य अभी की हालत को सुलझाने के लिए सरकार ने मुद्दाएँ है वह गलत है। मैं समझता हूँ यदि अब भी चाहते हैं कि स्पीकर या वेंचरमैन की निष्पक्षता कायम रहे तो ऐसी कोशिश करनी चाहिए कि जो फैक्ट्स हैं उनका निश्चय वह न करे बल्कि वह रैफर कर दे किसी दूसरी जगह—जैसे कि सुप्रीम कोर्ट है या इस तरह की और संस्था हैं। वहाँ से फैक्ट्स का निर्णय हो और या जो प्रिविलेज कमेटी है उसको यह काम सौंप दिया जाए बल्कि अपने ऊपर इसकी जिम्मेदारी न लें। इसमें मैं समझता हूँ निष्पक्षता का जो अपना स्थान है वह स्थान बना रहेगा।

SHRI NIREN GHOSH: A political scientist, a knowledgeable person, wrote that the Constitution was made to ensure the bourgeois-landlord rule, that means the bourgeois-landlord dictatorship. Sir, there are countless restrictions which normally do not obtain in any democratic system, which are made to obtain here today. Not only that, there is no right of recall; there is no proportional representation. This Parliament or the Assembly is never a true mirror of the people outside. It is a distorted mirror, and almost everywhere a minority amongst the people rules, and they claim that they have got the mandate from the people, which is completely an untruth. This is a system that has been brought about by trickery because they know from the very beginning that the Congress Party has never been able to achieve a majority of votes in the elections; always they have got votes below; they have no right to speak in the name of the people or in the name of the country. Not only that. When we spoke of rigging, violence, frauds in our State, many people did not believe it. Now it has become a normal routine. The same bourgeois tendency is there, and all rights are being taken away one by one. And now the complaint has become widespread throughout the country. It is a fact that only by fraud, violence and rigging they are conducting the election. So, I would appeal to my comrade Mr. Bhupesh Gupta who speaks of fighting the right reac-

tion. I would say that this Government is backed by almost all the monopolists and 90 per cent of the landlords.

SHRI RABI RAY (Orissa): And the police force.

SHRI NIREN GHOSH: And the police force, of course. So, that is the source of right reaction, that is the source of fascist-like tendency, and that is being exhibited one by one. I will not repeat all those arguments. But every time a resignation takes place, it can become a subject-matter of debate in the House. There will be endless debates on each and every action that the Speaker or the Chairman takes on a resignation. I do not know how they will manage. What do they mean by this? So this is what we have come to. I do feel that the Bihar Ministry has no right to exist. It has forfeited the confidence of the people. It does not have a majority mandate; it has not got even 50 per cent of the votes, and Mr. Gafoor was elected through absolute rigging. How can he become the Chief Minister? I fail to understand it. So, they do not have any right whatever to exist. One by one, the dictatorial, fascist tendency is emerging in this Government and it is evident that they are fully under the grip of the monopolists, including, I would say, those whom Mr. Bhupesh Gupta would like to place above, including the Prime Minister as well, because without her, these policies cannot be pursued. That should be known. There is no use making a distinction. There might be one or two good or bad fellows. On its totality, taken as a whole it is a reactionary government. Sir, I agree with Mr. Dange that right reaction is sitting on the top of this government. (*Interruption by Z.A. Ahmad*) You may not agree. But he is your Chairman and that is his view.

SHRI LOKANATH MISRA (Orissa): But can there never be left reaction?

SHRI NIREN GHOSH: Those who support them, those on whom they count so much for their black Bills, the so-called progressives oblige them. Wonderful phenomenon that I have seen in this and the other House.

MR. DEPUTY CHAIRMAN: Mr. Niren Ghosh, please wind up.

SHRI NIREN GHOSH: That being the position, we will not be a party to the final passing of this dirty, black Bill. After our

[Shri Niren Ghosh]

friend, Mr. Goray, speaks we will walk out and will not be a party to the passing of this Bill. Let them pass this black Bill with the help of their supporters.

SHRI N.G. GORAY (Maharashtra): I only want to touch upon one point that has exercised the entire Opposition again and again, namely, that it will be wrong to bring in the Chairman or the Speaker and to ask him to examine the genuineness or otherwise or the resignation of the Member. Sir, I would appeal to the Treasury Benches and those who are supporting the Bill to take this particular point into consideration with all the seriousness that it deserves. Sir, I do not know how the Chairman can be burdened with this sort of thing. What sort of machinery will he apply? How will it be possible for him to go into the evidence for and against a particular action of the concerned Member of Parliament? And, Sir, the biggest setback to his authority will be that whatever his decision it will be doubted by either the Opposition or the Treasury Benches. Therefore, Sir, If you want to maintain the dignity of the Chair, I think that even at this late hour serious attention may be paid to this issue and if we can save the Speaker or the Chairman from this sort of embarrassing position, I think it should be done.

The other point that I wanted to raise was about the Member himself. Sir, he will be in a very precarious position as we envisage. Supposing he has resigned. To all those people at the other end he will be saying that he is resigning and resigning willingly, and when he comes here he will tell the Speaker or the Chairman that he has done so under duress. He will be lying at both the ends. Supposing the situation is saved and he is allowed to continue as a Member of the House. When he goes back what happens to him? You have not understood the position. And because you have not understood the position you think that the seat of that particular man or his membership of the House can be saved if the Chairman or the Speaker wants to give his verdict in his favour. I think really in saying that man you are making it impossible for him to face his constituents. Please also take into consideration this point of view.

Then the next point and the major point which I really wanted this House to go into

deeper is this. When I listened to the speech of the Law Minister, I thought that while advocating that a particular Bill should be adopted by this House, he would reveal to us the whole background that inspired him to bring this Bill before this House.

So far as my knowledge goes, the real father of the Bill is Bhupesh Gupta, and Mr. Gokhale happens to be the *Dattak* father. And that is why most probably he avoided going into details. So, let us see how this Bill has come. For the last 25 years you have been in power. You never thought of bringing such a Bill before. It is only what has happened in Gujarat and what has happened in Bihar—the Bihar episode is not over; when Jayaprakash Narayan comes back, perhaps the whole thing will boil over again; I do not know what is going to happen—which has prompted you to bring this Bill. Now, why don't you go deeper into it? Is it only a few hooligans? Is it only a few "goondas"? Sir, If my information is correct, what has happened in Gujarat or what is happening in Bihar is, the father is against the son; the husband is against the wife; the whole household is divided. On the one side there are the people who think that this Government cannot deliver the goods; on the other, you have got a vested interest in remaining in the Government. This is the position and this position has come about because of the particular economic situation in which we find ourselves. Sir, it is an entirely developing, emerging situation. The founding fathers of the Constitution never imagined that such a situation would arise. That is why there is no provision in the Constitution for recall. Now, we are faced with a situation where the electorate would like to revoke its mandate. Do you not agree that there may be a time when the electorate would like to revoke its mandate? It has chosen you. Yes, that is true. But they do not want you to continue for five years. Is it theoretically impossible for such a situation to arise? Is it impossible to imagine such a situation even after what has happened in Gujarat and Bihar? Therefore, Sir, what I think is that this Bill is an attempt to put the cart before the horse. You, Mr. Gokhale, should have come before this House with a Bill on recall, giving the right to people to recall, their representatives in the Assembly or in Parliament and, of course, there should be a proviso that it should not be used in a

frivolous manner or it should not be done by force or violence. I can understand that. But he does not speak anything about recall. It is not as if only those countries which believe in Communism have the right of recall. In the USA there is provision for recall in 12 States and there are 1,000 municipalities where there is this right of recall. This, I suppose, is a fundamental right of the citizen. Who is supreme—the common man or his representative? Does it mean that for five years that representative is supreme, he can do whatever he likes and he is not responsible to the constituency? The right of recall restores to the constituents this sovereign right which belongs to them. If the power really flows from the people, it must be with the people even during those five years. Therefore, I plead with the Government that they should give closer attention and go deeper into the question. Do not think that because of a particular member, Mr. Rajnarain or somebody else or some "goondas" or some other elements, all this is necessary. (Interruption) It is not so. What I am saying is that if you become introspective...

श्री राजनारायण: ये लोग समझ रहे हैं कि आपने मुझको गुन्डा कहा।

श्री एन० जी० गोरे : नहीं, नहीं।

श्री राजनारायण: अगर कोई गुन्डा कहे तो मैं जयशंकर प्रसाद का गुन्डा हूँ, आप लोगों की तरह मुछमुन्डा नहीं। जाकर जयशंकर प्रसाद की कहानी गुन्डा पढ़ो। उनकी कहानी का गुन्डा वह है जो दूसरों की जिन्दगी को बचाने के लिए अपनी जिन्दगी को खतरे में डाले। (Interruption) क्या लफ्गों की तरह हमेंते हो।

3 P.M.

SHRI N.G. GORAY: I was rather too serious perhaps for Mr. Rajnarain. What I wanted to say was, please take this example. Why do you compare yourself with England and America. There the rules of democracy are entirely different, the values are entirely different. I told you here in this House that in spite of the coal strike, when it was bitter, when the people were suffering, not a single striker was arrested while here today Mrs. Parvati Krishnan and all those people, 15,000 of them, are arrested. Do you mean to say that these people, whatever happens to the strike, will not be resentful, will not feel humiliated, will not feel that they have no stake in the democracy of this country, that they have been denied even the right to strike?

You just imagine that. If you apply your mind to this, you will find that a simple Resolution like this or an Amendment like this is not going to save the democracy. For saving democracy you will have to go deeper in a very sincere manner.

SHRI LOKANATH MISRA: Sir, I do not want to make a speech. I have only two questions which the honourable Minister might kindly reply when he replies to the debate on the third reading...

SHRI NIREN GHOSH: Sir, what about us...

MR. DEPUTY CHAIRMAN: Kindly wait. He is on his legs.

SHRI LOKANATH MISRA: I am not going to make a speech. Let me put my questions straightway. Number one: Before he thought of piloting this Bill, did the honourable Minister take the consent of those people who are to implement, meaning the Presiding Officers, the Speakers and Chairmen of both Houses in the States and our Chairman and the Speaker of Lok Sabha, because they are the persons who are to implement it? I would like to know whether their consent has been taken as to whether they are prepared to take this additional responsibility. Number two: What is the instrument through which the Speakers and the Chairmen would assess or find out about the genuineness or otherwise of a resignation letter? I would like to know whether they have a set apparatus for that or whether they are going to provide for and apparatus or whether they would depend upon Parliamentary Affairs Minister for advice as to the genuineness or otherwise of a resignation letter.

SHRI NIREN GHOSH : Sir, in protest against this I and the Members of my party, are staging a walk-out.

[At this stage some hon. Members left the House]

श्री राजनारायण : श्रीमन्, एक सवाल हमारा है? मैं यह जानना चाहता हूँ आप से कि यह जो लेटर आर० एस० सक्सेना का हिडालको के बारे में मैंने पढा है उसका क्या होगा?

श्री उप-सभापति : वह आप की जेब में होगा। Nothing is going to be placed on the Table

श्री राजनारायण: तो श्रीमन्, मैं प्रिविलेज का मोशन दे रहा हूँ। हम लोग इस विधेयक को राष्ट्रपति और काला

[श्री राजनारायण]

कानून समझते हैं और मन्त्री जी जो कुछ इस सम्बन्ध में बोलना चाहते हैं वह सुनने को तैयार नहीं हैं इसलिए हम सदन का त्याग करते हैं और विशेषाधिकार अवहेलना का प्रश्न रख रहे हैं क्योंकि प्रधान मन्त्री और उनके प्राइवेट सेक्रेटरी ने 5 लाख रुपया लिया है हिंडालको के मालिक से। (Interruptions) इसके लिए हम विशेषाधिकार का प्रस्ताव देगे। (Interruptions)

[Shri Rajnarain left the House]

श्री श्याम लाल यादव : इस विधेयक के विरोध में हम सदन का त्याग करते हैं।

[At this stage the Hon. Member left the House]

श्री ओड्डू प्रकाश त्यागी: यह सरकार जो विधेयक ला रही है उसके द्वारा वह देश में तानाशाही स्थापित करना चाहती है। जिस प्रकार से गर्वर्नर्स के द्वारा तमाम प्रान्तीय सरकारों को उलटने और विस्थापित करने का जाल फैलाया गया है वही इसके द्वारा होगा। अब उपाध्यक्ष महोदय, असेम्बलीज में अगर उनकी सरकार न चली तो उसको स्थापित रखने के लिए एक दूसरा षडयन्त्र यह किया जा रहा है इसलिए हम इस काले कानून के खिलाफ सदन से वाक-आउट करते हैं।

[At this stage some Hon. Members left the House]

MR. DEPUTY CHAIRMAN : Mr. Gokhale please reply now.

SHRI H. R. GOKHALE: Sir, in the debate of the third reading of the Bill which I have been listening to carefully, almost entirely the grounds which have already been covered in the earlier discussion, have been covered again. Therefore, I do not intend to go over the whole ground again except to refer to one or two questions which have been emphasised and re-emphasised by speaker after speaker in this discussion. Once again it has been pointed out that on account of this Bill a onerous responsibility has been cast on the Speaker and he has been called into the fray with the result that his present independence and the position which he occupies in the House are now put in jeopardy. When we are thinking on a measure like this, I agree with my honourable friend, Mr. Bhupesh Gupta when he said that we are passing through a period of crisis when our democratic framework is under great stress and strain. Things which have happened in the recent past, as was rightly pointed out, were never envisaged when the original provision in the Constitution was made.

At that time one never imagined that by a process of violence, duress and coercion a Member will be coerced into resigning and thus preventing him from functioning as the representative of the people whom they have elected. Whom can we think of whose impartiality can be better trusted than the Speaker or the Presiding Officer? It is rightly said that the Speaker is the ears and eyes of the House. Therefore, no other authority, howsoever high, can evoke such trust and such confidence as the Speaker and the Presiding Officer of the House. Therefore, it is inevitable that when you think of making a provision of this type you must entrust this highest responsibility to him. Even otherwise, so far as the House is concerned, he already decides many disputed questions. It is not as if he does not take decisions on several disputed issues. He decides them. The decision of the Speaker is accepted on this basis that he is the only authority whose impartiality is never in doubt and that is why the entire membership of the legislature has to repose full trust and confidence on him.

Even without this amendment, Speaker has been dragged into court. Therefore, that could not be prevented completely in a situation where our courts also have to function under the jurisdiction respectively vested in them by the Constitution itself.

Reference was made by one hon. Member to the presidential reference which is made to the Supreme Court. I want to dislodge a wrong impression which that hon. Member and some members seem to be carrying. It was not a summons issued to the Speaker or to the Chairman. Here a precedent which was followed in U.P. was followed. In the Presidential reference there were no parties to the dispute and the court is naturally embarrassed. They think that if only one point of view is represented, then it is unfair to the other point of view and who, other than the legislatures, were interested in a reference of this type? The legislatures themselves were the electoral college. One point of view was that even if one legislature was not in existence, the Presidential election can take place, whereas the other point of view would be that if one legislature is not there, then you cannot hold the Presidential election. Whose rights are affected in this? The legislatures which are the components of the electoral college are concerned with the Presidential election. I would

submit that the Court did very wisely in giving only intimation to the Speaker that such a reference has been made. It is not a summons and certainly not a warrant. No disrespect was meant to the Speaker or the Presiding Officer in issuing this summons. I wanted to mention this because some misunderstanding has been created on account of this and some reference was made to it. Therefore, I thought I should use this occasion to clarify this point. The courts also know that the Speaker cannot be the object of summons or warrants of the courts unless the matter appears to be such that the legislature itself takes a vital interest in the decision of a particular case which is referred to the Court. Therefore, I would submit again that the legislatures are really doing their inevitable duty by passing this Bill which asks the highest authority in the legislature to decide as to whether a resignation has been genuine or voluntary or not.

I have already covered all other points and I do not want to cover the whole ground again.

SHRI LOKANATH MISRA: What about my question?

SHRI H. R. GOKHALE: There is no question. When Parliament considers a matter, it is really a matter for the elected representatives of the people in the two Houses to decide as to who should be responsible or the repository of responsibility for deciding a particular thing.

SHRI T.N. SINGH: In the case of Press Council Act, the Speaker declined to perform an act envisaged in that Bill. Here the Speaker may decline. In that case, what will happen? It has happened. There is precedent where the Speaker has declined. What is he to do?

SHRI LOKANATH MISRA: Mr. Minister when you wanted the Speakers and the Chairmen to shoulder such onerous responsibilities, did it not ever strike you that you should take their consent before bringing forward this Bill?

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

SHRI LOKANATH MISRA: Sir, at this stage I want to walk out.

[At this stage the hon. Member and some others left the House].

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—156; Noes—2.

Ayes—156

Abid, Shri Qasim Ali
Abu Abraham, Shri
Adivarekar, Shrimati Sushila Shankar
Ahmad, Dr. Z.A.
Alva, Shrimati Margaret
Amla, Shri Tirath Ram
Anandam, Shri M.
Arif, Shri Mohammed Usman

Barman, Shri B.D.
Berwa, Shri Jamna Lal
Bhagwati, Shri B.C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri Nand Kishore
Bisi, Shri P.N.
Bobdey, Shri S.B.
Borooah, Shri D.K.
Buragohain, Shri Nabin Chandra

Chakrabarti, Dr. R.K.
Chandra Shekhar, Shri
Chandrasekhar, Shrimati Maragatham
Chattopadhyaya, Prof. D.P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N.P.
Chettri, Shri K.B.
Choudhury Shri N.R.
Chowdhary, Shri C.L.
Chowdhri, Shri A.S.
Chundawat, Shrimati Lakshmi Kumari

Das, Shri Balram
Das, Shri Bipinpal
Devendra Nath, Shri
Dhabe, Shri S.W.
Dhulap, Shri K.N.
Dikshit, Shri Umashankar
Dutt, Dr. Vidya Prakash

Gadgil, Shri Vithal
Gian Chand, Shri
Goswami, Shri S.P.
Gowda, Shri U.K. Lakshmana
Gujral, Shri I.K.
Gupta, Shri Bhupesh

Hashimi, Shri S.A.
Himmat Singh, Shri
Imam, Shrimati Aziza

Jagdish Chandra, Shri
Jagtap, Shri R.D.
Jain, Shri Dharamchand
Jairamdas Daulatram, Shri
Jha, Shri Kamalnath
Joshi, Shrimati Kumudben Manishankar

Kalaniya, Shri Ibrahim
Kalpanath, Shri
Kalyan Chand, Shri
Kamble, Shri N.M.
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khan, Prof. Rasheeduddin
Kishan Lal, Shri
Kollur, Shri M.L.
Kripalani, Shri Krishna
Krishan Kant, Shri
Krishna, Shri M.R.
Kulkarni, Shri A.G.
Kulkarni, Shrimati Sumitra G.
Kumbhare, Shri N.H.
Kureel Urf Talib, Shri P.L.

Lalbuaia, Shri
Lokesh Chandra, Dr.
Lotha, Shri Khyom
Mahanti, Shri B.K.
Mahapatro Shri L.
Majhi, Shri C.P.
Makwana, Shri Yogendra
Malaviya, Shri Harsh Deo
Mali, Shri Ganesh Lal
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mirdha, Shri Ram Niwas
Mukherjee, Shri Kali
Mukherjee, Shri Pranab
Mukhopadhyay, Shrimati Purabi
Mulla, Shri A.N.
Munda, Shri B.R.
Murahari, Shri Godey
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 V.R.
Patil, Shri D.S.
Patil, Shri G.R.
Pradhan, Shrimati Saraswati

Prasad, Shri Bhola
Prasad, Shri K.L.N.
Punnaiyah, Shri Kota
Puri, Shri D.D.

Rachaiyah, Shri B.
Raha, Shri Sanat Kumar
Raju, Shri V.B.
Ranganathan, Shri S.
Rao, Shrimati Rathnabai Sreenivasa
Rao, Shri V. C.
Reddi, Shri K. Brahmananda
Reddy, Shri Janardhana
Reddy, Shri K.V. Raghunatha
Reddy, Shri Mulka Govinda
Reddy, Shri R.N.
Rishi Kumar, Shri

Saleem, Shri Mohammad Yunus
Sangma, Shri E.M.
Sardar, Amjad Ali Shri
Sardesai, Shri S.G.
Savita Behen, Shrimati
Seyid Muhammad, Dr. V.A.
Shah, Shri Manubhai
Shahi, Shri Nageshwar Prasad
Sharma, Shri Yogendra
Shastri, Shri Bhola Paswan
Shukla, Shri Chakrapani
Shukla, Shri M.P.
Shyamkumari Devi, Shrimati
Singh, Shri D.P.
Singh, Shri I.D.
Singh, Shri Inder
Singh, Shri Jagjit
Singh, Shrimati Jahanara Jaipal
Singh, Shri Kameshwar
Singh, Shri Mahendra Bahadur
Singh, Shri Mohan
Singh, Shri Nathi
Singh, Shrimati Pratibha
Singh, Shri Ranbir
Singh, Shri Shivdayal
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

Tanvir, Shri Habib
Thakur, Shri Gunanand
Tilak, Shri J.S.
Tiware, Shri Shankarlal
Tiwary, Pt. Bhawaniprasad

Tohra, Sardar Gurcharan Singh
Tripathi, Shri Kamalapati
Trivedi, Shri H.M.

Varma, Shrimati Narayani Devi Manaklal
Venigalla Satyanarayana, Shri

Vyas, Dr. M.R.

Wajd, Shri Sikander Ali

Noes—2

Tyagi, Shri Mahavir
Singh, Shri T.N.

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 4. P.M.

The House then adjourned for lunch at sixteen minutes past three of the clock.

The House reassembled after lunch at two minutes past four of the clock, The Vice-Chairman (Shri Bipinpal Das) in the Chair.

SHRI NIREN GHOSH (West Bengal): Sir, on a point of order.

SHRI SHYAM LAL YADAV (Uttar Pradesh): I welcome you on the Chair, Sir.

SHRI NIREN GHOSH: My point of order is this that just now talks are going on between our country and Bangladesh..

THE VICE-CHAIRMAN (SHRI BIPINPAL DAS): There is no point of order.

SHRI NIREN GHOSH: Let me finish. Will it not be in order in the interest of the sub-continent to give some resume of the talks..

THE VICE-CHAIRMAN (SHRI BIPINPAL DAS): This is no point of order. Mr. Niti Raj Singh Chaudhury.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 1974.

(Motion for Reference to Joint Committee)

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI NITI

RAJ SINGH CHAUDHURY): Sir, with your permission I move the following Motion:---

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Code of Civil Procedure, 1908, and the Limitation Act, 1963, and resolves that the following 15 members of the Rajya Sabha.

1. Shri Sawaisingh Sisodia
2. Shri Sardar Amjad Ali
3. Shri Bipinpal Das
4. Shri D.P. Singh
5. Shri M. P. Suhkla
6. Shri Awadheshwar Prasad Sinha
7. Shri Syed Nizam-ud-din
8. Shri V. C. Kesava Rao
9. Shri Nawal Kishore
10. Shri V. K. Sakshalecha
11. Shri Kanchi Kalyanasundaram
12. Shri Bir Chandra Deb Barman
13. Shri D. Y. Pawar
14. Shri Dwijendralal Sen Gupta
15. Shri Krishnarao Narayan Dhulap

be nominated to serve on the said Joint Committee."

The question was proposed.

SHRI SHYAM LAL YADAV : Sir, I would like to say a few words. In this Bill, it is proposed that Section 115 be deleted on the ground that article 227 of the Constitution provides the remedy similar to that. My objection is that this Section 115 empowers the High Court to call for the records and to decide the matter on certain legal grounds. So far as article 227 is concerned, that is entirely different and will not apply in cases where a proper remedy lies. In those cases in which suits are instituted and appeals are heard, I am afraid, the High Court may not interfere so lightly as Section 115 allows it to do. Therefore, Sir, this provision should not be deleted.

The second point is in regard to the certain protections that have been given to the ladies under the present Civil Procedure Code. This Bill provides for doing away with that provision. No doubt, if our society has advanced and literacy has spread, we would have provided so much. But as things stand today, we are still handicapped, and there should be some protection to the women. Otherwise illiterate women will be suffering.