

facility of TV. The only TV Centre is at Guwahati which is located at a distance of about 300 kilometres, people of Dhubri cannot enjoy the programme telecast from Guwahati as it is not clearly visible. As a result, they turn to Bangladesh TV which is very clearly visible. This has caused immense disadvantage not only politically but in other respects also. Now-a-days, the programmes relayed by Delhi Doordarshan are very educative and media for social awareness. But due to absence of this facility our people know more about a foreign country like Bangladesh than having knowledge about their great mother-land, its culture and heritage.

I request the Information and Broadcasting Ministry to start a TV Centre at Dhubri during the current plan period, treating this as a special case and to take preliminary steps necessary to complete the Centre within the current plan period.

(viii) Need to Shift Head Office of Paradeep Phosphate Ltd from Delhi to Bhubaneswar

SHRI SRIBALLAV PANIGRAHI (Deogarh): Paradeep Phosphates Limited is a Joint Venture of Governments of India and Nauru. Although this Plant is located at Paradeep in Orissa with its Registered Office at the State Capital i.e. Bhubaneswar and the plant was commissioned in 1986, it appears quite mysterious and intriguing that its Head Office is functioning at New Delhi, about 2000 KM. away from the Registered Office and the Plant Site, in spite of the decision taken by the Board of Directors long since for shifting of the Head Office to Bhubaneswar. The Registered Office is manned only by a few clerks and is merely entrusted with the work of making arrangements for the visiting officers of the company. Absence of the Head Office and the top officers from Orissa is adversely affecting the work and the interests of the company. A great deal of

avoidable expenditure is also being incurred on account of frequent visits of top officers from Delhi to Orissa and *vice-versa*.

The basic principle relating to employment of local people in the Plant is ignored by the Management causing serious discontentment among the people in Orissa.

I would, therefore, urge upon the Hon'ble Agriculture Minister and Minister of State for Fertilizers to look into this matter personally and arrange for the early shifting of the Head Office of Paradeep Phosphates Limited from Delhi to Bhubaneswar in the large interests of the Company itself and also the State of Orissa.

12.34 hrs.

CONSTITUTION (FIFTY-NINTH AMENDMENT) BILL—CONTD

[English]

MR. DEPUTY-SPEAKER: Now, we take up the item No. 9 in the List of Business, that is, further consideration of the following motion moved by Shri Buta Singh on the 22nd March, 1988, namely:

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

Mr. Ayyapu Reddy to speak.

SHRI S. JAIPAL REDDY (Mahbubnagar): Sir, I think we must hear the Minister because yesterday we could not hear him.

MR. DEPUTY-SPEAKER: You can hear him again.

SHRI E. AYYAPU REDDY (Kurnool): Sir, I rise to speak on this Bill with deep sense of anguish. I take this opportunity to pay our humble tribute to the brave people of Punjab who have stood solidly behind the integrated India while facing reckless mad violence. Let me also take this opportunity to convey our heart-felt condolences to all those innocent persons who have lost their lives while facing the terrorists' violence. I renew my request which was made by me at the time of the imposition of the President's Rule that all those persons who have lost their lives at the hands of the terrorists and at the hands of violence from whatever quarter it may be, must be treated on a par with freedom fighters.

(Interruptions)

[Translation]

SHRI S. JAIPAL REDDY: Mr. Buta Singh has come with a stengun, do away with Buta Shahi.

SHRI BASUDEB ACHARIA (Bankura): Where had you gone? We were looking for you. Had you gone to see rockets.....

DR. DATTA SAMANT (Bombay South Central): He had gone to bring rockets.

[English]

MR. DEPUTY-SPEAKER: He has come to listen to you.

[Translation]

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH): I was getting ready for a duet.

[English]

SHRI E. AYYAPU REDDY: Sir, we oppose this Bill. We also want to register our

protest at the manner in which such an important Bill as this was introduced in the Rajya Sabha just on the eve of the retirement of one-third Members of the Rajya Sabha, hastily and without any prior intimation.

Sir, a Constitution amendment is a very important subject. The dignity of the Constitution requires that any amendment to the Constitution must be as a result of national consensus. Even before entering as a candidate for the elections, Members are required to take their oath on the Constitution. The Constitution is the *mool granth* and whenever there is an amendment to the Constitution, Article 368 of the Constitution has provided a special procedure. But the special procedure is only symbolic. What is necessary is that there must be national consensus on every important amendment. In fact, the Forty-fourth and Forty-fifty Amendments envisage a national referendum wherever Fundamental Rights are sought to be amended or affected. Unfortunately, that amendment to Article 368 could not be passed on account of the fact that there was no requisite two-thirds majority in the Rajya Sabha at that time. But this clearly indicates that a national consensus is a condition precedent and that strong conventions and traditions require the evolvement of a national consensus before an important amendment to the Constitution is passed. Sir, if I remember right, even the controversial Forty-second Amendment was preceded by a national debate and discussion. Now, the Constitution is for the entire nation. It must receive the acceptance and respect of the entire nation. It must be preceded by a debate and discussion in the juristic forums, in academic forums and in the press, and the Constitutional experts must be invited to give their views also. The implications, the complications and the ramifications of a Constitutional Amendment must be studied and it must be always taken up when a broad consensus has been evolved. Now, unfortu-

nately, so far as this Bill is concerned, as I have stated, it has been introduced even without any mention, the prior intimation. Sir, even in the Presidential Address there was not even a whisper about this impending amendment of the Constitution to solve the Punjab issue. But, all of a sudden just on the eve of the retirement of one third of the Members, the political opportunism was displayed and the Bill was introduced in the Rajya Sabha. So far as this Bill is concerned, it has got some draconian, harsh and very very far-reaching effects. The provision in the Bill taking away the Fundamental Rights of the citizens under Article 21 of the Constitution regarding life and liberty will hurt the conscience of all human activists not only in India but everywhere. It will certainly demoralise all those people who have been standing by the well-cherished democratic principles. As a matter of fact, this will have a far-reaching effect on India's image abroad. We forfeit our rights to speak against suppression of human rights in any part of the Globe especially in the international forums. It will adversely affect India's reputation as a champion of human rights. (*Interruptions*)

The Indian people forfeit their right to protest against the suppression of human rights in any part of the Globe. This will also affect our fair name in the international forums especially in the third-world where we are supposed to champion the cause of democracy and stand against colonial rule and suppression of human rights. This will also provide a lethal weapon of vicious propaganda to the protagonists of Khalistan in Canada, U.K., U.S.A. and in other places to demonstrate that human rights are being suppressed, the Fundamental Rights are being suppressed and that a particular community is being discriminated. This will certainly provide a lethal weapon in the hands of the opponents and critics of India to demonstrate that in India itself basic rights

are not being allowed and that it is adopting a ruthless policy of suppressing the minority community.

Sir, this Bill is an exercise in futility. It will be counter-productive and it will not, in any way, help the Government. There have already been numerous enactments empowering the Executive and empowering the other authorities to deal with the situation. The enactments are nearly 22 in number. A Resolution under Article 249 was passed by the Rajya Sabha enabling the Union Government to take adequate steps to fight the terrorists and to prevent any type of foreign aid and help to the terrorist elements. In fact, if we are to take count of all the enactments that have been passed, they can be said to be a composition of draconian laws which can be placed in any legal museum.

Sir, the passing of these enactments has in a way helped the Government to tackle these issues. It was said of the First World War that it was a war which was fought to end all wars, ended in peace which ended peace. Every time the Government is coming forward with some statute. Statutory changes are brought for the purpose of tackling terrorist problem. This House has always been liberal in giving its consent and in making them enacted. But this has not helped in any manner. While the Home Ministry is becoming crazy in having a collection of this draconian laws, they are not in a position to make use of any one of these draconian laws for the purpose of tackling the terrorist problem in Punjab when the death toll is mounting. The Home Ministry is only happy in gathering and collecting a number of enactments which have got draconian implications. This is not, in any way, helping the Government or the people to even prevent escalation of violence in Punjab. And the only thing — probably after having exhausted all the provisions of the Constitution — we only hope that next time

[Sh. E. Ayyapu Reddy]

you can only come forward asking for the conferment of the divine powers to solve this issue.

Coming to the Bill itself, the merits of the Bill, it consists of three clauses. The Second Clause seeks to amend or seeks to provide a rider to Clause 5 of the Article 365. We can understand the purport of this amendment. But this Clause has nothing to do with Clause 3. Clause 3 seeks to impose emergency in Punjab. It wants to amend Articles 352, 358 and 359. In fact, there is no nexus between Clause 2 and Clause 3. Clause 2, if it is taken up, would show that it wants to get over the necessity of imposing a proclamation of emergency. Clause 5 of Article 356 provides that the President's Rule cannot be extended beyond a period of one year unless there is proclamation of emergency under Article 352. And also there is an opinion by the Election Commissioner that it is not possible to hold the elections.

Now, if Clause 3 is taken, if you are going in for the proclamation of emergency, then there is absolutely no necessity for the introduction of Clause 2 because after the proclamation of emergency, it will be easy for you to obtain opinion of the Election Commissioner and that it would not be possible to hold the elections. Therefore, there is conflict between Clause 2 and Clause 3. Clause 2 indicates that it is not the intention of the Government to impose emergency—internal or external—but only for the purpose of getting over the harsh conditions imposed by Clause 5 that the necessity of proclaiming an emergency and obtaining a certificate that this proviso with this exception so far as Punjab is concerned is sought to be provided.

So far as Clause 3 is concerned, if I may say so, it leads to a confusion worst confounded. It has undergone an amendment in the Rajya Sabha. It is going to create a

number of complications. It is not going to solve any problems. For example, it is confined to the territory of Punjab. That is, the internal disturbance must take place only inside the territory of Punjab. If the internal disturbance has taken place, say, in the Union Territory of Chandigarh or in the border villages or in Delhi, then there is no possibility of imposing any proclamation of emergency.

It purports to show that emergency will be confined only to the territory of Punjab. We know that there is only one common High Court in the Union Territory of Chandigarh. What will be the position so far as the powers of a citizen to invoke the constitutional powers of the High Court under Article 226 in the Union Territory of Chandigarh and in the common High Court of Punjab and Haryana? Will there be any distinction between those powers, between those who take part in terrorist activities or internal disturbance inside the territory of Punjab and outside the territory of Punjab? What will be the consequences of that? That probably is not quite clear from the provisions of Clause 3, as they stand.

So far as the amendment to Articles 358 and 359 is concerned, there is a distinction to be kept in view. There, 'emergency must for the purpose of safeguarding the security of India' is sought to be distinguished by 'emergency imposed for the purpose of maintaining the integrity of India by internal disturbance only in the State of Punjab'. If the integrity of India is threatened by internal disturbance only in the State of Punjab, then only emergency can be imposed. But, if the integrity of India is attacked by internal disturbance in any other State, you cannot impose it and you cannot resort to the emergency provisions. How is it going to stand the scrutiny under Article 14 of the Constitution?

Then the most important question that will arise is the first proviso to Article 358

which says that the fundamental rights under Article 19 can be suspended by an executive act under that proviso. That proviso requires emergency proclamation only when the security of India is threatened. Is it the intention of the Government that the proviso will not apply to this Bill, that is that the proviso requires or enables the suspension of Article 19 in other parts of the country even though there is no proclamation of emergency governing those parts of the country? Will that proviso apply now to other parts because this Bill is confined only to Punjab and that too where the integrity of India is threatened by internal disturbance in the whole or part of Punjab. The same is the position with reference to Article 359 in suspending the provisions of and operation of Article 21. So these complications are there about the proviso to Article 358 regarding the enforcement of Article 19 in other parts of India and also the suspension of Article 21 in other parts of India. No clarification has so far been given and it will certainly lead to dubious and devious interpretation so far as this part of it is concerned.

Sir, the imposition of Emergency in Punjab is not only going to be counter-productive but it is also going to isolate the Government from the people who have had bitter experiences of Emergency. Imposition of emergency in Punjab is going to adversely affect trade, commerce, industry, transport and tourism. The minute Punjab is brought under emergency people will know that they are likely to lose their precious right under Article 21. Any person who ventures to go into Punjab may be detained or shot and he will not have any remedy. Will this not create tensions and scare in other parts of India? Will it not isolate Punjab even if it is for a temporary period of 3 years? This will lead to isolation and disintegration of Punjab. Will it be conducive to bringing about normalcy after proclamation of emergency is made in Punjab? How can you guarantee that it will not affect the isolation of Punjab from the

rest of India? We have got only one citizenship so far as India is concerned. There is no separate citizenship for Punjab. All those persons who want to transact or interact with Punjab people or with trade and commerce there will certainly have the terror of emergency hanging on them. (*Interruptions*)

The very fact that you are bringing a part of Punjab under this you are taking it away from the mainstream and you yourself are paving the way for the disintegration of Punjab. To bring it back again to the mainstream of life after lifting of the emergency will be a very very difficult task.

13.00 hrs.

What is the sin committed by the majority of the people of Punjab? Why should they be deprived of their rights under Article 21 of the Constitution? Why should they suffer on account of the imposition of emergency? Why should trade, commerce and economic development of this country be affected by the imposition of this emergency? The imposition of the emergency means the people are caught between two devils. One is the lawlessness of the State executive versus the other, terrorists. In between the two, the people of Punjab have to suffer. It will certainly affect them very adversely. It will have a traumatic experience on the people. This will certainly give a weapon in the hands of the separatists that Punjab is being treated separately and that it is a discriminatory treatment for Punjab. So, any proclamation of emergency is certainly not in the interests of the nation at all.

Has the Government any steadfast definite approach to the solution of Punjab problem? Unfortunately it has been changing its stand so often that it is not possible to discern any policy with it. As was stated by Shri Indrajit Gupta the other day, we are not able to see any method in madness, in the madness of the policy changes, the volte-

[Sh. E. Ayyapu Reddy]
face which the Union Government is indulg-
ing in. (*Interruptions*)

At the outset, there was an attempt to solve the Punjab problem in the right direction. The policy was going in the right direction. Arjun Singh was lifted overnight from Bhopal and was placed in Chandigarh. After making his perambulations, he has gone back to Bhopal. The problem of Punjab has gone back to the place where it was. The Golden Temple has gone back completely into the hands of the extremist elements. The Union Government is not having its sway there. But it is the extremists who are having a sway. The slogans written there and the flags, all those things will demonstrate very clearly that the Presidential Rule of S.S. Ray and Ribeiro has totally failed.

At the last Baisakhi, there was an attempt made by all-parties convention, addressed by a Union Minister, for the purpose of solving the problem of Punjab. Punjab problem is a national problem. All the parties are united for its solution. They all stand for the integrity of the country and they are against Khalistan. When the Rajiv-Longowal Accord was entered, at that time an overwhelming majority of the Sikh people were for solving the problem of Punjab peacefully.

The Punjab Accord was not implemented properly. There was no sincerity in trying to implement the Accord. The people of Punjab gave their verdict. Barnalaji became the elected Chief Minister. In February 1987, the President's Address to this House started with paying glowing tributes to Barnalaji. But by the end of the Budget session, all of a sudden, on the report of Shri S.S. Ray, the President's Rule was imposed. There was no inkling that the President's Rule was in the offing.

Now Sir, it so happened that the im-

sition of the President's rule coincided with the ensuing elections in Haryana. It is only for that purpose that the President's rule was imposed and it was imposed on the pretext that the elected Government was not in a position to tackle the terrorist activities. The mother-in-law came for the purpose of replacing the daughter-in-law on the ground that the daughter-in-law is breaking one pot a week. The mother-in-law took over the management and she began to break three pots a day. There was only 356 or 340 per annum and now after Sh. S.S. Ray and Ribeiro and other people took over, this figure went up. If you apply the same standards which has been applied for the dismissal of the Government of Barnala, naturally a person of the stature of Sh. S.S. Ray should have accepted his moral responsibility and should have tendered his resignation long long ago. But on the other hand, it is surprising that he has come forward with an explanation.

PROF. MADHU DANDAVATE (Rajapur): He never resigned, he was already defeated.

SHRI E. AYYAPU REDDY: He came forward with an explanation saying that the fundamentalist activities have been suppressed. Then, after the President rule was imposed, even at the time of imposition of the President rule, we have warned that good Government is not a substitute for self-Government. It is for the people of Punjab to solve their problem. It is for the Sikh community to come and decide what exactly are their demands. Now, to deny self-Government, to deprive them of their right of self-Government is one of the worst Constitutional blunders that have been committed. Now, after having imposed the President rule, no initiative was taken for the purpose of bringing about the various political parties together and for the purpose of finding out a solution. There has been a negative attitude all together. Then, suddenly they thought of

releasing some people. The services of one Jain Muni was taken or is supposed to have been taken. Then, we found that Jodhpur detainees were released. Shri Barnala was requesting the Union Government a number of times to release the Jodhpur detainees. You did not concede to his request. But all of a sudden, without anything you released the Jodhpur detainees. People were happy and people welcomed this move because we were expecting you to go in the right direction. Then the five priests were also released. They were supposed to issue the 'Hukumnama' or at least people were made to understand that they were going to issue the 'Hukumnama' from the Golden Temple banning the killings of innocent persons. But what happened? They never issued any such 'Hukumnama'. Jain Muni appears to have made an appeal to them to issue the 'Hukumnama'. Instead of issuing any 'Hukumnama', they have given 'suropas' to the militant extremists.

You approach has been *ad hoc*. We do not know who has been operating in which field. We have come to understand that Satish Sharma and Jain Muni were operating in one field and the Home Ministry in different field, one not knowing what the other is doing with the net result that you are blowing hot and cold at the same time. You want to take political initiative and have a political dialogues. On the other hand, you are coming forward with a draconian change for imposing emergency in Punjab. You are merely heightening the darkness and intensifying madness. You are not in a position to see any light or see any way through and that is why you are trying to ventilate your frustration by resorting to amending the Constitution. This will not in any way help. As I submitted, you are paving the way for isolating Punjab. For God's sake do not do that.

The common people are made to think that the opposition parties are not interested

in solving the Punjab issue because they are opposing the measures. In fact, you have gathered in your armoury all sorts of draconian law. What is lacking in your armoury is not the powerful weapons; all powerful statutory weapons are already in your armoury, in the armoury of the Home Ministry, but what you are lacking is a will to make use of them, a will to implement any one of them.

In order to cover that, this very very draconian amendment to the Constitution is being resorted to. In fact, my humble submission is that this will affect our fair game in the international forums, it will affect our standing in the Third World countries. If you dispassionately think and strike a balance of the plus points and the minus points, the plus point is zero; you are not going to achieve anything on account of this Bill. Kindly spell out even one concrete step which will enable you to solve the problem by passing this amendment. On the other hand, I can spell out any number of aspects which will go against the Indian interests, against the interest of the people of India.

With these words, I oppose this Bill. The only way in which I can conclude is *sab ko sammati de bhagwan*.

DR. G.S. DHILLON (Ferozepur): Mr Deputy-Speaker, Sir, while sitting here I was brooding over the past. It is a very interesting coincidence that when emergency was imposed in 1975, I was occupying the Speaker's chair. The Prime Minister later on during the period of emergency inducted me as a Cabinet Minister and I was there throughout. And now it is a strange coincidence that when I am a Member now; I am rising to speak on the 59th constitution amendment regarding emergency. I have thought over it very dispassionately, just wavering this side or that side. But after the Home Minister gave a categorical assurance in the other House that the emergency will not be misused, I have decided to sup-

[Dr. G.S. Dhillon]
port it.... (Interruptions)

MR. DEPUTY SPEAKER: Please, order.

DR. G.S. DHILLON: When the last emergency was imposed in 1975, I can sincerely tell you that for the first few months it had a very wholesome effect on the all-round administration, economy and in fact on everything. But soon after it resulted into a very horrible state of affairs. In spite of the Government's best efforts, the Government could not get out of that mess that was created then. My fear is the same this time also. But I have relied on the Home Minister's assurance. Taking courage, I can assure the Home Minister that I will fully cooperate with him in implementing that assurance.

Sir, this Bill deals with the two parts. One is about the extension of the President's Rule for another two years. We have already completed one year and it proposes for another two years. We could not do anything else other than this. In spite of the number of opportunities given to the then ruling party, they could not carry on for long their ministry. Minister, I am talking of the Barnala Government. In spite of his good intentions, he could not carry on for long. There were some elements in the Ministry itself which went to the other side and the Poor Barnala was very helpless to witness this. You might have seen that those three or four people who were occupying the prominent ministerial positions are now on the other side. you could read their names in the newspapers. And because of this internal tottering state of affairs, that Cabinet could not last for long in spite of goodness shown, and in spite of the best of the best intentions of Shri Barnala himself. Since then we have been looking forward that circumstances may help those people who had been released from the jail, like Shri Prakash Singh Badal and others.

Something may come out of their mutual consultations and mutual co-operation and the situation may be restored to normalcy. But nothing came out of that. Then an other spell of six months was tried but nothing was coming out of it. Hence we were constrained to bring this legislation, the Constitutional amendment that from the maximum of one year Presidents rule may go for another 2 years. We could not help it. I think, the Opposition will itself see that there was no way out. Some hope could be pinned on the Legislative Assembly, the Vidhan Sabha but that too is dissolved. Of course, we have different opinions about it. We thought that this perhaps may result in an opportunity for the conciliation between the Akali groups and that it may, at some convenient day in the future, bring them together.

That hope is gone. After the dissolution, now there is another opportunity for those warring factions to come together again. Their utterances are very ambivalent, right from Shri Badal to other leaders — sometimes from one extreme and later to another — but no one upto this time has taken up a very bold stand, either to condemn terrorism or to persuade the priests. But instead Shri Badal himself went to join the Installation Ceremony of Bhai Jasbir Singh. We thought he had been invited but it came out in the Press that "no he was a voluntary visitor who offered his services. But he was never invited to speak or invited even to present his saropa." So I asked their leader here in the Rajya Sabha as to what happened: you were not invited. He said Shri Barnala did show some guts. He did not go. But Shri Badal himself went there. That can very well expose the psychology of the man who was working under that to visit the Golden Temple at the time of the Installation Ceremony. This type of a situation has arisen.

By this amendment only the deleted words "internal disturbances" are being restored. If an emergency is declared in the

whole of Punjab or part of it or a few districts, one thing is definitely there. Whether it is any piecemeal or something like that, my District Amritsar will be the first to come under it.

I come from the district of Amritsar. After 25 years of elections from Taran Taran, I contested from the adjoining Constituency of Ferozepur. Now I represent that district. Both are border districts.

This Taran Taran has become so notorious a place that all around it, the terrorists have very big strong holds. It was once the biggest nationalist Centre during the freedom struggle. It was in the vanguard of nationalism, patriotism. Pratap Singh Kairon, myself, Jathedar Udham Singh Nagoke and Majhail who all fought for freedom, they are from this area. Pratap Singh Kairon represented half of the *Tehsil* and the other half was represented by me. For 15 years, I was a representative from Taran Taran in the Legislative Assembly. For 10 years, I was a Member of Lok Sabha from that Constituency. But ever since the Akalis' Supported by Prof. Dandavate's Janata Party defeated us, we have been never able to recover the same. I had to move away to the adjoining constituency. Pratap Singh Kairon's family wanted Taran Taran to be given to them, but they too were defeated from there. So you can understand what type of area this Tehsil Taran Taran.

SHRI INDRAJIT GUPTA (Basirhat): You are talking about Taran Taran.

DR. G.S. DHILLON: Taran Taran was my home. It was my constituency.

SHRI INDRAJIT GUPTA: That is a liberated territory now, Sir-Taran Taran.

DR. G.S. DHILLON: I think, they have liberated me also. They have liquidated us.

They are thinking that I will be the man who will be coming back to the town and constituency. After the emergency we had a very bad experience. We all lost. I do not think that will be repeated again this time.

What are the reasons for coming up to this State of affairs from the earlier experience. I have completed my fifty years of political life in the last September. I have 50 years of my membership of my party. I started my legal practice in 1937. During this period, I have seen so much. At the time when the British Parliamentary delegation came, I was a practising lawyer. There were two sections of Akalis. Both of them helped the Quit India movement. There was a time when the Congress and the Akalis used to sing the same membership enrolment form. Then a time came when a section of them started helping in the Army recruitment for the Second World War. Later on, the same section started another movement called Azad Punjab. Azad Punjab meant, at that time — of course, it vanished — equal number of populations of Sikhs, Hindus and Muslims right upto the then Rawalpindi, and now Islamabad. But that could not come up.

Then came Sir Stafford Mission, and later Lord Pathick Lawrence. When they announced something like Pakistan, the Sikhs also put in their claims, not the nationalist Sikhs, not the Congress Sikhs, not our party, but the Akalis led by Master Tara Singh. They put in a claim, that they wanted a Sikh homeland. And the Mission asked them: 'Where is your majority?' And the then Governor, Sir Ivor Jenkins asked Master Tara Singh: 'Where is your majority?' Master Tara Singh could not mention any area at that time. Then Jenkins said: 'Should I tell you where you are in a majority?' At that time, before Partition, a very well studied case by the British Mission, came through the Governor. He said: 'You have a majority only in two tehsils of Punjab, the tehsil Taran Taran of district Amritsar, and the tehsil

[Dr. G.S. Dhillon]

Moga of the then district of Ferozepur' — which I have represented, both Taran Taran, and now Ferozepur.

Master Tara Singh could not go further.

Then, after Partition, after the exodus from Pakistan the population went on swelling, and the population in the districts in which sikhs were short barely by 1% or 2% swelled, and now in the thirteen districts of Punjab, we have a population with sikh majority in five districts, equal population in one, and non-sikh majority areas in the other six districts. It is here that the old ideas of homeland was forgotten.

What were the demands later on, what were the demands after 1947—in 1955, 1956 and 1966? The simple demand that emerged after Partition was the script, viz. that the lipi of the Punjabi language in which the Holy Granth is written, should be language of Punjab, because in the University and in the offices, it was then written in the Persian script. Government could not accept such a simple demand without an agitation; then they accepted it. After that came the linguistic reorganization. The whole of India was divided on a linguistic basis; but Punjab remained bilingual, having both Punjabi and Hindi. These were the areas of the present-day Himachal Pradesh, Haryana the present Punjab, and the areas of the then PEPSU. It was a bilingual State. It went on very well till the Akalis came up with the demand saying that the rest of India was linguistically reorganized; why should not Punjab become a linguistic State?

There was a lot of agitation in Punjab, Punjab Suba Morcha and all that till the settlement came in 1956-57. I was at that time the Speaker of the Punjab Assembly. In 1966, the Akali Congress settlement was that Punjab will be having two regional committees and all matters concerning them will be brought before the two regional

committees and then they will be brought before the whole House Vidhan Sabha. It went on very well.

After this settlement, the elections in 1957 were held. It was here the Akali Dal abolished their political wing and all their MLAs at that time were elected on Congress ticket. Prakash Singh Badal came on Congress ticket. Another gift we got was Sardar Hukam Singh. Till Master Tara Singh started withdrawing, backing out of the settlement, it was all over by 1962. Then there was a re-organisation in 1966 by which Haryana, Himachal Pradesh and Punjab were re-organised. After that, a quarrel was started over the Capital. In 1970, Madam Indira Gandhi gave an Award that Abhor, Fazilka and Chandigarh will be interchangeable. If Punjab gets Chandigarh, Abohar and Fazilka will go to Haryana. So, over this, a lot of quarrel started and it developed by and by into what is called Anandpur Resolution, Ludhiana resolution autonomy and Khalistan and all that.

PROF. MADHU DANDAVATE: What is your view on this Bill?

DR G S DHILLON: You want me to at once jump into terrorism. They had nothing but this demand as small kirpan from 4" to 6", Golden Temple and all that—simple demands. Due to some obstinacy on their part of here, external influence and other forces, it has driven us down to this stage now. Sometimes there was Anandpur Resolution; sometimes there was agitation about Khalistan; sometimes it was Haryana; sometimes it was Operation Blue Star. Bhindranwale appeared on the scene. All that created such a mess in Punjab that the situation now has come to this. We cannot go to our districts either in Ferozepur or Amritsar without protection. There has not a single day passed when massacre after massacre did not take place, when force was not shown. What to do now? We have already an Anti-Terrorism

Act and other Acts. S. Buta Singh is now adding one more weapon to his armoury, but he will not use it so long as other effective weapons are there ; it will be used only, as I can guess, when other weapons fail.

Yesterday Bhai Shaminder Singh was very active here. I asked him about Badal joining Bhai Jasbir Singh's installation. He said, "what should we do? We have to care for our lives ." The Govt. have captured weapons AK-47 etc from terrorism. You would be surprised to know that it fires 600 bullets in one minute.

AN HON. MEMBER: Now it is a rocket.

DR G.S. DHILLON: Later on we have not seen much of that. These captured guns are being used by our police. Arms such as AR-15 made in America are also in use. He asked as to what he could do. When our forces have only 303s and old stereotyped stenguns, what would be the position? When with this sort of rear, everyday something is going on, what to do? We have to show some more arms and this is one of them.

SHRI SOMNATH CHATTERJEE (Bolpur): Emergency is an arm.

DR G. S. DHILLON: Yes. This is a reserved arm. When the enemy knows that this man has got more effective arms and that it is not only the rifle that he has got in his armoury, it may have some deterrent effect.

SHRI SOMNATH CHATTERJEE: Do you really believe in this?

DR. G.S. DHILLON: This may have some effect. None can be more credulous in this matter than myself. We have to accept it. Shri Chatterjee was asking me a very pointed question. He also comes from a State that had seen Partition. (Interruptions)

You should only pray for our safety.

SHRI SOMNATH CHATTERJEE: You have to save yourselves from the Government.

DR. G.S. DHILLON: This is the state of affairs through which we are passing. And this is a very limited sort of weapon. When we wanted it for the whole of India, there is a reason for that . But anyway, you did not like it. Shri Buta Singh was kind enough to amend it and confine it to Punjab only. If the emergency is in Punjab, if there is internal disturbance in Punjab and if some forces are at work in Punjab, from Bombay a man like Thackeray says, " I am going to boycott the Sikhs. I am going to do this and do that." Like this, if he creates some tension in Bombay and also in Punjab and if there is no emergency in Bombay....(Interruptions)

SOME HON.MEMBERS: There will emergency in Bombay too.

DR.G.S.DHILLON: It is not meant for any citizen. According to the assurance given, it is meant for such people as Bal Thackeray and others, who sitting hundred of miles away from Punjab, do not know what is going on in Punjab. They do not know the situation in Punjab. After the release of the priests, we have had lot of hopes...[Interruptions]

Jasbir Singh Bhinderanwale is Bhinderanwale's real brother's son. He just moved out of the country. There were a lot of allegations of crimes and murders against him. The Government of India wanted his extradition from one country. That gentlemen moved to another country. The Government of India went to the other country for his extradition. He moved to Philippines. Government of India went to Philippines for his extradition. There they succeeded and brought him and kept him back here. You can just imagine the generosity and the

[Dr. G.S. Dhillon]

liberal attitude of the Government. They released him. They gave him a good airlift and all these priests and others have been received by the Governor of Punjab. I asked Buta Singhji whether he was aware of it. He told me categorically that he was not in favour of it. This man was taken very honourably to the Akal Takht and thus the whole circle was completed Bhinderanwale in place of Bhinderanwale.

What could be the minimum that we could have expected from these people? The minimum that we would expect from them is that they would at least make some appeal for peace and not to kill innocent people. We expect them to issue some sort of 'hukumnama' to the effect that killing innocent people is wrong and it is not according to the preachings of the Gurus and not according to the tenets of Sikh religion. But he declined to do so. The press people categorically asked him "We have come. Are you issuing the *Hukumnama*? He said: "No." Here it is this situation, the other situation is this. All the Sikh-Gurdwaras are under their control. SGPC, Luckily during the freedom struggle, was in the hands of nationalist Sikhs. I was an elected member of the SGPC during the British time. But after that, when India is free and so many slogans were raised-punjabi Suba, Khalistan and all such slogans, we, who did not contribute to such ideas, were thrown back and other elements replaced as. SGPC was the strongest body and formed after lot of privations and troubles, the Akali movement, and now that SGPC is non-functioning. It is almost defunct. They cannot hold a meeting at their headquarters in Amritsar. Every meeting they hold is outside, either at Anandpur Sahib or in Ropar district or somewhere else. They dare not go there. What to do under such circumstances, you can very well answer yourself.

I was a little depressed yesterday when

there was so much din and noise from opposition. I was very much distressed and disgusted. I sat here only to listen to their views as to what solutions they can suggest us out of the mess and that possibly could be through deliberations, through interchange of ideas and all that. But unfortunately for two hours, they went on shouting. The whole night it kept ringing into my head-Ramboowalia shouting and this man shouting, our people doing like this..(Interruptions) So, what to do with this situation? I will be so happy if you could help the Home Minister, the Members of the Parliament, and particularly those unfortunate fellows who come from border districts of Punjab. What to do in this situation. If not emergency, they oppose the Anti-Terrorism Act also, they oppose action against harbouring also. So, they should suggest us something. I asked a few Akali gentlemen yesterday. I am sorry they are not here, rather he is not here. "You are opposed to it. Tell us what should I suggest tomorrow so that there could be a little ray of hope in that solution." They could not tell anything. They said that they will tell it to me later. But now I have spoken. They may tell it to me after I have spoken. But thank God that this has come before them. They should take care of each and every aspect of this whole situation and then form their ideas. We will stand to benefit by that. I thank you very much, Sir.

SHRI SOMNATH CHATTERJEE (Bolpur): Mr Deputy Speaker, Sir our respect for Dhillon Sahib has always been there and we quite appreciate the agony with which he is now passing. Naturally, he has avoided all reference to the Bill because he cannot support from his own mind. But, Sir, I have no inhibition as he has...(Interruptions)

DR. G.S. DHILLON: I said at the very beginning that I support the Bill.

PROF. MADHU DANDAVATE: Sir, he is very frank. He said, the last emergency

was a mess and this he will declare in the next Parliament.

SHRI SOMNATH CHATTERJEE: Sir, I stand here to oppose this Draconian Bill which is nothing but a declaration of war on the people of this country. But I wish to warn this Government that the people will never again give up their rights under the Constitution and as free citizens of this country, without a fight and a bitter struggle.

What has been the record of this Government. Incomprehension, incompetence, inefficiency, inertia, intransigence, and institutionalisation of corruption that has been the hallmark of this Government. And to that record is now added a deliberate attempt of incarceration of the inalienable and the indisputable rights of the people of this country.

Right to life and personal liberty are not matters of charity of this Government. Such rights of the people, however, seem to be anathema to this Government which tries in emasculating the rights of the people, without being able to provide the minimum wherewithals to them.

Sir, the emergency provisions in our Constitution have become synonymous with Government repression and State terrorism and the word 'Emergency' has become the most hated word in India as the people had experienced how the emergency provisions of the Constitution were mutilised to suit the political and personal ends of one individual who was equated with the country. Sir, in a desperate mood to justify the reign of terror that has been let loose over the people of the country during those years the plea of internal disturbance that was taken to impose a second emergency in the country when the external emergency was in force, proves to be a hoax and sordid dramas were enacted in this country to justify non-events by sycophants and stooges who were ruling the

roost. Sir, there had never been in the past, prior to those years, when there was a deliberate deprivation of the human rights in this country, decimation of the constitution and the deliberate denigration of the legal, Political and judicial system in this country. Sir can the people forget those traumatic years of subjugation of human dignity by coteries of rulers whose hunger for power and for personal hegemony seemed to be insatiable? That is why when the people got an opportunity in 1977, they became free from bondage and in 1978 removed many of draconian provisions of the Constitution which were brought in by way of 42nd Amendment. But it seems that this Government has not learnt the lessons of history. Again that provision of internal disturbance which this House unanimously accepted should not find any place in the Constitution is being introduced. The Congress Party was a conscious participant in that process of consensus and they accepted through leaders here in the House that such obnoxious and dangerous concept of internal disturbance should not find any place in Article 352 of the Constitution. But in their hunger for more power and to cover up their inefficiency and their total failure on all fronts, now they think that this will be their panacea. Sir, as I said, the people will never accept it. Whatever may have been the propaganda in the official media and whatever you may go on saying, abusing the others, the common people of this country, the Bharat 'bandh' of 15th March 1988 has shown the commitment and the resolve of the common people of this country, not to accept any repression and not to accept anti-people policies of this Government.

Sir, it is necessary to remind ourselves that on the floor of this very House in the year 1978, when the 45th Constitution Amendment Bill was being discussed-it became 44th Amendment Act that was said by the then Congress leaders? Dr. Syed Muhammad said: 'Yes, it was an aberration, Emer-

[Sh. Somnath Chatterjee]
gency was an aberration and should not be repeated.'

Mr. Hitendra Desai said: 'Yes, there was subversion of Constitution. Admitted that'. And he said, his party was opposed to Emergency on the ground of internal disturbance and armed rebellion even. Now, Mr. Hitendra Desai is very much back in your fold.

Sir, when we were discussing the amendments that have been proposed, I had the privilege to take part in some of those discussions. A very young, sober and right thinking Member sitting on the Opposition then had proposed an amendment for deletion altogether of the provision for internal Emergency. He is now one of the Ministers in the Cabinet. I do not want to embarrass him, but his name appears in the records of this House. He said:

"I rise in support of the demand and my amendment is also to the effect that the power to proclaim Emergency on the ground of internal Emergency to be deleted and removed from the Constitution. It has already been pointed out here how not in the very distant past this power has been abused, how on the assumption that internal Emergency was there when in fact it might not have been there, this power has been exercised, has been abused on the plea of internal Emergency."

Sir, he was a young Member, who is now adorning the Treasury Benches.

Another Member, quite an active young Member then, who subsequently became the Home Minister in the Congress Ministry is a State said.

"My amendment is not moved as it is the

same as the amendment of Mr. Chatterjee. I fully support this amendment. The demand made by him to take away this internal Emergency completely will be receiving our support."

Then, Mr. Dhirendranath Basu—he left you, it seems. He said he appeared to be speaking on behalf of the Congress Party:

"In clause 38 I want the words 'internal disturbance' or 'armed rebellion' must be deleted. That is what we have been saying since long."

Now, Mr. Deputy Speaker, Sir, you will appreciate that the Forty-fourth Amendment Act could become a law because the Congress Party had given its support in view of its strength in the Rajya Sabha. They readily agreed to that. What was the agreement? That in this country, never the people will lose their right on the plea of there being internal disturbance. This was the commitment of the nation then. And I can name a very distinguished Cabinet Minister at present, Mr. Vasant Sathe—I was trying to protect the junior Ministers. Mr. Vasant Sathe said that not only 'internal disturbance' should go, even 'armed rebellion' should not be included because that was prone to be abused. He said

"Either remove the provision of emergency altogether or otherwise, this armed rebellion business has no meaning.. It is very dangerous."

The commitment of a political party which is ruling this country for years together, has it got no bearing? Has it got no relevance? Now, this very provision of internal disturbance is sought to be introduced with all its dangerous implications. Can the people be blamed that in this country the very concept of Emergency has become abhorrent to all right thinking people, to all lovers of democ-

racy and parliamentary system of Government? It has come to represent a most obnoxious system of autocratic behaviour. What is its effect immediately on the Fundamental Rights? I shall come to it when I touch the scope of its applicability, territorial applicability.

Sir, it had been admitted by the Attorney-General of the then Congress Government that during emergency there was no right to life. If somebody is detained and arrested even in false identification, he has no right to go to the Court and say: I am not that man whom you want." If there is nobody-else, any person of the same name who is held guilty, he has no access to Court. Where shall he go? Only the Police have arrested him. There is no scope for trial. He will not be put up before anybody if he is detained under Preventive Detention Act or even otherwise. Article 19 is automatically suspended. Then, you are suspending Article 21 also. People are killed. If a person is deliberately killed because of personal vendetta, he has no right. His family has no right..(Interruptions) His family will not have any right..(Interruptions) It is a matter of joke for you, Dr.Rajhans. Please don't do that.

Sir, unfortunately, the Supreme Court of this country held that as if the right of life is a product or a gift of law of this country to which Justice Khanna did not agree. We are very unhappy with that *habeas corpus* Judgement of Jabalpur case. It opens up almost unlimited scope for misuse. Constitutional provisions. That commitment has gone. That commitment is being totally jettisoned today. Can this Government not function now without the emergency powers? Can you not function with the laws that you have already armed yourself with? I shall give a list of those laws under which that can be done. The press censorship can be imposed throughout India on the basis of this law. You can regulate meetings in Delhi in connection with the Punjab matter. You can say that

they will not be able to take out a demonstration, a peaceful march for restoration of normalcy-not in Delhi-in Punjab. You can stop all information regarding Punjab coming to the knowledge of the people. A veil of secrecy can be imposed. Total censorship can be imposed taking advantage of the laws that may be passed under this.

Sir, it is being said that our objection is on principle; our objection is on our commitment. They are trying to justify this by saying that it will have a very special application for a special situation in a limited territory, and may be only for one or two districts of a State of this country. Then, why are you bothering? The Government can not do it with regard to the rest of the country? I charge that either it is deliberately being stated or they are trying to fool the people of this country or they have not even properly applied their mind to the situation.

Under this provision, the Government will acquire widest powers even if there is an emergency declared with regard to a part of Punjab and after this becomes a law, it is a part of the Constitution. Look at Article 83 of the Constitution. Kindly read Article 83 of the Constitution—the proviso. It says: "Provided that the said period may-viz. Period of five years for the duration of Lok Sabha-while a Proclamation of Emergency is in operation—please note it is a proclamation of Emergency and it does not say over the whole of India-be extended by Parliament by a law for a period of not exceeding one year at a time..."

14.00 hrs.

You can go on extending the period of this House. Well, we will not accept a mere statement from the Minister that we have no such intention. The protection must find a place in the Constitution itself.

Then Article 250. Whenever there is a

[Sh. Somnath Chatterjee]
proclamation of emergency, Parliament gets automatically all the powers to legislate with regard to any of the matters enumerated in the State List. If there is a proclamation with regard to whole or any part of territory in India, then it can legislate with regard to any State Subject. List II, Seventh Schedule of the Constitution becomes totally irrelevant. Then Parliament will arrogate to itself the power with regard to all the State Governments, although there is a proclamation with regard to one district of a State. Then Article 353. It can give directions, orders to any State Governments...*(Interruptions)*

I am talking to the saner sections. I hope there some saner section.

PROF. MADHU DANDAVATE: He has not addressed to you .

SHRI SAIFUDDIN CHOWDHARY
(Katwa): You go out.*(Interruptions)*

SHRI SOMNATH CHATTERJEE: I will give you details. This is a very serious matter to be interrupted like this. Article 353 specially contemplates exercise of such powers when there is a proclamation in a part of the country. Similarly, Article 358, Article 359 of the Constitution deal with the Fundamental Rights of the people—Article 19, 20, 21, and other Rights. Although, the proclamation will be operational in a part of the country, it expressly provides that it has its effect in a State, in an area where proclamation is not in operation. Only condition is that in that part, because of the activities in this part where they are not in operation or activities where it is in operation, it will have an effect on that part where it is not in operation. It will not be a justiciable issue or a matter. Who will decide this Government will decide this.

Then, a point will be taken that you have no access to court because Article 19 has

been suspended, Article 21 is suspended. All the Fundamental Rights have been suspended. You have no access to court. That was upheld by the Supreme Court of India. For that purpose, you are taking this power. Therefore, your mere statement that it is restricted to a part of the country is not acceptable to us. It is bound to have repercussion in all the States of the country. They say: if they are sincere, if they want to make their intentions clear, they should bring in amendment to clarify the position with regard to the restrictions of the rights of the citizens under different provisions of Articles 353 354 and so on and so forth. I have mentioned it. They must incorporate that protection in the Constitution itself that this proclamation of emergency has been made with regard to a part of the country and will not be utilised for extension of the life of this House. No such amendment has been brought.

Kindly consider it. They say: the situation has become such that we cannot control without more powers. Without more powers means more administrative powers, more police powers. Who has brought about this situation today to this part? It now appears that the Punjab Accord was more of an exercise in personal relationship for the Prime Minister than for anything else. Hardly it has been implemented. One of the greatest secular leaders of this country Mr. Longowal has sacrificed his life. Then, what has happened thereafter? He was a nationalist, he was a true democrat. What has happened? How the blood that was spilled from the body of Sant Harcharan Singh Longowal helped in normalising the situation? He gave his life; but in the way the Government have treated the Punjab problem, it has escalated and has become more and more complicated. Now, it has got into the hands of fundamentalists who are openly preaching for Khalistan. *(Interruptions)*

The Government neither lacks the

administrative or the legal powers. Even all the people of this country are very keen, all the parties have expressed their keenness to maintain the integrity and unity of the country and they are demanding action on behalf of this Government and the ruling party.

The Punjab Accord has almost become a dead letter unfortunately. You did not allow the Barnala Government to function, although you paid all sorts of encomiums to him through the President's address. Then he was dismissed. Then you brought in the President's rule as a panacea of all evils of the problem. But it has accentuated the problem; it has not solved them. You have got all the laws in your hands. You have got the Anti-Terrorists Laws, more and more draconian, the National Security Act, you have amended the National Security Act; for the purpose specially of Punjab, and this House has given you all the powers, although in principle we have objected.

Then the election that preceded resulted in the installation of the Barnala Government. The Prime Minister said that the democracy has won although the Congress Party has lost. According to us, democracy has won because the Congress Party has lost! What happened to the expression of the will of the people in that State? You did not allow the people's mandate to be operative: even to be effective. You dismissed the Government, you kept the Assembly in a suspended animation. For what purpose? What steps did you take to bring about a political solution for the problem there? How did you try to take the help of the moderate political elements in this country? How the other political parties' help was sought in that context? My party and other left parties also have taken active steps Sir. They have sacrificed their workers. Our comrades have lost their lives.

AN HON. MEMBER: Have you made

any suggestion at that time?

PROF. MADHU DANDAVATE: Yes, a number of suggestions. We had almost settled all the issues; but for political reasons they declined it.

SHRISOMNATH CHATTERJEE: Then the Assembly is dissolved. No reason is being given as to why the Assembly is dissolved; not a single reason is given, except that it is not possible to bring back the popular rule. Then the number of killings have increased.

Look at the Governor. He says, 'well this is all propaganda of the media. Only five minutes trouble is there in 24 hours. For 23 hours and 55 minutes there is no difficulty and you are only magnifying the problem of five minutes': Can this be the attitude of a responsible administrator? And you have put the charge of Punjab in his hands! He wants that, as he is the Governor of Punjab, if there is incident in every minute, it would give him more prominence. Wonderful way of looking at things.

What is the law that is not available? What power is not available to this Government to deal administratively? They can keep people in detention without even being produced in the court. National Security Act has been amended. For months together, even without the opinion of the Advisory Board, they can be kept, although we are against it in principle. We shall always oppose it. But the way they are going about it, even they are not satisfied with this draconian power in the National Security Act.

Now, the Anti-Terrorist Act is there. They can be tried immediately. The other day we had a discussion and Mr. Bhatia—leading member of the ruling party—said that the police are afraid. Police are demoralised. Judges are afraid of hearing cases. Therefore, we want emergency. But, Sir

[Sh. Somnath Chatterjee]

Emergency does not *ipso facto* add powers to the administration. What it does is it takes away the rights of the citizens of this country who voice against the Government's illegal activity. People are not even now challenging your actions. You are arresting so many people. Who has challenged it? How many have been released because judges are afraid? Can you instil courage in Judges' minds by declaring emergency? Will police tomorrow become more effective and lose demoralisation just because there is emergency? I do not find any explanation given as to how the declaration of emergency can bring about a change in the content of the situation in the country.

Today the problem of Punjab has become more magnified because of this decision taken by the Government. You have released 40 Jodhpur detainees. Why not other? For years they are being kept there. No action is being taken. Only forty of them have been released. Dr. Dhillion said that a good thing was done by releasing five head priests. Now what good thing has been done? I was waiting to hear from Dr. Dhillion. Now what they are doing. They have said that only the militants will have the right to negotiate with the Centre and it is militant youth demand which has to be accepted. Now their past is not such which gives any sense of hope or confidence. The men who have been now put in the leadership of the Sikh community are those imbued with the ideology of extremism. This has provided encouragement to the extremists. They have realised that Government has nothing to do with the moderate political elements in the State. No consultation or discussion is taking place with other political parties but a Bill like this is brought which is supposed to tackle the most serious situation in this country as is prevailing in Punjab. No discussion with the Opposition parties has taken place. No consultation and no suggestion has been taken from them. We have repeat-

edly said that what has been done today is that you are making the problem more serious by bringing in the people and putting them in place of authority who have been preaching for secession, who are still today saying that they have not deviated from the demand for Khalistan, who are supporting all the decisions taken by Sarbat Khalsa and now in the name of SGPC and in the name of the official body of the Sikh community you have given them a statutory and a legal credence which they never had. This is the seriousness of the situation.

Sir, that is why we have been saying there has to be an all India campaign by all the political parties and we know that the ruling party is not willing any longer to take any part. They only believe in arming themselves with draconian powers. People are considered as their enemies. That's why, whether it is DTC strikers, who are fighting for their very subsistence or the common people of this country, they want to take repressive actions against the people of this country because the people are your enemies. Therefore, we say there has to be all-India campaign to remove the irritants which are now there. That's why we demand the release of Jodhpur detainees. We want the punishment of those guilty for Delhi riots. What has happened to the Rangnath Mishra Commission? What has happened to the Jain-Bannerji Committee's recommendations? Nothing has been done. We want a proper and early implementation of the Punjab Accord which we supported. We want that the patriotic and the revolutionary traditions of the people of the Punjab, on the basis of the democratic support from the whole of the country, will have to be there so that they can stand up and there is a political solution to fight the terrorists. Merely by administrative actions on the basis of draconian laws, you cannot solve this problem.

Sir, this Government in all solemnity brought a resolution in the Rajya Sabha in

the year 1986. Article 249 was, for the first time, resorted to. What was the reason then given? It is very important. The reason then given was that the Barnala Government is not taking certain actions and it has become necessary for the Central Government with supposedly wiser approach and more effective approach in the matter, that Central Government will pass appropriate laws for the purpose of supplementing the actions or the decisions of the work of the Barnala Government. That is what our distinguished Home Minister he is making some sort of a record for remaining for two years as a Home Minister still says.

"This will give the Government necessary authority to frame legislation with respect to the matters that from part of the State List."

He said further:

"The Government experience concerning the problem of terrorism and anti-national activities and evidence coming to the Government suggests that it is not merely a matter of internal disturbance but there are forces from beyond the borders which are behind such activities actively. The problem itself can hardly be dealt with by the border State alone. This is clear indication that the authority of the Centre should be activated. For that purpose, Centre has to arm itself with the effective powers to legislate even on the subjects which happen to be in the State List."

Now you went there in the Rajya Sabha and said that even the Opposition has suggested this and it was passed. Now what has happened? It was passed in August 1986. Today, we are in March 1988. How many laws you have enacted? Now you also put an end to the Barnala Government which came under your complete hegemony. Now you

have also power to pass laws because of the dissolution, under Article 249. What has happened? Which laws you wanted, you could not pass? Which administrative power you wanted, you did not get? There is a whole list of laws which are applicable specially to Punjab also apart from other areas.

You despatch Army to Tripura two days before the election on the plea of being a disturbed area because 97 persons-it appears that suspicious now-were killed. It is very dangerous. We are against it. Now that has stopped because of the Army. What power you did not have?

Now what is being said? Mr. Buta Singh said in the Rajya Sabha...

MR. DEPUTY SPEAKER: Wind up, Sir.

SHRI SAIFUDDIN CHOWDHARY:
What wind up? (*Interruptions*)

SHRI SOMNATH CHATTERJEE:
These are matters of importance in the history of the country. What did he say? (*Interruptions*)

To quote Shri Buta Singh, Home Minister:

"Shri Jaswant Singh brought out a list of 15 Acts through which we could deal with this kind of a situation."

Sir, laws are these. No denying of it. But Sir, that law in the statute book itself will not come to the rescue of the people. There has to be a political will, there has to be determination, and there has to be an adequate organisational set-up on the field itself which is committed, which is prepared to die for the security and the integrity of the country."

It is that thing which is lacking. In whom?

[Sh. Somnath Chatterjee]

In the Barnala Government. He says that Barnala Government is not utilising these laws. He says that there are 15 laws and the Barnala Government is not utilising them.

"Every hon. Member knows that this Anti-terrorist Act can be applied only after we catch the terrorists. After we catch the terrorists, what is the logical follow up? FIR has to be registered. Information has to be collected. They have to be prosecuted. But, Sir unfortunately, this experience of ours in Punjab is contrary to what should have happened. Nobody comes forward, what to speak of FIRs? If a terrorist enters a village, those hon. Members who have gone to Punjab, during these days will bear with me, there is nobody in the whole village who will point a finger that somebody entered from this end and went to that end. The people are so much afraid. And, Sir, often it has been found that the law enforcing authorities also failed to do their duties properly. Therefore, this Anti-terrorist Act can also be implemented only if there is a political will and if the authorities are ready to operate without any hindrance, without any political interference."

He said that because of the political interference, the Barnala Government is unable to implement those laws. Now that political interference is not there, now that Barnala Government is not there and for the last one year, you are functioning. Then, why are you not able to implement these laws? I would like to know what more laws, the nature of the law they will pass. No new law, I think, can be passed. What will happen is that you take all sorts of action that nobody will be able to go to court. We would like to know, the people of this country are entitled to

know, how many persons have been released by Court of Law in spite of your opposition. Under the Anti-terrorist Act, if the public prosecutor opposes, nobody will be granted bail until the Court records a finding that there is no case against him. Give us the particulars. We would like to know, how courts are standing in the way of the proper solution of the Punjab problem. Whom do you want, to make a scapegoat on this side? Is the Constitution of India a matter of play thing? Can you play with these minimal rights, the fundamental human rights of million and millions of the people of this country, just because you cannot explain otherwise your failure? It is the completest admission of their failure to run the affairs of the country. You are not taking political action, you are not taking proper administrative action. This is now the dangerous situation which we are facing. Now you come with a law which I shall try to indicate is destructive of the very minimal but important rights of the people of this country. They may be starving and half-fed. At least, they have the satisfaction that they are citizens of an independent country. They have the right of speech. They can stand up and oppose, acts of repression. I am not here today at the beck and call of anybody and everybody. When there is emergency, that human dignity will be lost. Today we have seen how power is misused, more misused during the emergency and that is why everyone in this House, when the 44th Amendment Act became law, 45th Constitutional Amendment Bill was passed by this House, everyone in this House including the Congress leaders who spoke, accepted and gave a commitment to the people. No. That type of experience will never be faced by the people in future. We shall never have any emergency on the plea of internal disturbances and even Mr. Sathe as I read out opposed inclusion of armed rebellion. This Government is going back on that commitment. This ruling party which is today, which was there in that House in 1978, they are openly violating that commitment today and

just to explain their complete bankruptcy in functioning and complete failure in bringing about a solution in Punjab. More they have put their fingers in Punjab, the more they have complicated the situation. That is why they brought in President's rule and then dissolution of Assembly. The situation is becoming more and more serious. They want to create a situation of fear psychosis in this country, but will the fear psychosis be there in the minds of the terrorists who are using AK 47 and today we find that they have used rockets. Will they be deterred by your emergency powers? It is as if those who are openly announcing that they will not follow the Constitution of India, they want to threaten them with their Constitution which these people do not follow. This is the irony of it. The irony of it is that they want to contain and solve the problem of terrorism by shaking hands with those who are openly preaching and practising terrorism. This is the complete political bankruptcy of the Government.

I shall make my detailed submissions on the amendments I have given, but at the moment, I oppose this Bill. This cancer should not be inserted in the Constitution of India. Many many imperfections have been brought into the Constitution, but let this cancer not come into the body-politic of Indian Constitution. It is the organic law of the country, it is too important a document, important parchment which should not be played about or trifled by some inefficient and incompetent administrators that we have in this country.

SHRI TARUN KANTI GHOSH (Barasat): Mr Deputy Speaker, Sir, I was listening intently to the speech by my hon. friend, Shri Somnath Chatterjee. I have got a great respect for him and I consider him as a good friend of mine. As a matter of fact, before I make my speech, I would like to state that I consider every political party and every man

belonging to every political party as loyal to the country as we are. Fundamentally, I could not understand why they were opposing this amendment when the things that are happening in Punjab are all well known to them. In fact, if the opposition parties give a definite solution, I am sure, our leaders would certainly consider that. But today what is happening in Punjab is too serious to be overlooked and to remain silent.

14.28 hrs.

[SHRI SHARAD DIGHE *In the Chair*]

Punjab is a border State and all sorts of conspiracies against India could be hatched beyond the border and if we do not take immediate steps, the sovereignty and integrity of India would be jeopardized. India is one country and there is no question of any part of India being taken out of India; not a village, not even a square mile can be taken away out of India. Unfortunately, a group of persons have been openly saying that they want to divide India and create an independent State of Khalistan. Before I go to the other facts, I would like to say that if we blame the Sikhs only, it would be absolutely wrong because terrorists have murdered almost an equal number of Sikhs as also Hindus. The people of this country should know this because when we give the figure that so many people have been killed, there is a feeling that only Hindus have been killed. This is wrong. The terrorists are killing Sikhs and Hindus almost in equal number. Really speaking, it is a suffering of the entire population of Punjab. I would like to tell Shri Somnath Chatterjee who is a big Barrister- I am not who is a Constitutional pandit. As I said, in the very beginning, Prof. Dandavate or for that matter anybody else here is certainly a patriot. But there is one point where I differ. You all and we certainly want the good of India but you are trying to take advantage of every unfortunate political situation. That is where the fault lies.

SHRI SOMNATTH CHATERJEE: Our comrades are killed there.

SHRI TARUN KANTI GHOSH: Yes, I know that. I did not say that your comrades are not killed. I have never said that. What I was saying was that when this Constitutional amendment was moved, you should have come forward with the full support saying that these are the provisions where we want changes. But you wanted to oppose the entire amendment. I could not understand it. We have seen what the Barnala Government did. Killing went on and so many people were killed. The entire Punjab was being ransacked. Punjab is a very precious State of ours. We are all proud of Punjab and its history. It is a very prosperous State. There was no bickering in Punjab and what they are doing now. They are destroying Punjab. The Barnala Government was there up to 1987 and you very well know what all happened during that time. When the President's Rule came, there was some improvement and there is no doubt about it. But still killings are going on. Innocent Sikh brothers and sisters, Hindu brothers and sisters and the Indian brothers and sisters are being killed every day. How to stop it? If the present law is sufficient then certainly it should have been stopped. But today we are facing a situation where we cannot sit idle. We have to take every measure which is necessary to save Punjab, to save the brothers and sisters of Punjab and to save the India from going towards the destruction. Shri Somnath Chatterjee said that we are losing the confidence when this Bill was enacted. What we are doing today, I would like to ask him. The Parliament is the biggest forum in a democratic country and today the Bill has been brought here. Now, it is for you to say as to what are the good things and what are the bad things in it. And I am sure if your suggestions are good, Buta Singhji and the Government will listen to them. There is no doubt about it. After all Butaji himself is a Sikh. He comes from Punjab and

the good of Punjab is in his heart. There is absolutely no doubt about it. So, why do you want to oppose it from the very beginning? Do You know the figures regarding the number of persons killed? I was trying to get the figures from Shri Chidambaram. So many people have been killed. About 845 Hindus and 775 Sikhs have been killed. Almost an equal number of Hindus and Sikhs have been killed. There had been so many robberies. There has been no industrial progress in Punjab during the last 3 years. There has been no economic development in Punjab during the last 3 years. A prosperous State like Punjab is gradually coming down to a position where it was never in the past. Therefore, I would like to appeal to the Opposition Members that instead of taking these issues as political issues kindly take politics out of it. Kindly realise that this is the question of human dignity and human rights. It is a question of good for all the country.

Somnath Babu was speaking about the freedom of the press. He should know that I come from a family where my grandfather (Shri Tushar Kanti Ghosh) started his newspaper to fight against the British imperialism. It was 130 years back. I am his grandson. I am happy that he is still alive. So, I come from that family. I know what is the freedom of the Press. Many a time. I have talked with the Prime Minister. He believes in the freedom of the Press. He goes out of the way to ask me, "Is everything all right in the Press?" If you want to say that he is trying to destroy the freedom of the Press, then I would say it is absolutely wrong. Kindly do not bring politics in that way. What I would like to say is this. There are some Punjabi friends, my Sikh brothers sitting here before me. I would like to tell them one thing in particular, I come from Bengal. But I consider myself an Indian and I am proud of you people for what you have done for our country. How bravely you suffered in Jalianwala Bagh. Today, I have seen a programme on Bhagat Singh in 'Aaj

ka Din' Programme in the television. I was feeling so proud watching the programme and tears came to my eyes. Such a young man as Bhagat Singh died for the country and not for Punjab or not for just a few villages.

Every political party must support this amendment. Everybody must stand up and say, "Rajiv Gandhiji, you go ahead, we are behind you to stop this madness in Punjab. Make our country free from terrorism forever." Dandavateji, you are an elderly man and I have great respect for you.

PROF. MADHU DANDAVATE: I feel sorry for you.

SHRI TARUN KANTI GHOSH: I never indulge in saying things unnecessarily to anybody. But today I want to speak because I want to open my heart. What is happening today? Every man who loves this country is crying in his heart for what is happening in Punjab. Therefore, I appeal to you to stop this opposition and to help Buta Singhji and Shri Rajiv Gandhi who are trying to stop this madness in Punjab. Just see what a handful of people are trying to do in Punjab to divide Hindus and Sikhs. Can they do so? Impossible. Our kinship is indestructible. So, let us announce from here that we are all united to fight terrorism and that we will remain united to stop this terrorism once and for all.

With these words, I would like to give my full support to Shri Buta Singh's amendment.

PROF. MADHU DANDAVATE (Rajapur): Mr. Chairman, at the very outset, I want to go on record regarding the constitutional validity of this Constitution Amendment Bill and also the legislative competence of this House to consider the Bill. Sir, the very Bill emanates from Article 368 which gives power to the Parliament to make

amendments in the Constitution. There was a lot of constitutional controversy whether Article 368 is absolute or there are any limitations put on the constitution-amendment powers under 368.

Right from the beginning, there have been so many judgements-Sajjan Singh case, Shankari Prasad case, Golaknath case and then the Keshavananda Bharati case. In the Keshavananda Bharati judgement, the Supreme Court had given a specific judgement and so long as that judgement has not been modified and revised, that is the law of the land as far as the ambit and amplitude of Article 368 is concerned. That judgement very categorically says that the amplitude of Article 368 to amend any part of the Constitution is wide enough. It extends to every part of the Constitution subject to the restriction that amending powers under Article 368 cannot be utilised to destroy the basic democratic features of the Constitution. And it is my contention that when there is an effort to see that Article 21 is suspended and protection to life and liberty of the citizens is being destroyed even in the case of Punjab, I would treat that as an encroachment on the restrictions and limitations put by Keshavananda Bharati judgement. And I want to assure this Parliament, whatever be the position that the Parliament takes by brute majority, people like me will seek judicial remedy in the court of law to challenge the constitutional validity of this Bill. That is the last resort open to us and we will try to settle the account there if by majority, you try to settle the account here.

THE MINISTER OF HOME AFFAIRS (S.BUTA SINGH): Is it a threat?

PROF. MADHU DANDAVATE: No. This is not a threat. Constitutionally, a threat. If it is a threat, it is a constitutional threat, just as Emergency is a constitutional threat to the citizens' freedom.

S. BUTA SINGH: This is a threat to Article 368.

PROF. MADHU DANDAVATE: I am reminded on this occasion, when we debate this limited emergency to be applied to Punjab, about the debates in the Constituent Assembly.

Once when I went through the Debates of the Constituent Assembly regarding Article concerning Emergency, no less a person than Dr. B.R. Ambedkar had said during the debate while replying to the observations made by Shri H.V. Kamath and a number of others and he had gone to the extent of saying that "Article concerning Emergency in the Constitution will be taken advantage of in the future."

He said "that even as the provision of Emergency in the Weimar Constitution was misused by Hitler to destroy democracy in Germany, this particular Clause can be utilised in the future in a similar manner".

AN HON. MEMBER: Hitler.

PROF. MADHU DANDAVATE: Yes, Hitler. We saw another Hitler rising in 1975. Therefore, while replying to that, Dr. B.R. Ambedkar believing on the good sense of the rulers to prevail, he said, "I know that this particular Article concerning Emergency can be misused. But I hope because of the rulers of democratic India, it will remain a dead letter." Unfortunately, the caution that was sounded by Dr. B.R. Ambedkar remained unheeded in 1975 and today it remains unheeded in 1988.

I wish to remind you, when we are going in for the adoption of this Bill, that in 1975, there was an emergency promulgated, when Mrs. Gandhi was the Prime Minister of the country and in spite of certain checks and balances and inner safety valves, Articles and Clauses in the Constitution were misused. Emergency was declared. The freedom was taken away. I want to remind once more those who do not remember the

Emergency of 1975, that in 1975, when large number of people were detained under MISA, I happened to be a humble citizen, who was also detained for two years, What happened then? At that time, a very important question came up. It is a constitutional question. I want to remind the House about that question today. The question was that once the emergency is promulgated, the fundamental rights are suspended. Under MISA the detainees are kept behind the bars. If some excesses take place behind the bars, will not the relations have any judicial remedy, will they not be allowed to go to the Supreme Court? The question was pending. I remember, during emergency of 1975, when I was in the Bangalore Jail, I filed a petition in the Bangalore High Court and challenged not only our detention but I also challenged the proclamation of emergency. But on various grounds our petition was dismissed. One of the reasons was, the judgement of the Supreme Court had already come. I want to narrate one important observation in connection with the case that was conducted. You remember, when the rights of detainees were being discussed in the Supreme Court, the Attorney General at that time said "Once the emergency is declared and the fundamental rights are suspended and when detainees are detained under MISA even if anything happens, no judicial remedy is available to them. "They cannot go to the Supreme Court. I remember Justice Khanna very sharply asked the Attorney General "Mr. Attorney General, imagine an over-enthusiastic Superintendent or Jail authorities kill a detainee behind the prison bars. Will not the wife of the detainee who has been killed has the doors of the Supreme Court open to seek a judicial remedy?" And in that case, I quote what he said. The Attorney General, Mr. De said: "Your Lordship, your conscience will be shocked, and my conscience is also shocked. But I must state the legal position: they will have no judicial remedy." (Interruptions) That was what he said.

Remember these consequences when you try to proclaim Emergency even for a limited territory or a limited State. I would like you to take note of that. I remember what happened during the Emergency; and Punjab will have to face that. I would like to remind my friends from Punjab, and remind my colleagues throughout India that what happened during the Emergency is likely to happen in Punjab if the Emergency is clamped in Punjab.

What happened? When I appeared before the Bangalore High Court and when we challenged the Emergency and challenged our detention, during the procedures, three interim orders were issued by the Chief Justice of the Karnataka High Court. But they were not allowed to be published in the newspapers at all. There was a total censorship. But in the end, when our case came up for final hearing and dismissal, the Chief Justice said that the Supreme Court had already delivered the judgement and, therefore, this case would become infructuous. He asked: 'Have you any statement to make?' I said on that occasion in the Bangalore High Court: 'Your Lordship, not only we are supposed to be a threat to the security of the State during the Emergency, but Your Lordship, you too seem to be a threat to the security of the State. That is why some of the interim orders that you have issued were not allowed to be published in the Press at all.' And thereafter I sat down with the cryptic statement: 'Our freedom is dead; long live your freedom.' That is all I said, and I resumed my seat. These are the consequences that are likely to take place.

Let me also remind you that when you have picked out Punjab and you have decided to apply this particular Bill to Punjab—you are opposed to Khalistan; you are opposed to separating Punjab and isolating it from the mainstream of India and you do not want to isolate them from the mainstream of Indian politics. But by clamping the emer-

gency or making a provision to clamp emergency on Punjab under false pretenses, you have already, constitutionally and in your perception, actually accepted the concept of Khalistan, as far as the question of emergency is concerned. You have already given them a feeling that you are going to treat them not on par with the rest of the country, but that you are going to have a privileged position for them, in which all their privileges will be destroyed. That is the situation which you have already created.

By isolating Punjab, you are trying to create a situation in which you have made them more desperate. When we challenge even certain failures on the part of the Government, as far as constitutionalities are concerned, I know they will have in advantage, viz. Article 74(2). No doubt, after we have amended the Constitution, a number of restrictions have been put forward. For instance, it cannot happen as it happened in 1975 when the then Prime Minister got the Emergency proclaimed from the President of India, and the next day, early in the morning, she called a Cabinet meeting only to tell them: 'I have called you only to inform you that the Emergency is already proclaimed.'

According to the 44th Constitution Amendment, according to the new amendment which was introduced in 1978, the Cabinet has to take a decision, make recommendations to the President; and they have to communicate their decision in writing. All those safeguards are there. But Article 74(2) is there. First, Article 74(1) says:

"There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President...."

But Article 74(2) says:

"The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any Court."

[Prof. Madhu Dandavate]

Though Mrs. Indira Gandhi had committed a great impropriety and a breach of Constitution, she had escaped it being challenged in a court of law only because of Art.74(2) which says "whether and what advice has been given by the Council of Ministers to the President shall not be enquired into in a court of law." Therefore, she had gone scot free. The same thing is likely to happen again, though we have raised a question of constitutionality, though we have raised a question of legislative competence of the House. All these questions will have to be settled in a court of law. But as far as other aspects are concerned, I am sure, they will take shelter behind Art. 74(2) and that is exactly the constraints that will be acting. What exactly will be the immediate effect of even announcement of the desire of the government is to have some sort of a legislation like this. I would like to draw your attention to that. From March 7, 1988 when the intention of the government to promulgate emergency through such a Bill was already declared, their intention to have 59th Amendment Bill was already indicated. Till 14th of March when actually the Bill was introduced in the Rajya Sabha, during that time there was a new spurt of violence resulting in 17 death in Punjab. So, the immediate effect of the declaration of the intention of the government to promulgate emergency or have an enabling provision to have emergency in Punjab was that 17 men were killed; and of course 17 terrorists were also killed by the police. Even when five Sikh priests were released from Jodhpur as also others were released from the Jodhpur Jail, 15 persons were killed. Whether it is an appeasement or whether it is a threat; neither the threat has helped in normalising the situation or the appeasement has helped in normalisation the situation. As my colleague Shri Somnath Chatterjee has said that it is only by finding out a political situation of the wax problem of Punjab that you will be able to restore normalcy in that particular State;

that point has to be taken note of. Now what is the *RAISON DETRE* of this particular Bill that has been brought here? They say that they want measures to check the situation in the Punjab. I want to ask a simple question from the Home Minister when he raises to reply to the debate or when another Minister intervenes in the debate. Why has the situation in Punjab not been controlled? Is it because of absence of enough legislation, administrative measures? We have the National Security Act; we have the Terrorists and Disruptive Activities Prevention Act. But it is a great irony that we sat upto night to adopt this Bill; and for months together, the rules required to be framed in connection with implementation of this particular Act were not framed at

(Interruptions)

PROF. N.G. RANGA (Guntur): Yes.

PROF. MADHU DANDAVATE: It was admitted here and Prof. Ranga also criticised the government why for months together they did not frame the rules; unless rules are framed, even the legislation which has become an Act, cannot be implemented at all and as a result of that you find that it remains just on the anvil. It could not be implemented. Again, you have the Punjab Disturbed Area Act. Then you have the Punjab Armed Forces Special Power Act. You have the sweeping powers to deal with the problem of law, but what are all these measures for? You will be shocked and surprised to know that the National Security Act and the Terrorists and Disruptive Activities Prevention Act, instead of being used for dealing with the law and order situation in Punjab; they are being misused to deal with their trade union problems. When there was an agitation among the textile workers in Ahmedabad, they utilised this very law to detain certain persons. It happened in a number of States. Therefore, instead of utilising this measure to maintain law and order situation in Punjab; they are actually

utilising it for other purposes.

But anyway all these laws are there and even they have not been able to produce any results. The worst victim of this will be the Fundamental Rights guaranteed by the Constitution.

Our colleagues and former Speaker of this House, Dr. Dhillon reminded the House that when he was the Speaker of the Lok Sabha in the Fifth Lok Sabha, actually Emergency was clamped and—he says—initially for a few months, fine results were produced by that particular Emergency during Mrs. Gandhi's regime. But then, he said a mess was made. A mess was made in the Fifth Lok Sabha and admission is being made by Dr. Dhillon in the Eighth Lok Sabha! I am sure, the mess that will be made about this particular legislation on Emergency, God bless, if it is available, in the Eleventh Lok Sabha he will be admitting that even mess is made of this particular Emergency provision. So, on the basis of experience we have to admit that it is a dangerous weapon that you are trying to utilise.

Look at the amendments to Articles 358 and 359. Remember, there will be an automatic suspension of Article 19 and Article 21, that is, the right to life and liberty. Suppression of freedom of Press will take away the freedom of information even outside Punjab, and the federal character of the State will be completely mutilated as Shri Somnath Chatterjee had rightly pointed out to you by quoting the various provisions of the Emergency. As a result of that the very soul of this democratic Constitution, that is, federalism of the Constitution, that is likely to be destroyed. And, how do they propose to do it?

They are trying to bring in this Bill without putting the Opposition Parties and the rest of the parties together here to have mutual consultations. I would like to remind

you that when the Janata Government came and when we wanted to repeal that atrocious Forty-second Constitution Amendment and some of the amendments, thank God, they did not come to our House they were accepted only in the Upper House, remember what dangerous and atrocious amendments they had made through the Forty-second Constitution Amendment and others also.

There was one amendment which was accepted in the other House but the burden of guilt was so heavy that they did not bring it down here. And that was an amendment giving immunity to the Prime Minister, the Speaker, the President and the Vice-President from criminal prosecution in ordinary courts of law. It would have meant that if the Prime Minister commits a murder, if the President commits a murder, if the Speaker commits a murder—the Chairman was not there—if they commit these murders they will have immunity from criminal prosecution in ordinary courts. It did not happen even in Hitler's Germany. But the burden of guilt was so heavy that they had some morality left, not to bring it in the lower House. But the Forty-second Constitution Amendment was passed. Democratic features were sought to be curtailed. In fact, I am one of those who believe that even if the Janata Government were not to come and this particular Forty-second Constitution Amendment was not to be repealed, even then if anybody had gone to the court of law, I have not the least doubt that the Forty-second Constitution Amendment would not have stood the judicial scrutiny in the Supreme Court. That is my faith in judiciary. It would have never stood.

But that Forty-second Constitution Amendment, when we came to power after Emergency struggle we wanted to repeal it. What did we do? We had meetings with the Leaders of the Opposition. We had meetings with prominent constitutional experts sitting in the Opposition. We had a dialogue and in consultation with them and with their

[Prof. Madhu Dandavate]

occurrence we were able to bring about the repeal of the Forty-second Constitution Amendment, that was then the Forty-fifth Amendment, which as I rightly said, afterwards became the Forty-fourth Constitution Amendment when it became an Act and a law.

And, I wish to point out to you, I want to quote the utterances of a very prominent dignitary today. I can refer to him because he was an ordinary member of the Parliament then, though he happens to be the President today.

15.00 hrs.

Mr. Venkataraman, functioning as a responsible member of the opposition, was conscious of damage that was done to democratic life of this country through 42nd Constitutional Amendment. He supported the 44th Constitutional Amendment and on 7th August 1978, Mr. R. Venkataraman, who is today the President of India and who will have to proclaim Emergency whenever you tried to advise him, he had said:

Mr. Deputy-Speaker, Sir, it is a tried during thing that political looks to the next elections and the statement looks to the next generation. Therefore, we should on this occasion cease to be politicians and try to be statesman and hammer out a solution for our problems that will endure not only to the next generation, but to posterity.'

Today, if you are not able to follow us, atleast follow your colleague, who has been elevated to the highest office of the Presidentship of India. These are the aspects that have to be borne in mind. At that time, Shri Y.B. Chavan was the leader of the opposition in this House and Shri Kamalapati was the leader of the opposition in the other House. Both of them were consulted

and in consultation with them, 42nd Constitutional Amendment have been repealed. Even if you adopt this particular legislation today with brute majority, tomorrow you can have a meeting of consultations to discuss as to how we can repeal this Amendment. That part is still open to you.

(Interruptions)

PROF. N.G. RANGA :Yesterday what did you do? (Interruptions)

PROF. MADHU DANDAVATE : I only hope, Prof. N.G. Ranga, that no Bill will be brought further to state that due to internal disturbances in the Lok Sabha, the Emergency should be proclaimed in the Lok Sabha also. I only hope that you will not go to that extent.

(Interruptions)

THE MINISTER OF IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Yesterday, with brute minority. (interruptions)

PROF. MADHU DANDAVATE : Sir, let me point to you in all humility that Punjab will be a spring board for the entire country. They are going to test Punjab as a laboratory and if they are unable to push this, they should be able to push similar situations throughout the country. Why I am speaking in this House on this particular Bill? I am reminded about the veteran Parliamentarian in this house. I am referring to Comrade Gopalan, who was occupying the seat which today Mr. Madhav Reddy is occupying. I am reminded about his very first speech in 1952. He was initiating the debate on the motion of thanks to the President. The first sentence that he uttered on that occasion was:

"The President's address is the declaration of war against the people and I am rising to declare over this hall that we are determined to fight back this war".

That is what Comrade Gopalan had said. I do not know whether it was appropriate on that occasion and the situation was so grave; but I am sure what Comrade Gopalan said in 1952 ought to have been said in 1975 in this House when we were in Jail and Mrs. Gandhi was occupying the Prime Minister chair. Today again we are meeting here to have a measure, which is a miniature Emergency measure, and it is going to be clamped in Punjab in times to come.

I am sure what Comrade Gopalan had said 'This is a declaration of war against the people and we are determined to fight back this war' with the same spirit we want to declare that we have a number of avenues - we have the Parliament, we have the judiciary, and we have the country, the land of Gandhi where freedom you may suppress. One Gandhi might try to destroy the democracy, but remember another Gandhi, we shall fight tooth and nail to see that Emergency is not brought in this country; not brought into Punjab; and we shall fight it back. Remember that anti-emergency struggle of 1975 to 1977 had destroyed this Government. I want to remind them, not what we said or not what Mr. Venkataraman had said, but what the Prime Minister, Rajiv Gandhi, had said while intervening in the debate on the Motion of Thanks for the first time when he became the Prime Minister. While he was being interrupted by some Members in this House, he said that we committed a blunder in 1975 and therefore, we were out of power in 1977, and others committed a blunder in 1980 and therefore, they were out of power in 1980. We must not repeat the mistake. That is what he said. So he had accepted the fact that it was a blunder that emergency was proclaimed in 1975. But as the famous saying goes, history

repeats itself and probably he was to repeat the history. He has forgotten the fate of his mother from 1975 to 1977. He has not taken cognisance of a mighty struggle under the leadership of Jayaprakash Narayan from 1975 to 1977. I would warn the Government that Lok Nayak Jayaprakash Narayan is no longer with us but the memory of Jayaprakash Narayan will always be with us. Just like we were able to fight back the emergency from 1975 to 1977, we shall fight back this emergency inside Parliament, inside the the Judiciary and on the streets of India. In this land of Mahatma Gandhi, we shall never give up that. Therefore, even at this late hour I would appeal to the Home Minister to take cognisance of the facts of history, the lessons of history. But I think, his maxim is that the only lesson that the man learns from history is that man does not learn from history. That seems to be the lesson that he is deriving. If this is the lesson that the present Government tries to derive, it will derive it at its own cost and its own peril. I warn them not to have such a lesson.

SHRI JAGAN NATH KAUSHAL (Chandigarh): Today I am speaking as a sad and depressed person - sad and depressed for what happened in this House yesterday.

I have been listening to great orations of my friends on the opposite, their swearing by democracy, their swearing by the Constitution. And at the same time, Prof. Madhu Dandavate had said - I had read it in the press, but now I have heard him speaking in this House; I say, please desist from this attitude - that they will fight in Parliament, they will fight in courts and they will fight in streets. Is this the attitude of people who believe in democracy? (*Interruptions*)

PROF. MADHU DANDAVATE: I have great respect for Mr. Kaushal. Remember that when Mahatma Gandhi made the Dandi march, Britishers had said that he was fighting in the streets... (*Interruptions*) Fighting in

[Prof. Madhu Dandavate]

the streets is the Gandhian path so long as you are peaceful. ... (Interruptions)

SHRI SATYAGOPAL MISRA: **
...(Interruptions)

PROF. MADHU DANDAVATE: Sir, they have celebrated Dandi March. It was a march on the street... (Interruptions).

MR. CHAIRMAN: Order please..

(Interruptions)

PROF. MADHU DANDAVATE: Was Dandi March a parliamentary activity or a legal activity?

[Translation]

SHRI R.L. BHATIA (Amritsar): Professor Sahib will you allow him to speak or not?

[English]

SHRI JAGAN NATH KAUSHAL: Sir, may I repeat - and I crave the hon. Members to give me a patient hearing; We have been hearing them for the last two hours without interruptions... (Interruptions).

PROF. MADHU DANDAVATE: I am sorry if you have felt hurt. I had no desire to interrupt you. I always give a repartee and you have also been occasionally doing it. I welcome it.

SHRI JAGAN NATH KAUSHAL: I have felt hurt because an hon. Member has said that I am talking **..... I have felt very hurt on this and I will certainly... (Interruptions).

MR. CHAIRMAN: If anyone has said so, it is expunged.

SHRI JAGAN NATH KAUSHAL: Mr. Chairman, whether it is expunged or not, I have felt hurt over what he has said. May I, for the benefit of my hon. friend, tell him that I entered this great Parliament in 1952. I was a Member of the Rajya Sabha for full twelve years and I am a Member of this august House since 1980. I have today almost completed twenty years of my parliamentary life. But I feel hurt, I feel sorry over what is happening. As I said, yesterday for full hundred minutes, the proceedings of the House were not allowed to continue. And may I say something more. Today I am grateful to my friends that they have participated in the debate, but I was totally afraid that if they continue the same attitude which they continued yesterday, then what is going to happen to the parliamentary procedure. We are entirely in the hands of the Opposition. I am raising a fundamental issue. Mr. Dandavate is within his rights to say that they will fight this particular Bill in Parliament. But the way to fight the Bill in Parliament is not to allow the proceedings not to continue for hours together, the way to fight is you advance very good arguments, you try to take the debate to a higher level. Please fight it in that way. Mr. Dandavate is very right when he says he is going to challenge the Constitutional amendment in the court. He is welcome. But if he thinks that fighting this particular measure in Parliament means obstructing the Parliament, we shall not permit. Has the will of the majority lost all meaning? Is it only they who represent the people, a handful of them, and we do not represent the people? Are we here by nomination of somebody? We are here by a massive mandate of the people. I with all humility

**Expunged as ordered by the Chair.

appeal to my friends on the Opposite and since they are votaries of the fundamental rights of citizens, they are votaries of the Constitution, they are votaries of the parliamentary procedure, please for God sake desist from the attitude which they betrayed yesterday and which they are threatening again to betray. Now another thing which I am again saying not in a jocular mood is this. Sir, I and my friend, Rao Birendra Singh, are sitting in these seats and I feel we are in a dangerous zone. Yesterday, two of my friends - I am obliged to them - Shri Jaipal Reddy and Choubeyji barricaded the people and the moment they cross we are the first casualties. (*Interruptions*) Sir, as I said, I am not saying this in a joking manner. Really we feel we are in danger zone. You either provide helmets to us or provide hair on our bald heads (*Interruptions*).

"Next time, I will say, give us the 'pagri' of Mr. Ramoowalia and Mr. Buta Singh. At least that will give us some protection. But I am saying that I am not in jocular mood and I really feel that if our Members, the Members of the highest forum, behave in that manner and supposing the people of my side also start behaving in the same manner, then do we really want to break each others head? Friends, may I tell you "don't tread this dangerous ground..... We are more in number." (*Interruptions*)

SHRI S. JAIPAL REDDY (Mahbubnagar): You allow him to speak. He is betraying himself.

SHRI E. AYYAPU REDDY: Sir, the last sentence of the hon. Member referred to the number. This is most unfortunate.

PROF. MADHU DANDAVATE: We have taken it in sportsman spirit because these positions are inter-changeable.

MR. CHAIRMAN: Please come to the Bill.

SHRI JAGAN NATH KAUSHAL: Sir, I am coming to the Bill itself. Now, why did I preface my submission with the remarks which I made? The reason was and I repeat it again that I was hurt over what Professor Madhu Dandavate had said. I would request Professor Madhu Dandavate - he is a parliamentarian, he is an intellectual, he has much more, probably, experience than I have in the Parliament - that please try to convince people that what we are doing is wrong and the time for convincing people will come when we go for election. I will again say that you are nobody to ask us to get out by shouting. We will not get out by shouting, we can only get out in the manner in which people have elected us. You can go and tell people that we are not doing something which is proper.

PROF. MADHU DANDAVATE: They would like to go in the 77 way, Sir. (*Interruptions*).

SHRI JAGAN NATH KAUSHAL: These interruptions I don't mind. You have a right to say. But may I say one thing, Sir? The Constitution Amendment Bill which we have brought forward cannot be divorced from reality. Now, why have we brought it? What was the situation which has prompted the Government to bring this Bill should be kept in mind rather than go on repeating and theorising on the validity of some provisions of the Constitution, as to what happened in the Supreme Court, what was the effect of the Proclamation which was issued in 1975, what happened in 1977, then what happened when Janata Government came and later on the same electorate asked us to come back. These things won't help anybody. The real thing to be judged today is, as I said last time also, we are dealing with Punjab which has unfortunately become a highly complex situation.

AN HON. MEMBER: It is because of you.

SHRI JAGAN NATH KAUSHAL: You say, because of me. I said last time also and I will repeat it and I will end my speech by saying that if your attitude is consistent, probably we will be able to solve this problem earlier. Unfortunately, and I am saying with all seriousness, there are contradictions in the ideas which you have. At one place every one of my friends and every one on this side has agreed that terrorism, secessionism, extremism and fundamentalism have to be eliminated. Well, on that matter everybody has agreed. If we take steps for doing this, you criticise the steps, and then you further say that the Government will not be able to solve the Punjab problem by only eliminating terrorism, by only eliminating secessionism, but the Government will have to take some political steps, and when political steps are taken, instead of helping the Government, again you criticise them. Now, examine what the Government has done just now. Last time when the Government came to this House, they said, "We want to dissolve the Punjab Assembly", and Mr. Somnath Chatterjee said, no valid reason was given. The reason was given which according to the Government's point of view was a valid reason, and now that has become a valid reason because the House has passed it and the reason was that the Assembly was kept in suspended animation in the hope that the various factions of the Akali Dal will close their ranks, they will choose a leader who will be in a position to run the State in a Constitutional manner and we were having that hope. Unfortunately they could not close their ranks. They were speaking in different language. Most of them were trying to help the cult of violence. So, the hope was lost and this elected Party which had got a massive mandate of the people are not in a position to run the State.

SHRI V. SOBHANADRESWARA RAO (Vijayawada): Just before the Rajya Sabha elections this was brought, Sir.

SHRI JAGAN NATH KAUSHAL: Once the Assembly was dissolved, Sir on that very day the Government said, 'If need be, we might take some other steps.' And the other step taken was, No.1, 40 detainees were released; No.2, 5 high priests were released. And there was a hidden hope that this step might ultimately create a better climate. The Government did hope; Government has not yet lost the hope, although there is a spurt in violence. The hope is that ultimately the religious heads will exercise their religious and moral authority in trying to see that the sad Punjab which has bled so much will come to the path of sanity because, everybody is convinced that this handful of misguided people who are getting their support from people outside the country, who are getting their support from Pakistan, who are getting their support from people living abroad, might be brought back to the mainstream. This was the hope and that hope is still there. We are not losing the hope because ultimately we believe and we have a firm belief that no religion in the world ever taught or will ever teach blood-shedding of innocent people, much less the Sikh religion. Sikh religion was born for the purpose of fighting against suppression. We do not expect any religion to behave in that manner and as I say, we are still in the hope that those high priests will at least issue this Hukamnama: Please don't kill innocent people.

May I tell you, our hearts bleed when we read two captions in the big newspapers. One caption was: Women are weeping and they are saying: Why should your cause leave us widows? Can we give any answer? The second caption is this: People are taking the dead bodies in a procession and there, they say, we have also the right to live in peace. Why should your cause deny that right to us?

Now, my friends also know that my one daughter is married in Amritsar, my second

daughter is married in Patiala and my third daughter is married in Ludhiana. The terrorism under which they are living and the question they are putting to us every day is: When is this problem going to be solved? Now to say that the Government is doing nothing, with all respect, I will say that Government is trying to find various means to see how to solve this situation. As I say, one step is taken which some friends may not like it because ultimately we take steps with honest conviction. We take steps that this will come about.

A number of times from both sides, the name of Sushil Muni has been taken. Jasbir Singh Rode also said, "Yes, Sushil Muni did meet me in Jail" Sir, we all know that these Jain Munis are persons of non-violence. We know, they can wield moral influence. If they can wield, if Jasbir Singh Rode ultimately comes to the path of sanity, it is better. If he thinks that he has the religious authority at least one statement he has given in which he says, I will see that the Golden Temple is not misused for the purpose of desecrating it, is it not a step in the right direction? If the second step also comes that the Hukumnamas are issued—innocent will not be killed, I think, the atmosphere will be built. It is not that, I say, every problem will be solved. Problems will have to be solved by taking a number of steps. Now this step has been taken. My friend says, why have you taken this step, in this direction to try to amend the Constitution. Why do you not take the step when you will lose your authority to amend the Constitution? It is a wonderful situation. They say, "Only today you have two-third majority. Tomorrow two third majority may not be there. You may require to amend the Constitution. Bring the amendment at that time so that you may not be able to amend the Constitution." A friend said so.

15.30 hrs.

[SHRI VAKKOM PURUSHOTHAMAN in the Chair]

SHRI E. AYYAPU REDDY: National consensus was the point made.

SHRI JAGAN NATH KAUSHAL: National consensus was the second point which was made. One hon. Member did say "You brought this measure in the Rajya Sabha at a time when you thought this is the opportune time for having two third majority but after the elections which Rajya Sabha is having of one third Members, you may not be able to amend" I say that there is nothing wrong about it.

PROF. MADHU DANDAVATE: You are right.

SHRI JAGAN NATH KAUSHAL: We again feel that, if need be, we might impose emergency in Punjab. But not that emergency has been imposed in Punjab. It may not be necessary if situation improves. Surely, we are not fond of emergency. The whole point is, my friends are trying to say once emergency is imposed, many things will happen and my friends say (*Interruptions*) May I again request that this running commentary disturbs me? Not that you have no rights because rights you are creating for yourself now. I have nothing to say. When Shri Somnath Chatterjee and Prof. Madhu Dandavate were speaking, there was not a whisper from this side. Pin drop silence was there. We will show that respect to you. We only expect that respect. That is all.

SHRI SOMNATH CHATTERJEE: If anybody interrupts, that does not mean that we have no respect for you. We have very high respect for you.

PROF. MADHU DANDAVATE: If we do not respect, who can respect you?

SHRI JAGAN NATH KAUSHAL: Therefore may I say that Prof. Madhu Dandavate grew very eloquent on one matter and he was eloquent because of his own experience because he said, by the time his petition came in before the High Court, the Supreme Court had pronounced on the validity of the proclamation. Now the validity of proclamation was examined in the Supreme Court. Shri Somnath Chatterjee says it is an unfortunate decision by the Supreme Court. But the constitutional validity of the earlier proclamation had been upheld by the Supreme Court by a judgement of four to one. Justice Khanna was in minority. Justice Khanna did say "I do not agree with my brethren" but the four judges said "Once proclamation is issued, all fundamental rights stand suspended including Article 21." I again hope that such a situation will not arise when emergency will be imposed even in Punjab. I have every hope and my hope flows from this that people with authority will come forward to bring back the misguided people to the mainstream. What do we want from them? We want two things.

Don't try to get your point settled by violence. Abjure violence. Come to the table. We will have a talk. We can have debates. We can have peaceful legitimate means.

PROF. MADHU DANDAVATE: Peaceful mass movements.

SHRI JAGAN NATH KAUSHAL: Secondly, please do not talk of secessionism from India, because no country is prepared to sacrifice either the unity or integrity of the country. But we hope any day that normalcy would return to Punjab. I have no doubt in my mind that it would happen sooner than any one of us feel because Punjab has bled enough. Punjab has shed so much of blood of innocent men. Things have gone from gruesome killings to the extent of savagery. Family after family is being wiped out. Ladies are being killed. Children are being killed.

Nobody is being spared. Are we really feeling this will continue? I have a feeling that this shall not continue and we will go on making all efforts to see that this does not continue. But if need be, then we will have all weapons in our armoury and which weapon to use at what time, is ultimately left to the judgement of the Government of the day. I would assure you that this Government is as much, if not more, worried about as anybody else in solving the problem of Punjab which is the problem of the whole country.

Sir, according to me my friends are smelling rat where there is none. They say: "we will not believe if the Home Minister assures"... (*Interruptions*). My friends say: "We will not believe the assertions of the Government. We will not believe the assurances of the Government. We will not believe because something had happened earlier and therefore this is bound to happen"... (*Interruptions*). I again repeat that the Government has no intention to misuse any power which may be placed in the hands of the Government by passing this legislation. My friend Mr. Chatterjee was asking that facts and figures should be given as to in how many cases convictions have not been able to be obtained; in how many cases Courts have refused to entertain cases; in how many cases the earlier laws have become ineffective. I would like to bring to the notice of my hon. friend, this fact for whom I have great respect. He is a very eminent barrister. Courts are mortally afraid to deal with those cases. People are mortally afraid to go to the Courts and give evidence even if the trial is held in a Jail. You have passed, undoubtedly, those laws which are not needed during normal times. But are we dealing with things in the normal times? They are more worried about the rights of a hundred people. They are not worried about the rights of those people who are being killed everyday. (*Interruptions*)

PROF. MADHU DANDAVATE: This is

very unfair. (*Interruptions*)

SHRI JAGAN NATH KAUSHAL: You are saying so. Probably, as I say, I may be wrong in understanding them. the rights of terrorists are more than the rights of the ordinary people ... (*Interruptions*) I may be wrong. But the impression which is being created in my mind, I cannot hide that from the House.

PROF. MADHU DANDAVATE: Please remove that impression.

SHRI JAGAN NATH KAUSHAL: Professor Saheb, it will only be removed from my mind when you are extending your helping hand to the Government in crushing terrorism. (*Interruptions*)

MR. CHAIRMAN: Why everybody is always speaking? If anyone of you wants to ask any question, please stand up and ask. No, no. That is not fair. That is not allowed.

(*Interruptions*)

MR. CHAIRMAN: Please conclude.

(*Interruptions*)

SHRI JAGAN NATH KAUSHAL: Therefore, when this Bill was introduced in the Rajya Sabha, a fear was expressed that in the garb of this Bill, an emergency may be introduced in the rest of the country. We thought that if we read Article 359 (a) which has been added in the opening part, it was said in relation to Punjab. But since we thought there may be ultimately a doubt in the minds of the opposition friends, the Government came forward and made it absolutely clear that we were only dealing with Punjab and we were not dealing with the rest of the country.

With regard to the Bill itself, again, some apprehension has been expressed in the

minds of some friends that in spite of your clearly stating that this is meant for Punjab, under the garb of that very provision, emergency can be imposed in other parts of the country. I totally repudiate this suggestions. (*Interruptions*)

PROF. MADHU DANDAVATE: We only say, "spring board".

SHRI JAGAN NATH KAUSHAL: You said "spring board", but other friends are reading that. (*Interruptions*)

SHRI SOMNATH CHATTERJEE: I said: "Similar consequences will be there." (*Interruptions*)

SHRI JAGAN NATH KAUSHAL: Mr. Chatterjee, I am thankful to you because if you do not disagree on basic matters, the debate becomes easier. My submission to the House is this. Don't read more into the Bill than what is not contained there. Do not try to unnecessarily raise a bogie that the whole of the country will be affected. The whole of the country is only affected when Punjab problem is not settled. Otherwise, the country will, of course, be affected — there will be peace, there will be amity, there will be — I should say — an atmosphere for which we are pining for all this time. There will be no occasion for a person like Thackeray who has issued a most pernicious threat that in case the Punjab problem is not solved, we will boycott the people living in Maharashtra. It is most unfortunate.

PROF. MADHU DANDAVATE: That is not the view-point of Maharashtra.

SHRI JAGAN NATH KAUSHAL: As I say, if Punjab problem is solved in the right spirit, we are sorry that the Barnala Government had to be dismissed. I have no doubt in my mind about that. Shri Barnala was one of the finest persons whom we could spot. He did his best but he had his compulsions. He

[Sh. Jagan Nath Kaushal]
could not contain his flock. He could not get.
(Interruptions)

SHRI SAIFUDDIN CHOWDHARY
(Katwa): What have you done then?

MR. CHAIRMAN: Order, order. Nothing said without the permission of the Chair will be recorded.

(Interruptions)

SHRI JAGAN NATH KAUSHAL: For interruption, they don't need your permission.

PROF. MADHU DANDAVATE: But it should be recorded. (Interruptions)

SHRI JAGAN NATH KAUSHAL: Therefore, what I say is this. We were trying to help Barnala. We are in search of people like Barnala. We are prepared to trust Barnala again provided Barnala becomes undisputed leader of the Sikh, undisputed leader of Akali. And we are prepared to talk with anybody who is prepared to deliver goods provided he works in the framework of the Constitution and provided he sheds violence.

Now my friends have been asking over and over again, as to what ultimately is going to be the result of the passing of this legislation. I say even if this legislation is passed, Parliament contains its full control when we come after issuing of the proclamation. My friends who have studied the Constitution know that as many as six safeguards are given in the Constitution itself. (Interruptions)

There are six safeguards and we have not tried to tinker with any of these safeguards. Professor pointed out one safeguard. All the Cabinet Ministers will have to pass a resolution and that resolution will

have to be submitted to the President in writing... (Interruptions)

The second safeguard is, the moment the proclamation is issued, it shall have to be placed on the floor of the Parliament within 30 days.

PROF. MADHU DANDAVATE: On the Table. If you put it on the floor, we will be very happy!

SHRI JAGAN NATH KAUSHAL: Because you can sit over it! It shall have to be placed on the Table of the Parliament. Then the Parliament will again have to approve it. That approval is regarding the proclamation of emergency and it will again require the same majority. So far as the revoking of the proclamation is concerned, simple majority. Only 1/10 of the Members can bring forward a resolution and within 14 days a special session will have to be called. That is still there.

As I say, the whole Parliamentary control is there at every step. The moment we try to take a step, the Parliament will scrutinise it. Ultimately the Parliament will have to pass the proclamation and then, after every six months we have to come to the Parliament if the proclamation is to continue for more than six months. Over and above everything, the whole exercise is for two years. It is a temporary measure. Does it not indicate that the Government is not fond of having over powers? The Government is only asking the Parliament to give them those powers so that they can deal with the complex situation of the Punjab in a satisfactory manner, in a manner in which peace returns to the Punjab. We hope and pray that peace will return to the Punjab sooner than we expect.

SHRI INDRAJIT GUPTA (Basirhat): Mr. Chairman Sir: I feel somewhat hand-capped because I am not a Constitutional lawyer. But the first question I would like to

raise again is whether the ruling party really and sincerely considers this problem of the Punjab to be a party problem or a national problem.

AN HON. MEMBER: They say it is a party problem.

SHRI INDRAJIT GUPTA: Party problem? Thank you very much.

The elaborate complaint which was made here by my friend Mr. Kaushal is about the yesterday's demonstration, which of course was not a demonstration which please anybody. But I can assure my friend on that side that such a demonstration would never have taken place if this question had been earlier made the subject matter of discussion and consultation with the Opposition. That is why I am raising this question whether you consider this to be a party issue or a national issue.

You want to ignore the opposition on this matter. You want to ignore talking even to people whose blood is being shed every day. I was very hurt by what Mr. Kaushal said that 'you don't bother about people who are being killed by terrorists'. We don't bother? Don't say these things, Mr. Kaushal. We have never come here to cry and weep about our people who are being killed. And not killed only because they are sitting at home, but being killed because even in this situation, at great risk to their lives, they are trying to mobilise people against the terrorists. You know this. So, don't say these things. We also feel hurt that you don't consider it necessary to sit with the Opposition and to consult them, to hear their ideas, to listen to their suggestions; you may not accept their suggestions but gave them a feeling 'yes' they are being associated with the solution of a national problem. Do not forget this fact. This demonstration is not a spontaneous thing which took place out of the vacuum. Members feel on this side. (Interruptions)

Please try to understand what I am saying because your party has not learnt from the experiences of the last emergency. My party has. I have a right to say this. My party made the most serious political error of its whole life-time by supporting the emergency of 1975. We have publicly admitted it. We supported the emergency when it was declared in 1975 also believing foolishly in all these assurances and what not that were given which are being repeated now. You may say that was a very immature thing for a political party like Congress to do. Whatever you may say we made a mistake. We did not lack the frankness to admit it later on because as somebody said today, I think it was Dr. Dhillon, that in the beginning one had an idea about that emergency that it might bring some beneficial results and it may really be used against people who deserve to be treated with harshness. That was not. What happened later on? I was in this House during the whole period of emergency. Politically we were supporting the emergency in the beginning but measure after measure was brought which I could not find possible to swallow. You can read the record. There were amendments to MiSA making it more and more stringent and strict and so many other things. You had to release vast number of people who were arrested because there was nothing against them. We could not support all the coercive measures which were used against ordinary people in the name of family planning, demolition of houses and huts, etc.

Even giving some members the benefit of doubt that they are honest in their intentions that is why I asked the question the other day: Is there some method in this madness? You have forgotten everything. Why did I call it madness? Is it not madness that one day you release the very persons, the same people — I am not talking about the Jodhpur detainees. There I have got a grouse that you have released only forty of them — those priests. You know them better

[Sh. Indrajit Gupta]

than I do. You have given a big certificate to them here in your speech. I said that day also and I repeat: I do not know to what extent they can be called priests at all. You please tell me. It is on record what Mr. Jasbir Singh Rode's past history is; what his movements are, where you were hunting for him before you could lay your hands on him — from Manila to London. Why were you hunting for him if he was only a religious priest? Anyway I consider it madness that this type of people who are pledged to this concept of 'purna azadi' for Sikhs. Nobody is prepared to define what it means and what exactly they want. Now such people are released and escorted by our security forces upto the gates of the Golden Temple. There they are greeted by the militants by volleys of gun-fire — a big celebration, triumph and victory for them they felt. Fifteen days after that, you come and say, the situation has become so bad that we must bring this Amending Bill to take powers. (*Interruptions*) Is it not madness? Then, I thought to myself that there must be some method in it? I really do credit this Government with more intelligence and not to think that they are doing something without some strategy behind it, some idea behind it.

Today, after hearing my friend, Mr. Kaushal, I was happy to find that he is one of the few Members of the ruling party who seems to have been taken into confidence before these measures were taken. So, I should not grumble that the Opposition has been ignored because I know what has happened to the Members of the ruling party also, including those who are elected from the Punjab. They were never consulted. They were only informed after the decision was taken. Everybody knows it.

PROF. MADHU DANDAVATE: Like 1975.

SHRI INDRAJIT GUPTA: Today, Mr.

Kaushal said, Government has got this in mind; they have got that in mind; they have got this hope and that hope and Sushil Muni has given them some hope. That means he must have been consulted. (*Interruptions*)

I have got nothing against this Sushil Muni. But there are thousands of Sushil Munis in this country.

SHRI JAGAN NATH KAUSHAL: Not thousands.

SHRI INDRAJIT GUPTA: This particular one. At least, we should have been told who brought him on the scene. How did he arrive? Where did he come from? How was he used? Why was he used as an intermediary? There are so many religious men, so many *swamis* and so many holy people going around in our country. There must be some particular qualification that this Sushil Muni has for which he was given so much importance by the Prime Minister and was used as an intermediary.

All holy men are supposed to preach non-violence, peace and brotherhood. They don't go about preaching violence except some I find now in this last phase of our history. Who took these decisions? Who was consulted? Ordinary Congress members were not consulted. Ministers were not consulted. Only Sushil Muni. Yet we say that we don't want religion and politics to be mixed up together. It is a very salutary principle. I agree with it. So, something has gone on in a clandestine way which is not, in my opinion, the way in which to handle these problems.

Sir, our basic objections to this Bill have been stated at great length by my colleagues. Unfortunately due to certain compulsions, which I can't avoid, I will probably not be present in the House when the time for voting comes. I have to leave. I am casting my vote in advance totally against this Bill. I

am not for any amendment for it. There is nothing to be amended. It should be opposed lock, stock and barrel because it will be completely futile in dealing with these terrorists.

Tell me even if you proclaim any emergency, will it apply to that area which is known as the 'Golden Temple complex' in Amritsar? Will the writ of your emergency run within that Golden Temple complex which has become now the headquarters of the Khalistanis?

16.00 hrs.

During Blue Star Operation, we thought that we had cleaned them out. Now where are we back again? We can't enter that temple again in the same old way. It is not possible. You know what the result, what the fall-out was. There, they are doing whatever they like. If Mr. Jasbir Singh Rode really starts moving in the way which Mr. Kaushal hopes he will move, well, I will be the first to admit that I made a mistake about it. But nothing he has said or done up to now points to that. Sir, he was installed in the temple at the time when 34 people were killed that night in Kari Sari in Hoshiarpur. I do not find him uttering a single word of condemnation about it. This is another trouble nowadays that even about the condemning of killings of people, they become one-sided in their judgements and pronouncements. If we are Indians, as we are going on professing that we are all Indians, then our hearts should bleed whenever innocent people are killed, whether they be Hindus, Christians or whoever they are. I cannot agree with people who go on condemning killings only in a one-sided way. There are some people who only go on harping on the fact that innocent Sikh youths are being killed in false encounters. But you would have utter a single word about dozens of people, innocent unarmed people who are being massacred everywhere. Similarly, there are people who only start to

speak to make statements and all that, when Hindus are killed. I cannot understand this point of view at all. Innocent person is an innocent person and a killer is a killer and if you agree that killers should be punished whoever they are, then it does not matter whether he is a killer in Amritsar or a killer in Delhi. Yes, those killers in Punjab should be punished, if we have the capacity to catch them and punish them. In the same way, the killers who kill Sikhs in Delhi are no less than killers, they should also be punished. If you adopt double standards on these issues, how do you expect to carry the people and the nation with you? It is not possible.

Now, all I want to say is that I do not have any confidence in the intentions of the Government which I am sorry to say. Partly because of our past bitter experience and also because of the draft Bill presented in the Rajya Sabha. That has been amended now after the big hullabaloo and Pandemonium that took place in the Rajya Sabha, after the Press wrote about it and only after that this amendment was brought restricting its applicability for the time being only to Punjab. It does not mean that it should be restricted to Punjab for all times to come. A simple amendment can change all that. What was the original Bill which was brought in the Rajya Sabha and why was it brought in that way where its applicability was to the whole country? I feel that the real intentions of the Government was something else. They have been exposed fully by that draft Bill and the Statement of Objects and Reasons which was attached to it, at least the Rajya Sabha Members had that good fortune to get the Statement of Objects and Reasons which the Lok Sabha has been denied. What you have brought here now is a new Bill. It is a completely new Bill. It was not the Bill which was introduced in the Rajya Sabha at all. It is a new Bill after amendment, after taking certain things into consideration but we are denied even the benefit of a note or Statement of Objects and Reasons or any-

[Sh. Indrajit Gupta]

thing. Is that the way to treat the Lok Sabha? These are things about which we feel and get sore. After all, we have been in this House for a long time. I have been here since 1960 except for three years in between. We also have seen something of the old Parliament, when Pandit Nehru was here. We have also seen something called traditions and conventions and the way of functioning in a Parliamentary democracy. We find that those things are gradually being ignored, neglected and given a go-bye. We are also hurt and upset and we wonder where the country will be taken eventually. Therefore, this restriction of the applicability to Punjab would have been done from the very outset, if that was all their intention. That was not done. So, there is not much grace. I must say that Government has not shown much grace in making this amendment. This amendment does represent concession but it is a retreat from what they originally wanted to do and that is why we say that at any time, powers are there, a small amendment can again make this thing applicable to the entire country, specially now when you have introduced or re-introduced the concept of 'internal disturbance'. The internal disturbance was not there; that was removed. For the last 10 years, we had external aggression, war and rebellion. I want to repeat what was said when the Congress Party was in Opposition here. How several of their prominent members had assured the House that this phrase of internal disturbance would be removed and it would not be brought back again. It has no definition also. What do you mean by internal disturbance? I can mean anything to anybody. You are free to have any interpretation you like. No definition of any kind. Now, you have brought it back. So, we are going back to 1975. This is putting the clock back to 1975. Anyway, as I said, I am not a lawyer. If this provision does not affect the operation of Article 83... (*Interruptions*)

I know there is a proviso under Article 83

which permits the Government, during the pendency of emergency, to extend the life of the Parliament for one year at a time beyond its normal span. I do not know, because I read in the newspapers. Now, we have to depend on the papers because we are never consulted or called for discussion. I have read in the newspaper that the Prime Minister has written a letter to some Member of Parliament who had expressed a doubt as to whether the elections were going to be held at all. And the Prime Minister has written to him, it has come in the papers, that this House has been elected for 5 years and we will hold elections after that. But the life of Parliament can be extended, no doubt under Article 83.

MR. CHAIRMAN: Yes.

PROF. MADHU DANDAVATE: What is your surmise? (*Interruptions*)

Mr. Chairman: Clarify that your yes means no. (*Interruptions*)

SHRI INDRAJIT GUPTA: One or two more points I would like to make because I think they are relevant, one is regarding our experience of the assurances which have been given in the past.

There is a whole battery of repressive laws on the Statute book. Now, it is not only the question of emergency, there is a National Security Act. There is the Terrorists' Disruptive Activities Act. There is the Disturbed Areas Act. Whenever one of these Acts was passed, whenever the Bills were brought, we were always told in this House that it has become very necessary because under the existing laws, the law enforcing authorities are not able to act effectively and, therefore, this new Act has to be passed but we assure everybody that it will not be used for wrong purposes and it will not be used against the people who are innocent or who are peace-loving. May I just remind you, Sir,

under the National Security Act, who were arrested or detained without trial. First and foremost were the trade union workers. The first and foremost was the Member of this House, Shri A.K. Roy, who used to sit over there. The National Security Act was used to arrest him and detain him. Then he was released after some time. When he came to the House he made a Statement saying that the reasons for his being arrested was that some people wanted him out of the way while the Municipal Elections were being held in Dhanbad. This was a great threat to our national security.

These are only a few instances which are to my knowledge. I know them. There may be so many of them. In the Tata Oil Mills, Bombay, the Secretary of the Trade Union by the name of Michael D'Souza was detained for one year under this National Security Act because that Union was involved in a dispute with the Management. They were not agreeing to some terms which the Management were trying to impose on the workers. So, possibly, on the complaint of the Tata Management, the National Security Act was used to remove Michael D'Souza. He was taken away from Bombay and put in Nasik Jail and kept there for one year. I wrote several letters to the Minister at that time. After one year, he was released. So, whether it was the security of the nation which was at stake or the security of Mr. Tata, I do not know. But the way it was used, it looked like that.

Here in Ghaziabad, there is a factory called Poysha which makes cans for food packaging, etc. So our Trade Union Secretary there was Mr. Sukhbir Tyagi. They were constantly having disputes with the Management. You may disagree with their stand. But is the National Security Act to be used for these purposes? Only last year in Uttar Pradesh, in Mirzapur District, one Trade Union Leader by name Shri Dwarika Singh, who was trying to organise Contractors'

labour in those new Thermal Power Stations which are being constructed there. You know the conditions of the Contractors' labour. On the complaint of the contractors, he was arrested under the National Security Act.

So National Security means, security of Mr. Tata, of the Contractors and all such people. If this kind of thing goes on, what are we suppose to do?

Now, the Terrorists and Disruptive Activities Act has been used recently against the leaders of the striking workers of one of the textile mills belonging to the Reliance Group in Ahmedabad — Mr. Dhirubhai Ambani's group. I think he is very much in the good books of the Government. You certain rejections bail applications came up before the Supreme Court in March. The Supreme Court observed that the Terrorists and Disruptive Activities Act of 1987 was a drastic measure and it should not ordinarily be resorted to, unless the Government's law enforcing machinery fails. The Act was an extreme measure to be resorted to when police cannot tackle the situation under the ordinary penal law. These are all the same phrases which are used to justify introduction of any of these special types of repressive legislation. The legislature intended to provide special machinery to combat growing menace of terrorists in different parts of the country. The Court observed.

Then what happened? Prosecution was started at the instance of the Management of the Textile Mill in Ahmedabad, where there was a strike going on. Leading workers in that strike were arrested and put in Jail and refused bail under the Terrorists and Disruptive Activities Act.

We are not talking in the air. That was a real experience. That was a bitter experience. After all, whatever Act you may pass, it is to be implemented by the State Govern-

[Sh. Indrajit Gupta]

ments and by the bureaucracy and by the Police and all these people. In our country, we know how the whole of our machinery behaves. How it is tied up with the vested interests. Therefore, we cannot agree to putting in this kind of blanket powers, draconian powers into the hands of this Government and the State machinery. That is my main argument against this Bill.

Lastly, I believe Punjab problem can perhaps be solved — not very easily of course — provided the Government really has a determination and the will to solve it. If it does not have that will, then nothing can be done. I do not know, but some people are talking that the army should be brought in and all that. We are against it, of course. Any amount of emergency provisions and police will not solve the problem unless the Government has a will and knows who they want to fight, who they want to compromise. That should be made clear to the country. We do not know and the police in the Punjab does not know who you may compromise and who you may put in power tomorrow. The police gets demoralised this way. They do not know why they should fight these terrorists. Today, they have been installed in the Golden Temple, tomorrow they may be installed in the Government. Why should any policeman risk his life? For what? You must have a will. If you have the will, then the whole country will stand behind you and support you. We do consider it as a national issue and not a party issue. But you are more and more treating it as a party issue

MR. CHAIRMAN: Please conclude. I have given you sufficient time.

SHRI INDRAJIT GUPTA: The right to liberty is being concluded, Sir? And the right to life is being concluded... (*Interruptions*)

Therefore, we do not think that this type of a draconian legislation is warranted by the

situation. You have got enough powers. You have not been able to use those powers properly. You have no political approach to the question and you have no national approach either. You refuse to take anybody into confidence. You are doing things in some kind of a secretive manner which will do us no good in the long run. Therefore, for all these reasons, I am totally against this Bill and since I may not be here when the vote is taken, let my stand be known now that I am voting totally against this Bill and all its provisions.

MR. CHAIRMAN: Members are requested to be very brief. The time allotted for the debate is only upto 5 o' clock.

SHRI BASUDEB ACHARIA: Extend the time.

SEVERAL HON. MEMBERS: Time should be extended... (*Interruptions*)

MR. CHAIRMAN: No please. You have wasted the time yesterday. What can I do now?

SHRI DINESH GOSWAMI (Guwahati): Mr. Chairman Sir, this is one of the saddest days for the Indian democracy; this is one of the saddest days for this Parliament; and this is one of the saddest days for the people of India and particularly, the people of Punjab. I also feel that it is a very sad day even for the ruling party. Why am I saying that this is a sad day for the Indian democracy? The foundation of democracy is the rule of law. The moment you take away the rule of law, then democracy only remains on a piece of paper. The moving spirit of our Constitution ensures the right to life and liberty and the moment the protection of the citizen to approach a court against encroachment on his life and liberty is taken away, then the Constitution loses all its relevance. It remains only in form. No substance would be retained in it.

We have seen Sham democracy in some of the neighbouring countries. Recently, we have seen the elections in Bangladesh and we also talk about Pakistan. Both these countries proclaim to be democratic countries, but we know how they function. We stood uptill now on a better moral and political ground because our Constitution ensures us the right to life and liberty. The moment this right is taken away by a draconian constitutional amendment, the Constitution loses all its sanctity. I feel sorry for the people of Punjab because from today, from this moment onwards when the President's proclamation comes, the people of Punjab will be second class citizens. Whereas the people of the rest of the country will have the constitutional protection of life and liberty. In Punjab, the innocent people will have no protection of life and liberty. They will be sandwiched in between the guns of the terrorists and executive abuses of an authoritarian government. Mr. Kaushal said that we are opposing it because we want to protect the terrorists. We do not want to protect the terrorists. Whenever the government has come to this House asking for more and more powers, more and more powers have been granted to them. But this point has been made by all members what additional powers are you going to get to combat terrorism. You are not going to get any additional powers. If the newspaper report is correct that rockets have been launched yesterday by terrorists. Mr. Buta Singh will take a copy of the amended Constitution before them and thunder, look here, here is emergency. So stop terrorism. In fact, the only use that can be made of this provision is against the innocent people. I am sorry, this is a bad day for Indian democracy, because in Parliament in 1977, the House gave a solemn assurance to this country that emergency will not be proclaimed hereinafter. Mr. Somnath Chatterjee referred to certain speeches. I will quote a certain portion of a speech by Shri Yashwantrao Chavan. When he spoke on behalf

of the Unified Congress on the President's Address in 1977, he stated as follows:

"As the Mandate has gone against the emergency, we have withdrawn the emergency and I think, our country has said good-bye to the emergency for good.

This vote, according to me, is rejection of the rigours of emergency and the emergency itself. We, as Congressmen....."

I do not not know whether the Congressmen of today are the same Congressmen or a separate class of Congressmen to which Mr. Chavan belonged. He further states as follows:

"We, as Congressmen, have accepted it as we shall. We have also accepted the lesson that delegation of powers without adequate checks and controls, either to the executive or to the bureaucracy, is apt to be misused and abused. This is a lesson that one needs to keep in mind and I think, this would guide the political life of India in the days to come."

I think Mr. Chavan must be turning in his grave today that this lesson has not been learnt by this fellows and that it has been forgotten in a short time. On page 75, he further states as follows:

"They have expressed their views and I have expressed my views about emergency and I would like to tell my countrymen and my Party members that emergency is not a part of the tradition or ideology of the Congress."

[Sh. Denish Goswami]

When you pass this Bill, you cease to be a Congressman and that is unfortunate. I feel a pity for the ruling party. "We have said good-bye to it and good-bye to it for ever." This is what he has further stated.

Therefore, I feel that, before a united voice of this Parliament was changed, at least a consensus ought to have been attempted. I do not know what type of policy you have got. I, for one, would differ with my friends in the opposition in one thing that if the government want to talk to the extremists, they can talk to them if they feel that by talking to them they can bring them to the mainstream. We have talked to Laldenga. But on one day you release the Jodhpur detainees and on the next day you impose emergency. I do not know what type of policy is this. On the one hand you say that you are opening a political dialogue; on the other hand, you put a gun behind the back of the people with whom you want to talk.

Terrorism is the worst kind of lawlessness because terrorists do not respect any law. Lawlessness cannot be fought with lawlessness. The only way you can fight lawlessness is by way of a rule of law. When the executive becomes lawless and when the executive through lawlessness tries to fight lawlessness, this is bound to result in extreme lawlessness; and that is what is going to happen in Punjab.

Now you are talking about all kinds of assurances. And I like Mr. Buta Singh to reply to one point. A newspaper report has come that extremists of the North-Eastern region are being supplied arms by the serving and ex-Security personnel of the Central Reserve Police Force and thirteen persons have been arrested, who are members of the CRPF, both in Rajasthan as well as in Guwahati. And unfortunately the newspaper report also says that the kingpin is a Con-

gressman who is close to the Union Home Minister Mr. Buta Singh and no action has been taken against him. I want to know as to what action he has taken. I think, up till now I have not seen any contradiction to that.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Which paper are you talking about?

SHRI DINESH GOSWAMI: I am talking of *Telegraph*. I am talking to you because this has been raised even in the Rajasthan Assembly. (*Interruptions*)

Now, you want powers. What powers? In 1985 you passed an Act. You are not satisfied. You came and pleaded that "we want more powers". You are given powers under the Terrorist and Disruptive Activities Prevention Act. There are 22 laws to tackle this menace of terrorism.

AN HON. MEMBER: Twenty-four.

SHRI DINESH GOSWAMI: Twenty-four laws are there today. You say that the people are not coming to give evidence, that the Policemen are not taking action. Am I to understand that if we pass this Emergency Bill the people will come to give evidence because they will feel secure that the terrorists will not harm them? Do you feel that after this amending Bill is passed the courts will suddenly acquire more powers and more courage? In fact, what will happen is, that if certain innocent people have become antagonised to the bureaucratic and official machinery because the official machinery is not taking proper action, then they will be punished. What will happen is that the executive abuses, executive indifferences will get premium because of this. What type of powers do we confer under the Terrorists Disruptive Activities Prevention Act?

Section 7 of the Act confers the powers of a police officer to any officer of the Central Government. Section 8 of is about attachment of property. In fact, we made a fundamental departure from the Criminal Jurisprudence of this country when we made confessions before a police officer admissible under this Act. For the first time we passed an Act that in a judgment the names of the witnesses should not be disclosed. We passed another Act. The Armed Forces (Punjab and Chandigarh Special Powers) Act conferred the powers to fire and use of forces and arrest without warrant.

I come from a State which for six years suffered a movement. I know that when powers are given to the officers, and petty officers, how these are misused. And I had occasion to tell earlier that even after the police or para-military forces justifiably kill five persons but if an innocent person is killed because of their action, the entire people psychologically reach against these abuses. And I have no doubt that by this one weapon the buffer between the people and the terrorists has been blown up. Today the alienation of the people of Punjab has become complete. Till today vast majority of people of Punjab did not give support to the terrorists. But with one stroke of law, we are making the alienation complete and terrorists will get more support from the people.

We are a signatory to the Universal Declaration of Human Rights adopted in 1948 by an unanimous vote. It talked about life and liberty. We have given up today everything. Not only have we failed to solve the problem, we stand condemned before the comity of nations. Our head will hang in shame tomorrow.

MR. CHAIRMAN: Please conclude.

SHRI DINESH GOSWAMI: It is not that we face the problem of terrorism only in this country. Great Britain has faced it. Great

Britain tried to tackle terrorism through emergency powers. And their experience shows that by proclamation of emergency, by conferring emergency powers on the executive the problem of terrorism cannot be contained. But, in fact, the terrorists get additional support from the people and we withdrew these powers. We have not learnt any lesson from this.

Mr. Jagan Nath Kaushal made a point, that look here, even if this is applied to Punjab the apprehension of Mr. Somnath Chatterjee that it can be applied elsewhere is wrong.

We have referred to Article 83. We have referred to Article 353. There is Article 354 which says that even if Emergency is there in one part of this country the entire financial relations between the Centre and the States are done away with. The Central Government acquires all the powers.

I will ask the Home Minister one question. Are you prepared to come with an amendment stating that proclamation of Emergency in Punjab will not confer any power to Government to extend the period of this House, to extend the executive power under Article 353, under Article 354 and the power of the State. Even if you accept these amendments at this late stage, we will have some confidence in you. Mr. Jagan Nath Kaushal says that Government assurances would have been sufficient. If so, why do we have Article 21 in our Constitution? Government assurances cannot be substituted for constitutional guarantees. This power will be there for two years. After two years, Mr. Buta Singh, you may not be on that side of the House, and you may be on this side of the House. (Interruptions)

Therefore, Mr. Chairman, if the Government has *bona fide* intention, then they should accept those amendments... (Interruptions)

MR. CHAIRMAN: Please conclude.
Next Mr. Ram Narain Singh.

(Interruptions)

SHRI SOMNATH CHATTERJEE (Bolpur): He is making very very important point. (Interruptions)

SHRI DINESH GOSWAMI: Am I to understand that not only the right of life and liberty has been taken away, the right of speech in Parliament also has been taken away? (Interruptions)

MR. CHAIRMAN: No. The time allotted for the discussion is only up to 5 P.M. Yesterday, you have wasted the time. Today also you are wasting the time. I cannot help it. Now, you want more time.

(Interruptions)

SHRI DINESH GOSWAMI: Sir, I will conclude now. I see only one silver lining in this Bill. When the last Emergency was proclaimed, the Supreme Court went low when they failed to uphold Article 21 and came to the conclusion that Article 21 is the sole repository of life and liberty. Justice Chandrachud had to later on repent and admit that his judgement on a *habeas-corpus* case was wrong, he did not have the moral courage to stand up and say that this power was arbitrary. We cannot forget the Attorney General's statement that even if a person is cold-bloodedly shot without any reason, without the authority of law, he has no relief so long as the Emergency remains.

I hope that the Supreme Court, after this Bill is passed and when it gets an opportunity to review once more the scope of Article 281 vis-a-vis this sort of Emergency power, will restore its lost glory by holding that individual life and liberty does not depend on Article 21; it is an inherent right, right of man, which no doubt the arbitrary Government, even this

Constitutional Amendment, can take away.

Therefore, Mr. Chairman, on behalf of myself and on my party, I totally oppose this Bill. We will continue to oppose this Bill not only in this Parliament but on the streets. The 1975 Emergency eclipsed Congress in 1977, to which I was a party. This strong measure will lead to the total eclipse of Congress from its political life.

Political parties and individuals can make mistakes, which can be excused. But when somebody does not learn from the mistakes, there is no excuse for him.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): On 7th of March, 1988 Government made a *suo motu* statement in this House in which Government said that it is proposed to amend the Constitution suitably in respect of emergency provisions in their application to Punjab. In that statement we categorically stated that the amendments relating to the emergency provisions would apply only to Punjab and the existing provisions of the Constitution would continue to apply to the rest of the country. I do not know why a doubt was raised that Government tried to bring a Bill which would enable Government at some point of time to declare an emergency in parts of the country other than Punjab or whole of Punjab.

Hon. Members know and I expected hon. Member, Shri Somnath Chatterjee to refer to this principle, that every law has a territorial application. In this Bill, as introduced in Rajya Sabha, it was made very clear at more than one place in the Statement of Objects and Reasons and in the opening words of new article 359A that this amendment will apply only in relation to Punjab. In fact, if we had merely introduced

a few words in article 352, perhaps; this bogey would not have been raised that we are using this opportunity to take powers to declare an emergency to any part of the country other than Punjab. But what we did was — and that is a good legislative practice — we introduced a new article and we said: "In relation to Punjab, the existing article 352 will be modified in the following manner." In its width, in its scope, in its application, in its amplitude the Bill always related to the State of Punjab and it continues to apply only to the State of Punjab. But when the Bill was circulated in Rajya Sabha and in Lok Sabha, Shri Advani, whom I hold in great respect, raised some doubts. I found that two or three members on our side also raised some questions. The questions related to the modification made to article 352. Even it was possible to convince Shri Advani and others, but it would have taken a lot of time to convince the whole of Rajya Sabha and every Member of Lok Sabha. I say it in great humility. When we asked the Attorney-General whether there is anything wrong in the drafting of the Bill, he said no. He said: Give me five learned judges and three hours of uninterrupted argument before the learned judges and I can convince the court. Then we said: We are not before five learned judges and we do not have three hours, but we are before the whole nation. We have to carry with us Members of Parliament, we have to carry with us the media, we have to carry with us newspapers, we have to carry with us the common people and we have to guard against any campaign of dis-information. And, therefore, quite readily even on the day when the Bill was being debated in Rajya Sabha, we asked our draftsmen to make amendments. That night we made the amendment. Next morning, the first thing we did was to circulate the amendment to put it beyond the shadow of doubt that this amendment that we propose, applies only to the disturbed State of Punjab. I want to make it very clear on behalf of Government that Government never had any intention, and

does not have any intention, to extend the emergency provisions under this Bill to any part of India other than the State of Punjab. *(Interruptions)*

SHRI E. AYYAPU REDDY: One point for clarification, Sir.

SHRI P. CHIDAMBARAM: I will answer later on.

MR. CHAIRMAN: At the end, Mr. Ayyapu Reddy. Please let him finish this portion.

SHRI P. CHIDAMBARAM: Sir, some questions have been raised and it is my duty to answer those questions. First is the question of legislative competence. I think it is beyond doubt that under article 368. "Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article." Parliament has the constituent power to amend every part of the Constitution. If that Amendment is to be challenged, as Professor Dandavate has said he would do, he is certainly welcome to challenge it, but the power of Parliament to consider the Bill and to accept the Bill and to adopt the Bill, and to amend the Constitution cannot be scuttled at this stage by what he was pleased to describe as a "Constitutional threat." He was holding out that tomorrow he will challenge this Bill. He is welcome to challenge the Bill. We believe we have received good legal advice that this Bill is perfectly Constitutional. As long as this House has the power to deliberate on this Bill and adopt this Bill, I do not think there is any way in which one can scuttle this debate or stifle this debate, even at this stage... *(Interruptions)*

PROF. MADHU DANDAVATE: Keshavanand Bharati judgement is not reviewed

[Prof. Madhu Dandavate]
so far.

SHRI P. CHIDAMBARAM: Keshavanand Bharati said that Parliament does not have the power to amend the basic features of the Constitution, the basic structure of the Constitution. Perhaps Prof. Dandavate knows that the Judges did not agree on what the basic structure of the Constitution was, and those Judges who enumerated what the basic features were, illustratively said it is the rule of law, it is the right of judicial review, it is democracy, it is the secular character of the Constitution... (*Interruptions*)

PROF. MADHU DANDAVATE: Federal also.

SHRI P. CHIDAMBARAM: It is the federal character of the Constitution, and the Republican form of government. Nothing that we are doing now affects anyone of those basic features or the basic structure of the Constitution... (*Interruptions*). I know your objection. Let him wait, Sir. Let me answer. Sir, I am grateful that Prof. Dandavate and other speakers said that when the 44th Amendment was passed, there was a compact, there was a consensus. I agree. But let us accept the consensus and argue on that consensus in toto. Don't accept that part of the consensus which is advantageous to you and ignore that part of the consensus which is not advantageous to you.

PROF. MADHU DANDAVATE: It is the method of evolving consensus.

SHRI P. CHIDAMBARAM: We will argue on that. Sir, the 42nd Amendment introduced the concept of a partial emergency. When you made the 44th Amendment, you did not abrogate the 42nd Amendment which introduced the concept of a partial emergency. Therefore, when the 44th Amendment was passed by Parliament, the consensus was that Government must have

power either to proclaim an Emergency throughout the country or to proclaim a partial Emergency. A partial Emergency is something which has been in the Constitution since the 42nd Amendment... (*Interruptions*)

PROF. MADHU DANDAVATE: The consensus was for removing the 'internal disturbance' part.

SHRI P. CHIDAMBARAM: I will come to that Professor Sahib. Let us take argument by argument. We are now talking about the partial Emergency... (*Interruptions*)

MR. CHAIRMAN: Mr. Chidambaram, don't answer any questions put without the permission of the Chair.

SHRI P. CHIDAMBARAM: Sir, I am now answering the charge of a partial Emergency as violating the federal character of the Constitution. Partial Emergency is something which has been there since the 42nd Amendment. The consensus, when the 44th Amendment was passed, was that the Government should continue to have the power to either proclaim an Emergency throughout the country or a partial Emergency. Hence, partial Emergency does not violate the federal character of the Constitution. That is the compact, that is the consensus. Today, what are we doing? Today, it is possible to proclaim a partial Emergency in Punjab or any other State on one of three grounds, War, external aggression or armed rebellion. What is being added is a fourth ground to proclaim partial emergency in Punjab. I will come to the validity of the ground. But the fact is that you can proclaim partial emergency in any part of the country on three grounds. If that is valid and if that does not violate the federal character, certainly adding one more ground to proclaim a partial emergency, if necessary, does not violate the federal character of the Constitution.

I will come to "internal disturbance." Sir, it has been argued that we are restoring the pre-44th Constitution Amendment position. I most humbly submit that we are not restoring the pre-44th Constitution Amendment position. What is the pre-44th Constitution Amendment position? Prior to the 44th Amendment to the Constitution, the position was that you could declare an emergency on the ground that the security of the State was threatened by internal disturbance and without any one of the procedural safeguards. A law has two parts — a substantive part and a procedural part. Take each part now, one by one. What is the substantive part that we have restored now? We have not restored, and I appeal to you Sir to consider, we have not restored the ground that an emergency can be proclaimed on the ground that the security of India is threatened by internal disturbance. On the contrary, the ground which is now being added is that the integrity of India is threatened by internal disturbance. There is a vast difference between the security of India being threatened by internal disturbance and integrity of India being threatened by internal disturbance. It is only secessionist activity, it is only activity which may be characterised as separatist activity where people want to proclaim a State, carved out of India, activity by which people want to dismember India, activity by which people want to threaten the unity and integrity of India. It is only that activity which should be attracted by this ground. Look at the procedural part. I am grateful to Mr. Jagan Nath Kaushal. There are six safeguards introduced in the 44th Amendment. Not one of them has been touched and for the record, I want to state what these safeguards are.

The first safeguard is that the Cabinet must advise the President in writing when emergency is to be proclaimed. The second safeguard is that we have to come before Parliament within 30 days. The third safeguard is that the proclamation of Emergency

must be adopted by a majority of not less than 2/3rd of the Members present and voting and a simple majority of the House. The fourth safeguard is that 1/10th of the Members of the House can at any time petition the President or the Speaker and call into session, a special session of the House. The fifth safeguard is that not both the Houses, only in the Lok Sabha, by a simple majority you can repeal the emergency. And the last safeguard is — this is where I want to stress my argument particularly with regard to the alleged diminishing majority in the Rajya Sabha — that every six months we have to come back to both the Houses of Parliament for a special majority of 2/3rd of the Members present and voting. In the Rajya Sabha it was said that "you rushed it because you were losing 9 seats". Sir, I can't think of a mere fatuous argument. It is not that this amending Bill alone requires 2/3rds majority and hence is rushed through. If we make a Proclamation of emergency, and I sincerely hope that it would not be necessary at all to make a proclamation of emergency even for Punjab, then we have to come back to the Rajya Sabha, to the Lok Sabha, and ask for approval by the same majority. Those who accuse us of rushing through the Rajya Sabha because we are going to lose some seats in the Rajya Sabha in the next election, have not even read the provisions of the Constitution which says that we have to come back to this House within 30 days for a 2/3rds majority. Sir, there is no substance in the argument that we are restoring the pre-44th amendment position. But on the contrary we stand by the consensus of the 44th Amendment we are only introducing a new ground based on the new development in Punjab which threatens the unity and integrity of the country and we stand by every one of the procedural safeguards in the 44th Amendment.

Finally, arguments have been advanced on Article 353 and Article 358. It is said that we will extend it to other parts.

[Sh. P. Chidambaram]

Again, please look into the Constitution, both in Article 353 and Article 358, what can be extended is the executive action and legislative measures only if an emergency is proclaimed on the ground of security of the State being threatened. Please look at the proviso the proviso to Article 353 and the Proviso, to Article 358 Proviso to Article 353 categorically states:

"Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India,....

- (i) The executive power of the Union to give directions under clause (a), and
- (ii) The power of Parliament to make laws under clause (b),

shall also extend to any State other than a State in which or in any part of which the Proclamation of Emergency is in operation if and in so far as the security of India or any part of the territory thereof is threatened by activities in...."

SHRI SOMNATH CHATTERJEE: Now it says, the 'security' is involved.

SHRI P. CHIDAMBARAM: It says, but the ground is security. (Interruptions)

Sir, If an argument is to be met by an argument, I think the minimum Mr. Chatterjee should do is to hear me. (Interruptions)

SHRI SOMNATH CHATTERJEE: Sir, this is not the way to say this. (Interruptions)

SHRI P. CHIDAMBARAM: I am not yielding. (Interruptions).

MR. CHAIRMAN: Order, order. One at

a time. What is this? Order, order.

(Interruptions)

SHRI SOMNATH CHATTERJEE: You are applying this for the activities in Punjab (Interruptions).....What are you talking? (Interruptions).

SHRI P. CHIDAMBARAM: Sir, I am not yielding. They had all the time to read the provisions of the Constitution and quote it to us. They had all the time to offer their interpretation. I didn't interrupt them. I am interpreting it in the manner Government thinks this Article is to be read. (Interruptions). I will come to Article 83 and 250.

Both Articles 353 and 358.... (Interruptions).

MR CHAIRMAN: He is not replying to the discussion, he is only intervening.

(Interruptions)

SHRI P. CHIDAMBARAM: I am entitled to give my opinion. (Interruptions). Sir, I am entitled to give my interpretation and I am not bound to accept Mr. Acharya's interpretation.

Both Article 353 proviso and Article 358 proviso apply only if Emergency is proclaimed on the ground that the security of the State is threatened. Articles 353 and 358 do not apply when the ground is that the integrity of India is threatened by internal disturbance. This is the Government's position and Government's interpretation accords with the language of Article 353 358.

SHRI S. JAIPAL REDDY: It is the Government's position, but not the legal position.

SHRI P. CHIDAMBARAM: We will see what the legal position is when he challenges.

SHRI SOMNATH CHATTERJEE: Call the Attorney General here.

SHRI P. CHIDAMBARAM: We don't have to call him. We have got the benefit of the Attorney General's advice and we are stating.....(*Interruptions*)

SHRI SOMNATH CHATTERJEE: We want to have the benefit of his advice (*Interruptions*)

SHRI P. CHIDAMBARAM: You have given us the benefit of your interpretation and I am entitled to tell the House and the country what our interpretation is. (*Interruptions*). I am entitled to say my interpretation, Mr. Acharya, and I will not accept your interpretation. And finally,...(*Interruptions*). Sir, let me continue (*Interruptions*) I am not yielding.

MR. CHAIRMAN: He is not yielding. What can you do?

SHRI DINESH GOSWAMI: You have to go for an amendment because...(*Interruptions*)

MR. CHAIRMAN: He is not yielding, how can you ask a question?

(*Interruptions*)

MR. CHAIRMAN: He is not yielding, please sit down. That will not go on record.

(*Interruptions*)**

PROF. MADHU DANDAVATE: The Minister has the right to misinterpret.

(*Interruptions*)

SHRI P. CHIDAMBARAM: Sir, then an argument was advanced that by virtue of this, we will suspend all the rights, statutory rights, under all the laws throughout the country. Again, you are not looking into the amendment made by the Forty-Second Amendment and the Forty-Fourth Amendment. Sir, today there are existing statutory rights. Even if Article 19 is suspended automatically and even if Article 21 is suspended by an order, the existing statutory rights cannot be suspended or taken away under the existing laws because of Article 359(1B). And nobody is reading Article 358 and Article 359(1B). Article 359 (1B) says:

"Nothing in clause (1A) shall apply. -

(a) to any law which does not contain a recital to the effect that such law is in relation to the Proclamation of Emergency in operation when it is made; or

(b) to any executive action taken otherwise than under a law containing such a recital."

Today there are a large number of laws which do not contain the recital. The recital cannot be added retrospectively, the recital must be there, the recital must be added to the law when a Proclamation of Emergency is in force. Today there are existing laws giving statutory rights. We cannot take away those statutory rights, even if Article 19 is automatically suspended or even if Article 21 is suspended by an order. Nor can we extend a law without such recital to other parts of the country. My submission is that the existing statutory rights are still enforceable you are reading the Constitution without referring to the Forty-Second Amendment and without the ..(*Interruptions*). I am not yielding, Mr. Chatterjee. You had all the opportunity...(*Interruptions*). Somebody

[Prof. Madhu Dandavate]
from your party will answer. You did not care
to refer to this. *(Interruptions)*.

SHRI SOMNATH CHATTERJEE: You
referred to Article 359(1B). What about Ar-
ticle 359(1)? It talks of an order, not of execu-
tive action. You do not mislead on this.
(Interruptions)

SHRI P.CHIDAMBARAM: I thought, I
answered it. Articles 353, 358, 359 apply
only when emergency is made on the ground
that the Security of India is threatened.
Please read that article in full, I am talking
about the existing statutory rights. Existing
statutory rights in laws which do not contain
a recital cannot be taken away or extended
to other parts of India. *(Interruptions)* I am
not entering into a debate. I am entitled to
say my view.

Finally on article 83 and article 250,
here Prof.Dandavate will kindly go back to
the compact. Article 83 was there when you
made the 44th Amendment. 44th Amend-
ment retained the provision for a partial
emergency. Article 83 was very much there.
You felt that Government, if necessary, must
have that power whether in a partial emer-
gency or in a national emergency.

SHRI SOMNATH CHATTERJEE: The
cat is out of the bag. *(Interruptions)*

SHRI P.CHIDAMBARAM: The point is,
Article 83 has not been touched. Article 83
was not touched by the 44th Amendment.
Under article 83, while Parliament has the
power to extend its life, we have categori-
cally said and the Prime Minister has stated,
this has been quoted, we have no intention
of extending the life of Parliament by virtue of
any emergency in Punjab
(Interruptions). Why did you not include this
in the 44th Amendment? The point is that

they have just woken up. *(Interruptions)*

MR.CHAIRMAN: What is this? Why are
you making noise? Order.

SHRI P.CHIDAMBARAM: We say that
the Government has no intention. The 44th
Amendment was passed by the Janata
Government. They did not touch article 83.
They allowed article 83 to remain. Neverthe-
less the promise which they did not make
then, we make now that there is no intention
of invoking article 83 to extend the life of
Parliament. *(Interruptions)*.

SHRI DINESH GOSWAMI: There was
no internal disturbance in the 44th Amend-
ment. *(Interruptions)*

MR.CHAIRMAN: All those questions
would not go on record.

*(Interruptions)**

MR.CHAIRMAN: Mr.Chidambaram,
you need not answer those questions. Noth-
ing will go on record.

SHRI P. CHIDAMBARAM: Article 83
was not touched then, Article 83 is not being
touched today. Government have made it
quite clear that this enabling power has been
taken only for the purpose of dealing with the
extreme situation in Punjab and there is no
question of invoking any of those powers to
extend the life of Parliament. All the legal
arguments which have been advanced are
arguments which have been made in des-
peration. We have to take the enabling
power to meet an emergent situation, if an
emergent situation arises. *(Interruptions)*

MR.CHAIRMAN: No comments will go
on record.

*(Interruptions)***

SHRI P. CHIDAMBARAM: We sincerely hope that the situation will not arise. If the situation does arise, we will come back to Parliament. We will come back to Parliament with a proclamation. We will come back to Parliament for your support. We will have to come back to Parliament for the majority. And without meeting the arguments with arguments. (Interruptions)

MR CHAIRMAN: Order, order

(Interruptions)

SHRI P. CHIDAMBARAM: They promised to hear us without interruptions. And they are not hearing us without interruptions. (Interruptions) They do not want to hear our arguments. (Interruptions)**

MR CHAIRMAN: Nothing is going on record. Then, why do you waste your energy?

(Interruptions)

SHRI P. CHIDAMBARAM: A specific question has been raised about article 83 and article 250. I am entitled and obliged to answer regarding article 83 and article 250. I have given Government's view of the matter. Article 83 remained untouched in the 44th Amendment. Article 83 remains.. (Interruptions)

MR CHAIRMAN: Please, Order

SHRI P. CHIDAMBARAM: Let him not interrupt. (Interruptions)

MR. CHAIRMAN: He is not yielding

SHRI P. CHIDAMBARAM: Article 83 remains untouched now. We have made it clear that we have no intention to.. (Interruptions)

MR. CHAIRMAN: Order, order

SHRI MANIK SANYAL (Jalpaiguri): Who will believe you?

SHRI P. CHIDAMBARAM: The country will believe us. The people will believe us. Those who do not want to hear an argument will not believe us. You raise the question and do you think it will go unanswered? Sir, if they think that they will raise the question and it will catch the media and the newspapers and it will go unanswered, it is totally wrong. We will answer every single question that you raised. We are confident that our answers will reach the people. We are confident that our answers will be accepted by the people.

17.00 hrs.

* Their game is clear. (Interruptions) They will raise doubts. (Interruptions) They will try to spread a campaign of disinformation. But they will not listen to the answers that we are giving them. (Interruptions) Government has taken this power to meet an emergent situation. Government hopes that there is no need to apply this power. But if an emergent situation arises in Punjab where Government has to discharge its responsibility—a regional party need not bother about Punjab, a Telugu Desam or any other party ruling in a State, need not be bothered about Punjab—but we are bothered. (Interruptions) You need not be bothered and you are not bothered, in fact, about Punjab. It is so far away. You have no political responsibility in Punjab. (Interruptions) You are not

[Sh. P. Chidambaram]

accepting any responsibility for the sufferings of the people of Punjab. We do accept responsibility. We will come to Parliament. We will ask your support. We will get the support of both the Lok Sabha and the Rajya Sabha before taking any action.

[Translation]

SHRI RAM NARAIN SINGH (Bhiwani): Mr. Chairman, the Constitution (Amendment) Bill which has been presented, has created fear in the minds of the people. It is claimed that the constitutional Bill has been brought forward to meet the prevailing situation in Punjab. But the Government have already laws powerful enough to face the situation in Punjab. Separate legislation has already been passed for that area. You can remedy the situation in Punjab by taking proper action under the existing laws. The very word emergency has already created fear in the minds of the people. No matter what assurances are given by you, whatever assurances are given by the Government, fear of emergency is not likely to be removed from the minds of the people.

Many people are being killed daily in Punjab. It hurts every-body, but those who indulge in terrorism are affected the least, poor innocent people are being killed there and innocent people on both sides are being killed. There is no one in India who, opposes eradication of terrorism from Punjab, but so far as the emergency is concerned, every one is afraid of it. Because the people know that no action will be taken against the terrorists under this law. The remaining 95 per cent people of Punjab are afraid of this emergency. They are horrified to hear the very word of emergency.

The Government had imposed emergency in 1975. I was a District Magistrate at that time. I saw disturbances taking place there even after the imposition of emer-

gency. You are going to reimpose emergency in Punjab. It will cause great hardships to the remaining 96 per cent people of Punjab.

17.02 hrs.

[MR DEPUTY SPEAKER *in the Chair*]

You have already many other laws, you may remedy the situation in Punjab by resorting to those laws. This emergency will not make any difference. It will bestow more powers in the hands of the officers and the security police. Thus the whole of India is afraid of emergency. They also fear that once emergency is imposed in Punjab, then it will be extended to the whole of India. It is correct that a critical situation prevails in Punjab which affects Haryana. We from Haryana wish that this terrorism should be ended as early as possible. This will benefit both Punjab and Haryana. Instead of making provision for an emergency, our leaders like Mr. Devi Lal and Badal Saheb should have been consulted. Instead you are going to impose emergency. This has created a fear in the minds of the people throughout India. This fear will vanish only if you do not impose emergency. There are many other laws, which can be applied there. The Blue Star operation had been undertaken under the existing laws. Necessary action had been taken then by sending both the army and the police. When it was possible without imposing any emergency, then why is emergency being imposed now? There is fear among the people that emergency will be imposed in the whole of India. The people have not yet forgotten the emergency which was imposed in 1975 and are much afraid of it. The people in the whole of India and specially in Haryana, were very much terrified then. As the Minister of Home Affairs said that perhaps emergency might not be required to be imposed, we want that it happens like that and emergency is not imposed and the prob-

lem is solved by applying the existing laws. Terrorism should be eradicated and peace restored. The people in Haryana are also affected by it as they are also being attached. The people numbering 30 to 35 are being killed there almost daily, therefore, peace should be restored as early as possible. If emergency is imposed today, the public will think that the Government is resorting to dishonest means. Why should be allow such circumstances to be created. Emergency should not be imposed even after passing this Bill. With these words, I oppose this Bill.

SHRI CHARANJIT SINGH ATHWAL (Ropar): Mr Deputy Speaker, I rise to speak about this amendment. Before I say anything about this amendment, I want to read Article 352 of the Constitution:-

[English]

"If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion, he may, by Proclamation, make a declaration to that effect in respect of the whole of India or of such part of the territory thereof as may be specified in the Proclamation....

[Translation]

Mr. Deputy Speaker, Sir, in view of the existing Article 352, what is the need of having this 59th amendment? Is Punjab not a part of India? When action could be taken under this Article, what was the need to bring forward this amendment? In this connection, I want to say that the motive behind this amendment can be to take revenge or to avenge some one's murder. The motive behind this Bill which has been brought forward specifically for Punjab, can also be that Sikhs may feel that they are either slaves

or second grade citizens. There can also be a motive to acquire more powers or to extend the term of this House. I want to tell this House that the powers so far demanded by the Government have been given to them by this Parliament. About 24 bills have since been passed but the ultimate result is zero and what will come out of the 59th amendment, its result will also be zero. By the way, the people forming the Government are themselves not eager to solve the Punjab problem and do not possess far-sightedness or capability to find a solution to the Punjab problem. I do not mind if someone like Laxman Singh, Barnala, Gurunam Singh or someone else is made Chief Minister of Punjab who is able to find a solution of the Punjab problem. In fact, there is a need to understand the Punjab Problem. You should pay attention towards it. Mr. Deputy Speaker, the Sikhs of Punjab had surrendered their right to liberty. First I wish to refer to an historical fact of partition. The British rulers intended to divide India into as many parts as possible. Mr Jinnah wanted that Sikhs should either make a demand for Khalistan or agree to setting up a confederation there so that no part of Punjab could go to India. A meeting between Master Tara Singh and Mr. Jinnah was proposed to be held. For this purpose, a place and time were fixed but it so happened that Master Tara Singh reached that place a bit early and after waiting for Mr. Jinnah he left from the other door five minutes before Mr. Jinnah's arrival. On coming to know of his departure Mr. Jinnah regretted and told the other Sikhs sitting there that had he met him, the misunderstanding between them might have been removed. I want to repeat those words which he uttered to the persons present there. While pointing towards Hindus, he said Masterji had seen Hindus as slaves and not as rulers. He would weep at the fate of Sikhs when being ruled by Hindus. In spite of this instigation, Master Tara Singh firmly favoured to remain with Hindus. Besides, when Mr. Jinnah on behalf of Muslims,

[Sh. Charanjit Singh Athwal]

Sardar Baldev Singh on behalf of Sikhs and Pandit Nehru on behalf of Hindus went there to participate in a Conference held in Britain to solve the problem of communalism, Churchill, then conveyed a secret message to Sardar Baldev Singh for a prolonged stay to consider the rights of Sikhs so that they were able to live independently in the days to come. But Sardar Baldev Singh replied that whatever they demanded, they would demand from the Hindu brethren. He repeated his demand that the British people should leave India immediately. What I want to say is that the Sikhs surrendered their right to liberty to their Hindu brethren. There is a need to understand the actual problem of Punjab. What was that right which Mr. Jinnah wanted to give to Sikhs, the right which the British Government wanted to grant to the Sikhs. They wanted that Sikhs should have a separate place where they could lead a glorious life. Sikhs now want to have some powers in lieu of that right they surrendered to their Hindu brethren. Actually, there is a need to understand this problem. The hon. Members of the House and the small hearted Government are to decide whether the powers demanded by the Akali Dal under the Anandpur Sahib resolution or some other powers are to be granted to them or not. Therefore, I think that there is a need to understand the actual problem of Punjab first. We saw the results of emergency which was imposed in 1975. Some other member who spoke before me also emphasised that the basic features of the Constitution as propounded in the cases of Keshawanand Bharati and Minerva Mill cases, cannot be changed. Emergency provision, the right to life and the right to liberty in Article 21 are the basic features of our Constitution which are being amended in the case of Punjab only. The Government is torturing the innocent young persons in the name of terrorists while the Akali Dal opposes the killing of innocent people. The constitutional amendment is being made to silence the Sikhs and the

Akali Dal. Why this is being done?. Thirdly, what is the definition of internal disturbance? Will a strike by students and arrest of 2000 farmers in Gujarat be treated as an internal disturbance? Whether strikes at other places or in D.T.C. and the massacre of Muslims in Muradabad and Meerut will be covered under internal disturbance warranting imposition of emergency? I want that this should be clarified. I want to know whether this Bill is intended for the whole country or only for Punjab. This Bill was first introduced in the Rajya Sabha and what was their intention? They first wanted to have this provision for the whole country but when there was hue and cry they amended it and confined it to Punjab only. This will not solve the Punjab problem. Instead of applying a healing touch, the Government is actually adding fuel to the fire. I want to know whether these are the adequate safeguards which the Congress had promised to the Sikhs on August 9, 1946. Nearly six thousand Sikhs were burnt alive or murdered cruelly in the presence of the Prime Minister, the President and the three Chiefs of staff in Delhi in 1984. Some rape cases also occurred. Are these the safeguards which were promised by the Congress in the Constituent Assembly? This constitutional amendment has been brought just to make Sikhs living in Punjab and the whole of India to feel that they are second grade citizens and slaves. I on my own behalf and on behalf of my party oppose this Bill. I want to submit that when emergency was imposed in India in 1975 and the entire country was converted into a prison, we had then sworn to launch an agitation against the emergency. History proves that we continued our struggle till the emergency was lifted. I thank the opposition Members who supported us. I want to assure them that the Akali Dal, the entire Sikh community will oppose the imposition of

emergency in Punjab till the last drop of blood I oppose this Bill with these words I conclude.

[English]

SHRI KAMAL CHAUDHRY (Hoshiarpur): Mr. Deputy Speaker Sir; I rise to defend the Government's stands and fully support this Bill introduced by the Home Minister.

I remember November 85, my first official meeting with the Prime Minister, when I had requested that emergency be imposed in Punjab. I also remember the day the Home Minister Buta Singhji had just taken over and called the Punjab leaders when I had suggested that emergency be imposed in Punjab. Then, on 2nd April 86 when I spoke about Punjab, I remember that the Members in this House tried to remind me of Mahatma Gandhi. I was shocked that it was a shame that in this country, in this land of Mahatma Gandhi people refuse to listen to truth. What was happening in Punjab? They suggested to the speaker asking him to expunge my remarks. I wish it was not done and we would not have lost all these lives till date.

We lost Mahatma Gandhi to a terrorist, we lost our Prime Minister Smt. Indira Gandhi to a terrorist, I lost my father to a terrorist and when last month I was roaming around in Punjab banging my head from pillar to post where this Sahari incident took place, I lost my son who had just had a fall from the roof. Maybe God will put me to many tests but I am positive that I will not fail.

I have gone through all the debates on Punjab ever since 1985 but I do not wish to comment on anyone. I want to give my suggestions for peace and unity in Punjab. I have gone through a disciplined life for 17 years followed by 21 years in the Air Force and 2 1/2 years in the Indian National Congress. I am of the view that enemy of this

nation must be shot dead. Now the security and integrity of this nation is at stake. The secessionists must be shot dead—be it a cobbler, a smuggler, a politician or a religious priest sitting in a temple. I love this national and for the sake of unity and integrity of this nation if I lose my life I am sure my family would not shed a tear.

I am happy that this Bill has been introduced. I am also happy that some of the suggestions that I have been making ever since 1985 have been implemented. Had all the suggestions been implemented there would not have been any more bloodshed in Punjab? I would like to repeat these suggestions;

1. Talk to every one and any faction of the extremists who are wanting to talk but if anyone of them talks anti-national then they must lose their right to life.

2. Release all those against whom there are no cases whether they are in Jodhpur or any other jail but their release must not be un-conditional. We have seen the release of these 40 people and their utterances at 'Holla Mohalla'. These are the people who must lose their right to life.

3. All those senior officers in Punjab who have a communal bias and who are corrupt must be dismissed and put behind the bars and taken to task.

4. All the harbourers and abettors must be treated as terrorists and they are the ones who must lose their right to life.

5. Impose emergency in Punjab and hand it over to the Army.

I would like to define this 'losing right life', I know on 2nd April, 1986 when I had made this remark there was lot of noise. I want to clarify. Losing right to life means that they must be shot dead.

[Sh. Kamal Chaudhry]

I have a request to be made to the Home Minister, Shri Buta Singh that he must shed his weakness. This is what I said in my last speech on Punjab. He should stop behaving like paper tiger. This is time to get on the field and behave like a real tiger. He will get all the powers that he wanted today.

Sir, most of the hon. Members must have been going through Ramayana on the TV. Even Lord Rama, who was symbol of peace, love and affection, sent his emissaries like Sunil Dutts and Sushil Munis to Ravana who failed to convince him. Rama had to pick up the weapons and fight Ravana. Lord Krishna had to tell Arjuna the same thing to pick up the weapons and fight Kaurvas. So, this is my request to the hon. Prime Minister to ask the Arjuna to pick up the weapons and fight the extremists in Punjab. (*Interruptions*)

I would not take any more time of the House. In the end, I very strongly support the Government and defend its stand on this Bill.

SHRI BALWANT SINGH RAMOOWALIA (Sangrur): Sir, this House has heard the views of both the sections Opposition as well as the Treasury Benches on the powers which are being sought for proclamation of emergency. The problem in Punjab is not the inadequacy of power, laws and acts. Actually in Punjab, the problem is the lack of will on the part of the Central Government to come to any solution on the burning issues of Punjab.

During the last four years, this House has already passed 22 laws by which the powers were given to the Punjab administration. By now about seven Governors have been tried. Two Chief Ministers, one was dismissed and the other was asked to resign. More than seven Director-Generals of Police were replaced or transferred. More than twelve Advisers to the Governors, Blue

Star and many other actions were tried. All have failed because there was no will on the part of the Central Government to come to any solution which was within the framework of the Constitution. That is the problem.

Terrorists & Disruptive Activities Act, Special Courts Act, Armed Forces (Special Powers) Act, Punjab Disturbed Areas Act and so many other Acts are already there. Why these emergency provisions are being asked for Punjab? Sir, the point is that Shrimati Indira Gandhi, a veteran Prime Minister, herself had apologised to the country that she was not correct, she was wrong in going for Emergency in this country.

PROF. MADHU DANDAVATE: He will also apply after going out of power

SHRI BALWANT SINGH RAMOOWALIA: That may be. I see the Punjab problem is due to the failure of political leadership.

SHRI CHANDRA PRATAP NARAIN SINGH (Padrauna): Prime Minister, Mrs. Indira Gandhi, did not apologise.

AN HON. MEMBER: She expressed regret.

SHRI N.V.N.SOMU (Madras North): She had apologised. (*Interruptions*)

MR. DEPUTY SPEAKER: I don't want others to speak anything now.

SHRI BALWANT SINGH RAMOOWALIA: I have spoken from the information available with me. (*Interruptions*)

MR. DEPUTY SPEAKER: At least you can refute when you get time.

SHRI BALWANT SINGH RAMOOWALIA: Whether it is wrong or right, you can decide.

PROF. MADHU DANDAVATE: He wants to withdraw the apology with retrospective effect.

SHRI BALWANT SINGH RAMOOOALIA: The point is, who are really the guilty persons? Forty people were released from Jodhpur Jail. I am surprised and I fail to understand that how, one after the other, persons are asking what is the result that the release of these 40 people has given to this country. I feel that the Jodhpur detainees were never guilty. Only few of them may be guilty but they were never tried. Those are the guilty who kept them behind the bars for four years without any guilt. They are the real guilty ones. I have to ask one thing. I beg through you Sir, let us remove the impression that has gone down before the country. Why is the peace not returning to the State of Punjab?

The impression has gone down by three ways. The first one is that the Central Government has no faith in peaceful agitations launched in Punjab may be under Sant Longowal or may be under any leader. They want to discredit the peaceful agitating people of Punjab.

The second way by which the impression has gone down is that this Government does not want the negotiative measures to succeed.

The third way is that the door to the Constitutional option should be closed. Those who believe in Constitutional framework should be discouraged and they are discouraged. People are pushed towards the extra-Constitutional measures. People of Punjab don't believe Central Government. They can back out even from written agreement and which is passed in Parliament. They don't believe in judicial commissions. Judicial commission says something about Fazilka and other things about Chandigarh. There are no policies regarding

Punjab. There are different laws for Punjab and entirely different laws for India and through its implementation or promulgation or taking the powers, it is being brought true. Everybody says that there are few terrorists who are being supported from outside. If they are supported from outside, it means that inside, the people of Punjab do not support them. Through you, I ask the Government whether this measure will strengthen those people who are not supporting terrorists or whether this measure will weaken those people or make them discredit by this action. The impression in Punjab is that the Government of India wants to continue confusion, uncertainty and frustration in Punjab. This impression should be removed. It can only be removed if we strengthen the hands of those people who believe in avoiding confrontation between the Centre and the State. We should strengthen those people who believe in Constitutional measures. In my opinion, emergency for the whole of India is coming. Previously, when emergency was proclaimed, it was only the Punjabis, the Akalis who had continuously launched a peaceful agitation against the emergency. Now, they have decided to curb Punjab first, later on comes the rest of the country so that the light of protest is extinguished. It is a matter of distress. The gap is widening. The Government should come with a liberal, open mind to satisfy the people of Punjab. With these words, I oppose this measure.

[Translation]

SHRI PIYUSH TIRAKY (Alipurduars): Mr. Deputy Speaker, the Punjab problem has been discussed here a number of times and today the Government has brought forward a Constitution (A) Bill to discuss the Punjab problem once again. The Barmala Government as well as the President's rule have failed there. I doubt whether the Government will be able to solve the Punjab problem by invoking emergency measures.

[Sh. Piyush Tiraky]

I want to know the purpose for which the Government wants to impose emergency? Is it for dealing with the terrorists or to make the peace-loving citizens terrorists? I do not think that this emergency is meant for the terrorists. Due to the coercive methods being adopted by administration good people are turning to terrorism. It would have been in the fitness of things had the emergency been imposed in Delhi. The present administration has become so strict that it does not spare anybody. Even the leaders are being subjected to intimidation. If the administration is vested with so many powers, then even the good people, the peace loving people will turn terrorists. The next thing that I would like to say is that the administration, on which the Government wants to rely for imposition of emergency has become much corrupt. A sense of fear prevails in everybody's mind right from the Chowkidar. The Government has failed to extradite Win Chandra. The entire Government machinery including the Prime Minister has failed to do so. It has failed to extradite a single individual from abroad. It is, therefore, wrong to say that they would be able to restore peace in the country. The Government should not try to solve all these problems in this manner. The Government has failed on all fronts. Instead of resorting to emergency measures, it will be far better if the Home Minister comes forward and openly says that he has failed to deliver the goods. He should request the House to induct somebody else as Home Minister in his place. It will be a right course for him to do. The Government is going to invite trouble for itself by bringing forward these emergency provisions. Now the situation has reached such a stage where the people have started fearing the people of Punjab at the sight of a turban. They think whether they are terrorists. In this way the Government has given a bad name to the entire community of the society throughout the country and the people are now afraid of those very people

who were known as patriot throughout the country. Such a situation has been created in the society by the Government. Now it intends to make good people terrorists by imposing emergency there.

I strongly oppose this Bill. If they want to protect the country and save the Government, they should withdraw this Bill.

SHRI C. JANGA REDDY (Hanamkonda) : Mr. Deputy Speaker, Sir, in a way it would be beneficial to the opposition. We won after the emergency. If elections are held after an emergency, the ruling party will lose and we will win. Indirectly, it is beneficial to us. We are, however, opposing it in the interest of the country, in the interest of Punjab and in the interest of the people. The Government intends to take advantage of these provisions. In this connection I would like to point out the drawbacks in the policy of the Government to the Home Minister. Though the Government has been empowered with 24 Acts, it intends to impose emergency to solve the Punjab problem. It has been claimed that various accords viz the Punjab Accord, the Assam Accord and the Sri Lanka Accord have been finalised with the emergence to Shri Rajiv Gandhi. But we know what has happened to these accords. The entire country is facing a difficult situation due to all these accords. All of us and the people as a whole are perturbed. The Government has brought forward a number of Acts from time to time to solve the Punjab problem and stamp out terrorism from the State. These Acts have been enforced throughout the country. These are being implemented in Andhra Pradesh also. The Government of Andhra Pradesh is apprehending common men under these provisions. It is not only in Punjab, but also in Maharashtra and other parts of the country people are being apprehended on the pretext of terrorism. When the Government had less powers with them, we abandoned the entire opposition and joined hands with them

to solve the Punjab problem. It sought powers to have a security belt in an area of 5 kilometres along the border. But what did it do? It has no guts. It all needs courage to do a thing. If the rider is not strong enough to control a horse, it will be difficult to handle a horse. Similarly, there is not a single capable person in the Government who can hold the reigns of the administration. Whether it is Rajiv Gandhi or Buta Singh, no one is capable. There is no dearth of laws in the country. In spite of that the Government has not been able to have a security belt in an area of 5 kilometres along the border. The Government maintains that some foreign forces are working behind this problem. Which are these forces? Could the Government name these forces? It cannot, because it has no guts. It cannot tell the same to any Committee or the Parliament. It is a matter of shame that arms and ammunitions are entering the country from abroad. At night the terrorists attacked the C.R.P.F. personnel with rockets. Rockets are not tiny substances like mosquitoes which can easily enter without anybody's notice. Why did not the Government detect the weapons before they could enter the country. The Government does not want to solve this problem because it is not capable. The problem is beyond their control. They are going on formulating laws (*Interruptions*). The Government already has 24 laws with it. What more they would be able to do by formulating one more law. This law will ultimately be misused by the Government. (*Interruptions*) It may be recalled that an emergency had been clamped by the Government in 1975. Imposition of emergency means entrusting all the legal powers to the Executive and to the Police. Instead of proclaiming emergency, the Government can solve the problem by providing military assistance to the civil administration. But the Government intends to harass the people by imposing emergency and that is why this Bill has been brought here. Shri Chidambaram delivered a very good speech in good Eng-

lish, but does he have the experience of the emergency of 1975? He has no such experience. He did not go to jail for one and a half year during the emergency (*Interruptions*). But we did go to jail for one and a half year (*Interruptions*). It may tell you that the emergency may satisfy a handful of people, but it will not solve the Punjab problem. I know why the Government intends to impose emergency in Punjab for a period of 2 years. It is because the term of the present Lok Sabha expires in December 1989 and by that time two months will still remain for the emergency period to come to an end. In the meantime the Government would like to extend the term of the Lok Sabha under Article 83 of the Constitution. At that time also Shrimati Indira Gandhi had extended the term of the Lok Sabha from 5 to 6 years. It was due to the Allahabad High Court's Judgement that an emergency was proclaimed in the country on the plea of internal disturbances and several top leaders and common people were put behind the bars for one and a half year. The people were deprived of their rights. The Government intends to dig its own burial by bringing such a black law again. I, therefore, oppose this Bill.

[English]

SHRI AMAR ROY PRADHAN (Cooch Behar) Mr. Deputy Speaker, Sir, We should all learn lesson from the past and accordingly we should take steps in future. But I am sorry to say that the Congress-I has not learnt lesson from its past and what they did in the past they are again doing the same thing. They are bringing this Bill because they have a proven majority in this House. Through this Bill they want to divide the people of India which is unconstitutional.

I oppose the obnoxious, malicious and pernicious legislation. This is a black Bill. I oppose this draconian law as it wants to strangle the voice of the democracy and the democratic rights that were guaranteed

[Sh. Amar Roy Pradhan]
in our Constitution.

It seems to me that this Government, headed by Shri Rajiv Gandhi, is very much determined to strike at the very root of democracy and snatch away the basic and fundamental rights of the people of India. They are digging the grave for the constitution. They are bringing this emergency just like a budgetary provision. They are bringing it in instalments. The ruling party may not agree with us today. But everyone will agree with me when I say that today it is being applied in Punjab and tomorrow it may apply to Gujarat, next in Bihar and in this manner it may extend over the entire country. And the whole country would be under emergency.

Sir, we can never forget those terrible and dark days of emergency and the tortures of emergency. The entire country had become a prison house during the emergency. Thousands had been in jail for a long time in the course of the emergency. And how were they treated in and outside the jail? All rights had been taken away. The freedom of the press was completely curtailed. Even quotations from Ravindranath Tagore, Bankim Chandra and Jawaharlal Nehru were not allowed in the name of censorship. Shri Priyaranjan Das Munsii is sitting here now. What can I say about these people now?

(Interruptions)

The behaviour of Congress(I) people reminds me of boys in class room who indulge in all sorts of mischief sitting in the back benches. When the teacher reprimands them, they would assure the teacher that they would not repeat the mischief. But again they commit the same mistake. In the same fashion, these Congress people were very much repentant and they assured that emergency would never be imposed again. But again, we see that that very emergency

is being imposed. That is why, I am very much against this Bill. And I oppose this Bill.

SHRI N.V.N. SOMU (Madras North): Sir, once again it is a sad day in the history of India, because the Government is bringing the black law again.

With the help of this Bill, you are enabling yourself to impose emergency in Punjab for two years. The Government itself is confessing that for two years nothing could happen in Punjab.

What does this Constitutional amendment show? It only proves that all these years the efforts of the Rajiv Government are a total failure. And now you come before this House to arm yourself with more and more powers. You are arming yourself with weapon after weapon. Still, you are not able to solve the problems of Punjab. You are not able to solve the boundary dispute there. You are not able to solve the water dispute there. Let alone Punjab, you are not able to solve the water disputes among the peaceful States even! I give here an example of the Cauvery water problem and the Telugu Ganga scheme of Tamil Nadu, Andhra Pradesh and Karnataka. Even in these States where peace prevails, you are not able to solve the disputes.

Then, what are you going to achieve by this amendment? The only thing that you can achieve is gagging the press, the fourth estate, and by law or by executive order you would impose pre-censorship not only in Punjab but also in the rest of India thereby stopping the coverage of news concerning Punjab. In this way, you are going to prevent the rest of India to know as to what is happening in Punjab.

You are trying to isolate Punjab from the other parts of India. This amendment will give you power to prevent the entry of people

into Punjab and this includes even the journalists.

You will also have to power the ban meetings in and outside Punjab. The suspension of Article 19, due to the declaration of emergency will cripple the functioning of democracy. Freedom of expression, assembly, association of movement in any part of the country and of carrying out a business or a profession would become inoperative not just in Punjab but in relation to Punjab in other parts of the country too.

You want to declare emergency in the name of 'internal disturbance'! But what is internal disturbance? There is no proper definition as to what is an internal disturbance. And internal disturbance in the Congress Party is considered by you as internal disturbance to the country! Today, emergency is being imposed in the name of internal disturbance. And 13 years back, emergency was imposed due to individual disturbance. In 1975, you imposed emergency after the Allahabad High Court judgment about one individual and it was an individual disturbance then. Thousands of people were arrested and detained and leaders of the opposition parties were not only arrested but tortured too.

In Tamil Nadu, we opposed the Emergency tooth and nail. Our Leader Dr. Karunanidhi described the declaration of Emergency as laying the foundation for Dictatorship. Can Government withstand all the oppressive measures of Emergency?

Hundreds of our Party workers were arrested and front rank leaders were detained under MISA. Two of them Chittibabu and Porchezian died in prison.

People all over India praised that only in Tamil Nadu "you can be an independent citizen and you can feel the breeze of Independence there."

For opposing Emergency our Government was ousted. Our leaders were maligned. Radio, T.V. and other Medium were used against us and to malign the D.M.K.

If the people are not supporting your views, you are contemplating to corner them through Emergency. But it was a total failure. Mrs. Indira Gandhi repented herself for declaring Emergency, later. She apologised for bringing Emergency and for its excesses at our Marina Sands in Madras in the presence of my leader Dr. Karunanidhi. She said that I am also a human being. I quote "It is human to err and it is more human to rectify." I think that would give a lesson to our present Prime Minister Shri Rajiv Gandhi.

Through this oppressive Bill, once again this Government wants to crush the Opposition and strangle the voice of Democracy.

Tamil Nadu also is under President's Rule. I hope for the sake of Congress Party, it will not proclaim Emergency in Tamil Nadu.

Sir, this Bill is against all norms of rights and principles of humanity.

As the Home Minister has withdrawn the Objects and Reasons from the Bill itself, I request him to withdraw the Bill also.

MR. DEPUTY SPEAKER: Shri Mewa Singh Gill.

(Interruptions)

DR. DATTASAMANT: Please allow me also.

MR. DEPUTY SPEAKER: At 6 O'clock, the Minister is going to reply. If time permits, I will allow you also.

(Interruptions)

MR. DEPUTY SPEAKER: On every Bill you want to speak. I am giving you opportunities to speak on every Bill.

(Interruptions)

MR. DEPUTY SPEAKER: I have to see others also. I have to give opportunity to other Members also. Everytime I am giving you opportunity to speak. You please allow him to speak.

DR. DATTA SAMANT: I spent three years in Jail during emergency. I know how you are going to implement this Act. (Interruptions)

SHRIM.S. GILL (Ludhiana): Mr. Deputy Speaker, Sir this 59th Constitution Amendment Bill to me will go in the history as Rajiv's Emergency Bill. It reminds me of the Rowlatt Act days and the horrors of the Rowlatt Act days and also the Emergency period of 1975. This is not only a betrayal of the faith of the people but also a betrayal of the democratic principles and the democratic ethics. It is going back from the solemn assurance given on the floor of this august House by the predecessors and the Members of the Congress that Article 21 of the Constitution shall never be suspended. Again this is something antithetical of what they want to say. This is a self-defeating Bill in my opinion because the reasons and the object of the Bill is that the security and unity of the country should be secured. But I am afraid the Bill which they have brought—some provisions—are going to shake the faith of the people and unity and integrity of the country. The reasons are—the people in the streets are given to understand—by the introduction of the Bill, that there are two Constitutions in India—one applicable in Punjab and the other in the rest of India. This is the message which the common people will be understanding. Punjab is a place which is separate from the rest of India. Once the idea comes into the minds of the people, that the persons

roaming in the streets of Punjab have no right to life, have no right to liberty, and that the persons outside the boundaries of Punjab have their rights to liberty and life, then that is the basis on which Punjab will be separated from the rest of India, in the minds of the people. This is the folly which the Government is committing.

I am reminded of those days. After all, what do they want to get out of this emergency? There are three parts of this Bill. One, for the extension of the President's rule in Punjab. Number two, adding another ground, viz, internal disturbances, for the imposition of emergency. Number three, the power to take away the right to life and to liberty from out of the people of Punjab. These are the three provisions. What do they want, after all? During the last five years, they have enacted as many as two dozens of Bills. The Terrorists—Affected Areas Act, and the Terrorists and Disruptive Activities (Prevention) Act are already in force there. What more draconian measure can they bring? The Act itself says that a man can be kept in jail for one year without trial, without filing a charge-sheet in the court, for one year. A man is denied bail, because if the Prosecutor says that it should not be allowed, he will not be given the bail. A person accused of such offences can be put in jail from five years to life imprisonment; and the trial can be *in camera*; and a person can be coaxed into giving a confession which will be the basis for the conviction under those rules. Not only that; a confession before a police officer is the basis for the conviction under that law.

These are the laws which are already in existence. After all, what do they get out of imposing emergency, except that they will catch hold of innocent persons, they will catch hold of their political enemies, and put them in jails without trial? They want to take away the right of the people to approach the courts. Now the political people have been

approaching the courts and getting some remedy. The Government wants to shut the mouth of the people; they want to gag the press, they want that the people who have got some ideas opposed to the ruling classes, should not move about in Punjab. That is the only idea.

After all, as I already said, according to their own figures stated here in the House, the number of terrorists is at the most 500; maximum 1,000; and they want to fight those terrorists. They do not want to fight any other forces. They want to fight the terrorists. The Government must remember the Karisara incident where terrorists came to that village and shot down 34 persons. And there were 14 Sikhs in that group, and those terrorists wanted those Sikhs to be separated from the Hindus, so that their lives could be saved. I am reminded of those heroes. Those 14 Sikhs said: 'No; we will die along with the Hindus. We do not want to be separated.' And they faced their death gallantly.

We forget those things. Instead of appreciating this spirit of the Punjabi people, instead of appreciating the spirit of the Sikhs that they were one with Hindus there in Punjab—and they have along been fighting against these forces and they have kept the Hindu-Sikh unity all these days, months and years instead of appreciating this, they are resorting to this sort of emergency Bills which would mean—again I would say, at the cost of repetition a step towards separation.

Mr. Deputy Speaker, when the Rowlatt Act was brought here, you know how gallantly our forefathers fought that Act. There were three parts of that Act. The first part said that the trial would be *in camera*; and that the trial would be by three judges of the High Court and that there would be no appeal. This was one; and there was a slogan throughout India, that this was an Act where there was no appeal, no *Dalli* and no *Vakil*.

This slogan echoed throughout India from one corner to the other, and there was insurgency in the entire country.

18.00 hrs.

I remind the ruling party that if they go on imposing such type of laws, the people of India will rise, as the opposition has risen here today against this draconian law, a day is not far off. As the Rowlatt Act was defeated in the streets of India—this emergency law will also be defeated in the streets of India.

With these remarks, I oppose the Bill with all the force at my command.

SHRIMATI D.K. BHANDARI (Sikkim): I rise to oppose this Bill which intends to make the people of Punjab the second class citizens by taking away certain fundamental rights. By doing this, the innocent people of Punjab will be sandwiched between the bullets of terrorists and the administration wielding emergency laws. I feel by doing this the people of Punjab will be more alienated than to be integrated.

In this very House, we, the members, gave them one stringent law after another to make the hands of the government stronger to fight with terrorists, because not only this House, but the whole nation was and is in seize of the situation which is prevailing in Punjab. But to what effect? Today, they have brought forward this Bill seeking to impose emergency in Punjab. This is to one extent the admission of the failure of the government of their various measures to tackle the growing tentacles of terrorism. I have no doubt that this Bill will be passed in this House despite the vehement opposition and the voice of reason of the opposition parties by using the brute majority of the ruling party. But I would like only to suggest that the government should continue the effort to find a political solution to the Punjab problem.

[Shrimati D.K. Bhandari]

One is mistaken if even today it is taken as a law and order problem. I sincerely hope that this emergency would not be allowed to run its two year term that before long a peaceful settlement is reached on this Punjab tangle.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRI H.K.L.BHAGAT): We should understand that eight hours have already been taken. I have no objection to speaking by other members. We want to finish it.

DR. DATTA SAMANT (Bombay South Central): The people of this country will never accept and accommodate such type of suppressive and oppressive acts. The government should have learnt from 1975 to 1977. Ten years ago how the government miserably suffered and how the people of this country had thrown them out. There is something wrong with this government. It is my experience. When a mad dog goes on biting innocent people to show his superiority, the action of this government can be compared with a mad dog. I think, definitely, a mad dog dies after 24 hours after one day. This government will take maximum one year if they go on acting like a mad dog in this country. (*Interruptions*) I am against this Bill. I think the government should withdraw this type of a Bill. (*Interruptions*). There are already six amendments passed in three years. They have passed 18 laws in five years. This is a world record. We have to give something to Shri Buta Singh for his contribution. After implementing it, you can do everything. If you want to punish terrorists, you can do it; you can arrest them, keep them in jails and so on. All these laws are more or less sufficient to tackle them. For whom is this emergency? Is it for the people of Punjab?

As far as implementation of these laws

is concerned, there is a big failure on the part of the government. National Security Act and MISA were applied against me four times though I was an MLA in Maharashtra. National security—for whom? For the mill owners? Forty of my activists were arrested under the National Security Act, to please Dhirubhai Ambani so that his interests are protected by arresting these leaders.

The National Security Act was amended in 1986. What happened in 1986? More arrests took place in Punjab. There were 284 arrests in Maharashtra, but 276 in Punjab.

Under the Terrorists and Disruptive Activities Prevention Act, 2,000 farmers were arrested in Gujarat. What is this? A declaration was made here that it will not be misused. And yet the daughter-in-law of a magistrate was arrested under the TDAP Act in Gujarat.

That is the nature and character of this Government, that all these laws which were passed here are not implemented properly but they are used against the people. The Government is using this national Security Act. For whom? To suppress the people. To suppress the show of superiority of the Hindus. The eyes of the Government are on the elections. They think that the Hindu community will vote for them.

Similarly in Tripura, military was brought to get the votes. Emergency is being brought in Punjab to get the Hindu votes. I accuse the Government that they are having ulterior political motives. That is why they are acting in this manner. The people who were the advisors when the earlier Emergency was proclaimed in 1975, the same people are advising Shri Rajiv Gandhi also.

MR. DEPUTY SPEAKER: Your time is over. Please conclude.

DR. DATTA SAMANT: You are not allowing me to speak. I oppose this Bill tooth and nail.

[Translation]

THE MINISTER OF HOME AFFAIRS (S.BUTA SINGH): Mr. Deputy Speaker, Sir, the M.Ps have expressed their views on the serious or complicated problem of Punjab. There is not doubt that the problem of Punjab is quite serious and whenever there was a new turn in the situation, we came to this House that gave full support to the Government. In order to end the menace of terrorism, separatism and communalism, which have engulfed Punjab, all the political parties in Punjab imbued with the spirit of nationalism launched a campaign. In today's discussion, many leaders of the opposition expressed their political views and it is quite natural for them to do so. The constitutional points raised by Prof. Dandavate, Shri Reddy and Shri Somnath have been dealt with by Shri Kaushal and Shri Chidambaram. It is regrettable that if the doubts raised here or in the other House had been basically constitutional, then we would have taken note of them.

Efforts are being made to create a confusion and mistrust in the minds of the people in the country as if the Government of India is going to impose emergency in the country. I am happy that after today's discussion, the atmosphere of doubt and distrust will end. The provisions of this Bill will be applied to Punjab only when there is a dire need of it. But I am surprised to hear Prof. Dandavate who said that under the 44th amendment, they have removed the words. "Internal disturbance" from the Constitution. I am not a lawyer, he might have been a professor of lawyers. I am simply quoting the Constitution without interpreting it. Because I am not at all able to interpret it, may be Shri Bhagat can do. If we read Article 355, which was covered under the 44th amendment

and which they did not touch,—I may read it for you it is clearly written in it.

[English]

"Duty of the Union to protect States against external aggression and internal disturbance."

[Translation]

I will not read the whole Article. It is the duty of the Government of India to protect all the States from external aggression and internal disturbance and if I am doing it. I am fulfilling my duty as a Home Minister. (Interruptions)

[English]

The fact is that even in the 44th Amendment, the then Government did not consider that the 'internal disturbance' should be removed from Article 355, which is the exclusive charge of the Government of India. Then I have only sympathies for you and I must pay my tributes to the then Government, though they were thrown out. They thought that this kind of emergency can arise where the Government of India must protect the States against the internal disturbance.

[Translation]

Sir, I have said that I am neither a specialist nor a lawyer. You are a lawyer. You may go on interpreting it and telling the people but no one will accept it.

SHRI BASUDEB ACHARIA: Why do you interpret it wrongly? We will definitely accept it.

S.BUTA SINGH: Prof. Dandavate gave his speech for over one hour, but it is surprising that he didn't utter a single word about Punjab or about the Bill. He only narrated some tales about himself and about his

[Sh. Buta Singh]

elders as to what they did during the emergency, as if their elders were great kings. He found an opportunity to pay tributes to late Shri Jai Prakash Narain, as he was not able to do so then. They were responsible for making the life of late Shri Jai Prakash Narain miserable during their regime and perhaps this was the cause of his early death. Mr. Deputy Speaker, Sir (*Interruptions*)

[English]

PROF. MADHU DANDAVATE: Let him not use the name of Jai Prakash Narain in this.

[Translation]

S.BUTA. SINGH: You referred to his name, so I, otherwise, I would not have made any reference. We all know that he was very much alive in Patna, when his Government had declared him dead. This was their respect for him. Shri Jai Prakash Narain was a great patriot and in his leadership and owing to his inspiration, lakhs of young people served their country....(*Interruptions*)...Kindly sit down. We are not talking about you.(*Interruptions*)**

[English]

MR. DEPUTY SPEAKER: Nothing goes on record.

[Translation]

S. BUTA SINGH: Sir, I was saying that the Telugu Desam, the Bhartiya Janta Party, the Janta Party, etc. had decided that under the leadership of the hon. Prime Minister, all the leaders of the opposition would launch a joint campaign in Punjab. In that campaign

the C.P.I.(M), the C.P.I. and for some time the B.J.P. also did some work with us. That campaign went on smoothly. The Shiromani Akali Dal (Barnala Group) also joined us for some time, but so far as the other Akali Dal is concerned, some of whose hon. members are present in this House, it never launched any campaign against terrorism and separatism in Punjab.....(*Interruptions*)

Sir, without exaggeration, I want to submit to this House that if those hon. Members of the Akali Dal, who are present in this House, give an assurance to this House that they will come forward realising it their duty and launch a campaign for the unity and integrity of the country, then I promise that we will never impose emergency in Punjab.(*Interruptions*)

SHRI SHAMINDER SINGH (Faridkot): We have said it several times. You stop the State terrorism. State terrorism is the cause of terrorism in Punjab. If you stop the State terrorism then we will give you the assurance. We have said it several times that we are loyal to this country more than you....(*Interruptions*)

S. BUTA SINGH: I am not talking about anyone's loyalty here....(*Interruptions*)

SHRI SHAMINDER SINGH: We are loyal to this country more than you and every drop of our blood will flow for this country.(*Interruptions*)

S. BUTA SINGH: I am not talking in that context.

[English]

PROF.MADHU DANDAVATE: You have challenged them. Now, you accept the challenge. You are asking for assurance. He is giving the assurance.

[Translation]

withdraw the Bill....(Interruptions).

S. BUTA SINGH: Prof. Dandavate, Mr. Acharia, please listen to me (Interruptions)

S. BUTA SINGH: You are misquoting me.

[Translation]

SHRI CHARANJIT SINGH WALIA (Patiala): We are loyal to this country (Interruptions) We as Member of Parliament give you an assurance. (Interruptions)

S. BUTA SINGH: You are misquoting me. I have stated and I repeat it again that if the hon. Members of the Akali Dal are ready to come forward and fight terrorism and secessionism for the sake of the country, then we will never proclaim emergency. (Interruptions) I have just said it (Interruptions) But my submission is that today some hon. Members are wearing black bands which should not be in accordance with the rules of the House. But I would like to ask how many killings have taken place in Punjab. A little while ago Shri Mewa Singh Saheb made a reference to the Hoshiarpur incident about which all of us feel proud, but the moot point is, did you people also wear black bands on the day of shootout in which many persons were killed. (Interruptions) Sir, on the death of a State level youth leader of the Yuva Akali Dal belonging to Patiala, the constituency of Waliaji, their Party could not even pass a condolence motion and here they say that they are against terrorism. (Interruptions) Sir, I would like to state that the Party of Prof. Madhu Dandavate did not take part in the joint campaign of the C.P.I. (M) the C.P.I., the B.J.P. and the Congress ... (Interruptions)

S. BUTA SINGH: Mr. Deputy Speaker, Sir, today, in the House, some hon. Members are wearing black bands....(Interruptions)

[English]

SHRI CHARANJIT SINGH WALIA: The hon. Home Minister asked my party and me to clarify our stand about the unity and integrity of this country. We have always honoured it. We assure the nation also that we have never doubted the unity and integrity of the country. (Interruptions) As Members of this hon. House, it is our duty also that we should honour the rules, laws, Acts and the Constitution and we should ask the Government also to honour them. (Interruptions)

MR. DEPUTY SPEAKER: Minister is on his legs. You take your seats.

S. BUTA SINGH: I have said that if they assure this House that they will fight terrorism, we will not resort to Emergency. After this Act is passed, we will not proclaim the Emergency... (Interruptions)

[English]

PROF. MADHU DANDAVATE: Mr. Surendra Mohan attended the first rally. When he found that ... (Interruptions)

You see the record... (Interruptions)

MR. DEPUTY SPEAKER: Please order....(Interruptions)

[Translation]

SHRI BASUDEB ACHARIA: Sir, he wanted an assurance from them and they have given the assurance. Now he should

S. BUTA SINGH: Their leaders staged a walkout there. Just a while ago a leader of the Bhartiya Janta Party, Janga Reddy Saheb, referred to emergency and he

[S. Buta Singh]
should know that the State unit of the Bharatiya Janta Party.....(Interruptions)

SHRI M.S. GILL (Ludhiana): Deputy Speaker, Sahab, we are as patriot as they are. For the security of the country we ... (Interruptions)

[English]

MR. DEPUTY SPEAKER: I am not allowing him. Nothing except Minister's reply will go on record.

[Translation]

(Interruptions)**

S. BUTA SINGH: Mr Deputy Speaker, Sir, the Punjab unit of the Bharatiya Janta Party has demanded.....(Interruptions)

SHRI M.S. GILL: Deputy Speaker Sahab...(Interruptions)

[English]

MR. DEPUTY SPEAKER: I am not allowing him to speak. Nothing will go on record what he says.....

(Interruptions)**

[Translation]

S. BUTA SINGH: Mr. Deputy Speaker, Sir, today also the State level leaders of the Bharatiya Janata Party have demanded that Punjab be handed over to the Army. On the one hand, Army rule is being demanded for Punjab and on the other, Janga Reddy Sahab is even opposing limited measures which Government propose to take. See the contradiction in the statements. To mislead

the people of Punjab, they are stating that the Government of India is not handing over Punjab to the Army and on the other, they are demanding rejections of the Bill and are also opposing emergency measures which Government propose to take. From all this it appears that the Opposition Groups are simply trying to create chaos in the country and mislead the people. The campaign launched by the Government of India at national level against terrorism in Punjab is not of any one Party, but of all the Parties. Just now a reference was made as to why the assembly was dissolved. Here is an example before us. The former Chief Minister, Shri Barnalaji, though in violation of all constitutional provisions, made an offer to the United Akali Dal to take back 22 expelled members, if they were willing to come back to the Party but the offer was turned down by the leaders of the United Akali Dal. There was no other way out for the Government except to come before this August House when there was no possibility of democratically elected Government coming to power. The Government came before the August House and brought forward this measure to extend the President's rule in Punjab. Constitutionally there was no other way out before the Government.

There are two proposals under this Bill. One is to extend the period of President's rule in Punjab, which is well within the constitutional parameters, and second proposal is about imposition of emergency in Punjab if necessary. I have been saying again and again that through involvement of the people and the support of all political parties, we can root out terrorism from Punjab. But if these political parties in view of their strategy do not cooperate with the Government in this task then the Government of India will never shy away from its responsibility. For preserving the unity and integrity of the nation it is

our duty under the Constitution to bring peace in Punjab through every possible constitutional measure. To achieve this end, if need arises, then the Government will not hesitate from taking harsh measures.

But I would like to make one thing very clear that if some parties or some people think that through such tactics they can continue to harass the people of Punjab, then the Government will not allow them to do so for long because the Government is determined to drive away the enemies of the country from Punjab, the land of patriots, and end terrorism in Punjab. For this purpose, the Government is prepared to go to any extent

I request this August House that in order to fulfil the national task, all the parties should unitedly extend their cooperation to the Government in rooting out the menace which has engulfed Punjab. For this I seek the cooperation of all and request this August House to pass this Bill

[English]

MR DEPUTY SPEAKER. Before I put the motion for consideration to the vote, I would like to say that this being a Constitution (Amendment) Bill, voting has to be by division.

Let the Lobbies be cleared. Now the Lobbies have been cleared.

The question is:

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

The Lok Sabha divided

Division No. 1]

18. 35 hrs

AYES

Abbasi, Shri K.J.

Abdul Ghafoor, Shri

Agarwal, Shri Jai Prakash

Ahmed, Shrimati Abida

Akhtar Hasan, Shri

Alkha Ram, Shri

Anand Singh, Shri

Ansari, Shri Abdul Hannan

Ansari, Shri Z R

Antony, Shri P A.

Arunachalam, Shri M.

Athithan, Shri R. Dhanuskodi

Awasthi, Shri Jagdish

Azad, Shri Ghulam Nabi

Baghel, Shri Pratapsinh

Bairagi, Shri Balkavi

Bairwa, Shri Banwan Lal

Baitha, Shri D.L.

Bajpai, Dr. Rajendra Kuman

Bala Goud, Shri T.

Balaraman, Shri L.

Bali, Shrimati Vyjayanthimala

| | |
|-----------------------------|--------------------------------|
| Barrow, Shri A.E.T. | Charles, Shri A. |
| Basavarajeswari, Shrimati | Chaturvedi, Shrimati Vidyavati |
| Basavaraju, Shri G.S. | Chaudhary, Shri Manphool Singh |
| Basheer, Shri T. | Chaudhry, Shri Kamal |
| Bhagat, Shri B.R. | Chavan, Shri Ashok Shankarrao |
| Bhagat, Shri H.K.L. | Chidambaram, Shri P. |
| Bhakta, Shri Manoranjan | Choudhari, Shrimati Usha |
| Bharat Singh, Shri | Choudhary, Shri Jagannath |
| Bhardwaj, Shri Parasram | Choudhary, Shri Nandlal |
| Bhatia, Shri R.L. | Dabhi, Shri Ajitsinh |
| Bhoi, Dr. Krupasindhu | Dalbir Singh, Shri |
| Bhosale, Shri Prataprao B. | Dalwai, Shri Hussain |
| Bhumij, Shri Haren | Damor, Shri Somjibhai |
| Bhuria, Shri Dileep Singh | Das, Shri Anadi Charan |
| Birbal, Shri | Das, Shri R.P. |
| Birendra Singh, Rao | Das, Shri Sudarsan |
| Birinder Singh, Shri | Das Munsi, Shri Priya Ranjan |
| Brahma Dutt, Shri | Dennis, Shri N. |
| Budania, Shri Narendra | Deora, Shri Murl |
| Bundela, Shri Sujjan Singh | Dev, Shri Sontosh Mohan |
| Buta Singh, S. | Devi, Prof. Chandra Bhanu |
| Chandrakar, Shri Chandulal | Dhariwal, Shri Shanti |
| Chandrasekhar, Shrimati M | Dhillon, Dr. G.S. |
| Chandrasekharappa, Shri T.V | Digal, Shri Radhakanta |
| Chandresh Kumari, Shrimati | Dighe, Shri Sharad |

Digvijaya Singh, Shri

Gupta, Shri Janak Raj

Dikshit, Shrimati Sheila

Gupta, Shrimati Prabhawati

Dinesh Singh, Shri

Halder, Prof. M.R.

Dube, Shri Bhishma Deo

Harpal Singh, Shri

Engti, Shri Biren Singh

Jadeja, Shri D.P.

Faleiro, Shri Eduardo

Jaffar Sharief, Shri C.K.

Gadgil, Shri V.N.

Jagannath Prasad, Shri

Gadhvi, Shri B.K.

Jain, Shri Nihal Singh

Gaekwad, Shri Ranjit Singh

Jain, Shri Viridhi Chander

Gaikwad, Shri Udaysingrao

Jangde, Shri Khelan Ram

Garnit, Shri C.D.

Jatav, Shri Kammodilal

Gandhi, Shri Rajiv

Jeevarathinam, Shri R.

Ganga Ram, Shri

Jena, Shri Chintamani

Gavit, Shri Manikrao Hodlya

Jitendra Prasada, Shri

Gehlot, Shri Ashok

Jitendra Singh, Shri

Gholap, Shri S.G.

Jujhar Singh, Shri

Ghorpade, Shri M.Y.

Kamal Nath, Shri

Ghosal, Shri Debi

Kamble, Shri Arvind Tulshiram

Ghosh, Shri Bimal Kanti

Kamson, Prof. Meijinlung

Ghosh, Shri Tarun Kanti

Kaul, Shrimati Sheila

Gohil, Shri G.B.

Kaushal, Shri Jagan Nath

Gomango, Shri Giridhar

Ken, Shri Lala Ram

Gounder, Shri A.S.

Keyur Bhushan, Shri

Gowda, Shri H.N. Nanje

Khan, Shri Aslam Sher

Guha, Dr. Phulrenu

Khan, Shri Khurshid Alam

Khan, Shri Mohd. Ayub

Manvendra Singh, Shri

Khatti, Shri Nirmal

Meena, Shri Ram Kumar

Khirhar, Shri R.S.

Mehta, Shri Haroobhai

Kinder Lal, Shri

Meira Kumār, Shrimati

Krishna Singh, Shri

Mishra, Shri G.S.

Kshirsagar, Shrimati Kesharbai

Mishra, Shri Ram Nagina

Kuchan, Shri Gangadhar S.

Mishra, Shri Shripati

Kujur, Shri Maurice

Mishra, Shri Umakant

Kumaramangalam, Shri P.R.

Misra, Shri Nityananda

Kunjambu, Shri

Modi, Shri Vishnu

Kuppuswamy, Shri C.K.

Mohanty, Shri Brajamohan

Kurien, Prof. P.J.

More, Prof. Ramkrishna

Lachchhi Ram, Shri

Mukhopadhyay, Shri Ananda Gopal

Law, Shri Asutosh

Mundackal, Shri George Joseph

Lowang, Shri Wangpha

Murmu, Shri Sidha Lal

Madhuree Singh, Shrimati

Murthy, Shri M. V Chandrashekara

Mahabir Prasad, Shri

Mushran, Shri Ajay

Mahendra Singh, Shri

Muttemwar, Shri Vilas

Makwana, Shri Narsinh

Naik, Shri Shantaram

Malik, Shri Dharampal Singh

Naikar, Shri D.K

Mallick, Shri Lakshman

Namgyal, Shri P.

Malviya, Shri Bapulal

Narayanan, Shri K.R.

Mane, Shri Murlidhar

Nawal prabhakar, Shrimati Sunderwati

Mane, Shri R.S.

Neekhara, Shri Rameshwar

Manorama Singh, Shrimati

Negi, Shri Chandra Mohan Singh

Netam, Shri Arvind

Patil, Shri H.B.

Odedra, Shri Bharat Kumar

Patil, Shri Prakash V.

Odeyar, Shri Channaiah

Patil, Shri Shivraj V.

Oraon, Shrimati Sumati

Patil, Shri Uttamrao

Pakeer Mohamed, Shri E.S.M.

Patil, Shri Veerendra

Pandey, Shri Damodar

Patil, Shri Vijay N.

Pandey, Shri Madan

Patnaik, Shrimati Jayanti

Pandey, Shri Manoj

Pattnaik, Shri Jagannath

Panigrahi, Shri Chintamani

Peruman, Dr. P. Vallal

Panigrahi, Shri Sriballav

Pilot, Shri Rajesh

Panika, Shri Ram Pyare

Poojary, Shri Janardhana

Panja, Shri A.K.

Potdukhe, Shri Shantaram

Pant, Shri K.C.

Prabhu, Shri R.

Panwar, Shri Satyanarayan

Pradhan, Shri K.N.

Parashar, Prof. Naram Chand

Pradhani, Shri K.

Pardhi, Shri Keshaoao

Puran Chandra, Shri

Paswan, Shri Ram Bhagat

Purohit, Shri Banwari Lal

Patel, Shri Ahmed M.

Purushothaman, Shri Vakkom

Patel, Shri C.D.

Pushpa Devi, Kuman

Patel, Shri G.I.

Qureshi, Shri Aziz

Patel, Shri Mohanbhai

Raghuraj Singh, Chaudhary

Patel, Shri Ram Pujan

Rai, Shri I. Rama

Patel, Shri U.H.

Rai, Shri Raj Kumar

Pathak, Shri Chandra Kishore

Rai, Shri Ramdeo

Patil, Shri Balasaheb Vikhe

Raj Karan Singh, Shri

| | |
|--------------------------------|---------------------------------|
| Rejeshwaran, Dr. V. | Rawat, Shri Kamla Prasad |
| Rajhans, Dr. G.S. | Rawat, Shri Prabhu Lal |
| Ram, Shri Ram Ratan | Sahi, Shrimati Krishna |
| Ram, Shri Ramswaroop | Sahu, Shri Shiv Prasad |
| Ram Awadh Prasad, Shri | Sait, Shri Azeez |
| Ram Dhan, Shri | Sakargaym, Shri Kalicharan |
| Ram Prakash, Ch. | Salahuddin, Shri |
| Ram Samujhawan, Shri | Sankhawar, Shri Ashkaran |
| Ram Singh Shri | Sankata Prasad, Dr |
| Ramachandran, Shri Mullappally | Satyendra Chandra, Shri |
| Rampal Singh, Shri | Sathe, Shri Vasant |
| Rana Vir Singh, Shri | Sayeed, Shri P.M |
| Ranga, Prof. N.G. | Scindia, Shri Madhavrao |
| Ranganath, Shri K.H. | Sen, Shri Bholanath |
| Rao, Shri J. Chokka | Sethi, Shri Ananta Prasad |
| Rao, Shri J. Vengala | Sethi, Shri P C |
| Rao, Shri K.S. | Shah, Shri Anoopchand |
| Rao, Shri P.V. Narasimha | Shahi, Shri Laliteshwar |
| Rao, Shri V. Krishna | Shailesh, Dr. B.L. |
| Rath, Shri Somnath | Shaktawat, Prof. Nirmala Kumari |
| Rathawa, Shri Amarsinh | Shankaranand, Shri B. |
| Rathod, Shri Uttam | Shanmugam, Shri P. |
| Raut, Shri Bhola | Shanti Devi, Shrimati |
| Ravani, Shri Navin | Sharma, Shri Chiranji Lal |
| Rawat, Shri Harish | Sharma, Shri Nand Kishore |

Sharma, Shri Nawal Mahore

Soren, Shri Harihar

Sharma, Shri Pratap Bhanu

Sparrow, Shri R.S.

Shastri, Shri Hari Krishna

Sreenivasa Prasad, Shri V.

Shervani, Shri Saleem I.

Sukh Ram, Shri

Shingda, Shri D.B.

Sukhbuns Kaur, Shrimati

Shivendra Bahadur Singh, Shri

Sultanpuri, Shri K.D.

Siddiq, Shri Hafiz Mohd.

Suman, Shri R.P.

Sidnal, Shri S.B.

Sundararaj, Shri N.

Singaravadivel, Shri S.

Surendra Pal Singh, Shri

Singh, Shri Bhanu Pratap

Suryawanshi, Shri Narsing

Singh, Shri Chandra Pratap Narain

Swami Prasad Singh, Shri

Singh, Shri D.G.

Swell, Shri G.G.

Singh, Shri K.N.

Tapeswar Singh, Shri

Singh, Shri Kamla Prasad

Tewary, Prof. K.K.

Singh, Shri Krishna Pratap

Thakkar, Shrimati Usha

Singh, Shri Lal Vijay Pratap

Thara Devi, Kumari D.K.

Singh, Shri N. T. ombi

Thomas, Prof. K.V.

Singh, Shri S.D.

Thorat, Shri Bhausaheb

Singh, Shri Santosh Kumar

Thungon, Shri P.K.

Singh Deo, Shri K.P.

Tigga, Shri Simon

Sinha, Shrimati Kishori

Tilakdhari Singh, Shri

Sinha, Shri Satyendra Narayan

Tomar, Shrimati Usha Rani

Sodi, Shri Mankuram

Tripathi, Dr. Chandra Shekhar

Solanki, Shri Kalyan Singh

Tyagi, Shri Dharamvir Singh

Solanki, Shri Natavarsinh

Vairale, Shri Madhusudan

Van, Shri Deep Narain

Biswas, Shri Ajoy

Vanakar, Shri Punam Chand Mithabhai

Chatterjee, Shri Somnath

Venkatesan, Shri P.R.S.

Choubey, Shri Narayan

Verma, Shrimati Usha

Crowdhary, Shri Saituddin

Vijayaraghavan, Shri V.S.

Dandavate, Prof. Madhu

Vir Sen, Shri

Das, Shri R.P.

Vyas, Shri Girdhari Lal

Datta, Shri Amal

Wasnik, Shri Mukul

Deo, Shri V. Kishore Chandra S.

Yadav, Shri Kailash

Gill, Shri M.s.

Yadav, Shri Mahabir Prasad

Goswami, Shri Dinesh

Yadav, Shri R.N.

Hannan Mollah, Shri

Yadav, Shri Ram Singh

Hansda, Shri Matilal

Yadav, Shri Shyam Lal

Iyer, Shri V.S. Krishna

Yadava, Shri Bal Ram Singh

Jagathrakshakan, Dr. S.

Yadava, Shri D.P.

Kalpana Devi, Dr. T.

Yazdani, Dr. Golam

Khan, Shri Mohd. Mahfouz Ali

Yogesh, Shri Yogeshwar Prasad

Kurup, Shri Suresh

Zainul Basher, Shri

Maik, Shri Purna Chandra

NOES

Acharia, Shri Basudeb

Mishra, Shri Satyagopal

Athwal, Shri Charanjit Singh

Natarajan, Shri K.R.

Barman, Shri Palas

Patel, Dr. A.K.

Basu, Shri Anil

Pathak, Shri Ananda

Bhandan, Shrimati D.K.

Patil, Shri D.B.

Bhoopathy, Shri G.

Penchallish, Shri P.

Raju, Shri Vijaya Kumar

Thomas, Shri Thampan

Ram Bahadur Singh, Shri

Tiraky, Shri Piyus

Ramoowalia, Shri Balwant Singh

Tulsiram, Shri V.

Rao, Shri A.J V.B. Maheswara

Walia, Shri Charanjit Singh

Rao, Dr. G. Vijaya Rama

Yadav, Shri Vijoy Kumar

Rao, Shri Srihari

Zainal Abedin, Shri

Rao, Shri V. Sobhanadreeswara

MR. DEPUTY SPEAKER:- Subject to correction, the result* of the division is:

Reddi, Shri C. Madhav

Ayes: 340

Reddy, Shri B.N.

Noes: 059

Reddy, Shri Bezawada Papi

The motion is 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.

Reddy, Shri E. Ayyapu

The motion was adopted.

Reddy, Shri P. Manik

MR. DEPUTY-SPEAKER: Now we shall take up clause-by-clause consideration of the Bill

Reddy, Shri S. Jaipal

Rryan, Shri Baju Ban

Clause 2

Roypradhan, Shri Amar

(Amendment of article 356)

Saha, Shri Ajit Kumar

DR. S. JAGATHRAKSHAKAN (Chengalpattu): I move:

Saha, Shri Gadadhar

Page 1, line 7—

Shaminder Singh, Shri

For "in this clause" substitute

Somu, Shri N.V.N.

"in sub-clause (b) of this clause"
(1)

Swamy, Shri D. Narayana

*The following members also recorded their votes:

AYES : Dr. C.S. Verma

NOES : Dr. Datta Samat, Shrimati Geeta Mukherjee, Sarvashree B.B. Ramaiah, Chitta Mahata, Manik Sanyal, Dr. Sudhir Roy, Sarvashree C. Sambu, Ram Narain Singh, M.R. Saikia and Ramashray Prasad Singh.

SHRI E. AYYAPU REDDY (Kurnool): I move:

have taken up the clauses. Now, the process is going on. Already the voting is going on.

Page 1—

(Interruptions)

after line 9, insert—

"Provided further that the Proclamation issued under clause (1) the 11th day of May, 1987 shall not in any event be in force after 11th day of May, 1989." (18)

MR. DEPUTY SPEAKER: Sir...

SHRI DINESH GOSWAMI (Guwahati): Mr. Deputy Speaker, I am on a point of order.

MR. DEPUTY-SPEAKER: What is your point of order?

SHRI DINESH GOSWAMI: It is under Rule 74 of the Rules of Procedure.

Under rule 74 of the Rules of Procedure:

"When a Bill is introduced or on some subsequent occasion, the member in charge may make one of the following motions in regard to his Bill, namely:—

- (i) that it be taken into consideration; or
- (ii) that it be referred to a Select Committee of the House;...

Therefore, what I submit is, motion to refer to a Select Committee should precede the motion for consideration. In this case, no amendment that the Bill be referred to a Select Committee was moved.

SHRI C. MADHAV REDDI (Adilabad): I raised this question also.

MR. DEPUTY-SPEAKER: Already we

SHRI C. MADHAV REDDY: I pointed this out about the motion for referring to the Select Committee, earlier.

MR. DEPUTY-SPEAKER: At the time, when the Speaker called the names of Shri Anil Basu and Shri Manik Sanyal, they did not move their Amendments. The record is there. Those Amendments were not moved.

SHRI BASUDEB ACHARIA (Bankura): They were not called.

MR. DEPUTY-SPEAKER: They were called and also the record is there.

(Interruptions)

MR. DEPUTY SPEAKER: I will read out:

Mr. Speaker: Motion moved;

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

There are two amendments to consideration motion. First, Shri Anil Basu — No. Shri Manik Sanyal — No. The amendments to consideration motion are not moved."

The record is there. They were not moved.

(Interruptions)

MR. DEPUTY-SPEAKER: The record is there. What can I do now?

SHRI ANIL BASU (Arambagh): I have given the notice.

(Interruptions)

MR. DEPUTY-SPEAKER: You would have given the notice. When the Speaker asked you to move and if you refused to move, what can I do? This is the record.

(Interruptions)

SHRI MANIK SANYAL (Jalpaiguri): What about the notice which I gave?

MR. DEPUTY SPEAKER: What about the record? The record is there.

SHRI ANIL BASU: It was wrongly recorded.

(Interruptions)

MR. DEPUTY SPEAKER. I cannot call you once again. The record shows that you did not move. What can I do? You tell me. The Speaker has observed so. It is also on the record. What can I do? You should have raised it at that time, not now

SHRI ANIL BASU: No, I moved it.

MR. DEPUTY SPEAKER: The proceedings are there. What can I do?

SHRI ANIL BOSU Sir, you protect the right of the Members.

MR. DEPUTY SPEAKER: At least, in the morning, you could have raised it. Already, the motion for consideration has been moved and approved by the House.

Nothing can be done now.

SHRI ANIL BASU: I have already moved my motion. If it is not on record, it is not my fault. You protect the right of the Member.

SHRI MANIK SANYAL: I have already moved my motion. (Interruptions)

MR. DEPUTY SPEAKER: Today morning, you could have verified, whether it was moved or not.

Now, what can I do?

SHRI ANIL BASU: Yesterday, I moved my motion. How do you say this?

MR. DEPUTY SPEAKER: As a Member, you could have verified, whether you have moved it or not.

SHRI MANIK SANYAL: I moved it. (Interruptions)

MR. DEPUTY SPEAKER: The record is already there.

(Interruptions)

MR. DEPUTY SPEAKER: It is on record there. What can I do?

(Interruptions)

MR. DEPUTY SPEAKER: Now Shri Ayyapu Reddy will speak. Please be brief.

SHRI E. AYYAPU REDDY: My amendment is as follows:—

"Provided further that the proclamation issued under clause (1) on the 11th day of May, 1987 shall not in any event be in force after 11th day of May, 1989."

There is no nexus between Clause 2 and Clause 3. The intention was to see that President's rule which comes to an end by 11th May, 1988 is extended because there is no possibility of holding elections before 11th May, 1988.

The Article under 366 (5) is as follows:—

[Sh. E. Ayyapu Reddy]

"(5) Notwithstanding anything contained in clause (4), a resolution with respect to the continuance in force of a Proclamation approved under clause (3) for any period beyond the expiration of one year from the date of issue of such Proclamation shall not be passed by either House of Parliament unless—

- (a) a Proclamation of Emergency is in operation.
- (b) the Election Commission certifies that the continuance in force of the Proclamation approved under clause (3) during the period specified in such resolution is necessary on account of difficulties in holding general elections to the Legislative Assembly."

Under Clause (3), it is the intention of the Government to proclaim emergency. Then there is no necessity to have any proviso at all to Clause (5) of Section 356 because it is very easy to comply with the provisions of Sub-clause (5) of Article 356.

In any event, my amendment requires that the proclamation on the president's rule shall not go beyond 11th May, 1989 that is, within a year from 11th May it will be necessary for Government to restore democracy inside Punjab.

A duly elected Government was removed by the imposition of President's rule. Having deprived them of their constitutional rights, the people of Punjab could not further exercise their right to get a Government of their choice elected and instituted for more than two years. It will be totally unjustified if you cannot restore democracy within a year or before 11th May, 1989. Probably it will not

be possible for you to restore democracy in Punjab. Therefore, there is the period of limitation. The deadline must be 11th May, 1989.

MR. DEPUTY SPEAKER: Now the hon. Minister of Home Affairs S. Buta Singh will reply.

S. BUTA SINGH: All these points were covered by my colleague Shri P. Chidambaram. It is precisely for that reason that we have come before this august House because there is no possibility to have a democratically elected Government after 11th May, which is the stipulated period here. Therefore, we have come to the conclusion on the recommendation of the Governor that the President's rule in Punjab has to be extended. It is to enable that thing that we have come through this Bill before this august House. This point was very ably met by Shri Chidambaram-ji also. There is no substance now in this amendment. The hon. Member has made the same old speech which he made during the course of his speech.

MR. DEPUTY SPEAKER: I shall now put the amendments moved by Dr. S. Jagathrakshakan and Shri E. Ayyapu Reddy to the vote of the House.

The question is:

Page 1, line 7—

for "in this clause" substitute "in sub-clause (b) of this clause:"(7)

Page 1—

after line 9, insert—

"Provided further that the Proclamation issued under clause (1) on the 11th day of May, 1987 shall not in any event be in force

after 11th day of May, 1989."
(18)

The Lok Sabha divided:

Division No. 2

18.52 hrs.

AYES

Achara, Shri Basudeb

Athwal, Shri Charanjit Singh

Barman, Shri Palas

Basu, Shri Anil

Bhandari, Shrimati D.K.

Biswas, Shri Ajoy

Chatterjee, Shri Somnath

Choubey, Shri Narayan

Chowdhary, Shri Saifuddin

Dandavate, Prof. Madhu

Das, Shri R.P.

Datta, Shri Amal

Deo, Shri V. Kishore Chandra S.

Goswami, Shri Dinesh

Hannan Mollah, Shri

Hansda, Shri Matilal

Iyer, Shri V.S. Krishna

Jagathrakshakan, Dr. S.

Kurup, Shri Suresh

Mahata, Shri Chitta

Malik, Shri Purna Chandra

Masudal Hossain, Shri Syed

Misra, Shri Satyagopal

Mukherjee, Shrimati Geeta

Natarajan, Shri K.R.

Patel, Dr. A.K.

Pathak, Shri Ananda

Patil, Shri D.B.

Penchalliah, Shri P.

Raju, Shri Vijaya Kumar

Ram Bahadur Singh, Shri

Ramashray Prasad Singh, Shri

Ramoowalia, Shri Bahwant Singh

Rao, Shri A.J.V.B. Maheswara

Rao, Dr. G. Vijaya Rama

Rao, Shri Srihari

Rao, Shri V. Sobhanadreeswara

Rathod, Shri Uttam

Reddi, Shri C. Madhav

Reddy, Shri B.N.

Reddy, Shri Bezawada Papi

Reddy, Shri C. Janga

Reddy, Shri D.N.

Reddy, Shri E. Ayyapu
 Reddy, Shri P. Manik
 Reddy, Shri S. Jaipal
 Riyan, Shri Baju Ban
 Roy, Dr. Sudhir
 Roypradhan, Shri Amar
 Saha, Shri Ajit Kumar
 Saha, Shri Gadadhar
 Saikia, Shri M.R.
 Samat, Dr. Datta
 Sanyal, Shri Manik
 Shaminder Singh, Shri
 Singh, Shri Ram Narain
 Somu, Shri N.V N.
 Swamy, Shri D. Narayana
 Thomas, Shri Thampan
 Tiraky, Shri Piyus
 Tulsiram, Shri V.
 Walia, Shri Charanjit Singh
 Yadav, Shri Vijay Kumar
 Zainal Abedin, Shri
NOES
 Abbasi, Shri K.J.
 Abdul Ghaloor, Shri
 Agarwal, Shri Jai Prakash

Ahmed, Shrimati Abida
 Akhtar Hasan, Shri
 Alkha Ram, Shri
 Anand Singh, Shri
 Ansari, Shri Abdul Hannan
 Ansari, Shri Z.R.
 Antony, Shri P.A.
 Arunachalam, Shri M.
 Athithan, Shri R Dhanuskodi
 Awasthi, Shri Jagdish
 Azad, Shri Ghulam Nabi
 Baghel, Shri Pratapsinh
 Bairagi, Shri Balkavi
 Bairwa, Shri Banwar Lal
 Baitha, Shri D.L
 Bajpai, Dr. Rajendra Kumar
 Bala Goud, Shri T.
 Balaraman, Shri L.
 Bali, Shrimati Vyjayanthimala
 Barrow, Shri A.E.T.
 Basavarajeswan, Shrimati
 Basavaraju, Shri G.S.
 Basheer, Shri T.
 Bhagat, Shri B.R.
 Bhagat, Shri H.K.L.

Bhakta, Shri Manoranjan

Choudhary, Shri Jagannath

Bharat Singh, Shri

Dabhi, Shri Ajitsinh

Bhardwaj, Shri Parasram

Dalbir Singh, Shri

Bhatia, Shri R.L.

Dalwai, Shri Hussain

Bhoi, Dr. Krupasindhu

Damor, Shri Somjibhai

Bhosale, Shri Prataprao B.

Das, Shri Anadi Charan

Bhumij, Shri Haren

Das, Shri R.P.

Bhuria, Shri Dileep Singh

Das, Shri Sudarsan

Birbal, Shri

Das Munsi, Shri Priya Ranjan

Birendra Singh, Rao

Dennis, Shri N.

Birinder Singh, Shri

Deora, Shri Murl

Brahma Dutt, Shri

Dev, Shri Sontosh Mohan

Budania, Shri Narendra

Devi, Prof. Chandra Bhanu

Bundela, Shri Sujan Singh

Dhariwal, Shri Shanti

Buta Singh, S.

Dhillon, Dr. G.S.

Chandrakar, Shri Chandulal

Digal, Shri Radhakanta

Chandrashekhharappa, Shri T.V.

Dighe, Shri Sharad

Chandresh Kumari, Shrimati

Dignvaya Singh, Shri

Charles, Shri A

Dikshit, Shrimati Sheila

Chaturvedi, Shrimati Vidyavati

Dinesh Singh, Shri

Chaudhary, Shri Manphool Singh

Dube, Shri Bhishma Deo

Chaudhry, Shri Kamal

Engti, Shri Biren Singh

Chavan, Shri Ashok Shankarrao

Faleiro, Shri Eduardo

Chidambaram, Shri P.

Gadgil, Shri V.N.

Choudhari, Shrimati Usha

Gadhvi, Shri B.K.

| | |
|-----------------------------|--------------------------------|
| Gaekwad, Shri Ranjit Singh | Jain, Shri Virdhi Chander |
| Gaikwad, Shri Udaysingrao | Jangde, Shri Khelan Ram |
| Gamit, Shri C.D. | Jatav, Shri Kammodilal |
| Gandhi, Shri Rajiv | Jeevarathinam, Shri R. |
| Ganga Ram, Shri | Jena, Shri Chintamani |
| Gavit, Shri Manikrao Hodlya | Jitendra Prasada, Shri |
| Gehlot, Shri Ashok | Jitendra Singh, Shri |
| Gholap, Shri S.G. | Jujhar Singh, Shri |
| Ghorpade, Shri M.Y. | Kamal Nath, Shri |
| Ghosal, Shri Debi | Kamble, Shri Arvind Tulshiram |
| Ghosh, Shri Bimal Kanti | Kamson, Prof. Meijinlung |
| Ghosh, Shri Tarun Kanti | Kaul, Shrimati Sheila |
| Gohil, Shri G.B. | Kaushal, Shri Jagan Nath |
| Gomango, Shri Giridhar | Ken, Shri Lala Ram |
| Gounder, Shri A.S. | Keyur Bhushan Shri |
| Gowda, Shri H.N. Nanje | Khan, Shri Aslam Sher |
| Guha, Dr. Phulrenu | Khan, Shri Khurshid Alam |
| Gupta, Shri Janak Raj | Khan, Shri Mohd. Ayub |
| Gupta, Shrimati Prabhawati | Khatttri, Shri Nirmal |
| Halder, Prof. M.R. | Khirhar, Shri R.S. |
| Harpal Singh, Shri | Kinder Lal, Shri |
| Jadeja, Shri D.P. | Krishna Singh, Shri |
| Jaffar Sharief, Shri C.K. | Kshirsagar, Shrimati Kesharbai |
| Jagannath Prasad, Shri | Kuchan, Shri Gangadhar S. |
| Jain, Shri Nihal Singh | Kujur, Shri Maurice |

Kumaramangalam, Shri P.R.

Mohanty, Shri Brajamohan

Kunjambu, Shri

More, Prof. Ramkrishna

Kuppuswamy, Shri C.K.

Mukhopadhyay, Shri Ananda Gopal

Kurien, Prof. P.J.

Mundackal, Shri George Joseph

Lachchhi Ram, Shri

Murmu, Shri Sidha Lal

Law, Shri Asutosh

Murthy, Shri M. V. Chandrashekara

Lowang, Shri Wangpha

Mushran, Shri Ajay

Madhuree Singh, Shrimati

Muttemwar, Shri Vilas

Mahabir Prasad, Shri

Naik, Shri Shantaram

Mahendra Singh, Shri

Naikar, Shri D.K.

Makwana, Shri Narsinh

Namgyal, Shri P.

Malik, Shri Dharampal Singh

Neekhara, Shri Rameshwar

Mallick, Shri Lakshman

Negi, Shri Chandra Mohan Singh

Malviya, Shri Bapulal

Netam, Shri Arvind

Mane, Shri Murlidhar

Odedra, Shri Bharat Kumar

Manorama Singh, Shrimati

Odeyar, Shri Channaiah

Manvendra Singh, Shri

Oraon, Shrimati Sumati

Meena, Shri Ram Kumar

Pakeer Mohamed, Shri E.S.M

Mehta, Shri Haroobhai

Pandey, Shri Damodar

Meira Kumar, Shrimati

Pandey, Shri Madan

Mirdha, Shri Ram Niwas

Pandey, Shri Manoj

Mishra, Shri G.S.

Panigrahi, Shri Chintamani

Mishra, Shri Ram Nagina

Panigrahi, Shri Sriballav

Mishra, Shri Shripati

Panja, Shri A.K.

Mishra, Shri Umakant

Pant, Shri K.C.

Parashar, Prof. Narain Chand

Pradhani, Shri K.

Pardhi, Shri Keshao Rao

Prakash Chandra, Shri

Raswan, Shri Ram Bhagat

Puran Chandra, Shri

Patel, Shri Ahmed M.

Purohit, Shri Banwari Lal

Patel, Shri C.D.

Purushothaman, Shri Vakkom

Patel, Shri G.I.

Pushpa Devi, Kumari

Patel, Shri Mohanbhai

Qureshi, Shri Aziz

Patel, Shri Ram Pujan

Raghuraj Singh, Chaudhary

Patel, Shri U.H.

Rai, Shri I. Rama

Pathak, Shri Chandra Kishore

Rai, Shri Raj Kumar

Patil, Shri Balasaheb Vikhe

Rai, Shri Ramdeo

Patil, Shri H.B.

Raj Karan Singh, Shri

Patil, Shri Prakash V.

Rejeshwaran, Dr. V.

Patil, Shri Shivraj V.

Rajhans, Dr. G.S.

Patil, Shri Uttamrao

Ram, Shri Ram Ratan

Patil, Shri Veerendra

Ram, Shri Ramswaroop

Patil, Shri Vijay N.

Ram Awadh Prasad, Shri

Patnaik, Shrimati Jayanti

Ram Dhan, Shri

Pattnaik, Shri Jagannath

Ram Prakash, Ch.

Peruman, Dr. P. Vallal

Ram Samujhawan, Shri

Pilot, Shri Rajesh

Ram Singh Shri

Poojary, Shri Janardhana

Ramachandran, Shri Mullappally

Potdukhe, Shri Shantaram

Rampal Singh, Shri

Prabhu, Shri R.

Rana Vir Singh, Shri

Pradhan, Shri K.N.

Ranga, Prof. N.G.

Ranganath, Shri K.H.

Shah, Shri Anoopchand

Rao, Shri J. Chokka

Shahi, Shri Laliteshwar

Rao, Shri J. Vengala

Shailesh, Dr. B.L.

Rao, Shri K.S.

Shaktawat, Prof. Nirmala Kumari

Rao, Shri P.V. Narasimha

Shankaranand, Shri B.

Rao, Shri V. Krishna

Shanmugam, Shri P.

Rath, Shri Somnath

Shanti Devi, Shrimati

Rathawa, Shri Amarsinh

Sharma, Shri Chiranji Lal

Raut, Shri Bhola

Sharma, Shri Nand Kishore

Ravani, Shri Navin

Sharma, Shri Nawal Kishore

Rawat, Shri Harish

Sharma, Shri Pratap Bhanu

Rawat, Shri Kamla Prasad

Shastri, Shri Hari Krishna

Rawat, Shri Prabhu Lal

Shervani, Shri Saleem I.

Sahi, Shrimati Krishna

Shingda, Shri D.B.

Sahu, Shri Shiv Prasad

Shivendra Bahadur Singh, Shri

Sakargaym, Shri Kalicharan

Siddiq, Shri Hafiz Mohd.

Salahuddin, Shri

Sidnal, Shri S.B.

Sankata Prasad, Dr.

Singaravadevel, Shri S.

Satyendra Chandra, Shri

Singh, Shri Chandra Pratap Narain

Sathe, Shri Vasant

Singh, Shri D.G.

Sayeed, Shri P.M.

Singh, Shri K.N.

Scindia, Shri Madhavrao

Singh, Shri Kamla Prasad

Sen, Shri Bholanath

Singh, Shri Krishna Pratap

Seth, Shri Ananta Prasad

Singh, Shri Lal Vijay Pratap

Sethi, Shri P.C.

Singh, Shri N. Tombi

Singh, Shri S.D.

Tigga, Shri Simon

Singh, Shri Santosh Kumar

Tilakdhari Singh, Shri

Singh Deo, Shri K.P.

Tripathi, Dr. Chandra Shekhar

Sinha, Shrimati Kishori

Tyagi, Shri Dharamvir Singh

Sinha, Shri Satyendra Narayan

Vairale, Shri Madhusudan

Solanki, Shri Kalyan Singh

Van, Shri Deep Narain

Solanki, Shri Natavarsinh

Vanakar, Shri Punam Chand

Soren, Shri Harihar

Mithabhai

Sparrow, Shri R.S.

Venkatesan, Shri P.R.S.

Sreenivasa Prasad, Shri V.

Verma, Dr. C.S.

Sukh Ram, Shri

Verma, Shrimati Usha

Sukhbans Kaur, Shrimati

Vijayaraghavan, Shri V.S.

Sultanpuri, Shri K.D.

Vyas, Shri Girdhari Lal

Suman, Shri R.P.

Wasnik, Shri Mukul

Sundararaj, Shri N.

Yadav, Shri Kailash

Surendra Pal Singh, Shri

Yadav, Shri Mahabir Prasad

Suryawanshi, Shri Narsing

Yadav, Shri R.N.

Swami Prasad Singh, Shri

Yadav, Shri Ram Singh

Swell, Shri G.G.

Yadav, Shri Shyam Lal

Tewary, Prof. K.K.

Yadava, Shri Bal Ram Singh

Thakkar, Shrimati Usha

Yadava, Shri D.P.

Thara Devi, Kumari D.K.

Yazdani, Dr. Golam

Thomas, Prof. K.V.

Yogesh, Shri Yogeshwar Prasad

Thorat, Shri Bhausaheb

Thungon, Shri P.K.

Zainul Basher, Shri

MR. DEPUTY SPEAKER: Subject to correction, the result* of the division is:

Ayes: 064

Noes: 326

The motion was negatived.

MR DEPUTY SPEAKER: Now we take up Clause 2 for voting. Already lobbies are cleared. We will wait for the machine to clear. Now I put Clause 2 to the vote of the House. The question:

"That Clause 2 stand part of the Bill."

The Lok Sabha divided.

Division No. 3

18.55 hrs.

AYES

Abbasi, Shri K.J.

Abdul Ghafoor, Shri

Agarwal, Shri Jai Prakash

Ahmed, Shrimati Abida

Akhtar Hasan, Shri

Alkha Ram, Shri

Anand Singh, Shri

Ansari, Shri Abdul Hannan

Ansari, Shri Z.R.

Antony, Shri P.A.

Arunachalam, Shri M.

Athithan, Shri R. Dhanuskodi

Awasthi, Shri Jagdish

Azad, Shri Ghulam Nabi

Baghel, Shri Pratapsinh

Bairagi, Shri Balkavi

Bairwa, Shri Banwari Lal

Baitha, Shri D.L.

Bajpai, Dr. Rajendra Kumari

Balaraman, Shri L.

Bali, Shrimati Vyjayanthimala

Barrow, Shri A.E.T.

Basavaraju, Shri G.S.

Basheer, Shri T.

Bhagat, Shri B.R.

Bhagat, Shri H.K.L.

Bhakta, Shri Manoranjan

Bharat Singh, Shri

* The following Members also recorded their votes :

AYES: Shri B.B. Ramaiah, Dr. T. Kalpana Devi, Shri Mohd. Mahfooz Ali Khan, Shri G. Bhoopathy and Shri C. Sambu.

NOES: Shri Kr. Narayan, Shri R.S. Mane, Shri Bhanu Pratap Singh, Shri Ashakran Sankhwar, Shri Aziz Sait, Shrimati Sunderwati Nawal Prabhakar, Shri Imati Usa Rani Tomar, Shri Vishnu Modi, Shri Vir Sen, Shri Ram Pyare Panika, Shri Satyanarayan Panwar, Shri Uttam Rathod, Shrimati M. Chandrasekhar, Shri Nityanand Mishra, Shri Tapeshwar Singh and Shri Mankuram Sodi.

| | |
|--------------------------------|------------------------------|
| Bhardwaj, Shri Parasram | Dabhi, Shri Ajitsinh |
| Bhatia, Shri R.L. | Dalbir Singh, Shri |
| Bhoi, Dr. Krupasindhu | Dalwai, Shri Hussain |
| Bhosale, Shri Prataprao B. | Damor, Shri Somjibhai |
| Bhumij, Shri Haren | Das, Shri Anadi Charan |
| Bhuria, Shri Dileep Singh | Das, Shri R.P. |
| Birbal, Shri | Das, Shri Sudarsan |
| Birendra Singh, Rao | Das Munsi, Shri Priya Ranjan |
| Birinder Singh, Shri | Dennis, Shri N. |
| Brahma Dutt, Shri | Deora, Shri Murli |
| Budania, Shri Narendra | Dev, Shri Sontosh Mohan |
| Bundela, Shri Sujan Singh | Devi, Prof. Chandra Bhanu |
| Buta Singh, S. | Dhariwal, Shri Shanti |
| Chandrakar, Shri Chandulal | Dhillon, Dr. G.S. |
| Chandrashekarappa, Shri T.V. | Jigal, Shri Radhakanta |
| Chandresh Kumari, Shrimati | Dighe, Shri Sharad |
| Charles, Shri A. | Digvijaya Singh, Shri |
| Chaturvedi, Shrimati Vidyavati | Dikshit, Shrimati Sheila |
| Chaudhary, Shri Manphool Singh | Dinesh Singh, Shri |
| Chaudhry, Shri Kamal | Dube, Shri Bhishma Deo |
| Chavan, Shri Ashok Shankarrao | Engti, Shri Biren Singh |
| Chidambaram, Shri P. | Faleiro, Shri Eduardo |
| Choudhari, Shrimati Usha | Gadgil, Shri V.N. |
| Choudhary, Shri Jagannath | Gadhvi, Shri B.K. |
| Choudhary, Shri Nandlal | Gaskwad, Shri Ranjit Singh |

| | |
|-----------------------------|--------------------------------|
| Gaikwad, Shri Udaysingrao | Jagannath Prasad, Shri |
| Gamit, Shri C.D. | Jain, Shri Nihal Singh |
| Gandhi, Shri Rajiv | Jain, Shri Virdhi Chander |
| Ganga Ram, Shri | Jangde, Shri Khelan Ram |
| Gavit, Shri Manikrao Hodlya | Jatav, Shri Kammodilal |
| Gehlot, Shri Ashok | Jeevarathinam, Sirci R. |
| Gholap, Shri S.G. | Jena, Shri Chintamani |
| Ghorpade, Shri M.Y. | Jitendra Prasada, Shri |
| Ghosal, Shri Debi | Jitendra Singh, Shri |
| Ghosh, Shri Bimal Kanti | Kamble, Shri Arvind Tulshiram |
| Ghosh, Shri Tarun Kanti | Kamson, Prof. Meijinlung |
| Gohil, Shri G.B. | Kaul, Shrimati Sheila |
| Gomango, Shri Giridhar | Ken, Shri Lala Ram |
| Gounder, Shri A.S. | Keyur Bhushan Shri |
| Gowda, Shri H.N. Nanje | Khan, Shri Aslam Sher |
| Guha, Dr. Phurenu | Khan, Shri Khurshid Alam |
| Gupta, Shri Janak Raj | Khan, Shri Mohd. Ayub |
| Gupta, Shrimati Prabhawati | **Khan Shri Mohd. Mohfooz Ali |
| Halder, Prof. M.R. | Khatti, Shri Nirmal |
| Harpal Singh, Shri | Khithar, Shri R.S. |
| **Iyer, Shri V.S. Krishna | Kinder Lal, Shri |
| Jadeja, Shri D.P. | Krishna Singh, Shri |
| Jaffar Sharief, Shri C.K. | Kshirsagar, Shrimati Kesharbai |

**Wrongly voted for AYES.

Kuchan, Shri Gangadhar S.

Modi, Shri Vishnu

Kujur, Shri Maurice

Mohanty, Shri Brajamohan

Kumaramangalam, Shri P.R.

More, Prof. Ramkrishna

Kuppuswamy, Shri C.K.

Mukhopadhyay, Shri Ananda Gopal

Kurien, Prof. F.J.

Mundackal, Shri George Joseph

Law, Shri Asutosh

Murmu, Shri Sidha Lal

Madhuree Singh, Shrimati

Murthy, Shri M. V. Chandrashekara

Mahabir Prasad, Shri

Mushran, Shri Ajay

Mahendra Singh, Shri

Mutterwar, Shri Vilas

Makwana, Shri Narsinh

Naik, Shri Shantaram

Malik, Shri Dharampal Singh

Naikar, Shri D.K.

Mallick, Shri Lakshman

Namgyal, Shri P.

Malviya, Shri Bapulal

Nawal Prabhakar, Shrimati Sunderwati

Mane, Shri Murlidhar

Neekhara, Shri Rameshwar

Mane, Shri R.S.

Negi, Shri Chandra Mchan Singh

Manorama Singh, Shrimati

Netam, Shri Arvind

Manvendra Singh, Shri

Odedra, Shri Bharat Kumar

Meena, Shri Ram Kumar

Oraon, Shrimati Sumati

Meira Kumar, Shrimati

Pakeer Mohamed, Shri E.S.M.

Mirdha, Shri Ram Niwas

Pandey, Shri Madan

Mishra, Shri G.S.

Pandey, Shri Manoj

Mishra, Shri Ram Nagina

Panigrahi, Shri Chintamani

Mishra, Shri Shripati

Panigrahi, Shri Sriballav

Mishra, Shri Umakant

Panika, Shri Ram Pyare

Misra, Shri Nityananda

Pant, Shri K.C.

| | |
|------------------------------|--------------------------------|
| Panwar, Shri Satyanarayan | Potdukhe, Shri Shantaram |
| Parashar, Prof. Narain Chand | Prabhu, Shri R. |
| Pardhi, Shri Keshao Rao | Pradhan, Shri K.N. |
| Paswan, Shri Ram Bhagat | Pradhani, Shri K. |
| Patel, Shri Ahmed M. | Puran Chandra, Shri |
| Patel, Shri C.D. | Purohit, Shri Banwari Lal |
| Patel, Shri G.I. | Purushothaman, Shri Vakkom |
| Patel, Shri Mohanbhai | Pushpa Devi, Kumari |
| Patel, Shri Ram Pujan | Qureshi, Shri Aziz |
| Patel, Shri U.H. | Rai, Shri I. Rama |
| Pathak, Shri Chandra Kishore | Rai, Shri Raj Kumar |
| Patil, Shri Balasaheb Vikhe | Rai, Shri Ramdeo |
| Patil, Shri H.B. | Raj Karan Singh, Shri |
| Patil, Shri Prakash V. | Rejeshwaran, Dr. V. |
| Patil, Shri Shivraj V. | Rajhans, Dr. G.S. |
| Patil, Shri Uttamrao | Ram, Shri Ram Ratan |
| Patil, Shri Veerendra | Ram, Shri Ramswaroop |
| Patil, Shri Vijay N. | Ram Awadh Prasad, Shri |
| Patnaik, Shrimati Jayanti | Ram Dhan, Shri |
| Pattnaik, Shri Jagannath | Ram Prakash, Ch. |
| Peruman, Dr. P. Vallal | Ram Singh Shri |
| Pilot, Shri Rajesh | Ramachandran, Shri Mullappally |
| Poojary, Shri Janardhana | **Ramashray Prasad Singh, Shri |

**Wrongly voted for AYES.

| | |
|----------------------------|-------------------------------------|
| Rampal Singh, Shri | Sathe, Shri Vasant |
| Rana Vir Singh, Shri | Sayeed, Shri P.M. |
| Ranga, Prof. N.G. | Scindia, Shri Madhavrao |
| Ranganath, Shri K.H. | Sen, Shri Bholanath |
| Rao, Shri J. Chokka | Sethi, Shri Ananta Prasad |
| Rao, Shri J. Vengala | Sethi, Shri P.C. |
| Rao, Shri K.S. | Shah, Shri Anoopchand |
| Rao, Shri P.V. Narasimha | Shailesh, Dr. B.L. |
| Rao, Shri V. Krishna | Shaktawat, Prof. of. Nirmala Kumari |
| Rath, Shri Somnath | Shankaranand, Shri B. |
| Rathawa, Shri Amarsinh | Shanmugam, Shri P. |
| Rathod, Shri Uttam | Shanti Devi, Shrimati |
| Raut, Shri Bhola | Sharma, Shri Chiranjil Lal |
| Ravani, Shri Navin | Sharma, Shri Nand Kishore |
| Rawat, Shri Harish | Sharma, Shri Nawal Kishore |
| Rawat, Shri Kamla Prasad | Sharma, Shri Pratap Bhanu |
| Sahu, Shri Shiv Prasad | Shastri, Shri Hari Krishna |
| Sait, Shri Azeez | Shervani, Shri Saleem I. |
| Sakargaym, Shri Kalicharan | Shingda, Shri D.B. |
| Salahuddin, Shri | Shivendra Bahadur Singh, Shri |
| **Sambu, Shri C. | Siddiq, Shri Haliz Mohd. |
| Sankhawar, Shri Ashkaran | Singaravadivel, Shri S. |
| Sankata Prasad, Dr. | Singh, Shri Chandra Pratap Narain |

**Wrongly voted for AYES.

Singh, Shri D.G.

Tewary, Prof. K.K.

Singh, Shri K.N.

Thakkar, Shrimati Usha

Singh, Shri Kamla Prasad

Thara Devi, Kumari D.K.

Singh, Shri Krishna Pratap

Thomas, Prof. K.V.

Singh, Shri Lal Vijay Pratap

Thorat, Shri Bhausaheb

Singh, Shri N. Tombi

Thungon, Shri P.K.

Singh, Shri Santosh Kumar

Tigga, Shri Simon

Sinha, Shri Satyendra Narayan

Tilakdhari Singh, Shri

Sodi, Shri Mankuram

Tomar, Shrimati Usha Rani

Solanki, Shri Kalyan Singh

Tripathi, Dr. Chandra Shekhar

Soren, Shri Harihar

Tyagi, Shri Dharamvir Singh

Sparrow, Shri R.S.

Vairale, Shri Madhusudan

Sreenivasa Prasad, Shri V.

Vanakar, Shri Punam Chand Mithabhai

Sukh Ram, Shri

Venkatesan, Shri P.R.S.

Sukhbuns Kaur, Shrimati

Verma, Dr. C.S.

Sultanpuri, Shri K.D.

Verma, Shrimati Usha

Suman, Shri R.P.

Vir Sen, Shri

Sundararaj, Shri N.

Vyas, Shri Girdhari Lal

Surendra Pal Singh, Shri

Wasnik, Shri Mukul

Suryawanshi, Shri Narsing

Yadav, Shri Kailash

Swami Prasad Singh, Shri

Yadav, Shri Mahabir Prasad

**Swami, Shri D. Narayana

Yadav, Shri R.N.

Swell, Shri G.G.

Yadav, Shri Ram Singh

 **Wrongly voted for AYES.

Yadav, Shri Shyam Lal

Yadava, Shri Bal Ram Singh

Yadava, Shri D.P.

Yazdani, Dr. Golam

Zainul Basher, Shri

NOES

Acharia, Shri Basudeb

Barman, Shri Palas

Basu, Shri Anil

Bhoopathy, Shri G.

Biswas, Shri Ajay

Chatterjee, Shri Somnath

Choubey, Shri Narayan

Chowdhary, Shri Saifuddin

Dandavate, Prof. Madhu

Das, Shri R.P.

Datta, Shri Amal

Deo, Shri V. Kishore Chandra S.

Gill, Shri M.S.

Goswami, Shri Dinesh

Hansda, Shri Matilal

Iyer, Shri V.S. Krishna

Jagathrakshakan, Dr. S.

Kalpana Devi, Dr. T.

Kurup, Shri Suresh

Mahata, Shri Chitta

Malik, Shri Purna Chandra

Masudal Hossain, Shri Syed

Misra, Shri Satyagopal

Mukherjee, Shrimati Geeta

Natarajan, Shri K.R.

Penchalliah, Shri P.

Raju, Shri Vijaya Kumar

Ram Samujhawam, Shri

Ramoowalia, Shri Balwant Singh

Rao, Shri A.J.V.B. Maheswara

Rao, Dr. G. Vijaya Rama

Rao, Shri Srihari

Rao, Shri V. Sobhanadreeswara

Reddi, Shri C. Madhav

Reddy, Shri Bezawada Papi

Reddy, Shri C. Janga

Reddy, Shri E. Ayyapu

Reddy, Shri P. Manik

Reddy, Shri S. Jaipal

Roy, Dr. Sudhir

Roypradhan, Shri Amar

Saha, Shri Gadadhar

Samant, Dr. Datta

Sanyal, Shri Manik

Shaminder Singh, Shri

Clause 3

*Singh, Shri Ram Narain

(Insertion of new article 359 A)

Somu, Shri N.V.N.

MR. DEPUTY SPEAKER: We now take up Clause 3.

Thomas, Shri Thampan

SHRI THAMPAN THOMAS (Mavelikara): I beg to move:

Tiraky, Shri Piyus

Tulsiram, Shri V.

Page 2, line 5—

*Vijayaraghavan, Shri V.S.

after "rebellion" insert—

Yadav, Shri Vijoy Kumar

"or cessation of any part of India" (2)

MR. DEPUTY SPEAKER: Subject to correction, the result* of the division is:

Page 2, —

Ayes: 317

Omit lines 6 to 9 (3)

Noes: 052

Page 2, lines 16 to 18,—

The motion is 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.

for, "or that the integrity of India is threatened by internal disturbance in the whole or any part of the territory of Punjab,"

substitute "or threatened cessation" shall be inserted. (4)

The motion was adopted

Page 2, —

Clause 2 was added to the Bill.

omit lines 19 to 28. (5)

*Wrongly voted for NOES.

** The following Members also recorded their votes:

AYES: Shrimati Krishna Sahi, Shri K.R. Narayanan, Shri Laliteshwar Shahi, Shrimati M. Chandrasekhar, Shri Yogeshwar Prasad Yogesh, Shri S.D. Singh, Shri Damodar Pandey, Shri S.B. Sidnal, Shri T. Bale Goud, Ch. Lachchhi Ram, Shri Harobhai Mehta, Shri Prabhu Lal Rawat, Shri Wangpha Lowang, Shri Jagan Nath Kaushal, Shri Natvarsinh Solanki, Shri Deep Narain Van, Shri Prakash Chandra, Shrimati Basavarjeswri, Shri Channaiah Odeyar, Chaoudhari Raghuraj Singh, Shri V.S. Vijayaraghavan, Shri Bhanu Pratap Singh, Shri A.K. Panja, Shri Jujhar Singh, Shri Kamal Nath, Shri Tapeshwar Singh, Shri K. Kunjambu, Shrimati Kishor Sinha.

NOES: Shri Charanjit Singh Walia, Shrimati D.K. Bhandari, Shri Charanjit Singh Athwal, Shri Hannan Mollah, Shri Ajit Kumar Saha, Shri Ananda Pathak, Shri B.B. Ramaraj, Shri D.B. Patil, Shri Ram Bahadur Singh, Shri M.R. Saikia, Dr. A.K. Patel, Shri D. Narayana Swamy, Shri V.S. Krishna Iyer, Shri Mohd. Mahfooz Ali Khan, Shri C. Sambu and Shri Ramashray Prasad Singh.

DR. S. JAGATHRAKSHAKAN: I beg to move:

whole of Punjab or any part of the territory thereof." (10)

Page 2, lines 33 and 34,—

Page 2, line 28,—

for "the expiry of a period of two years from the commencement of this Act"

add at the end—

substitute "the expiry of the Proclamation issued under clause (1) of article 356 on the 11th day of May, 1987 with respect to the State of Punjab." (8)

"and after clause (1), after the existing proviso, the following proviso shall be inserted, namely:—

SHRI HANNAN MOLLAH (Uluberia): I beg to move:

"Provided further that no such law shall be made nor any such executive action shall be taken, during the operation of the Proclamation of Emergency that may be declared after the commencement of the Constitution (Fifty-Ninth Amendment) Act, 1988, in respect of the whole of Punjab or any part of the territory thereof, for any other State or any Union territory." (11)

Page 2—

after line 23, insert—

(aa) In article 353, after the existing provision the following proviso shall be inserted, namely:

Page 2, line 31,—

"Provided further that this article shall not apply during the operation of the Proclamation of Emergency that may be declared after the commencement of the Constitution (Fifty-Ninth Amendment) Act 1988, in respect of the whole of Punjab or any part of the territory thereof."

add at the end—

"and after clause (3), the following clause shall be inserted, namely:—

(aaa) In article 354, after clause (1) the following proviso shall be added, namely:—

"(4) No order or law shall be made nor any executive action shall be taken, during the operation of the Proclamation of Emergency that may be declared after the commencement of the Constitution (Fifty-Ninth Amendment) Act, 1988 in respect of the whole of Punjab or any part of the territory thereof, for any other State or any Union territory." (12)

"Provided that this article shall not apply during the operation of the proclamation of Emergency that may be declared, after the commencement of the Constitution (Fifty-Ninth Amendment) Act, 1988, in respect of the

SHRI SOMNATH CHATTERJEE
(Bolgpur): Sir, I beg to move:

Page 2—

after line 23, insert—

(aa) In article 353 of the Constitution, after the existing proviso the following proviso shall be inserted, namely:—

"Provided further that this article shall not apply during the operation of the Proclamation of Emergency that may be declared after the enactment of the Constitution (Fifty-Ninth Amendment) Bill, 1988 by Parliament, in relation to the State of Punjab or any part of the territory thereof."

(aaa) In article 354 of the Constitution after clause (1) the following proviso shall be inserted, namely:—"Provided that this article shall not apply during the operation of the proclamation of Emergency that may be declared after the enactment of the Constitution (Fifty-Ninth Amendment) Bill, 1988 by Parliament, in relation to the State of Punjab or any part of the territory, thereof" (5)

Page 2, line 28—

add at the end—

'and after clause (1), after the existing proviso, the following proviso shall be inserted namely:—

"Provided further that no such law shall be made nor any such executive action shall be taken, during the operation of the Proclamation of Emergency that may be declared after and pursuant to the enactment of the

Constitution (Fifth-Ninth Amendment) Bill, 1988 by Parliament, in relation to any State other than the State of Punjab or any Union territory." (16)

Page 2, line 31—

add at the end—

'and after clause (3), the following clause shall be inserted, namely:—

"(4) No order or law shall be made nor any executive action shall be taken, during the operation of the Proclamation of Emergency that may be declared after and pursuant to the enactment of the Constitution (Fifty-Ninth Amendment) Bill, 1988 by Parliament, in relation to any State other than the State of Punjab or Union territory." (17)

SHRI E. AYYAPU REDDY: I beg to move:

Page 2—

after line 1., insert—

"Provided that no such declaration or Proclamation shall be made unless the President has consulted and obtained the opinion of all the political parties which had their elected representatives in the Legislative Assembly of Punjab prior to its dissolution." (19)

Page 2, line 31—

for "article 20" substitute—

"article 19" (20)

[Sh. E. Ayyapu Reddy]

Page 2, line 33—

for "two years" substitute "one year"
(21)

SHRI THAMPAN THOMAS: My amendment is a total negation of the amendment proposed by the Government. The only one word which I can agree is 'threatened secession' in any part of the country. It should be amended as 'emergency can be proclaimed only in the event of a threatened secession'. Internal disturbance is a term which is very very convenient to use for any purpose. The terminology 'internal disturbance' used in the amendment proposed by the Government can be used for political purposes. It is very clear from the speeches of the Hon. Minister Sardar Buta Singh as well as Mr. Chidambaram that the amendment now brought by the Government is politically motivated fully.

If Sardar Buta Singh has the courage to accept the challenge and the promise made by the United Akali Dal that they will stand by the unity and the integrity of the country, he should withdraw this constitutional amendment to proclaim emergency. If the amendment is carried through, it will lose the federal character of our country.

I am a victim of emergency of 75. I know what had happened at that time. I was taken to a court where I was practising. Since the fundamental rights were suspended, none other than the Chief Justice and another prominent judge who later became a judge in the Supreme Court, declared that a person under the name Thampam Thomas is no more living under law as per the Government's contentions. I lost my mother and I had undergone 19 months' imprisonment. I pray that this should not happen to

anyone else in the country. I also pray now the last prayer of Jesus Christ when he was crucified. He prayed that 'forgive them, they don't know what sin they are committing'. The Members who support this Bill deserve that prayer. These people do not know that they are killing the democracy.

It seems as though Hitler is coming to India. Levathian in Lesotho also get power through emergency in 1965 in the same manner and in similar fashion by proclaiming emergency in a democratic situation. The story of Third Reich in Germany is also the same.

If it is happening today to Punjab, tomorrow it can happen to other parts of the country. Tomorrow what will happen is that a dictatorship will usurp the power of the country. This Constitution Amendment Bill is only politically motivated. The only intention is to get hold of the power and continue in power as it is not possible in the present circumstances. In the name of internal disturbance emergency was proclaimed in 1975; but a true dictatorship came into being. Once again that should not be repeated.

Therefore, I press for my amendment.

DR. S. JAGATHRAKSHAKAN (Chingleput): Hon. Dy. Speaker, Sir, my amendment seeks to substitute the words "the expiry of a period of two years from the commencement of this Act" occurring in clause 3(2) of the Bill by the words "the expiry of the Proclamation issued under clause (1) of article 356 on the 11th day of May, 1987 with respect to the State of Punjab". I feel it would be logical to keep the special provisions regarding emergency in Punjab, as sought to be inserted by clause 3(1) of this

Bill, in the Constitution only as long as the Proclamation under article 356 is in operation in Punjab. Conditions may become congenial even before 2 years for return of a democratically elected Government in the State. So instead of a rigid time frame of 2 years, it would be better to link the operation of the emergency provisions in Punjab with the operation of the Proclamation under article 356 in that State. This would also dispel doubts in the minds of the people. I, therefore, press for my amendment.

19.00 hrs.

SHRI HANNAN MOLLAH: I have four amendments in this clause. First I would like to insert one more proviso after Clause 3 (ii). It is against this conspiracy to erode and destroy the federal character of our Constitution. In the history of our Constitution and in the debates of the Constituent Assembly a large number of people who had some democratic sense were apprehensive of the conspiracy that a day may come when the Centre may usurp the rights of the States. So the rights of the States were protected and some safeguards are there but through emergency the Centre wants to take away those rights of the States and thus destroy the federal system. During emergency they can take the right of giving direction to the States. So I want to insert this proviso in this Clause 3 namely:

"Provided further that this article shall not apply during the operation of the Proclamation of Emergency that may be declared after the commencement of the Constitution (Fifty-Ninth Amendment) Act 1988, in respect of the whole of Punjab or any part of the territory thereof."

This should be inserted after Clause 3 (ii).
(Interruptions)

I want another sub-clause to be inserted in Clause 3 in the form of a proviso in article 354. It is regarding the distribution of revenues. Then I want to add one proviso after the clause proposed to amend article 358 where the suspension of article 19 is there. In the clause proposed amending article 359 there is a conspiracy against our fundamental rights. It is a conspiracy to destroy the basic structure of our Constitution. So I want this should be inserted to safeguard our fundamental rights. If it is done then even if the draconian laws are passed by this brute majority at least some safeguard will be provided through these amendments. So I appeal to the House to accept my amendments.

SHRI SOMNATH CHATTERJEE: Mr. Deputy Speaker, Sir, may I earnestly appeal to my friends on the other side? In a sense, we are fortunate that we have got the entire House today because it is a Constitution (Amendment) Bill. This is not a matter of just partisan interest. This is the matter relating to Constitution of India which is a permanent document, of course, amendable. (Interruptions)

I am also happy that the hon. Prime Minister is here. I would request him and I appeal to the conscience of all the hon. Members, don't treat what I am trying to submit, on a party basis. We are not saying that. (Interruptions) Please see that I am given two minutes.

PROF. MADHU DANDAVATE: (Rajapur) He wants two minutes as a right, but not as a mercy.

SHRI SOMNATH CHATTERJEE: It has been repeatedly said by the Government. Even today in the Lok Sabha it has been stated by two hon. Ministers, that their intention is only to restrict the amendment to Punjab or any part thereof. It is not intended

[Sh. Somnath Chatterjee
that it will have any operation anywhere also.
This is being repeated.

Mr. Chidambaram said, that it was not necessary but to allay all misgivings in the minds of the hon. Members in Rajya Sabha they brought forward that amendment. If you will see the Statement of Objects and Reasons also, which was given in Rajya Sabha, it has been said, it is for Punjab. I am reading from the Statement of Objects and Reasons;

"As the proposed amendments are only for the purpose of curbing the terrorist activities in the State of Punjab more effectively..."

Powers are being taken. Therefore, it is the policy of the Government that is only for tackling a particular situation that is now prevailing in Punjab.

If there are other provisions in the Constitution which can be taken recourse to so long as the present proclamation remains in respect of the State of Punjab or even a district of Punjab, should you keep these powers in your hands or you should try to allay the misgivings from the minds of the Members of the House and the people outside that you want to deal with this law to be passed only for Punjab and for nothing else. I wanted to make it clear that this will be restricted only during that period and no other provision which has wider application all over India much beyond the borders of Punjab, those States should not at all be affected. Now, what is the wrong I am asking, if I may ask myself and if I may put it to the hon. Members from the other side?

Kindly see Article 353. After all, it is Constitution of India, not a law that can be easily again rectified. (Interruptions) Try to get a copy of the book and try to follow; read once at least in your life. (Interruptions)

Kindly see Article 353. What it says? Is it flippancy that we are doing it? Is it on party basis we are doing it? (Interruptions) You cannot make me sit that easily.

"353. While a Proclamation of Emergency is in operation, then—

(a) notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised;..."

Therefore, there is a proclamation. You can issue executive directions to any State. Similarly, power of the Parliament to make law with regard to any matter has been mentioned. The provision was added by 42nd Amendment to make the position clear:

"Provided that where a Proclamation of Emergency is in operation only in any part of the territory of India,—

(i) the executive power of the Union to give directions under clause (a), and

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

Now, taking advantage of this Proclamation, it can be said that the situation in Assam or in West Bengal is endangered because of activities in Punjab, that some people from Punjab have gone there. Therefore, this power of issuing executive direction, this power of making laws will now be exercised by the Centre. That power is there. You are automatically getting that power. Therefore,

we want to make it clear, do you need this power? If you need this power, then it is inconsistent with your protestation, inconsistent with your very clear pronouncement and commitment that it will not apply. You have no intention to have any emergency powers regarding any State other than the State of Punjab. Kindly come to Article 354. You may kindly see, Sir, You may be affected. You don't know what will happen to Tamil Nadu. (*Interruptions*)

I am requesting them to please consider. You consider everything on partisan lines. Article 354 is regarding the distribution of financial powers between the Centre and States. I will read that article for you. It reads:

"The President may, while a Proclamation of Emergency is in operation, by order direct that all or any of the provisions of Articles 268 to 279 shall for such period, not extending in any case beyond the expiration of the financial year in which such Proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit."

It can change, after the financial relations between the Centre and the State with regard to all the States in India. Why do you want this power, if your intention is genuine that this amendment is only for Punjab and to deal with the terrorist situation? Come to Article 358. I know Mr. Chidambaram referred to (*Interruptions*)

PROF. MADHU DANDAVATE: These observations will remain on record for posterity. (*Interruptions*)

MR. DEPUTY SPEAKER: Order please. Please listen.

PROF. MADHU DANDAVATE: Why don't you pull them up? (*Interruptions*)

SHRI SOMNATH CHATTERJEE: I am sure, you are aware, the hon. Prime Minister is aware and most of the hon. Members on that side are aware that as soon as there is a declaration of the Proclamation of Emergency, Article 19 is automatically suspended. Now, once the amendment is made, if there is a declaration of emergency in Punjab for the reason of internal disturbances, automatically Article 19 is suspended. Nothing in Article 19 shall restrict the power of a State to make any law or take any executive action.

Now, Mr. Chidambaram knows it and he will bear me out that 42nd Amendment postulated and made provisions for the applicability of declaration of emergency with regard to part of a State or part of a territory of India. Once that is there, and this will be in accordance with the proviso—Mr. Sathe, now with your sojourn from trade unionism to the party and the Government, at least, I am sure, you will appreciate this that where such proclamation is in operation only in any part of the territory of India. (*Interruptions*)

MR. DEPUTY -SPEAKER: Please be brief.

SHRI SOMNATH CHATTERJEE: I am sure many of the hon. Members want to listen to me at least .. (*Interruptions*). I am reading the proviso which was brought in by the Forty-Second Amendment contemplating declaration of emergency in any part of the territory of India. This is what is contemplated. There have been repeated assertions that it is only for Punjab to meet the terrorist situation. Why do they want this power. The proviso says:

"Provided that where such Proclamation of Emergency is in operation only in any part of the territory of India, any such law may be made, or any executive action may be taken..."

[Sh. Somnath Chatterjee]

In respect of which area? In respect of area for which no declaration has been made. Further :

"... Under this Article in relation to or in any State or Union territory in which of in any part of which the Proclamation of Emergency is not in operation, if and in so far as the security of India or any part of the territory thereof is threatened by activities in or in relation to the part of the territory of India, in which the Proclamation of Emergency is in operation."

This is your Forty-second Amendment of the Constitution. I am posing this question before the Government; as also the Prime Minister who is here. The whole Cabinet is here. If you clearly wish to make it known to the people that you do not want to exercise any power, emergency power except for Punjab, why do you want to exercise powers under Article 358 with regard to other States? Why do you want to bring in Article 359 with regard to other States?

Sir, this matter should not be treated as of partisan interest. You want to take advantage of certain existing provisions of the Constitution and thereby enlarge the scope of this Amending Bill to bring in area outside the State of Punjab. I want to know this Government's stand. Do they wish to exercise powers under Articles 358, 359 and 354? And if they want to exercise such powers, why should they not make it clear?

My amendment makes it clear that Article 353 etc. proviso would not apply to this particular emergency that may be declared under the law..(Interruptions). This is the attitude of the ruling party. Yes, you have got a massive majority, there is no doubt about it. But so far as the Constitution is concerned, should you amend it in this casual and highhanded manner? Is it a matter just to be trifled with? You do not want to give

even a hearing. You had no consultations with the opposition, you have not taken the peoples' views. You do not want to listen to the opposition here. This is the way you want to pass the Constitution Amendment Bill. We are not to be cowed down..(Interruptions).

PROF. MADHU DANDAVATE : If such hecklers would have been in the Constituent Assembly, the Constitution would not have been framed at all... (Interruptions).

SHRI E. AYYAPU REDDY : Sir, I have moved my amendments to Clause 3 of the Bill. My first amendment is:

"Provided that no such declaration or Proclamation shall be made unless the President has consulted and obtained the opinion of all the political parties which had their elected representatives in the Legislative Assembly of Punjab prior to its dissolution".

There are two more amendments. The second amendment is:

for "article" 20 substitute—

"Article 19"

And the third is:

for two years substitute one year.

In the first amendment, I have merely stated that before the President declares or proclaims emergency, he must consult and obtain the opinion of all the political parties which had their elected representatives in the Legislative Assembly of Punjab prior to its dissolution.

Sir, this is only for the purpose of eliciting public opinion and getting the support of the people. Sir, turning a deaf ear to public opinion, and not involving all the political parties which will be affected by the declaration

of emergency will not be in the interest of finding a solution to the problem in Punjab. It is quite essential that important political parties must be consulted by the President before he imposes an emergency because he has to find out the best strategy. He must find out as to what the reaction of the people of Punjab will be for the imposition of emergency. Let him have the benefit of taking the opinion of the elected representatives of all the parties before imposing emergency.

Regarding the other two amendments, I would submit that I may rather agree with the interpretation given by hon. Minister Shri Chidambaram in respect of Articles 358 and 359. He was trying to make a distinction between an emergency proclamation made on the basis of a threat to the security of India and also an emergency proclamation made on the basis of the integrity of India being threatened on account of internal disturbance. Articles 358 and 359 are amenable to this interpretation given by him and I agree with him to that extent.

Sir, in regard to articles 353 and 354, there is no such distinction. Whereas articles 358 and 359 clearly mention "Security of India being threatened", there is no such wording in Articles 353 and 354. Therefore, the plea of Shri Somnath Chatterjee will be valid to that extent.

Now I come to Articles 20 and 21. While retaining Article 20, you are asking Article 21 to be deleted. Article 20 is a very innocuous article, and it is only with reference to protection in respect of conviction for offences. Whereas, Article 21 is the most important article. It is the very soul of our Constitution... (Interruptions)

The paradox or the contradiction in retaining Article 20, while omitting Article 21 can best be illustrated by this example. While stripping a man off his shirt, you allow him to have his neck-tie! Article 20 is a very

innocuous section while Article 21 is very important. But you are depriving him of the benefit of Article 21, that is the right to life and liberty. Without Article 21, Article 20 which relates only to conviction of offences, etc., has no meaning. This anomaly should be removed.

My third amendment is to reduce the operative period of this Act from two years to one year. All my amendments may kindly be considered.

SHRI P. CHIDAMBARAM : Sir, I am grateful to Shri Somnath Chatterjee for highlighting one point that in a matter of this nature, he should be heard uninterrupted. I only request that he extends the same courtesy to me, that is, I am heard uninterrupted. Then I will try to explain the Government's stand on these articles.

SHRI SOMNATH CHATTERJEE: Can you yield for a second? I wish when I was speaking, you should have given that lecture to your Members.

SHRI P. CHIDAMBARAM: I wish Mr. Chatterjee when I spoke earlier you and Mr. Acharya had not interrupted.

Let me deal with the Amendments. The first Amendment is what Mr. Thampan Thomas has proposed. He says substitute the words "secessionist activities". When I spoke, I submitted that the expression "Integrity of India threatened by internal disturbance" is very different from the pre-fortyfourth Amendment concept of internal disturbance. "Integrity of India threatened by internal disturbance" can only apply to secessionist and separatist activities. We have in mind the very object which Mr. Thomas has got, the would integrity of India is threatened by internal disturbance will squarely cover the situation which he has envisaged.

As far as Articles 353, 358 and 359 are

[Sh. P. Chidambaram]

concerned, Mr. Chatterjee has raised valid objections. During the course of my intervention I tried to explain the scope of Articles 353, 358 and 359 to the best of my ability and to the best of our understanding. I am grateful to Mr. Ayyapu Reddy for accepting that my interpretation is perhaps the correct interpretation. In fact to Mr. Chatterjee's objections, Mr. Ayyapu Reddy has furnished the answer. Yet Mr. Ayyapu Reddy says, it will not apply to Article 353. Would you kindly bear with me and look at Articles 353, 358 and 359, all of them are part of the same scheme. All three provisos were introduced by the same forty-second Amendment. If you will kindly see 353 Proviso, 353 proviso and 359 Proviso to 1 (A), all of them were part of the Forty-second Amendment and all of them use the same language. If Mr. Ayyapu Reddy concedes that my interpretation of 358 proviso and 359 proviso are plausible interpretations, the same thing should apply to 353 also. (*Interruptions*).

No. Mr. Chatterjee, this is not fair. You should not have a running commentary. You just now promised.

SHRI SOMNATH CHATTERJEE: I am just talking to him.

SHRI P. CHIDAMBARAM : If you ask him, I can hear you. There is no way you can ask him without my hearing you.

PROF. MADHU DANDAVATE: He is more vocal himself.

SHRI P. CHIDAMBARAM : Let me submit again most humbly that these three provisos contemplate a situation where either laws can be made or executive action taken in a part of the territory of India not covered by a partial emergency when there is a partial emergency. I believe I am correct

there. Each one of them postulates an emergency where the security of India has been threatened. If the President of India is satisfied, if the Government are satisfied and advises the President and the President is satisfied that the security of India is being threatened, the proclamation of emergency will be under 352. Today under Article 359 (1A) which we are introducing for Punjab the ground is not security of India being threatened, but the integrity of India being threatened by internal disturbance. So, Proviso to 353, Proviso to 358 and Proviso to 359 (1A) will enable Government to make laws, will enable Government to take executive action in respect of other parts of the territory of India only if the partial emergency is declared on the ground that the security of India has been threatened. Since, we are not taking power now to declare an emergency in Punjab on the ground of security of India, the question of extending laws or extending executive action to other parts of the territory of India under Proviso to 353, proviso to 358 and Proviso to 359 (1A) does not arise.

SHRI SOMNATH CHATTERJEE: May I seek a clarification?

MR. DEPUTY SPEAKER: No. Already we have discussed it.

SHRI SOMNATH CHATTERJEE: I shall be too happy if my interpretation is wrong and if you are correct, Mr. Chidambaram, Then do I take it that the Government's stand is that any proclamation that may be made under the proposed law, the proviso to 353, proviso to 358 and proviso to 359 cannot be applicable in such a proclamation. Is it the case of the Government?

SHRI P. CHIDAMBARAM : Yes.

MR. DEPUTY SPEAKER: If the House agrees, I will now put all the amendments moved to Clause 3 to the vote of the House.

Amendments Nos. 2 to 5, 8, 10 to 12, 15 to 17 and 19 to 21 were put and negatived.

MR. DEPUTY SPEAKER: Before I put Clause 3 to the vote of the House, this being a Constitution (Amendment) Bill, voting has to be by division. Let the Lobbies be cleared.

I want also to announce that Lobbies will remain cleared, till the voting process in respect of the Bill is completed.

Now the Lobbies have been cleared.

The question is:

" The Clause 3 stand part of the Bill."

The Lok Sabha divided.

Division No. 4

19.36 hrs.

AYES

Abbasi, Shri K.J.

Abdul Ghafoor, Shri

Agarwal, Shri Jai Prakash

Ahmed, Shrimati Abida

Akhtar Hasan, Shri

Alkha Ram, Shri

Anand Singh, Shri

Ansari, Shri Abdul Hannan

Ansari, Shri Z.R.

Antony, Shri P.A.

Arunachalam, Shri M.

Athithan, Shri R. Dhanuskodi

Awasthi, Shri Jagdish

Azad, Shri Ghulam Nabi

Baghel, Shri Pratapsinh

Bairagi, Shri Balkavi

Bairwa, Shri Banwari Lal

Bajpai, Dr. Raiendra Kumari

Bala Goud, Shri T.

Balaraman, Shri L.

Bali, Shrimati Vyjayanthimala

Barrow, Shri A.E.T.

Basavarajeswari, Shrimati

Basavaraju, Shri G.S.

Basheer, Shri T.

Bhagat, Shri B.R.

Bhagat, Shri H.K.L.

Bhakta, Shri Manoranjan

Bharat Singh, Shri

Bhardwaj, Shri Parasram

Bhatia, Shri R.L.

Bhoi, Dr. Krupasindhu

Bhosale, Shri Prataprao B.

Bhumij, Shri Haren

Damor, Shri Somjibhai

Bhuria, Shri Dileep Singh

Das, Shri Anadi Charan

Birbal, Shri

Das, Shri R.P.

Birendra Singh, Rao

Das, Shri Sudarsan

Birinder Singh, Shri

Das *Munsi, Shri Priya Ranjan

Brahma Dutt, Shri

Dennis, Shri N.

Budania, Shri Narendra

Deora, Shri Murli

Bundela, Shri Sujan Singh

Dev, Shri Sontosh Mohan

Buta Singh, S.

Devi, Prof. Chandra Bhanu

Chandrakar, Shri Chandulal

Dhariwal, Shri Shanti

Chandrasekhar, Shrimati M.

Dhillon, Dr. G.S.

Chandrashekarappa, Shri T.V.

Digal, Shri Radhakanta

Chandresh Kumari, Shrimati

Dighe, Shri Sharad

Charles, Shri A.

Digvijaya Singh, Shri

Chaturvedi, Shrimati Vidyavati

Dikshit, Shrimati Sheila

Chaudhary, Shri Manphool Singh

Dinesh Singh, Shri

Chaudhry, Shri Kamal

Dube, Shri Bhishma Deo

Chavan, Shri Ashok Shankarrao

Engti, Shri Biren Singh

Chidambaram, Shri P.

Faleiro, Shri Eduardo

Choudhari, Shrimati Usha

Gadgil, Shri V.N.

Choudhary, Shri Jagannath

Gadhvi, Shri B.K.

Choudhary, Shri Nandlal

Gaekwad, Shri Ranjit Singh

Dabhi, Shri Ajitsinh

Gaikwad, Shri Udaysingrao

Dalbir Singh, Shri

Gamit, Shri C.D.

Dalwai, Shri Hussain

Gandhi, Shri Rajiv

| | |
|-----------------------------|--------------------------------|
| Ganga Ram, Shri | Jitendra Prasada, Shri |
| Gavit, Shri Manikrao Hodlya | Jujhar Singh, Shri |
| Gehlot, Shri Ashok | Kamal Nath, Shri |
| Gholap, Shri S.G. | Kamble, Shri Arvind Tulshiram |
| Ghorpade, Shri M.Y. | Kamson, Prof. Meijinlung |
| Ghosal, Shri Debi | Kaul, Shrimati Sheila |
| Ghosh, Shri Bimal Kanti | Kaushal, Shri Jagan Nath |
| Gohil, Shri G.B. | Ken, Shri Lala Ram |
| Gomango, Shri Giridhar | Keyur Bhushan Shri |
| Gounder, Shri A.S. | Khan, Shri Aslam Sher |
| Gowda, Shri H.N. Nanje | Khan, Shri Khurshid Alam |
| Guha, Dr. Phulrenu | Khan, Shri Mohd. Ayub |
| Gupta, Shri Janak Raj | Khatttri, Shri Nirmal |
| Gupta, Shrimati Prabhawati | Khirhar, Shri R.S. |
| Halder, Prof. M.R. | Kinder Lal, Shri |
| Harpal Singh, Shri | Krishna Singh, Shri |
| Jadeja, Shri D.P. | Kshirsagar, Shrimati Kesharbai |
| Jaffar Sharief, Shri C.K. | Kuchan, Shri Gangadhar S. |
| Jagannath Prasad, Shri | Kujur, Shri Maurice |
| Jain, Shri Nihal Singh | Kumaramangalam, Shri P.R. |
| Jain, Shri Virdhi Chander | Kunjambu, Shri |
| Jangde, Shri Khelan Ram | Kuppuswamy, Shri C.K. |
| Jatav, Shri Kammodilal | Kurien, Prof. P.J. |
| Jeevarathinam, Shri R. | Lachchhi Ram, Shri |
| Jena, Shri Chintamani | Lowang, Shri Wangpha |

Madhuree Singh, Shrimati

Murthy, Shri M. V. Chandrashekara

Mahabir Prasad, Shri

Mushran, Shri Ajay

Mahendra Singh, Shri

Mutterwar, Shri Vilas

Makwana, Shri Narsinh

Naik, Shri Shantaram

Malik, Shri Dharampal Singh

Naikar, Shri D.K.

Mallick, Shri Lakshman

Namgyal, Shri P.

Malviya, Shri Bapulal

Narayanan, Shri K.R.

Mane, Shri Murlidhar

Nawal Prabhakar, Shrimati Sunderwati

Mane, Shri R.S.

Neekhara, Shri Rameshwar

Manorama Singh, Shrimati

Negi, Shri Chandra Mohan Singh

Manvendra Singh, Shri

Netam, Shri Arvind

Meena, Shri Ram Kumar

Odeyar, Shri Channaiah

Mehta, Shri Harobhai

Oraon, Shrimati Sumati

Meira Kumar, Shrimati

Pakeer Mohamed, Shri E.S.M.

Mishra, Shri G.S.

Pandey, Shri Damodar

Mishra, Shri Ram Nagina

Pandey, Shri Madan

Mishra, Shri Shripati

Pandey, Shri Manoj

Mishra, Shri Umakant

Panigrahi, Shri Chintamani

Misra, Shri Nityananda

Panigrahi, Shri Sriballav

Modi, Shri Vishnu

Panika, Shri Ram Pyare

Mohanty, Shri Brajamohan

Panja, Shri A.K.

More, Prof. Ramkrishna

Pant, Shri K.C.

Mukhopadhyay, Shri Ananda Gopal

Panwar, Shri Satyanarayan

Mundackal, Shri George Joseph

Parashar, Prof. Narain Chand

Murmu, Shri Sidha Lal

Pardhi, Shri Kesharao

Paswan, Shri Ram Bhagat

Prakash Chandra, Shri

Patel, Shri Ahmed M.

Puran Chandra, Shri

Patel, Shri C.D.

Purohit, Shri Banwari Lal

Patel, Shri G.I.

Purushothaman, Shri Vakkom

Patel, Shri Mohanbhai

Pushpa Devi, Kumari

Patel, Shri Ram Pujan

Qureshi, Shri Aziz

Patel, Shri U.H.

Raghuraj Singh, Chaudhary

Pathak, Shri Chandra Kishore

Rai, Shri I. Rama

Patil, Shri Balasaheb Vikhe

Rai, Shri Raj Kumar

Patil, Shri H.B.

Rai, Shri Ramdeo

Patil, Shri Prakash V.

Raj Karan singh, Shri

Patil, Shri Shivraj V.

Rejeshwaran, Dr. V.

Patil, Shri Uttamrao

Rajhans, Dr. G.S.

Patil, Shri Veerendra

Ram, Shri Ram Ratan

Patil, Shri Vijay N.

Ram, Shri Ramswaroop

Patnaik, Shrimati Jayanti

Ram Awadh Prasad, Shri

Pattnaik, Shri Jagannath

Ram Dhan, Shri

Peruman, Dr. P. Vallal

Ram Prakash, Ch.

Pilot, Shri Rajesh

Ram Samujhawan, Shri

Poojary, Shri Janardhana

Ram Singh Shri

Potdukhe, Shri Shantaram

Ramachandran, Shri Mullappally

Prabhu, Shri R.

Rampal Singh, Shri

Pradhan, Shri K.N.

Rana Vir Singh, Shri

Pradhani, Shri K.

Ranga, Prof. N.G.

| | |
|----------------------------|-----------------------------------|
| Ranganath, Shri K.H. | Sen, Shri Bholanath |
| Rao, Shri J. Vengala | Sethi, Shri Ananta Prasad |
| Rao, Shri K.S. | Sethi, Shri P.C. |
| Rao, Shri P.V. Narasimha | Shah, Shri Anoopchand |
| Rao, Shri V. Krishna | Shahi, Shri Laliteshwar |
| Rath, Shri Somnath | Shailesh, Dr. B.L. |
| Rathawa, Shri Amarsingh | Shaktawat, Prof. Nirmala Kumari |
| Rathod, Shri Uttam | Shankaranand, Shri B. |
| Raut, Shri Bhola | Shanmugam, Shri P. |
| Ravani, Shri Navin | Shanti Devi, Shrimati |
| Rawat, Shri Harish | Sharma, Shri Chiranji Lal |
| Rawat, Shri Kamla Prasad | Sharma, Shri Nand Kishore |
| Rawat, Shri Prabhu Lal | Sharma, Shri Nawal Kishore |
| Sahi, Shrimati Krishna | Sharma, Shri Pratap Bhanu |
| Sahu, Shri Shiv Prasad | Shastri, Shri Hari Krishna |
| Sait, Shri Azeez | Shervani, Shri Saleem I. |
| Sakargaym, Shri Kalicharan | Shingda, Shri D.B. |
| Salahuddin, Shri | Shivendra Bahadur Singh, Shri |
| Sankhawar, Shri Ashkaran | Siddiq, Shri Hafiz Mohd. |
| Sankata Prasad, Dr. | Sidnal, Shri S.B. |
| Satyendra Chandra, Shri | Singaravadiwel, Shri S. |
| Sathe, Shri Vasant | Singh, Shri Bhanu Pratap |
| Sayeed, Shri P.M. | Singh, Shri Chandra Pratap Narain |
| Scindia, Shri Madhavrao | Singh, Shri D.G. |

Singh, Shri K.N.

Swell, Shri G.G.

Singh, Shri Kamla Prasad

Tapeswar Singh, Shri

Singh, Shri Krishna Pratap

Tewary, Prof. K.K.

Singh, Shri Lal Vijay Pratap

Thakkar, Shrimati Usha

Singh, Shri N. Tombi

Thakur, Shri C.P.

Singh, Shri S.D.

Thara Devi, Kumari D.K.

Singh, Shri Santosh Kumar

Thomas, Prof. K.V.

Singh Deo, Shri K.P.

Thorat, Shri Bhausaheb

Sinha, Shrimati Kishori

Thungon, Shri P.K.

Sinha, Shri Satyendra Narayan

Tigga, Shri Simon

Sodi, Shri Mankuram

Tilakdhari Singh, Shri

Solanki, Shri Kalyan Singh

Tomar, Shrimati Usha Rani

Solanki, Shri Natavarsinh

Tripathi, Dr. Chandra Shekhar

Soren, Shri Harihar

Tyagi, Shri Dharamvir Singh

Sparrow, Shri R.S.

Tytler, Shri Jagdish

Sreenivasa Prasad, Shri V.

Vairale, Shri Madhusudan

Sukh Ram, Shri

Van, Shri Deep Narain

Sukhbuns Kaur, Shrimati

Vanakar, Shri Punam Chand Mithabhai

Sultanpuri, Shri K.D.

Venkatesan, Shri P.R.S.

Suman, Shri R.P.

Verma, Dr. C.S.

Sundararaj, Shri N.

Verma, Shrimati Usha

Surendra Pal Singh, Shri

Vijayaraghavan, Shri V.S.

Suryawanshi, Shri Narsing

Vir Sen, Shri

Swami Prasad Singh, Shri

Vyas, Shri Girdhari Lal

Wasnik, Shri Mukul

Dandavate, Prof. Madhu

Yadav, Shri Kailash

Das, Shri R.P.

Yadav, Shri Mahabir Prasad

Datta, Shri Amal

Yadav, Shri R.N.

Deo, Shri V. Kishore Chandra S.

Yadav, Shri Ram Singh

Gill, Shri M.S.

Yadav, Shri Shyam Lal

Goswami, Shri Dinesh

Yadava, Shri Bal Ram Singh

Hannan Mollah, Shri

Yadava, Shri D.P.

Hansda, Shri Matilal

Yashpal Singh, Shri

Iyer, Shri V.S. Krishna

Yazdani, Dr. Golam

Jagathrakshakan, Dr. S.

Yogesh, Shri Yogeshwar Prasad

Jhansi Lakshmi, Shrimati N.P.

Zainul Basher, Shri

Kalpana Devi, Dr. T.

NOES

Acharia, Shri Basudeb

Kurup, Shri Suresh

Athwal, Shri Charanjit Singh

**Law, Shri asutosh

Barman, Shri Palas

Mahata, Shri Chitta

Basu, Shri Anil

Malik, Shri Purna Chandra

Bhandari, Shrimati D.K.

Masudal Hossian, Shri Syed

Bhoopathy, Shri G.

Misra, Shri Satyagopal

Biswas, Shri Ajoy

Mukherjee, Shrimati Geeta

Chatterjee, Shri Somnath

Natarajan, Shri K.R.

Choubey, Shri Narayan

Patel, Dr. A.K.

Chowdhary, Shri Saifuddin

Pathak, Shri Ananda

**Wrongal voted for NOES.

Patil, Shri D.B.

Penchalliah, Shri P.

Ram Bahadur Singh, Shri

Ramashray Prasad Singh, Shri

Rao, Shri A.J.V.B. Maheswara

Rao, Dr. G. Vijaya Rama

Rao, Shri Srihari

Rao, Shri V. Sobhanadreeswara

Reddi, Shri C. Madhav

Reddy, Shri B.N.

Reddy, Shri Bezawada Papi

Reddy, Shri C. Janga

Reddy, Shri D.N.

Reddy, Shri P. Manik

Reddy, Shri S. Jaipal

Riyan, Shri Baju Ban

Ray, Dr. Sudhir

Roypradhan, Shri Amar

Saha, Shri Ajit Kumar

Saha, Shri Gadadhar

Saikia, Shri M.R.

Samant, Dr. Datta

Shaminder Singh, Shri

Singh, Shri Ram Narain

Swamy, Shri D. Narayan

Thomas, Shri Thampan

Tiraky, Shri Piyus

Tulsiram, Shri V.

Yadav, Shri Vijoy Kumar

Zainal Abedin, Shri

MR. DEPUTY SPEAKER: Subject to correction, the result* of the division is as follows:

Yes: 338

Noes: 66

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

The motion was adopted.

Clause 3 was added to the Bill.

MR. DEPUTY SPEAKER: The question is:

MR. DEPUTY SPEAKER

"That Clause 1 stand part of the Bill."

*The following Members also recorded their votes.

AYES : Shri Asutosh Low.

NOES: Shri N.V.N. Somu, B.B. Ramaiah, Shri Vijay and Kumag Raju and Shri E. Ayyapa Reddy

[Mr. Deputy Speaker]

The motion was adopted.

Clause 1 was added to the Bill.

Clause 1 A (New)

SHRI HANNAN MOLLAH: I beg to move:

after line 4, insert -

" 1 (A) In article 83 of the Constitution, after the existing proviso the following proviso shall be inserted namely:-

" Provided further that no such law shall be made during the operation of the Proclamation of Emergency that may be declared after the commencement of the Constitution (Fifty-Ninth Amendment) Act, 1988, in respect of the whole of Punjab or any part of the territory thereof".(a)

SHRI SOMNATH CHATTERJEE (Bolpur) I beg to move:

Page 1,-

after line 4, insert-

"1 A. In article 83 of the Constitution, after the existing proviso the following proviso shall be inserted namely :-

"Provided further that no such law shall be made during the operation of the Proclamation of Emergency that may be declared in relation to the State of Punjab or any part of the territory thereof after the enactment of the Constitution (Fifty-Ninth Amendment) Bill, 1988 by Par-

liament." (13)

Page 1,-

after line 4, insert-

"1 A In article 250 of the Constitution after clause (2), the following proviso shall be inserted, namely;

" Provided that this article shall not apply in relation to any Proclamation of Emergency that may be declared in relation to the State of Punjab or any part of the territory thereof after the enactment of the Constitution (Fifty-Ninth Amendment) Bill, 1988 by Parliament." (M)

This is a matter of very great importance and the political honest of this government is at stake. Art. 83 of the Constitution of India. where is Mr. Chidambaram- has nothing to do with this 42nd amendment. Article 83 of the Constitution of India clause 2 reads as follows:

"The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House.

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

This has nothing to do with 42nd Amendment. So far there is no proviso with regard to part of the territory of India or as soon as a proclamation is issued under the proposed legislation, the government will have the power to bring a law for extending the period of five years, that is the duration of the House. Even if a proclamation is declared for one district of Punjab, it will be sufficient because only a proclamation of emergency is necessary. Now, If the objective of this law is only to tackle the terrorist situation now prevailing in Punjab, you should not even think of having any provision whereby you can extend the period of the life of this House by taking advantage of the limited proclamation of emergency, as you said. Therefore, I wish to make it clear. It will not mean that it can never be done. I say "Provided further that no such law shall be made during the operation of the proclamation of emergency that may be declared in relation to the State of Punjab or any part of the territory thereof after the enactment of the Constitution (59th Amendment) Bill 1988 by Parliament". Therefore, if this Government has no intention for extending the period of this House, the present Lok Sabha, then you should agree that you would not exercise that power during the operation of any proclamation of emergency that may be declared in Punjab. That shows, if the government opposes this, if the ruling party oppose my amendment, then it will be clear to the people of this country that they want to utilise a pretended proclamation of emergency really for the object of extending the life of this House and to avoid holding the elections in this country as they had postponed the Delhi Municipal elections, as they are not holding elections for vacant seats in Parliament. Therefore, the object will be to avoid the people of this country, even for holding the elections to the Lok Sabha. I want to make it clear. This is a test for the Government. Its honesty is at stake.

S. BUTA SINGH: Shri Somnath Chat-

terjee has argued that the expression, "Proclamation of Emergency" occurring in Article 83 of the Constitution would enable the Government to extend the term of the Lok Sabha. It may be recalled that the Forty-second Amendment brought in the concept of the declaration of Emergency in any part of the territory of India and at that time Article 83 was not deliberately amended to exclude its operation when any part of India is brought under the State of Emergency. This being so, the position has not changed in any way with any proposal to amend the Constitution. Therefore the suggestion made by Shri Somnath Chatterjee is not only irrelevant but mischievous.

(Interruptions)

SHRI SOMNATH CHATTERJEE: Is this the reply of the Home Minister?

PROF. MADHU DANDAVATE: What is the objection? If that is the position what is the objection?

SHRI SOMNATH CHATTERJEE: Absolutely erroneous reply!

MR. DEPUTY SPEAKER: The question is:

Page 1,-

after line 4, Insert-

'1 A. In article 83 of the Constitution, after the existing proviso, the following proviso shall be inserted, namely:-

"Provided further that no such law shall be made during the operation of the Proclamation of Emergency that may be declared after the commencement of the Constitution(Fifty-Ninth Amendment) Act, 1988, in re-

[Mr. Deputy Speaker]
spect of the whole of Punjab or
any part of the territory thereof."
(9)

actment of the Constitution
(Fifty-Ninth Amendment) Bill,
1988 by Parliament." (14)

The Lok Sabha divided:

page 1,

after line 4, insert-

Division No. 5

19.44 hrs.

'1 A. In article 83 of the
Constitution after the existing
proviso, the following proviso
shall be inserted, namely:

AYES

Acharia, Shri Basudeb

"Provided further that no such
law shall be made during the
operation of the Proclamation of
Emergency that may be de-
clared in relation to the State that
may be declared in relation to the
State of Punjab or any part of the
territory thereof after the enact-
ment of the Constitution (Fifty-
Ninth Amendment) Bill, 1988 by
Parliament."(13)

Athwal, Shri Charanjit Singh

Barman, Shri Palas

Basu, Shri Anil

Bhandari, Shrimati D.K.

Bhoopathy, Shri G.

Biswas, Shri Ajoy

Chowdhary, Shri Saifuddin

Dandavate, Prof. Madhu

Das, Shri R.P.

Page 1,

after line 4, insert-

Datta, Shri Amal

'1 A In article 250 of the
Constitution after clause (2), the
following proviso shall be in-
serted, namely:—

Deo, shri V. Kishore Chandra S.

**Ganga Ram, Shri

"Provided that this article
shall not apply in relation to any
Proclamation of Emergency that
may be declared in relation to
the State of Punjab or any part of
the territory thereof after the en-

Gill, Shri M.S.

Goswami, Shri Dinesh

Hannan Mollah, Shri

Hansda, Shri Matilal

Reddy, Shri B.N.

Iyer, Shri V.S. Krishna

Reddy, Shri Bezawada Papi

Jagathrakshakan, Dr. S.

Reddy, Shri C. Janga

Jhansi Lakshmi, Shrimati N.P.

Reddy, Shri E. Ayyapu

Kalpana Devi, Dr. T.

Reddy, Shri P. Manik

Khan, Shri Mohd. Mahfooz Ali

Reddy, Shri S. Jaipal

Kurup, Shri Suresh

Riyan, Shri Baju Ban

Mahata, Shri Chitta

Roy, Dr. Sudhir

Malik, Shri Purna Chandra

Roypradhan, Shri Amar

Masudal Hossain, Shri Syed

Saha, Shri Ajit Kumar

Mishra, Shri Satyagopal

Samant, Dr. Datta

Mukherjee, Shrimati Geeta

Sambu, Shri C.

Natarajan, Shri K.R.

Shaminder Singh, Shri

Patel, Dr. A.K.

**Sodi, Shri Mankuran

Pathak, Shri Ananda

Spmu, Shri N.V.N.

Penchalliah, Shri P.

Swamy, Shri D. Narayana

Raju, Shri Vijaya Kumar

Thomas, Shri Thampan

Ramashray Prasad Singh, Shri

Tiraky, Shri Piyus

Rao, Shri A.J.V.B. Maheswara

Tulsiram, Shri V.

Rao, Dr. G. Vijaya Rama

Yadav, Shri Vijoy Kumar

Rao Shri Srihari

Zainal Abedin, Shri

Rao, Shri V. Sobhanadreeswara

NOES

Reddi, Shri C. Madhav

Abbasi, Shri K.J.

****Wrongly voted for AYES.**

Abdul Ghafoor, Shri

Bhakta, Shri Manoranjan

Agarwal, Shri Jai Prakash

Bharat Singh, Shri

Ahmed, Shrimati Abida

Bhardwaj, Shri Parasram

Alkha Ram, Shri

Bhatia, Shri R.L.

Anand Singh, Shri

Bhoi, Dr. Krupasindhu

Ansari, Shri Abdul Hannan

Bhosale, Shri Prataprao B.

Ansari, Shri Z.R.

Bhumij, Shri Haren

Antony, Shri P.A.

Bhuria, Shri Dileep Singh

Arunachalam, Shri M.

Birbal, Shri

Athithan, Shri R. Dhanuskodi

Birendra Singh, Rao

Awasthi, Shri Jagdish

Birinder Singh, Shri

Azad, Shri Ghulam Nabi

Brahma Dutt, Shri

Baghel, Shri Pratapsinh

Budania, Shri Narendra

Bairagi, Shri Balkavi

Buta Singh, S.

Bairwa, Shri Banwari Lal

Chandrakar, Shri Chandulal

Bajpai, Dr. Rajendra Kumari

Chandrashekharaappa, Shri T.V.

Bala Goud, Shri T.

Chandresh Kumari, Shrimati

Balaraman, Shri L.

Charles, Shri A.

Bali, Shrimati Vyjayanthimala

Chaturvedi, Shrimati Vidyavati

Barrow, Shri A.E.T.

Chaudhary, Shri Manphool Singh

Basavarajeswari, Shrimati

Chaudhry, Shri Kamal

Basavaraju, Shri G.S.

Chavan, Shri Ashok Shankarrao

Bhagat, Shri B.R.

Chidambaram, Shri P.

Bhagat, Shri H.K.L.

**Choubey, Shri Narayan

 **Wrongly voted for AYES.

Choudhari, Shrimati Usha

Gamit, Shri C.D.

Choudhary, Shri Jagannath

Gandhi, Shri Rajiv

Dabhi, Shri Ajitsinh

Gavit, Shri Manikrao Hodlya

Dalbir Singh, Shri

Gehlot, Shri Ashok

Dalwai, Shri Hussain

Gholap, Shri S.G.

Damor, Shri Somjibhai

Ghorpade, Shri M.Y.

Das, Shri Anadi Charan

Ghosal, Shri Debi

Das, Shri R.P.

Ghosh, Shri Bimal Kanti

Das, Shri Sudarsan

Gohil, Shri G.B.

Dennis, Shri N.

Gomango, Shri Giridhar

Dev, Shri Sontosh Mohan

Gounder, Shri A.S.

Devi, Prof Chandra Bhanu

Gowda, Shri H.N. Nanje

Dhariwal, Shri Shanti

Gupta, Shri Janak Raj

Digal, Shri Radhakanta

Halder, Prof. M.R.

Dighe, Shri Sharad

Harpal Singh, Shri

Digvijaya Singh, Shri

Jadeja, Shri D.P.

Dikshit, Shrimati Sheila

Jaffar Sharief, Shri C.K.

Dinesh Singh, Shri

Jagannath Prasad, Shri

Dube, Shri Bhishma Deo

Jain, Shri Nihal Singh

Engti, Shri Biren Singh

Jain, Shri Virdhi Chander

Faleiro, Shri Eduardo

Jangde, Shri Khelan Ram

Gadhvi, Shri B.K.

Jaisav, Shri Kammodilal

Gaekwad, Shri Ranjit Singh

Jeevarathinam, Shri R.

Galkwad, Shri Udaysingrao

Jena, Shri Chintamani

Jitendra Prasada, Shri

Law, Shri Asutosh

Jujhar Singh, Shri

Lowang, Shri Wangpha

Kamal Nath, Shri

Madhuree Singh, Shrimati

Kamble, Shri Arvind Tulshiram

Mahabir Prasad, Shri

Kamson, Prof. Meijinlung

Mahendra Singh, Shri

Kaul, Shrimati Sheila

Makwana, Shri Narsinh

Kaushal, Shri Jagan Nath

Mallick, Shri Lakshman

Ken, Shri Lala Ram

Malviya, Shri Bapulal

Keyur Bhushan Shri

Mane, Shri Murlidhar

Khan, Shri Aslam Sher

Mane, Shri R.S.

Khan, Shri Khurshid Alam

Manorama Singh, Shrimati

Khan, Shri Mohd. Ayub

Manvendra Singh, Shri

Khatttri, Shri Nirmal

Meena, Shri Ram Kumar

Khirhar, Shri R.S.

Meira Kumar, Shrimati

Kinder Lal, Shri

Mishra, Shri G.S.

Krishna Singh, Shri

Mishra, Shri Ram Nagina

Kshirsagar, Shrimati Kesharbai

Mishra, Shri Umakant

Kuchan, Shri Gangadhar S.

Modi, Shri Vishnu

Kujur, Shri Maurice

Mohanty, Shri Brajamohan

Kumaramangalam, Shri P.R.

More, Prof. Ramkrishna

Kunjambu, Shri

Mukhopadhyay, Shri Ananda Gopal

Kuppuswamy, Shri C.K.

Mundackal, Shri George Joseph

Kurien, Prof. P.J.

Murthy, Shri M. V. Chandrashekara

Lachchi Ram, Shri

Mushran, Shri Ajay

Mutterwar, Shri Vilas

Patel, Shri Ahmed M.

Naik, Shri Shanta'am

Patel, Shri C.D.

Naikar, Shri D.K.

Patel, Shri G.I.

Namgyal, Shri P.

Patel, Shri Mohanbhai

Narayanan, Shri K.R.

Patel, Shri Ram Pujan

Nawal Prabhakar, Shrimati Sunderwati

Patel, Shri U.H.

Neekhra, Shri Rameshwar

Pathak, Shri Chandra Kishore

Negi, Shri Chandra Mohan Singh

Patil, Shri Balasaheb Vikhe

Netam, Shri Arvind

Patil, Shri H.B.

Odeyar, Shri Channaiah

Patil, Shri Prakash V.

Oraon, Shrimati Sumati

Patil, Shri Shivraj V.

Pakeer Mohamed, Shri E.S.M.

Patil, Shri Uttamrao

Pandey, Shri Damodar

Patil, Shri Veerendra

Pandey, Shri Madan

Patil, Shri Vijay N.

Pandey, Shri Manoj

Patnaik, Shrimati Jayanti

Panigrahi, Shri Chintamani

Pattnaik, Shri Jagannath

Panigrahi, Shri Sriballav

Peruman, Dr. P. Vallal

Panika, Shri Ram Pyare

Pilot, Shri Rajesh

Panja, Shri A.K.

Poojary, Shri Janardhana

Pant, Shri K.C.

Potdukhe, Shri Shantaram

Panwar, Shri Satyanarayan

Prabhu, Shri R.

Parashar, Prof. Narain Chand

Pradhan, Shri K.N.

Pardhi, Shri Kesharao

Pradhani, Shri K.

Paswan, Shri Ram Bhagat

Prakash Chandra, Shri

Puran Chandra, Shri

Rao, Shri J. Vengala

Purohit, Shri Banwari Lal

Rao, Shri K.S.

Purushothaman, Shri Vakkom

Rao, Shri P.V. Narasimha

Pushpa Devi, Kumari

Rao, Shri V. Krishna

Qureshi, Shri Aziz

Rath, Shri Somnath

Raghuraj Singh, Chaudhary

Rathawa, Shri Amarsinh

Rai, Shri I. Rama

Rathod, Shri Uttam

Rai, Shri Raj Kumar

Raut, Shri Bhola

Rai, Shri Ramdeo

Ravani, Shri Navin

Raj Karan Singh, Shri

Rawat, Shri Harish

Rejeshwaran, Dr. V.

Rawat, Shri Kamla Prasad

Rajhans, Dr. G.S.

Rawat, Shri Prabhu Lal

Ram, Shri Ram Ratan

Sahi, Shrimati Krishna

Ram Awadh Prasad, Shri

Sahu, Shri Shiv Prasad

Ram Dhan, Shri

Sait, Shri Azeez

Ran. Prakash, Ch.

Sakargaym, Shri Kalicharan

Ram Samujhawan, Shri

Salahuddin, Shri

Ram Singh Shri

Sankhawar, Shri Ashkaran

Ramachandran, Shri Mullappally

Sankata Prasad, Dr.

Rampal Singh, Shri

Satyendra Chandra, Shri

Rana Vir Singh, Shri

Sathe, Shri Vasant

Ranga, Prof. N.G.

Sayeed, Shri P.M.

Ranganath, Shri K.H.

Scindia, Shri Madhavrao

Rao, Shri J. Chokka

Sen, Shri Bholanath

Sethi, Shri Ananta Prasad

Singh, Shri Kamla Prasad

Sethi, Shri P.C.

Singh, Shri Krishna Pratap

Shah, Shri Anoopchand

Singh, Shri Lal Vijay Pratap

Shahi, Shri Laliteshwar

Singh, Shri N. Tombi

Shailesh, Dr. B.L.

Singh, Shri S.D.

Shaktawat, Prof. Nirmala Kumari

Singh, Shri Santosh Kumar

Shankaranand, Shri B.

Singh Deo, Shri K.P.

Shanmugam, Shri P.

Sinha, Shrimati Kishori

Shanti Devi, Shrimati

Sinha, Shri Satyendra Narayan

Sharma, Shri Chiranji Lal

Solanki, Shri Kalyan Singh

Sharma, Shri Nand Kishore

Solanki, Shri Natavarsinh

Sharma, Shri Nawal Kishore

Soren, Shri Harihar

Sharma, Shri Pratap Bhanu

Sparrow, Shri R.S.

Shastri, Shri Hari Krishna

Sreenivasa Prasad, Shri V.

Shervani, Shri Saleem I.

Sukh Ram, Shri

Shingda, Shri D.B.

Sukhbuns Kaur, Shrimati

Shivendra Bahadur Singh, Shri

Sultanpuri, Shri K.D.

Siddiq, Shri Hafiz Mohd.

Suman, Shri R.P.

Sidnal, Shri S.B.

Sundararaj, Shri N.

Singaravadivel, Shri S.

Surendra Pal Singh, Shri

Singh, Shri Bhanu Pratap

Suryawanshi, Shri Narsing

Singh, Shri Chandra Pratap Narain

Swami Prasad Singh, Shri

Singh, Shri D.G.

Swell, Shri G.G.

Singh, Shri K.N.

Tewary, Prof. K.K.

Thakkar, Shrimati Usha

Wasnik, Shri Mukul

Thara Deyi, Kumari D.K.

Yadav, Shri Kailash

Thomas, Prof. K.V.

Yadav, Shri Mahabir Prasad

Thorat, Shri Bhausahab

Yadav, Shri R.N.

Thungon, Shri P.K.

Yadav, Shri Ram Singh

Tigga, Shri Simon

Yadav, Shri Shyam Lal

Tilakdhari Singh, Shri

Yadava, Shri Bal Ram Singh

Tomar, Shrimati Usha Rani

Yadava, Shri D.P.

Tripathi, Dr. Chandra Shekhar

Yashpal Singh, Shri

Tyagi, Shri Dharamvir Singh

Yazdani, Dr. Golam

Tytler, Shri Jagdish

Yogesh, Shri Yogeshwar Prasad

Vairale, Shri Madhusudan

Zainul Basher, Shri

Van, Shri Deep Narain

MR. DEPUTY SPEAKER: Subject to correction, the result* of the division is:

Vanakar, Shri Punam Chand Mithabhai

Ayes : 060

Venkatesan, Shri P.R.S.

Noes : 320

Verma, Dr. C.S.

The motion was negatived.

Verma, Shrimati Usha

MR. DEPUTY SPEAKER: The question is:

Vijayaraghavan, Shri V.S.

Vir Sen, Shri

" That the Enacting Formula and the Long Title stand part of the Bill."

Vyas, Shri Girdhari Lal

** The following Members also recorded their votes:

AYES: Shri Somnath Chatterjee, Shri B.B.Ramaiah, Shri Ram Bahadur Singh, Shri Manik Sanyal, Shri Gadadhar Saha, Shri Ram Narain Singh, Shri M.R. Saikia and Shri Narayan Choubey

NOES: Shri. P.R. Das Munsi, Dr. G.S. Dhillon, Shri V.N.Gadgil, Shri Dharam Pal Singh Malik, Shri Sujan Singh Bundela, Shri Harooobhai Mehta, Shri Akhtar Hasan, Shri Vir Sen, Shri Sripati Mishra, Dr. Phulrenu Guha, Shri Tapeswar Singh, Shri T. Basheer, Dr. C.P. Thakur, Shri Nandlal Chaudhary, Shri Sidha Lal Murmu, Shri Ganga Ram, Shri Munkuram Sodli, Shrimati M. Chandrasekhar, Shri Nityanand Mishra and Shrimati Prabhawati Gupta.

The motion was adopted

The Enacting Formula and the Long Title were added to the Bill.

S. BUTA SINGH : I beg to move:

"That the Bill be passed."

MR. DEPUTY-SPEAKER: Motion moved:

" That the Bill be passed."

SHRI BASUDEB ACHARIA: I want to speak:

MR. DEPUTY-SPEAKER: Already you have taken some time.

(Interruptions)

SHRI SOMNATH CHATTERJEE: Can you anticipate who are reaping the benefits of this law?

PROF. MADHU DANDAVATE: On Third reading, funeral oration may be allowed.

MR. DEPUTY-SPEAKER: Only one of you.

(Interruptions)

SHRI SAIFUDDIN CHOWDHARY (Katwa) All the names that have been given should be called.

SHRI BASUDEB ACHARIA: Now, I will appeal to colleagues on the other side at this final stage... *(Interruptions)*

PROF. MADHU DANDAVATE: When the patient is likely to die!

SHRI BASUDEB ACHARIA: ... to ask their conscience, because their support to

this Bill will be a great anti-national act on their part. *(Interruptions)*

The intention of the Government is very clear. It is clear just now. Shri Buta Singh has made it clear by retaining this Article 83 as it is, not accepting a very simple amendment table by us, by Comrade Somnath Chatterjee, Shri Hannan Mollah, myself and Shri Saifuddin Chowdhary.

Their intention is not to curb the terrorist activities in Punjab, but to curb the Opposition, the voice of the Opposition and to curb the rights of the people. If their intention is to curb terrorism to solve the Punjab problem, the Punjab tangle, they could have solved it. They are still considering Punjab problem as a mere law and order problem and not a political one. Punjab problem is a political problem. The solution of Punjab problem is also a political solution, but still they are considering it as a law and order problem. The Government want to arm themselves and they have enough reasons—twenty two weapons they have acquired. Still they want emergency to be imposed there and to take away the fundamental rights, the inherent right—right to life and right to liberty of the people of Punjab.

(Interruptions)

AN HON. MEMBER: Liberty *(Interruptions)*

PROF. MADHU DANDAVATE: (Rajapur) : He will talk about liberty and you talk about slavery *(Interruptions)*

SHRI BASUDEB ACHARIA: This is the way they are paying homage to the people of Punjab who laid down their lives for fighting; this is the way they are rewarding the people of Punjab who are waging a heroic fight against the terrorists and disruptive forces..those who want Khalistan and to secede and to separate Punjab from India

[Sh. Basudeb Acharia]

against the integrity and unity of the country, by curbing the right of the people of Punjab. In a back-door way, they want to impose emergency throughout India. We had the experience of Emergency of 1975. Emergency was imposed, the right of the people was curbed and taken away and thousands of people were put behind the bar. (*Interruptions*)

Sir, this should be not be utilised for a political purpose to suppress the Opposition (*Interruptions*)

MR. DEPUTY SPEAKER: Please wind up. I cannot allow more time during the third reading. Many Members wanted to speak.

SHRI BASUDEB ACHARIA: Sir, I oppose this Bill lock, stock barrel and I also ask at this final stage that they should withdraw the Bill as assured... (*Interruptions*)

Buta Singhji, while you were replying to the debate, Badal group gave a firm assurance that they would stand for the unity and integrity of the nation... (*Interruptions*)

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH) : They did not give. No assurance was given (*Interruptions*)

SHRI BASUDEB ACHARIA: Because of that assurance, I urge upon the hon. Minister S. Buta Singh that he should withdraw the Bill. I oppose this Bill.

SHRI SURESH KURUP (Kottayam) We are making a last minute appeal to the good sense of the ruling party, if at all there is any left, not to proceed with this Bill.

Mr. Buta Singh, you are going to pass a Bill which is going to segregate Punjab from the rest of the country. While intervening in this debate, Minister of State for Home Affairs, Mr. Chidambaram, was trying to con-

vince us that there is nothing in this Bill which is against the federal structure of our country. So for every other part of our country there are only three valid reasons for declaring an emergency i.e. war or external aggression or armed rebellion. You are adding one more reason only for Punjab. i.e. internal disturbance. So for the people of Punjab this proviso is added and this is against the principle of natural justice, equality before law and the federal structure of the country. You are isolating the people of Punjab. A special law is being made only for the people of Punjab. This is against the federal concept of our country. (*Interruptions*)

Mr. Chidambaram was saying that article 21 is not part of the basic structure of our Constitution. As has been repeatedly pointed out by hon. Members the amending power given to this Parliament under article 368 does not empower Parliament.. (*Interruptions*).

MR. DEPUTY SPEAKER: May I request the hon. Members to keep silence. Please order. If you continue to make noise, the House cannot be run. You are only wasting the time of the House by making noise. That is what I can say. You are not allowing the House to run.

SHRISURESH KURUP: When the 44th Amendment was brought before this House and when this House passed it unanimously, it was specifically added to the Constitution that under any circumstances, even if an emergency is declared, articles 20 and 21 cannot be suspended. It was just because article 21 is the most fundamental of all the Fundamental Rights and it is part of the basic structure of the Constitution. This was specifically added like that. Life of a citizen is the basic thing. So, under any circumstances, you cannot change this. The amending power of the parliament does not empower this Parliament to change this basic structure. This is what they are doing. The House

is not competent enough to pass this Bill. That is the most important thing. Using Punjab as a facade, they are going to re-enact the whole ugly scenario of Emergency in this country. They are trying to burn the house to catch a little mouse. So, I again appeal to the ruling party Members not to vote for this Bill because once Emergency is again declared in this country, they are not going to come back to this House. History will repeat itself and the people of the country will teach them a lesson again.

SHRI SAIFUDDIN CHOWDHARY (Katwa) : Mr. Deputy Speaker, Sir, it is now the most appropriate moment to remember the victims of Karisari where the Hindus and the Sikhs did not allow themselves to be separated and laid their lives at the hands of the terrorists. It is time to remember those workers of our party and also of the Congress Party, and of some other parties, who laid down their lives for the integration of Punjab with the rest of the country. Now, those who are willing to politically fight the terrorists, who are facing assaults from the terrorists, who are required to be strengthened, they are going to take away the rights from them—right to speak, right to liberty, right to life. Nothing can be more disastrous than this. When they are being killed by terrorists, the Government is enacting a law to take away the right of life from them. So, I condemn this Bill. I am very sorry that not only by the enactment of the anti-defection law, but also by this enticement of extending the House for another year, the reasoned voice of many of the ruling party Members has been silenced by the High Command.. (Interruptions). They must not forget what happened to the Members of the Congress Party during Emergency. We faced Emergency earlier, we have to face it again in the future. I must tell that in the minds of the Government, the integrity of Punjab, the

fight against terrorism is not there sincerely. They are responsible for the complication of the problem in Punjab. They have sabotaged the united action that had to be taken in Punjab to carry forward the message of unity to the people. Now they are taking the problem of Punjab as an alibi to subvert the Constitution, to subvert the Fundamental rights. I find no utility to appeal to this block-headed majority which cannot be moved even at this critical hour, but I appeal to the clear-headed people of our country to listen to our voice and come forward and teach a lesson to this dictatorial party ruling our country.

***SHRI SATYAGOPAL MISRA** (Tamluk) : Mr. Deputy Speaker, Sir, we are discussing this Bill since yesterday, but even now the purpose of bringing forth this type of Bill is not quite clear. The hon. Minister said that we will have to fight terrorism in Punjab unitedly together carrying with us all the people belonging to different religions and different political parties. On the one hand the Govt. is saying this but on the other hand they are imposing this sort of black legislation on the people of Punjab. This will create a big hurdle in waging a combined fight against terrorism in Punjab. Hence the attitude and the outlook of the Govt. towards the Punjab problem is not clearly understandable. Once they made an accord, but did not implement it. Elections were held in Punjab but after the election the State assembly was kept in animated suspension and President's rule was imposed there. Later the State assembly was dissolved. Now the Govt. is going to clamp emergency in Punjab. This shows that the Govt. is unable to make up its mind how to combat the Punjab problem. From the discussion that took place in this House yesterday on this Bill, it appeared to me that it is not the real intention of the Govt. to solve the Punjab

*The Speech was Originally delivered in Bengali.

[Sh. Satyagopal Misra]

problem. The Govt. finds that they have got alienated from the people due to the way they have functioned over the last three years and the web of corruption that they have created around themselves. As a result of all these, they have lost the support of the people today. They are afraid of facing elections and because of this fear of fresh elections they want to extend the life of the present Lok Sabha by one more year. They want to remain in power for one extra year by passing this type of Bill. This is the real purpose. Therefore, as patriotic citizens of this country it is the duty of all of us to oppose this Bill by all the means at our command. We have to oppose it tooth and nail, inside the House as well as outside the House. We should impress upon the people of this country not to allow this Govt. to act in this undemocratic manner. We all remember the dark days of the last emergency when there was no such thing as individual liberty, and there was no freedom of the press either. We are all being taken back to those black days. Sir, through this Bill and through the clamping of emergency in Punjab, nobody will be able to know what is happening in Punjab. The incidents taking place in Punjab will not be allowed to be published in the newspapers. The people will be kept in the dark about what is taking place in Punjab. Nobody will get any information. The freedom of the press is sought to be curbed through this Bill. On account of our bitter experience of the days of the last emergency, we cannot agree to the clamping of another emergency today. Therefore, I will urge upon everybody that still there is time to oppose this undemocratic Bill and we should all do that. I reiterate that it is necessary to wage a united fight against terrorism in Punjab by carrying all the patriotic and democratic people of Punjab, belonging to different religions and different parties, with us. The solution of the Punjab problem is possible only through political means and I hope that everybody will follow that path. Still there is time for that. I again

urge upon the Government to withdraw this black Bill and to follow the above democratic way to solve the Punjab problem and to combat terrorism in Punjab.

SHRI THAMPAN THOMAS: Sir, I would like to ask them whether by passing this law, will the Government of India be able to contain terrorism in Punjab? I feel that this inefficient Government which could not contain terrorism in the country, cannot contain it even after this Bill is passed and they have proved their inability in containing terrorism in the country. Ultimately, what will happen is that it will lead to authoritarianism and dictatorship. It is against the spirit of the Constitution. It clads with authority and power. My friends sitting on the Opposite who support this Bill donot know that they are getting 'Padmasura Varam'. They themselves are destroying their liberty. They are only like sheep now led to slaughter house. I pity them. I oppose this Amendment Bill.

[Translation]

THE MINISTER OF HOME AFFAIRS (S. BUTA SINGH): Mr. Deputy Speaker, Sir, from the statements made by Shri Basudeb Acharia, Kurup Saheb, Shri Saifuddinji and Thomas Saheb, it appears that all the political parties have together unnecessarily tried to stall the Bill and they have failed in their attempt. Basudeb Achariaji and Saifuddin Saheb raised the issue of emergency. In 1975 during the days of emergency, who derived the maximum benefit? it was the Communist Party of India (Marxist)... (Interruptions) ... because that party then followed the policy of running with the hare and hunting with the hound ... (Interruptions)

[English]

SHRI BASUDEB ACHARIA: We opposed the Emergency at that time. We were all in Delhi at that time (Interruptions)

S. BUTA SINGH: This House is well aware of the facts.. (*Interruptions*) ... The Communist Party supported the Emergency but during elections cooperated with the Janata Party. Now what kind of lesson are you going to teach to the people..(*Interruptions*)

[*English*]

SHRI BASUDEB ACHARIA: I belong to the Communist Party of India (Marxist). We opposed the Emergency. We went to jail... (*Interruptions*)..

[*Translation*]

S. BUTA SINGH: Just a while ago, Basudeb Achariaji referred to one thing. I made it very clear then that if the united Akali Party gave us an assurance that they would come forward and make efforts along with the front of other political parties to preserve the unity and integrity of the country, combat terrorism in Punjab and prevent killings of innocent persons there, then the Government would never impose emergency in Punjab. But no such assurance has come from them. I would like to say one thing to Acharia Saheb that in spite of the initiative of his party, on such assurance has come so far. From this, it becomes clear what is their real motive. This Bill is being brought forward to strengthen the unity and integrity of the nation ... (*Interruptions*) I again appeal to all the political parties to come forward rising above the narrow party politics and cooperate with the Government in tackling terrorism in Punjab. I also request the august House to pass the Bill unanimously.

[*English*]

MR. DEPUTY SPEAKER: Before I put the motion that the Bill be passed, to the vote of the House, this being a Constitution (Amendment) Bill voting has to be by division.

Let the Lobbies be cleared-

Now the Lobbies have been cleared.

The question is :-

"That the Bill be passed"

The Lok Sabha divided:

20.12 hrs.

At this stage Shri C. Madhav Reddy And some Other Hon. Mmbrs Left the House.

[*Division No. 6*]

20.13 hrs

AYES

Abdul Ghafoor, Shri

Agarwal, Shri Jai Prakash

Ahmed, Shrimati Abida

Akhtar Hasan, Shri

Alkha Ram, Shri

Anand Singh, Shri

Ansari, Shri Abdul Hannan

Ansari, Shri Z.R.

Antony, Shri P.A.

Arunachalam, Shri M.

Athithan, Shri R. Dhanuskodi

Awasthi, Shri Jagdish

Azad, Shri Ghulam Nabi

Birendra Singh, Rao

Baghel, Shri Pratapsinh

Budania, Shri Narendra

Bairagi, Shri Balkavi

Bundela, Shri Sujan Singh

Bairwa, Shri Banwari Lal

Buta Singh, S.

Baitha, Shri D.L.

Chandrasekhar, Shrimati M.

Bajpai, Dr. Rajendra Kumari

Chandresh Kumari, Shrimati

Bala Goud, Shri T.

Chaturvedi, Shrimati Vidyavati

Balaraman, Shri L.

Chaudhary, Shri Manphool Singh

Bali, Shrimati Vyjayanthimala

Chaudhry, Shri Kamal

Barrow, Shri A.E.T.

Chavan, Shri Ashok Shankarrao

Basavarajeswari, Shrimati

Chidambaram, Shri P.

Basavaraju, Shri G.S.

Choudhari, Shrimati Usha

Basheer, Shri T.

Choudhary, Shri Jagannath

Bhagat, Shri B.R.

Choudhary, Shri Nandlal

Bhagat, Shri H.K.L.

Dabhi, Shri Ajitsinh

Bhakta, Shri Manoranjan

Dalbir Singh, Shri

Bharat Singh, Shri

Dalwai, Shri Hussain

Bhardwaj, Shri Parasram

Damor, Shri Somjibhai

Bhatia, Shri R.L.

Das, Shri Anadi Charan

Bhoi, Dr. Krupasindhu

Das, Shri R.P.

Bhosale, Shri Prataprao B.

Das, Shri Sudarsan

Bhumij, Shri Haren

Das Munsii, Shri Priya Ranjan

Bhuria, Shri Dileep Singh

Dennis, Shri N.

Birbal, Shri

Dev, Shri Sontosh Mohan

Devi, Prof. Chandra Bhanu

Gohil, Shri G.B.

Dhariwal, Shri Shanti

Gomango, Shri Giridhar

Dhillon, Dr. G.S.

Gounder, Shri A.S.

Digal, Shri Radhakanta

Gowda, Shri H.N. Nanje

Dighe, Shri Sharad

Guha, Dr. Phulrenu

Digvijaya Singh, Shri

Gupta, Shri Janak Raj

Dikshit, Shrimati Sheila

Gupta, Shrimati Prabhawati

Dinesh Singh, Shri

Halder, Prof. M.R.

Dube, Shri Bhishma Deo

Jadeja, Shri D.P.

Engti, Shri Biren Singh

Jaffar Sharief, Shri C.K.

Faleiro, Shri Eduardo

Jagannath Prasad, Shri

Gadgil, Shri V.N.

Jain, Shri Nihal Singh

Gadhvi, Shri B.K.

Jain, Shri Viridhi Chander

Gaekwad, Shri Ranjit Singh

Jangde, Shri Khelan Ram

Gaihwad, Shri Udaysingrao

Jatav, Shri Kammodilal

Garnit, Shri C.D.

Jeevarathinam, Shri R.

Gandhi, Shri Rajiv

Jena, Shri Chintamani

Ganga Ram, Shri

Jitendra Prasada, Shri

Gavit, Shri Manikrao Hodlya

Jujhar Singh, Shri

Gehlot, Shri Ashok

Kamal Nath, Shri

Gholap, Shri S.G.

Kamble, Shri Arvind Tulshiram

Ghorpade, Shri M.Y.

Kamson, Prof. Meijinlung

Ghosal, Shri Debi

Kaul, Shrimati Sheila

Ghosh, Shri Bimal Kanti

Kaushal, Shri Jagan Nath

Ken, Shri Lala Ram

Mallick, Shri Lakshman

Keyur Bhushan Shri

Malviya, Shri Bapulal

Khan, Shri Aslam Sher

Mane, Shri Murlidhar

Khan, Shri Khurshid Alam

Mane, Shri R.S.

Khan, Shri Mohd. Ayub

Manorama Singh, Shrimati

Khatti, Shri Nirmal

Manvendra Singh, Shri

Khirhar, Shri R.S.

Meena, Shri Ram Kumar

Kinder Lal, Shri

Mehta, Shri Haroobhai

Krishna Singh, Shri

Meira Kumar, Shrimati

Kshirsagar, Shrimati Kesharbai

Mishra, Shri G.S.

Kuchan, Shri Gangadhar S.

Mishra, Shri Ram Nagina

Kujur, Shri Maurice

Mishra, Shri Shripati

Kumaramangalam, Shri P.R.

Mishra, Shri Umakant

Kunjambu, Shri

Misra, Shri Nityananda

Kuppuswamy, Shri C.K.

Modi, Shri Vishnu

Kurien, Prof. P.J.

Mohanty, Shri Brajamohan

Lachchi Ram, Shri

More, Prof. Ramkrishna

Law, Shri Asutosh

Mukhopadhyay, Shri Ananda Gopal

Lowang, Shri Wangpha

Mundackal, Shri George Joseph

Madhuree Singh, Shrimati

Murmu, Shri Sidha Lal

Mahabir Prasad, Shri

Murthy, Shri M. V. Chandrashekara

Mahendra Singh, Shri

Mushran, Shri Ajay

Makwana, Shri Narsinh

Muttamwar, Shri Viles

Malik, Shri Dharampal Singh

Naik, Shri Shantaram

| | |
|--------------------------------------|------------------------------|
| Naikar, Shri D.K. | Patel, Shri U.H. |
| Namgyal, Shri P. | Pathak, Shri Chandra Kishore |
| Narayanan, Shri K.R. | Patil, Shri Balasaheb Vikhe |
| Nawal Prabhakar, Shrimati Sunderwati | Patil, Shri H.B. |
| Neekhra, Shri Rameshwar | Patil, Shri Prakash V. |
| Negi, Shri Chandra Mohan Singh | Patil, Shri Shivraj V. |
| Netam, Shri Arvind | Patil, Shri Uttamrao |
| Odeyar, Shri Ohannaiah | Patil, Shri Veerendra |
| Pakeer Mohamed, Shri E.S.M. | Patil, Shri Vijay N. |
| Pandey, Shri Damodar | Patnaik, Shrimati Jayanti |
| Pandey, Shri Madan | Pattnaik, Shri Jagannath |
| Pandey, Shri Manoj | Peruman, Dr. P. Vallal |
| Panigrahi, Shri Chintamani | Poojary, Shri Janardhana |
| Panigrahi, Shri Sriballav | Potdukhe, Shri Shantaram |
| Panika, Shri Ram Pyare | Prabhu, Shri R. |
| Pant, Shri K.C. | Pradhan, Shri K.N. |
| Panwar, Shri Satyanarayan | Pradhani, Shri K. |
| Parashar, Prof. Narain Chand | Puran Chandra, Shri |
| Pardhi, Shri Keshaorao | Purohit, Shri Banwari Lal |
| Paswan, Shri Ram Bhagat | Purushothaman, Shri Vakkom |
| Patel, Shri Ahmed M. | Pushpa Devi, Kumari |
| Patel, Shri C.D. | Qureshi, Shri Aziz |
| Patel, Shri G.I. | Raghuraj Singh, Chaudhary |
| Patel, Shri Mohanbhai | Rai, Shri I. Rama |

Rai, Shri Raj Kumar

Rathod, Shri Uttam

Rai, Shri Ramdeo

Raut, Shri Bhola

Raj Karan Singh, Shri

Ravani, Shri Navin

Rejeshwaran, Dr. V.

Rawat, Shri Harish

Rajhans, Dr. G.S.

Rawat, Shri Kamla Prasad

Ram, Shri Ram Ratan

Rawat, Shri Prabhu Lal

Ram, Shri Ramswaroop

Sahi, Shrimati Krishna

Ram Awadh Prasad, Shri

Sahu, Shri Shiv Prasad

Ram Dhan, Shri

Sait, Shri Azeez

Ram Prakash, Ch.

Sakargaym, Shri Kalicharan

Ram Samujhawan, Shri

Salahuddin, Shri

Ram Singh Shri

Sankhawar, Shri Ashkaran

Ramachandran, Shri Mullappally

Sankata Prasad, Dr.

Rampal Singh, Shri

Satyendra Chandra, Shri

Rana Vir Singh, Shri

Sathe, Shri Vasant

Ranga, Prof. N.G.

Sayeed, Shri P.M.

Ranganath, Shri K.H.

Scindia, Shri Madhavrao

Rao, Shri J. Chokka

Sen, Shri Bholanath

Rao, Shri J. Vengala

Sethi, Shri Ananta Prasad

Rao, Shri K.S.

Shah, Shri Anoopchand

Rao, Shri P.V. Narasimha

Shahi, Shri Laliteshwar

Rao, Shri V. Krishna

Shailesh, Dr. B.L.

Rath, Shri Somnath

Shaktawat, Prof. Nirmala Kumari

Rathawa, Shri Amarsinh

Shankaranand, Shri B.

| | |
|-----------------------------------|-------------------------------|
| Shanmugam, Shri P. | Sinha, Shrimati Kishori |
| Shanti Devi, Shrimati | Sinha, Shri Satyendra Narayan |
| Sharma, Shri Chiranji Lal | Sodi, Shri Mankuram |
| Sharma, Shri Nand Kishore | Solanki, Shri Kalyan Singh |
| Sharma, Shri Nawal Kishore | Solanki, Shri Natavarsinh |
| Sharma, Shri Pratap Bhanu | Soren, Shri Harihar |
| Shastri, Shri Hari Krishna | Sparrow, Shri R.S. |
| Shervani, Shri Saleem I. | Sreenivasa Prasad, Shri V. |
| Shingda, Shri D.B. | Sukh Ram, Shri |
| Shivendra Bahadur Singh, Shri | Sukhbuns Kaur, Shrimati |
| Siddiq, Shri Hafiz Mohd. | Sultanpuri, Shri K.D. |
| Sidnal, Shri S.B. | Suman, Shri R.P. |
| Singaravadivel, Shri S. | Sundararaj, Shri N. |
| Singh, Shri Bhanu Pratap | Surendra Pal Singh, Shri |
| Singh, Shri Chandra Pratap Narain | Suryawanshi, Shri Narsing |
| Singh, Shri D.G. | Swami Prasad Singh, Shri |
| Singh, Shri K.N. | Swell, Shri G.G. |
| Singh, Shri Kamla Prasad | Tapeshwar Singh, Shri |
| Singh, Shri Krishna Pratap | Tewary, Prof. K.K. |
| Singh, Shri Lal Vijay Pratap | Thakkar, Shrimati Usha |
| Singh, Shri N. Tombi | Thakur, Shri C.P. |
| Singh, Shri S.D. | Thara Devi, Kumari D.K. |
| Singh, Shri Santosh Kumar | Thomas, Prof. K.V. |
| Singh Deo, Shri K.P. | Thorat, Shri Bhausaheb |

Thungon, Shri P.K.

Yadava, Shri D.P.

Tigga, Shri Simon

Yashpal SSingh, Shri

Tilakdhari Singh, Shri

Yazdani, Dr. Golam

Tomar, Shrimati Usha Rani

Yogesh, Shri Yogeshwar Prasad

Tripathi, Dr. Chandra Shekhar

Zainul Basher, Shri

Tyagi, Shri Dharamvir Singh

NOES

Tytler, Shri Jagdish

Acharia, Shri Basudeb

Vairale, Shri Madhusudan

Athwal, Shri Charanjit Singh

Van, Shri Deep Narain

Barman, Shri Palas

Vanakar, Shri Punam Chand Mithabhai

Basu, Shri Anil

Venkatesan, Shri P.R.S.

Bhandari, Shrimati D.K.

Verma, Dr. C.S.

Bhoopathy, Shri G.

Verma, Shrimati Usha

Biswas, Shri Ajoy

Vijayaraghavan, Shri V.S

**Chandrakar, Shri Chandulal

Vir Sen, Shri

Chatterjee, Shri Somnath

Vyas, Shri Girdhari Lal

Choubey, Shri Narayan

Wasnik, Shri Mukul

Chowdhary, Shri Saifuddin

Yadav, Shri Kailash

Dandavate, Prof. Madhu

Yadav, Shri Mahabir Prasad

Das, Shri R.P.

Yadav, Shri R.N.

Datta, Shri Amal

Yadav, Shri Ram Singh

Deo, shri V. Kishore Chandra S.

Yadav, Shri Shyam Lal

Gill, Shri M.S.

Yadava, Shri Bal Ram Singh

Goswami, Shri Dinesh

****Wrongly voted for NOES.**

Godwa, Shri K.V. Shankara

Reddi, Shri C. Madhav

Hannan Mollah, Shri

Reddy, Shri B.N.

Hansda, Shri Matilal

Reddy, Shri Bezawada Papi

Iyer, Shri V.S. Krishna

Reddy, Shri C. Janga

Jagathrakshakan, Dr. S.

Reddy, Shri D.N.

Kalpana Devi, Dr. T.

Reddy, Shri P. Manik

Khan, Shri Mohd. Mahfooz Ali

Reddy, Shri S. Jaipal

Kurup, Shri Suresh

Rryan, Shri Baju Ban

Mahata, Shri Chitta

Ray, Dr. Sudhir

Malik, Shri Purna Chandra

Roypradhan, Shri Amar

Masudal Hassain, Shri Syed

Saha, Shri Ajit Kumar

Mukherjee, Shrimati Geeta

Saha, Shri Gadadhar

Natarajan, Shri K.R.

Samant, Dr. Datta

Patel, Dr. A.K.

Sambu, Shri C.

Pathak, Shri Ananda

Sanyal, Shri Manik

Patil, Shri D.B.

Shahabuddin, Shri Syed

Penchalliah, Shri P.

Shaminder Singh, Shri

Raju, Shri Vijaya Kumar

Singh, Shri Ram Narain

Ram Bahadur Singh, Shri

Somu, Shri N.V.N.

Ramashray Prasad Singh, Shri

Swamy, Shri D. Narayana

Rao, Shri A.J.V.B. Maheswara

Tiraky, Shri Piyus

Rao, Dr. G. Vijaya Rama

Tulsiram, Shri V.

Rao, Shri Srihari

Yadav, Shri Vijoy Kumar

Rao, Shri V. Sobhanadreeswara

Zainal Abedin, Shri

MR. DEPUTY-SPEAKER: Subject to correction, the result* of the division is:

The motion was adopted.

Ayes : 328

Noes : 65

MR. DEPUTY SPEAKER : The House stands adjourned to re-assemble tomorrow at 11.00 A.M.

The motion is 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.

20.14 hrs.

The Bill is passed by the requisite majority, in accordance with the provisions of Article 368 of the Constitution.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, March 24, 1988/ Chaitra 4, 1910 (Saka)

*The following Members also recorded their votes:

AYES: Shri Brahma Datt, Shrimati Sumati Oraon, Shri Birinder Singh, Shri Prakash Chandra, Shri Chandulal Chandrakar, Shri A.K. Panja and Shri A. Charles