

framework which finds a meaningful expression in this Lokpal Bill. No persuasion would be necessary to pass or accept the very principle of the Bill. If this is coming by way of a Government Bill, then no effort would be necessary on my part to persuade the Government to accept the very principle of the Bill.

So, I commend the Bill to the House for consideration.

16.00 hrs.

MR. DEPUTY-SPEAKER: I think, the hon. Member may withdraw the Bill also.

THE MINISTER OF HOME AFFAIRS (SHRI CHARAN SINGH): I add my voice to your suggestion, Mr. Deputy-Speaker, to the hon. Mover to withdraw the Bill. The Bill introduced by the Government is very comprehensive and takes note of all possibilities. When Mr. Deo goes through it, he will agree with me that it is a superior draft. So, while I congratulate him or—shall I say—thank him also for the trouble he has taken in introducing this Bill and making his speech, I will again request him to withdraw it.

SHRI P. K. DEO: Our past experience has been very bitter. The previous Government introduced the Bill, and for ten years it never came up for consideration. My fear is that, though the Bill has been introduced, it does not mean that it will be passed. But after the assurance of the Home Minister and also the assurance of the Minister of Parliamentary Affairs today that this Bill will be passed next week, I would withdraw it. I most respectfully submit that it should be passed expeditiously; it should not be referred to any Joint Select Committee; there should be no dilly-dallying. As a matter of fact, it should be on the Statute Book in this Session. Since I have been fully assured by the Home Minister, I beg leave of the House to withdraw my Bill.

SHRI HARI VISHNU KAMATH (Hoshangabad): He cannot bind down the House not to accept any motion for reference to a Joint Committee.

MR. DEPUTY-SPEAKER: He can have his own opinion.

The question is:

"That leave be granted to withdraw the Bill to make provision for the appointment and functions of an authority named the Lokpal for the investigation of administrative acts in certain cases and for matters connected therewith."

The motion was adopted.

SHRI P. K. DEO: Sir, I withdraw the Bill.

16.05 hrs.

[SHRI SONU SINGH PATIL IN THE CHAIR]

#### CONSTITUTION (AMENDMENT) BILL

(Amendment of article 352) by  
Shri H. V. Kamath

SHRI HARI VISHNU KAMATH (Hoshangabad): Mr. Chairman, Sir, last Friday, a week ago, this House adopted a Resolution which had been moved by me on the 24th of June. That Resolution, *inter alia*, referred to the Emergency Proclamation and the various consequences that followed in the wake of the proclamation of the Emergency, and this House, at the initiative of the Home Minister, adopted that Resolution without any amendment, with a change of even a comma or a semi-colon or a word or a syllable, I should not blow my own trumpet, but I would like to say that, in that respect, this House made history because in the last 30 years I have found that only nine Resolutions have been adopted by the House without any amendment. In the last 30 years nine Resolutions have been adopted, and mine was the ninth Resolution to be adopted without,

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any amendment, last Friday. Today, in the fitness of things as it were and as if guided by destiny and higher powers, a Bill dealing with the same subject of Emergency—how to provide safeguards and what safeguards to provide against misuse of the Emergency provisions under the Constitution is now before the House. I would only refer to the Statement of Objects and Reasons appended to the Bill which reads as follows:—

"During the dark days of tyranny and terror from June 26, 1975 till March 21, 1977, the powers conferred by the Emergency provisions of the Constitution were grossly misused by Shrimati Indira Gandhi and her Government; with a view to subverting our democratic institutions and establishing a vile dictatorship. The Bill seeks to provide adequate safeguards against such misuse by suitably amending article 352."

Last Friday, my hon. friends of the Opposition, the Congress Party deemed it fit to stage a walk-out. It was a reluctant walk-out, I know, because some of the Members, one or two Members, came and told me later that they support my Resolution but because of certain circumstances that were forced upon them, they walked out at that time. I do not know why they walked out, I fail to see why they walked out, because I did not refer to the Congress Party at all in my Resolution; I had only said, 'Shrimati Indira Gandhi and her gang.' Perhaps the 'gang' cap fitted them and they walked out. I do not know why they walked out at all. I am sorry they walked out. There was no reference to the Party at all in my Resolution. Today also in my Bill, I have made it clear in the Statement of Objects and Reasons; I have referred to Shrimati Indira Gandhi and her Government. I, therefore, appeal to Congress Party to consider this Bill in its proper perspective, calmly, coolly, with reason and sobriety and arrive at a conclusion which will be in rapport with the present situation

which has emerged after the present elections. Though their former leader might not have expressed regret, repentance on paschatap, some of them have said they are sorry for what has happened, for the misuse of powers during the emergency, and that is exactly what the Bill is about. I am sure, none of my friends, ensconced on the benches there, with their conscience inside them, will support misuse of powers which darkened those days of tyranny and terror of twenty months or so. I am sorry to say that each passing day brings fresh evidence of the enormities, of the crimes, the sins, committed during those twenty months. Here is one in yesterday's issue of a leading newspaper of Delhi. It shows under the inspiration of, by or under the directives of Shrimati Indira Gandhi and her gang what crimes, excesses were committed during those months.

I am sorry to say that Shrimati Indira Gandhi's idea of a political party in my humble judgment, was a motley crowd of toadies and lackeys and funkeys and donkeys—it was her idea. I do not say that you Congress members hold that idea—inside the House, and with a large group of ruffians and ragamuffins thrown in outside the House. That was her idea of her party in our democracy.....

AN HON. MEMBER: Donkeys also?

SHRI HARI VISHNU KAMATH: Yes. Without donkeys how could she ask her party to carry the burden?

SHRI M. V. KRISHNAPPA (Chikballapur): For running a democracy one should have the patience of a donkey.

SHRI HARI VISHNU KAMATH: Without donkeys in her party how could she ask people to carry the burden.

Here is the evidence a little of which I had known, and I had referred to this matter in the course of the discussion last time as to how officers charged with the authority to administer the emergency had misused.

the powers. Here is a visual evidence, blatantly visual.

AN HON. MEMBER: What is that?

SHRI HARI VISHNU KAMATH: A carte-blanc, a blank cheque given to the Police. By whom? By no less a person—this is the photostat copy of a blank warrant of arrest under the MISA....

SHRI VASANT SATHE (Akola): Another photostat like the previous one?

SHRI HARI VISHNU KAMATH: It is on your brain. You seem to have a guilty conscience.

SHRI VASANT SATHE: Have you ascertained if it is true.

SHRI HARI VISHNU KAMATH: You can find out. I am placing it before the House.

This is a photostat of a MISA warrant signed by the then District Magistrate, Shri Sushil Kumar, but where the name of the person against whom the warrant is to be issued has not been filled. The name is not there. Blank cheque given to the Police. What does it say further?

"This indicates, despite denials to the contrary, that Magistrates were willing during the emergency to put their signatures to blank warrants although they had no idea against whom they will be issued and for what crime."

Mr. Sushil Kumar was then the Magistrate, and he has been promoted now. I hope the Minister will go into this matter. Mr. Sushil Kumar, the then District Magistrate of Delhi is now the Chief Secretary of Delhi Administration. That is what this paper says.

What did Shrimati Indira Gandhi herself say? Very recently she gave a television interview to Mr. David Frost of London. It took my breath away. One who had been to Pauniar recently,

the same place where Mr. Vasant Sathe used to go during the emergency....

SHRI VASANT SATHE: I still go.

SHRI HARI VISHNU KAMATH: ...and got his Adesh. Not *puṇnadesh* but *ardhadesh* as Vinobaji himself told me later on when I saw him that it was not done correctly, not done fully and only half done by my friend, Mr. Vasant Sathe. He said *Acharyonka Anushasan.* He omitted the word '*Acharyonka*' and said only '*Anushasan.*'

SHRI GEV M. AVARI (Nagpur): Both of you go to Vinobaji and discuss it in front of youngsters.

SHRI HARI VISHNU KAMATH: She gave a television interview recently. What does she say?

After Shri T. A. Pai's revealing statement—T. A. Pai was a Minister in the former Government and he was holding an important portfolio. I do not remember the portfolio—she was asked in an interview by Mr. David Frost of London whether her son Shri Sanjay Gandhi gave orders to officers and top civil servants and attended daily Cabinet Government meeting. She exclaimed 'absolutely ridiculous!' This is how she answered the question—Shri Sanjay Gandhi had nothing to do with the politics, policies or decision making. He did not discuss any other matters connected with the administration and policy making.

Then there is a very interesting statement. She says, about the 'internal disturbance' because of which emergency was proclaimed,—see the audacity of the statement,—even at this time of debacle of elections, when her party is tattered and torn—she sticks to her views. What was that disturbance—Shri Jayaprakash Narayan's *Ahimsatmak Andolan*, which Mahatma Gandhi, the Father of the Nation taught us. She says that disturbance was "certainly worse than war" justifying the emergency.

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First of all she says, in a state of war emergency is declared. "I would not bring emergency again", she said. "But you do it in war time to curtail fundamental rights", the next remark follows immediately, "the disturbance in the country was certainly worse than war." It is the most foolhardy, stupid and atrocious statement which I am sure all sane and sober-minded Members of the Congress Party will condemn—the disturbance was worse than war! This is certainly crossing every reasonable limit. I am sure Congress Members will have no hesitation in condemning that statement.

Finally this comes towards the end—the tail piece—"I have no doubt that the future would vindicate me". All that happened—excesses, emergency etc., the future would "vindicate me even if I cannot do anything now."

So, there was misuse of power. Shri Vasant Sathe very innocently on the last occasion, said, "Excesses might have been there, misuse of power might have been there. Had she known of these things, she might have put a stop to it."

I was then not a Member of Parliament. But my hon. friend Nana Sahib Goney, then Member of Rajya Sabha, wrote to Shrimati Indira Gandhi at least a dozen letters during those twenty months telling her what was happening outside—what crimes were being committed, what excesses were being committed and she should intervene. There was no acknowledgment even of one letter. There was no reply. I do not know what Shri Sathe will say now. Many of us wrote to her. I wrote one letter soon after the emergency was proclaimed. There was no acknowledgment. Her father was much better. He used to acknowledge within 48 hours and within one or two weeks he used to reply.

SHRI P. RAJAGOPAL NAIDU (Chittoor): Why have you forgotten Jawaharlal Nehru in your resolution?

SHRI HARI VISHNU KAMATH: It does not arise now. Otherwise I would have included many more names. However, you have raised the point, and so I shall tell you. Lokmanya Tilak has been called in history as the father of Indian unrest; Mahatma Gandhi was called the Father of Indian struggle and later he became the Father of the Nation. Netaji Subhas Chandra Bose was called the Father of Indian Revolution. These are symbolic names in the country's history. That is why I mentioned those names. Shri Rajagopalachari, Jawaharlal Nehru, Vallabhbhai Patel, Rajendra Prasad—you could have these names; I have no objection. (Interruptions) You could have moved an amendment. But you did not do it; you just walked out. You have not had the wisdom. Wisdom did not prevail with you, you just walked out....

SHRI C. M. STEPHEN (Idukki): Do you think that history has put its approval on that nasty resolution? Do you think simply because his name is not there he stands condemned?

SHRI HARI VISHNU KAMATH: I don't know. The Lok Sabha adopted that resolution with reference to the past, present and future. Condemnation was only of the emergency, of Shrimati Indira Gandhi and her gang. If that cap fits you it is open to you to wear it. I did not refer to you at all. I said simply 'Indira Gandhi and her gang'. If that cap fits, you are welcome to wear it. I have no objection.

SHRI A. C. GEORGE (Mukandapuram): A wise man should not get angry.

SHRI HARI VISHNU KAMATH: I am not angry; it is righteous indignation.

I am happy that the hon. Law Minister is here. He will no doubt explain the Government's stand with regard to the emergency provisions of the constitution. There are some press

clippings here with me with regard to a body of persons with whom he has been in close contact for many years. I mean, judges of the High Courts and the Supreme Court. He will be glad to know about these things. Mr. V. R. Krishna Ayyar, because of the circumstances at that time, the emergency atmosphere, simply kept चुप kept quiet. He remained silent. Many Members of the Congress Party also kept चुप they were silent, they did not open their mouths. I would like to tell you what Shri Krishna Ayyar said in Trivandrum only last week, on the 17th of July. He said he had received threats to his life. See the clipping from the Indian Express on the 22nd July. You have seen a photostat copy of the blank warrant signed by the district magistrate. And now this has come in the Indian Express of the 28th July, that is, yesterday.

Shri V. R. Krishna Ayyar, speaking in Trivandrum, said that he had received threats that his life would be in danger if he did not deliver the judgment in the then Prime Minister's favour.

The next day or, the day after the next day, the same paper or some other paper of Delhi carried a report that Shri Gokhale, the notorious predecessor of the present Law Minister—notorious Law Minister who had debauched the Constitution, murdered the Constitution, sought to end the Constitution, has conveyed felicitations—to whom? To two or three judges of the High Court in Delhi on their return to Delhi, because of the wrong that had been done to them, during the emergency when they had been wrongly or wrongfully transferred from Delhi to kala pani or somewhere. And now he expresses regret to them having been the author—I am sure—as Minister of Law and Justice, he must have been the author or, at least, the inspirer, of the orders of transfer of those judges who had passed some inconvenient judgments or verdicts in some cases during the emergency, and now, I do not know if he.... (Interruptions)

SHRI K. LAKKAPPA (Tumkur): There is a provision in the Constitution.

SHRI HARI VISHNU KAMATH: Constitution is an inanimate thing, and some animate being operates it. Do you not understand the meaning of the word 'animate'?

MR. CHAIRMAN: May I interrupt you, Mr. Kamath? You will have to finish by 4-30 because there are as many as ten speakers. Will you kindly finish by that time?

SHRI HARI VISHNU KAMATH: You will allow me forty minutes. I would request that the time allotted for the discussion of this Bill may be extended with the consent with the consent of the House. Or we carry it over to the next session also.

Now, Sir, I will try to come to the provisions of the Bill because you have given me the warning. I have some other material which I shall keep, if the occasion arises, for my reply if I get the chance today, or on some other day.

Sir, what I have sought to provide is that the power conferred upon the President under Article 352 should be really vested in Parliament. I know that even now it has to be approved by Parliament. But, my amendment goes further and seeks to ensure that the consent of Parliament is obtained in proper manner and in a very strict and rigid manner and there will be no ambiguity about it—the steam roller or the road-roller should not be used in Parliament as it used to happen during the emergency. What is the position in Britain and in the U.S.A.? These are two democratic countries where also sometimes the emergency is proclaimed. Please listen.

In Britain, the provision is as follows:

"Where a Proclamation of Emergency has been made by His Majesty on an occasion thereof, it

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shall, forthwith, be communicated to Parliament and, if Parliament is then separated by such adjournment or prorogation within five days. Parliament shall meet and sit upon a day appointed by that Proclamation and shall continue to sit and act in like manner as if it has stood adjourned or prorogued that day."

Here, I do not know, when did Parliament meet—the 20th July, 1975 I believe it met.—but there is no provision in the Constitution at all.

Further, any regulations shall be laid before the British Parliament as soon as may be, after they are made and shall not continue in force after the expiration of seven days. There, the order is made by His Majesty and later on by Parliament. It shall not continue after the expiration of seven days from the time when they are so laid unless a Resolution is passed by both Houses of Parliament for the continuance thereof. I quote from what I said in the Constituent Assembly: I am referring to the Constituent Assembly debates of July to September, 1949, page 187. The U.S.A. constitution—from which we are at times proud to have borrowed much—provides that the habeas corpus right shall only be suspended in case of rebellion or invasion when public safety may require it. But then there are adequate safeguards. First, the suspension can be authorised only by the Congress.—not the Congress party here, but Congress, means the American Parliament. Secondly, it is for the Supreme Court to say whether conditions existed which would justify suspension of that right.

Now, Mr. Chairman, Sir, what did the emergency do here? The constitution amendments were passed without substantial discussion.

SHRI VAYALAR RAVI (Chirayinkil): Mr. Kamath, may I ask a clarification from you? Will you stick

to your old speech in the constituent Assembly?

SHRI HARI VISHNU KAMATH: My amendments are a reiteration of the amendments moved by me in the Constitution Assembly. I only feel sorry that these amendments were rejected then. If they had not been rejected then, this country would not have come to the sorry pass which it came to in 1975.

Now, Sir, I come to Article 352. What damage was done to this Article by the powers acquired during the emergency. The Thirty-eighth amendment was passed which ousted the jurisdiction of all the courts—including the Supreme Court—and they inserted a new clause—clause 5—in Article 352. Then came the other things. By the Forty-second amendment, various other amendments were inserted. As you have already warned me about the time I do not wish to go into details.

Sir, my amendments are three-fold. I know that this Bill is not an adequate amendment of the emergency provisions. As a matter of fact, my scheme was to set the ball rolling and make the government and my colleagues think. I wanted to provoke thought on this Emergency Chapter. I am aware—and very painfully aware—that the crux of the matter does not lie only with this Article, that is, Article 352 but also Articles 356, 358 and 359. These together, we can say, make the head and front of the emergency.

AN HON. MEMBER: The effects are everywhere.

SHRI HARI VISHNU KAMATH: And 360 also. Articles 358 and 359, as the House is well aware deal with the suspension of the fundamental rights and the ouster of the courts' jurisdiction. The courts also were deprived of jurisdiction. Citizens right

to move the court also was suspended. Article 358 reads like this:

"358. While a Proclamation of Emergency is in operation, nothing in Article 19 shall restrict the power of the State as defined in Part III to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect..."

Article 359 reads like this:

"359(1). Where a Proclamation of Emergency is in operation the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is force...."

And about Article 356, Dr. Ambedkar had said while replying to the debate in the Constituent Assembly, about the Proclamation of President's rule in the States,—he had hoped that that Article would remain a dead letter. The Congress Government went berserk during the last 30 years. The State Government first and if they pay no heed then hold fresh elections and only for the duration of that election have President's rule in the States, as our Janata Government did right and properly during the last Assembly Elections in our country. The Congress Government went berserk during the last 30 years. The Congress Government clamped President's rule for years. I think once in Kerala—even before the Assembly was convened in 1965,—the President's rule was clamped when Mr. Ajit Prasad Jain was the Governor of Kerala: before the Assembly could meet even once, President's rule was

clamped on Kerala. I said at that time—I was a member of Lok Sabha at that time—that it was a prenatal strangulation of democracy. Now, I am well aware of the Congress record. They should be ashamed of themselves.

Now, I am well aware that unless these Articles are amended so as to prevent the misuse of powers flowing from these Articles, democracy in our country will not be safe. Otherwise—I will not use a hackneyed phrase "the sword of Democles"—it will be a "Sword of Emergency" hanging over the head of Democracy in India. Government should bring amendments and make these Emergency provisions in the words of Dr. Ambedkar, fool-proof and knave-proof—fools and knaves both are operating in the country, perhaps in every country.—So, I want to make it fool-proof and knave-proof, and I am sure the hon. Law Minister will bestow his attention to this matter. I have only one or two points to make and I will close for the time being.

My friend have given amendments and I do not know whether they have moved them yet. One hon. Member wants the word 'revolution' for the word 'insurrection'. With all due respect to him, I would suggest that an insurrection is called a revolution when it succeeds. A successful revolt is called a revolution; otherwise it is called mutiny or insurrection or revolt. According to my meagre knowledge of English language and history, I believe that revolution is successful mutiny or revolt. Otherwise it remains insurrection and not a revolution. So I would appeal to my friend to withdraw that amendment when that stage is reached.

Then, Sir, my friend Shri Nirmalchand Jain has tabled an amendment. Perhaps he overlooked the amendments I have given to my own Bill, for deletion of clause 5 of Article 352, i.e., the ouster of the courts jurisdiction inserted in the article by 38th

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amendment to the Constitution. That was not in the *asli* Constitution. But the *nakli* Constitution has got this. *Asli* was in 1950. *Nakli* was in 1975 during the Emergency. *Nakli* Constitution provides for this clause 5 and my amendment which I have given notice of....

SHRI G. NARASIMHA REDDY (Adilabad): A point of order. The present Constitution is *asli* or *nakli*?

MR. CHAIRMAN: That is a side remark.

SHRI HARI VISHNU KAMATH: I leave it to you to decide. I have no objection. You may decide either way. I have no quarrel with you. You may call it *asli* or *nakli*, it remains *nakli* at present.

I have sought to delete that clause, and so that the courts jurisdiction is restored. My hon. friend, the Law Minister very well knows that any act can be struck down on the ground of mala fides, anything can be vitiated by mala fides; whether it is President's satisfaction or anything else, can be struck on the ground of mala fides. I have sought to ensuring this, the Court's jurisdiction shall remain to test the satisfaction of the President with regard to the matter.

The last point is with regard to Parliament. I have sought to vest the power in Parliament and how—I have sought to provide that the power to proclaim an Emergency in the case of external attack or aggression or for internal armed insurrection shall be vested in Parliament and the proclamation of the President shall be approved by Parliament within one month, not two months,—I shall be glad if it is reduced to 15 days even—but I have given a little more time because here the wheels move rather slowly and the Members may not be able to assemble within that time. Therefore I have made it one

month. I shall be glad if it is reduced to five or seven days as in England, if the process can be made efficient in our country also. I have sought to provide that the proclamation should be approved first by two-thirds of the total membership of the Parliament—it will be more difficult, more stringent, more effective than the provision, Article 368, to amend the Constitution, because this is a far more serious matter, a potential threat to democracy in our country. Parliament shall approve the proclamation by two-thirds of the total membership of each House separately and three-fourths of those present and voting. That is the provision I have sought to include in my bill. I would appeal to the Hon. Minister who has wide experience in these matters—who has been in the forefront, he has rendered yeoman service during the last few years, during the Emergency, he is accurate he knows the whole thing inside out, if I may use that phrase, he has pleaded eloquently and forcefully mostly on the judicial forums and now he is doing it on the Parliamentary forums also—to bestow his personal attention on this matter. I appeal to him and to my colleagues on both sides of the House to bestow close attention on this provision, and ensure that in the official Bill that will come before the House in the near future—I hope it can be introduced next week or at least next session—all these matters will be taken care of. I would request the Minister to tell the House today if possible, what the Government's stand is going to be.

While replying to the debate on the Demands of his Ministry, the Home Minister said—I do not remember his exact words—that the Government wanted to delete article 352. I think it would be a rather unwise and a rather dangerous move to adopt, because war or external aggression is not something of our choosing. Therefore, for that emergency for external emergency there

will have to be some provision in the Constitution, with which we can deal with the emergency as it arises. For internal emergency, it is for the House to consider. I have provided for "armed insurrection," emergency to be proclaimed in the event of armed insurrection, and not for internal or domestic disturbance as is contemplated in the Constitution.

With these words, I move that the Bill further to amend the Constitution of India be taken into consideration, and I commend it in all humility and with all earnestness, for whole-hearted acceptance by both sides of the House.

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Constitution of India, be taken into consideration."

SHRI VASANT SATHE (Akola): Sir, let me say at the outset that reading Mr. Kamath's Constitution (Amendment) Bill as such, I would not have any objection to the entire Bill being adopted. But my main objection 'avichar'. Anyway, I will not go into and reasons, to which I will presently come. If you see the Bill and the statement of objects and reasons, you will find that there is absolutely no correlation between the two and I am surprised that an eminent parliamentarian and expert on constitutional law like Mr. Kamath should have done this. Normally if you read a Bill, you should be able to understand the objectives of the Bill. But in this case if you see the statement of objects and reasons, it is something altogether different, something which is in his mind, which is his obsession. As he was saying, it is his righteous indignation which has now taken the form of more or less righteous hysteria, because the words and the language which he was using, which he was not satisfied with having exhausted on the earlier resolution, have no correlation with the Bill. The Bill simply says in effect, instead of 'internal dis-

turbance' substitute 'armed insurrection' for bringing into force an internal emergency.

Mr. Kamath is not, as he explained just now, against having a provision of imposing Emergency in the country because in a state of war, he says, it should be there, unlike the Home Minister who said the other day that he was in favour of complete deletion. That is his 'vichar' or may be according to Mr. Kamath, it is 'avichar'.

SHRI HARI VISHNU KAMATH: Do not misquote me.

SHRI VASANT SATHE: Sir, I am not misquoting him. Mr. Kamath used the words "It will not be wise". So, what is unwise is 'avichar' unless he says that lack of wisdom is not 'avichar'. Anyway, I will not go into polemics about it. Kindly see Article 352(3) which the Bill Mr. Kamath has brought, does not seek to delete. He wants to delete sub-clause (5), but not sub-clause (3). Now, sub-clause (3) of Article 352 says:

"A Proclamation of Emergency declaring that the security of India or of any part of the territory thereof is threatened by war or by external aggression or by internal disturbance....."

SHRI HARI VISHNU KAMATH: My amendment is different.

SHRI VASANT SATHE: I know your amendment is only to the words 'internal disturbance'. You are not asking for deleting the words 'threatened by armed insurrection'. This is what you want. So, if there is a threat of armed insurrection made before the actual occurrence of war or of any such armed insurrection, if the President is satisfied that there is imminent danger thereof, the proclamation can take place.

SHRI HARI VISHNU KAMATH: I have said, Parliament and Supreme Court also. Do not forget that.

**SHRI VASANT SATHE:** We will consider all those things later. We are at present on a short point of proclaiming Emergency. Your amendment will have the effect that if the President is satisfied, that means, if the Council of Ministers is satisfied, that there is an internal threat of armed insurrection....

**SHRI HARI VISHNU KAMATH:** Justiciability is also there.

**SHRI VASANT SATHE:** Justiciability will be later—then, imposition of Emergency or Proclamation of Emergency will take place. Therefore, I agree with my friend. If our anxiety is from the past experience—and there let us give every one his or her due—if we have learnt from this experience that Emergency within the country should not be brought whatever be the risk—that is the extent to which our feelings are—then, you cannot play with it, then you cannot make a proviso because it will be subjective ultimately. Whether there is a threat of armed insurrection or not, who is to judge? The Government.

**SHRI HARI VISHNU KAMATH:** Parliament and Supreme Court.

**SHRI VASANT SATHE:** Sir, about Parliament, according to him if there is two-thirds majority and if three-fourths of that majority are present and voting, it will be enough. Today, they are in majority here. They can easily have such a thing passed because they will have that three-fourths majority. That is, two-thirds majority will be present; and of that two-thirds majority, they are already having more than three-fourths. So, they will be able to pass it even today.

So you will pass it even today. I am saying "present and voting". You say: "by a majority of not less than two-thirds of the total Members." How much is required to be present? Two-thirds. If two-thirds are present, if the quorum is there, you say: "and

by a majority of not less than two-thirds of that House, present and voting." That means: out of the two-thirds, three-fourths. That is what it comes to. Of the entire membership present and voting, two-thirds. Out of that, if three-fourths support, it is passed. Therefore, under whatever arithmetic you may put, the Janata Government is in a position to do it, if it feels that there is a threat of armed insurrection; they can fulfil it.

**SHRI N. SREEKANTAN NAIR** (Quilon): If you walk out, they cannot have two-thirds majority.

**SHRI VASANT SATHE:** Yes. As far as the other part regarding the Supreme Court etc. is concerned, it is a different matter because we do not know whether in such a case, the Supreme Court will be in a position to say: "No. We do not think there is any danger of armed insurrection", because it is so subjective. How do you know, I am trying to visualize that circumstance which you so vehemently opposed and denied. The circumstance of things which happened in Gujarat and Bihar. Violence. The question is: what is worse than war? If the stability of a democratic system is affected and if a democratically-elected government were to be overthrown by violence like the attempt in Bihar; if persons elected were to be gheraoed; pulled out of their own houses their children threatened that they will be murdered unless the elected representatives put their signatures and said that they will resign; if they were to be put on the donkey and paraded in the streets—if such things were to happen, what else are they than a danger of insurrection? What more of insurrection-ideas do you need? Is it the idea that only when people come armed with guns and other things you will take action? It will be too late, because the line between insurrection and a successful revolution is too thin. What happens when coups take place in other countries? Do you think it is a joke when you ask Army and police

not to obey unlawful orders? These are the words: "don't obey unlawful orders." Who is to decide whether it is unlawful or not—the Army-man or soldier? You will have to face these things yourselves. (Interruptions). Let us have the level of the debate at a higher level. Tomorrow under this very government, suppose the police or Army unit in any place were to say: "We consider the order of this captain or General or colonel or anybody else—or for that matter of Mr. Charan Singh—unlawful; and we do not obey it. What will happen? The whole Government will collapse the next moment. Because, the soldier's duty is first to obey, not to question. That is the elementary thing in any army. Ask anyone who knows about army and he will tell you that. What you are asking them to decide is what is lawful and what is unlawful. We know what happened in Bangladesh. Ten young men joined together, decided what was lawful and one night butchered the father of the nation and the entire family. Can we wait for the type of armed insurrection and declare emergency only when we know that there is going to be armed insurrection? Then, will there be time for that? I am surprised that my learned friend, a senior Member, the doyen of Parliament as we call him, Shri Kamath, has made such a blunder of providing this. I am trying to plead with him that what he is trying to put in is a more dangerous element.

17.00 hrs.

What I thought he has in his mind was a peaceful change. As long as the people are peaceful, non-violent, if they want to change in a peaceful manner, they have a right to demonstrate and show their anger peacefully. That is probably the intention and objective. But the moment the people tend to become violent, precautionary measures have to be taken. The Prime Minister said the other day "I am totally against gherrao; I

will never tolerate it." Today he says "I will not even meet demonstrators who shout slogans and bring delegations and deputations".

श्री वासु सिंह (दोसा) : ऐसा नहीं कहा ।

उन्होंने कहा था पहले शान्त पुर्ण ंरोक से  
मिशन दायें, और नहीं मिल् त : ऐसा करें ।

SHRI VASANT SATHE: We know what happened in Bombay. The Ministers, MPs and MLAs were gheraoed and insulted with rolling pins even by Amazons. That was done in Bombay. All that was allowed as a part of the total revolution. So, I would beg of you to consider this point. Now you are in power and I hope you want to continue to be in power for some time. If that is what you want, then you must naturally believe in peaceful opposition which has no tinge of violence. My friend by bringing in this amendment is, in fact, encouraging armed insurrection and by then it will be too late to take preventive action. If you want, instead of "internal disturbance" you can say "internal violent disturbance".

As I said in the beginning, I was amazed about the provisions of this Bill and the Statement of Objects and Reasons. What has this Statement of Objects and Reasons to do with, what he calls, during the dark days of tyranny and terror from June 26, 1975 till March 21, 1977, the powers conferred by the Emergency provisions of the Constitution were grossly misused by Shrimati Indira Gandhi and her Government with a view to subverting our democratic institutions, and establishing a vile dictatorship? Even after following all the safeguards that are provided here, if an emergency is proclaimed by this Government due to threat of an armed insurrection, what is there in this Bill to prevent later on that emergency from taking the

[Shri Vasant Sathe]

same shape as is alleged here? Therefore, this Bill has nothing to do with post-emergency provisions or any misuse. Where is the provision that it will not be misused? Therefore, the cat is out of the bag. This Bill is only a facade because he knows that the Government is bringing a comprehensive constitution amendment bill and he wants to give vent to his feelings because it is not only obsession but it has become a hysteria with him by again and again, saying tyranny and terror and all those days of emergency and then Indira Gandhi and the entire Government. He says that he is not talking of Congress. Whose Government was there then?

**SHRI SAMAR GUHA (Contai):** It shows that in the emergency you have been devoid even of the commonsense.

**SHRI VASANT SATHE:** Let us not live under that euphoria. In these four months, you should have at least learnt to have some perspective. Everyone of our side has condemned emergency and excesses in the emergency.

**AN HON. MEMBER:** Except yourself.

**SHRI VASANT SATHE:** I have also condemned. Every time I stood in this House I said that I vehemently condemn the excesses of emergency. The other day, addressing a public meeting in Poona, Shrimati Indira Gandhi, who is the target of the type of Shri Kamath, said: "We are not only sorry for the sufferings that the people had to undergo" but she says: "we apologise to the people. The Hindi version of that is:

हम लोगों से माफी मांगते हैं ।

That shows the courage of conviction of that person.

Again, Mr. Kamath says that there was an attempt at subverting democratic institutions and establishing a

vile dictatorship. This is the biggest and the worst kind of what I can describe as the Goebbelsian lie. He has been repeating again and again. There can be no better proof of the *bona fides* of Mrs. Indira Gandhi that even before the period of extended Emergency expired, she went to the polls, took the country to elections and accented the verdict of the people (*Interruptions*) can you deny that? Nobody can deny that. There are two proofs of that, one, going to elections and, second, having free and fair elections. You cannot deny that. You would not have come here if that were not so. You cannot say that the elections were not free and fair. To be fair to our leaders, including Mrs. Indira Gandhi, in having free and fair elections, in going in for elections, democracy has been strengthened in this country. Therefore, this sort of an attack by Mr. Kamath in the Statement of Objects and Reasons is a big lie. It is an utter falsehood. (*Interruptions*).

श्री माधू सिंह : जनता के कहने से तो होता है ।

श्री बसन्त साठे : प्रभी आप इतनी जल्दी किसी कनक्वजन पर न भाएं । यह तो चलता ही रहेगा ।

I would request the learned Law Minister—I may not be able to satisfy Mr. Kamath—to satisfy him that the Bill, as it is, is not all right. (*Interruptions*). I know, I cannot satisfy you because you are like the village school master who even though vanquished will argue still. What can I do? I accept that I cannot satisfy you. I am only trying and doing my bit. If you want to pass this Bill, we have no objection. But I have pointed out the lacunae in it, the danger underlying therein. I would request my hon. friend, Mr. Kamath, to consider this and withdraw this Bill. He can bring forward a better Bill or delete the entire part of the internal emer-

gency. We do not mind. I would not, in principle, oppose this Bill as I said to begin with. But I would request him to withdraw this Bill and bring forward a better Bill.

श्री नाथू सिंह (दोसा) : माननीय सभापति जी, मैं माननीय कामथ साहब के बिधेयक का समर्थन करता हूँ क्योंकि पिछले गये समय ने हमें यह बता दिया कि आपातकाल के अधिकारों का दुरुपयोग करके इस देश में क्या किया गया और क्या नहीं किया गया। साठे साहब अभी बोल रहे थे, काश यदि वह उस समय खुल कर इस लोक सभा में बोले होते तो हो सकता है कि वह भी हमारे साथ जेल के सीकड़ों में भ्रा जाते और तब उनको पता लगता कि इन्दिरा गांधी ने उस समय उन अधिकारों का किस तरह उपयोग या दुरुपयोग किया यह बात उनके दिमाग में साफ़ हो जाती। और आज जिस तरह इन्दिरा जी को वह सपोर्ट कर रहे थे वह नहीं कर पाते। 26 जून, 1975 के दिन जो आपातकालीन स्थिति लागू की गई हम उस दिन को ही, जैसा कहा जाता है कि काला दिवस है, मैं इस रूप में नहीं लेता, किन्तु वह दिन क्यों भ्राया इसके पीछे के कारणों को हमें खोजना होगा। जिस संविधान को बनाया गया उसमें कुछ ऐसी खामियां रह गई थीं जिनकी वजह से इस भारत में जो लोकतंत्र था उसका गला घोटकर श्रीमती इन्दिरा गांधी हिटलर की तरह भारत में तानाशाह बनने की और शरसर हो रही थीं, और 26 जून, 1975 का वह दिन था जिस दिन पूर्ण रूप से तानाशाह बनने के लिये उसने अपने सारे हथियार काम में ले लिये थे।

1975 से पहले श्रीमती इन्दिरा गांधी ने तानाशाह बनने के लिये पैरा मिलिटरी फोर्स बनाये, संजय काकड, उनको बिहार के भान्वासन को कुचलने में उन्होंने जिस फ़ौज को भेजा मैं उस फ़ौज की बात कर रहा हूँ। पटना में मुर्दा को भी शहर से बाहर नहीं निकलने दिया और उन मुर्दों की भी जांच की

गई उस पैरा मिलिटरी फ़ोर्स के द्वारा। पता है आपको कुछ? उसी पैरा मिलिटरी फ़ोर्स की बात मैं कर रहा हूँ। हर स्टेट में इन्दिरा जी ने चुने हुए मुख्य मंत्री धोये। इसको आप लोग अच्छी तरह जानते हैं। कई लोगों ने कांग्रेस पार्टी इनी बात से नाराज हो कर छोड़ दी। मैं राजस्थान का उदाहरण देना चाहता हूँ कि हमारे यहां चुनाव हुआ और मुख्य मंत्री चुनाव के द्वारा चुना गया। कांग्रेस के इतिहास में कभी भी किसी मुख्य मंत्री को चुनाव के द्वारा नहीं चुना गया। तो इस की तैयारी पहले से थी और मोका पा कर इस देश को जनता पर श्रीमती इन्दिरा गांधी ने एक बहुत बड़ा कहर डाला। और 1975 में प्रधानक लाखों लोगों को जेल के सीकड़ों में बन्द कर दिया। हमारे हाथों में ही हथकड़ियां नहीं पहनाई गईं, इस देश को ही जंजीरों में नहीं जकड़ा गया, बल्कि इन्दिरा जी के पुत्र ने और इन्दिरा जी ने हमारे लोकतंत्र को भी जंजीरों में जकड़ दिया, और उसके बाद भ्रष्टाचारों का बोलबाला इस देश में शुरू हुआ, चाहे तुर्कमान गेट की घटना हो या किसी और स्टेट की घटना हो। इन्दिरा जी जिन गरीबों को नारा दिसा करती थीं कि कांग्रेस पार्टी इस देश में समाजवाद लाने जा रही है, गरीबों का जीवन-स्तर ऊंचा उठाना चाहती है, उन्होंने उन गरीबों के मकानों पर ही बुलडोजर नहीं चलवाया, बल्कि इस देश के संविधान पर भी बुलडोजर चला दिया। (ब्यक्तपक्ष)

मैं यह बताना चाहता हूँ कि उन्होंने उन अधिकारों का क्या दुरुपयोग किया और उससे इस देश को किस तरह से नुकसान हुआ। गरीब जनता को ही नहीं कुचला गया अपितु हमारे जैसे विद्यार्थियों को, जो विश्वविद्यालयों में शिक्षा ग्रहण कर रहे थे, उन्होंने सरस्वती के मंदिरों को भी उन अधिकारों के दुरुपयोग से बर्षित नहीं रखा।

श्री बसंत साठे : वाइस-चांसलरों पर चाकू चला रहे थे।

श्री बाबू राम : तथाकथित कांग्रेस के नेता थे, जो इस तरह का काम करते थे। मैं इसके कई प्रमाण भी दे सकता हूँ। आप उस समय बाहर थे। जो अधिकांश इन्दिरा जी को मिले, उस वजह से इस देश में उन्होंने क्या किया और क्या नहीं किया, मैं इसका लेखा-जोखा आपको बता रहा हूँ। इस बात में आपका दुर्भाग्य रहा कि आप उन चीजों को देखने से वंचित रहे और आप इधर बैठे रहे कूच-मंडूक की तरह से। आपने देश को आखें खोल कर नहीं देखा, अगर देखा होता तो आज जो आपकी स्थिति है, यह नहीं होती कि इधर के बच्चों पर बैठे होते।

सभापति जी, मैं बता रहा था कि किस तरह से लाखों विद्यार्थियों को जेल के सीखचें में बन्द कर दिया, उनके पढ़ने के अधिकार को छीन लिया, विश्वविद्यालयों में प्रवेश नहीं दिया गया यह कहकर कि आप जयप्रकाश जी के समर्थक हैं। उनका चरित्र बिगाड़ने के लिये विश्वविद्यालयों के होस्टल में उन्होंने रोजाना खुले रूप से शराब का वितरण कराया और उन विद्यार्थियों को कहा गया कि तुमको विदेशों में भेज देंगे अगर तुम जयप्रकाश जी के आन्दोलनों से हटकर हमारे साथ आओगे, कांग्रेस में आओगे, एन०एस०यू० में आओगे। लेकिन दुर्भाग्य इस कांग्रेस पार्टी का कि हमेशा उन्होंने कांग्रेस पार्टी को ठुकराया। अगर इसका प्रमाण आप देखें तो जयप्रकाश जी का आन्दोलन जब चला तो गुजरात में सफलता प्राप्त की और बिहार में भी सफलता प्राप्त की।

इस तरह से देश में कोई भी वर्ग ऐसा नहीं छोड़ा इन्दिरा जी ने, जहाँ पर कि अत्याचार न हुआ हो। मजदूरों की क्या हालत कर दी? मैं साठे साहब से पूछना चाहता हूँ कि आपातकालीन स्थिति के दौरान क्या किसी विश्वविद्यालय में चुनाव हुए? मजदूर

संगठनों को नष्ट किया गया और कहा गया कि केवल कांग्रेस-समर्थित मजदूर संगठन ही जीवित रहेंगे। बाकी का गला घोट दिया गया, उन मजदूरों को मारा-पीटा और नौकरियों से हटा दिया गया। बड़े-बड़े सेठ-साहूकारों से कांग्रेस पार्टी ने बहुत बड़े गठबन्धन करके मजदूरों पर अत्याचार किये।

क्या उधर के माननीय सदस्यों को पता है कि आपातस्थिति के दौरान कितने मजदूरों को हटाया गया, कितने लोगों को बेघर-बार कर दिया गया, कितने परिवार प्रभावित हुए? जो लोग सीसा के अन्तर्गत जेल में बन्द थे, उनके मकानों पर बूलडोजर चलवा दिये गये, उनके बच्चों को पढ़ाई से वंचित कर दिया गया।

और जेलों में भी सरकार ने उन लोगों को सुख से नहीं रहने दिया। जेलों में उनके साथ बहुत बुरा व्यवहार किया गया, उन्हें ठीक खाना नहीं दिया गया, उनकी चिकित्सा की ठीक व्यवस्था नहीं की गई और उनके स्वास्थ्य को ख़राब कर दिया गया। (अध्व-धान)

जिन लोगों को इस देश की जनता चाहती है, उन लोगों के बारे में बहसा साहब ने कहा कि न तो इन लोगों को देश से बाहर निकाला जा सकता है, न उन्हें किसी समझ में फँका जा सकता है, इस लिए उनके लिए उचित स्थान जेल ही है। क्या श्री जयप्रकाश नारायण और श्री मोरारजी देसाई के लिए उचित स्थान जेल ही था? जिन लाखों विद्यार्थियों ने देश में लोकतंत्र को बचाने के लिए कुर्बानियाँ कीं और लाठी और गोली का मुकाबला किया, क्या उनके लिए उचित स्थान जेल ही था? देश की जनता को यह आपात स्थिति की बहुत बड़ी देन है—1975 में आपात स्थिति की जो बच्ची, दूसरी आपात स्थिति, पैदा हुई, यह उसकी देन है।

श्री साठे ने कहा कि श्रीमती इन्दिरा गांधी ने लोकतंत्र में विश्वास जाहिर करने के लिए ही तो चुनाव कराये। तथ्य यह है कि रा (भार०ए०डब्ल्यू०) से देश की स्थिति के बारे में रिपोर्ट मांगी गई, और रा ने कहा कि यही मौका है कि कांग्रेस चुनाव करा बहुमत प्राप्त कर सकती है, क्योंकि इस समय सभी विरोधी दलों के नेता जेलों में बन्द है। श्री संजय गांधी की तरफ से आदेश दिया गया कि लोगों को जबदस्ती इकट्ठा कर के जल्दों और प्रदर्शनों आदि में लाया जाये। जब श्री संजय गांधी राजस्थान गये, तो पांच-पांच, दस-दस रुपये दे कर लाखों व्यक्तियों को उनकी रैलियों में लाया गया। जब वह दिल्ली आये, तो इन्दिरा जी ने पूछा, "बेटा, क्या हाल है?" कहने लगे, "मम्मी जी मज्जा आ गया, सारे देश की जनता हमारे पीछे है, चुनाव करवा दो; निश्चित रूप से कांग्रेस पार्टी जीत कर आयेगी।" चुनाव हुए, और वास्तव में मज्जा श्री संजय गांधी या इन्दिरा जी को नहीं, बल्कि उस देश की जनता को आ गया। वे सब अधिकार धरे के धरे रह गये। क्या श्री साठे को मालूम है कि जिस समय चुनाव कराये गये थे, उस समय जेलों में कितने लोग बन्द थे ?

मुझे पता है पूरे भारत के अंदर जिस समय चुनाव हुए थे उस समय एक लाख लोग जेल के सीखचों में बन्द थे और जब जनता पार्टी की सरकार आई उस के बाद हम लोग जा कर उनको जेल के सीखचों से बाहर ले आए। मैंने चुनाव के समय अपने भाषणों में कहा था कि इस देश की जनता को कांग्रेस पार्टी की सरकार ने तो जेल के सीखचों में बन्द किया है लेकिन यदि जनता पार्टी की सरकार आई तो पहला काम हम यह करेंगे कि उन लोगों को आ कर जेल के सीखचों से बाहर निकाल कर सार्वभौम और यह हम ने किया। जनता पार्टी की सरकार बनने के बाद पहला काम हम ने यह किया कि जेल के

दरवाजों पर जा कर उन लोगों को माला पहना कर ले आये। आपातकाल के दौरान उसका कितना दुरुपयोग इस देश के अंदर किया गया उसकी यह एक छोटी सी मिसाल मैंने पेश की।

यदि ऐसे अधिकार इस देश में बने रहते हैं तो इंदिरा जी तो बूढ़ी हो गई लेकिन उनका शाहजादा सलीम अभी जवान है, हो सकता कि वह मम्मी के पद-चिह्नों पर चले। फिर से इस देश को एक नारा देकर कि हम आपकी भलाई करना चाहते हैं, इस देश में समाजवाद और वैज्ञानिक समाजवाद लाना चाहते हैं, भारत की तरह का ही समाजवाद लाना चाहते हैं, यह नारा दे कर वह फिर सामने आए। आप लोग जिस तरह से अपने आप को बचाने के लिए कह रहे हैं कि यह तो प्रशासन की गलती थी, न कि ऊपर के लोगों की, मैं पूछता हूं संविधान का ब्यालीसवां संशोधन किया गया तो वह कौन से प्रशासन की गलती थी ? जब संजय जी दौरे पर जाते थे तब कौन से प्रशासन की गलती थी ? जब नसबन्दी के अंदर अनेकों लोगों को घायल कर दिया तब कौन से प्रशासन की गलती थी ? किसने दिया वह नारा ? मीसा का काला कानून निकालने में कौन से प्रशासन की गलती थी ? पीसा जैसा काला कानून आप बना कर लाये। जब हम पत्र लिखते थे इंदिरा जी को और मुख्य मंत्रियों को जेलों से कि हमारे साथ ज्यादाती हो रही है, आप लोग देखें, कानून के विरुद्ध काम हो रहे हैं, तो शर्म आनी चाहिए थी, उन पत्रों का जवाब नहीं दिया। आपके मुख्य मंत्रियों ने और श्रीमती इंदिरा गांधी ने उन लोगों की एक भी चिट्ठी का जवाब नहीं दिया। यह भी प्रशासन की गलती थी ? जब हम जेल में कोई मांग करते थे किसी चीज के लिए तो हमें वहां से उठा कर बदल दिया जाता था। यहां तक कि लोगों को डाकूओं के साथ बन्द रखा और यहां कहा गया कि हम ने उनको बड़ी सुविधा दी।

प्रापातकाल में रेडियो पर दस बार इंदिरा जी का नाम आता था और पांच बार संजय जी का नाम आता था, और किसी का नाम नहीं आता था, न साठे साहब का नाम आता था न चव्हाण साहब का आता था और न लक्ष्मी का नाम आता था। हम कहते थे कि ये लोग कहां गायब हो गए? कहीं इनको भी तो जेल में बन्द नहीं कर दिया गया? हिन्दुस्तान का और दिल्ली का समाचार सुनने के लिए हमें बी०बी०सी० सुनना पड़ता था। पानी दिल्ली में आने के लिए लोगों को बी०बी०सी० होकर प्रवेश करना पड़ता था। जेलों के अंदर हमारे ऊपर यह पाबन्दी लग गई कि बी०बी०सी० नहीं सुन सकते। हमारे रेडियो और ट्रांजिस्टर छीन लिये गये। कहा गया कि इंदिरा जी और संजय जी की जो प्रार्थना होती है रेडियो पर रोजाना केवल वही सुन सकते हैं। कांग्रेस के द्वारा एक कार्यक्रम चलाया गया जिसमें हर दूकानदार को मजबूर किया गया कि वह ग्यारह ग्यारह रुपये में इंदिरा जी और संजय गांधी की फोटो खरीद कर लाये और जिस तरह भगवान राम और कृष्ण की फोटो लगाकर पूजा की जाती है उसी तरह उनकी फोटो हर दूकान में लगायी जाये। जिस दूकान में फोटो नहीं मिलेगी उस दूकान का चालान कर देंगे, उसकी जांच करेंगे। इस तरह के आदेश दिये गये। ऐसा इस देश में किया गया। कांग्रेस ने जबर्दस्ती चन्दा इकट्ठा किया और क्या क्या किया, क्या क्या नहीं किया, उसमें मैं और नहीं जाना चाहता। आप लोग अच्छी तरह से जानते हैं।

मेरे कहने का तात्पर्य यह है कि इस तरह के अधिकार यदि किसी व्यक्ति को मिलते हैं, तो यदि महात्मा गांधी जैसा व्यक्ति या अयप्रकाश जी जैसा व्यक्ति पैदा हो जाये तो वह इनका दुरुपयोग नहीं करेगा, लेकिन क्या विश्वास है कि—इन्दिरा जी तो चुनाव

हार गईं, लेकिन कांग्रेस पार्टी के दूसरे लोग यदि सत्ता में आ जायें, तो वे इसका दुरुपयोग नहीं करेंगे। इस बात की क्या गारंटी है? इस तरह के अधिकार जो तानाशाही की ओर ले जाते हैं, जिस तरह से हिटलर ने नारा लगाया था, जब वह जर्मनी का तानाशाह बना तो उसने संविधान की दुहाई देकर नारा लगाया कि मैं इस देश को मजबूत करना चाहता हूँ, उसी तरह से जब इन्दिरा जी तानाशाह बनने जा रही थीं, उन्होंने बार-बार संविधान की दुहाई देते हुए कहा कि इस देश की जनता ऐसा चाहती है, बहुमत हमारे साथ है, इसलिये हम ऐसा करेंगे। आज जनता पार्टी बहुमत में है तो क्या हम भी ऐसा ही करें कि देश की जनता हमारे साथ है, इसलिये आपके मुंह पर ताला लगा दें, आपको जेल के सीखचों में बन्द कर दें—हम ऐसा कभी भी नहीं करेंगे। आपने देश की जनता के नाम पर हमारे मुंह पर ताला लगा दिया, प्रेस का गला घोट दिया, रेडियो स्टेशन बन्द कर दिये—आज आपको जनता का गुरुगुजार होना चाहिए, जनता पार्टी के नेताओं को बधाई देनी चाहिए कि जो ताला इन्दिरा जी ने आपके मुंह पर लगाया था, हम ने आपके मुंह पर लगे हुए उस ताले को खोल दिया है। आज आपको बोलने की स्वतंत्रता है, आज आप बाहर और अन्दर कुछ भी बोल सकते हैं।

श्री राम अश्वमेस सिंह (विक्रमगंज) : तानाशाह अपने दल के ताकतवर लोगों को पहले मारते हैं, इसी लिये सब से पहले आपको दबाया गया।

श्री भायू सिंह : इसलिये मैं कहना चाहता हूँ कि किसी भी व्यक्ति को ऐसे अधिकार नहीं दिये जाने चाहिए। कामय साहब ने जो बिल पेश किया है, यह बिलकुल ठीक है, मैं इसका समर्थन करता हूँ। इस तरह के अधिकार किसी भी व्यक्ति को नहीं

दिये जाने चाहिये, जिससे इस देश में डेमोक्रेसी की हत्या हो जाये।

MR. CHAIRMAN: Now, the time allotted for this is only two hours and we have already taken 1 hour 40 minutes. So only 20-23 minutes are left. But there are many speakers who want to participate.

श्री हरि विष्णु कामत : मैं प्रस्ताव प्रस्तुत करना हूँ कि जो टाइम इस बिल का एलाट किया गया है, उसको बढ़ाया जाय।

समापति महीदय : कितना ?

श्री हरि विष्णु कामत : दो घंटे बढ़ाया जाय।

SHRI N. SREEKANTAN NAIR: If it is to be extended, it should be on some other day, not today, because we have got some other programme at 6 O'clock.

THE MINISTER OF STEEL AND MINES (SHRI BIJU PATNAIK): It should be on the next non-official day.

SHRI S. KUNDU (Balasore): Yes, it should be extended to the next non-official day.

MR. CHAIRMAN: I agree with you. The time can be extended. We will sit till 6 O'clock only today. Then next day it can be extended by two hours or whatever the House decides. So, now let us continue with the debate. Mr. Stephen.

MR. C. M. STEPHEN (Idukki): Looking at the personality who moved this Bill, I was wondering whether there is any approval or blessing from the government for this Bill. I do not know. It is possible that there may be and if so it raises certain doubts in my mind with regard to the purpose of the Bill moved.

Now in respect of Article 352 the Home Minister has gone on record that they will come forward for the abrogation of Article 352 which means cancellation. He is on record here.

SHRI BIJU PATNAIK: Amendment.

SHRI C. M. STEPHEN: 'Delete' article 352 this is what he said. I do not know. There are many Ministers. Many Ministers are making pronouncements. I do not know whether the pronouncement any Minister makes represents the government as a whole or he is speaking for himself. Whether there is one Government or there are 20 or 23 Governments, I do not know. The Home Minister, here is on record in the Lok Sabha, that they will come forward for the purpose of abrogating Article 352.

As far as we are concerned, the Leader of the Opposition in the very first speech made it very clear, there will be no question of any further emergency. Therefore, there is a broad consensus as far as this provision of abrogation of Article 352 is concerned.

The Leader of the Opposition speaks for us and Home Minister on your side speaks for the Government. And as far as any provision which leaves loophole for the promulgation of emergency is concerned, the view is that there will be no emergency at all.

There were many proclamations being made by the Government or the party. They said they were against 42nd Constitution Amendment Bill. They said as far as C.D.S. was concerned they were against that. They said as far as Bonus Amendment Bill was concerned, they were against that. They said as far as emergency was concerned they were against that. Well, speaking for myself and others broadly speaking I may say that there

is a consensus, that there is an agreement between the Janata Government on the one side and the Opposition on the other viz., with respect to annulment of Bonus Amendment Act, we are for that. With respect to the abrogation of 42nd Constitution Amendment Bill, we have already gone on record saying that we are prepared to consider the merits of it and if you want the whole abrogation, we will not be against it. We are for that.

As far as C.D.S. is concerned, you wanted to go back on your commitment. You wanted to keep that money with you. You got the Bill passed here. You took it to the Rajya Sabha. Even on the previous night our Leader in the Rajya Sabha was approached by you to elicit our view whether we would back up your Bill. When we told you that we were going to oppose that, you realised that it would be cut down in the Rajya Sabha. Immediately you came out saying that with deference to the consideration of Trade Unions and others, you were withdrawing. In all these matters there is a going back. That is what I say. You take all sorts of Challenging postures and shrink back in Shudder when we press for their implementation with offer of solid support.

Shri Morarji Bhai yesterday said, "We won't see the deputation." Deputation, because it was backed by a demonstration. I remember Shri Morarji Bhai coming to this House and threatening to offer satyagrah, hunger strike on the floor of the House. There was no impropriety about that. Impropriety is when somebody comes out with a demonstration on the anti-price rise issue. I am saying this, as days go on, as the Government faces certain realities, the Government or the Party seem to be having second thoughts—nor the entire party, sections of the party. When the prices

are moving up, now comes the declaration that MISA can be used. When the MISA was passed here, MISA was opposed. There was a demand that MISA should be abrogated. Now there are talks about using MISA for certain purpose. I am not on the merits of it. What exactly is the thinking of this Government on these fundamental questions. These were the issues on which you attacked us and you proceeded against us. That is all I was attempting to say. Now this Amendment Bill is an absolutely inconsequential Bill as far as I can see. My friend Shri Sathe made reference to the Objects and Reasons. The Objects and Reasons say—in order that the Article 352 may not be misused.

There are certain safeguards written into it. The question therefore arises in this way; There are two aspects of this. One is, whether the proclamation of emergency was in accordance with the constitution as it then was. The second aspect is, after the proclamation whether it was misused or not and if so, whether it was justifiable. These were the two aspects of it. Here again there is one point on which there is no difference of opinion between us. There is another point where there is difference of opinion. When some of them say that emergency was declared in violation of the provisions of the constitution unjustifiably there is difference of opinion between you and us. When you say there were excesses following the proclamation of emergency there is no difference between us. We agree there were excesses. We condemn them. We say those things happened for reasons beyond everybody's control. But who were the people supporting emergency? Are we the only ones who supported the emergency? Are we the only people? You have among your Ministers persons who have justified the emergency.

**SHRI BLJU PATNAIK:** One question I would like to ask him! I believe, in this House it was clarified

that it was not the Council of Ministers, which decided on the emergency. That was only the Prime Minister. That has been clarified even by the Leader of the Opposition.

SHRI C. M. STEPHEN: What I am now saying is this. The Resolution seeking the approval of the House was moved by not someone sitting on this side.

SHRI BIJU PATNAIK: That was later on.

SHRI C. M. STEPHEN: It was moved. Approval was sought. Emergency was justified. RSS was attacked. Jan Sangh was criticised. Not by us. It was done by one of your own colleagues. Let us not forget that. Babu Jagjivan Ram was the person who moved the resolution on this. He moved this Statutory Resolution.

श्री राम अश्वपेश सिंह : यह यह बताता है कि आप कितने बुद्धिमान थे । कितना आपने लोगों को डरा कर रखा हुआ था । ( व्यवधान )

SHRI C. M. STEPHEN: I could not follow that. What I am saying is this. Righteous indignation you will be able to show only if you take that attitude towards everybody who supported the emergency.

I am not saying that we committed a blunder in supporting the proclamation of emergency. There is a difference between the proclamation of emergency and the implementation of the emergency powers and the excesses committed under the cover of the emergency. There are differences between these three concepts.

Now, you have taken those people who along with us supported the emergency; and I can see many faces on your Benches who gallantly supported the emergency not only at the start but also till the end and now you have taken into Rajya Sabha the persons

who, even in the Assembly Elections, supported the emergency and stood by us. You have no untouched ability as far as they are concerned. Having done that, to feign righteous indignation is rank hypocrisy.

SHRI BIJU PATNAIK: It is a classless society.

SHRI C. M. STEPHEN: Yours is a colourless society—not only colourless society but a characterless society too!

Mr. Kamath says that, if in the place of 'internal disturbance' the word 'armed insurrection' is inserted, then things will be all right. It means this. It was because the word 'internal disturbance' was there that the emergency was possible which means that so long as the words "internal disturbance" is there, the emergency proclamation, as was done by Shrimati Indira Gandhi, was justifiable constitutionally. You cannot challenge the justifiability of the Proclamation because "internal disturbance" is all that is required and so, if the word "internal disturbance" is gone, then the proclamation would not have taken place. It means that against the background of internal disturbance, this proclamation was possible. That was there and the proclamation was, therefore constitutional and done constitutionally. Now, you bring in the word 'insurrection'. (*Interruptions*). Sir, I am not yielding to the hon. Member since he had his chance. I am not yielding.

Now, he brings in another concept—'armed insurrection'. Whom are you aiming at? May I ask you? If the Naxalites start operating in Bengal, in Kerala and in different States of India, would you say that there is an armed insurrection and so, you will immediately take up the position that there is an armed insurrection? Whom are you aiming at? Armed insurrection can happen only under certain conditions. Is it your policy that they must be faced with a proclamation of emergency? Is it your policy that the Naxalite Movement must be faced

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with a proclamation of emergency? Is it your policy that, if the working-class of this country finding that their conditions are unbearable—it may be the position after two months—take to some sort of violence, you will dub that as an armed insurrection? and clamp down emergency? How are you going to improve the position here? Either take the position that the civil law of this country is enough to meet any contingency or you take the position that if there is any thing which may subvert the democratic structure, there is justification for proclamation of emergency? If you concede that, then you can direct the question as to what were the conditions at the time of the proclamation of the emergency then? Here you and we differ. Now, it is purely academic because that is the past history; that is not the current history. Your evaluation about the role of the J.P. model revolution as it unfolded itself completely differs from our evaluation. Your evaluation of the character of that struggle completely differs from our evaluation of the total revolution in that in our view it was not for the purpose of protecting the democracy or the interests of the masses. If that were so, the call of Shri Jayaprakash Narayan to rally behind him would have been responded to by the working people. History has recorded that the working-class did not respond to the call. It is not our version; it is Shri Jayaprakash Narayan's version. Why was that struggle proclaimed? The background was that stern measures were taken against the smugglers, stern measures were taken against the blackmarketeers and profiteers. Certain measures were taken by raiding the capitalists and wresting black money from those persons? Was it not that because stern measures were taken the capitalistic and feudalistic citadels started breaking up and the Express towers started giving messages and things started moving and total revolution was declared?

Now, a total revolution without the working class of this country? Total revolution without the harijans and adivasis? Total revolution without the poor and the down-trodden? Here was a total revolution shared by the capitalists and the smugglers only. That total revolution was on. At a particular stage that total revolution changed to a phase when you asked the police to defy authority and the military to lay down their arms. You started issuing orders to the Supreme Court. You threatened this citadel of democracy—this temple of democracy—with demonstration of a hunger strike on the Floor of the House. You threatened to gherao the Parliament and the Members of Parliament. There you found—as far as we are concerned we found—the tower of democracy is beginning to crumble. When we were satisfied that there was internal disturbance which affected the security of India and the democratic institutions of India we thought proclamation of Emergency should be issued. (*Interruptions*).

I am arguing a case. Please, be tolerant about it. Now, Sir, I am not one of those who hold that my reverend leader Babuji is a coward. I am not one of those who will concede that he will speak against his convictions. I know him as my leader. I know Morarji Desai as my leader upto 1969. After all there is not much of a barrier between you and us. It is only a barrier of a particular period. At that time Babuji came and delivered one of the fiercest speeches that this Parliament ever heard. He put forth the Resolution and defended the Resolution. The analysis he gave of the total revolution, my friends may go back and read that analysis. When he said that he spoke from his heart and conviction because if that Proclamation did not take place at that time nobody could predict what would have happened. After that things have happened. I do agree that shameful things have happened.

About the justifiability of the Proclamation there are two opinions. There is difference of opinion between you and us and between you and you and you and you in the you that is the Janata Party. There is difference of opinion in the Janata Party. There has been difference of opinion and the difference of opinion is existing today. (*Interruptions*).

Under the garb of emergency excesses were committed. There is consensus and unanimity in this House that excesses were committed and the excesses must stand condemned at the bar of history. There is no doubt about that. On that there is no difference of opinion between you and us.

**SHRI SHYAMNANDAN MISHRA** (Begusarai): You are a cowardly lot because you shoved the responsibility on the shoulders of the officials.

**SHRI C. M. STEPHEN**: Mr. Mishra, before you talk that language to me, you talk that language to Babuji also. You talk to Shri Bahuguna. You talk to Amrit Nahata. Do you want a list of the names? You talk to them. You talk that language to Dinesh Singh and many others amongst you. The fact of the matter is that many people did not know many things at that time. As far as we are concerned, we come from a place where Emergency was not misused. We are proud of that. We have no quarrels about it.

18.00 hrs.

What I am saying is: let us remember we are discussing certain national questions, national issues and the debate that has been going on has brought us to a particular stage in which the acrimony has no place. I have heard my friend speaking about 30 years' misrule. Well, Sir, I can concede that when Dr. Ram Manohar Lohia and the socialist party people have the right to speak, that I can concede that when the Jan Sanghis talking that, I can concede the

right to them also. But I cannot concede when everybody is speaking that. I cannot concede to Shri S. N. Mishra, I cannot concede to Shri Morarji Desai, because what I know of Jan Sanghis, what I know of R.S.S., I learn from Morarjibhai also as from other leaders. What lesson I learnt from them, I cannot find my way to unlearn. Let them not say that they have nothing to do with the past. They were part of the past. We were reared up by them as children of this great national movement and party and let them not wash off their hands and when criticism arises on the question of 30 years' misrule you are not attacking us, you are attacking your own leaders now over there. May be you do not want to attack them direct, but this must be an attack on them. Merrily well you do attack but do not think that people are so foolish as not to understand this. What I am saying is this. This Bill will not serve any purpose at all. Absolutely no purpose will be served. At the time the Emergency was declared, the Parliament could have had that majority. This Resolution could have been passed with 3/4th majority of all the Members. Certainly it was possible. Therefore, here, this is no safeguard. In the place of two months, one month and for one month 15 days, what a magnificent change! Some changes are being brought about. If you have got courage, if you stand by your conviction, if you stand by your commitment, bring forth your Bill to correct the 42nd Constitution Amendment Bill and you will find proper response from these benches. If you have got the courage, bring forth abrogation of Article 352, you will find proper response from these benches. If you have got the courage, bring forth your bonus amendment Bill, you will get proper response from these benches. If you have got the courage, you stand by the right of the people who agitate and not shy away saying there is a demonstration and therefore I will not meet the deputation, but stand by what you said and stand by the people who demonstrate to raise their voice

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in a democratic set up and do not shrink away. Make up your mind whether you want MISA and be it against economic offenders or the other people? Or do you stand by the proposition that even without MISA you can handle tax-evaders, profiteers and the smugglers? Do not try to find scapegoats here. Bring forth the Bill; we are here to support. Do not shrink away.

**SHRI BIJU PATNAIK:** When I listened to Shri Sathé and Shri Stephen, I was reminded of Dante's *Inferno* and the Devil's Advocate.

**MR. CHAIRMAN:** This will continue the next time.

18.03 hrs.

**MESSAGES FROM RAJYA SABHA—**  
*Contd.*

**SECRETARY:** Sir, I have to report the following messages received from the Secretary-General of Rajya Sabha:—

(i) I am directed to inform the Lok Sabha that the Rajya Sabha at its sitting held on Monday, the 25th July, 1977, adopted the following motion in regard to the Committee on Public Accounts:—

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do agree to nominate seven members from Rajya Sabha to associate with the Committee on Public Accounts of the Lok Sabha for the term ending on the 30th April, 1978, and do proceed to elect, in such manner as the Chairman may direct, seven members from among the members of the House to serve on the said Committee."

2. I am further to inform the Lok Sabha that in pursuance of the above motion, the following

members of the Rajya Sabha have been duly elected to the said Committee."

- (1) Shrimati Sushila Shankar Adivarekar
- (2) Shri Sardar Amjad Ali
- (3) Shri M. Kadershah
- (4) Shri Piare Lal Kureel *ur*f Piare Lal Talib
- (5) Shri S. A. Khaja Mohideen
- (6) Shri Bezawada Papireddi
- (7) Shri Zawar Hussain.'

(ii) I am directed to inform the Lok Sabha that the Rajya Sabha at its sitting held on Monday, the 25th July, 1977, adopted the following motion in regard to the Committee on Public Undertakings:—

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do agree to nominate seven members from Rajya Sabha to associate with the Committee on Public Undertakings of the Lok Sabha for the term ending on the 30th April, 1978, and do proceed to elect, in such manner as the Chairman may direct, seven members from among the members of the House to serve on the said Committee."

2. I am further to inform the Lok Sabha that in pursuance of the above motion, the following members of the Rajya Sabha have been duly elected to the said Committee:—

- (1) Dr. Rajat Kumar Chakrabarti
- (2) Shrimati Kumudben Manishankar Joshi
- (3) Shri M. Kamlanathan
- (4) Shri Ganesh Lal Mail
- (5) Shri K. L. N. Prasad
- (6) Shri Viren J. Shah
- (7) Shri Gunanand Thakur.'

(iii) I am directed to inform the Lok Sabha that the Rajya Sabha at its sitting held on Monday, the