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Wednesday, October 27, 1976

Kartika 5, 1898 (Saka)

LOK SABHA DEBATES

(Eighteenth Session)



(Vol. LXV contains Nos. 1—9)

**LOK SABHA SECRETARIAT
NEW DELHI**

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LOK SABHA DEBATES

I

LOK SABHA

Wednesday, October 27, 1976/Kartika
5, 1898 (Saka)

The Lok Sabha met at Eleven of the
Clock

[Mr. SPEAKER in the Chair]

PAPERS LAID ON THE TABLE

STATEMENT ON THE ACCIDENTS IN CENTRAL SOUNDA AND SUDAMDIH COLLIERIES

THE MINISTER OF ENERGY (SHRI K. C. PANT): I beg to lay on the Table a statement (Hindi and English versions) on the accidents that occurred in the Central Sounda and Sudamdih Collieries on the 16th September and 4th October, 1976, respectively. With your permission, may I add that I am sure the House will join me in conveying our condolences to the families of the bereaved. [Placed in Library. See No. LT-11402/76].

STATEMENT re. AMENDMENT TO ARTICLES OF MEMORANDUM AND OF ASSOCIATION OF N.B.C.C., LTD.

THE MINISTER OF STATE IN THE MINISTRY OF WORKS AND HOUSING (SHRI H. K. L. BHAGAT): I beg to lay on the Table a statement (Hindi and English versions) on the amendment of article 83(5) of the Memorandum and Articles of Association of the National Building Construction Corporation Limited. [Placed in Library. See No. LT-11403/76].

2

NOTIFICATIONS UNDER ESSENTIAL COMMODITIES ACT

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE AND IRRIGATION (SHRI SHAHNAWAZ KHAN): I beg to lay on the Table a copy each of the following Notifications under sub-section (6) of section 3 of the Essential Commodities Act, 1955:

(1) G.S.R. 799(E) published in Gazette of India dated the 13th September, 1976 containing corrigenda to the English version of the Sugarcane (Control) Amendment Order, 1974 published in Notification No. G.S.R. 402(E) dated the 25th September, 1974.

(2) The Sugarcane (Control) Amendment Order, 1976 (Hindi and English versions) published in Notification No. G.S.R. 815(E) in Gazette of India dated the 24th September, 1976. [Placed in Library. See No. LT-11404/76].

NOTIFICATIONS UNDER ALL-INDIA SERVICES ACT

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS, DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI OM MEHTA): I beg to lay on the Table a copy each of the following Notifications (Hindi and English versions)

under sub-section (2) of section 3 of the All India Services Act, 1951:—

(1) The Indian Forest Service (Fixation of Cadre Strength) Fourth Amendment Regulations, 1976, published in Notification No. G.S.R. 795(E) in Gazette of India dated the 9th September, 1976.

(2) The Indian Forest Service (Pay) Amendment Rules, 1976, published in Notification No. G.S.R. 796(E) in Gazette of India dated the 9th September, 1976.

[Placed in Library. See No. LT-11405/75].

NOTIFICATION UNDER TAMIL NADU HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS ACT

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V. A. SEYID MUHAMMAD): I beg to lay on the Table a copy of the Tamil Nadu Hindu Religious and Charitable Endowments Advisory Committee Rules, 1976 (Hindi and English versions) published in Notification No. G. O. Ms. 1163 in Tamil Nadu Government Gazette dated the 1st September 1976, under sub-section (3) of section 116 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 read with clause (c) (iv) of the Proclamation dated the 31st January, 1976 issued by the President in relation to the State of Tamil Nadu. [Placed in Library. See No. LT-11406/76].

NOTIFICATIONS UNDER CENTRAL EXCISES AND SALT ACT, ETC.

THE MINISTER OF STATE IN-CHARGE OF THE DEPARTMENT OF REVENUE AND BANKING (SHRI PRANAB KUMAR MUKHERJEE): I beg to lay on the Table:—

(1) A copy of the Central Excise (Twenty-Second Amendment) Rules, 1976 (Hindi and English versions) published in Notification No. G.S.R. 1327 in Gazette of India dated

the 11th September, 1976, under section 38 of the Central Excises and Salt Act, 1944. [Placed in Library. See No. LT-11407/76].

(2) A copy of Notification No. G.S.R. 828(E) (Hindi and English versions) published in Gazette of India dated the 30th September, 1976, issued under the Central Excise Rules, 1944 together with an explanatory memorandum. [Placed in Library. See No. LT-11408/76].

(3) A copy of Notification No. G.S.R. 806(E) (Hindi and English versions) published in Gazette of India dated the 18th September, 1976 making certain amendment to Notification No. G.S.R. 1457 dated the 1st October, 1971, under section 51 of the Finance (No. 2) Act, 1971. [Placed in Library. See No. LT-11409/76].

(4) A copy of the Delhi Sales Tax (Eighth Amendment) Rules, 1976 (Hindi and English versions) published in Notification No. F. 4/25/76-Fin.(G) in Delhi Gazette dated the 31st August, 1976, under section 72 of the Delhi Sales Tax Act, 1975. [Placed in Library. See No. LT-11410/76].

(5) A copy of the Annual Report (Hindi and English versions) of the Agricultural Refinance and Development Corporation, Bombay for the year ended the 30th June, 1976 along with the Audited Accounts, under sub-section (2) of section 32 of the Agricultural Refinance and Development Corporation Act, 1963. [Placed in Library. See No. LT-11411/76].

STATEMENT re. MARKET LOAN FLOATED IN OCTOBER, 1976, NOTIFICATIONS UNDER EMERGENCY RISKS (GOODS) INSURANCE ACT, EMERGENCY RISKS (UNDERSTANDINGS) INSURANCE ACT, AND GENERAL INSURANCE BUSINESS (NOTIFICATION) ACT

THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRIMATI SUSHILA ROHATGI): I beg to lay on the Table—

- (1) A statement (Hindi and English versions) indicating the result of the market loan floated by the Government of India in October, 1976. [Placed in Library. See No. LT-11412/76.]
- (2) A copy of the Emergency Risks (Goods) Insurance (Fourth Amendment) Scheme, 1976, (Hindi and English versions), published in Notification No. S.O. 618(E) in Gazette of India dated the 17th September, 1976 under sub-section (6) of section 5 of the Emergency Risks (Goods) Insurance Act, 1971. [Placed in Library. See No. LT-11413/76.]
- (3) A copy of the Emergency Risks (Undertakings) Insurance (Fifth Amendment) Scheme 1976, (Hindi and English versions), published in Notification No. S.O. 619(E) in Gazette of India dated the 17th September, 1976, under sub-section (7) of section 3 of the Emergency Risks (Undertakings) Insurance Act, 1971. [Placed in Library. See No. LT-11414/76.]
- (4) A copy of the General Insurance (Termination, Superannuation and Retirement of Officers and Development Staff) Scheme, 1976, (Hindi and English versions), published in Notification No. S.O. 627(E) in Gazette of India dated the 21st September,

1976 under section 17 of the General Insurance Business (Nationalisation) Act, 1972. [Placed in Library. See No. LT-11415/76.]

NOTIFICATIONS UNDER IRON ORE MINE LABOUR WELFARE CESS ACT, COAL MINES PROVIDENT FUND AND MISCELLANEOUS PROVISIONS ACT, AND EMPLOYEES' PROVIDENT FUND AND MISCELLANEOUS PROVISIONS ACT.

THE DEPUTY MINISTER IN THE MINISTRY OF LABOUR (SHRI BALGOVIND VERMA): I beg to lay on the Table:—

- (1) A copy of the Iron Ore Mines Labour Welfare Cess (First Amendment) Rules, 1976, (Hindi and English versions) published in Notification No. G.S.R. 1386 in Gazette of India dated the 25th September, 1976, under sub-section (4) of section 8 of the Iron Ore Mines Labour Welfare Cess Act, 1961. [Placed in Library. See No. LT-11416/76.]
- (2) A copy each of the following Notifications (Hindi and English versions) under Section 7A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948:—
 - (i) The Coal Mines Provident Fund (Third Amendment) Scheme, 1976, published in Notification No. G.S.R. 1387 in Gazette of India dated the 25th September, 1976.
 - (ii) The Andhra Pradesh Coal Mines Provident Fund (Second Amendment) Scheme, 1976, published in Notification No. G.S.R. 1388 in Gazette of India dated the 25th September, 1976.
 - (iii) The Rajasthan Coal Mines Provident Fund (Second

Amendment) Scheme, 1976, published in Notification No. G.S.R. 1389 in Gazette of India dated the 25th September, 1976.

- (iv) The Neyveli Coal Mines Provident Fund (Second Amendment) Scheme, 1976, published in Notification No. G.S.R. 1390 in Gazette of India dated the 25th September, 1976.

- (v) The Coal Mines Provident Fund (Second Amendment) Scheme, 1976, published in Notification No. G.S.R. 1391 in Gazette of India dated the 25th September, 1976. [Placed in Library. See No. LT-11417/76.]

- (3) A copy each of the following Notification under sub-section (2) of section 7 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952:—

- (i) G.S.R. 1322 (Hindi version) published in Gazette of India dated the 11th September, 1976, containing corrigendum to the Hindi version of Notification No. G.S.R. 707 dated the 22nd May, 1976.

- (ii) The Employees' Provident Funds (Fourth Amendment) Scheme, 1976 (Hindi and English versions) published in Notification No. G.S.R. 1355 in Gazette of India dated the 18th September, 1976.

- (iii) The Employees' Provident Funds (Fifth Amendment) Scheme, 1976 (Hindi and English versions) published in Notification No. G.S.R. 1427 in Gazette of India dated the 2nd October, 1976.

[Placed in Library. See No. LT-11418/76.]

11.03 hrs.

COMMITTEE ON GOVERNMENT ASSURANCES

Eighteenth Report

SHRI MULKI RAJ SAINI (Dehra Dun): I beg to present the Eighteenth Report of the Committee on Government Assurances.

11.03½ hrs.

CONSTITUTION (FORTY-FOURTH AMENDMENT) BILL—contd.

MR. SPEAKER: The House will now take up further consideration of the Constitution (Forty-fourth) Amendment Bill.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): Mr. Speaker, Sir, before you call on the hon. Members to speak, I should like to make one announcement; the Prime Minister will intervene in this debate at 4 P.M. Secondly, as you will see from the list of hon. Members who want to speak, there are a large number of hon. Members and so I suggest that the hon. Law Minister may reply tomorrow. Then, coming to the sitting and the duration of the speeches, on the first day itself I wrote to the Chair and the Chair was good enough to read out my note, requesting the Chair to allow normally ten minutes for each speaker. But for various reasons, that was not found possible. In a very difficult situation like this, we cannot extend the time for the general debate because there are 600 amendments and the four days allotted are hardly sufficient for that purpose, I should very much value the co-operation of the House if each Member would confine himself to ten minutes.... (Interruptions).

SHRI P. K. DEO (Kalahandi): That will be very unfair to the Opposition.

The Chair should give one hour or one and a half hours to each speaker on the Treasury Benches.

SHRI K. RAGHU RAMAIAH: I forgot to add that we should today sit as late as our patience can afford.

MR. SPEAKER: Yesterday also I had suggested that Members should normally confine themselves to ten minutes. In some cases, to speakers from this side we can give a little more, but not to Members on that side.

The House may sit, if you like, till 8 p.m. and the hon. Minister may reply tomorrow. I should remind the House that after the Minister's reply there will be voting and a special majority of two-thirds is required. Therefore, hon. Members may make it convenient to be present tomorrow. Shri Hari Singh has already taken more than ten minutes; he may conclude in two minutes.

श्री हरि सिंह (खुरी) : अध्यक्ष महोदय, मैं कल अपनी बात पूरी नहीं कह पाया था। मैंने कहा था कि हमारे स्वर्गीय प्रधान मन्त्री पंडित जवाहर लाल नेहरू ने कांस्टीट्यूट अम्बली में स्वयं कहा था —

“A Constitution, if it is out of touch with the people's life, aims and aspirations, becomes rather empty; if it falls behind those aims, it drags the people down. It should be something ahead to keep people's eyes and minds up to a certain high mark.”

मैं यह कह रहा था कि हमारी जो मौजूदा संनद्ध है यह राजनैतिक तौर पर और नैतिक तौर पर हरदृष्टि से संविधान में संशोधन करने के लिए रक्षम है। ये जो अमेंडमेंट्स लाए गए हैं ये राष्ट्र के उत्थान के लिए हैं। जैसा आपने अभी कहा मैं ज्यादा समय नहीं लूंगा। मैं केवल यही कहना चाहता हूँ कि अब तक संविधान में करीब 103 अमेंडमेंट्स

हो चुके हैं। इस मौजूदा सेशन में भी करीब 600 संशोधन आए हैं।

जब हमारा कांस्टीट्यूशन बन रहा था तो वे लोग जो हिन्दुस्तान की आजादी के लिए जेल गए, जो फांसी के तख्ते पर लटके, जिन्होंने उसके लिए त्याग दिया, तपस्या की और बलिदान किए वे लोग भी इस संविधान के बनाने में शामिल थे और दूसरी तरफ ऐसे बहुत से लोग भी उसमें थे जो जागीरदार, जमींदार, नवाब और राजे महाराजे थे जिनका हिन्दुस्तान की अमली जिनदगी से कोई वास्ता, कोई तालुक नहीं था। नतीजा इसका यह हुआ कि आज ऐसी स्थिति आ गई है कि हमें संविधान में संशोधन करना पड़ेगा और आगे भी करने की बहुत सारी सम्भावना आएगी। इस सम्भावना को आसानी से कभी टाला नहीं जा सकता। आप देखते हैं कि हमारे संविधान में एक दो तीन चार इतने संशोधन किए गए हैं कि जो अमली संविधान है वह समाप्त होता नजर आएगा। इस समय जो संशोधन मौजूदा परिस्थितियों को देखते हुए लाए गए हैं वे बहुत जरूरी हैं और उनको पार करना चाहिए। लेकिन सारे ब्रिजिंग टाइम्स को देखते हुए और बदलती हुई सारी परिस्थितियों को देखते हुए यह बहुत आवश्यक है कि हमारे संविधान को रीकास्ट किया जाय, इसकी री-इंफॉर्मिंग की जाय, देश को एक नया कांस्टीट्यूशन दिया जाय और इसे सेकंड रिपब्लिक घोषित किया जाय। यह हमारी बहुत ही पुख्तोर और सबल मांग है कि इस वक्त देश को एक नया कांस्टीट्यूशन हमें देना है।

हमारी प्रधान मन्त्री के नेतृत्व में देश बहुत तरक्की कर रहा है और आज का हिन्दुस्तान का इतिहास दुनिया में इसलिए अमर रहेगा कि प्रधान मन्त्री श्रीमती इन्दिरा गांधी ने देश को नयी दिशा दी और सभी नागरिकों को स्वतन्त्रता और समानता का अवसर दिया।

[श्री हरि सिंह]

इन्हीं शब्दों के साथ मैं इस का समर्थन करता हूँ ।

SHRI P. K. DEO (Kalahandi): Sir, I would like to record my appreciation of the hard labour put in by the Swaran Singh Committee to produce such an important and thought-provoking document to meet the demands of the present time and for the co-operative attitude with which they needed everybody's support and advice, though this document needs various improvements which I would point out at the appropriate time.

In the past, as an original signatory of the merger agreement of the princely States with India, it was my fraternal duty to join hands with others of the order to cross swords with the Government when they wanted to abrogate articles 362 and 363 of the Constitution. It was I alone who opposed the Constitution (Twenty-fourth Amendment) Bill at its introduction stage. But once it was passed and the issue has been settled, once article 13(2) which prohibited making any law taking away or abridging the rights conferred in Chapter III was no longer there, we bowed to the collective decision of this supreme House, reconciled ourselves and adjusted to the changing circumstances, in conformity with our tradition. In the past, our ancestors had shed their blood to preserve the integrity of this country and at the call of Sardar Patel, we placed whatever we had at the feet of Mother India to build an integrated India.

Now questions are raised regarding the mandate and arithmetical hair-splitting of voting figures of 1971 has been done in certain quarters. It is a fact that the ruling party went to the polls in 1971, with its manifesto and returned with a sufficient majority to change the Constitution under the laws of the land

and under the prevailing rules of election. Disarray and confusion created by the Opposition parties without any common programme stood in the way and even though majority of votes were cast for the multiplicity of Opposition parties, they could not achieve the target. They could not fool the people for all times to come. They have lost credibility because of their multiplicity and because of lack of confidence in people's minds in their capacity to deliver the goods.

The formation of the BLD was the first attempt to have polarization of parties. We thought that it will gather momentum and snowball. But it met with a premature death. The leader of the BLD party in the Lok Sabha did not know when the party in Parliament was dissolved and the Janata Moreha was formed; and it came as a surprise to me. Now a futile exercise is being made. We all know the experiences of the SVD governments. The combination of expediency has not borne any fruit. If the people support one party, it is because of the lack of a national alternative. You cannot blame the people. It is no use blaming anybody if we fail to inspire the confidence of the people. Now the country is on the threshold of reconstruction and a great socio-economic change is taking place and the Prime Minister's 20-point programme is yielding fruit.

So far as my constituency is concerned, we are getting a Rs. 220-crore multi-purpose irrigation project, viz. the Upper Indravati Project which will irrigate 5 lakhs acres of chronically drought-affected area and which will generate 600 megawatts of agro-power and change the entire picture of my constituency. When we are all pledged to remove all sorts of disparities, to provide employment, food, shelter, education and health to the underprivileged and at the same time to build a pros-

perous and strong India all my support goes to such a move.

In the Statement of Objects and Reasons, it has been clearly stated:

"The question of amending the Constitution for removing the difficulties in achieving the objective of socio-economic revolution which would end poverty and ignorance and disease and inequality of opportunity, has been engaging the active attention of Government and the public for some time now."

I hope the expectation will be fulfilled and we will achieve our target. Great expectations have been raised among the people because of the partial success that has been achieved in the last one year.

Sir, it is a well known fact; and the success has been acclaimed even by the so-called critics and previous speakers have enumerated the various achievements that have been made in the last one year. I do not want to repeat them. If we achieve results, no dog will bark even if a privileged few lose their rights. The proof of the pudding lies in the eating. Only future can judge as to whether what we are doing to-day is right or wrong. So, I support the move that Articles 14, 19 and 31 should not stand in the way of implementing the Directive Principles as enumerated in Chapter IV.

I have suggested in an amendment that in the Directive Principles the following should be added:

"The State shall rehabilitate all ex-servicemen who have got the capacity to work and utilise their discipline and ability in the nation-building activities of the State."

An important *gāṁ* of emergency is discipline in every walk of life. We

want that it should remain a permanent feature in our country to make the younger generation disciplined.

✓ In the Chapter on Fundamental Duties I have suggested the following addition:

"Every young person, before graduation in any University or before being eligible for any employment in any service, shall serve in the Territorial Army or work in any factory, or farm, or irrigation project, at least for one year."

This is very important. This will make our younger generation more disciplined, will give them a sense of participation in our nation-building activities. I think no persuasion would be required to accept an amendment like this in the Fundamental Duties which are going to find a place in Chapter IV (A) of our Constitution.

I welcome the Chapter on Fundamental Duties of a citizen. The fundamental rights and fundamental duties are correlated. Though critics will talk of the fundamental duties of the Government, I would like to remind them that the fundamental duty of the Government is to implement the Directive Principles laid down in the Constitution.

I would suggest to those who talk of the fundamental rights and fundamental duties to read, besides Mahabharata, Ramayana also. In the Mahabharata the rights have been emphasized. Duryodhana would not concede the legitimate claims of Pandavas even for five villages and he in his arrogant way said:

सुतिष्ठेन् सूच्यग्रण यावत्तिष्ठति मेघिनी ।
तावद्भूमि न दास्यमि बिना युद्धेन केशव ।

[Shri P. K. Deo]

He gave a war cry. He was not prepared to concede even that bit of land which can hold the point of the sharpest needle. What was the result? The result was a holocaust. I would like to suggest to them to read the Ramayana, which codifies the duties of an ideal father, son, husband, wife, brother, friend, servant and citizen depicting their various characteristics. We come across Rama as an ideal ruler. Bhavabhuti in Uttara Rama Charitam has said:

सुखं दयां वा सोहाय्यं वा यदि वा जानकीमपि
आराधनाय लोकानां मुच्यते न भवति मे व्यथा

For the welfare of the people no sacrifice is great. Rama was prepared to forego even his beloved wife, Sita.

Coming to the other provisions of the Constitution, I support the move for transferring the administration of justice, education, weights and measures, preservation of wild animals and forestry to the Concurrent List so that there could be a national approach and an all India policy in connection with the problems relating to these subjects.

Since 1957, taking part in every discussion on the relevant Demands for Grants, I have all along been stressing on the need for the preservation of forests and wild life.

All the recommendations of the Central Board of Wild Life, on which I have had the privilege of serving, go to the waste paper baskets of the State Governments. On behalf of the dumb denizens of the forests, I congratulate the Government on having saved them from extinction.

Restricting the proclamation under article 352 and partial lifting it in certain areas is a correct step.

Helping the States in grave situations of law and order by deploying the police force under the superintendence and control of the Centre, indicates a strong Centre. We all want a strong Centre. We have learnt from the pages of history that when Delhi is weak, India disintegrates, becomes vulnerable to outside attacks. So far as I am concerned, I placed at the feet of Mother India 4,000 square miles of land to build a more strong and integrated India. Therefore, I cannot swallow it when there are wild talks of fissiparous tendencies. In the USSR, even though the federating States have got the right to secede, when there is a strong centre and each federating State works together to decide their common destiny, there is no such talk. It is unthinkable, India as pointed by a previous speaker, is a wonderful tapestry, where the various fabrics of culture, language, religion, manners and food habits have been inter-woven to make it a beautiful whole.

Coming to the other side, the way the sovereignty and supremacy of Parliament have been over-emphasized is, I do not think, a cautious move. It is the people who are sovereign. The constitutional amendments passed by the Whitlam Government in Australia by an impressive majority in Parliament were rejected by the people by an equally impressive majority in the referendum.

The Bill provides that no constitutional amendment will be subject to judicial review and that a special majority of two-thirds of the Bench would be required to determine the constitutional validity of any law but an irresponsible Parliament can establish a Monarchy as has been done in Spain, where Mr. Juan Carlo has been planted as King. Parliament can delete the amending article of the Constitution, article 368, and make the Constitution un-amendable, per-

petuating the status quo. Hitler predicted that the Third Reich would have a life of a thousand years. So, the present move is not a correct step.

Deleting the words "for any other purpose" from article 226 restricts the people's access to the High Courts. So, some alternative provision should be made. I want to have a categorical reply from the Law Minister as to what will happen to the pending cases. Some 18 or 19 thousand writ cases are pending. The poor litigants have spent money on court fees and meeting other expenses in approaching the courts. What will happen to them?

Coming to the Preamble, the word "socialist" is a very catchy slogan. It all depends on how you work it. Hitler also even called the Nazi Party as the National Socialist Party of Germany. If it means a better deal for the under-privileged and gives a comfortable living, there is nothing like it.

Mr. Gokhale tried to make a convincing speech earlier. But I would like to know how far he is consistent with his earlier pronouncement made in the Commemorative Volume of the Constitution of India to mark the Twenty-fifth Anniversary of Independence. On June 1, 1973, this is what Mr. Gokhale has said:

"The Constitution has stood the test of time remarkably well. The Parliament, the State Legislatures, the Supreme Court, the High Courts and the executive both at the Centre and in the States have functioned with a sense of responsibility."

I would like to know how far both these statements tally and what are the developments that have taken place in these two or three years which have made him to come for-

ward with these amendments in the Constitution.

Lastly, I would like to submit that an honest attempt has been made. Though it is a mixed bag, I think, a fair trial should be given to this Constitution Amendment Bill. The Constitution may be amended with the various improvements that have been suggested or that may be forthcoming in the process of amending it.

DR. V. K. R. VARADARAJA RAO (Bellary): Mr Speaker Sir, I would like to begin by expressing my support to the Forty-fourth amendment which has been brought to the Constitution. Sometime back outside this House, on the 25th August, I gave a speech on this very subject and Mr. Swaran Singh had the distinction of having presided over the meeting. I am very glad to find that at least some of the suggestions made therein have been taken into account by the framers of the Constitution (Forty-fourth Amendment) Bill. I express my deep sense of gratitude to them for taking into account points made outside the membership of the Committee. It is that which has emboldened me to intervene in this debate.

I want to make two or three more suggestions. I am requesting the hon. Law Minister and also the Prime Minister to give them a sympathetic consideration. The suggestions that I will be making will be intended to implement more effectively the objectives and goals behind this Constitution Amendment Bill, not in dissonance.

Before I go on to make suggestions, I would like to make a few general observations. I do not think I have to dilate at any length that the right of Parliament to amend the Constitution cannot be challenged. The courts can interpret laws I think, they can also interpret the consistency of legislation with Constitutional provisions. But as far as the Constitution itself

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is concerned or the amendments of the Constitution are concerned, nobody except the Parliament has the right in this matter. I am glad that this has also been further clarified. Actually, it is not necessary to do so. But I suppose in the world of ours, we must make it crystal clear and, by the amendment which has been brought, it has been made crystal clear that nobody can question any amendment which the Parliament can make in the Constitution. In fact, only the Parliament has got the power to amend the Constitution provided they want to do it. That is a matter to which I will come a little later on.

The second observation that I would like to make is this. A number of friends for whom I have great respect have raised a question whether this Parliament which continues after the fifth year of election has got the right to go in for a change in the Constitution of this character. I do not want to go into the legal aspect of it. Obviously, the Parliament is a legitimate Parliament. Its extension has been under the Constitution and the laws under the Constitution. Nowhere has it been said that Parliament which has had an extended life of one year under Emergency has any lesser privileges, any lesser rights, any lesser obligations than the Parliament which continues for a period of five years. We have passed the Finance Bill and all the expenditure which is being incurred in this country all the taxes which have been imposed and, if I may say so, the pay and allowances that we received as Members of Parliament have all been sanctioned by this Parliament and this Parliament remains as Parliament. Therefore, legally I think there is no question about the competence of this Parliament to consider Constitutional changes. But I would like to go beyond the legal part of its competence. If the proposals that have been brought before this House by Government have really meant a revolutionary change in the Constitution (I am allergic to using the term 'basic

structure' because it has been so badly mauled in the discussions in this House, especially by Shri Swaran Singh) and it is the essence of the Constitution and the major principles of the Constitution that have been drastically changed, perhaps there might have been a case for saying that we should try to get another mandate from the people before we make such drastically violent changes which go against the very fundamentals of the Constitution which we passed 27 years ago. But, actually, if we look at the proposal —(I will deal with it both negatively and positively) what are the things that matter? We have a parliamentary system of Government and that parliamentary system of Government is not being changed. There is no proposal to bring about a Presidential form of Government in this country; again, there is no question of abrogating the powers of Parliament or reducing the life of Parliament or making Parliament ineffective; adult franchise still remains part of the Constitution; secret ballot also remains part of our Constitution; periodic elections also remain part of the Constitution. So, the structure of Parliamentary Democracy as envisaged in the preamble of the Constitution, namely that we are democratic republic has been completely preserved. There is no proposal to replace the Prime Minister by a President nor a proposal to do away with the adult franchise and go back to the pre-'50 franchise nor a proposal for changing the period of election and so on. These would have been drastic changes and perhaps I myself would have had second thoughts as to whether such proposals should be considered by Parliament before getting a fresh national mandate. But nothing of the kind is being done. Excepting for the Directive Principles, nothing has been done to make any really drastic change this, most probably, is not known. We think we are doing something drastic and revolutionary, but we are not making any really drastic change in the Con-

stitution which goes against the basic essence of the Constitution which we have adopted and which we have been following.

Then, on the positive side what are the changes that we have tried to implement? The changes that we are trying to bring about are intended to enable a more effective functioning of the social and economic goals which were set by the founding fathers, both in the Preamble to the Constitution as well as in the Directive Principles of State Policy and also in a number of documents which have been placed before the public during the last so many years. What we are trying to do is to make such changes as will enable the Government to implement more effectively the programmes and policies which stem from the Preamble and the Directive Principles of State Policy and from the economic and social goals to which such expression was given by all the leaders who took part in the discussions in the Constituent Assembly. Under the circumstances, I think this Parliament has every right to consider this Amendment of the Constitution. Apart from the legal point of view, even from the moral point of view I think we are perfectly entitled to consider these amendments and, if it so pleases, accept them and make them a part of the Constitution.

The third general remark I would like to make is about the incorporation in the Constitution of an altogether new idea, namely the insertion of a chapter on Fundamental Duties. I have always been very much in favour of such an idea. In our country, may be for reasons explained by Mr. Hanumanthaiya when he made his speech at that time when they drafted the Constitution, the accent was on rights because we had been fighting for our rights against colonial oppressors and, therefore, we were anxious to see that those rights were safeguarded. We took duties for granted because all those who fought the

battle of freedom were certainly people who observed their duties very much more. Therefore, duties were taken for granted and rights were emphasized. But the last 20 years of our experience as an independent nation and, particularly, if I may say so, of the last five or six years, has shown that there is a certain neglect of the concept of duties in regard to the performance of our rights. As far as I am concerned, I have no doubt in my mind that duties and rights must go together. All rights are social concepts; they do not spring from the head of Siva or Brahma; they are social concepts which have grown through time, and tradition, customs, usage, legal sanction, all these have made for rights, and all these rights get their justification from the duties that accompany the exercise of those rights, something which we all know and yet something which we have forgotten, something to which nobody could make any reference. It was considered that duty was something to be talked about by sadhus, mystics and venerable gentlemen and that rights were the only things which we, who are rightly or wrongly, for a short period or for a long period, in politics should talk about. We know that rights and duties are asymmetrical in terms of sanction and legislative and administrative implementation. That is why, the amended Clause has removed any reference to penalties, and so on, which originally was in Swaran Singh Committee's report. Duties have to be there, and I am very glad that duties have been incorporated as a specific part of our Constitution. My only request would be on two things. I will make my suggestions straightway. This is going to be on Part IV-A. If I am not mistaken, Chapter III is Fundamental Rights and Chapter IV is Directive Principles. I would suggest that these fundamental duties should come in between the Fundamental Rights and the Directive Principles. I would like to suggest for the consideration of the hon. Minister that, instead of IV-A, it may be III-A, so that everybody will know that fundamental rights and

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fundamental duties go together and they form a very good introduction to the Directive Principles of State Policy which follow, because, duties have a great deal to do with the Directive Principles. This was one suggestion I wanted to make.

The other suggestion is this. I do not want to go on unnecessarily prolonging the list of fundamental duties. I would revert to the suggestion I have made earlier in private correspondence. There should be some reference to the duty of working for a living. After all, we are going to be a socialist society, and a socialist society cannot be a society of rentiers. In any socialist society, everybody, unless he is handicapped or old or very young, has to work in order to live, and work with discipline. There should be some reference to duty to work and with discipline. I cannot frame the clause. I am not a student of law; I am afraid, I do not know very much about politics either; my subject is different. But I feel that some clause has to be put in about work and discipline. After all, when we are going to talk about duties, people should know that everybody has to work if he wants to make a living; he cannot lean back merely on rents or dividends and so on; he has to put in manual or physical or intellectual or some other kind of work in order to justify his taking part of the social dividend. I would say that this is found in many Constitutions, and our own experience should show that we too should have it. Many of us hold offices; some hold public offices, some hold official posts and some hold non-official posts. All persons who hold public offices of one kind or another, official or non-official, should be charged with the duty of functioning with honesty, integrity and responsibility and with a sense of honour. It is not that, by putting these things, we are going to bring about the change immediately. Then, there is no need to have these fundamental duties at

all. By putting these duties we want to emphasize that all the hundreds and thousands of people who are occupying or are going to occupy different offices have to act in a particular manner in the discharge of their official or non-official responsibilities.

Finally, I would also suggest that there should be a clause which says that the rights of others in all respects should be respected. A great point was made that all rights are individual rights, but a right is not a right of the individual, every individual has got rights, which means that one of the duties of the individual is to respect the rights of fellow citizens.

If these three suggestions could be considered for incorporation in the Bill, I would be grateful.

As far as the fundamental duties are concerned, I would not say: Why have you removed the clause for penalties and so on? You cannot obviously implement it by sanctions; but there should be some clause saying that the State will make every endeavour to see that the nation gets educated in the values of duties by use of all means at its command like mass propaganda, educational system, textbooks, syllabus etc. so many avenues are open to us. The State should be charged with the responsibility for seeing that the fundamental duties get enshrined into the minds, heart and thinking and way of life of the people of this country, otherwise it looks as if the chapter was hanging in the air. There should be something about the implementation.

Now I want to come to the major suggestion that I want to make. The major change which the amending Bill is effecting is in regard to extension of the principle of Clause 31(c), namely that legislation passed in pursuance of any of the directive Principles of State policy—now it has been extended to any of the Directive Principles including four more which are proposed to be added to this list—

should not be considered void, if it infringes, abrogates, amends etc. etc. any of the Fundamental Rights. Actually, the clauses mentioned are 14, 19 and 31. If they are abrogated, abridged or amended, that should not be void. In other words, the Directive Principles take precedence over Articles 14, 19 and 31. Articles 14, 19 and 31 are not on the same footing, but this is the present suggestion which has been made. A suggestion has also been further made that once the legislature declares by a statement that this particular legislation is being passed in conformity for bringing in operation one or the other of the Directive Principles of State Policy, then no court can enquire into whether this legislation proposed is really operative in that direction or not.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): I think, there is a misunderstanding.

DR. V. K. R. VARADARAJA RAO: This is what I read:

"...no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy."

That means, no court can say that this particular legislation is not going to give effect to that policy.

SHRI H. R. GOKHALE: There is a misunderstanding. That clause was introduced by the Twenty-Fifth Amendment, which was struck down by the Supreme Court in a later case and this has not been reintroduced. You are reading probably from the old copy of the Constitution.

DR. V. K. R. VARADARAJA RAO: I am extremely grateful to you. As I see it now, it is possible for courts to question a legislation which has

been passed a consonance with the Directive Principles, not on the ground that it abridges either Article 14, 19 or 31, but on the ground that it does not really do what it is intended to do. Am I right?

SHRI H. R. GOKHALE: You are right, but the misunderstanding is this. The declaration made in the law that this is with a view to giving effect to one or the other of the Directive Principles will be conclusive and no court will be able to go into the question whether it really gives effect to those Directive Principles was introduced in the Twenty-Fifth Amendment, which was later on challenged in the Supreme Court. The whole amendment was upheld excepting this clause and we have not reintroduced that clause.

DR. V. K. R. VARADARAJA RAO: That means, you agree with my interpretation. For example, if you pass a legislation saying that there cannot be an assembly of persons, or there cannot be an association of persons opposed to one or the other Directive Principles, then the court can say, how does this assembly not meeting help you to operate this particular legislation. Now the court can make an enquiry. But as I told you, I am not certainly uptodate in law. I am not even too sure if I am uptodate in my Economics.

Then we come back to this, what now remains. If any legislation is passed for enforcing any of the Directive Principles and if it interferes with any of the Fundamental Rights, the court cannot interfere on that particular subject. They cannot declare it void. Now, I know, I am treading on very very delicate grounds, especially for a member of the Party to which I belong and to which I have the honour and pride to belong. The word 'fundamental right' has almost now become a dirty word in the discussion and also in some of the debates both in the public as well

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as in Parliament. Fundamental rights are, of course, individual rights. Fundamental rights ought not to come in the way of mass welfare, social welfare, the establishment of an egalitarian society, a good society and so on. What is really needed is an attack on the right to property but the right to property has been left untouched excepting for the amendment already introduced in the fundamental right dealing with property. I can understand, for example, if we can say that the right to hold property, the right to acquire property, the amount of property a man can acquire, the right to use property is all limited by legislation passed by Parliament for a social purpose. I can understand that I can understand drastic limitations being placed on property. I do not say that there should be no property. It is impossible. Even in the Soviet Union there is property and I am sure even in Mao's China there is property; if not, there will be property soon. You cannot do away with property. All we object to is property is the means of production, property as an instrument of exploitation of labour, property as an instrument of monopolistic control, for influencing the politics and so on. What we object to is control over the means of production and the use of property for doing wrong things and to the detriment of the nation's economy, society and politics. Therefore, while we retain the property, limit the right itself when you are amending the Constitution in the fundamental rights.

What are the fundamental rights? Freedom of assembly, equality before law, freedom of speech, freedom of communication, freedom of movement within the country, etc. I have read it. As a matter of fact, I have done a lot of home work. I am not a very good student of the constitution. I read it several times and I say many of the things are what we all fought for. Many of the things are all what we grew up for. We fought for all

these things not only against the British because the same was used in the Indian States and I am sure many of these things will not be new to Mr. Hanumanthaiya as he was fighting that struggle for popular government in Mysore State. Now it does not come only from our colonial heritage. It is part of the evolution of civilisation and it is a part of what we call parliamentary democracy. Then, as I read through, I found that in the Constitution there has already been a lot of amendment—amendment of personal freedom, freedom of speech, freedom of assembly, etc. When it comes in the way of the State, national integrity, etc. All these fundamental rights have been constitutionally amended by this Parliament and they have received the assent of the President. Therefore, I would like to make a very humble plea. I know I may be completely shot down. But I want to make a humble plea, that at least all these fundamental rights are not just individual rights. Nor do they always come in the way of social progress. But, in the name of social progress we can pass any legislation overriding some of these rights. If we do that, I am sorry, Mr. Speaker, I do not want to sound a dismal prophet, but you will be leaving the door open for the establishment of a regimented society and I am sure it is not our intention and none of us wants the establishment of a regimented society in our country. In our country we want a democratic socialistic society. We do not want a regimented society, we do not want an one-party society, a bureaucratic society. We want a socialistic society which is democratic. This is a part of what our founding fathers wanted, this is a part of the Preamble. Therefore, I would like to suggest that the Government even at this late stage may consider some way by which there will not be any blanket provision. There is cow slaughter, prohibition, there is the right to employment, cottage industries, values, agricultural development, etc. and I think if you read it,

practically the whole of life is included in the Directive Principles of State Policy as it ought to be. All of them or any of them can override all or any of the fundamental rights including the property right for which I do not care a rap and which are included in Article 19 and 14. I know there are some amendments to these Articles already adopted and which are part of the Constitution. Therefore, I would like to suggest for the consideration of Government, even though at this late stage it may cause them some trouble in drafting and so on, that firstly if they accept the principle and the sincerity and essence in what I am saying, then let them try and see that there is some modification of this blanket kind of power to all the Directive Principles of State Policy to abridge all the rights included in articles 14 and 19. I do not care about article 31, because it is all about property. I do not also bother about clauses (e) or (f) of article 19 which deals with property. But leaving that alone, I think that something should be done. So, what I would suggest is this.

We have three things. We have a socialist society. We have a secular society. We have a democratic society. All these three things form our way of life. We believe in them and to the extent that any of these fundamental rights constitute a part of this way of life, they should not be lightly infringed or abrogated. Therefore, I make this suggestion, if they can make some change in the official Bill. Alternatively, if they cannot make any such change at all, then I would suggest a second thing, that is, at least there must be some way to have a fair discussion. Suppose some legislation is introduced. For instance, when a money Bill comes, a certificate has to come whether it is a money Bill or it is not a money Bill. So, let the Law Department or some expert body give a note with every such legislation saying in what way

the legislation abridges, infringes or takes away, or does whatever it likes with, one or other of the Fundamental Rights. After all, some thinking would have been done before such legislation is passed. Some enthusiastic idealistic Minister wants to get everything done quickly by passing a law. Then he comes with some such legislation. But the Law Ministry says, no, no, do not be in such a hurry. We have got to examine this and see whether and in what way this abridges any of the fundamental rights; they would not say that it should not, but an analysis by competent people who may analyse the reaction and the implication of the legislation on the Fundamental Rights, I think, would help the legislators themselves very much in coming to deliberate decisions on the subject. Otherwise, Sir, you know how we pass laws. You have been a Member of this House, and now you are presiding over our destinies. And you know how quickly we can pass laws. You also know how many sit in this House when laws are being passed. Therefore, we cannot change human nature overnight, even the human nature of Members of Parliament; we cannot change it overnight. Therefore, taking reality into account, let there be some safeguard, apart from the first thing that I have suggested, some safeguard by which every such Bill will be accompanied by a statement indicating its relevancy, its reaction and its linkage with the Fundamental Rights one or the other.

Finally, in the same connection, I would like to suggest that the Speaker should have a special responsibility whenever such legislation is introduced to see that there is full and free discussion of the subject, that it is not just rushed through because of some emergency or something or the other. The Speaker should also have the responsibility of trying to see that there has been a full and fair discussion; in fact, I would even go to the length of suggesting, if it

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is not improper, that the Speaker, when he says that a Bill has been passed etc. etc. could also say, 'I am satisfied that there has been full discussion of this legislation in respect of the effect it has or it does not have on one or the other of the Fundamental Rights. I think some such thing may be done.

Some of the Fundamental Rights form a part of our heritage, they form a part of our quality of life. If, for example, we do not have some freedom of speech, or freedom of association or some freedom or the other or the various things which are mentioned even though we have all the other things, what would happen? Sir, I would tell you a story. When I was in Prague many years ago, I was talking to Dr. Oscar Lange, a very distinguished economist and a distinguished socialist Marxist. He was telling me a story, which I was going round the whole of Europe. He said: 'A dog was going from Warsaw to Prague. Another dog was coming from Prague to Warsaw. At that time, Poland was in a very bad economic way. The shops were badly stored, and there was no food, etc. etc. In Czechoslovakia everything was available. The Polish dog told the Czech dog "What a fool you are, you are coming to my country where there is no food and there is nothing, what is wrong with you? Why are you leaving such a beautiful country where you have a wonderful life and where you have all the material things of life, all the drinks and the food etc. to the extent it is permitted by the Constitutional; all these you have got, and you want to come here?". The other dog said "You are right, my brother Polish friend, but I cannot bark in my country and I want the pleasure of barking." I think there may be something in that; pleasure of barking is also part of what gives one joy of what gives one reason for existence, and of what gives you reason for fulfilment. Therefore, some of the

fundamental rights form the essence of our lives and these are enshrined in our constitution; these are a part of democracy. That is why I have made the first suggestion. Now that we assert our right to pass any Constitutional amendment we have also made it very difficult for anybody else to come in our way. That also I don't object to. Yesterday, hon. Shri Swaran Singh was saying that when Parliament passes something it knows what it is doing. I agree. Sir, I have been a Professor and a Theorist; I have got many theories. I know what happens when you say Parliament passes some legislation with full knowledge of all its implications and so on and knows what it is doing. I don't want to say anything which will result in anything being said disrespectful to Parliament; I am also a member. What I say is, there must be some way somewhere whereby you can have some experts whose advice may be sought; I don't know what type of machinery this should be, but some such thing should be there. We have not only power to pass amendments; we are making it more and more difficult for the judiciary to come in, and tell us what we mean. But at the same time we should know what we mean. We should be sure that we are doing the right thing. In order to be perfectly sure of what we are doing, I request the Law Minister to consider whether there can be some such machinery whereby we can call some lawyer to come and help and speak here or we can have some expert committee of Members of Parliament or some machinery by which Parliament can be sure that the legislation is passed by it after taking into consideration the various aspects involved in the particular legislation.

I welcome with tremendous joy the inclusion of the word 'socialist' in the preamble of our constitution. We have been talking of socialism for many years. The Avadi session of the congress passed a resolution to

this effect. You, Mr. Speaker, have been in Parliament from the very early days and there was the resolution passed by Parliament regarding socialistic pattern of society. In the Bhubaneshwar session it was slightly amended to mean establishment of a democratic socialist republic as the objective of the congress party. This ideal has been accepted in one form or the other by all the parties in this country. In other words, we don't want a capitalist party; we don't want a landlords' party; we don't want a monopolists' party; we don't want a party which will be there for the purpose of effecting an unequal economic and social order which is also violative of the dignity of human beings. A socialist society is our goal. Our goal is clear. The signal is clear. We are going in for a socialist society and not a capitalist society. Regarding what socialism means, I will just read out this in one second. It means:

'Respect for human dignity... want to emphasise this specifically. Then it means:

'Equality of opportunity, elimination of poverty, uplift of the weaker and the disadvantaged sections of society and mass welfare rather than class welfare.'

Now, Sir, this is what is sought to be conveyed broadly by the expression socialist, and is in fact already contained in some part in the Directive Principles enunciated in Part Four of the Constitution.

1960 LS-2.

12 hrs.

I think there would be no difficulty in defining the word 'socialism'. We can bring out a hand-out on 'Socialism' and we can hold seminars by Members of Parliament; we can write ourselves. I do not think it is going to be difficult to define 'socialism'. Socialism does not mean that we are going to imitate Moscow or Peking or even Warsaw or other capitalist countries. Of course, London is not a socialist country. Our socialism will be rooted in the Indian soil, in Indian traditions. We should place emphasis on non-violence, non-stimulation of hatred and violence for the purpose of making a new economic order.

This is a socialist society in which you will find all the things that I have mentioned. I think it is very good that that has been done now. Mr. Speaker, I thank you for having shown me so much indulgence. I welcome the amending Bill. I request the Government at the same time to consider with all sympathy the suggestions that I have made. They are intended to give peace, tone, volume content and eternal life to the principle of achieving socialism and secularism in our country.

One last word and I have done. That is about amending the Constitution. It seems to me that while amending the Constitution to-day, we should not lightly undertake fur-

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 ther amendments to our Constitution. I think our Constitution contains different orders of values. The Supreme Court mentioned the basic structure, they were wise enough to define it, they could have escaped criticism. There is no doubt that our Constitution contains certain clauses—for example there is a clause on quorum. That is done to rationalise it instead of making it a debating point. There are clauses with regard to holding of periodical elections adult franchise, Directive Principles on State Policy, some fundamental rights. There are a number of other things in our Constitution which we all believe but we cannot say that Parliament cannot change them. Parliament is sovereign. It can do anything except changing a man to women. If it wants it can establish a monarchy. That cannot be done lightly but it can do that by the required majority.

I would like to conclude by saying that the hon. Law Minister should think over the suggestions made with regard to Art. 346 or 356 which deals with amendments to the Constitution. Amendments to Constitution may be of two kinds. When we talk of change in basic structure etc. etc. of our Constitution let there be special procedures of amendments. That may be done with a higher figure—I won't mention that figure—in proportion to the total membership of the present and voting. There are some select clauses in our Constitution which we recognise as vital and basic

and these need to be studied in depth for being given such special consideration.

With regard to some of the suggestions made regarding certain clauses in the Constitution, if they are accepted, whatever may be the political storms that are raised either underground or overground in due course, people of this country will recognise the wisdom of the Congress Government that this Parliament, having accepted the amendments to the Constitution, are moving forward for the establishment of a more decent life and enrichment of the quality of the life for the common man which is what we have been asking for.

PROF. S. L. SAKSENA (Maharajan): Sir I deem it my duty to ask for an open and fair debate on this constitution amending Bill. That is my duty that I am doing.

The Prime Minister will certainly not be surprised if we ask for an intensive study, deep study, of the constitutional amendments. I want a free and open public debate on this Bill and there should be a study in depth on this Bill by the people. It is not possible to do that in two to three days. I wanted time till 30th November, 1976. It is not too much. I want these things to be properly discussed and understood.

In the prevailing atmosphere of oppression and fear due to this emergency no free and open public debate could

be possible. Opposition party leaders and other leaders of public opinion were mostly in jail. As my friend, Shri Sezhiyan, pointed out in his speech on this Bill, meetings to discuss the Bill by Opposition leaders were until ten days back completely banned and the press was effectively gagged. The complete denial of the rights of the freedom of speech and association and of other fundamental freedoms, the erosion of judicial processes and the blackout of opposition viewpoints in the press, have made it impossible for the people to know, discuss and understand the drastic constitutional changes proposed in this draconian Constitution Amendment Bill.

It is to fulfil the declared wishes of the Prime Minister that I have therefore, moved that the Bill be circulated for eliciting public opinion by 30th November, 1976. Then people will come out with their views and Government can either accept them or discuss these views. I think this should be allowed.

Sir, I had the privilege to be one of the founding fathers of this our first Constitution of free India. For three years, I took the most active part in framing it. In fact, Dr. Ambedkar, in his speech on 25th November, 1949, in reply to the debate on the third reading of the Draft Constitution Bill in the Constituent Assembly made the following observation:

"The proceedings of this Constituent Assembly would have been very dull if all members had yielded to the rule of party discipline in all its rigidity which would have converted this Assembly into a gathering of yes-men. Fortunately, there were rebels. They were Mr. Kamath, Dr. P. S. Deshmukh, Mr. Sidhwa, Prof. Saksena and Pandit Thakurdas Bhargava. Along with them, I must mention Prof. K. T. Shah and Pandit Hirdaynath Kunzru. The points they raised were mostly ideological. That I was not prepared to accept their

suggestions does not diminish the value of their suggestions nor lessen the services they have rendered to the Assembly in enlivening its proceedings. I am grateful to them. But for them I would not have had the opportunity which I got for expounding the Constitution which was more important than the mere mechanical work of passing the Constitution".

Out of the 7 names of members mentioned by Dr. Ambedkar, four have passed away, and out of the remaining three, Dr. Kunzru and Shri Kamath are not MPs today. I am the lone remaining person who is a Member and I feel the agony when the Constitution which we framed is now being destroyed. You may not agree with me, but this is what I feel.

The statement of objects and reasons appended to the Bill says that the object of the Bill is to remove the 'difficulties which have arisen in achieving the objective of socio-economic resolution which would end poverty and ignorance and disease and inequality of opportunity'.

It is a strange method of ending 'inequality of opportunity' when the first casualty of this Bill is the most sacred fundamental right contained in art. 14 of the Constitution which says:

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India".

We begin to ensure equality by destroying the fundamental right of equality!

It is my considered opinion that the present Constitution places no impediment on genuine socio-economic reform after its 25th and 26th amendments in 1971 which were made to remove the lacunae pointed out by the Supreme Court in its judgments which

[Prof. S. L. Saksena]

struck down the two socio-economic measures, Bank nationalisation and end of Privy Purses. The Opposition leaders have challenged the Government to point out a single socio-economic measure passed by Parliament during the last five years which the Supreme Court has struck down. I myself know of no such socio-economic measure which was struck down by the Supreme Court after 1971.

Why then is this Bill being rushed through at the fag end of even the extended life of this Lok Sabha in the teeth of widespread opposition? Why is the deceptive doctrine of supremacy of Parliament over the supremacy of the Constitution being propagated?

In the very preamble of the Constitution, it is stated:

"We, the People of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic, and to secure to all its citizens:

Justice, social, economic and political; Liberty of thought...."

expression, belief, faith and worship; equality of status and of opportunity; In our Constituent Assembly... do hereby adopt, enact and give to ourselves this Constitution."

So, it is the people of India; it is they who have given to themselves, the people of India, this Constitution. It is not Parliament that has given the Constitution to the people of India but it is the people of India who did so and they alone can change the fundamentals of the Constitution. A constituent assembly elected on the basis of adult suffrage for the purpose of amending the Constitution can amend it; you cannot amend the fundamentals of the Constitution at the fag end of this parliament's life. Parliament is the creature of the Constitution; and the Constitution is not a creature of Parliament. We take our oath to defend the Constitution, not anything else. The Constitution has itself provided the

procedure for amending it, you can amend it by that procedure, not by anything else. I have no objection to amendments being made but they must be made in accordance with article 368 and its interpretation by the entire body of 13 judges of the Supreme Court in the Keshavanand Bharati case. It says definitely that even part III of the Constitution can be amended but we cannot change the essential features, basic structure of the Constitution. It has been contended to be wrong; it is not wrong and so long as it remains you cannot change it. Only a constituent assembly elected on the basis of adult suffrage can change that, not this Parliament, because this is not the creation of the people for this purpose, as the Constituent Assembly was. In this Bill there is a clause which says that the President shall be bound by the advice of the Council of Ministers. It is a dangerous doctrine. The President has very few powers; even they are to be taken away. What are those powers? Three such powers have been enumerated in a judgment; the Judge says that these are not exhaustive. He can dismiss a Government which has lost the majority but which refuses to quit. In him lies the choice of the Prime Minister. Suppose in this House there are many parties and no party is able to form the government. Who shall be the Prime Minister? Whom will the President call if he has no powers? Will the Prime Minister who is holding that office at that time continue as Prime Minister even though his party might have lost majority? It is an absurd thing. I hope that this clause will be amended and the President will be allowed to have his powers which are his by convention.

Now with regard to fundamental rights, the first Bill in 1805 was inspired by Lok Manya Tilak and it contained the Bill of rights. Second Bill was by Dr. Annie Besant in 1905 and it was based on the Irish Constitution and it contained a Bill of rights. Then came the Nehru Committee report and it also gave out 18 funda-

mental rights and it said that they should be the essential features of the Constitution of India. Sapru also in 1945 referred to the fundamental rights. In the Constituent Assembly we have adopted the Fundamental Rights—Now in this amending Bill you take away the fundamental rights and you say that it is subordinate to directive principles. I am amazed that the fundamental freedoms for which our forefathers fought from 1857 are being taken away. Why? I am surprised. I hope these will be allowed to remain there. You may make them non-justiciable, but they should not be made subordinate to directive principles. There is a very interesting article written by Shri Palkhivala wherein he has said that life is going out of the Constitution, if this Bill is passed. I hope this article will be studied by the framers of the Bill because it is something very important.

So far as the insertion of the new article 31D is concerned, as other friends have pointed out, this will mean gagging of all political activity. No processions could be taken out and there can be no strike by labour. Anything anti-government will be put down strongly. I strongly oppose this clause and I hope it will be deleted.

If the opposition challenges you to face the electorate, I am surprised that you are afraid of it. I thought this was the time for you to go to the electorate, mention these things in your new election manifesto, get the mandate of the people and then go ahead with these amendments. There will be no difficulty and if you do that, the changes will be permanent. Otherwise, if you pass this Bill as it is, it will be challenged in the court that you have changed the basic structure and it will be struck down. What is the use of it? So, I hope you will withdraw this Bill, go to the electorate with a new election manifesto, get the mandate of the people and then bring forward a new Bill incorporating these amendments.

SHRI R. K. KHADILKAR (Bara-mati): Sir, I was listening to the speech of Dr. V. K. R. V. Rao: He advocated freedom of barking. I was also going to tell the same story. The only thing is, the dog was a catholic dog!

Coming to the Constitution (Amendment) Bill, I am today addressing the highest tribunal or forum of this country and I represent more than 2 million people belonging to my constituency. I do not want to be very partisan in my approach. This comprehensive Bill has been brought before this House and the socio-political aspect of it was brought out yesterday very clearly by Shri Swaran Singh. But the main thing is about this question of division of powers. Let us go into its history. I do not want to go article by article because time is very limited. In a situation like this, we must go back to history. The division of powers was introduced in America because 13 States were brought together and to bring them together they were assured that the Supreme Court is there if there is any encroachment on their rights. So, the Supreme Court was made really supreme. We borrowed partly from the British and partly from the American systems. The idea of checks and balances came from American history. We have borrowed it to some extent. When this question of balances was mentioned to Gandhiji, he said in a cryptic way, "Where is the balance in our society? If God is to appear before a poor man, he will have to appear in the form of bread!" He said, as long as there is no economic balance in our society, we cannot think of balances at all. This is what Gandhiji said. I do not want to repeat everything. He has said many things more. I am quoting this for two reasons. The historical reason is one. Are we going to be guided by this division of powers? We have experienced during the last so many years that the judiciary was at war with the government, or with Parliament because during these years—I am here now for nearly 20 years—I have found that

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every time we went to the Supreme Court or High Court, they were not prepared to listen to us because they considered it something below them. Why? Because the Supreme Court assumed a certain responsibility, a certain dignity and a certain independence. This, I think, they borrowed from America and we are the victims of that feeling. The judges who come from the profession do not look at law as a mission. They go up in their ladder and they do not forget that they are professional beings. Every time law is interpreted in this fashion. They do not have equity jurisprudence; they have ordinary jurisprudence and they deal with laws with this feeling i.e. in such a way that we feel that they are doing injustice.

As Dr. Rao rightly said, we should not deal with the Constitution so light-heartedly. I personally feel that I have seen all the 3 types of criticism. One section says that we must have the Constituent Assembly. Another section says that we are not competent enough to undertake this; and the third section has approached me and they feel that we must not do this exercise before the next elections? Why? Because we have not got the mandate from the people. Many writers and intellectuals who are not involved in the struggle have expressed their opinions. I appeal to the Law Minister and to the Law Ministry that they should not brush aside their opinions lightly. Some opinions deserve serious consideration; and if possible, we should find out—and the Prime Minister should find out—a way to meet them because they are not involved in the struggle. They do not believe in the struggle. They believe that the struggle that is going on will lead us nowhere. They have no programme. Our 20-point programme is far better than their programme; and it is a constructive approach to Emergency. They detest the Emergency but they accept the 20-point programme. I argued with them; they said: "You should not treat this in a light-hearted manner", because we have no mandate. They

wanted a constituent assembly. I asked: why? We are changing only a few things and not everything. Only 4 or 5 amendments out of the 59 are very important; others are more or less verbal.

I am not talking about the amendments. When I come to them, I will take up the 59 amendments. When the Law Minister spoke about secularism, I heard it with all attention. Dr. Ambedkar has written a book in which he has studied this problem very carefully. Regarding Andhra and Maharashtra, he has said that the caste problem there is so important that Andhra should be called Reddy State and Maharashtra as Maratha State. I got that book from the Library. The caste problem is important. Do you say that secularism includes caste abolition or not? I want a clear answer. If you go to the villages, particularly, in the South, you will find that caste is a dominant factor.

I am speaking from a general angle. We must realize that the abolition of caste must be given importance. How to do it is a different proposition. I have studied the problem. I have read several books. Even Marxism has no method to do it. In their party also, there is caste. In the Communist Party of India also it is there. They are not in a position to change it.

SHRIMATI ROZA DESHPANDE (Bombay Central): No, it is not there.

SHRI KHADILKAR: It is there. When we amend the Constitution, when we talk loudly about the other communal factors, why not refer to the caste? Sir, you come from a backward State and you know in some places even the Brahmins are not honoured so much as the upper castes are being honoured. This is a fact of Indian life. I would like the Law Minister to throw some light on this. Otherwise, I would like to move an amendment on this.

Secondly, today we are governed by bureaucracy on one side, judiciary on another side and Parliament on the third side. I would call it a triocracy, a new word which I have coined. But in that triocracy the real and ultimate masters are the bureaucrats. Whatever you may do in the Constitution and in whatever way you may do it, and whatever the Ministers may say here, when it percolates down below, it is the bureaucracy which decides what should be done and how it should be done. This is my experience of nine years, and I am sure the Defence Minister, with his vast experience in Haryana, will support me when I say that it is very difficult to control the bureaucracy in our country.

Thirdly, unless the economic balance is restored by some method, this Constitution will not go far. So, the time has come when the Law Minister should give some thought on how he can do it, in what way we can do it and in what way the Parliament can do it. As Gandhiji has said the balance in our country is a lop-sided balance. In spite of all our talk about socialism, let us be frank enough to admit that our economy is controlled by a few. Unless private property is restricted and circumscribed in such a way that no exploitation by private property is possible, I do not think any worthwhile benefits would reach the ordinary people.

Fourthly, we say that we want to have a socialist society here and in order to achieve that transformation we are introducing this Bill. I have spoken on several platforms and I have made this point as to how the bureaucracy operates at a lower level. If in a place the bureaucracy belonging to a particular caste is predominant, the other castes suffer under a disability. If the Minister is prepared to accompany me, I will show him how it operates. I have seen in a place his picture was torn only be-

cause the people were shouting, quoting him and making demands. That was their only fault. These things do happen.

SHRI G. VISWANATHAN (Wandiwash): Is it in your State?

SHRI R. K. KHADILKAR: So, what I suggest is that the Law Minister and other Ministers should go *incognito* and find out what is happening in the country.

For the first time, under the 20-Point Programme, some of the measures have gone to the grass roots. We have initiated some measures like giving land or house sites to the poor. I would say this is grass root socialism. We are doing something good. At the same time, when we amend the Constitution, I do not find any mention of them here.

In our country unemployment is increasing at a faster rate than even our population. So, unless something is done in the Constitution itself, we will not be able to solve it. The right to work must be introduced as a right in the Constitution. Unless we put that right, I do not think he will be able to do much in this regard.

The composition of the Constituent Assembly was mainly based on the 1935 Government of India Act. At that time the right of voting was limited by property ownership or income-tax payment. So, the Princes, landlords and others came and the Directive Principles were introduced without their full concurrence because Nehru felt, and rightly, as also Dr. Ambedkar, a pang of conscience. Now, the Directive Principles are being given their rightful place by the Law Minister in the new scheme of things.

The scheme of modification that he is bringing about should be such as is understood by the ordinary people. It is no use saying that the opposition is motivated because they are

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opposed to us. More than 300 people have written a small letter. I have asked them whether they are for struggle. They say no, but they feel that if you do exercises like this, it may lead us anywhere but not to democracy. This opinion should not be just disregarded.

I was Chairman of a Committee in which this Constitution Amendment Bill was partly debated. Along with others three people appeared before us—Palkiwala, Seervai and our old friend, the late Kumaramangalam. The question discussed was whether the right to amend the Constitution related only to procedure or was a content of law. I consider it a major content of law. Seervai has also written a small book, a sort of addition to his original book, in which he has admitted that the constituent right of Parliament must be there, and that it must be unhampered.

SHRI N. K. P. SALVE (Betul): He has gone back on it in his latest.

SHRI R. K. KHADILKAR: There he has said that Parliament is supreme. We are trying to re-assert our right.

The socio-political philosophy of this Bill was well propounded yesterday by Shri Swaran Singh. I only want to make two or three suggestions, and I hope that the Law Minister and the Prime Minister also will take note of them.

In a caste society, secularism has a different meaning. Dr. Ambedkar has also discussed this and said that in a caste society, secularism is a very limited concept. It was propounded yesterday that secularism means freedom for all religions. Accepted. But does it mean freedom for caste? Some provision must be there for avoidance and removal of caste. If you go district-wise from village to

village, you will find that the co-operative bank, the Congress committee and the zila parishad are dominated by one caste. The Prime Minister may make such a study. I have made a study and I am prepared to publish it. So, in a situation like this, secularism must include caste, otherwise it has no meaning.

Lastly, I was a Member of the Santhanam Committee. There was the question of article 311. We were interested in how to deal with that article. Two appeals are allowed to a Government servant under the article. Now, there, I gave a minute of dissent and said, unless you have a law, an administrative law, we cannot remove it by establishing a tribunal and that leaving the legal aspect of it is not good. My feeling is that the establishment of a tribunal is good. But you have to come forward with a law of this type.

In France, in twenty years, there were twenty four Governments. It is a wrong notion that the Presidential form of Government is totally the negation of democracy or parliamentary life. They have not read what De Gaulle has said and done. In his own country, when he was faced with a crisis, when France was in the dust and there was a civil war in the army, and Algeria was up in arms, at that moment, he dealt with the problem, gave them freedom and a new Constitution which has brought France to the top, one of the Big Five Powers. In a situation like this, What De Gaulle did we must try to do. Our Prime Minister must think in those terms. It is no use saying that the Presidential form of Government means the negation of democracy or parliamentary life. It is a wrong notion. I think, these few aspects should be taken into consideration.

As regards the other things, as the time is very limited, I will speak on amendments relating to individual articles separately.

श्री विष्णु कुमार शास्त्री (अलीगढ़) : माननीय अध्यक्ष जी, यद्यपि मैं यह समझता था कि उस विधेयक पर विशेष रूप से चर्चा करने का उन्हीं को अधिकार है जो विधि क विशेषज्ञ और विद्वान हैं किन्तु भाषणों के सुनने के पश्चात् मुझे यह प्रेरणा हुई कि मुझे भी इस में अपना योगदान देना चाहिए और विशेषकर डा० बी० के० आर० बी० राव के शब्दों से तो कुछ और प्रेरणा मिली कि जो यहां पर कहने का अधिकार है, उस का उपयोग क्यों न किया जाए। वैसे आलोचक का एक विशेषाधिकार होता है। यह मानी हुई बात है कि किसी चीज का बनाना बहुत मुश्किल होता है और उस के गुणों और दोषों का विवेचन बहुत सरल होता है और थोड़ी सूझबूझ रखने वाला व्यक्ति भी उस में अपना परामर्श दे सकता है। इस विषय में एक शायर ने बहुत बढ़िया कहा है :

ऐ शेषगो नहीं है कोई जोशऊर हम ।

लेकिन इतना तो जानते हैं कि तुम बेगऊर हो जहां ठुटि रह गई हैं, उस की ओर आप इसारा तो कर ही सकते हैं।

सब से पहली बात तो यह है कि इस विधेयक की मूल भावना का मैं हृदय से स्वागत करता हूं और वस्तुतः यदि आप विचार के देखें तो हमारे संविधान में एक बहुत बड़ी ठुटि यह है कि उस में मूलाधिकारों का उल्लेख तो किया गया है लेकिन कर्त्तव्यों का उल्लेख नहीं किया गया है। यहां के लोगों की मनोवृत्ति को देखते हुए यह बहुत आवश्यक था कि कर्त्तव्यों का भी उल्लेख किया जाता। यहां पर लगभग 50 वर्षों से और इस से भी अधिक समय से राजनीतिक क्षेत्र में अधिकारों के अपहरण की चर्चा होती रही और यह कहा जाता रहा कि हम और आप जब तक स्वतन्त्र नहीं हो जाते और जब तक हमारा देश प्रभुसत्ता सम्पन्न नहीं हो जाता, हम कुछ नहीं कर सकते और अरबों रुपयों की सम्पत्ति जो बाहर चली जाती है, यदि हमारे पास रह जाएगी, तो दस सब के

सब निहाल हो जाएंगे। उस समय न ऐसा समय था और न इतनी दूरदृष्टि थी कि इस के संबंध-नाथ यह भी कहा जाता कि केवल विदेशियों को बाहर धकेल देना काफी नहीं है बल्कि उन के जाने के बाद हम को और आपको कमरतोड़ परिश्रम करना पड़ेगा और तभी राष्ट्र आगे बढ़ सकेगा। यदि इस बात की तरफ उस वक्त ध्यान दिया जाता, तो यह कठिनइयां जो स्वतंत्रता के बाद हमारे सामने आई हैं, वे शायद हमारे सामने न आतीं। हमारे यहां तो स्वतन्त्रता का कुछ और ही अर्थ लगाया गया। मैं देहात का रहने वाला हूं, इसलिए उस स्थिति को जानता हूं और हमारे जो दूसरे साथी देहातों से आते हैं वे भी इस बात को जानते हैं क्योंकि चुनाव के दिनों में सब को देहात के लोगों के सम्पर्क में आना ही पड़ता है। मैं अलीगढ़ में एक छोटे से गांव का रहने वाला हूं। स्वतन्त्रता के लगभग एक महीने के बाद मैं अपने गांव में गया हुआ था। उस समय मैं पंजाब में रहता था। गांव में मेरे पास दो अग्रह से व्यक्ति आये और उन्होंने मुझसे पूछा कि हमने सुना है कि देश आजाद हो गया है। आप तो बाहर रहते हैं, अखबार देखते हैं, आप बतलाइये कि क्या देश आजाद हो गया है, मैंने उनसे कहा कि देश तो आजाद हो गया है इसमें आपको संदेह क्यों है। इस पर वे व्यक्ति मेरी तरफ देख कर कहने लगे कि कुछ पता तो नहीं चला। मैंने कहा कि आपको क्यों नहीं पता चला? आप आजादी की क्या कसौटी मानते हैं? उनमें से एक ने कहा कि मुझे और तो कुछ मालूम नहीं है लेकिन मैं हर पूर्णमासी को गंगा स्नान के लिए जाता हूं। तीन-चार दिन पहले भी गया था और रेलवे का टिकट जो पहले लेना पड़ता था वह अब भी लेना पड़ता है। लोग यह समझते थे कि आजादी का मतलब है कि रेल में टिकट नहीं लेना पड़ेगा, काम नहीं करना पड़ेगा, कुर्सी पर बैठने को मिलेगा और पंखे की हवा खाने को मिलेगी। फर्मचारी को जो नौकरी मिलनी है, पैसे मिलते हैं वे पेंशन में मिलेंगे और उन्हें कुछ काम नहीं करना पड़ेगा। यह सब की सब भावना जो लोगों में बी बड़ी बड़ी खराब थी

[श्री शिव कुमार शास्त्री]

और उसका निराकरण, इस संशोधन के द्वारा किया जा रहा है। यह वास्तव में स्वागत योग्य है।

मैं समझता हूँ कि अधिकार कर्तव्य से उत्पन्न होता है। कर्तव्य के बिना अधिकार उत्पन्न हो नहीं सकता। एक कृषक को यह अधिकार है कि वह अपनी भूमि की उपज का उपयोग करे लेकिन उपज भी तब होगी जब वह परिश्रम करेगा, उसके बिना नहीं हो सकती। इसलिए मैं समझता हूँ कि संविधान में इस बात का समावेश करके देश में नयी स्फूर्ति आयेगी। यह संशोधन बिल इसलिए बहुत स्वागत के योग्य है।

लेकिन इसके साथ-साथ जो और विशेष बातें हैं उन पर थोड़ा सा और विचार करने की आवश्यकता है। इस समय सबसे बड़ा ज्वलन्त प्रश्न परिवार नियोजन का है और यह बहुत आवश्यक है। मेरी समझ से कोई भी ऐसा ग्रन्थ या धर्म पुस्तक नहीं है जो व्यक्ति को अपनी शक्ति और क्षमता के बिना देखे सन्तान बढ़ाते चले जाने का अधिकार देता हो। यह अधिकार किसी ने नहीं दिया है। मैंने वेद और शास्त्र पढ़े हैं और मैं वेदों के आधार पर कह सकता हूँ कि ऋग्वेद में लिखा है —

बहु प्रजा निश्चयिमा विवेश।

अर्थात् जो अधिक सन्तान पैदा कर रहा है वह गरीबी और मौत को दावत दे रहा है। यह स्पष्ट बात है। लेकिन इसके साथ साथ कुछ ऐसी बातें हैं जिन पर हमें विचार करना चाहिए। अब तक सरकार का ध्यान इस बात पर रहा है कि कृत्रिम ढंग से आबादी को बढ़ने से रोका जाय। मैं यह कहता हूँ कि यह उपाय भी होना चाहिए, पर इसके साथ साथ मनो-वैज्ञानिक और इस प्रकार के अन्य उपाय भी बरतने चाहिए जिससे कि जो खलबली मची हुई है उसके समाधान का अवसर मिले। अगर आप यह समझते हैं कि मनुष्य एक विचारशील प्राणी है तो समय और मर्यादा के विचार उसको दिये जायें। इसका प्रभाव उस पर बहुत पड़ेगा।

आप देखें कि शास्त्रों में संतान पैदा करने के लिए 25 साल रखे गये हैं। जीवन के पहले 25 साल पढ़ने लिखने के लिए हैं, अगले 25

साल गृहस्थ जीवन व्यतीत करने के लिए हैं, फिर उससे अगले 25 साल गृहस्थ छोड़ कर वनप्रस्थी जीवन व्यतीत करने के लिए यानी सामाजिक कार्य करने के लिए हैं। अंतिम 25 साल समाज को भी छोड़ कर देशाटन के लिए और मौत की तैयारी के लिए सन्तान हैं पैदा करने का अधिकार केवल 25 वर्ष का है और उसमें भी शर्तें लगायी गयी हैं। अगर ये चीजें हो जायें तो अधिक सन्तान पैदा करने की जो समस्या समाधान हो सकता है। उसका उस स्थिति में नियंत्रण अपने आप हो जाता है।

एक पुरानी मर्यादा थी कि जब लड़के की घर में शादी हो कर बहू आ जाती थी तब पिता अपनी चारपाई घर में से बैठक में ले जाता था और अपना खाना तक बाहर मंगवाता था। अर्थात् घर के अन्दर आना जाना बन्द कर देता था। लेकिन पुरानी परम्परा नष्ट हो गई और नयी अच्छी परम्परा हम अपना नहीं सके और जो अपना रहे हैं उनमें दोष है। अच्छाईयों को हम ग्रहण नहीं कर रहे हैं, दूसरे के ढोंगों को हम बड़े चाव से ग्रहण कर रहे हैं। आज जिस के पास पैसा हो जाता है वह नए ढंग का मकान बनवाता है जिस में अलग अलग कमरे होते हैं। एक कमरे में तो लड़का और पुत्र बस रहते हैं, सोते हैं और एक में माता-पिता। यह कोई आदर्श नहीं है। हमें पुराने आदर्श को देखना होगा। हमें इस प्रकार का वातावरण बनाना होगा जिस में अच्छी पुरानी कुछ चीजों का सहारा लिया जाए, विशेष रूप से उन लोगों को जो गृहस्थ में जायें—जो न जाएं उनकी बात मैं नहीं करता हूँ, वे प्रसन्नता से न जाएं। जब घर के काम से निवृत्त हो जाएं तो बाल-बच्चों को छोड़ कर समाज का काम करने लगें। इस प्रकार की नीज भी हम को उत्पन्न करनी चाहिए।

एक बात मेरी समझ में नहीं आई है। मैं चाहता हूँ कि जो महानुभाव बोलें वे इसको स्पष्ट कर सकें तो करें। बार-बार यह कहा गया है कि हमें जनता से अनुमति लेनी चाहिये। यह बात ठीक है कि प्रजातंत्र में जनता

की स्थिति सर्वोच्च है। पर उस में श्रद्धा भी है या नहीं इसको भी हमें देखना होगा। हमें देखना चाहिये कि किस से हम अनुमति ले रहे हैं। जिससे ले रहे हैं वह उस बात की समझती भी है या नहीं, अनुमति दे भी सकती है या नहीं। इसके बारे में मुझे डाक्टर एल एम सिंघवी की स्पष्टीकृत बहुत पसन्द आई है। हो सकता है कि वह इस प्रकार की बात कहने की श्रद्धा में है क्योंकि उनको जनता से वोट नहीं मांगना है और चूंकि हम को वोट के लिए जनता के पास जाना है इस वास्ते हम इस तरह की बात न कहें, और जनता का लिहाज हम करें। इस सम्बन्ध में मुझे एक बात याद आती है। एक व्यक्ति ने एक बन्दर और एक कटड़ा पाल रखा था। बन्दर बहुत चालाक था। वह व्यक्ति दाल और रोटी पका करके तैयार करके बाहर चला जाता था। बन्दर रोटी और दाल खा जाता था और पत्तीली में से दाल का आखिरी हाथ लेकर कटड़े के मुंह पर मल देता था। मालिक जब घर में वापिस आता था तो दाल रोटी खत्म देखता था और कटड़े के मुंह पर दाल लगी हुई देखता था। वह समझता था कि वही खा गया है। उसको वह दो डंडे लगा देता था। वह यह नहीं सोचता था कि कटड़ा तो रस्सी से बन्धा हुआ है वह कैसे खा सकता था। कई दिन तक यह बात होती रही। आखिर में परेशान हो कर वह अपने पड़ोसी के पास गया और कहा कि मैं इस बात से तंग आ गया हूं, कटड़ा मेरी दाल रोटी सब खा जाता है। पड़ोसी ने आ कर देखा और कहा कि यह काम बन्दर का हो सकता है कटड़े का नहीं क्योंकि कटड़ा तो रस्सी से बंधा हुआ है; वह दाल का आखिरी हाथ कटड़े के मुंह पर पीत देता है। यही राजनीतिक लोग कर रहे हैं; जो कुछ इनको करना होता है कर देते हैं और आखिरी हाथ जनता के मुंह पर मल देते हैं। जिस बात को अच्छे अच्छे विधि वैता और वकील भी सत्यज्ञ ने न कतराते हैं उसको जनता कैसे समझ सकती है, कैसे उसके बारे में अपनी अनुमति वह दे सकती है और आप ले सकते हैं, यह बात समझ में नहीं आती है। आप उसके

स्तर को देखें। चुनाव निशान पर मुहर लगा कर वह वोट देती है, नाम तक तो वह पढ़ नहीं सकती है तब सके सम्बन्ध में विवेचन करके वह अनुमति दे सकती है यह समझ में नहीं आता है।

यहां पर संस्कृत की आलोचना भी की गई है। एक वक्ता ने कहा है कि सारे देश में संस्कृत जानने वाले और बोलने वाले मुश्किल से पांच सौ व्यक्ति होंगे। इस प्रकार की बे-समझी की बात एक पढ़ा लिखा व्यक्ति यहां पर कहे तो बड़ी हैरानी है। मैं उनको बतलाना चाहता हूं कि पांच हजार संस्कृत के विद्यार्थी तो कम से कम अकेले काशी में होंगे। हजारों की संख्या में तिरुपति में संस्कृत पढ़ने वाले विद्यार्थी उनको मिल जायेंगे। भारत में लाखों व्यक्ति संस्कृत जानने वाले और बोलने वाले उनको मिल जायेंगे। वह अपने अधिकारों की मांग कर, मुझे इस में कोई आपत्ति नहीं है। लेकिन इस प्रकार की अतिशयोक्ति और गलत बात उनको नहीं कहनी चाहिये।

इन शब्दों के साथ मैं इस विषय का समर्थन करता हूं।

SHRI N. K. P. SALVE (Betul): Sir, as I listened to the speech of the Law Minister on the opening day of the Session I relished the articulate, functional and the business-like approach that he brought in the exposition and elucidation of the contents of the Bill. With an air of quite dignity, he effectively dispelled the mis-apprehensions and mis-impressions which are being widely created about this Bill as though, as a result of passing of this Bill, this unauthorised Parliament, this rump Parliament, is going to knock out of shape the entire constitution which was given to the country by the founding fathers. He has dispelled all the apprehensions by pointing out that, in this 59—clause Bill, only seven to eight Clauses bring about a substantive change in the Constitutional law as such and the remaining are consequential, and if one were to go into it a little more deeply, one would find that there is

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hardly any change either in the pattern of the Constitution or in its scheme in any manner whatsoever. Certainly, it would be inept and improper to say that some of the provisions are really not important, they are important; they are extremely far-reaching, but they do not bring about any change in the scheme of the Constitution as such. I, for one, had expected that this Bill would cover the entire gamut of the Constitution and that it might be far more radical and it might be far more revolutionary than what it has been. If the people have been considering that some basic structures have been demolished or that basic elements have been tinkered with, I think, such allegations or such criticisms, or this sort of attitude in approach, are entirely politically motivated. If these are not politically motivated, these can only emanate out of the ignorance of the people concerned.

What is it that we are doing? So far as I am concerned, if you analyse the Bill objectively and you strip off all embellishment, you will find that it has only two-fold objective. One is streamlining and rationalising the jurisdiction of the High Courts and the second is reiteration for 'N' th time—we have stated it times without number and we are stating it once again—that Parliament enjoys legal sovereignty to amend any part of the Constitution, basic structure of the Constitution, if any, notwithstanding.

The competence of the Parliament is sought to be challenged to pass this Bill. Just now, I heard Shri Saksena who also made the same plea on two supposed grounds; one is want of legal authority and the other is want of moral authority. So far as the argument of want of legal authority is concerned, one has only to have an elementary knowledge of the provisions of the constitutional law. Article 83(2) proviso entitles Parliament, in case of emergency, to extend its period at each time by one year, and if it does so, there is no provision in constitutional or any other law which

abridges the rights of the Parliament, whether they are legislative or Constituent. Where then is the question of there being want of legal authority?

So far as moral authority is concerned, Shrimati Indira Gandhi happens to be the leader of this Parliament. She is the leader of my party also, but she is the leader of this House, of this Parliament on this day, 27th October 1976. Unless a person is, dispossessed of his rational faculties, he should not seriously contend that this Parliament headed by Shrimati Indira Gandhi, does not possess a moral authority to take care of the welfare of the people in accordance with the exercise of its legal rights? If it has a legal right, then it is this Parliament and Parliament alone which has all the moral authority to exercise its legal rights and amending the Constitution, as I have submitted earlier is entirely within its legal rights.

In the short time at my disposal, I will now try to make some observations on the merits of the Bill. We have always maintained and have also stated in the Statement of Objects and Reasons of the Bill that the perennial growth of the Constitution is the *sine qua non*, indispensable condition to keep the Constitution alive. We have further stated that such a growth is not possible unless the legal sovereign rights of the Parliament are to amend the Constitution are enshrined or assumed in the Constitution as such. And such sovereign legal rights in the Parliament are those which are unhampered or unimpeded by any doctrine of eternal immutability of the basic structure in the same. We have always maintained that the means of amendment of the Constitution are the very means of conservation and the preservation of the Constitution. Any number of times, we have stated that and any number of times, we have made amendments to effectuate and put beyond doubt such power. However, we have, some how or the other, not been able to make our drafting very clear in the matter or if the drafting has been clear, it is unfortu-

ate that we have not been able to drive home the point to the Supreme Court. The concept of basic structure is something so utterly vague, abstract, ambiguous and unidentifiable that one cannot understand what exactly is sought to be preserved by preservation of the basic structure.

One of the Judges said: what is the basic structure? Each one of them gave his own definition of what he thought to be the basic structure. Here in this House we have over 500 Members and if you ask each one of the 500 members, what according to him is the basic structure, each one will give his own version of the basic structure. One of the Judges said, according to him a feature happens to be a feature of a basic structure if the object and purpose of such feature in the overall Scheme of Constitution are so vital that if it is denied would adversely affect the integrity of the Constitution as an instrument of fundamental governance of the country—so utterly abstract, utterly metaphysical that one does not know where we are going after basic structure. May I ask one question of those people who have been advocating in immutability of Basic Structure. That has been one aspect which has been highlighted by the critics out of all proportion. May I ask those advocates one question? If the basic structure is immutable—they say that the basic structure as given by the founding fathers, as given by the Constituent Assembly of the country is immutable—and if there is any such thing as a basic structure in the Constitution given by the Constituent Assembly what about the most unequivocal and undeniable right given by the founding fathers in the Constitution to this Parliament, a sovereign, legal right, to amend the Constitution, to amend any part of the Constitution? Is it not the very foundation of the basic structure. In regard to what is basically basic to the entire structure of the Constitution, is it the sovereign legal right of the Parliament to be able to amend any part of the Constitution? To those who

are now talking of basic structure as eternally immutable, as eternally un-amendable, I want to ask one more question. What happens to the so many constitutional amendments we have made ever since the Constitution was first given to the people, since the first to the 44th Constitution Amendment Bill? Is the Supreme Court going to review all these amendments and find which of them go against the doctrine of basic structure and then strike them down? Or, are they going to bring in the doctrine of prospective invalidity which they seem to have revived once again with the doctrine of basic structure? There is one paragraph to which I beg to draw the attention of this House. One sentence I want to read. The paragraph reads:

"It is said that the Parliament is abusing its power by making too many frequent changes. If the Parliament has the power to make the amendments, the choice of making any particular amendment must be left to it. The possibility of abuse of power is not the test of its existence. Now, the First, the Sixth and the 17th amendment, as they take away and abridge the rights conferred by Part III, if they are laws, they are necessarily rendered void by Article 13(2). If they are void, they do not legally exist from their very inception. They cannot be valid from 51 to 67 and invalid thereafter. To say that they were valid in the past and will be invalid in future is to amend the Constitution. Such a naked power of amendment of the Constitution is not given to Judges."

It is not a Member of my Party who has spoken it. It is not any politician or any member of any political party who has spoken it. It is a Judge of the Supreme Court who has said that this sort of prospective invalidation, by finding out this sort of restriction to the amending power of the constitution on new grounds and thereby saying that Parliament is debarred in future from making certain categories of amendment implies constitution

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being re-written by Judges. This has been stated by no less a person than a Judge of the Supreme Court who was a party to the decision in the Golaknath case.

I would like to further point out that authorities are not needed to clearly establish the intent of the founding fathers that they wanted to vest an untrammelled authority, unrestricted authority in this Parliament to amend the Constitution. I would only refer to two persons, two founding fathers who have stated something on this aspect of the matter. I will only refer to one sentence in view of the shortage of time. One of them stated that "No Supreme Court and no Judiciary can stand in judgment over the sovereign will of the Parliament representing the will of the entire community. If we go wrong here and there, it can point it out but, in the ultimate analysis, where the future of the community is concerned, no judiciary can come in the way and if it comes in the way, ultimately, the whole constitution is a creature of the Parliament." The founding father was Pandit Jawaharlal Nehru. I hope those critics who say that the founding father never vested this authority and power in Parliament, the legal sovereign rights in the Parliament, to amend any part of the Constitution may look into as to what the founding father had in mind.

13 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

There is one important Member who referred to the amending power of the Parliament and this is what he had stated when in the Constituent Assembly. What is being said today is that we have extended our period and that we are an unauthorised Parliament and, therefore, not entitled to sit in judgement for amending the Constitution. This very attitude also appeared to have been shown at the time of the Constituent Assembly also and authority of Constituent Assembly was also doubted, as would

be clear from a para. I am reading. I quote:

"It is said that this Constituent Assembly is not elected on adult franchise while the future Parliament will be elected on adult franchise and yet the former has been given the right to pass the Constitution by a simple majority and while the latter has been denied the same right. It is paraded as one of the absurdities of the draft Constitution. I must repudiate the charge because it is without foundation. You know how simple are the provisions of the draft Constitution in respect of amending the Constitution. One has only to study the provisions for amendment contained in the American and Australian Constitutions. Compared to them those contained in the draft Constitution will be found to be the simplest. The draft Constitution has eliminated elaborate and difficult procedures such as decision by convention or referendum. The powers of amendment are left with the legislature—Central and provincial. It is only for amendment of specific matters—and they are only a few—the ratification of the State legislatures is required. All other Articles of the Constitution are left to be amended by Parliament."

This was stated by Shri B. R. Ambedkar. I hope those who have been propagating that basic structures are eternally immutable, will at least have a look as to what was contemplated by the founding fathers—Pandit Jawaharlal Nehru and Shri Ambedkar. They stated that the Parliament to come cannot be bound by what is given in this Constitution. Each and every Article is liable to be amended, subject to special majority.

It is propagated that Parliament is only a creature of the Constitution. Since the power to alter or destroy the basic feature of the Constitution is an attribute of ultimate legal sovereign authority Parliament cannot do so. We have submitted times out of number that sovereign political

authority rests with the people and sovereign legal authority rests with the elected representatives in the Parliament.

However, I am not willing to be complacent with the manner in which the Bill has been drafted. I wonder whether Clause 55 of this Bill is adequate and takes care of the matter so fully and completely that once for all the dispute between the Parliament and the Supreme Court will come to an end. We are fed up with this sort of confrontation. From 1951 to 67 the law was laid down by Supreme Court that the Parliament had absolutely untrammelled authority to amend the Constitution. Has Clause 55, as drafted, really taken care of the problem which we may have to face and will it—one for all end confrontation which has been taking place for the last 10 years? From 1951 to 1967 there was no trouble. Then the cases of Shankri Prasad and Sajan Singh held the field. Then came the case of Golakh Nath and it was said that we cannot amend the fundamental rights. It was followed by Keshvanand Bharti case where they laid down the principle of doctrine of the basic structure and then came the election case. The Supreme Court said that however wide may be the constituent power, the constitution itself has got its own realm and if you go outside that realm it becomes invalid. Art. 329A(4) was struck down on that ground. Article 368 was relied upon to spell out the implied and inherent limitations for the amending powers of the parliament. The same article remains unchanged, only one more clause is sought to be inserted in Article 368 to supersede the Supreme Court decision. Here I want to ask two or three specific questions on this because we want the confrontation to end. My first question is this:

(1) Does clause 55 take care of the view of the Supreme Court that the word 'amendment' itself has restricted meaning? This is number one.

(2) Does it mean that as a result of Clause 55 Parliament is so vested with sovereign legal rights to amend the entire Constitution, Supreme Court cannot determine what ought to be the limits of the 'Constitution' itself?

And, (3) What about the validity of Article 329A(4) because that has been struck down by the Supreme Court for it rejected the plea that constituent powers are not an undifferentiated amalgum of judicial, executive and legislative powers.

I ask these questions because they said that the constitution itself has to work in a particular realm, in a particular field, and in exercise of the constituent power, however wide, those powers may be, they cannot be used under law which is not constitutional but judicial sentence.

With great respect, I would submit to Mr. Gokhale and his colleagues that the record of his ministry so far as drafting is concerned, has not been very satisfactory. Sardar Swaran Singh panel has not gone into the drafting. They only dealt with the philosophy of the matter. The entire responsibility therefore, rests on Mr. Gokhale.

The idea of Joint Committee on larger issues even convocating Constituent Assembly needs consideration and is not a ridiculous idea as made out by Mr. Indrajit Gupta the other day. One has to take into account these various aspects. The rationale of curtailing Art. 226 to a point where the scheme of 226 becomes so stringent needs re-consideration. In case where there is injury, where there is injustice, where there is irregularity, it is not enough to invoke writ jurisdiction. This has further to be coupled with substantial failure of justice or substantial injury. It is undoubtedly necessary that some sort of curb is brought on the writ jurisdiction of the High Court. But let us not put

[Shri N. K. P. Salve]

the pendulum on the other side. I request the hon. Minister to consider whether the word "substantial" in clause 38 with regard to Article 226 is fair and necessary.

One word more and I am done. This is about elections. We have postponed election for one year because of the emergency. It means that we have taken certain tasks on ourselves to bring about certain changes in attitudes, certain procedures, certain approach. We are in the midst of emergency. Still because we have not assured any permanent achievement in this period. Will democracy go to bits if we were to extend the life of Parliament by one year or even accept a seven year duration? We should do it unhesitatingly.

The question is this. One has to understand and take a more objective approach and attitude in the matter and not merely play to the gallery and shout that we will be letting down our electorates. They are let down by walk-outs.

In The end, I would submit that in the life of every nation pledged to democracy, there comes a time when the Constitution has to be saved from the court and the court from itself.

We have reached such a stage and that is what we are doing by this Bill.

SHRI S. A. SHAMIM (Srinagar): Mr. Deputy-Speaker, Sir, I am sure what I am going to say will be listened to by the Ruling Party because I am going to support most of the arguments which they have advanced in support of this Bill.

In fact, going a step forward, I think that this is the time for me to say that even the declaration of emergency was part of a constitutional process and it emerged from the Constitution. Even the curbs on the press, the detention of some Members

of Parliament—I am talking here of the Opposition Party—are because of this situation in the country. That demands some curbs on the few individuals, on the press, on the media. If it serves the better interests of the country, I should have no objection. But, as far as the gains of emergency are concerned, we need not go outside this House to see whether there has been any gain or not. About the discipline in the House you can even see Members like me are much more disciplined. Obviously, these are the gains of the emergency. The fact that the emergency was declared by the President presumes that he had the knowledge about the situation which warranted the declaration of the emergency.

Having said this, I feel that the continuance of the emergency also proves that the situation is not improved as much as we would like it to be. Emergency presupposes an abnormal state of affairs. As I said, I will not question the wisdom of the Prime Minister and the President having declared the emergency and having consolidated the gains of it. If it had been for the consolidation of the gains of the emergency, that the continuance of the emergency is necessary, I can understand that desire.

Shri Swaran Singh was yesterday discussing the dictionary meaning of the word 'secularism'. Obviously he finds some new meaning for that word which cannot be there in the dictionary. But, I think I will stick to the dictionary meaning of the word 'emergency'. The dictionary meaning of the word 'emergency' is an abnormal state of affairs which needs an urgent and immediate attention. That is the present situation. This country had run amuck and the members of the Opposition and some political parties and individuals were not behaving as normal human beings.

According to Mrs. Indira Gandhi, shock therapy was needed and so a bitter medicine was to be provided so that the country was restored to health. The fact is that the emergency is still continuing. I do not see any signs of its being lifted. That shows that the country has not been restored to its full health. We continue probably to behave in an irrational manner. I say that some of us still behave like lunatics. That is why this shock therapy is needed. The legal aspect of the situation is that the people are not normal. When a person is not normal, he cannot give his correct or free consent, and in legal terms, his consent is not valid. The Prime Minister and Shri Swaran Singh and Mr. Gokhale had been talking of a free and fair debate. I think that there has been a debate; there is no doubt about it. Whether the debate is fair and free or not, I have my doubts; the Prime Minister has her doubts and even Shri Gokhale has his doubts. Why I say that they have doubts is that they have to labour hard to say that there has been a debate. The fact that you have to argue that there has been a free debate presupposes that there is something wrong somewhere. Otherwise, in no country, in such a situation, you may have to argue that the debate is free. But has this debate been fair here? I would only suggest an acid test for the Prime Minister to know how the debate has been when only once she says that she does not think that the Constitution needs any change. Let her say this once to see how the course follows. When once you say that the Constitution does not need any change, you see how those who have invented the arguments after arguments feel. And see how I and all others behave once it is said that the Constitution should be amended drastically.

The basic fact remains that we have got a situation, and I have two star witnesses to prove that the country is not fit enough to debate it in a proper frame of mind. One witness I

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cannot produce, Mr. Deputy-Speaker—and that is the President. But one witness I can produce here in this House, and that is the Prime Minister. The fact that the Prime Minister has not lifted the emergency, which I told you earlier, I support,—probably the situation has not come to normal after we did the shock therapy—shows that there cannot be a free debate, because if we want a free debate it presupposes normal consent. In legal terms, an extra-judicial confession is not valid. The Law Minister should know its fuller implications. If the situation in the country is such that there is fear—may be the Prime Minister has a different view saying that there is no precensorship—if there is a feeling that some people are not coming forward, it means that the situation for a free debate does not obtain. In the light of the fact that some people are still in jail—may be justifiably so—the fact remains that the situation is not fit enough for a free debate. Constitution-making and Constitution-amending is a very serious business. We cannot amend the Constitution every day. This major amendment has been now produced before us after 25 years. That means after 25 years or so we have a second look at the Constitution. Serious business needs serious consideration.

Sardar Swaran Singh and his members have given serious thought to it. But there are some people who have not been in a position to do so. Firstly, there are some people who are in jail who have to be there as long as their release will cause a danger—I am not disputing that. But as long as they are in jail, will you call it a free debate?

I do not know whether the Law Minister today remembers the definition of 'illegal confinement'. Even the mere fear that I cannot move out a certain distance will constitute illegal confinement. Therefore, if some people, probably out of a psychological fear, have not been able to express themselves, this is a condition which should not exist.

[Shri S. A. Shamim]

They have talked of the gains of the emergency. As I said, I have seen the gains of the emergency myself. Nobody can deny that there is much more discipline in the country today than there was, nobody can deny that we have achieved so much, much more than what we did achieve in the last ten years. But while taking into consideration the gains of the emergency, you must also take into account the pains of the emergency, because according to the leaders, the declaration of the emergency is a bitter pill, a bitter medicine. You cannot substitute medicine for food. Therefore, till that particular stage is reached when the doctors advise us 'take food now instead of medicine', we must postpone consideration of this Bill.

I am sure if Mrs. Gandhi goes to the polls today, she is going to win. I declare in this House that I am sure she is going to win the election. And I must tell you, as far as the amendments are concerned—I may be supporting all of them—if the amendments are good, Mrs. Gandhi has the chance of winning a mandate. It is better that she has the added credibility and approval of the people, because I am sure—and she seems to be much more sure than I am—that if they go to the polls today, the people are going to give them a mandate.

But as to the type of debate which has been going on, a sample was given to us by Sardar Swaran Singh yesterday. He is the father of this Constitution Amendment Bill. I do not know if there is a dispute between Shri Gokhale and Sardar Swaran Singh.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS:

(SHRI H. R. GOKHALE): There is no dispute.

SHRI SWARAN SINGH (Jullundur): There is no dispute.

SHRI S. A. SHAMIM: Some day somebody will determine the parentage.

SHRI SWARAN SINGH: It is the Committee.

SHRI S. A. SHAMIM: I was asking Sardar Swaran Singh one question. Sardar Swaran Singh was saying that the people had given them a mandate in 1971. Then I interrupted and asked: 'Why are you doing it after five years?' I was reading the proceedings this morning, because I missed it at that time. Sardar Swaran Singh's reply was: 'Look, now he is coming out in two colours'. I have asked a very pertinent question which everybody in the street is asking: 'You were given a mandate in 1971. How could you forget it for so long, for a long five years, and remember it at the fag end of the terms?' His answer was....

MR. DEPUTY-SPEAKER: His time is up.

SHRI S. A. SHAMIM: You were not here. Dr. Rao had argued that there must be full debate. Independent Members have got 45 minutes. I am not going to take 45 minutes. Independents have no following, but I have some following even among the Congress Benches.

MR. DEPUTY SPEAKER: There are 83 names from the Congress Benches. Unattached members are extra.

SHRI S. A. SHAMIM: When I go back, I will have the satisfaction of having said what I wanted to say. That will add to the prestige of the House, your prestige and my prestige.

MR. DEPUTY-SPEAKER: Not at the cost of others.

SHRI S. A. SHAMIM: When I asked: why did you forget it for five years, the answer should have been: we were busy doing more important

things; the situation in the country did not allow us. Instead he said : look at him, he has come in true colours. This type of coercion that is inculcated, that is creating a fear psychosis has been the bane of free debate that should be there.

As I said the Constitution is not something which is going to last only for another two or three years. Every Congress Member should ask this question from his own self : are we planning to be in power for the next fifty years, 25 years, five years. Because this document will be acted upon and improved upon by the future generations. Therefore, let us do something which, if it falls into the hands of somebody with evil intentions, cannot be used by them for evil intentions; let them not be able to use parliamentary institution and the Constitution to destroy what we stand for. I share with you the dreams which our forefathers in freedom struggle cherished.

I am not one of those opposition groups who have a party and who want this government should go and my party should come in. I have no party, fortunately for me and fortunately for you; I am not involved in that struggle. What I am saying is this; people have given you a mandate; apparently they had accepted the emergency also; as per your statement they are with you and I have no reason to disbelieve you. If you have all those positive factors, I concede this, why don't you consider one request, that all this being on the positive side : let us wait for fresh elections and decide the whole thing. Your case is that you are doing to be returned.

MR. DEPUTY-SPEAKER : The hon. Member's time is up.

SHRI S. A. SHAMIM : One last word. Members have talked that this Parliament has not the right; some

Members expressed some doubts. I think this Parliament has absolute right. Because Parliament has absolute right, greater responsibility has devolved upon it; Members of this House must not only express themselves but they must also allow others to express themselves.

MR. DEPUTY-SPEAKER : That is what I ask you to do now.

SHRI S. A. SHAMIM : I am grateful to you; you are conceding to me what they have not conceded to many other Members who are not present here. If a situation exists wherein some Members have not thought it fit to participate in this debate, what is our duty? The Prime Minister is not the leader of Parliament; she is the leader of the country. It is her duty and responsibility to see that everything is done that is possible to be done in that regard. They are angry; probably they are misguided or they have misunderstood the whole case. It is not my job. My job is to create misunderstanding, to strengthen misunderstandings. The moment I become Prime Minister it will be my job to see that those who are angry, annoyed or misguided are convinced. It is a question of involving everybody. The Prime Minister has involved the Congress Party, she has involved Parliament people within the Parliament. There are people without, people who supported her otherwise. They are not supporting her now because the methods which are being employed are not convincing and seem to be immoral.... (Interruptions.)

MR. DEPUTY SPEAKER : Please conclude. Shrimati Maya Ray.

SHRI S. A. SHAMIM : I have so much to say and Mr. Deputy-Speaker, you will go in history as one who did not allow me to say what I wanted to say.

SHRIMATI MAYA RAY (Raiganj): Sir, Mr. Indrajit Gupta was less than fair to the hon. Minister of Information and Broadcasting, Shri V. C. Shukla, when he accused him of not having the intention to give full coverage to his speech. Not only was the coverage extensive; it was also accurate but, Alas, the public were still deprived of listening to his elevating eloquence interspersed with pungent and scathing sarcasm.

SHRI INDRAJIT GUPTA (Alipore): I have never said that the Minister had the intention of blacking out anything; I asked him whether the proceedings will be covered or not (Interruptions)

SHRIMATI MAYA RAY: Your apprehensions have been totally belied. The delivery as well as the contents and the eloquence were second to none, and except perhaps to Prof. Hiren Mukherjee, who is not here, who nowadays I find breaks out into verse privately. This is a latent talent of which I was quite unaware.

Sir, this debate has been of a very high order, because it has evolved many points of view from members on every side of the House. There has been very valuable contribution on the part of the members. It started with the opening speech of the hon. Law Minister, which more or less circumscribed the scope of the debate and yesterday we had the very lucid exposition by Sardar Swaran Singh. I do not agree with Mr Shamim about his point on the mandate. The answer to his question is very simple. We did get the mandate and you have only to look into the Congress elections manifesto to see that. But the fact remains that we did not carry out that mandate in time. What does it matter whether we carry it out three years before or now? The fact is that that mandate was given. We did not carry out that mandate as we should have done and we are now going to do precisely that very thing.

The leader of the nation and the leader of our party has been in no hurry in bringing this Bill before the House. She has in fact initiated a national debate in every single nook and cranny of this country at every single level, through debates, symposia, seminars and meetings. There can be no accusation levelled against her that she has not tried to find out what other people feel. Mr. Shamim said, people are angry and it is her responsibility to persuade them. I am sure she will answer for herself for; I have not the impudence to do so, but many people have been released including some leaders of the opposition. If they wish to join issue on the floor of the House, what on earth prevents them from coming here and taking part in this debate?

SHRI S. A. SHAMIM: Why not release all of them?

SHRIMATI MAYA RAY: That is up to the Conditions of emergency prevailing and up to the Prime Minister.

Finally, the Bill is before us in a concrete form and we, as elected representatives of the people, are asked to give our opinion. Is there any gain-saying the fact that one of the characteristics of our Prime Minister is that she has always been very democratic in every sphere of her activity, showing infinite patience and tolerance and perception of other people's points of view? It is in keeping with this vital characteristic of hers that we have also had the opportunity of expressing our views. In fact, you will find that divergent streams of thought have been placed on the floor of the House and Prof. Hiren Mukherjee need have no apprehension on that score as to whether there will be a Constituent Assembly or a Joint Select Committee or whether we are going to pass the Bill in its present form. Just because one member has voiced his opinion that need not necessarily be the opinion of every member

of the House. Otherwise, what is the point in having a debate? We have our ideas and we will express them in our own way, whether on the floor of the House or within the four walls of our party meeting. This is inner democracy I would request Prof. Mukerjee not to have any fears. It is the government's intention that the country should weigh the pros and cons of this very important Bill seeking to make very many changes. This is the very tenet of democracy. Divergency of views should worry no one in a democratic institution.

My time is short and the gamut of the Bill is very wide. I want to confine my remarks to really two aspects. Time permitting, I shall probably cover only one. The question, firstly, is that of the Directive Principles of the Constitution being given preponderance over the Fundamental Rights, namely, Articles 14, 19 and 31 in particular. The other aspect I wished to touch upon is the power of judicial review of the administrative and quasi-judicial authorities. I doubt very much whether I will have time to cover both.

Taking the first aspect first, the Directive Principles getting any precedence over Articles 14, 19 and 31 seems to have created a great deal of furore among lawyers, intelligentsia and intellectuals; but I cannot see why this is so, because this is not a new concept. What on earth is wrong with this concept? When the original Constitution of our country was being framed, Mr. B. N. Rau was the constitutional adviser to the then Government of India. He did a great deal of research in this direction; and amongst the other constitutions that he had studied, was the Irish one—in the light of which, I may say, that our Directive Principles have also been fashioned. In Ireland, however, the Directive Principles were not enforceable and this created a great deal of difficulty. One particular instance of this is where the objective of a particular piece of legislation—and its

objective was very laudable—could not be carried through, through the legislature. For instance, if I may tell the hon. Members of this House through you, Sir, there was an Irish Act called the Sinn Feinn Funds Act; and this was framed in complete accordance with the Directive Principles of Ireland. The trustees were appointed; and no less a person than the Chief Justice of the Supreme Court of Ireland himself was to be the Chairman of the board of trustees. Now, the money of that trust fund was to be used for a very laudable objective, that is to look after disabled soldiers and relatives and near-relatives of soldiers who had died, and it was all done in conformity with the Irish Constitution. But one person, a trustee of the old Fund, went to the court, saying: "I am a trustee; I have a right of property in this money and I am challenging the validity of this Sinn Feinn Funds Act and I say that it is *ultra vires*." In spite of the fact that the Chief Justice himself had been the chairman of the board of trustees, the Supreme Court of Ireland had to declare the Act *ultra vires* because the Directive Principles were not enforceable.

Mr. B. N. Rau was a very eminent person. He had also a fund of knowledge behind him and he had done further research; and he had delved deep even into our ancient *shastras*.

How many more minutes do I have, Mr. Deputy Speaker, Sir?

MR. DEPUTY-SPEAKER: Just 3 minutes more.

SHRIMATI MAYA RAY: Mr. Rau said that even in our ancient scriptures there were parallels to the Directive Principles. Injunctions were issued to kings as to how to rule the country; and these injunctions were considered to be sacred and mandatory.

[Shrimati Maya Ray]

Mr. Rau wished to place the Directive Principles on the highest plane possible. His recommendation was that if anything was done in pursuance of the Directive Principles and if it ran contrary to the rights that were enshrined in the Fundamental Rights chapter, the Directive Principles should be given precedence. He observed this in the context of there being a conflict between the Directive Principles and the Fundamental Rights. The Fundamental rights chapter dealt with the rights of individuals, whereas the Directive Principles dealt with the rights of society as a whole. In view of this, he said that the interests of the larger sections should prevail over narrower interests. Obviously, the larger interests must prevail over the very meagre individual right. Therefore, it stands to reason that the larger interests of the masses must take precedence over the narrow individual needs; if not by peaceful methods as we are doing today, then inevitably by violent methods, the precursor of which we have seen in Bengal in our times. At least Shri Gupta will agree with me on that. In other words, the fundamental rights are for the protection of the rights of the individual, and the Directive Principles are for the protection of the rights of the interests of the society as a whole. Can we wait any longer when the vast millions of our people are living below the poverty line, 40 per cent in the whole of India and 70 per cent in the Eastern regions? There is no time to waste. There are demands for a Constituent Assembly, a Select Committee, this that and the other. I do not think we should be diverted in any way from what we are doing today, and that is, legislating on this particular Bill. With these few words, I support the Bill.

SHRI G. VISWANATHAN (Wandiwash): Mr. Deputy-Speaker, Sir, none of us wants, at least those who believe in a welfare State do not want, the Constitution to be a static and inflexible document. It should not be

inflexible but it should be a living and dynamic document. Hence, it requires changes. When we agree with the argument that changes are required in the Constitution, the next question which is asked, and which is being debated, is who has to make the changes, who has to amend the Constitution. I have no doubt that the people alone have the mandate and they are the repository of power, and they can make the changes through their representatives. The making of law is the prerogative of the elected representatives of the people, namely, Parliament. It can never be left to anybody else, be it the judiciary or any other organ of State.

No doubt, in this very House a few years back we had a heated discussion on the independence of the judiciary. I myself quarrelled with Shri Mohan Kumaramangalam and his concept of committed judiciary. I stand for the independence of the judiciary. There is no change in my stand, so far as the independence of the judiciary is concerned. I do not want anybody to denigrate or talk in derogatory terms about the judiciary. But, at the same time, under the guise of interpretation of the Constitution, if the Supreme Court or some other court surreptitiously would like to change for fundamental law of this country, including the constitutional law, or bring about a new concept totally alien to the Constitution, I am certainly here to oppose it. The Supreme Court is not a third chamber and, certainly, it is not a super-Parliament. What cannot be done directly by the Supreme Court cannot be done by it indirectly.

Let us first take the preamble. I am very happy that the Swaran Singh Committee recommended, and the Government agreed, that "socialism" and "secularism" have to be included in the preamble. It is not just the mere inclusion of two words. I think it is going to give a new direction for the Government as well as the people of this country. It shows the aim which we want to achieve. Here I

would like to quote what Shri Jawaharlal Nehru said because it will be very appropriate at this moment to remind ourselves of his view. He said:

"I am convinced that the only key to the solution of the world problems and India's problems lies in socialism; and when I use this word, I do so, not in a vague humanitarian way, but in the scientific and economic sense. Socialism is, however, something more than an economic doctrine. It is a philosophy of life and, as such also, it appeals to me. I see no way of ending poverty, the vast unemployment, the degradation and the subjection of the Indian people except through socialism. That involves vast and revolutionary changes in our political and social structure, ending of vested interests in land and industry, as well as the feudal and autocratic State systems."

I would like the Treasury Benches to mark the words of Pandit Nehru, "the ending of vested interests in land and industry". This is what Pandit Nehru wanted to achieve, and I am very happy that we are putting the same in the Constitution.

When we talk about fundamental rights, we are always reminded of the clash between the fundamental rights and the Directive Principles of State Policy. Fortunately or unfortunately, the first clash between the fundamental rights and the Directive Principles took place in my State. At that time it was known as the State of Madras. It was the case of the State of Madras vs. Champakam. In the medical colleges, out of every 14 seats, two were reserved for scheduled castes and scheduled tribes and two for the backward classes of the Hindu community. This was challenged and the Supreme Court held that the Directive Principles were going against the fundamental rights and hence it held it void against the Constitution.

Talking about the Directive Principles, Dr. Ambedkar said:

"Surely it is not the intention to introduce in this Part these principles as mere pious declarations. It is the intention of the Assembly that in future both the Legislature and the Executive should not merely pay lip service to these principles, but they should be made the basis of legislative and executive action that they take hereafter in the matter of the governance of the country."

How far the Central or the State Governments have fulfilled the wishes of Dr. Ambedkar is a question worth considering.

In the case that I mentioned, the Supreme Court said:

"The Chapter of Fundamental Rights is sacrosanct and not liable to be abridged by any legislative or executive act or order. The Directive Principles of State Policy have to conform to and run as subsidiary to the Chapter of Fundamental Rights."

What we are endeavouring now is to elevate the position and status of the Directive Principles. They will not be subsidiary to the fundamental rights any longer. We are putting them almost on a par with fundamental rights. I do not understand why anybody should quarrel with this and argue against this proposal.

I am very happy that a new Chapter is going to be introduced on fundamental duties. There are ten duties, like the Ten Commandments. I hope the Government will come forward to add one or two more. Thinking of fundamental duties, I remember that our late, lamented leader, Anna, used to harp upon three things—duty, dignity and discipline. In Tirukkural, the ancient Tamil classic, you will find the duties of almost everybody defined, those of the king, the minister, the father, the son and

[Shri G. Viswanathan]
so on. I think that payment of taxes should be included as one of the duties. The Swaran Singh Committee recommended it, but I do not know why Government has not accepted it.

J. S. Price has said:

"One of the least popular duties of the citizen is the payment of taxes, both national and local, for, without finance, effective Government would soon come to an end."

Tax evasion cannot be treated lightly in this country. I am happy that the income-tax authorities and the Directorate of Enforcement are very alert, active and impartial, and very alert, active and impartial, and are people in this country who own crores of money. This money is not brought into account, and ultimately no tax is paid. In no other country of the world are there so many benami transactions as in this country. There are also benami trusts, benami businesses, benami houses and even benami wives in this country. There is no parallel in the world for this. If they do not bring their black money into their accounts books, I plead with the Government that they themselves should be brought to book. Tax-dodging millionnaires should be treated on a par with smugglers, if not robbers, because they rob the wealth of the Government.

I want Government to reconsider the transfer of certain subjects from the State List to the Concurrent List. There are so many other subjects which I want the Centre to take over, for example, inter-State rivers and irrigation. My hon. friend Shri Gopal took pains to get the signature of more than 150 Members to suggest to the Government that inter-State rivers should be taken over by the Centre. I wanted it to be given a serious thought so that the river water disputes get easily and quickly solved. I want that all the inter-State rivers should be put in the Concurrent List.

We are going to be judged by the posterity not by our words but by our deeds. With all the radical amendments to the Constitution, what are we going to achieve? What have we achieved in the last 20 or 25 years? Despite the MRTS Act and the MRTP Commission, the monopolies are growing in this country. Are we going to allow the existing monopoly houses to continue or are we going to allow the new monopoly houses to grow in this country? This is a question on which I want the Government to give a serious thought. If they want to create an egalitarian socialist society, it is quite possible. After all, where there is a will, there is a way.

Finally, I would request the Prime Minister and the Law Minister not to reject the idea of a Joint Committee. If you want a more careful consideration and a thorough discussion, I think, the idea of a Joint Committee has to be considered seriously.

DR. HENRY AUSTIN (Ernakulam):
Mr. Deputy-Speaker, Sir, the Constitution (Forty-fourth Amendment) Bill is a landmark in the amending process started almost in the first year of our Republic. If my reading of the record is correct, I understand, there have been amendments to as many as 103 articles of the Constitution. This Constitution Amendment Bill itself contains 59 clauses although many of them are consequential.

A casual observer might think that this reveals the weakness of our Constitution. I do not subscribe to this view at all. If our Constitution has been successfully amended so many times, it shows the vitality and the enduring capacity of our Constitution. A Constitution is not an immutable document. A Constitution which is the organic and fundamental law of the land, at best, only legalises or formalises the social conquests of the people of the country, at any given

time or period of history. When the people by political action or legal action make further conquests, such conquests will have to be registered in the document. Then alone the document can be called a living document. If the Constitution is to be amended in a major way now, it is a tribute to the people of this country who have been able to make so many fresh social conquests and this Constitution is open for inclusion of those fresh conquests. This is the real significance of this Constitution forty-fourth Amendment Bill. If you look into the background of Constituent Assembly, you will find the need of amending the Constitution is ingrained into it or perhaps inherent in it.

It is a fact that the Constituent Assembly was a very limited body; it was not a Constituent Assembly elected on the basis of an adult franchise. As some of my friends have pointed out, some of the members of the Constituent Assembly were the *diwans* of erstwhile native States. Of course, there were some legal luminaries. But those legal luminaries were mostly the representatives of the so-called elitist class or the representatives of various feudal elements. To them, the Directive Principles of State Policy enshrined in the Constitution seemed un consequential. Their anxiety was to safeguard their own interests or the interests of individuals, particularly, the right to property and other similar vested interests. That is why Fundamental Rights were given precedence over Directive Principles of State policy. Again, at the time the Constituent Assembly was meeting, our country was passing through a traumatic experience. There were communal riots and the whole country was bruised by bloodshed. There was a foreign attack on our land in Kashmir. So, the main concern of our great national leaders in the Constituent Assembly was security and law and order, and unity of

the country and this work of our leaders seems to have been exploited by representatives of the vested interests to safeguard their own interests.

Now, thanks to the dynamic leadership of the Indian National Congress, we have come to a stage when we are trying, by amending the Preamble the key to the Constitution, to incorporate two great ideals which have given inspiration to the freedom movement—I mean, the concepts of Socialism and Secularism. If this idea of including socialism or secularism in the Preamble had been mooted in the '50s or even in the '60s, it is common knowledge that it would have been resisted, and it was resisted, at various levels. But today we have been able to frustrate all anti-socialist and theocratic forces in this country and I don't think that, except for a small segment of our irrational public life, the citizen in general would be coming forward to oppose the inclusion of these great ideals of socialism and secularism. By socialism it is meant that the vast majority, that is, about 85 per cent of the people stand for a better day, a day when they will really enjoy the fruits of the freedom struggle, that is, equality and affluence or at least to ensure one or two square meals a day in freedom and dignity. To those 85 per cent of the people, socialism or an Agalitarian society is much more than all the jurisdicticism, all the legalism and constitutionalism that is being advocated by the vested interests in this country. I am sure that the Preamble, which is an integral part of an integrated document, when it incorporates the concept of socialism, will have caught the imagination of the vast majority of the people who were by and large forgotten men at the time our founding fathers made this Constitution. This is a major and significant change because it will have brought satisfaction to the vast majority of the toiling people.

[Dr. Henry Austin]

In the same way, when we amend the Preamble to include the word or concept of secularism, it means a big thing. I would say it is the concept of secularism that distinguishes India from many other polities. If you study the Constitutions of other countries in the world, particularly of the countries in the developing world, you may see that this idea of secularism has not found any significant place. In the European world, when I met some Leaders of Parties, many of them asked me 'what do you mean by secularism?'. Whereas in the European context, secularism has a different connotation—it reflects the conflict between the Church and the King—in this country it is a totally different concept: it reflects the tolerance, generosity and the understanding of the majority community. In a country where 85 per cent of the people follow one religion and when that religious Community comes forward or their intelligentsia comes forward and says that this country will not be a theocratic State but that the minorities will have the same freedom and rights as the majority community, then it reflects the progressive and enlightened ideals of the country and the wisdom and tolerance of one majority community. The inclusion of such ideals in the Preamble—the key to our Constitution is a major achievement, and this Bill seeks to incorporate them.

If you analyse the political history of this country, you will find that the major opposition to every effort to convert the Constitution from a mere legal document to an effective instrument of social policy or socio-economic revolution has been, in the earlier stages, the right reaction and, later on, it was the left adventurism. In the mid-'60s and early '70s it has been a combination of right reaction and left adventurism.

In the interest of brevity, I would say that, in the early stages, Pandit Jawaharlal Nehru met this political

challenge, and in the later stage, our esteemed Prime Minister met this challenge more explicitly and effectively and the grand alliance was defeated. But even as they had been able to frustrate the attempts at the political level, a new threat came from another source, a source from which we never expected this, that is, the judiciary. It is well known how judicial pronouncements have been made, time and again, adversely affecting progressive legislations like the abolition of the Privy Purses and Bank nationalisation. It is also well known how we had to resort to the Constitution Twenty-Fourth and Twenty-Fifth Amendments which had a great bearing on our socio-economic objectives. In the words of the Law Minister, we had to pay through the nose to redeem those progressive legislations. Even after the Constitution Twenty-Fifth Amendment we are told by judicial pronouncements that the power of Parliament to amend the Constitution is not that plenary and that the basic features of the Constitution cannot be amended. This is a major threat that the Parliament is now facing. Every person who has an iota of understanding of the democratic process or of the mechanics of parliamentary democracy will own that, by these recent judicial pronouncements, the judiciary were able to relegate Parliament to a secondary position. If one studies the *sententia legis* of the Constituent Assembly or the founding fathers of the Constitution, it would be seen that this Parliament was intended to be a model Parliament for the entire democratic world. But by these recent judicial pronouncements, our Parliament appeared to the people as one which is bereft of that complete sovereignty or power which ought to be vested in the Parliament because our Parliament is intended to be the ultimate repository of political power. It is in the interest of redeeming Parliament from that position to which the judiciary had driven it, that this Bill has been brought forward. By this Constitution Amend-

ment Bill we are going to redeem the prestige, the status and the sovereignty of this Parliament. And in spite of all kinds of legalistic and juridical arguments, I hold the view that this Parliament is totally competent to amend every article of the Constitution.

Sir, yesterday Mr. Frank Anthony said that, in our efforts to elevate the Directive Principles of State Policy or giving them precedence over the Fundamental Rights, the interests of the minorities were affected. A close study of the Constitution and that amending Bill would reveal that, even as we have given primacy to the Directive Principles of State Policy, which epitomize the aspirations of the poor people, the Law Minister has seen to it that the rights of the minorities are safeguarded under Part III of the Constitution—and those articles have not been superseded. In a vast country like ours, it is not by provisions in the Constitution or by legislation alone that the interests of the minorities are to be protected. I congratulate the representatives of certain minority communities, particularly, the christian community, in the Constituent Assembly: the Christian leaders, for instance, came forward and said that they would not seek any Constitutional guarantee for safeguarding their interests, and subsequent events have shown except for certain minor aberrations that their interests have by and large been protected by the goodwill of the majority community and by the enlightened leadership of the Congress.

This Constitution Amendment Bill is a milestone in our constitutional process and I fully support it.

SHRIMATI PARVATHI KRISHNAN (Coimbatore): Mr. Deputy Speaker, Sir, we are here discussing an extremely important measure which, in recent weeks particularly, has been a matter of great discussion both in the press and in various political parties and in various forums. This Bill, I would say as many others

have already said, is a turning point in the struggle that is on between the patriotic forces of democracy and the anti-national forces of reaction. This is how my Party views this Bill. It is not that we do not see any defects in the Bill. There are certain defects in it. We have therefore, proposed a number of amendments to improve the Bill.

14 hours

During the last nine years we have been striving to overcome the hurdles which have arisen—I am quoting from the statement of Objects and Reasons:

“...in achieving the objective of socio-economic revolution which would end poverty and ignorance and disease and inequality of opportunity....”

These hurdles are sought to be overcome by certain provisions of this Bill. I use the word ‘certain’ with a certain reason behind it, because we are meeting in a very peculiar condition. There has been a debate for two years on the need to amend the Constitution and to bring within the Constitution provisions which are necessary in order to assert the supremacy of Parliament in this country; to uphold and strengthen the principles of parliamentary democracy. Then, after the Swaran Singh Committee came out with its recommendations, put it before the AICC, the leading body of the ruling party and got its seal and approval, it amazes me, if not astonishes me, that one P.C.C. after another should come out with the slogan of a Constituent Assembly. It is very peculiar. On the one hand, in a hysterical fashion, you call for action against people like George Fernandes,—you have a case against him in a court for a conspiracy to overthrow a legally elected Government by violent means—on the other you echo the same slogan as of George Fernandes: This Parliament has no right to amend the

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Constitution, we want a Constituent Assembly; go back to the people, etc. It is amazing. I cannot understand, how this can happen. Over and above that, I am told, while we here in Parliament are seriously discussing a major measure of this kind, dinners are being thrown by Ministers and even by Cabinet Ministers people who are in leading positions particularly in positions of authority and are expected to lend their minds to the supreme task of how this measure can be strengthened, and can be improved—to collect signatures for this reactionary slogan of the total revolution *walas*. What is going on? This is what we learnt from certain sources.

SHRI D. BASUMATARI (Kokrajhar): This is not correct.

SHRIMATI PARVATHI KRISHNAN: I have not mentioned any name. I said that we had learnt. If the shoe pinches, I am sorry, but I am not yielding and let the shoe pinch.

So far as the question of whether this Parliament is competent to amend the Constitution or cannot amend the Constitution is concerned, may I point out to all those doubting Thomases and all those who come forward with this reactionary attack on this Constitution (Amendment) Bill, that in 1971, the people of this country gave the Parliament a mandate, a mandate for the *gharibi hatao* programme. It is on the basis of that mandate that you have passed the Twenty-Fourth constitutional amendment, which took you a step forward towards that programme. But what has been the experience of these five years. One after the other hurdles have been there utilised by vested interests. That is why one part of the Statement of Objects and Reasons of this amending Bill has made quite clear the purpose of this constitution amendment Bill. The Communist Party welcomes this Bill and supports those

provisions which carry forward whatever is stated in this regard in the Statement of Objects and Reasons.

We have the mandate to overcome those hurdles and we are duty-bound to carry out that mandate. There has been a two-pronged attack, one asking for a Constituent Assembly and the other asking for a Joint Select Committee. The Joint Select Committee is nothing more than a slogan. It was a move in order to block the progress of this Bill and block the progressive legislation that this Bill brings forward.

AN HON. MEMBER: And also to uphold the dignity of the House.

SHRIMATI PARVATHI KRISHNAN: I would accept that amendment and I hope that the ruling party would accept some of our amendments in the same manner.

I would now like to come to the contents of the Bill. We welcome those clauses which are relevant to the Statement of objects and Reasons and particularly the one in the Preamble which reflects the aspirations of our people. In the Preamble we are going to introduce the words socialism, and secularism. But, at the same time, I cannot understand how the Minister with all his sagacity and all his wisdom introduces clauses that are injurious to the very statement of objects and reasons. For instance, the Statement says:

"The democratic institutions provided in the Constitution are basically sound and the path for progress does not lie in denigrating any of these institutions. However, there could be no denial that these institutions have been subjected to considerable stresses and strains and that vested interests have been trying to promote their selfish ends to the great detriment of public good."

I think it is in this background that major amendments are being

proposed particularly to the Directive Principles. Now, at the same time, why should he by the backdoor introduce certain provisions which are certainly not necessary. Because the Government and Parliament already have the powers to check, for instance, the divisive forces. I would like to remind the Minister that you have been able to check the forces of division in Tamil Nadu and when you took the decision to dismiss the Karunanidhi Government the people of Tamil Nadu and we whole-heartedly supported that move and you got democratic approval to a very correct measure. You have got that power. Then why now do you want to introduce something more and talk about anti-national associations and in this way bring in something which will operate against the democratic and patriotic forces in this country? What we want is that you should strengthen more and more the content of socialism in this constitution because this would reflect the aspiration of the people and that is why we have also proposed an amendment. But, at the same time, you must respect the federal nature of the constitution and that is why we cannot understand why there should be the power to send armed forces into some part of our country without the State Government coming into the picture at all. It is with this view that we have proposed an amendment so that the federal nature should be protected and those powers which are necessary in order to check forces of division and forces which may be against national integrity of our country are already there and can always be used. But no unlimited power can be given in the Constitution to the executive.

Again we would like to know why it is suddenly that we find that we have been asked to strengthen the powers to the executive and the bureaucrats. The essence of the Bill is that the supremacy of the Parliament over the Judiciary should be ensured. At the same time, we should

safeguard against bureaucratic excesses and against the excesses of the executive authority. Already my leader, Shri Indrajit Gupta referred to the manner in which when the AITUC session was being held, a public meeting was not allowed. Not only was that done, but earlier a petty-fogging official sends a letter to the AITUC, the premier trade-union organization in this country, founded in 1920, where he said, 'You have no right to discuss 1, 2, 3, 4 in your delegated session. Who is this fellow to interfere with the democratic processes of a patriotic, democratic organization of the country. It is this sort of power that you seek to give here and we wish that the democratic forces should be safeguarded against all these excesses and against all inroads into their democratic functioning.'

MR. DEPUTY-SPEAKER: The hon. Member's time is up. You have only two minutes more.

SHRIMATI PARVATHI KRISHNAN: You are ringing the bell. So, I will have to conclude as early as possible. Therefore, I would like to say, once again, I would like to stress that as far as this slogan or demand for a Constituent Assembly is concerned, I would like to remind the House that there is no Constitutional sanction for this particular demand. As far as the Constitution is concerned, there is no provision for a Constituent Assembly. But the Constitution does provide that Parliament can amend the Constitution as and when it finds it necessary in a growing country, in a growing economy and in a dynamic country. Therefore, from time to time these requirements are there. In 1971, a mandate was given to this Parliament. In these five years we have found that that mandate could not be carried out in full because of certain drawbacks in the Constitution. Therefore, this has resulted in this amendment to the Constitution. I would, therefore, appeal to all the members here to lend their full support to the measures in this Constitution Bill which reflect the Statement of Objects and Reasons in

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 this regard. I would appeal to all the members here to support our amendments to further strengthen those Objects and Reasons and remove those clauses which are injurious to the progress of democratic forces in this country.

We were all united in a whole hearted manner and without any reservation whatsoever in fighting against the forces of total revolution and counter revolution in this country. I invite everybody again to come forward and unite with us in fighting those forces of total revolution which today want to come forward in the garb of Constituent Assembly—the same people are there George Fernandes, Karunanidhi, the Jan Sangh who have come forward in calling for a Constituent Assembly or a Select Committee. Therefore, let us fight against those forces with oneness and let those Ministers and their flunkies—who are going around collecting signatures for this slogan desist from such activity. This is the only way which can take our country forward.

SHRI DHARNIDHAR DAS (Mangaldai): The 44th Constitution Amendment has a greater relevance in the emergency. I say this because one Member was sore about the emergency which actually saved the country from the danger of a fascist counter-revolution plotted by reactionary forces and the vested interests. It is Emergency that has given us the scope to discuss here the Constitution 44th Amendment Bill which will consolidate the gains of the emergency by giving greater strength to the Government and the people to fight the reactionary and subversive forces and the forces of vested interests who are now working underground so that democracy cannot survive and socialism cannot be brought about in the country for the benefit of the masses.

This 44th Amendment is a charter of socio-economic revolution. By passing this Bill the Parliament will declare to the world that India is a Socialist Republic. This is in a way the fulfilment of the Socio-Eco-

nomic aim of the National Revolution which had a two-fold aim, namely, the establishment of political independence and then the establishment of socialism in the country. It has not sprung up suddenly. Socialism and complete independence were the twin ideals declared by Pandit Jawaharlal Nehru in his Presidential Address in the Lahore Congress Session in 1929. Even in 1928 the demand for complete independence and socialist republic was made in the Calcutta session of the congress by the younger generation of the congress. What is important to note is the belief in the minds of some people that socialism is not possible of being achieved through parliamentary democracy because the countries that have established socialism have done it through revolution and not through parliamentary democracy. But now this Parliament has established the fact that parliament can play a revolutionary role to bring about all radical socialist changes in the constitution so as to establish socialism through constitutional means.

Even then it remains to be explained as to what is meant by socialism.

Pandit Nehru himself 40 years ago gave the meaning of the word socialism. He said: "When I use this word, I do so not in a vague, humanitarian way, but in a scientific, economic sense". Thus he insisted on scientific socialism. Mahatma Gandhi himself introduced 'Economic Equality' in his constructive programmes. In a conference of constructive workers in Madras someone asked him to explain the meaning of 'Economic Equality'. He said, "From each according to his ability to each according to his need". He mentioned the name of Marx as having said this.

Of course there are different kinds of socialism. Nehru warned the country against distorted meaning of socialism. He said: 'Socialism has acquired different meanings; it is even interpreted with the logic of capitalism'. Hitler devised "National Socialism" to deceive the working class that

was there influenced and inspired by this word and by using this very word he imposed a fascist regime in Germany destroying the socialist and working class movement. There are socialists of this kind in our country also. They are joining hands with the communal and counter-revolutionary forces working to overthrow the duly-elected democratic government of the country. We have to guard against this kind of chauvinist reactionary variety of so-called socialism. Socialism suited to Indian conditions has been made clear to some extent by Mahatma Gandhi and Pandit Nehru. But in the present context, we should make it further clear.

Since I have no time to discuss socialism in its scientific concept. I am coming to my amendments.

MR. DEPUTY-SPEAKER: Your time is almost over.

SHRI DHARNIDHAR DAS: Give me at least five minutes.

MR. DEPUTY-SPEAKER: You have two more minutes.

SHRI DHARNIDHAR DAS: The point at issue is the right to property. Fundamental rights are to be enjoyed by one and all like the freedom of speech and freedom of association. This right to property cannot be enjoyed by all equally. Rather this right can be enjoyed by a few wealthy people negating the same right for more than 90 per cent of the population. It is thus negating itself to have any validity.

So, I say that the right to property cannot remain in the Fundamental Rights Chapter. If it remains, it will be inconsistent with socialism. Socialism is anti thesis of capitalism. It is based on private ownership of the means of production whereas socialism is based on the means of production and distribution. To make it clear, let me indicate three kinds of property:

1. Personal property in consumer goods. This can be earned by one's own personal work.
2. Social property—the means of production and distribution.

There is another kind of property accepted in the socialist countries also, that is, the cooperative property in the means of production and distribution.

In this way, we may define property. Anyhow, the right to property should not be in the Fundamental Rights Chapter. For socialism, private property in the means of production must go and must be socialised. Another point was emphasised by Shri Khadilkar. That was about anti-people and anti-socialist outlook of the bureaucracy and its destructive role in implementing radical measures. Lenin called it "Lousy bureaucracy" and duly cited it to party control and supervision. In the emergency, we have this experience that the fascist forces are raising their heads. So, they should not be given—I mean the bureaucrats—the sole authority and power in the matter of running the administration and in running the economy of this country. Participation of masses in a democracy is a must. This should be done if we want to consolidate the gains of emergency or if we want to make the democracy meaningful and if we want to have a socialist democracy in this country.

MR. DEPUTY-SPEAKER: Mr. Mavalankar, have 10 minutes only.

SHRI P. G. MAVALANKAR (Ahmedabad): Mr. Deputy-Speaker, Sir, some of us are opposed to this Bill totally, so, we want more time.

MR. DEPUTY-SPEAKER: I cannot discriminate. Do not do that.

I allow you ten minutes.

SHRI P. G. MAVALANKAR: Mr. Deputy-Speaker, Sir, my opposition to this Constitution Fortyfourth Amendment Bill is total and strong.

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Words seem to be inadequate to express my resentment and resistance. This is a massive measure of 59 clauses and it contains far reaching and sweeping changes. To call it a minor piece of legislation is a mockery of words.

The Government, even the Law Minister who started with his speech on Monday, were not able to explain as to why all this at this juncture, at this point of time! I must say that the Law Minister's defence was very poor. In fact, this is not a Constitution Amendment Bill; it is a Constitution Alteration exercise! The Constitution is almost rewritten, almost revised wholly, because the very face of this constitution is being changed the heart is being weakened beyond repairs, and the soul is being disturbed and damaged, also beyond repairs. And, all that is being done cleverly and cunningly by keeping the outer frame work of the Constitution of India. That is why I consider this as a dishonest move on the part of the Government. They could have come with this sort of a Bill in the normal times. We would have joined in giving them suggestions, comments, criticisms etc. But the time at which they have come with this Bill is nothing short of political dishonesty.

Now, Sir, the Constitution is not just a framework nor is it merely a skeleton. Its essential contents, its soul etc. are vital and the people have the full freedom to develop them in the atmosphere of liberties. If that vital element and soul of the Constitution are taken away, what remains except the skeleton? Why have a skeleton without such a soul? Much has been talked about the basic structure. I am not going to enter into any arguments about the theory of basic structure.

But whether the theory of basic structure is there or not, the fact remains that the base and substance have to be there all the same and for

all times. If then that base and the substance are there what are they? Indeed, the Law Minister himself stated in his statement of objects and reasons:

"The democratic institutions provided in the Constitution are basically sound and the path for progress does not lie in denigrating any of these institutions".

My charge is that the Law Minister and the Government of India are going against this very sentence which has been put in by them in the statement of objects and reasons. Because, if the Judges have not been able to say what is the basic structure, at least they pointed out the obvious; they located perhaps not completely or adequately the basic structure. But merely because the Judges have failed to identify and locate the basic structure completely, can we honestly say that there is no basic structure whatsoever?

These comprehensive constitutional changes have come at a time when they ought not to have been brought, because this is not the time, and certainly this is not the style and manner of bringing them and making these changes. Indeed, this Parliament is definitely not entitled to make these changes. If indeed a change was required urgently, I would have said that a change was needed to prevent the executive from using the constitutional framework to destroy the constitutional substance, as they did by declaring the internal emergency on 26 June 1975, because since that date we find that executive excesses have been increasing and they are making a mockery of fundamental rights of free movement, of free expression, of an open society.

The Preamble to our Constitution mentions "the dignity of the individual". But I find that increasingly during the last 16 months and more, the dignity of the individual in India

is being attacked and insulted, and I see that the individual is being constantly and increasingly haunted, humiliated, silenced and suppressed.

Moreover, Sir, this Parliament has no mandate to make these amendments. The Law Minister is saying that the mandate was obtained in 1971. If so, why is it that you did not do anything of this nature in the last five years? Why is it that you have chosen this time in utter and indecent haste to hurry through this measure? Is it because you have got a two-thirds majority and therefore you can do it? If that is so, that is all the more reason why you should not do it today! If you are sure that the whole population is with you, go to the polls, to the hustings, have elections which must be free and fair, genuine and not mock or rigged elections and after getting the necessary mandate of the people, by all means make the necessary changes. But you are afraid that you will not get a two-thirds majority next time, and therefore you are going about this business in a hurry today!

These comprehensive constitutional changes have deep-rooted import and significance and at this moment and in this style these should not be rushed through this Parliament. These changes suffer obviously from one fundamental and grave defect, and that is, they lack legitimacy, not just legal legitimacy, but political and moral legitimacy as well.

Of course, constitutional changes are necessary occasionally. Sometimes they are even imperative. But surely one should ask: Has there been a free debate? Have the people been able to express their views fully and freely and publicly, and comment on them critically and candidly? The Law Minister says that he has seen thousands of articles in the Press. Thousands of the same article? Reprints of the same article? In my own constituency of Ahmedabad in Gujarat, I know that we wanted to

1960 LS-4.

explain these constitutional provisions to the people and comment upon them. But the Police Commissioner, the district authorities, did not give us the permission to do. And now you are saying that there has been a free debate. The fact of the matter is that there has been no free debate. I ask: are there conditions conducive to a free debate today? Is there a free press? Is the platform available to one and all? Is the public forum in continuous and free possession of the people? Are the media of radio and TV equally serviceable to differing, opposing and conflicting view points and opinions? The answer is obviously and most categorically 'No'! The publicity has been almost entirely one-sided; there has been practically a one-way traffic.

Therefore, it is all wrong to say that there has been a free debate. The Law Minister says that the opposition is politically motivated. This is a strange argument coming from a strange corner. My charge is that it is the Government which has come with this Bill with a political motivation, and they expect a non-political reaction to this political motivation!

For all these reasons, therefore, I am opposing this Bill. In normal times, I would have tabled amendments with a view to effecting improvements etc. But because this has been done in an abnormal fashion, in a most extraordinary fashion, in a most undemocratic fashion, what is the good of giving amendments?

In the remaining few minutes at my disposal, I would only say this. In the Preamble you have sought to, add the words 'socialist' and 'secular'. Now, by conviction as also by practice, throughout my life, both public life and private life, I have been wedded to socialist and secular ideals.

But I want to ask you: can we change the preamble which was passed on 26 November 1949 and that was specifically mentioned in the Preamble which says: "We the people of India etc." The Preamble is a part of the

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Constitution, not strictly; though undoubtedly it is the key of the Constitution, as the hon. Law Minister rightly said. Therefore, if you put words today "socialist" and "secular", in the preamble, I am afraid a time will come when some people might say: remove the word "democracy". Already the substance has gone; the word may also go next time.

I want to say further that there is no basic incompatibility between the Fundamental Rights and the Directive Principles of State Policy; indeed they are complementary to each other. The founding fathers said wisely that certain rights were possible to get in a court of law and certain rights were so possible and justiciable only a little latter. So, you cannot say that the fundamental rights are opposed to the directive principles; they are both in the same bag. Now Sir, I subscribe 100 per cent to the economic and social revolution which Mr. Gokhale refers to again and again. But if he thinks that it is so important today, I ask him in all sincerity: Why is it that their government have not come out with a straight amendment of articles 19(1)(f) and 31 dealing with the right to property; and removed them from the fundamental rights and make them ordinary rights? Let Parliament put the necessary restrictions on the ceiling of income and wealth. But why do you want to curtail my freedom of speech in order to achieve the social and economic revolution? Surely, my freedom of speech does not come in the way of that economic and social revolution. If I have excess property—you take it, in the interest of society. But if you want freedom and democracy to remain in our country then I think that this is a wrong and dangerous principle you are adopting, namely, supremacy of the Directive Principles over the Fundamental Rights. Judicial review and judicial scrutiny have also been severely curtailed. Article 31(b) is there; the 9th Schedule is

there. They are both a major encroachment on the fundamental rights and democracy. Look at the tragedy. The 9th Schedule originally contained only 13 Acts and most of them were about agricultural reforms, dealing with the abolition of zamindari and land lordism. Pandit Jawaharlal Nehru of revered memory being a sensitive and a democratic soul, was almost apologetic to this very Parliament when he said: we put this, that is, the 9th Schedule only because we do not want obstacles in the way of abolition of zamindari and landlordism, in the way of ensuring economic and social justice. But now you have put in that schedule the Representation of the People Act, and many other Acts including the one curbing the freedom of the Press. This list of original 19 laws has now swollen to 124. Nothing could be more terrible and more undemocratic! Sir our Constitution has rightly enjoined a reasonable restriction on every fundamental right. But it cannot be an unreasonable restriction. My point and grievance are: all those laws which you are making one after another are unreasonable restrictions on the fundamental rights.

You have included a chapter on duties; very good. But what about the duties of MLAs' MPs? What about the duties of rulers, status-holders and status seekers? They have no duties, apparently! Then, again the centre-state relationship had been altered in favour of the centre, not in favour of the state, thus damaging the federal structure. The centre can now deploy forces in any state, even without the consent of that state. The question of disqualification of Members of Parliament and of State Legislatures is left at the discretion of the Central Government. The term of Members is sought to be increased from 5 to 6 years. I am sorry, my esteemed friend Shri Salve argued that it should be seven years. Then, why not ten years? Why not permanent membership, permanent presidentship and the rest of it on communist pattern? Sir, the real point is that we

must periodically regulated go back to the people who alone give in the strength and the health in a democratic policy. I want to conclude by saying this. The President's office has been lowered by binding him strictly and fully to the advice of the Prime Minister and the Council of Ministers. Moreover, Parliament is made supreme by an amendment of article 368 in such a way that whatever we do cannot now be challenged in any court of law. I want to conclude however, by saying that there are certain things within the Constitution which, and I hope our friend Shri Gokhale will agree, are not amenable even to a referendum or people's will at any election. They are the inalienable rights of all human beings. If these are taken away, nothing remains!

So, let us not do anything in a hurry and in an indecent way like this. Let us go to the people. Let us have free and fair elections. The people will give us strength. It does not matter whether you and I come back to this House or not. That is not the point. The point is whether democracy remains in this House as well as outside. That is much more important. From that angle, I oppose this Bill because it has come at the wrong time and in the wrong manner.

SHRIMATI MUKUL BANERJI (New Delhi): Sir, the Constitution was framed by the best talent in the country. All shades of opinion were taken into account by the constitution-makers. Though the Congress was in a majority, it did not impose its own will on the Constitution. Even outside people who were not in the Constituent Assembly were consulted and a national consensus was formed to frame the Constitution. Even then, while speaking on the famous objectives Resolution, while reposing full faith in the Constitution, Pandit Jawaharlal Nehru said:

"I should like the House to consider that we are on the eve of revolutionary changes, revolutionary in every sense of the word, because when the spirit of a nation

breaks its bonds, it functions in peculiar ways and it should function in strange ways. It may be that the Constitution this House may frame may not satisfy that free India. House cannot bind down the next generation or the people who will duly succeed us in this task."

This is from the Constituent Assembly debates dated 22-1-47, pages 302-303. This was the view of a visionary who could foresee the future of India and who did not want to put any shackles on our feet so that our onward march should be stopped. After political freedom, the task before us was to ameliorate the conditions of the poor and eradicate poverty and other social evils prevailing in the country. For all these things, the fundamental rights and directive principles were put into the Constitution. But while fundamental rights were enforceable in Court, the directive principles were thought to be almost like directions *per se* and were not enforceable in court. When we were trying to do something for the betterment of the people, specially to the tiller of the soil and the UP Zamindari Abolition Act was passed, immediately the opposition parties and the Supreme Court took cover under Part III, that is, the Fundamental Rights and scuttled that Act. Therefore, within one year, in 1951 itself we had to amend the Constitution so that we could give a better deal to the tiller of the soil. Later on also we found that the fundamental rights and directive principles were coming into clash with each other. That is why in this Bill, the directive principles have been given a better position so that we may have better functioning and achieve our objective of ameliorating the conditions of the poor people. This is why I support this item in the amending bill. When amendments are brought, we find that the role of the Opposition becomes very peculiar and very funny. Whenever some progressive legislation is brought into this House, they find themselves in a very peculiar

[Shrimati Mukul Banerjee]

situation and predicament. Neither can they oppose the amendment directly—otherwise people will go against them, because ultimately the Opposition understands that all these amendments to the Constitution are for the betterment of the people, especially the poor. That is why when the Opposition cannot object to them, they say that they object to the timing and to the method of bringing in of these amendments to the Constitution. But I must remind them that when the first amendment to the Constitution was brought in, in this very House, some of the Opposition parties—those opposing the present measure might not have been there then. But the political 'gurus' of the present Opposition supported that amendment. I would like specially to remind Mr. Mavalankar that his father who was here, supported that amendment.

Some people in the Opposition have said that we must go to the people and face the elections; and then have the amendments to the Constitution. But we have seen that some members of the Opposition parties are very intelligent, individually, and have got sharp memories. But sometimes when they act as a group, we find that they have short memories and forget these things. We had actually so many difficulties in regard to bank nationalization, privy purse and other matters. We went to the polls on this very question of changing and amending the Constitution; and in 1971, the main question which we put to the people was that we wanted to make the changes in the Constitution for the betterment of the people's lot; and we explained it to them categorically. Our Prime Minister specially, was categorical and told the people that we considered the people as supreme. That is why we must do whatever is necessary for the betterment of the people and we must do the task efficiently. Whatever comes as a hurdle in doing that, e.g. striking down of the laws by the Supreme Court, should be removed. That is why we

brought in this bill and we have explained it to the people. I need not remind the Opposition of what the people did. This House constitutes the people's verdict and we have got the right and the people's backing. I do not agree with those who ask as to why we are bringing in this amendment after such a long time. It is not correct. We have brought in many other amendments, too. This is a continuing process.

I also appreciate some of the changes that are being brought in. I am very happy that the words 'socialism', 'secularism' and 'integrity' have been included in the Preamble. Socialism—which has been put into the Indian Constitution—should be of the Indian brand and not of any other brand as some members apprehended.

I am also very happy with the following 3 items, which have been added to the Directive Principles namely, (1) Free legal aid to the economically backward classes; (2) Participation of workers in the management of organizations engaged in any industry; & (3) Protection and improvement of environment and safeguarding of forests and wild life.

I am also very happy that a provision relating to the welfare of children has been put in this. I would also like to appreciate the adding of Fundamental Duties to the Fundamental Rights because no society can function unless duties are provided along with rights. Further, this is not a new thing which we are doing in our country. It is there in the Constitutions of Switzerland and Germany also.

I would end by giving one suggestion. Clause 42, which is going to incorporate Article 228A in the Constitution, says that a State law shall not be declared to be constitutionally invalid by not less than two-thirds of the Judges sitting, and the number fixed is five. The number five is all right in the case of a simple majority, but in the case of two-thirds majority it is not physically divisible. So,

the number may be raised to six. In the same way, in the case of the Supreme Court, the number may be raised to nine as two-third of number seven is not physically feasible.

With these words, I congratulate the Law Minister and the Prime Minister for bringing forward these bold and courageous amendments, in spite of all the criticisms, for the good of the people of our country we must have a dynamic Constitution for our dynamic people. I support the amendments with these words.

डा० चंद्रप्रताप सिंह (बाराबंकी) :

उपाध्यक्ष महोदय, मैं आपका हृदय के धरातल से आभारी हूँ कि आपने मुझे संविधान के 4वें संशोधन विधेयक पर अपने विचार प्रकट करने का अवसर दिया है।

मान्यवर यह एक अत्यन्त महत्वपूर्ण सामयिक और ऐतिहासिक विधेयक है। इस विधेयक पर हमें बहुत गम्भीरतापूर्वक अपने विचारों को प्रकट करना है। श्रीमन् माननीय सदन को ज्ञात है कि कांग्रेस के नेतागण, कांग्रेस दल और कांग्रेस की सरकारें सदैव ही देश के अन्दर सामाजिक और आर्थिक विषमताओं को समाप्त करने के लिये प्रयत्नशील रही है। यह हमारा सौभाग्य है कि भारत की कोटि-कोटि जनता का समर्थन प्रधान मंत्री श्रीमती इन्दिरा गांधी को प्राप्त रहा है। उनके द्वारा प्रधान मंत्री का पद सम्भालने के पश्चात् जो हमारे दल के द्वारा सामाजिक और आर्थिक क्रान्ति देश में लायी जा रही थी उसमें उनके द्वारा गति प्रदान की गई है। उन्होंने इस बात का निर्णय लिया—कि देश की जनता का धन देश की जनता के काम में अग्ये और इसके लिये उन्होंने बैंकों का राष्ट्रीयकरण किया। उन्होंने निर्णय लिया कि देश के अन्दर एक ही प्रकार की नागरिकता रहे, राजा महाराजा और रंक बराबर रहें

और इस हेतु उन्होंने राजा महाराजाओं को मिलने वाले विशेषाधिकार और बैलियाँ समाप्त की। उन्होंने इस बात का निर्णय लिया कि समाजवाद के मार्ग में संविधान की जो व्यवस्थाएँ व्यवधान उपस्थित करती हैं उनमें संशोधन किया जाये। इस कारण से संविधान का 24वाँ संशोधन हुआ। इससे समाजवाद का मार्ग प्रशस्त हुआ। इसी प्रकार से समय-समय पर देश में सामाजिक और आर्थिक विषमतायें समाप्त करने के उद्देश्य से संविधान में महत्वपूर्ण संशोधन किये गये।

देश और विदेश की जो प्रतिक्रियावादी शक्तियाँ, यथा स्थितिवादी शक्तियाँ, साम्प्रदायिक शक्तियाँ हैं उन्होंने सदैव ही हमारे दल के जो इस प्रकार की क्रान्तिकारी कदम रहे हैं उनका विरोध किया है।

इस विधेयक के द्वारा संविधान की प्रस्तावना में इस बात की व्यवस्था की जा रही है कि उसमें समाजवादी और धर्म निरपेक्ष शब्द जोड़ दिये जायें। माननीय सदन को ज्ञात ही है कि कांग्रेस दल और कांग्रेस के नेतागण सदैव ही देश के अन्दर समाजवादी समाज की संरचना के लिये, देश के अन्दर सामाजिक और आर्थिक विषमताओं को समाप्त करने के लिये कृत संकल्प रहे हैं और सदैव ही उसके लिये प्रयत्नशील रहे हैं।

भारत की महान जनता की भी यही भावना और कल्पना है कि देश के अन्दर समाजवादी समाज की स्थापना हो और धर्म निरपेक्ष राज्य हो। प्रस्तावना के अन्दर समाजवाद और धर्मनिरपेक्ष शब्द जोड़े जा रहे हैं, यह कांग्रेस की अपनी नीति शुद्धता में ही है, जो महान जनता की भावनाओं और आकांक्षाओं के अनुरूप है।

संविधान में इस विधेयक के द्वारा संशोधन करने पर संसद् की शक्तियों को न्यायपालिका द्वारा चुनौती नहीं दी जाएगी,

[डा० रुद्र प्रताप सिंह]

इस बात की व्यवस्था की जा रही है। सदन को इस बात का ज्ञान है कि जब भी इस प्रकार का संविधान संशोधन यहां पर प्रस्तुत किया गया है, न्यायपालिका के द्वारा उसमें बाधा उपस्थित हुई। प्रश्न यह है कि भारत की महान जनता के द्वारा जो यह सदन निर्वाचित हुआ है, जब जनता का आदेश इस सदन को प्राप्त है कि भारत के संविधान में वह संशोधन कर सके, तो मुझे ऐसा लगता है कि न्यायपालिका को इस बात का कोई अधिकार नहीं है कि वह इस बात का निर्णय दे कि हम संविधान में संशोधन कर सकते हैं या नहीं कर सकते हैं। मुझे ऐसा लगता है कि न्यायपालिका अपने अधिकार का अतिक्रमण करती है।

इस विधेयक में इस बात की भी व्यवस्था की गई है कि राष्ट्र विरोधी गति-विधियों और संगठनों के बारे में भी संसद द्वारा कानून बनाने की व्यवस्था की जाये पिछली लोक सभा के निर्वाचन के पश्चात्, देश में जिस प्रकार का वातावरण पैदा हुआ, देश में जो अराजकता, अहिंसा और अस्थिरता, का वातावरण फैला; उसमें प्रतिक्रियावादी, यथा शक्तिवादी और साम्प्रदायिकतावादी शक्तियों ने एक गठन करके इस बात का षड्यंत्र किया कि देश में लोकतंत्र समाप्त कर दिया जाये। इन शक्तियों पर अंकुश रखने के लिये यह अनिवार्य हो गया कि संविधान में इस प्रकार का संशोधन किया जाये।

संविधान में अधिकार के साथ कर्तव्यों का प्रावधान है। मैं समझता हूं कि यह ऐतिहासिक निर्णय है। माननीय सदन इस बात से सहमत होगा कि भारत की जो महान सांस्कृतिक परम्परा है, उसमें हमने सदैव कर्तव्य की परिकल्पना की है, अधिकार की नहीं। कर्तव्य के साथ हमारा अधिकार जुड़ा हुआ है। विश्व में भारत एक ऐसा महान देश है, जिसने पहले कर्तव्य की बात की है और फिर अधिकार की

बात की है। यह जो चीज हमारे संविधान में छूटी हुई थी, भारत की प्रधान मंत्री के नेतृत्व में आज यह बात इसमें जोड़ी जा रही है। हमारा ऐसा विचार है कि जब तक यह सृष्टि रहेगी, तब तक हमारी प्रधान मंत्री को याद रखा जाएगा। यह निर्णय गीता के अनुसार है कि हमारा अधिकार अपने कर्तव्य में हो, अपने अधिकार में नहीं।

इस विधेयक के द्वारा सरकारी कर्मचारियों पर अनुशासनिक कार्यवाही की प्रक्रिया में परिवर्तन किये जाने की व्यवस्था जनहित में की गई है। अभी भी देश में अधिकारियों का एक ऐसा वर्ग है, जो आज भी अपने को जनता का स्वामी समझता है। जब राजा महाराजाओं का विशेषाधिकार समाप्त कर दिया गया तो कुछ अधिकारियों के पास इस प्रकार के कुछ विशेषाधिकार रहे, जिससे वह अपने को जनता का स्वामी समझे, सेवक नहीं, तो उनके उन्मूलन की बहुत आवश्यकता है। इस बात के लिये सरकार की जितनी सलाहना की जाये, वह कम है।

प्रधान मंत्री ने जनता की प्रतिक्रिया जानने के लिये इस संविधान संशोधन विधेयक को पिछले सत्र में यहां प्रस्तुत किया। उसके बाद जनता को इस बात का अवसर दिया गया कि वह अपनी प्रतिक्रिया से हमारे नेता और दल को अवगत कराये। इसे पूर्ण अवसर दिया गया और भारत की महान जनता ने उस पर अपनी प्रतिक्रिया व्यक्त की। मैंने अपने निर्वाचन क्षेत्र बाराबंकी की 8 क्षेत्रीय समितियों में बैठक कर के जनता की और क्षेत्रीय समितियों की प्रतिक्रिया ज्ञात की है। सब ने ही इसका स्वागत किया है और प्रधान मंत्री जी को इस बात के लिये बधाई दी है।

भारत की जनता 20-सूत्री कार्यक्रम का कार्यान्वयन चाहती है। भारत की जनता युवा नेता श्री संजय गांधी के 5-सूत्री कार्यक्रम का भी कार्यान्वयन चाहती है। विरोधी दल निर्वाचन चाहना है। मैं तो यह कहना

चाहता हूँ कि जहाँ तक निर्वाचन की बात है, कांग्रेस दल कभी निर्वाचन से पीछे हटने वाला नहीं है, सन् 1971 में भी निर्वाचन हुआ है, 1974 में भी निर्वाचन हुआ है। उस पर परिणाम अभी भूले नहीं होंगे, उसके घाव ताजा होंगे। समय आने पर हम बता देंगे कि निर्वाचन में जनता हमारे साथ है, उन के साथ नहीं है।

जहाँ तक निर्वाचन कराने या न कराने का प्रश्न है, मैं निश्चयपूर्वक कह सकता हूँ कि 20-सूची कार्यक्रम तथा 5-सूची कार्यक्रम का कार्यान्वयन अधिक आवश्यक है बनिस्बत चुनाव के। इसलिए इन कार्यक्रमों का कार्यान्वयन पहले होना चाहिए और चुनाव बाद में।

भूत के हमारे अनुभव, वर्तमान की हमारी आवश्यकताओं और भविष्य की हमारी परिकल्पना के आधार पर प्रधान मन्त्री जी के महान नेतृत्व में संविधान का जो संशोधन यहाँ प्रस्तुत किया गया है, जिसकी रचना हमारे अनुभवी नेता, सरदार स्वर्ण सिंह की अध्यक्षता में गठित कमेटी के द्वारा की गई और जिसको हमारे सुयोग्य विधि मन्त्री के द्वारा इस सदन में लाया गया है, उसके लिए ये सभी लोग बधाई के पात्र हैं।

अन्त में मैं यह कह कर समाप्त करूँगा, कि "हमें बनानी है तत्कालीन अपने हाथों से खुद अपने वक्त के परिवर्तनकार है हम लोग।"

इन शब्दों के साथ मैं इस ऐतिहासिक संविधान (चवालीसवां संशोधन) विधेयक का हृदय से समर्थन करता हूँ। मैं आपको पुनः धन्यवाद देता हूँ कि आपने मुझे इसमें अपना योगदान करने का अवसर दिया।

MR. DEPUTY SPEAKER: Shri Dhote & Shri Ram Hedao, only one of them. Only ten minutes.

SHRI MD. JAMILURRAHMAN: (Kishanganj): I find there is a pick and choose in the matter of calling Members to participate in this debate, not by the Chair but by the persons who are preparing the list. I gave my name on the first day. Today is the third day of the debate. I have not yet been called. This is highly deplorable.

SHRI T. BALAKRISHNIAH: (Tirupathi): The Government must hear not only the elite of Parliament but even those who are not only back benchers but come from the minority communities, Scheduled Castes and Scheduled Tribes and other people. Their views also must be heard. I have been waiting for three days but I have not yet been given a chance.

MR. DEPUTY-SPEAKER: We have to continue the debate till 8 P.M. today. There is enough time for all of you. Don't be impatient.

श्री जांबवंत धोटे (नागपुर): उपाध्यक्ष महोदय, सामाजिक और आर्थिक क्रान्ति के मार्ग में आने वाली बाधाओं को हटाने के लिए संविधान में संशोधन की बहुत जरूरत थी। हमारा संविधान सामाजिक तथा आर्थिक क्रान्ति में बाधा डालता है। खास तौर पर उसमें दिये गये मौलिक अधिकारों की आड़ लेकर यहाँ के वेस्टेड इन्ट्रेस्ट्स के लोग सामाजिक तथा आर्थिक क्रान्ति के मार्ग में रोड़े भरते हैं। इसलिए इस संविधान का जो संशोधन रखा गया है, वह निहायत जरूरी है।

इस संविधान में आमूल परिवर्तन करना बहुत जरूरी है। इसलिए इस संशोधन विधेयक के द्वारा संविधान में मूलभूत तद्दीर्घा लाने की व्यवस्था की गई है। पार्लियामेंटरी डेमोक्रेसी, संसदीय प्रजातन्त्र, कॅपिटलिज्म का अन्त्य है। पूँजीवाद का अन्त्य होने की वजह से इस संसदीय प्रजातन्त्र में पूँजीवाद,

[श्री जांबवतं घोटें]

पूँजीवादी तथा उनके दलाल और व्यूरोक्रेसी प्रोटेक्ट होते हैं। हमारा संविधान अपने आर्टिकल्स के द्वारा, खास तौर पर आर्टिकल 19 और 31 के द्वारा इस देश की पूँजीवादी अर्थ-व्यवस्था, पूँजीवादियों के दलाल और व्यूरोक्रेट्स को प्रोटेक्ट करता है। ऐसी हालत में इस संसदीय प्रजातन्त्र का इस सन्दर्भ में विचार करना बहुत ही जरूरी था। सामाजिक तथा आर्थिक क्रान्ति में आने वाली बाधाएं हटाना, उसमें जो रोड़े आते हैं उनको हटाना ये बात हम समझ सकते हैं। संविधान में दिए हुए, प्रदत्त मूल अधिकारों में परिवर्तन लाता, उसमें आमूल परिवर्तन करना जरूरी है। लेकिन सम्पत्ति की स्वतन्त्रता, सम्पत्ति का मूल अधिकार जो हमारे संविधान ने आर्टिकल 19 और आर्टिकल 31 के द्वारा दिया है व्यक्तियों को, उसको इस संशोधन में कहीं किसी किस्म का स्पर्श नहीं किया है। इस क्रान्तिकारी चौवालीसवें संशोधन में, जो व्यक्तियों को सम्पत्ति जमाने का, धन इकट्ठा करने का अधिकार प्रदान किया हुआ है, कहीं भी स्पर्श नहीं किया है। सम्पत्ति और सम्पत्ति पर मालिकाना अधिकार दुनिया के कई दुखों की जड़ है। बहुत सारे दुखों की जड़ है। ऐसी हालत में जब तक हम इस मालिकाना अधिकार को, माल के हक को खत्म नहीं करते, इसके ऊपर हमला नहीं बोलते, इसको हटाते नहीं, तब तक इस दुनिया का और खास तौर से हमारे देश का जो दुख दर्द है वह दूर नहीं हो सकता है। हम सामाजिक क्रान्ति की बातें करते हैं, आर्थिक क्रान्ति की बातें करते हैं और सामाजिक क्रान्ति और आर्थिक क्रान्ति में जो बाधाएं आती हैं, जो रोड़े आते हैं उनको हटाने के लिए इस संविधान में संशोधन पेश करते हैं। लेकिन मालिकाना अधिकार को हटाने का जहां तक प्रश्न है उसको इस संशोधन में कहीं स्पर्श नहीं किया है। बड़ी नीति से बड़ी होशियारी से मालिकाना अधिकार के आर्टिकल 19 और

31 को साइड ट्रैक किया गया है और सारी बातें इस सन्दर्भ में लायी गई हैं।

15.00 hrs.

संसदीय प्रजातन्त्र में हमको चुनाव के जरिए वोट चाहिए, मतदान चाहिए और चुनाव लड़ने के लिए प्रचार करने के लिए पैसा भी चाहिए। पैसा वोटर और गरीब आदमी तो दे नहीं सकता। इसीलिए शासनकर्ता हुकमरान एक ही वक्त जनता को और वोटर को भी खुश रखना चाहते हैं और उसी वक्त पूँजीपतियों और उद्योगपतियों के धन और सम्पत्ति को हाथ नहीं लगाना चाहते। सम्पत्ति को हाथ लगाते से वोटर्स हमारे खिलाफ जाएंगे क्योंकि पूँजीवादी उद्योगपतियों का असर होता है और ये पूँजीवादी, पूँजीवादी अर्थ-व्यवस्था के दलाल और व्यूरोक्रेट्स पूरे देश में हैं, देश के बाहर हैं। इन पूँजीवादियों के पक्षपाती, उनके दलाल देश में, देश के बाहर, इस पार्लियामेंट में और इस पार्लियामेंट के बाहर हैं। आज भी विधान सभाओं में और इस लोकसभा में सत्ताधारी दल की तरफ भी पूँजीवादियों के कई दलाल बैठे हुए हैं और विरोधी दल की तरफ भी पूँजीवादियों के कई दलाल बैठे हैं। ये पूँजीवादी लोग और वस्टेड इन्टरेस्ट के लोग आज भी व्यूरोक्रेसी के ऊपर अपना असर रखते हैं। उनसे ये हुकमरान डरते हैं। आज यह एक महान् अवसर इंदिरा जी ने देश को दिया है। मैं आपके द्वारा उनसे पूछता हूँ क्यों इंदिरा जी हिम्मत नहीं करती इन उद्योगपतियों के लाखों, करोड़ों और अरबों रुपये हस्तगत करने की, क्यों नहीं इन के मालिकाना अधिकार को निकालने की हिम्मत करती हैं? सरदार स्वर्ण सिंह का हवाला और उनकी रिपोर्ट का हवाला दिया जाता है, मैं कहता हूँ कि ये तो केवल नाम के हैं, गोखले जी हमारे कानून और न्याय मन्त्री हैं, ये भी केवल नाम के हैं। इस संशोधन की असली प्राइटेक्ट इस देश की लाइली प्रधान मन्त्री श्रीमती इन्दिरा गांधी हैं। मैं आपके

द्वारा इन्दिरा गांधी से पूछता हूं कि जब गरीबों की क्रान्ति की बात करते हो, गरीबों को रोटी खिलाने की बात करते हो एक आर्थिक विषमता इस देश में आई है जिसको हटाने की बात कही जाती है और एक ऐतिहासिक तथा क्रान्तिकारी संशोधन इस ऐतिहासिक सदन में लाया गया है, उसमें आर्टिकल 19 और 1 आर्टिकल 3 के ठोस मालिकाना अधिकार को सत्रेस क्यों नहीं किया गया है। स्पष्ट है यह जो संशोधन है वह आर्थिक तथा सामाजिक तब्दीलियां लाने के लिए नहीं लाया गया है, इसमें उसका बहुत कम हिस्सा है। यह 44वां संविधान संशोधन विधेयक, तथाकथित क्रान्तिकारी संशोधन राजनीतिक और व्यावहारिक संशोधन है। इस संशोधन विधेयक को राजनीति के लिए, व्यवहार के लिए उसी ढंग और रीति से इस सदन में पेश किया गया है।

उपाध्यक्ष महोदय, यह तो आपने देखा कि केन्द्र सशस्त्र पुलिस दल को किसी भी राज्य में बिना उस राज्य की अनुमति लिए हुए भेजने का अधिकार इस संशोधन विधेयक के द्वारा लेने जा रही है। यह अधिकार सम्राटों ने लिया था। राज्यों का विचार न करते हुए सारी चीजों का विचार न करते हुए राष्ट्रद्रोही व्यक्ति और राष्ट्रद्रोही संस्था तथा राष्ट्र-विरोधी गतिविधियों की जो परिभाषा इस विधेयक में की गई है उसकी ओर सारे सदन का ध्यान आकर्षित करना मैं अपना फर्ज समझता हूं। कल के देशद्रोही आज देशभक्त हो सकते हैं और कल के देशभक्त आज देशद्रोही हो सकते हैं। आज श्रीमती इन्दिरा जी के हाथ में कूत की बागडोर है लेकिन यह हुकूमत हमेशा उन्हीं के हाथ में रहेगी—ऐसा उन्हें नहीं समझना चाहिए। सत्ता में हुकूमत में जो स्पर्धा चलती है उसमें बाप बेटा और मां बेटा भी साथ नहीं चल सकते हैं। ऐसी अवस्था में कोई एक अधिकार या हथियार कि तो एक राष्ट्रद्रोही संस्था या व्यक्ति के खिलाफ ही इस्तेमाल

किया जा सकता है—यह नहीं समझना चाहिए। इस हथियार का इस्तेमाल केवल शासनकर्त्ताओं का जो विरोध करते हैं केवल उन्हीं के खिलाफ होगा ऐसी बात नहीं है। इस हथियार का इस्तेमाल तो; जो आपकी कैबिनेट में थे जो कि आज जेल में बैठे हैं श्री मोहन प्रारिया उनके खिलाफ भी किया जाता है। इस हथियार का इस्तेमाल चन्द्र शेखर के खिलाफ भी किया जाता है। इस हाउस में कई ऐसे लोग बैठे हैं जिनको अपना भविष्य मालूम है जो कि देशद्रोही करार दिए जा सकते हैं। उनके खिलाफ इसका इस्तेमाल किया जा सकता है।

उपाध्यक्ष महोदय कोरम को हटाने के सम्बन्ध में जो व्यवस्था है उससे मैं नहीं समझता आर्थिक और सामाजिक क्रान्ति में कौन सी बाधा आती है। इसी प्रकार यदि सशस्त्र दल राज्यों में नहीं भेजे जाते तो उससे आर्थिक व सामाजिक क्रान्ति में कौनसी बाधा आयेगी?

उपाध्यक्ष महोदय इस संशोधन विधेयक में मूल कर्त्तव्यों की बात रखी गई है जिनकी बहुत तारीफ हो रही है। कहा गया है कि इस संशोधन के द्वारा संविधान में जो मूल कर्त्तव्य जोड़े जा रहे हैं वह बड़े स्वर्णिम हैं सोने में गुहागा हैं। मैं समझता हूं यह फंडामेंटल ड्यूटीज केवल विशुद्ध धार्मिक हैं। इसमें पाजिटिव क्या है यह मैं जानना चाहता हूं। आज भी ला आफ़ दि लंड में वे सारी बातें हैं जो कि इसमें रखी गई हैं। कहा गया है कि संविधान का पालन करें। आज राष्ट्रीय ध्वज और राष्ट्र गान का आदर कौन नहीं करता? यह मूल-भूत कर्त्तव्य की क्या बात है? आज हर आदमी यही कहता है कि स्वतन्त्रता के लिये हमारे राष्ट्रीय आन्दोलन को प्रेरित करने वाले उच्च-आदर्शों को हृदय में संजो कर हमें उनका पालन करना चाहिये—लेकिन ये क्या मूलभूत कर्त्तव्य हैं। सीलिये, उपाध्यक्ष महोदय, मैंने कुछ संशोधन दिये हैं

[श्री जांबवंत घोटै]

और मैं उनको आपके सामने पढ़ना चाहता हूँ—मैंने अपने संशोधनों में कहा है—

“(क) केवल स्वदेशी और देश में विनिर्मित माल का उपयोग करें;

(ख) छात्र युवक के मामले में सत्रह वर्ष की आयु प्राप्त करने पर सशस्त्र दलों में एक वर्ष के लिए सैनिक प्रशिक्षण ले,

(ग) हिन्दुस्तानी भाषा पढ़ना लिखना और बोलना सीखे,

(घ) एक कुटुम्ब के लिये एक से अधिक मकान न रखे;

(ङ) नकद या किसी बैंक (भारतीय या विदेशी) में 25,000 रुपये से अधिक की रकम न रखे;

(च) सेफ डिपॉजिट वाल्ट में अपने नाम में या अपने कुटुम्ब के किसी सदस्य के नाम में नकदी, आभूषण, स्वर्ण, चांदी, हीरे; मोती, जवाहरात, आदि न रखे,

(छ) महिला के मामले में गहनों या किसी अन्य रूप में दस तोले से अधिक स्वर्ण न रखे और पुरुष के मामले में स्वर्ण का कोई आभूषण न पहने,

(ज) अधिकतम सीमा से अधिक नकदी, स्वर्ण और आभूषण सरकार को अर्पण करे,

(झ) मृत्यु के पश्चात् सम्पत्ति वसीयत या किसी अन्य लिखित द्वारा सरकार को हस्तान्तरित करे,

(ञ) व्यसनों से दूर रहे,

(ट) नागरिक और कुटुम्ब के उपर्युक्त दस कर्तव्यों को व्यवहार में लाये तथा अनाचार, घूसखोरी, कालाबाजार, अनीति से दूर रहते ए स्वच्छ, श्रेष्ठ और आदर्श चरित्र का निर्माण करना अपना परम कर्तव्य समझे।

उपाध्यक्ष महोदय, यह संविधान संविधान-सभा ने बनाया था, लेकिन इन संशोधनों को यह लोकसभा पास करने जा रही है। इस लिये मेरा आपसे अनुरोध है कि इस बड़े संविधान संशोधन के ऊपर विचार करने या इनको मंजूर करने का इस सदन को कोई अधिकार नहीं है। इसके लिये कांस्टीट्यूएण्ट असेम्बली बना कर उसमें इन पर विचार होना चाहिये, शान्ति से विचार होना चाहिये, सोच-समझ कर विचार होना चाहिये और एक अच्छा क्रान्तिकारी, समाजवादी-समाज के आदर्श को पूरा करने वाला एक नया संविधान बनाया जाना चाहिये।

SHRI AMRIT NAHATA (Barmer):
Mr. Deputy-Speaker, Sir, I am very grateful to you that you have called upon me to express my views on this important Bill. It is true that no Constitution of the world is Bible, Quran, Gita or Manusmriti. It is true that no Constitution is immutable specially the Constitution of a country like ours which is a developing country, which is in a flux and which is passing through a transitional period. No generation can bind the coming generations. A constitution, if it is immutable, un-amendable, ultimately becomes a mere shred of paper, but that does not mean that the constitution is a shred of paper. It is a very important document. What I want to emphasize just now is this, that in the words of Pandit Nehru, our Constitution is a magnificent document. It has stood the test of time. It has

seen all possible stresses and strains. It has seen the worst aberrations and distortions in our national life and yet it has met those challenges, it has met those situations and it has come out triumphant and victorious in those situations. Under our Constitution the most vital and vibrant democracy has functioned for more than 25 years. Under this constitution we have built a modern India, we have built the base of modern science and technology, we have built a strong public sector, we have had five General Elections with the largest number of the electorate participating. Under this constitution we have made great strides towards an egalitarian society. Therefore, while conceding that there are certain defects in this Constitution which we have realised from time to time and tried to do away with them and while realising the need for amendments to this Constitution, let us not forget that basically and fundamentally, this Constitution is suited to the genius of this country, is capable of facing all situations and basically reflects the urges and aspirations of the people of this country. Anybody who talks of a new constitution only wants to open a Pandora's box, only wants to destabilise the situation, only wants to question some of the parliamentary institutions, the federal structure and some of the checks and balances on the authority of various organs of the State organization. The basic thing is that it has stood the test of time, it has proved its worth, it has proved its vitality and this is not the occasion, not also the purpose or the intention of this Bill to question those principles or to question those institutions. They are very good, they have served our purpose and they will continue to serve the purpose of our nation and there is no need for making a new constitution. There is no need to open up questions which have been settled. There is no need to have a second republic.

But this Constitution does have certain deficiencies. We have seen it from our experience. The main object of this Bill is to remove road-blocks

that block the path towards the socio-economic transformation. I want to know which is the main stumbling block in our road to socio-economic transformation. The first amendment to this Constitution was made with regard to the right to property. A very much needed reform, the land reform legislation was passed and the Jagirdar Abolition Act was challenged. Then the Golaknath case came and it was ruled by the Supreme Court that the fundamental rights are not abridgable because the right to property was involved. On the question of privy purses, on the question of bank nationalisation, it was the right to property which came in the way of our socio-economic reforms. It is true that the judiciary tried to misinterpret the constitution. While the Judiciary is the custodian of our constitution, it is not the custodian of the first constitution. It is the custodian of the constitution as it is at a given time and the right to amend the constitution lies with this Parliament and not with the judiciary. Therefore it is true that the judiciary arrogated to itself certain powers which do not belong to it. It is true that the constitution was misinterpreted and the judiciary assumed certain powers. But what can the Judiciary do when this constitution had enshrined in it the right to property as a fundamental right?

Then there is a talk of referendum. The 1971 General Elections, in political terms, was a referendum and the mandate was and the pledge made to the people during that referendum was that we wanted to amend the constitution. My leaders have said that we shall be failing in our duty if we do not fulfil that pledge and if we do not carry out the will of the people. I want to tell them very humbly and politely that the central issue of that referendum was not in general terms to amend the Constitution but specifically to curb and to remove the right to property from the Constitution. Now we are incorporating

[Shri Amrit Nahata]
 'Socialist' in our preamble. Let us welcome it. Some people say that they are platitudinous. Even the fundamental rights are platitudinous, who enjoys the fundamental right? They are enjoyed by a few. When platitudes are not seriously reflected in other parts of the Constitution they may become object of contempt or derision and ridicule. Therefore, let us not take these amendment lightly. Let us be consistent and this right to property must go. This is the principal stumbling block in our path to socio-economic transformation. This is not in consonance with our objective that we are now enshrining in the preamble—viz., 'socialist republic' and this is the specific mandate of the people which we got during the political referendum of 1971. It has been said that this right has already been curbed so much that it is a dead-lion. If it is a dead-lion why should we keep it? Even the dead-lion creates a scare. We do not know, the ingenious lawyers and jurists may run away with this dead-lion and may inject some new life in it. Why should such an opportunity be given?

We have said that if there is a conflict between the fundamental rights and the directive principles, directive principles shall prevail. It is good. But, where is the conflict between the two except the conflict between the directive principles and the right to property? Can you give me a single example where other fundamental rights have come in the way of implementation of directive principles of State policy? Whether it was jagirdari abolition, privy purses or abolition of the privileges or bank nationalisation or ceilings—all socio-economic measures which we wanted to introduce under the directive principles could be got obstructed only because of right to property. The right to property came in the way. Remove that and you will find that there is harmony.

I have been brought up under philosophical and ideological framework which is what we call democratic

socialism. Freedom of speech, freedom of expression, freedom of gathering, freedom of assembly—these are essential for implementation of socio-economic reforms, for implementation of directive principles of State policy. I believe that socialism can be brought only through democratic means and that is why those fundamental rights which confer democratic rights on the people are essential for bringing socio-economic transformation. Can this Parliament only through legislation, through administrative machinery bring socio-economic transformation? For this people's organised involvement is essential. The marginal farmers, the landless labourers, women, youth, the workers, the students—all must come on the street for social transformation. Without people's struggle and involvement we cannot change the social order.

"There is a story of a hungry dog.

MR. DEPUTY SPEAKER: The House is full of story of dogs.

SHRI AMRIT NAHATA: Make it under-dog.

People went to a hungry dog and asked if it wanted the right to bark or bread. The dog was hungry and said, "I want bread." The dog was gagged. People went away. Bread never came and the dog could not bark for it.

When our Constitution-makers thought of directive principles and fundamental rights, they believed that there was no essential contradiction between the two. It is true that directive principles are the dynamic part of the Constitution, fundamental rights are static. But more important than that is that the fundamental rights should be the means for the achievement of national objectives enshrined in our directive principles. Remove the right to property, there is no conflict between fundamental rights and directive principles, there should be no conflict. It is through

these democratic processes, it is through the enjoyment of these fundamental democratic rights through the parliamentary institutions and parliamentary processes that we shall achieve what is enshrined in our directive principles.

Therefore, while reserving my right to speak on the various clauses I now confine my observations to this aspect. Remove this right to property from the chapter on Fundamental Rights.

SHRI KARTIK ORAON (Lohardaga): I rise to support the Constitution (Forty-fourth Amendment) Bill, 1976. We are fortunate that our founding fathers gave us a written constitution. The Constituent Assembly which adopted the constitution on November 26, 1949, was composed of many talented people and national leaders of eminence and represented a large cross-section of our people throughout the length and breadth of the country. Unlike India, Great Britain is still without a written constitution. The statutes which are properly regarded as part of constitutional law are not sections of a code. If a collection were made of all the extent enactments (from the coronation chapter of Henry I to the present day) which deals with the forms and functions of government, the result would present a most imperfect definition of the constitution.

15.27 hrs.

[SHRI ISHAQUE SAMBHALI in the Chair]

We have seen that a system of parliamentary government involves the supremacy of parliament. As has been said time and again, no parliament can bind its successor. Otherwise, the supremacy of succeeding parliaments would be limited and would not be sovereign or supreme in the real sense of the term. The

executive power has become impossible without the support of parliament which support is only obtainable by winning the confidence of the vast electorate. Parliament has the final voice in the legislation, as in taxation and expenditure. The ultimate safeguard is there to be found in the acceptance of the principle as a guide to conduct by any political party which is in a position to influence the course of legislation.

There is in fact a standard of political authority which commands obedience. Those who govern submit to the judgment of public opinion which they may seek to influence but cannot ultimately control if the promises made at the time of election are not fulfilled.

I think our Parliament has by now reached the political maturity to recognise the needs of the hour. This Bill has therefore been introduced at a very opportune moment.

Our party, and for that matter, our dynamic Prime Minister has ceaselessly been trying to bring about a socio-economic change in the country. It was right in March, 1971, while addressing the Members of Parliament she said:

'We have not got all the time in the world. We must have an economic dent within 3 years or 4 years at the latest.'

The people have given the heavy mandate to the party and the exclusive credit goes to Smt. Indira Gandhi, that she has secured two-thirds majority by which any provision in the constitution can be amended and she has an obligation to guide the destinies of the nation. She has reached that commanding height from which she could carry out the dictates of the will of the people. It is absolutely essential that these amendments in the constitution

[Shri Kartik Oraon]

should be incorporated for accelerating the pace of implementation of the 20 Point Economic Programme.

This is a must and we have no alternative. Sir, I am a little surprised that a few sections of people were raising legal jugglery. Consequent on the judgment in Golaknath Case, the Constitution (24th Amendment) Act, 1971 was enacted amending Article 368 so as to provide expressly that "Parliament may, in exercise of its constituent power, amend by way of addition, variation or repeal, any provision of this Constitution."

Pandit Jawaharlal Nehru has said right in the beginning that a Constitution is amendable to change with changed and changing circumstances. There are views expressed by a number of them—express or implied directly or indirectly—and there are some who are of the opinion, that the Constituent Assembly should be called. They perhaps want to take us back by about thirty years and want to establish that our illustrious leaders of the country have given us a wrong Constitution or, alternatively, want to support the utterances of some of the opposition parties that the Constitution should be scrapped.

There are others who want that the Bill be referred to a Joint Select Committee. This is not going to serve any useful purpose as they would not be able to deal with other areas of the Constitution which have not been touched for the purpose of amendment. The Bill has been thoroughly examined at various national levels.

There are others who say that the Constitution should be re-drafted. How does it help? This is a question of time, and this exercise can be made even after passing the Constitution (Forty-fourth) Amendment Bill, 1976.

There are others who strongly feel that the Bill should be passed here and now. This is the correct approach. We cannot bluff the people any longer in the name of Select Committee, Constituent Assembly etc. redrafting the Constitution. Those who are not willing to amend the Constitution should mend themselves.

Another point is this. This is a very major amendment. This has got too much bearing on the welfare of the weaker sections of the people belonging to the Scheduled Castes and Scheduled Tribes. I think there was no member from the Scheduled Caste or Scheduled Tribe in the Swaran Singh Committee. But, we had the privilege of attending that meeting. As Members of Parliament we had our say there. I drew the attention of the Chairman and other Members of this Committee to Art. 335 of the Constitution which says that:

"The claims of the members of Scheduled Castes and Scheduled tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or of a State."

We have to'd them to delete the words 'consistently with the maintenance of efficiency of administration.' Shri Borooah and Shri Swaran Singh both nodded their heads. I thought it was taken as their acceptance. Furthermore, Shri Siddhartha Shankar Ray, the Chief Minister of West Bengal said:

"You have raised a very pertinent point". But it ended at that. I thought that the nodding of heads was in token of acceptance but I find that the Bill is silent about it.

We have passed a number of amendments and ifs and buts are put. I would like to invite the attention of the Minister to Clause 2 (Serial Numbers 361 and 362), Clause 5 (Serial Numbers 363, 364 and 369), clause 11 (serial numbers 379 and 387) and Clause 13 (serial number 388).

The next point is about legal aid. Here what is more important is not free legal aid; what is more important is that cases must be disposed of quickly. We must have a timelimit of three months or four months. Unless this is done, we cannot do real justice to the poor people.

Then as regards protection of forests, wild animals and birds, are you going to protect the tribal forest dwellers or are you going to rob them? This point is very important. I am bringing this to your notice.

MR. CHAIRMAN: Please conclude.

SHRI KARTIK ORAON: I am concluding. While many amendments are proposed, there is something more which has got to be looked into. This is not the end of constitutional amendments. There will be many more amendments. I would, therefore, request the hon. Minister and the Prime Minister also to have a special look into the articles of the Constitution which have a bearing, directly or indirectly, on the welfare of the Scheduled Castes and Scheduled Tribes. With these words, I support the Motion.

श्री नाथू राम बिर्वा (नागौर): सभापति महोदय संविधान (चवालीसवां संशोधन) विधेयक के सम्बन्ध में मैंने लगभग सभी भारतीय सदस्यों के विचार सुने हैं। ला मिनिस्टर और सदरार स्वर्ण सिंह ने इस संशोधन से सम्बन्धित प्रश्नों का जो विश्लेषण किया है और जो जो दलों दो हैं मैं उनसे सहमत हूँ। देश की जनता को आगे बढ़ाने

के लिए मैं इस संशोधन को ठीक समझता हूँ।

सभी लोग यह मानते हैं कि समय के अनुसार संविधान संशोधन करना जरूरी होता है। समय हमेशा बदलता है। दुनिया बदल रही है और हमारा देश भी बदल रहा है। यह देश केवल आज की पीढ़ी के लोगों के लिये नहीं है, केवल कल की पीढ़ी के लोगों के लिये नहीं है, बल्कि आने वाली सैकड़ों और हजारों पीढ़ियों के लिये भी यह देश है। इसलिये अपने देश की आने वाली पीढ़ियों की दृष्टि से भी हमें सोचने की जरूरत है।

मेरे विचार में इस संशोधन में बहुत सी बातों को बहुत लम्बी दृष्टि से सोचा गया है। अभी माननीय सदस्य, श्री कार्तिक उरांव ने जंगलों में रहने वाले लोगों की बात कही। उन के दिमाग में यह प्रश्न है कि वन्य जीवों और वनों के संरक्षण का तो ध्यान रखा गया है, मगर वनों में रहने वाले ट्राइबल का क्या होगा। इस देश के जो लाखों और करोड़ों लोग जंगलों में रहते हैं; उन का रहने का अपना एक तरीका रहा है। उस तरीके में परिवर्तन भी आया है, और आगे भी हम उस में परिवर्तन लाना चाहते हैं। मैं समझता हूँ कि आज के हालात को देख कर, और अधिक गहराई से तथा लम्बी दृष्टि से सोच कर, इस संविधान में और बहुत संशोधनों की आवश्यकता है।

हम इस देश की गरीबी मिटाना चाहते हैं, लेकिन किस तरह से? हम ने अपने संविधान के प्रीएम्बल में "समाजवादी" शब्द जोड़ा है। मगर हम समाजवाद किस तरह से लाना चाहते हैं? हमारा समाजवाद दुनिया के किसी देश के समाजवाद की नकल नहीं है, यह बात हमारे नेता कहते हैं और हम भी समझते हैं। हमारे देश की अबादी 60 करोड़ है और हर साल उस में 2 करोड़ की वृद्धि

[श्री नाथूराम मिश्रा]

होती है। हम ने इस संशोधन के द्वारा आबादी के कंट्रोल और फ़ैमिली प्लानिंग के सबजेक्ट को कान्फ़र्ट लिस्ट में रखा है। पिछले पंद्रह, बीस सालों में फ़ैमिली प्लानिंग की तरफ़ कोई विशेष ध्यान नहीं दिया गया। अब इस सम्बन्ध में कुछ काम हुआ है। अगर हमने पच्चीस साल पहले इस समस्या की गम्भीरता को समझा होता तो आज हमारी आबादी 60 करोड़ के बजाये 45 करोड़ होती और इस सेन्चुरी के आखिर में 60; 70 करोड़ होती। मैं समझता हूँ कि इस पार्लियामेंट को फ़ैमिली प्लानिंग पर पूरा जोर देते हुए कम्पलसरी फ़ैमिली प्लानिंग का ला बनाना पड़ेगा। जिस व्यक्ति के दो बच्चे हो चुके हैं अगर उन के बारे में कोई उचित व्यवस्था नहीं करेंगे तो आने वाली पीढ़ियों का इस देश में जीना मुश्किल हो जायेगा। हमने इस देश की गरीबी को मिटाना है देश के रिसोर्सिज को काम में ला कर जो सीमित हैं। किसी भी देश में रिसोर्सिज अनलिमिटेड नहीं होते हैं। पानी सीमित है घातु सीमित है। हम इस देश के रिसोर्सिज का कैसे बढ़िया तौर से उपयोग कर के इस देश की आज की और आते वाली पीढ़ी को खुशहाल बना सकते हैं यह प्रश्न हमारे सामने है। इस देश के विधान में जो कुछ आज है उस में आगे हम परिवर्तन कर रहे हैं और जो कुछ किया है या कर रहे हैं उस से आगे और बहुत कुछ करने की ज़रूरत है। मैं एक मिसाल देता हूँ—पानी। लोग समझते हैं पानी अनलिमिटेड चीज है। लेकिन पानी अनलिमिटेड नहीं है लिमिटेड है। 400 मिलियन हेक्टरमीटर पानी इस देश में बरसता है और इस में से आज कुओं से, सैलाब से तथा अन्य साधनों से सिर्फ़ 60 मिलियन हेक्टर पानी काम में हम लाते हैं। बाकी सारा पानी या तो ईवापोरेट होता है या समुद्र में चला जाता है। इस के सिलसिले में हमारे विधान की जो व्यवस्था है उस का 262 सेक्शन यह कहता है कि रिवर बेसिन का पानी रिवर

बेसिन में रहेगा। इस के संबन्ध में विवाद खड़े हैं। उन विवादों को सुलझाने का एक ट्रिब्यूनल का तरीका है। मेरा यह कहना है कि उन विवादों को सुलझा कर उस पानी का अधिकतम उपयोग हम करें, पचास साल की योजना उस की बनाये, रिसोर्सिज उस के लिये जुटाये, जगड़े न हों इस तरह से उस पानी को हम काम में लाए। आज मुश्किल से हिन्दुस्तान की 24 परसेंट घरती सिंचित होती है जब कि मैक्सिमम 105 मिलियन हेक्टर पानी हम काम में ले सकते हैं, वह भी पचास साल में और उस के लिये 30 हजार करोड़ रुपये की ज़रूरत है। लेकिन हम इन बातों को आज नहीं सोचेंगे तो ला होगा?

मैं ने घातुओं की बात कही। स्टेट का मिनरल सेक्टर अलग है। हमारे राज्यों में इतनी बैल्यूएबल घातुएं दबी पड़ी हैं कि उन के पास उन को निकालने के लिये रिसोर्सिज नहीं है। लेकिन एक बार स्टेट लिस्ट में यह आ गया तो उस को हटा नहीं सकते और वे उस घातु को निकाल कर खुद उस का उपयोग नहीं कर सकते। हम अपने देश में उन का उपयोग करना चाहते हैं लेकिन विधान में लिस्टे बनी है। एक यूनियन लिस्ट है, एक स्टेट लिस्ट है और एक कान्फ़ेरेट लिस्ट है। मेरा कहना यह है कि बहुत गहराई से उन को देख कर उन में परिवर्तन करने की आवश्यकता है। मैं इन बातों को बहुत लम्बा कर के सदन का समय नहीं लेना चाहता हूँ। मैं केवल यह कहना चाहता हूँ कि देश के रिसोर्सिज का उपयोग होना चाहिये देश को ऊंचा उठाने के लिए।

दूसरे नम्बर पर आती है देश की जनता । देश की जनता के लिये कम्प्यूनिस्टों को मैं सुना, रोज ही सुनता हूँ एक ही मोटी बात वे कहते हैं कि इतना कम्पेन्सेशन क्यों दे दिया, इतने राइट्स क्यों दे दिये, प्रापर्टी राइट खत्म होना चाहिए । कुछ इधर बैठे हुए लोग भी बहुत जोर से यह दलील देते हैं । लेकिन प्रापर्टी राइट जिन्होंने खत्म कर दिया या कम कर दिया उन देशों की हालत सुधर गई क्या ? क्या सारी समस्याएं उन की हल हो गई ? उन की समस्याएं हल नहीं हुई प्रापर्टी राइट की सीमा करते करते बहुत उसे सीमित कर दिया है । और करिए, छोटे और बड़े का डिफरेंस कम करिए । इस देश के अंदर हम नहीं चाहते कि कोई अमेरिका की तरह मिलियनियर हो और कोई भूखा मरने वाला हो । लेकिन इस के लिए तीसरा रास्ता करना पड़ेगा । हम नकल नहीं कर सकते, न रूस की नकल कर सकते हैं न अमेरिका की कर सकते हैं । इस देश का विधान अपने तरीके का तीसरे तरीके का विधान होगा जो इन समस्याओं का साल्यूशन करेगा । अमृत नाहाटा जी ने प्रेसक्रिप्शन शार्ट साल्यूशन दे दिया कि प्रापर्टी राइट को खत्म करना होगा, सारा मामला ठीक हो जायगा । नहीं होने वाला है । मेरा निवेदन है कि प्रापर्टी राइट को खत्म कर के इंसान का इंसेटिव आप खत्म करते हैं । आप इस बात को नहीं समझते हैं । इंसान का खुद का इंसेटिव उस की प्रवृत्ति उस की भावनाएं काम करती है । इन से शक्ति जुटा करके वह कुछ काम करता है कि परसनल उस के पास कुछ रहेगा । अगर नहीं रहता है तो वह तरक्की नहीं करेगा । आज इस जैसा देश जहां सम्पत्ति का अधिकार नहीं है वह भी मिलियन टन अनाज का इम्पोर्ट करते हैं । उनके पास इतनी जमीन पड़ी है और दूसरी तरफ मिलियनों टन अनाज इम्पोर्ट करते हैं क्योंकि आज खेती करे कोन ? भाग गए खेती करते करते लोग, क्योंकि जोर पड़ता है खेती करने में । उड़ा मुश्किल पेशा है ।

श्री नाथूराम शर्मा (टीकमगढ़) : जो पंदा करते हैं उन को तो कुछ मिलता ही नहीं है ।

श्री नाथूराम मिश्रा : आप मेरी बात सुनें । मिलता नहीं है, यही तो सब समस्या है मैं मिलने का रास्ता बता रहा हूँ ।

मैं यह कह रहा हूँ कि इस देश के अंदर अगर हमने प्राइवेट इंसेटिव को कायम नहीं रखा और इंसान की प्रापर्टी की बात को जड़ से खत्म कर के समाजवाद लाने की बात सोची तो इस तरह से समाजवाद हरगिज नहीं आएगा । इस देश का समाजवाद आया व्यक्ति की गरिमा को कायम रखते हुए व्यक्ति के इंसेटिव को कायम रखते हुए । उस के बाद कोई बहुत मोटा न हो जाय और कोई भूखों न मरता रहे, इसकी भी व्यवस्था करनी पड़ेगी । इसलिये लम्बी दृष्टि से काम करना पड़ेगा । मेहनत और परिश्रम का कोई शार्ट कट नहीं है । मेहनत शक्ति है, इंसान ताकत है । आज 60 करोड़ व्यक्तियों के हाथ मौजूद हैं । यूजफुल तरीकों से उन को संगठन में बांध कर उन से काम लिया जा सकता है, डंडे से नहीं । एक संगठन में बांध कर, उन के विचारों को ऊंचा उठा कर विचार के माध्यम उन से काम लिया जा सकता है ।

हम केन्द्र की शक्ति को मजबूत कर के काम कर सकते हैं । देश को फ्रेडरल आप रखें वह आगे भी रहेगा लेकिन फ्रेडरल के रहते हुए स्टेट्स क्या करें और सेंटर क्या करे इन रिलेशन्स को गहराई के साथ देखना होगा और उसके बाद उसी प्रकार से संविधान में संशोधन करना होगा । इन सारी बातों को अगर आज करना चाहते हैं उसके बाद भी अगर आप सोचते हैं कि तुरन्त बैठ कर इस क्लाइ को पास कर लिया जाय जिसके पास होते ही धरती पर स्वर्ग उतर आया तो मैं ऐसा नहीं मानता । जिस तरह के संशोधन

[श्री माधुराम मिर्जा]

आप करना चाहते हैं, उसमें आप जल्दी कर लें उससे कोई विरोध नहीं है लेकिन उसके बाद इस देश में कोई बहुत परिवर्तन न आ जायगा ऐसी बात नहीं है। लम्बे समय को दृष्टि में रखते हुए आप परिवर्तन लाने पर गहराई के साथ विचार करें। इस देश में इमरजेंसी से पहले क्या स्थिति थी और आज क्या स्थिति है वह हम सभी जानते हैं। इमरजेंसी के बाद सभी के दिमाग में रीरिफिकिंग पैदा हुई है। जो लोग पहले बहुत उग्र थे उनमें भी रीरिफिकिंग हुई है। मेरा प्रधान मंत्री जी से निवेदन है, उन्होंने कहा है इमरजेंसी के मामले में कि अब पहले जैसी बात नहीं चलेगी, मैं भी इसको मानता हूँ, इमरजेंसी में वे अब थोड़ी सी ढिलाई भी कर रही हैं, अब बाकी को भी कह रही हैं कि ठीक-ठीक बात बोलो जो लोग गिरफ्तार हुए थे उनमें से भी बहुत लोग छोड़े गये हैं, उनकी भूल अब ठीक हो गई है और मैं समझता हूँ अब आगे बेठीक से सॉचेंगे, आगे और लोगों को भी छोड़ें लेकिन इमरजेंसी में जल्दी से जल्दी इस विधान को पास न करें। इस पार्लमेन्ट को पब्लिक की मान्यता तो है, कांस्टीट्यूशन चेंज करने की बात हम कहकर भी आये थे, हमने कहा था कि आईदा तुम्हारे पास आयेगे तो कुछ न कुछ नया रास्ता आपको मिलेगा। पिछले 6 सालों में हम इसको क्यों नहीं कर सके उसके लिए कई बात जिम्मेदार थीं। हम देखते थे प्रधान मंत्री की क्या तस्वीर कुछ लोगों ने बना रखी थी लेकिन अब मामला ठीक हुआ है। आज प्रधान मंत्री में लोगों का काफी विश्वास पैदा हुआ है जिसका उपयोग इस देश के सुधार के लिये होना चाहिये। इस पार्लमेन्ट में कुछ और अच्छे लोगों को जोड़ कर, इसको कंप्यूट करके कांस्टीट्यूट असेम्बली बनानी चाहिये और शारे मुद्दों पर विचार होना चाहिये। मैं देश में एक नयी शक्ति देख रहा हूँ। आज इस देश में नीजवानों की शक्ति को अच्छी डायरेक्शन मिला है। पेड़ लगाओ,

ज्यादा बच्चे मत पैदा करो, दूधेज मत लो, पढ़ाई लिखाई करो—यह बातें आज जवानों में उभरी हैं और उनको अच्छा नेतृत्व मिला है। एक कंक्रिट रीफिकिंग देश में आई है। मैं चाहता हूँ इस देश के नवयुवक और प्रधान मंत्री मिलकर के एक नया डांचा कांस्टीट्यूशन का खड़ा करें। प्रेसीडेंशल सिस्टम हो या क्या हो उसके बारे में मैं ज्यादा नहीं कहता लेकिन मेरे दिमाग में एक बात साफ है कि जब तक शक्ति यहां पर एक जगह केन्द्रित होकर देश में एक राजनीतिक दृष्टिकोण नहीं बनेगा तब तक काम नहीं चलेगा। यहां पर डी एम के वाले बोले, वे थोड़ा सा अलग होकर रहना चाहते हैं, एंथनी साहब अपनी फ्रिक् कर रहे थे हालांकि प्रधान मंत्री जी को उनसे कम फ्रिक् नहीं है। इस प्रकार से अपने अपने दृष्टिकोण से यहां पर भाषण दिये गये। मैं एक मिन्ट में समाप्त कर रहा हूँ। उस लम्बे दृष्टिकोण, लम्बी थिंकिंग और धैर्य से विचार करने के लिये जरूरी है कि कांस्टीट्यूट असेम्बली बनाई जाये और फिर गहराई से इस कांस्टीट्यूशन को देखना चाहिये। सारी दुनिया के कांस्टीट्यूशन का अध्ययन करना चाहिये और उस के बाद हमें अपना कांस्टीट्यूशन बनाना चाहिये।

हमारे कुछ साथी कह रहे हैं कि जल्दी चुनाव में जाना चाहिये—यदि हम जल्दी चुनाव में जायेंगे तो भी आप को कुछ मिलने वाला नहीं है .. (व्यवधान) .. मैं जानता हूँ आप के संशोधन क्या हैं आप यही चाहते हैं कि मजदूरों के अन्दर आप को नेतागिरी करने दिया जाय, जैसा आप वहाँ, दैसा होने दिया जाय, ले देकर आपके संशोधनों का यही लब्धे लुबाव है, लेकिन क्या इस देश में सिर्फ मजदूर ही हैं .. (व्यवधान) .. इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ।

, श्री रामरत्न शर्मा : (बांदा) सभापति जी, एक और संविधान संशोधन को ऐति-

हासिक और वांतिकारी कदम कहा जा रहा है और दूसरी और कुछ लोग इस की आलोचना करते हुए कहते हैं कि नैतिक, वैधानिक और राजनीतिक कारणों को दृष्टि में रखते हुए यह विधेयक उचित समय पर नहीं आया है। मैं आप के द्वारा निर्धारित समय के अन्दर ही अपनी बात आप के सामने रखने का प्रयत्न करूँगा और मेरा अभिमत है कि प्रस्तुत विधेयक समायोजित है और नैतिक, राजनीतिक और वैधानिक कारणों से भी युक्तिसंगत है।

नैतिक कारणों को लेकर यह बात कही जाती है कि 1971 में इस पार्लियामेंट का चुनाव हुआ था, पांच वर्ष के लिये यह पार्लियामेंट चुनी गई थी, पांच वर्ष समाप्त होने के बाद इस को एक वर्ष के लिये बढ़ाया गया, इस एक वर्ष के बढ़े हुए समय में संविधान संशोधनों का लाना उचित नहीं था। लेकिन श्रीमन् मैं निवेदन करना चाहता हूँ कि संविधान के जो पंडित हैं, जो जानते हैं उन का यह निश्चित मत है कि संविधान के अन्दर आपात-कालीन स्थिति में पार्लियामेंट को बढ़ाने के लिये प्रावोजंज है और उन प्रावोजनों के अन्तर्गत बड़ी हुई पार्लियामेंट अवैधानिक नहीं बड़ी जा सकती। उस बड़ी हुई पार्लियामेंट के दौरान किया गया कोई भी ऐसा काम जो सर्वथा उचित है, अनुचित नहीं कहा जा सकता।

श्रीमन्, दूसरा वैधानिक कारण बतलाया जाता है—वैधानिक कारण को लेकर उच्चतम न्यायालय का केशवानन्द भारती वाला मामला बहुत बार यहाँ पर कोट किया गया है और यह कहा गया कि संविधान में दिया हुआ जो मूलभूत स्ट्रक्चर है, जो संविधान का फ़ैम वर्क है, उस को बदलने का प्रयत्न नहीं किया जाना चाहिये। यह भी कहा गया कि इस संसद् को संविधान के स्ट्रक्चर को बदलने की ताकत नहीं है। मुझे इस बात को सुन कर अमरचय होता है—सम्पूर्ण ताकत

जनता में है और जनता ने अपने बलकेयर के लिये सरकार बनाई है और उस सरकार ने जनता के हित के लिये संविधान का निर्माण किया है। अब यदि संविधान के कुछ प्रावोजंज किसी भी समय जनता के मार्ग में बाधा उत्पन्न करते हैं, उन को वजह से जनता को आर्थिक और राजनीतिक न्याय नहीं मिल पाता है तो इस सभा को; इस संसद् को पूरा अधिकार है कि उन बाधाओं को दूर करे और संविधान में भी संशोधन कर ले।

श्रीमन्, प्रस्तुत विधेयक में उस फ़ैम-वर्क को नहीं छुआ गया है। लेकिन मैं तो यहाँ तक कहने को तैयार हूँ और यह कहने का दावा करता हूँ कि अगर उस फ़ैमवर्क को भी तोड़े जाने की जरूरत हो, तब भी यह पार्लियामेंट; यह संसद् कानूनी तौर पर सक्षम है और वह जनहित में उस में एमेंडमेंट कर सकती है।

15.53 hrs.

[*Mr. Speaker in the Chair*]

श्रीमन्, प्रस्तुत विधेयक में संविधान का स्वरूप नहीं बदला है। मूलभूत अधिकार अपनी जगह पर हैं, उच्चतम न्यायालय अपनी जगह पर है; उच्च न्यायालयें अपनी जगह पर है, एजल्ट फ़ेचाइज हैं, इलैक्शन कमीशन है और ये सब चीजें अपनी जगह पर हैं। जो थोड़ा सा सुधार करने का प्रयत्न किया गया है वह उसी फ़ैमवर्क के अन्तर्गत किया गया है और यह आग्रह करना और दुराग्रह करना कि इस संविधान संशोधन विधेयक में कोई मूलभूत ढांचा बदला जा रहा है, ऐसा कहना उचित नहीं है और न ही ऐसा कहने में कोई दम है।

तीसरी बात यह है कि इस के लिये राजनीतिक कारण बतलाए जा रहे हैं। कुछ मेरे दोस्तों ने यहाँ पर कहा है कि राजनीतिक कारणों से इस संविधान (संशोधन) विधेयक को जल्दी से जल्दी और बिना छत्ती तरह सोचे समझे, बस जनता की राय

[श्री राम रतन शर्मा]

लिये हुए, पास किया जा रहा है। श्रीमन्, राजनीतिक कारणों से ही तो संसद का अस्तित्व है, राजनीतिक कारणों से ही हम यहीं पर ईकट्ठा हैं। इसलिए और राजनीतिक कारणों से कोई अच्छा काम होता हो, तो उस का हमें विरोध नहीं करना चाहिये। मेरी समझ में नहीं आता कि ये कारण यहां पर क्यों लाए जा रहे हैं ?

श्रीमन्, इस में एक नया चेंटर फंडामेंटल ड्यूटीज का जोड़ा गया है। वास्तव में फंडामेंटल ड्यूटीज अपनी जगह पर बहुत अच्छी हैं लेकिन अगर हम इनमें कुछ चीजें, कुछ बातें और जोड़ सकते, तो बहुत अच्छा होता। मिसाल के तौर पर इन ड्यूटीज में शराबबंदी और शराब का न पीना भी एक ड्यूटी जोड़ दी जाती, तो बहुत अच्छा होता क्योंकि इस से बहुत सी बुरी बातें, बहुत से दुराचरण होते हैं।

इन सब कारणों से, श्रीमन्, मैं इस संविधान (संशोधन) विधेयक का समर्थन करता हूँ और सदन से अनुरोध करता हूँ कि वह भारी बहुमत से इस को पास करे।

THE PRIME MINISTER, MINISTER OF PLANNING, MINISTER OF ATOMIC ENERGY, MINISTER OF ELECTRONICS AND MINISTER OF SPACE (SHRIMATI INDIRA GANDHI): Mr. Speaker, Sir, I rise with a sense of dedication for I am keenly conscious of the high significance of what we are doing here in this House. 16 months ago, I spoke of the need to restore the health of our democracy. The Bill now before the House may not be perfect and many Members have pointed out its imperfections. But it is, I earnestly believe, a vital step in curing our political system of some of the ills to which it is subject. I think, it will add to the country's strength and capacity to fulfil our national objectives and to realise a few more of the hopes of our people.

But I must confess to disappointment at the attitude of a few opposition parties. They demand full discussion of the amendment but they keep away from Parliament, the supreme forum of such a discussion. This kind of escaping responsibility is difficult to appreciate except, as we have all noticed, that irresponsibility has become a habit with some people. To non-cooperate with Parliament is to non-cooperate with the people. My advice to the un-reconciled opposition parties would be to give up their negative opposition and return to the path of reason and responsibility. Of course, this negative opposition is not born out of the Emergency, as some hon. Members opposite have hinted. It started long before Emergency; and in fact, it was one of the causes for the Emergency.

16.00 hrs.

Amongst those of the Opposition who did speak, some seemed to be groping to find something to criticize. That is why their arguments were rather contrived. All that this section of the Opposition is saying to-day, they have been repeating throughout this difficult period, during and since the last elections. And no matter how many more discussions we have, I doubt whether they are going to come up with any new argument.

Some hon. Members asked why we have waited so long to bring in these amendments. The hon. House is aware—and so are the people of India—that we have amended the Constitution earlier. We have gone ahead with our programmes in spite of tremendous odds and unforeseen difficulties, external as well as internal. It was the abuse of democracy by some of the Opposition, the obstruction in the way of our legitimate functioning which necessitated further consideration and action. And enough evidence of this attitude and of the actions of the Opposition is available in print and in the memories of all of us present here and a large part of

the world, not just of this country.

Were the actions of the Opposition in Gujarat leading to the dissolution of the Assembly democratic? Therefore, it, ill behaves any one belonging to the Opposition and coming from that State to lecture us on democracy. The Gujarat agitation was the beginning of the threat to the very survival of our democratic system.

Then, some people have spoken of lack of political will. I think that our actions—I am not speaking our words but of our actions—have demonstrated that there has been no lack of political will. In fact it was the will, and the determination which aroused such anger and evoked the campaign of criticism and calumny against our party and against me, personally. Those who are now speaking about freedom of speech did not seem to be concerned with the suppression of the voices of the millions of the poor. Those who are expressing such anguished concern for democracy—how many of them collected signatures against the politics of falsehood and hate, against violence, arson and murder? And if they have, I think it must be in a very obscure corner, because our attention was not drawn to it.

Then, there are those whom Professor Mukherjee rightly called, 'political mercenaries', those who have no foothold in India but are hailed abroad as leaders. As for those who haunt foreign embassies and high commissions, it is not a question of "a handful of silver", but of bottles of whisky, trips abroad or scholarships for their children. Any one who is proud of India's heritage, proud of the greatness of the Indian people cannot but feel deep shame at the antics of these so-called 'friends of democracy'.

The R.S.S. and Ananda Marg, apart from their underground activities which still persist here, have found it more

profitable financially and otherwise, to establish branches in several foreign countries. What has been the role of these two groups, what has been their commitment to democracy all these years? Has any member of the Opposition given thought to this aspect?

I am sorry that even the attitude of my hon. friend sitting opposite was somewhat ambiguous. The hon. Member spoke of not mixing minor items such as quorums with such a serious amendment. He charged us with diverting attention from the main clauses. Others also criticized the part of the Executive and various other matters. Justice Subha Rao's trying for Presidency was a blatant indication, not only of the political bias of some of the judiciary, but of their intention to be involved in and to interfere in politics. The question was not of a particular individual, it was symptomatic of the basic struggle, the spearhead of the entire movement against everything that the Congress Party as a representative of the freedom struggle, had advocated and struggled for, the programmes and ideas on which not just one but all our elections were fought and won.

Many have pressed for the deletion of the property clause. Today our thrust is not merely on directions or intentions, but on actual action. Hon. Members will remember a time when the Congress Party passed a resolution regarding co-operative farming. There was nothing in it about people having to give up their land, there was nothing in it about collective farming, yet such a tremendous campaign of propaganda was launched that even that very moderate programme could not get off the ground. You all know how easy it is to spread misunderstanding, specially amongst those who have little property. Perhaps it is those who have more, who spread misunderstanding but, whatever it is, the result is that even the man who has a small piece of property gets upset that his little bit will be touched. Hence our caution not to

[Shrimati Indira Gandhi]

be pushed into any position which would make it more difficult to implement our programmes. The 20-Point Programme and the 5-Point Programme are not individual programmes; they are national programmes and they are essential for our progress. They are essential to all the other programmes which we want to implement.

As regards family planning, the Health Minister and I have made repeated and clear statements of the policy of the Government of India. We do not approve of compulsion. But we do believe that programmes of sterilization and the adoption of all other known effective measures for the control of population are important and most urgent. It is our view, and that of many non-Government people who have travelled around the country, that there is now an awareness and acceptance of these programmes. But, and it is a big "but", certain parties, groups and individuals have been raising a hue and cry, creating misunderstanding and an atmosphere of fear. As we all know, fear leads to irrational action. Therefore, when a situation of confrontation is deliberately created, there are tragic consequences. Some deaths have taken place due to firing, though the figure given by some hon. Members is greatly exaggerated. On the other hand, organized groups have also killed policemen and other citizens, even those who were not on a family planning mission. Where there is harassment, it should certainly be dealt with. But it will be easier to do so if people are not incited and encouraged to take the law in their hands, and also if political parties and outside interests will not try to take political advantage of the situation.

Another party questioned whether any State Government had defied the Centre. I do not know whether I would use that particular word, but we do have examples of State Governments creating difficulties with regard to national property and production. By the way, the Railway Police are also

under State jurisdiction. So, the alleged confrontation was not between the Centre and Kerala, nor was it anything but a friendly wrangle. The Goa referendum was an entirely different issue and has no relevance to the present situation.

Many hon. Members have spoken about the purposes of Government and the problems of nation-building, from deep knowledge. Shri Gokhale and others quoted Jawaharlal Nehru's admonition to the Constituent Assembly not to tie down future generations. Jawaharlal Nehru knew the country had to, and would, change speedily. He himself planted and nurtured the seeds of change. As the House knows, the first amendment to the Constitution came within months of the adoption of the document. Indeed, many will recall that even as the Constituent Assembly was in session, so many changes were occurring, for example, the integration of the States, when many clauses were reopened and revised. So, revision and adjustment in changing conditions are part and parcel of our Constitution. Those who want to fix it in a rigid and unalterable frame do not know the spirit of our Constitution and are entirely out of tune with the spirit of new India.

Various theories, as to what constitutes the core of our Constitution, have been put forward. Some say Fundamental Rights, others, the Directive Principles Chapter. Yet others think it is judicial review. A doctrine of constitutional supremacy has been propounded. The true supremacy is that of the people. While the Constitution is a very important document, it is but an instrument to serve the people. The Constitution exists for the people. People should certainly respect it, but they cannot be sacrificed for it.

A wholly unjustified charge is that the amendments are intended to serve the Congress. The Congress has always thought of the country, not of it-

self. The Congress took the lead in drafting the Constitution, as it took the lead in the fight for freedom. Shri Shiva Rao, a recognised authority on the Constitution, has written:

"The Congress was labouring for freedom and unity, not for a party or a section but for the country as a whole." (B. Shiva Rao, 'The Framing of India's Constitution', Vol. 1, Page 121)."

The same considerations guide us today: freedom and unity and the good of the country as a whole, not the gain of any particular section.

The Congress invited many non-Congressmen to participate in the task of Constitution-making. When the work was over, a non-Congressman, Dr. Ambedkar, did not hesitate to concede:

"The possibility of chaos (in drafting and debate) was reduced to nil by the evistence of the Congress Party inside the Assembly which brought into its proceedings, a sense of order and discipline. It is because of the discipline of the Congress that the Drafting Committee was able to pilot the Constitution in the Assembly with the sure knowledge as to the fate of each article and each amendment". (Ibid p. 838)

The Congress continues to be impelled by the same discipline, the same desire to ensure the national good.

A Constitution must give order and stability, it must ensure that the organs of Government are responsible to the people and subject to their will. It prescribes restraints on all, and that is the essence of the rule of law. There can be stability and responsibility and law only if the legislature, the executive and the judiciary respond to the changing needs and aspirations of our people.

This is what the present Bill does; it is responsive to the aspirations of the

people, and reflects the realities of the present time and the future. It is not hastily conceived, it is drawn up with care and deliberation. Many of the changes were, in fact, suggested by the Committee set up by Jawaharlal Nehru in 1954. So, in a sense, the discussion has been going on for twenty whole years. This certainly cannot be called rushing or stampeding!

We are assailed on the ground that we want to establish executive dominance. We have not changed anything. What was implicit has now been made clear. An understanding of the parliamentary system shows that in our system the executive is a parliamentary executive. All Ministers are Members of Parliament and they are daily accountable to Parliament.

Some people quote British practice and precedent day in and day out and challenge the right of our Parliament to amend the Constitution through processes set forth in the Constitution itself. They very conveniently forget what Shri B. N. Rau pointed out, that the British Constitution can altered by ordinary law. We have always maintained that Parliament has an unfettered, unqualified and unabridgeable right to amend the Constitution. We do not accept the dogma of the basic structure. Sardar Swaran Singh remarked that some Judges have imported the phrase "basic structure". I would not say they have imported it since it does not exist in any other Constitution, they have invented it. We do not think that only a Constituent Assembly can amend the Constitution. Such ideas were put forth even at the time of the drafting of the Constitution, but were rejected. Indeed, Dr. Ambedkar cogently explained that the Constituent Assembly which drafted the Constitution had been elected on a limited franchise whereas the Parliament of India under the Constitution would be elected on countrywide adult franchise, and surely such a Parliament could not be said to have lesser power!!

[Shrimati Indira Gandhi]

Some criticisms are due to misapprehension. Others are deliberately intended to sow mischief. I can say clearly and unambiguously that personal rights are not curtailed; judicial power to protect personal rights has not been abolished or curtailed. The President has not been invested with the power to amend the Constitution. As the Law Minister explained the day before yesterday, the removal of the difficulties clause is a routine safeguard. The chapter on duties has been introduced not to smother rights but to establish a democratic balance. Our Constitution was notable for highlighting Directive Principles along with Fundamental Rights. Neither can flower and bear fruit without the performance of duties. The asymmetry of one-sided stress on rights will be rectified.

I should like to assure my friend behind that there is no intention that in the preservation of wild life, tribal life should suffer. On the contrary, if forests are better looked after and wild life is preserved, there would be far greater opportunities for employment as well as a better ecological balance in the whole area which would lead to an improvement in the life of the tribal. So far, the feeling of responsibility towards nature was absent all over the world. It was not absent in our own ancient books; but came about because we adopted the western view point. Now the time has come once more for us to go back to the sources of strength of the human race and to try to preserve and revitalise them.

In my own view, this bringing in of duties should have been done when the Constitution was drawn up. Other countries have realised the importance of not permitting liberties to be turned into licence. For example, the Constitution of the Federal Republic of Germany contains a provision to prevent the misuse of the constitutional freedoms. Article 18 reads as follows:

"Whoever abuses the freedom of expression of opinion, in particular

the freedom of the press, the freedom of teaching, the freedom of assembly, the freedom of association, the secrecy of mail, post and telecommunications, property, or the right of asylum, in order to attack the free democratic basic order, shall forfeit these basic rights."

I think that some other constitutions also have some such provision even if not so clearly stated.

We are accused that the clause on anti-national activities is meant to liquidate opposition parties. Had the Congress wanted to, it could have done so in 1947; it could have been done so at any later date. But nowhere has any party been so tolerant of the Opposition. We have not regarded, and we do not now regard, anti-Congress or even anti-Government activity as anti-national. The question has been raised, what is anti-national. I don't think the answer is very complicated. The preaching of the dismemberment of India is anti-national. Inciting communal or provincial hatred and violence is anti-national. Indulging in the destruction of national installations is anti-national. We are not against legitimate trade union activities. And in fact, the large majority of workers, industrial workers are with us. But trade union activity should not be used by a few as a cover for violence, destruction and sabotage.

Something was also said by some Members about misuse of such clauses by a possible future non-benign government. One person called it a non-benign government; another called it an evil government. Does anyone doubt that if such a Government were to come to power would it not follow its own path? Do you seriously think that it would be concerned with the niceties of the Constitution? This is the same argument that Western people used when we had our peaceful nuclear experiment and also on other occasions. Those people who want to do something, those who are bent in a particu-

lar direction, they are going to go in that direction. They are not waiting for Congress to open door for them. They will break open the doors if they feel that would help them.

Indeed they have tried to do so already. What for was all the agitation before Emergency? What was it except to throw aside the Constitution, to throw aside the base of our democracy? What was it when an hon. Member of this House, an hon. Member of the Opposition, said, "We will take politics to the streets"? What was it? Was it we who made such a declaration? Therefore, the hon. Members who spoke against the amendments, sounded quite plausible in speaking of democracy but their arguments are not so plausible when we know what had gone on before, not only on the streets of our cities but right here in this House when people wanted to squat on the ground and indeed did so. I do not think that was any part of parliamentary procedure, parliamentary decorum or of democracy as our founding fathers envisaged it.

Now, I spoke of parties not bothering about the niceties of the Constitution. We know that in most developing countries, perhaps in all developing countries, they have not been able to keep the sort of open society which we have. I am not blaming them because it is for each country to decide what sort of system they should have and how they can solve their problems. What I am saying is, that the difference between conditions in affluent Western countries and countries which are still struggling to consolidate their freedom and build their very foundations, cannot be brushed aside because of any text-book definition.

The founding fathers of our Constitution and of our country had intended Indian society to be secular and socialist. These are not new definitions. They have guided our laws all these years. All we are doing now

is to incorporate them in the Constitution itself for they rightly deserve to be mentioned there. The specific mention of this fact in the Preamble will provide the frame of reference to all, to our people, to the Government, to the judiciary and to the world.

The purpose of the Bill is to remedy the anomalies that have been long noticed and to overcome the obstacles put by economic and political vested interests. The amendments we have brought in are more in the nature of renovation. We are not building a new house. But there are people who, unfortunately, do not wish to pull their weight in the proper management of our country. When the initial drafting of the Constitution was completed in 1949, Dr. Rajendra Prasad remarked:

"Our Constitution so far has evoked many controversies and raised many questions which had deep difference. But we have somehow or other managed to get over them all."

This modest phrase represents the sincerity and capacity for compromise which marked the outlook of our founding fathers. That is the spirit we must all strive to emulate, whether we belong to Congress or to other parties.

I agree with my hon. friend who said that he did not care if he were elected or not. Individuals may not matter. In fact, do not matter. But the future and independence of our country do matter. We cannot sacrifice them. We cannot allow them to be threatened or be damaged in any way by outside pressure merely because of some people's view of what should be done and, specially, when those are the people who are not concerned with the same values just a year or so ago.

The Constitution of 1949 embodied the spirit of the peaceful revolution of Mahatma Gandhi and Jawaharlal

[Shrimati Indira Gandhi]

Nehru. A peaceful revolution is a continuing revolution. This Bill is not achieving all our aims, but it will carry the Indian revolution forward, making our people freer and endowing them with greater power over their own destiny. The Constitution has to face a bigger than the judicial scrutiny and that is the scrutiny of history. It was to be capable of meeting the challenges of historical forces. There is something greater than all of us and that is the nation and its future. That is the importance of this Bill.

Thank you.

MR. SPEAKER: Before I call the Hon. Member, I would like to remind the House that the House will sit till 8 p.m. today. The Minister for Law will reply tomorrow first thing in the morning and, after his reply, voting will take place and will continue to take place on the clauses till the Bill is passed on the 1st November. Therefore, the Hon. Members may please make it convenient to be present throughout for the voting, because a special majority, i.e., a two-thirds majority is required.

Now, Sardar Darabara Singh.

श्री दरबार सिंह (होशियारपुर) :

अध्यक्ष महोदय, आज यहां पर प्राइम मिनिस्टर का जो भाषण हुआ है उनके बाद, आज से पहले जितनी बहस यहां पर हुई है उसके मुतालिक किसी पार्टी या इंडिविजुअल को कोई शक नहीं रहना चाहिए। क्राज बाई क्राज लेने से पहले मैं यहां पर कुछ अपनी बात कहना चाहता हूं। हमने हिन्दुस्तान की आजादी के पहले कलकत्ता में एक रेजोल्यूशन पेश किया था जिसमें हमने कहा था कि आजादी सिर्फ किसानों नहीं बल्कि व्यापिक और सामाजिक आजादी का होना भी निहायत जरूरी है। उसके बाद लगातार कांग्रेस ने अपने तमाम सेशन में इस बात को आगे बढ़ाया है। आवड़ी में हमने कहा कि हम सोशलिस्ट पर्टन ब्राक सोसायटी बनाते हैं, सुवर्णेश्वर में हमने उसको और बका किया। इस तरह से

हमारी यह लगातार कोशिश रही है और इस समझते है कि समाजवाद इस देश में तमाम चीजों का हल है। इस तरह से हम आगे बढ़ते रहे। आगे बढ़ते बढ़ते जब हमारी आजादी आई तो उस समय पं० जवाहरलाल नेहरू ने अपने भाषण में कहा था कि देश में जो इनक्वैलिटी है उसको हमें दूर करना है और जो हमारा कॉन्स्टीट्यूशन है वह कोई रिजिड डाकुमेंट नहीं है जिसको हम बंध नहीं कर सकते हैं। कॉन्स्टीट्यूशन बनने के बाद पिछले सालों में लगा तार हम देखते रहे हैं, एक केस में नहीं, बहुत से केस देखे हैं जिनमें हम अनेक-अनेक करते आये हैं। मैं आपको याद दिलाऊँ चाहता हूं कि पं० जवाहरलाल नेहरू के सामने मिला था कि लिमिटेड बोट से, थोड़े से लोगों के बोट के कॉन्स्टीट्यूट असम्बली बनो यो। वे लोग बड़े बड़े जागीरदार थे। उस वक्त आम लोगों को फ्रैंचाइज के हक नहीं थे, बड़े बड़े लैंड-लार्ड, जागीरदार, बड़े बड़े इण्डस्ट्रियलिस्ट्स, वेस्टेड-इन्टर्रेस्ट वाले लोग चुन कर आये और उन्होंने अपने ढंग से यहाँ पर काम किया। यह पंडित जवाहर लाल नेहरू की अपनी समझदारी और विस्मय थी कि उन्होंने उस वक्त संविधान को बनने दिया, लेकिन यह बात उन्होंने उस वक्त आफतौर से कह दी कि अब वह वक्त आ रहा है, जबकि हम इस कॉन्स्टीट्यूशन को परमानेंट नहीं बना सकते हैं, यह सेक्रेसेंट नहीं है, इसमें जब भी जरूरत पड़ेगी, कहीं भी तबदीलों की जा सकती हैं।

16.27 hrs.

[SRI G. VISWANATHAN in the Chair].

उसके बाद बिहार का कमलेश्वर सिंह का केस आया, उसमें बिहार गवर्नमेंट के खिलाफ फैसला हुआ। उसको ठुकरा करने के लिये उन्होंने संशोधन कराया और कहा कि फ्रैंचामेंटल राइट्स रिजिड नहीं हैं, अपने वेस्टेड-इन्टर्रेस्ट को सुवर्णेश्वर रखते हुए इन्डिविजुअल राइट्स को सबसे ज्यादा

सुधीमैत्री नहीं दी जा सकती, इस तरह से कौम नहीं बन सकती। कौम को बनाने के लिये इण्डोविजुअल राइट्स को तरजोह नहीं दी जा सकती। इसके लिये आर्टिकल 31(ए) और (बी) में तरमीम की गई और 9वें शेड्यूल में लाकर उसको प्रोटेक्शन देने की कोशिश की गई।

इसके बाद मुदालियर का केस आया, मोलफ नाथ केस में जो फैसला हुआ, वह भी आपको मालूम है। उसके बाद केशवानन्द भारती के केस में जो फैसला हुआ—आप जानते हैं उसमें कहा गया कि फण्डामेंटल राइट्स तो बच किये जा सकते हैं, लेकिन बेसिक स्ट्रक्चर नहीं बदला जा सकता। यह बेसिक स्ट्रक्चर हम कहां से लाये हैं? प्राइम मिनिस्टर ने ठीक ही कहा है कि यह उनके दिमाग की उपज है, कांस्टीचूशन में कहीं कोई ऐसा कोई लफज नहीं है, न इसका कोई बेसिज है, न ही कोई ऐसा स्ट्रक्चर है—सिर्फ उसको नाम 'बेसिक स्ट्रक्चर' दे दिया गया है। भविष्य में भी यदि कहीं इस बेसिक स्ट्रक्चर के नाम पर उन के दिमाग में कुछ ब्याल आ जाये तो वे यह कह सकते हैं कि यह सारे का सारा जो बिल है, गलत है, क्योंकि यह बेसिक स्ट्रक्चर के खिलाफ है—ऐसी चीज से बचने के लिये हमें चाहिये कि हम अच्छी तरह से देखभाल करें कि कहीं कोई एम्बिगुइटी न रह जाये। इस तरह की बात होने का कोई शक-न-शुबहा नहीं रहना चाहिये, डेमोक्रेटिक सेट-अप में यह निहायत जरूरी है क्योंकि अब तक ऐसा होता आया है, हमने जब भी कोई इन्क्लाबी कदम उठाया, उस तरह से हमेशा उस में रूकावट डाली गई।

इस में 'सोशलिज्म' लफज डाला गया है—कुछ लोग उस के भी खिलाफ हैं। सोशलिज्म को मानते हुए भी कुछ ऐसी बातें कही गई हैं जो सोशलिज्म के खिलाफ हैं। हमने इस

लफज को भरने प्रियम्बल में इतलिये डाला कि उसमें कोई एम्बिगुइटी न रह जाये। प्रीयेम्बल ही हमारे कांस्टीचूशन का सीमा है, जो इस बात को जाहिर करता है कि हमारा कांस्टीचूशन क्या है, हम किस तरह जान चाहते हैं। जब इतनी दफा कांस्टीचूशन में तबदीली हो चुकी है तो आज इन तबदीलियों को लाने से कौन सी आप्रत आ जायेगी, क्यों इस बात पर ऐतराज किया जा रहा है। कुछ अपने कदम को आगे की तरह बढ़ा रहे हैं, अब पीछे नहीं जा सकते हैं, इसलिये सोशलिज्म और सैकुलरिज्म शब्दों का प्रीयेम्बल में होना बहुत जरूरी है। अभी तक हमारे यहां मजहब के नाम पर, बिरादरी के नाम पर, संघ के नाम पर झगड़े होते रहे हैं, यह इस बात को जाहिर करता है कि लोगों के दिमाग अभी साफ नहीं हैं। कांस्टिचुम अभी देश में कायम है, जब तक ये चीजें खत्म नहीं होंगी—कोई भी समाजवाद देश में पूरी शक्य अख्तियार नहीं कर सकता है—हमें इससे बहुत आगे जाना है। हम यह देखते हैं कि जो फिरकादारी और इजारेदारी थी, उसके खिलाफ पं० जवाहरलाल नेहरू ने एक मजबूत कदम उठाया था और वह था पंचायती राज। पंचायती राज में लोगों को वे राइट्स दिये गये थे जो बड़े-बड़े लैंडलार्ड्स के पास थे और जिनकी मारफत वे शरीर और छोटे लोगों पर डोमिनेट करते थे। इस तरह से पं० जवाहरलाल नेहरू ने फिरकादारी, इजारेदारी, मरमायादारी, इन सबके खिलाफ पंचायती राज कायम करके एक वाजिब कदम उठाया था। यह जो पंचायती राज कायम किया गया था और डिसेन्ट्रलाइजेशन आफ पावर्स किया गया था, इनके बारे में उन्होंने कहा था कि इसके कम्पलीट होने के बाद कोई भी बैरूनी ताकत, कोई भी इन्दरूनी ताकत इस डेमोक्रेटिक सेट-अप कोई थोट नहीं पहुंचा सकती है और आज हम देखते हैं कि बाहुर और इन्दरूनी ताकतों के जोर लगाने के बावजूद भी हमारा डेमोक्रेटिक सेट-अप खड़ा है। इसका कारण डिसेन्ट्रलाइजेशन ही है।

[श्री दरबारा सिंह]

हूँ कि इंग्लिस्तान में जो हमारे लोग रहते हैं, वहाँ से उन्होंने मेरे पास एक तार भेजा है, जो कि मैं पढ़ कर सुनाना चाहता हूँ।

"India being a secular State, formation of political associations and parties like Jan Sangh, Akali Dal and Muslim League based on religion is in flagrant violation of the Constitution. Associations and parties can only be formed on social and economic programmes."

इस से आप अन्दाजा लगाइये कि हिन्दुस्तान के जो लोग वहाँ पर बैठे हुए हैं, वे इस बात पर कितना यकीन करते हैं और उस के लिए कितनी दिलचस्पी रखते हैं। मेरे पास यह जो तार आया है यह बहुत लम्बा-चौड़ा है और मैं ने इस में से एक पैरा ही पढ़ कर सुनाया है। इस से पता चलता है कि वे भी इस बात के हिमायती हैं कि फ़िरकेदारी की बात जो बहुत देर से यहाँ पर चल रही है, वह ख़त्म हो और उस की जगह पर एक अच्छे ढंग की आर्थिक व्यवस्था लाने के लिये कौन सी अच्छी अच्छी बातें करनी चाहिए। इस की तरफ़ खास ध्यान देने की ज़रूरत है।

इस के साथ ही मैं यह अर्ज करना चाहता हूँ कि डेढ़ साल पहले सिविल लिबरटीज का जो मिसयूज हुआ था, वह अब कभी नहीं होना चाहिए। बहुत बड़ी तादाद में लोगों ने कोशिश की थी कभी डिमान्डेन्स के जरिये, कभी गाली-गलोज़ के जरिये, कभी पत्थर फ़ेंक कर और कभी आग लगा कर कि इस देश में तोड़-फ़ोड़ की जाए। उन्होंने नेशनल इन्स्टिट्यूट को नहीं देखा था। आज उन लोगों को एन्टी-नेशनल कहा जाए तो कौन सी ग़लत बात है। जिन लोगों ने हिन्दुस्तान की मुसीबत के वक़्त अर्थ-

व्यवस्था को बिगाड़ने की कोशिश की वे एन्टी-नेशनल नहीं। तो क्या है? मैं इस बात के पक्ष में हूँ और जैसाकि इन्द्रजीत गुप्ता जी ने कहा है कि हमें उन सब लोगों के, जिनको लिबर क्लास कहा जाता है जो काम करने वाले लोग हैं, इन्स्टिट्यूट को पूरे तौर पर वाच करना चाहिए क्योंकि हमने पिछले साल में देखा है कि प्रोय रेट बढ़ा है और इमर्जेंसी से हमें गेन्स प्राप्त हुए हैं। न केवल प्रोय रेट बढ़ा है बल्कि स्टेबिलिटी भी आई है। आज हम देखते हैं कि लोग काम पर लगे हुए हैं और नेशनल इन्स्टिट्यूट में अपना-अपना काम कर रहे हैं, पब्लिक सेक्टर के प्रोफ़िट्स भी बढ़े हैं और दूसरी चीज़ें भी बढ़ी हैं। इस में कोई दो राय नहीं है और मैं तो बहूँगा इस प्रगति को और आगे बढ़ाने के लिए हमारी कोशिश होनी चाहिए। जो पार्टियाँ एन्टी-नेशनल काम करती थी और इस देश में बाहर की ताकतों से न सिर्फ़ इनफ़्लेट करके बल्कि उनसे ख़य़े-पैसे की मदद लेकर, इस काम को करती थीं, उन के खिलाफ़ सख़्त कार्यवाही होनी चाहिए। आज हम यह भी देख रहे हैं कि एक आदमी यहाँ से भाग गया और बाहर जाकर कैसा-कैसा प्रचार हमारे मुल्क के खिलाफ़, हमारी सरकार के खिलाफ़ और हमारे खिलाफ़ किया। यह बात जाहिर करती है कि ऐसी पार्टियाँ दब तो गई हैं, बोलती नहीं हैं, उन की ज़बान बन्द है लेकिन उन के चहरे बोलते हैं कि उन के दिल में क्या है। कुछ उन की सफ़ाई हुई है, बहुत से नीचे आए हैं लेकिन अभी भी उन से सावधान रहने की ज़रूरत है। वे ताकतें फिर सर उठा सकती हैं। इसलिए इमर्जेंसी के जितने गेन्स हैं उन को पुख़्ता करना चाहिए और उस के लिए और भी जो ज़रूरी कदम हैं वे सरकार को उठाने चाहिए।

इसके साथ-साथ मैं अर्ज करना चाहता हूँ कि लैंग्वेज के सवाल पर बहुत होशियारी के साथ यहाँ पर बात कही गयी है। यूनियन की लैंग्वेज क्या होगी इसका जिक्र सेक्शन

343 में है। मैं कहना चाहता हूँ कि कोर्ट्स की लैंग्वेज इंगलिश है अगर इंगलिश के साथ साथ हिन्दी भी कर दी जाय तो कोई हर्ज की बात नहीं है। जैसा कि कहा गया कि इंगलिश को हटाया नहीं जा सकता हम तो हटाने की बात नहीं कहते, हम तो उसमें ऐड करने की बात कहते हैं। हिन्दी की अपनी अहमियत है और दुनिया के दूसरे मुल्क भी उसकी जानकारी लेना चाहते हैं। अगर हिन्दी आती है तो अंग्रेजी को हटाने की बात नहीं है अंग्रेजी जब तक चाहे चलती रहे लेकिन इस कौम की जबान हिन्दी है इसलिए उसका भी उपयोग होना चाहिए। हिन्दी का उपयोग कहीं न कहीं किसी ढंग से जरूर होना चाहिए। लैंग्वेज के बारे में मैं इतनी बात अर्ज करता हूँ।

अपने देश की आर्थिक तरक्की के लिए ट्रुवैन्टी प्वाइंट प्रोग्राम बना है। अगर हमें इस प्रोग्राम को जारी रखना है और आगे ले जाना है तो कांस्टिट्यूशन को बदलना चाहिए। कांस्टिट्यूशन असेम्बली होनी चाहिए या नहीं होनी चाहिए इसके बारे में बहुत सारी दलीलें दी गयी हैं। मैं कहता हूँ कि रोज जो इस पार्लियामेंट के रास्ते में हर्डल्स आती हैं उनको दूर करने के लिए इस पार्लियामेंट को अधिकार है कि वह बैठ कर उसको दूर करे। इसके लिए हमें जो भी रास्ता अस्तित्व करना पड़े जिससे कि ये दूर हो सकें, वह रास्ता अस्तित्व करना चाहिए और इनको दूर करना चाहिए।

श्री नाथू राम अग्रहार (टीकमगढ़) : सभापति जी, संविधान संशोधन विधेयक जो पेश किया गया है मैं उसका समर्थन करते हुए अपने विचार रखना चाहता हूँ।

सभापति महोदय, जो माननीय सदस्य यह कह रहे थे कि फ्रण्ड्स ऑफ राइट्स में सम्पत्ति का अधिकार रहना चाहिए, मैं उनसे

कहना चाहता हूँ कि यह दूसरे लोगों के अधिकारों पर कुठाराघात है। सभापति महोदय, यह संविधान संशोधन विधेयक क्यों लाया गया? क्या यह सही नहीं है कि आजादी के पूर्व जब हमारी स्वतंत्रता का आन्दोलन चल रहा था तब हमारे देश के नेताओं ने देश की जनता के सामने यह वायदा किया था कि जब अपने देश को आजादी मिलेगी तब हम अपने देश के अन्दर ऐसे समाज की रचना करेंगे जो प्रजातांत्रिक हो और समाजवादी हो और देश के अन्दर ऐसी कोई असमानता नहीं रहने देंगे जिसमें कुछ लोग तो अधिक खाना खाकर बीमार हों और बहुत सारे लोग बिना खाये भूख से मरें? हम अपने देश के अन्दर ऐसे समाज की रचना करना चाहते हैं जिसमें न-बराबरी न रहे। हम चाहते हैं कि देश के अन्दर हर इंसान को रहने के लिए मकान, पहनने के लिए कपड़ा; खाने के लिए रोटी, दवा-दारू और शिक्षा मिले। हम ये पाँच चीजें अपने लोगों को देना चाहते हैं। ये पाँच चीजें मनुष्य की आवश्यकताएँ हैं और इन्हीं को ध्यान में रख कर हमारे देश के कर्णधारों ने यह वायदा किया था।

स्वतंत्रता प्राप्ति के बाद जब हमारा संविधान बना तब उसमें इन चीजों का उल्लेख किया गया था। उनका कहां तक पालन हो पाया और हम कहां तक देश के लोगों की सेवा कर पाये हैं उसी का ध्यान में रखते हुए हमें समय समय पर संविधान में संशोधन करने पड़े। लेकिन इस सब के बावजूद जो हमारे देश में बेस्टेड इन्स्ट्रुक्स हैं, पूँजीपति हैं और पूँजीपतियों के साथ बेने वाले लोग हैं उन्होंने समय समय पर हमारे रास्ते में रोड़े अटकाये। हम अपने देश की प्रगति करना चाहते हैं, हम देश के गरीबों का भला करना चाहते हैं। आज देश की कोटि-कोटि जनता इस बात के लिए लालायित है कि हमारे देश में समाजवादी समाज कायम हो। वे कहते हैं कि हमारे पास जमीन

[श्री नाथू राम ग्रहिरवार]

नहीं है, हम भूखे हैं, हमको भी जीने का अधिकार है। एक तरफ अट्टालिकायें बनती जा रही हैं, दूसरी तरफ फुटपाथ पर सोने वाले लोग हैं। इस बात को ध्यान में रखते हुए हमारे देश की प्रधान मंत्री जी ने इस बात का आह्वान किया कि हम देश से गरीबी हटाना चाहते हैं। गरीबी हटाने की जो भी कोशिशें सरकार ने कीं, जो भी कदम उठाए, संविधान में संशोधन किए, कानून बनाये उन के तिलतिल में हमारे देश की न्यायपालिका की क्या भूमिका रही इसको आप तो जानते ही हैं। इसका मुझे बहुत ही अफसोस है, दुःख है। अनरीका में भी ऐसा ही हुआ था। वहां पर स्लेवरी को खत्म करने का कानून पास किया गया था। वहां के एक सबसे बड़े गुलामों को रखने वाले ने इसको वहां सुप्रीम कोर्ट में जा कर चुनौती दी थी और दावा किया था कि अगर गुलाम प्रथा को समाप्त कर दिया जाएगा तो यह उसकी सम्पत्ति पर एक प्रकार का कुठाराघात होगा, इससे उसकी सम्पत्ति क्षत हो जाएगी। हमारे एक माननीय सदस्य बोल रहे थे और मांग कर रहे थे कि व्यक्तिगत सम्पत्ति रहनी चाहिए। जो किसानों करते हैं, जो उद्योग धंधा करते हैं, जिन की निजी सम्पत्ति है, उनका उस पर अधिकार बना रहना चाहिए इस वास्ते कि बड़ी मेहनत का काम उन्होंने किया है और करते हैं। अगर उनकी सम्पत्ति पर कुछ बंदिश लगाई जाती है तो वह गैर कानूनी होगा। इस तरह की बात जो करते हैं वे वहीं करते हैं जिन के वैस्टिड इंटेरेस्ट हैं, जो निजी सम्पत्ति पर सीमा लगाने के विरुद्ध हैं, जिन की जमीनें हैं, जिन के बड़े बड़े फार्म हैं, जो जमींदार हैं क्या वे खुद हस्त चलाते हैं, यह मैं पूछना चाहता हूँ कि क्या यह सही है कि वे लोग दूसरों से हल चलवाते हैं, खेती करवाते हैं। दूसरी तरफ वे लोग हैं जो पच्चीस ब्रस से इंतजार कर रहे थे कि उनको भी जीविका कमाने के लिये कुछ जमीन

मिले, उनकी भी कुछ जमीन होनी चाहिए। वे इंतजार कर रहे थे कि उनके बच्चों को पढ़ने की वही सुविधायें मिलें जो दूसरों को मिली हुई है, जो इंतजार कर रहे थे कि जिन के बड़े बड़े मकान हैं, जो बड़े बड़े मकानों में रहते हैं उनकी बगल में उनकी भी एक छोड़ी बन जाए और वह उनको मिल जाए। जब जब भी सरकार द्वारा कोई प्रगतिशील कदम उठाए गए हैं, कानून बनाए गए हैं उनको न्यायालयों में चुनौती दी गई है न्यायपालिका ने वैस्टिड इंटेरेस्ट्स का साथ दिया है। हमने प्रिवी पर्स समाप्त करने का कानून बनाया था और उसको सुप्रीम कोर्ट में चुनौती दी गई और उसको अवैध घोषित कर दिया गया। उसी बात को लेकर देश की प्रधान मंत्री ने जनता के सामने जाना उचित समझा और कहा था कि जाना ही फंसला करे कि उसको प्यार है जजों का फंसला मान्य है? हिन्दुस्तान की साठ करोड़ जनता के सामने वह गई। जनता के सामने उन्होंने इन प्रश्नों को रखा और कहा कि अगर जनता चाहती है कि गरीब लोगों के हित में कानून बनाए जाये, अगर वह चाहती है कि देश में समाजवादी समाज की रचना हो, अगर वह चाहती है कि नृणा बराबरी को खत्म किया जाए, अगर वह चाहती है कि प्रगतिशील कानून बनें तो वह बताए कि वह उनके साथ है या वैस्टिड इंटेरेस्ट्स के साथ है। जनता ने उनका साथ दिया। इसका नतीजा यह हुआ कि भारी बहुमत में हमारी पार्टी जीत कर आई और दो तिहाई बहुमत हम को मिला गया।

जनता ने आशा की थी व्यक्तिगत सम्पत्ति रखने वालों पर रोक लगाई जाएगी और गरीब जनता के लिए भी कोई ऐसी व्यवस्था की जायगी जिसे वह अपनी सम्पत्ति कह सके। हमारे देश में एक तरफ हजारों लाखों और करोड़ों का व्यापार कर सम्पत्ति वैश करने वाले लोग हैं और दूसरी तरफ वे

कोष हैं जिन के पास करने के लिए कुछ साधन नहीं हैं तथा वे इस धाया में हैं कि उनकी जीविका कमाने का अवसर मिलेगा। जनता ने यह धाया की थी कि अब देश में बड़े-बड़े हजार एकड़ के फार्म नहीं रहेंगे और उन फार्मों की बगल में खेती करने वाले जो खेतिहर मजदूर हैं उनको भी जमीन खेती करने के लिए मिलेगी। इन्हें दूसरों की खेती करते हुए पीछियां बीत गई हैं लेकिन उनको जमीन नहीं मिल पाई है। जमींदार की तो फसल उसके घर में आ जाती है लेकिन खेतिहर मजदूर के हिस्से तो केवल मजदूरी ही आती है। दो बीघा जमीन भी उसको मिल नहीं पाती है। इन सब चीजों को ध्यान में रख कर समय पर कानून बनाए गए, संविधान में संशोधन किए गए।

अब जो संविधान में संशोधन किए जा रहे हैं उनके लिए एक कमेटी बनाई गई थी ताकि वह सुझाव दे सके कि ऐसे कौन-कौन से संशोधन हैं जिन को करने की आवश्यकता है ताकि उन सब को एक साथ संशोधन किया जा सके। उस कमेटी ने बड़ी मेहनत की और उसी के प्रयास का यह नतीजा है कि संविधान संशोधन विधेयक का यह प्रारूप हमारे सामने है।

सब से बड़ी बात यह है कि हम गरीबों को मदद करना चाहते हैं। अब देखना यह है कि उसमें हमारी जो न्यायपालिका है वह हमारा पट्टा तक साथ देती है। बीस सूत्री कार्यक्रम घोषित किया गया, जनता के हित के लिए इसको लागू किया गया। इसको लागू करने में, इसको इम्प्लेमेंट करने में हमारी सरकारी मशीनरी कहां तक साथ देती है इसको भी आपको देखना चाहिए। धारा 311 जो संविधान की है उसमें कुछ बंदिशें लगाई गई हैं। मैं नहीं समझता हूं कि संसार के किसी भी संविधान में सरकारी मशीनरी को ऐसी बांटी दी गई है जो

हमारे संविधान में धारा 311 में दी गई है। इसको आपको निकाल देना चाहिए। इस में आपने आई०१०१० और आई०१०१०० को जो प्रोटैक्शन दे रखा है या किसी भी हालत में नहीं रहना चाहिए। हमने पिछले पच्चीस साल में देखा है कि जो भी कानून हमने गरीबों के हित में, जनता के हित में बनाए हैं इस मशीनरी ने उनको ईमानदारी से इम्प्लेमेंट नहीं किया है, रुकावटें हो हमारे रास्ते में खड़ी हो गई हैं, रोड़े हो घटताए हैं। ग्रामीण क्षेत्रों में हमारी सरकारी मशीनरी ने इन कानूनों को कार्यान्वित करने में उदासीनता दिखाई है। यही कारण है कि जो जनता के हित के कानून बने हैं वे सफल नहीं हो पाए हैं। सरकारी मशीनरी पर नियंत्रण रखना चाहिए। हमने संविधान में कितने ही संशोधन किए हैं। लेकिन जब तक सरकारी मशीनरी जनता के लिए कमिडि न हो और उस में यह भावना न हो कि हम को देश के लोगों के हित के लिए काम करना है, उनकी गरीबी दूर करने के लिए काम करना है तब तक कुछ नहीं हो सकता है। हमारी जो मशीनरी है उसको बचनबद्ध होना चाहिए, जनता की भलाई के लिए काम करने के लिए कटिबद्ध होना चाहिए।

पच्चीस साल से हम देखते आ रहे हैं कि सरकार से मांगें ही की जाती हैं अपने अपने अधिकारों के लिए। अधिकारों की मांग की जाती रही है लेकिन कर्तव्यों पर किसी ने ध्यान नहीं दिया। अधिकारों को लेकर राष्ट्रीय सम्मति को बहुत क्षति पहुंचाई गई है, देश का नुकसान किया गया है, बढ़ते हुए सदमों को रोकने की कोशिश की गई है। अब इस संविधान संशोधन विधेयक में नागरिकों को इष्टीज या, कर्तव्यों का चैप्टर जोड़ा गया है उसके लिए सरकार को बंधाई देना चाहता हूं।

[श्री नाथू राम अहिरवार]

जनता को आज यह महसूस होना चाहिये कि हमारा अधिकार है तो हमारा कर्तव्य भी होना चाहिये। देश के प्रति हमारा क्या कर्तव्य होना चाहिये, जब हम स्कूल में पहुँचते थे तो कहा करते थे कि देश के प्रति वफादार रहेंगे। हमें स्कूल के बच्चों को कर्तव्य सिखाना चाहिये, उन्हें स्कूल में प्रार्थना के वक्त प्रति दिन स्मरण करना चाहिए कि उनके देश के प्रति कर्तव्य क्या है और उन्हें देश के प्रति अपना कर्तव्य निभाना है। जब तक देश का नागरिक अपने कर्तव्यों के प्रति जागरूक नहीं रहेगा, हमारा देश आगे नहीं बढ़ सकता है। इसलिये हम सब मिलकर, देश में समाजवाद की स्थापना करना चाहते हैं, देश में आर्थिक व समाजिक क्रांति लाना चाहते हैं, उसकी प्रगति में हमें आगे बढ़ना चाहिये और अपने देश व प्रधान मंत्री के हाथ मजबूत करने चाहियें।

इन्हीं शब्दों के साथ मैं इसका समर्थन करता हूँ।

SHRI D. K. PANDA (Bhanjanagar): Mr. Chairman, Sir, much discussion has already taken place but I want to emphasise only one or two points which are very basic. As far as the Swaran Singh Committee's formula is concerned, a big difference has been made and it is with regard to art. 31(c) as amended and widened to cover the legislation for implementation of any of our directive principles. Such legislation also will not be subject to any judicial scrutiny on the ground of infringement of any fundamental right.

Sir, I really welcome this feature. As far as the question of inclusion of

socialism in the preamble is concerned, it has been spoken by many of our friends that it needs to be 'concretised'. And, for concretising this, what is the basic reason? Is there really any necessity or are we merely giving slogans? I will give certain quotations which are known to all of us. The Swaran Singh Committee publicly promised to make certain amendments to even the directive principles and they said about 'workers' participation in management' and 'legal aid to the poor'. These too are welcome features.

But, Sir, we have not hit at the main target. And the main target is fundamental right to property, and especially when we have already included socialism, actually not in theory but in practice, how can there be a declaration towards that goal? For that purpose there will not be any difficulty. We know that from the time of Pandit Nehru several declarations have been made in concrete terms. Therefore, there would be no difficulty to restructure the directive principle, for achieving socialism and economic democracy and maintain equitable balance between the various forces that are existing.

Mr. Barua, the Congress President has said:

'It is a universally accepted concept in India that courts should also accept the idea of socialism. Directive Principles are the rights enjoyed by all the people while fundamental rights are merely individual.'

So, on the basis of this categorical declaration where is the difficulty to go in for concretising the social and economic task by implementation of which actually we can orient ourselves towards our goal?

Now look at the Prime Minister's statement. There was a declaration made in the Lucknow Congress by Pandit Nehru to the effect that so-

verty, unemployment, degradation, suppression of Indian people could be solved only through socialism. He has explained again what he meant by that as follows:

- "(1) vast revolutionary changes in the political and social structures;
- (2) ending up of vested interests in land and industry; and
- (3) feudal and autocratic status system, ending of private property, replacement of the present profit system by higher ideal of the cooperative service and change in the habits and desires of the people, new civilisation radically different from the present capitalistic order."

This is what you are concretising now. This was stated about 20 years ago.

The second declaration made by him was also as follows. The present amendment must clear the ground for construction of a socialistic state. In the words of Nehru, again, this was what he said:

"During freedom and opportunity to the common man, to the peasants and workers of India to fight and end poverty and ignorance and disease, build up the procedures for democratic and progressive nation, create the socio-economic and political institutions that would ensure justice and fullness of life to every man and woman."

All these things are concretely put by our great national leader Pandit Nehru.

Now, Swaran Singh Committee have acknowledged that 'ours is a dynamic, moving and changing society and it needs to quicken the pace of socio-economic progress of our people'. But, this claim is not followed by actual recommendations. They have only removed some anoma-

lies. Several articles have come. Without giving their names, one Congressman has stated categorically that:

"undue sanctity is attached to the right to property as fundamental which, time and again, hampered and frustrated the attempt to bring measures of social justice and social transformation."

Shri Gokhale has given the idea. He has made a declaration here in the Preamble. That is a key to the solution of this problem. So, socialism is already there. So, where is the difficulty to concretise that and put it there? Take away some of the rights from the Fundamental Rights Chapter absolutely. There would be no difficulty. A cock cannot become a peacock by merely calling it a peacock. It has to be concretised. Planning body people say that we need not put that. If we have the political will, we can implement it. So, all these arguments do not hold good. Therefore, I have quoted widely all these statements and declarations made by different leaders of the Ruling Party. The declaration was made by no less a person than Pandit Nehru himself.

Now as far as our Prime Minister is concerned, I would only refer to what she said. I quote:

"Our basic fight is against entrenched privileges of the few whether in economic or social fields. We are fighting for the right of the common man. What is the way to achieve the rights of the common man?"

A path has to be shown. What is that path? This is what she said:

"No one can remain as a leader. people will not accept one as a leader who does not defend the integrity of India and who does not take the country on the path of socialism."

[Shri D. K. Panda]

I ask Where is the path shown? Socialism is the path. Why should then one grope in darkness? I ask the Law Minister, Shri Gokhale that he must find it out somewhere. If you do not do that, the real contradictions cannot be done away with. I do not know why we should take up the matter by calling a Constituent Assembly. Let this be clarified. Let the people be told now as to what is going on inside the ruling party.

17 hrs.

Therefore, my suggestion is, this. After having made all these statements and declarations, why not amend it in this way? I am making this suggestion based on what is obtaining in all the socialist countries based on our own declarations. I have not given an amendment to this effect exactly, but I would suggest that we include a clause in article 39 in the directive principles of State policy to this effect:

"The State shall strive to achieve socialism by establishing a socialistic economic system through State and co-operatives, and ownership of the instruments of the means of production and by introducing a State and co-operative public distribution system with the aim of raising the people's living and cultural standards and gradually abolishing the capitalistic economic system, private ownership and exploitation of man by man".

When we are bringing about a social revolution, as has been stated in the statement of objects and reasons, such a declaration should also find a place in the Constitution. I would, therefore, request the Law Minister to look into this aspect. We are not going to do it immediately, but according to the concrete situation obtaining in our country today, we can apply it and we will have to apply it in such a manner that every step we take must take us nearer to that goal in order to finally reach it. So this declaration should necessarily be there.

Then as regards the provision concerning emergency in parts, we are totally opposed to the provision that is now made. When an emergency is declared in one State, there is a provision now to extend it to another State. How can this be done? This is something very surprising. During the time Shri Mohan Kumaramangalam was there, there was a constitutional amendment in that spirit which was brought forward. We all sat together to consider it and then that was withdrawn. Again this disease is now raising its head. It should not be allowed to do so and it should not find a place in the Constitution.

Lastly, as regards collective bargaining, this should be included in the directive principles.

श्री विभूति मिश्र (मोतीहारी) : समा-
पति महोदय, जो यह विधेयक आया है इस
का मैं आर्थिक स्वागत करता हूँ और
जो इस में मैंने सुधार पेश किया है वह समय
आने पर मैं बतलाऊंगा। अभी प्रधान
मंत्री जी ने इस विधेयक के संबंध में पूरे
तौर पर बताया है। हम लोग फ्रीडम
स्ट्रगल से आए हैं। इधर कुछ दिन हुए
जब से कांग्रेस कमेटियों में उस तरह से
विरोध नहीं होता है, नहीं तो बराबर हम
लोग फ्रीडम मूवमेंट में लड़ते थे तो एक
न एक पार्टी हमारे प्रस्ताव का विरोध करती
थी। आजकल तो वह पार्टियां नहीं हैं
लेकिन विरोध उन के द्वारा होता था
और डिक्टेटर हम तब हो जाते थे, अंग्रेजों से
लड़ते समय नीचे की कांग्रेस कमेटियों में,
थाना कांग्रेस कमिटी, सब-डिवीजनल कांग्रेस
कमिटी, जिला कांग्रेस कमिटी, प्रदेश कांग्रेस
कमिटी और आल इंडिया कांग्रेस कमिटी में
जितने सभापति होते थे वे उस समय डिक्टेटर
हो जाते थे, डिक्टेटर होने के बाद जब
वह अरेस्ट होते थे तो दूसरे को अपनी जगह
पर रख देते थे और कांग्रेस का काम चलता
था। तो हमारी पार्टी जो है वह डिसिप्लिन्ड
पार्टी है और यह बराबर आगे बढ़ती गई।

जो विरोधी लोग हैं वह बराबर विरोध करते रहे। वे बहुत से तो खत्म हो गए और बहुत से अभी भी विरोध की मेंटलिटी रखते हैं। लेकिन हमारी कांग्रेस पार्टी के भ्रम को वे नहीं जानते। अगर उन के भ्रम पर हम चलते तो हिन्दुस्तान आजाद नहीं होता। हम को ये लोग समझने वाले नहीं हैं। इस में भी बहुत से लोग ऐसे हैं जो कभी डर गए, कभी उधर गए। लेकिन हम लोग कुछ ऐसे आदमी हैं जो इस पार्टी में जन्म से ले कर मरने तक रहना चाहते हैं और रहेंगे।

कुछ लोग कहते हैं कि इस बिल को अभी छोड़ दिया जाये। मैं समझता हूँ कि इस बिल के संबंध में प्रधान मंत्री ने देश और विदेश में बहुत से कमिटमेंट्स कर दिए हैं इसलिए इस को पास करना बहुत जरूरी है और इस को पास करने से देश में एक आस्था बनेगी जो हमारे भाई घबड़ाते हैं और विरोध करते हैं वे इसलिए नहीं घबड़ाते हैं, वे इसलिए घबड़ाते हैं कि इस के आगे कोई दूसरा बिल न आए। मेरी समझ में कोई ज्यादा नुकसान का बिल यह नहीं है लेकिन आगे कोई दूसरा बिल न आये, उसकी वजह से वे इसका विरोध कर रहे हैं। लेकिन इसमें उनको घबड़ाने की कोई बात नहीं है। फंडामेंटल राइट्स और डायरेक्टिव प्रिंसिपल्स की जहाँ तक बात है, फंडामेंटल राइट्स तो व्यक्तिगत हैं और डायरेक्टिव प्रिंसिपल्स स्टेट हैं। आदमी से बढकर स्टेट होती है इसलिए डायरेक्टिव प्रिंसिपल्स को प्रोत्साहन देना चाहिए।

एक बात मेरी समझ में नहीं आई। गोखले साहब और स्वर्णसिंह जी वहाँ पर बैठे हुए हैं, पता नहीं दोनों ने फ्रीडम मूवमेंट में भाग लिया या नहीं। मैं जानना चाहता हूँ उन्होंने जो इस बिल में सोशलिज्म का सपज रखा है तो सोशलिज्म कहीं है ?

न तो इसमें प्रायर्टी के बटवारे की बात है, एक और पांच या एक और दस के रेशियो की कोई बात नहीं है, इसमें जनता के लिए फ्री एजुकेशन, फ्री मेडिकल एंड की बात है और न ही रहने के लिए घर होगा उनको कोई बात है। तो यह जो सोशलिज्म का शब्द रखा गया है वह किस लिए रखा गया है। मैंने सरदार स्वर्ण सिंह का भाषण सुना और गोखले साहब का भी भाषण सुना लेकिन न उनके भाषण में और न इस बिल में कहीं सोशलिज्म का नामो-निशान है। जहाँ तक मैंने इसको पढ़ा है और जहाँ तक समझा है उसके अनुसार इस बिल में कहीं सोशलिज्म नहीं है। मुझे य. द है लखनऊ कांग्रेस में जो लोग विरोध करते थे उनसे राजेन्द्र बाबू ने कहा था कि मैं सोशलिस्ट हूँ। मैं झोपड़ी में रहता हूँ और वहाँ को हालत को अच्छी तरह से जानता हूँ तो विरोधी लोगों ने राजेन्द्र बाबू के सामने घुटने टेक दिये। मैं जानना चाहता हूँ इस बिल में कहां सोशलिज्म है ? खोदा पहाड़ निकलो चुहिया। इसलिए मैं कहना चाहता हूँ कि सरकार आगे कोई ऐसा बिल लाये जिसमें सोशलिज्म की बातें हों।

यह बात जरूर है कि जो पार्लमेंट है वह सुप्रीम है। जो संविधान बनाने वाले थे उनमें बहुत तरह के मिजाज के आदमी थे। उस वक्त 14 परसेंट मत से चुनकर लोग आये थे लेकिन आज आधे पापुलेशन से ज्यादा के वोट से चुनकर आये हैं। हमको पूरा अधिकार है। हमारे एक भाई श्री इन्द्रजीत गुप्त ने कहा कि आपने सात वर्ष का समय रखा है, मैं कहता हूँ आप विधान के अनुच्छेद 83 को पढ़ें जिसमें लिखा है कि एक साल का समय बढ़ाया जा सकता है। उन्होंने अपने व्याख्यान में कहा है कि इसको हम मान लेते हैं। हमारा जो बीस सूत्री कार्यक्रम है वह अगर पूरा न हो और चुनाव कराये तो लोग क्या कहेंगे वे कहेंगे कि बीस सूत्री कार्यक्रम पूरा नहीं हुआ और इमर्जेंसी लगाई है तो फिर आप हमारे पास क्यों आये हैं

[श्री विभूति मिश्र]

इसलिए हमने सोचा कि जो कार्यक्रम पूरा नहीं हुआ है उसको पूरा करने के लिए एक साल का समय और बढ़ाया जाये। इसमें कोई बेजा बात तो नहीं है। जो विरोधी दल के लोग हैं क्या वही जनता को देखते हैं, क्या हमने जनता को नहीं देखा है? मैं एडल्ट फ्रीचाइज से यहां पर पांच बार से चुनकर आ रहा हूं। क्या जो विरोधी दल के लोग हैं उन्होंने ही जनता के दर्शन किए हैं? मेरा घर स्टेशन से 24 मील दूर है, मैं ठेठ गांव का रहने वाला हूं। हमारे गोखले साहब जज रहे हैं या नहीं मैं नहीं जानता। थोड़े से वकील लोग हमारे साथ थे। अपने वकील के पेशे को भुलाकर वे हमारे साथ हो गए थे। वकीलों की तादाद कम ही थी, ज्यादातर नान-वकील ही थे जिन्होंने फ्रीडम मूवमेंट हमारे साथ फाइट किया था। आप इस कांस्टीट्यूशन को किसी हरिजन बस्ती में ले जाइये, किसी बैकवर्ड बस्ती में ले जाइये जहां पर निरीह आदमी रहते हैं। सुप्रीम कोर्ट के जज, बड़े बड़े वकील और डाक्टर जो इसका विरोध करते हैं उनको आप वहां ले जाइये वे देखें जनता क्या कहती है? वह जनता कहेगी कि आप गद्दी पर बैठे हैं और स्ट्रक्चर की बात कहते हैं। कांस्टीट्यूशन बनाने के जमाने में और आज भी मैं यह कहता हूं—चन्द आदमियों ने इस को बना दिया। ग्राम कार्यकर्ता से इसके बारे में कभी नहीं पूछा गया। मैं दावे के साथ कहता हूं—अगर ग्राम जनता से पूछते, जिला कांग्रेस कमेटियों में इसको भेजा जाता, गरीब कार्यकर्ताओं को इसके बारे में बतलाया जाता, दो वे आप को वास्तव में

कुछ अच्छे सुझाव देते। इसलिये अब जो कुछ हो रहा है, ठीक है, प्रधान मंत्री जी ने भी इसके लिये कहा है, लेकिन मैं यह समझता हूं कि इस से भी आगे बढ़ने की जरूरत है। बंगला देश में एक कहावत है किसी ने कहा—रज्जू लाओ, रज्जू लाओ, उस की समझ में कुछ नहीं आया, लेकिन हम को तो अभी “लुण्डी बत्ती” कहने को बाकी है। अगर आप अभी इतना ही नहीं समझेंगे तो आगे क्या समझेंगे। अरे भाई, यह तो एक छोटा सा पहला कदम है। अगर कांग्रेस को देश में जिन्दा रखना है, उस के द्वारा इस देश की सेवा करनी है तो इस कांस्टीट्यूशन को और आगे बढ़ाना होगा। गोखले साहब, जब तक ग्रामदनी पर नियन्त्रण नहीं होगा, काम नहीं चलेगा। हमारे बिहार के श्री चन्द्र शेखर सिंह रूस गये थे; उन्होंने बताया कि वहां पर केवल 1:10 का अन्तर है। वियतनाम में 1:5 का अन्तर है; चाइना में 1:5 का अन्तर है। मैं आप से पूछना चाहता हूं कि इस बिल में आपने कौन सा सोशलिज्म रखा है? हम तो जेलों में रहे हैं, गरीबी की झोपड़ियों में रहे हैं, हम को मालूम है कि देश की जनता की क्या हालत है, वह क्या चाहती है, उस को किस चीज की जरूरत है। लेकिन हमारे ये विधान बनाने वाले कहां रहते हैं? एअर-कण्डिशनों में रहते हैं। आप इस कांस्टीट्यूशन अमेण्ड-मेंट्स को पास कर दीजिये, लेकिन यह काम यहीं पर खत्म नहीं हो जाना चाहिये। मैं अपनी आल इण्डिया कांग्रेस कमेटी से कहूंगा कि कि स्वर्णसिंह कमेटी को अभी बरकरार रखा जाय।

आपने इस में सोशलिज्म शब्द रखा है—मैं जानना चाहता हूं कि इस के क्या मायने हैं? हमारे यहां “भोम” शब्द है, उस के मायने है, लेकिन आप के सोशलिज्म शब्द के क्या मायने हैं। हमें आप ने यह बतलाया है कि अब वर्कर्स का पार्टिसिपेशन होगा, लेकिन वहां

जो तनखाहो में फर्क है—उस का क्या होगा? आपने इसमें सिटिजनस् के लिये कुछ ड्यूटी तय की है, बड़ी अच्छी बात है। लेकिन फिर भी कुछ लोग इस का विरोध कर रहे हैं। मैंने इस के बारे में एक अमेन्ड-मेन्ट दिया है। कल सरदार जी ने अपने भाषण में कहा कि हम फैंडल स्ट्रक्चर रखना चाहते हैं। मैं आप को बतलाना चाहता हूँ—अगर आप ने फैंडल स्ट्रक्चर रखा तो उस से हिन्दुस्तान में डिस्पॉर्टी बड़ेगी, हिन्दुस्तान में बगावत होगी, कुछ सूबे अलग होने की कोशिश करेंगे। चैयरमैन साहब, आप ही के सूबे की एक किताब मुझे मिली, मैंने उस को पढ़ा। उससे मालूम होता था कि मद्रास अलग हो जायगा . . .

श्री एम० रामगोपाल रेड्डी (निजामाबाद) : ऐसा नहीं होगा।

श्री विभूति मिश्र : उस किताब में लिखा था, लेकिन श्रीमती इन्दिरा गांधी की एमरजेन्सी ने हिन्दुस्तान को उस आग से बचा लिया। इस लिये अगर आप ने फैंडल स्ट्रक्चर रखा तो मुझे सन्देह है कि हिन्दुस्तान की एकता कायम रह सकेगी। इस देश की एकता को बनाये रखने के लिये जरूरी है कि इस देश में यूनिटरी-फॉर्म-आफ-गवर्नमेंट रहे।

कल्चर की बात बहुत ज्यादा कही जाती है—मेरी समझ में नहीं आता कि सारे देश के कल्चर में क्या फर्क है। यहां गुछदारे भी है और मन्दिर भी हैं, सरदार भी गुछदारे में जा कर प्रणाम करते हैं और हिन्दू भी प्रणाम करते हैं। कहीं कोई फर्क नहीं है, लेकिन बात को इस तरह से रखा जाता है कि लोग घबरा जाते हैं।

एक बात मैं जरूर कहना चाहता हूँ—जब आप जजेज को रखें तो एक बात जरूर की-जिये—जिन्हें तरह से मैडिकल कालिज में लड़के पास करने के बाद साल भर के लिये गांव में जाते हैं, इन जजेज को भी कहिये कि थोड़ा

गांव में धूमें। जो भी जज एप्वाइन्ट हो, बिनोबा जी की तरह से गांव में धूमें, हरिजन बस्तियों में जाय, हरिजन के घर में रात भर रहे, तब वह समझ सकेगा कि उन के सामने क्या कठिनाइयां हैं। आज क्या होता है—बड़े बड़े धनियों के लड़के जज बन जाते हैं और बैठ कर इन्टरप्रेट करते हैं। उन को गरीबी का कुछ पता नहीं है। यह संविधान देश के लिए है, न कि देश/संविधान के लिए है। इस बारे में भी हमें कुछ सोचना चाहिए।

मैं आप को एक बात और बताना चाहता हूँ और वह यह है कि अहमदाबाद के कांग्रेस सेशन में एक प्रस्ताव पास किया गया था कि जिस की आमदनी 40 रुपये हो जाए, वह गरीबी की बार्डर लाइन पर समझा जाए। अब सरदार स्वर्ण सिंह जी ने इस संविधान विधेयक को बनाया है। मैं तो इन को ही इस का फाउन्डिंग फादर मानता हूँ। मैं जानना चाहता हूँ कि उन्होंने इन गरीबों के लिए इस में क्या रखा है। गरीबों के लिए इस में कुछ नहीं है। हां, इस विधेयक का मैं समर्थन करता हूँ क्योंकि मैं अपने आप को कांग्रेस पार्टी का एक सोलजर मानता हूँ।

एक बात और कहना चाहता हूँ। लीगल ऐड की बात की जाती है। इस से गरीबों को कोई फायदा नहीं होने वाला है। अगर सिस्टम ठीक हो और लोग खाएं, कमाएं, तो किसी को ऐड की जरूरत नहीं होगी। जब लोगों के पास प्रोपर्टी होगी, तभी कहीं इस की जरूरत होगी। इसलिए मैं समझता हूँ कि लीगल ऐड की कोई बहुत जरूरत नहीं है। आप पूरी तरह से सोशलिज्म लाइए।

एक बात और कह दूं। इमर्जेन्सी में हम देख रहे हैं कि हमारी पार्टी में बहुत से नान सीसेलिस्ट विचार के लोग भी आ गये हैं और घुसते जा रहे हैं। ये वही लोग हैं जिन्होंने हमें जेल में भिजवाया था, जिन्होंने हमें पकड़-वाया, हमें गालियां दीं और हमारी प्रधान मंत्री

[श्री विभूति मिश्र]

जी को गालियां दी। हमारे यहां सहरसा में श्री चिरंजीव झा, जो यहां बैठे हुए हैं, के साथ इन पार्टी वालों ने क्या व्यवहार किया। इन्हीं बातों के कारण इमर्जेंसी को लगाना पड़ा और अगर इमर्जेंसी न लगाते, तो हालात और खराब हो जाते।

मैं और ज्यादा समय न ले कर एक बात यह कहूंगा कि इस विधेयक में ड्यूटीज लगाई गई हैं। मैं सरदार साहब और गोखले साहब से कहूंगा कि ये नौकरशाही पर भी कुछ ड्यूटी लगाते, तो अच्छा था। भीष्म पितामह ने कहा है कि जिस राजा के राज्य में उस का इम्पलाइड असंतुष्ट रहता है, उस का राज्य नष्ट हो जाता है। यह बात ठीक है और हमें इम्पलाइज को सन्तुष्ट रखना चाहिए लेकिन उन के ऊपर कुछ ड्यूटीज भी लगानी चाहिए। आप के बीस सूची कार्य क्रम में उस को कामयाब बनाने में आप की नौकरशाही ने कितना काम किया है? इसलिए इस संशोधन विधेयक में आप को उन पर भी कुछ ड्यूटी लगानी चाहिए इस के भलावा मैं यह भी कहूंगा कि आप ने मिनिस्टर्स के ऊपर कोई ड्यूटी नहीं लगाई। हम तो सिटीजन हैं, आप ने हमारे ऊपर ड्यूटी लगा दी लेकिन ये लोग जो श्रीब आप एंजॉयमेंट्स ले कर जाते हैं वे गरीबों के लिए क्या काम करते हैं। इसलिए इन पर भी ड्यूटी लगनी चाहिए।

एक और बात गोखले साहब सुनिये। आपने एक डिलिमिटेशन कमीशन बना दिया है जोकि कान्स्टीट्यूटन्सीज का बटवारा करता है। इस में एक जज आपने रख दिया जो बराबर चला आता है। कमी जा कर यह फिजिकली देखते हैं कि डिलिमिटेशन ठीक है। एक ही आदमी को आप ने इस के लिए जिम्मेदार बना दिया। इसलिए मेरा कहना है कि इस में भी कुछ परिवर्तन की जरूरत है।

इस के बाद मैं यह कहना चाहता हूँ कि आप ने अपने इस संविधान संशोधन विधेयक

में किसानों को फेयर प्राइस देने के लिए कुछ नहीं लिखा। उन को फेयर प्राइस देने के लिए इस में कुछ एमेंडमेंट करना चाहिए।

आखिरी बात कह कर मैं बैठता हूँ। भाल इंडिया कांग्रेस कमेटी ने प्रस्ताव पास किया था कि एजुकेशन और एग्रीकल्चर को सेंट्रल सब्जेक्ट बनाया जायगा। यह बात सरदार जी की रिपोर्ट में थी। लेकिन इस बिल में शिक्षा को कान्फ्रेट सब्जेक्ट बनाया गया है एग्रीकल्चर को छोड़ दिया गया है।

मैं इस संशोधन बिल का हार्दिक स्वागत करता हूँ। इसके सिवाय और दूसरा कोई उपाय नहीं है।

भावलंकर जी से मैं एक बात कहना चाहता हूँ कि उन्होंने इस बिल का विरोध किया जब कि उनके पिता इतने बड़े देशभक्त और कांग्रेसी थे। उन्हें यह नहीं करना चाहिए था।

SHRI T. BALAKRISHNIAH (Tirupathi): Mr. Chairman, Sir, I rise to support whole-heartedly the proposed amendment to the Constitution aiming at the removal of impediments to the society for a socio-economic progress. Many of our friends have already explained what socialism is. But when I heard the speech of Mr. Rao I was taken aback because the learned Member has got an apprehension whether we are a socialistic democracy or not. I want to clear his doubt. I too have got some kind of an apprehension whether there is a limited democracy or full democracy in the Parliament because I gave my name three days back and I am given a chance to speak only at 5.30 today. Regarding socialism many of our friends have given definitions. I also want to quote something about socialism:

"A theory of policy of social organisation which advocates the ownership and control of means of

production, capital, land, property, etc. by the community as a whole and their administration and distribution in the interests of all."

That is what is defined about socialism.

Regarding secularism, our Prime Minister has rightly pointed out that it is inherent in our culture. It is only the Hindu religion which has got tolerance. Other religions convert people by force or by coercion but this religion does not do so. So, secularism is inherent in our culture from times immemorial. Now, we have incorporated two words—socialism and secularism—in the Preamble justifying what we are doing today. I congratulate our Prime Minister, Smt. Indira Gandhi, our Law Minister, Shri Gokhale, our Government and also Sardar Swaran Singhji for having taken a bold step to amend this Constitution. There are criticisms from some sections of the people, particularly from the lawyers and some opposition members and some other right reactionaries who are thinking in a different form. The lawyers have got an apprehension that they will be thrown out of employment and they may not get cases. Some other people are thinking that the courts have no jurisdiction and that there is no remedy for the people to redress their grievances in the courts. Some people are saying that this Parliament has no right to amend the Constitution. It was said on more than one occasion by the Prime Minister that this Parliament is competent to amend the Constitution. It has been reiterated by so many Members here; and they have given a full reasons, justifying the need for the amendment of the Constitution. Therefore, I am not going into that aspect. But I would submit that we are bringing in an amendment to the Constitution, under which the jurisdiction of the Supreme Court and of the High Court is still

there. The appellate jurisdiction, under the common law of the land, of the High Court is there. The Supreme Court's appellate jurisdiction with regard to civil and criminal matters under Articles 132, 133, 134 and 131 of the Constitution is there. The jurisdiction of the Supreme Court is still widened by creating a provision that it can have an appellate jurisdiction on the administrative tribunals. Therefore, the lawyers need not have any apprehension. If they do not appear before the High Court, they will appear before the administrative tribunals. Some other judges will sit there. The same procedure will be followed there also. They will get briefs and the Supreme Court will have better jurisdiction. My only fear is this. Our efforts are no doubt there to see that the courts do not interfere in the legislations which we enact on the floor of Parliament for socio-economic progress. But since—there is a special provision to consider the laws enacted by Parliament, to see whether they are constitutionally valid or not, the Supreme Court will again give such a verdict. Similarly as regards the Acts passed by the legislatures, the High Court has power to go into the question whether they are constitutional or not. If the judges have a social bent of mind, they are concerned with the conditions of the people in the country and they are interested in the development of the country, they may not give adverse judgements and say that a particular Act is void. Moreover, judges in the Supreme Court and High Courts are our own country-men. Our own brethren are sitting there. They have also got the responsibility, like politicians or others, to administer justice. Justice, under the common law, is justice in personam, that is, justice between man and man. But the courts cannot render justice to the society as a whole, such as people who are suffering from poverty, sickness, old age and people who are not well up in the society. Such people have to be looked after only by the State. I request the

[Shri T. Balakrishniah]

courts that they should always see the case only on merits and give a judgement. I want that the courts should not, as a rule, interfere with any legislation enacted with regard to policy matters. The courts can give a different judgement or version. That is the case in Great Britain. In Great Britain, the courts do not interfere with any enactment passed by Parliament. Parliament is supreme there. They cannot question, but they can go into the provisions of the Act enacted by Parliament and say whether there is merit and whether there is a provision for the court to interfere or not. Regarding the basic structure, our Law Minister and Mr. Swaran Singh have explained and many Members have spoken. Sometimes courts err even on technical grounds. I will give one example. A piece of land was owned by a harijan. The Government said that the harijans are in possession of it for about 30 years and, therefore, they must be given that land. Some other people wanted to take that matter to the court. Originally it was allotted under certain provisions to somebody, but later when the Government came to know that this particular piece of land is in actual possession of the harijans, they corrected it by issuing a Memo. Now, what is the difference between a Memo and a G.O.? After all, the Memo was issued when there was Governor's Rule while the G.O. was issued under a popular Government. But the wonderful High Court gave a judgment against the Government, saying that the Government have no jurisdiction. It amounts to saying that Government cannot subsequently correct an error, even if it is technical.

Then, it is not the judiciary alone which is responsible for the increase in litigation. Bureaucracy is also partly responsible. They do not take any interest in settling the matter then and there. In the olden days, whenever any lawyer's notice is received by the Government, the Col-

lector, SDO or the tehsildar would immediately go into it and see whether there is any ground in it. Now they do not do that. On the other hand, they come prepared to challenge everything, wasting public fund and their time. Therefore, the bureaucracy is also partly responsible for the unnecessary litigation and increased expenditure.

There is responsibility on the bureaucracy, judiciary and Parliament. The executive system is not run purely by the bureaucrats. The Members of Parliament, who are elected, they are the head of the executive. They can set right the bureaucracy and ensure that all-round development is achieved by the country.

SHRI ARAVINDA BALAJANOR (Pondicherry): Sir, while rising to take part in the discussion on the Constitution (Forty-fourth Amendment) Bill, I would like to thank you for giving me an opportunity at this late hour.

Many Members have expressed the view that this is a historic document which is going to change many things. We are going to change many more things in the days to come. Since it is a general discussion, my submission in the first instance is this is not that historical. This is an ordinary amendment of the Constitution, as it used to be in the past occasions. Only one speciality I could see from the speech of our beloved Prime Minister, Shrimati Indira Gandhi. When she rose, she said "I rise with dedication". It is only in that spirit that I would like to analyse this piece of legislation, this amendment to the Constitution which is a dedication to the people.

While discussing the authority of this Parliament to amend the Constitution, many hon. Members quoted authorities and references from foreign countries. I am not for it. I feel that this country must learn to

imbibe things from itself, not from outside. Even when it comes to the basic structure, it should be the basic structure of this country and not of other countries.

Therefore, if we believe that immediately after the emergency when the life of Parliament was extended, it was duly elected and the Members of Parliament are real Members, then this House has every right to amend the Constitution, according to the Constitution as it stands today. There cannot be any two opinions on this point. When this Parliament is duly elected, the Members cannot be quasi-Members; they are full Members of the real Parliament. Therefore, this Parliament has every right to amend the Constitution.

At the same time, some Members talked about a Constituent Assembly. I am not going into that because that is not concerned with this amendment.

Some Members said this must be postponed. They speak about the voice and the will of the people. What is the will of the people? If I do not represent my constituency, the views of my constituents, I have no right to be in this House. So, all Members who feel that they are representing the people must speak out here and reflect the will of their constituents.

People talk about social-economic changes, the administrative difficulties that have crept in the working of the Constitution in the past 25 years and the new articles to be introduced for better administration. Others oppose them for reasons best known to themselves. But if some Members are not bold enough,—I do not use the word "coward"—do not have the conviction to do either, it is high time they resigned their membership and remained honest to their conscience.

To use the common man's language, because it is his ideals and aspirations

which have to be reflected in this Bill, I would say that this is a small and ordinary amendment. I do not know why the ruling party and the Government are giving it unnecessary importance and having a discussion outside. Was such an opportunity given in the case of the previous amendments to the Constitution? That is the reason why many of us fail to understand the implication, the necessity or the importance of this new amendment, that is why we are not considering it seriously. We must concentrate on the articles; instead, we are unnecessarily arguing, as the Prime Minister correctly pointed out, from political motives on both sides. I feel that especially after the emergency we must talk in an impartial manner. As Members of this House, we are not dedicated to a particular party, we are dedicated to the people of this country. We belong to the people. With that dedication we must analyse the clauses of the Bill. There was no necessity for discussion outside, because it is the duty of every Member of Parliament to go to his constituency and ascertain the will of the people on important issues and reflect them here.

Some Members raised constitutional and legal points. The common man is not interested in these things. He cannot understand the technicalities, he does not know what the Constitution is. The Constitution is only a document for the governance of the country. It is not Ramayana or Maha Bharata or the Bible which cannot be touched. It can be changed and should be changed for the betterment of society. We need not tell the people that. We are changing the Constitution, we need tell them only that we are going to do something to improve their position. That is why the hon. Law Minister correctly used the phrase "socio-economic revolution", but I do not see what socio-economic revolution you are contemplating in this Bill because your attention has been drawn elsewhere because of extra-political motivation.

[Shri Aravinda Bala Pajamor]

You should take the paritcular article and see whether it is correctly stated or not. For instance, you want to take the Directive Principles and put them in article 31C.

But you are afraid of taking away the property rights from the fundamental rights chapter. But one must ask for what reason. It is a fight between the 'haves' and 'havenots'. It is not a fight between one side and the other, but it is a fight between contradictions. Everyone is contradicting himself and is not hold enough to come forward and say where he stands. For political reasons, some say that we must remove property right and some others say that it should not be removed. But the real question is one of domination by certain classes over the poor and the hungry millions.

The Prime Minister had said that there should be dedication. That is the reason why I rise to speak on this occasion. The Prime Minister of this country is here today, she will be here tomorrow and for many years, but not for ever. And she wants to pass on this message not only to me but to everyone. She says that we should fight with a sense of dedication.

Many speakers were quoting from the British and the American Constitutions. It was said that the courts are standing in the way of social and economic changes and progress, but how many referred to cases other than the Golak Nath case, the Bank Nationalisation case and the privy purses case? You have nothing to say. The real impediment is not that. It is the mentality of the people of certain judges and of those rich classes which are dominating. In order to get over this difficulty, you have to do certain things. We are afraid of taking away property right because all the time we are thinking of elections and of our future. We feel that we must go to the people, say something, get elected and come back

to this House and dominate for some more years. There is some fear that we may not come back to the same place. That idea should not be there. Let us not bother about the elections.

If people say that this Parliament has gone beyond its power and is exercising its right without having that right, then the next Parliament can change it. If people say that this Parliament has no right, there will be some other Parliament which will say that this Parliament had never got any right, and that this Parliament need not have amended the Constitution. And that Parliament can go back on what we do. This is the time for us to do some rethinking. This is the time for us to go back to our ideals. You say that these articles in the Constitution are helping the High Courts. Sardar Swaran Singh yesterday gave that explanation. I was not convinced by it. We know a number of people in Government service. We know how many of the people who speak here have contributed their mite to analysing every Article. After doing this analysis you should have suggested that there will immediately be administrative, labour and revenue tribunals. Without these things, it is no good saying that these are standing in the way. Thereby you are going to hurt the common man. You are going to put the small fries in the jail. I mean jails outside, not the normal jails. Actually, the common people live in slums. They are the jails for them. You may say that this is not a correct statement. But we are keeping everybody in such jails. We are thinking that we have freedom of expression. But that freedom is different. If we do not give economic independence they would not feel that they have gained freedom at all. But why are they still under foreign rule?

I am reminded of what Bapuji said. He said that there is no point in our having political freedom. It is high time we had economic freedom. I do

not feel that this Bill constitutes a historical development, because you have not taken away the main impediments to our gaining economic freedom. You are concentrating on three items. Your first emphasis is on jargons. The second emphasis is on courts and their judgments, etc. Thirdly, you want to distribute certain powers between different bodies.

Everybody should feel that the States' rights are protected, whether he comes from one corner of the country or another. When we go back, we have to meet Members of our Legislatures, Ministers and our people. The other day when we had a discussion with Sardar Swaran Singh, he said that Centres' properties were not looked after and that the State Governments were not taking care of them. If there are such Governments, I would say that it is not worth having them. It is high time he dismisses such Governments and puts something else in their place. There cannot be two opinions on that question. There cannot be separate property belonging to the States and to the Centre. Everything is the property of the entire country. That very concept is wrong and that is why I say: let us look into these things with dedication. Similarly, there cannot be emergency in one part of the country. If the Himalayas are attacked, I must feel that my country is being attacked. If Kenyakumari suffers, people in Assam must feel that they also suffer. So, I feel, if this Bill is looked into on that line, I do not think we are doing justice to it. That is why I request the Minister of Parliamentary Affairs to take that into consideration and extend the time. Each clause should be properly analysed and considered. We know, the majority will have it. That does not matter. But the future generation, the future courts and the future legislators will see how we analysed the Bill and passed the Bill. That will help us.

श्री गेंदा सिंह (पडरौना) : माननीय समापति जी, मैं इस संविधान संशोधन विधायक का स्वागत करता हूँ। मैं सरदार स्वर्णसिंह जी और गोखले साहब को मन से बधाई और धन्यवाद देता हूँ। उन्होंने सारे देश का ध्यान इस ओर आकर्षित किया है। मैं प्रधान मंत्री का नाम इसलिए नहीं लेता हूँ क्योंकि प्रधान मंत्री की मर्जी के बिना तो कुछ हो नहीं सकता है। उन्हीं की मर्जी से आज संविधान में परिवर्तन हो रहा है लेकिन गोखले साहब और सरदार स्वर्ण सिंह ने कुछ खास बातों की तरफ ध्यान दिया है। उन दोनों के बयान को सुनने के बाद मुझे लगता है कि उन्होंने 27-28 वर्षों के स्वराज्य का नकशा अच्छी तरह से देख लिया है। इन दिनों में स्वराज्य जो पनपा है, स्वराज्य ने जिनको पनपाया है, गरीबी के स्तर से भी नीचे जो लोग हैं उन सभी का ध्यान उन्होंने इस संशोधन में रखा है।

17.47 hrs.

[SHRI ISHAQUE SAMBHALE in the Chair]

सबसे बड़ी बात मैं यह कहना चाहूंगा कि जो शासन में बैठने वाले लोग हैं क्या वे पिछले 27-28 वर्षों की तरह से आगे भी समय गंवायेंगे ? यदि वे पिछले 27-28 वर्ष के समय को देखेंगे तो उन्हें मानना पड़ेगा कि हमें जो काम सुधुंध किया गया था, गांधीजी ने और जवाहरलाल नेहरू ने जो काम हमें सुधुंध किया था उसको हमने पूरा नहीं किया है। उस काम को पूरा न करने की वजह से आज मुल्क में बुरी हालत है। आज मुल्क में पर्सन्टेज के हिसाब से गरीबों की संख्या बढ़ी है या नहीं ? मुल्क में गरीबी से नीचे के स्तर के जो लोग थे उनकी संख्या बढ़ी है। यदि उनकी संख्या बढ़ी है तो हमें मानना पड़ेगा कि जो काम हमारे जिम्मे था उसको हमने पूरा नहीं किया है।

[श्री गेंदा सिंह]

श्रीमन्, आप जानते हैं—सारे देश में कुछ कच्चा माल पैदा करने वाले हैं। इन कच्चा माल तैयार करने वालों से वे पक्का माल बनाने वाले उस माल को खरीद कर ले जाते हैं। यह क्रम शुरू से ही चल रहा है—इस क्षेत्र में सन 1937 से जो जुल्म होता आया है, वह जुल्म आज भी उसी तरह से चल रहा है। आप इस बात को याद रखिये कि किसान इस देश की रीढ़ है, लेकिन किसान के दुख-दर्द की परवाह पिछले 28-30 सालों से हम जिस ढंग से करते आए हैं, उस ङ से नहीं होनी चाहिये थी। सी का यह परिणाम है कि दिन-प्रति-दिन विषमता बढ़ती गई, किसान गरीब होता गया। मैं चम्पारन और गोरखपुर की बात कहना चाहता हूँ। अभी हमारे विभूति मिश्र जी बोल रहे थे, वे चम्पारन से आते हैं। आप को याद होगा—महात्मा गांधी जी ने इस जुल्म के खिलाफ अपना पहला प्रयोग करने के लिये चम्पारन को चुना था और अंग्रेज उस प्रयोग का ठीक अनुमान नहीं लगा सके थे। जिस का जवाब 'चौरा-चौरी' काण्ड ने दिया, जनता का क्रोध उमड़ पड़ा था। आज उस इलाके की क्या हालत है—चम्पारन साहब, जरा गौर से देखा जाय। आज हिन्दु-स्वान के किसी कोने में विषमता है तो वह उत्तरप्रदेश और बिहार में है, वे वे प्रदेश हैं—जिन का स्थान हिन्दुस्तान की आर्थिक व्यवस्था में 15वें या 16वें नम्बर पर है। मैं उत्तर प्रदेश के उस इलाके का रहने वाला हूँ, जिसे गोरखपुर कहते हैं, जहाँ की पर-कैपिटल इन्कम हिन्दुस्तान में करीब करीब सब से कम है। गरीबी इस हद तक है, जिस का

कोई ठिकाना नहीं है। इस लिये एक तरफ जहाँ इन संशोधनों के प्रति मैं खुशी जाहिर करता हूँ, वहाँ दूसरी तरफ एक चिन्ता भी जाहिर करता हूँ। प्रियम्बल में समाजवाद शब्द रखा गया है—मुझे बड़ी खुशी हुई, कई भाइयों ने इस का जिक्र भी किया, विरोध भी जाहिर किया—लेकिन एक बात साफ है कि शब्द के वहाँ रख देने मात्र से उस का स्वरूप नहीं बदल जायगा, यह तो बाद में उन लोगों पर निर्भर करता है जो उस को चलाने वाले हैं। आज तक की तो यही स्थिति है कि समाजवाद के नाम पर हम को मिली है—गुलामी पूँजीपतियों की गुलामी। श्रीमन् मुझे आशा थी कि यह गुलामी हमारी छुटेगी और हमारे गोखले साहब और स्वर्ण सिंह जी हम को यह मौका दे रहे हैं कि हमारी गुलामी छुटे। इसलिए हम आशा जाहिर करते हैं कि आगे के दिनों में जैसा कि प्रधान मंत्री जी का आवाहन है, हम को इस बात का ध्यान रखना चाहिए।

श्रीमन्, मैं जूडीशियरी को बदनाम नहीं करता क्योंकि जूडीशियरी में आज भी बहुत से अच्छे लोग हैं और हम ने आज ही अखबारों में देखा है कि कुछ लोगों ने इस संविधान में परिवर्तन का स्वागत किया है। उसमें कुछ ऐसे लोग भी हैं जो इस देश की दुर्गति को नहीं जानते। वे यह नहीं जानते कि इस देश की कितनी बड़ी संख्या दुर्गति की हालत में है। कोई दुनियाँ में इस बात को कैसे कबूल कर सकता है कि जहाँ पर 45 प्रतिशत लोग गरीबी के स्तर के नीचे के हों, बिना खाना भरते हों, जिन के पास पहनने को कपड़ा नहीं है, उन के लिए कुछ न किया जाए। आज यह

कैसे बर्दाश्त किया जा सकता है। हम नहीं चाहते कि यह जुल्म बर्दाश्त किया जाए और मैं समझता हूँ कि इस बात को गोखले साहब और स्वर्ण सिंह जी समझते हैं कि आगे के दिनों में इसके लिए कुछ उपाय करने चाहिए। मैं इस अवसर पर यह बात नहीं कहना चाहता हूँ कि कौन जुल्म कर रहे हैं लेकिन उत्तर प्रदेश और बिहार को गोखले साहब देखेंगे तो उन को पता चलेगा कि दिन दहाड़े लूटने वाले कौन हैं। दूसरी जगहों पर तो दिन दहाड़े लूटने वालों को बन्द कर दिया है लेकिन हम आज भी लूटे जा रहे हैं।

अन्त में इस विधेयक का स्वागत करते हुए और गोखले साहब और स्वर्ण सिंह जी को धन्यवाद देते हुए, मैं अपना भाषण समाप्त करता हूँ और चाहता हूँ कि विधेयक को जल्दी से जल्दी पास किया जाए। इस के पास करने में देरी मत कीजिए। इसलिए डागा साहब को सम्बोधित करते हुए मैंने उन से कहा था कि डागा साहब, इस को जल्दी पास होने दें और पास होने के बाद इसके पीछे पड़िए और इस के अनुसार काम कीजिए। जो काम आज तक नहीं हुआ है उसको पूरा करने की पूरी कोशिश कीजिए।

श्री जगन्नाथ मिश्र (मधुबनी) : ऐसा निर्णय था कि हर एक सदस्य को 10 मिनट बोलने के लिए दिए जायेंगे लेकिन आप के पास जितना समय है, उस में आप कुल 12 सदस्यों को बुला सकेंगे और यहां पर जितने लोग बैठे हैं सभी बोलने वाले हैं। इसलिए मेरा आग्रह यह है कि 10 मिनट को घटा कर आप 5 मिनट कर दीजिए और दूसरों को अगर मंजूर न हो, तो मुझे आप मौका दीजिए, मैं केवल 5 मिनट ही लूंगा।

18 hrs.

SHRI Y. S. MAHAJAN (Buldana): If the time is not rationed out many Members will not be able to participate in the debate.

श्री शंकरदयाल सिंह (चतरा) : सभापति जी, पांच मिनट उन्होंने कहा है, उनका पांच मिनट हम को दे दीजिए, हमारा पन्द्रह मिनट हो जायगा।

सभापति महोदय : यह सब जानते हैं कि डिस्कशन इम्पार्टेंट है। लोगों की खाहिश ही नहीं बल्कि लोगों के बोलने की जरूरत भी है। मैं समझता हूँ कि इसको पांच मिनट या छः मिनट मत करिए, इसे अपटू टेन मिनट रहने दीजिए। यह मेम्बर पर है कि वह जल्दी अपनी स्पोच खत्म कर दे।

SHRI RANABAHADUR SINGH (Sichhi): Mr. Chairman, Sir, I support this Bill for the amendment of the Constitution, because as far as I can see with my limited knowledge of constitutional law, it opens up a new avenue in our democratic set-up and constitutionality. A process which had started in the thirties, when, for the first time, in a democratic society, the principle of *laissez faire* was shackled by the social control of the new deal in the USA, has found final flowering in our democratic set-up by this amendment. To my mind, by virtue of giving the central pivotal place to the Directive Principles over the restrictions or the reservations set by the Fundamental Rights, we have made a break-through and this break-through will eventually reflect upon the democratic set-up of all the countries which are following this particular method of Government.

This is an unprecedented exercise and by virtue of the fact that our democracy encompasses six hundred million people, this brave attempt, this brave experiment is really colossal. The logistics of trying to take out more than three hundred million people from their poverty, undoubtedly, must have been the basis on which the process to remodel our democracy, to give these people a central place in our democratic set-up has been necessitated. I feel that this is an experi-

[Shri Ranabhadur Singh]

ment which has never been tried before. Democracy has all along been there, democracy has always given equality to people before law, but for the first time, democracy is stooping down to help the poor man who is incapable of helping himself. When you say that the State will look after that person who does not have the inherent capacity to go to a court of law, you are breaking new grounds and I welcome this. By doing this, you are, for the first time, helping that major portion of polity, which though according to law was entitled to freedom before law, was entitled to an equal opportunity for industry, for development, etc. but was not able to take full advantage of that. Now, the State has been put to the service of those persons. And I welcome this and I congratulate our Law Minister for having broken this new ground. May be for the first time in the world in spite of the fact that there are democracies that are older than us, but, probably the almost awful logistics that confront our government in providing a better life to the poor has forced our hand and it is welcome.

There is another thing that I would like to mention what makes me to say that I support this measure. And that is that long time back Aristotle wrote that the Constitution is the determination of the end of each community. When we, by virtue of this amendment, try to give a preponderance to the Directive Principles over the Fundamental Rights, we are now indicating the direction and the determination of the end of our community finally and for everyone to see. It can very well mean hopefully the end of the confrontation with the judiciary too because if they were able to see the writings on the wall, they would now know the direction of this community that the direction of the Indian people has been set, that once the Directive Principles find the preponderance that is their right, over the fundamental rights, it would no longer trouble the Judges to see if a certain

fundamental right stands in the way of the general direction that the community wants to go, that fundamental right would no longer remain an obstacle.

Because the fundamental rights have now been subjugated to the Directive Principles, the question of the right to property is now academic. The way has been cleared. It will only depend on how necessary it is. Just as our Prime Minister said emphatically, the right to property for the small person has got a different connotation and a different meaning, but, once the Directive Principles have a greater strength than the fundamental rights, then the question of property will no longer stand in the way of the community.

As far as the question of the right of this Parliament to carry out these amendments is concerned, sovereignty is an immaculate conception and once the Constitution provides for the extension of the life of a Parliament, the sovereignty being immaculate, is complete and there is no question about this at all.

Now, I will end. Because you have been kind enough to give me time. I will not impose myself on your kindness. I will only say this in ending, that it befits the genius of this country to finally subjugate the State to the service of the small man because this country has all along found its greatest strength and its direction by that simple principle;

समं सबेषु भूतेषु तिष्ठतं परमेश्वरः

जी शंकर देव (बीदर) : जी लोग प्वाइट्स देना चाहते हैं और पांच मिनट के अंदर अपने प्वाइट्स दे सकते हैं उनको चांस हर हालत में मिलना चाहिये ।

सभापति महोदय : कोई मेम्बर है जो प्वाइंट नहीं देता है ?

श्री नवल किशोर सिंह (मुजफ्फरपुर) : सभापति महोदय, मुझे इस संविधान संशोधन विधेयक का स्वागत करते हुए बड़ी प्रसन्नता हो रही है। कांग्रेस ने अपने 1971 के चुनाव घोषणापत्र के 14वें पैरे में जनता के साथ वादा किया था कि समाज की आर्थिक और सामाजिक दशा सुधारने के मार्ग में, उसके उत्थान के मार्ग में जितनी भी संवैधानिक बाधाएँ होंगी उनको वह दूर करेगी। उसके बाद अखिल भारतीय कांग्रेस कमेटी की जो बैठक हुई दिल्ली में उस में भी हम लोगों ने एक प्रस्ताव के मसौदे में ऐसा ही वादा किया था। एक बड़ी हद तक अपने उस वायदे को हम पूरा कर रहे हैं और अपने इरादे को स्पष्ट कर रहे हैं।

संविधान के ढाँचे के सम्बन्ध में अक्सर चर्चा की जाती है और अपनी अपनी दृष्टि से और नजरिये से लोग उसके सम्बन्ध में कुछ विवरण देते हैं।

मेरी दृष्टि से हमारे संविधान के तीन मुख्य ढाँचे हैं। एक है बालिग मताधिकार, दूसरा है कालबद्ध चुनाव और तीसरा है गुप्त स्वतंत्र मतदान। ये तीन ऐसे स्तंभ हैं हमारे लोकतांत्रिक संसदीय संविधान के, जिनके पूरा होने पर जो संसद निर्वाचित होती है, वह पूरी तरह से सक्षम है कि जो परिवर्तन समाज में करना चाहे वह करे।

एक जमाना था, जब 1949 और 1951 के बीच में हमारा संविधान बना था। उस समय देश में एकता की आवश्यकता थी और प्रगति के लिये क्षमता को संग्रह करने की आवश्यकता थी। उस समय यह अनिवार्यता थी। उस समय जो संविधान हमने बनाया, वह उसके अनुरूप था, लेकिन संविधान देश

का राजनीतिक आवरण होता है। जब परिवेश बदलते हैं, तो उस आवरण को बदलना पड़ता है।

हमारा राष्ट्र-मुख्य 1947 से लेकर 1951 तक अपने शैशव काल में था। आज हम इस बात को मान सकते हैं कि हमारा राष्ट्र-मुख्य बालिग हुआ है, परिस्थितियाँ और अनिवार्यताएँ बदल गई हैं। हमारे सामने नये आदर्श, नये तकाजे और नई चुनौतियाँ हैं। जब आवश्यकताएँ बदली हैं तो नये आश्राम भी उजागर हुए हैं और अब हमें तरह-तरह के परिवर्तनों की आवश्यकता का अनुभव हो रहा है। मैं समझता हूँ कि इस सत्य को स्वीकार करने में हमें कोई हिचक नहीं होनी चाहिये।

संविधान बदलने के जो हम काम करते हैं, उसमें हमारे आलोचक, खासकर पश्चिमी लोकतंत्र के हमारे आलोचक बड़ी-बड़ी कटु-आलोचना करते हैं। मुझे एक प्रलोभन हो रहा है, जिस में रोक नहीं सकता हूँ। अमेरिकन कांस्टीट्यूशन के जो फ़ार्जिंग फ़ादर थॉमस जेफ़रसन थे, उन्होंने जो कहा था, उसे मैं उद्धृत करना चाहता हूँ। यह मैं इसलिये उद्धृत कर रहा हूँ कि हमारे देश में कुछ इसी तरह की भावनाएँ उभरती हैं, और यही भावनाएँ अमेरिका में भी संविधान बनाने के समय में थीं।

"Some men look at the Constitution with sanctimonious reverence and deem them like the art of the covenant too sacred to be touched. Each generation has a right to choose to itself the form of Government it believes to be most promotive of its happiness. A solemn opportunity of doing this every 19/20 years should be provided by the Constitution itself."

[श्री नवल किशोर सिंह]

ये थामस जेफरसन के वाक्य हैं। आज हमारे देश के बसने वाले 60 करोड़ नागरिक एक नई ज़िन्दगी के लिये आतुर हैं। वह अपनी आर्थिक, सामाजिक और आर्थिक उन्नति की राह खोज रहे हैं। यह उत्तरदायित्व इस निर्धन लोगों के देश में समाज का है कि वह ऐसे राज्य को बनावे और उस रास्ते को बनावे।

मौलिक अधिकार की चर्चा बहुत होती है। विचारशील व्यक्ति और समाज के अधिकार हैं उसमें जहाँ तक लोकतांत्रिक व्यवस्था है, वहाँ किसी न किसी प्रकार का एक समझौता करना पड़ता है और मैं इस संविधान संशोधन विधेयक को उसी समझौते के रूप में मानता हूँ।

संविधान में व्यक्ति के वैयक्तिक अधिकारों के साथ साथ उस के सामाजिक अधिकारों की रक्षा करने का भी यत्न किया गया है, क्योंकि सामाजिक अधिकार भी प्रकारांतर से व्यक्ति के ही अधिकार हैं। उन दोनों में कोई संघर्ष है; ऐसा नहीं मानता हूँ।

इस बात का प्रावधान किया जा रहा है कि राष्ट्र-द्रोही कार्यवाहियों के खिलाफ कानून बनाये जायेंगे। मगर इन कानूनों को बनाने का अधिकार इस संसद को है; राज्यों को नहीं। और फिर जब वे कानून बनेंगे, और व्यक्तिगत मामलों में लागू होंगे; तो उन पर निर्णय देने का अधिकार भी; जहाँ तक मैं समझता हूँ, न्यायपालिका को दिया गया है। इसलिए इस को ले कर जो तूफान खड़ा करने की कोशिश की जा रही है, वह व्यर्थ है।

यह बड़ी खुशी की बात है कि निदेशक सिद्धांतों में निःशुल्क कानूनी सहायता का प्रावधान किया गया है। लेकिन मेरे कुछ मित्रों ने यह ठीक ही कहा है कि उस में स्पष्ट रूप से यह कहा जाना चाहिए कि न्याय में विलम्ब को रोका जायेगा। अब चूँकि

एडमिनिस्ट्रेशन आफ जस्टिस समवर्ती सूची में रखा जा रहा है, इस लिए इस बात को निदेशक सिद्धांतों में समाविष्ट करने में कोई कठिनाई नहीं होनी चाहिए।

जहाँ तक देश में बेकारी का प्रश्न है, हमारे संविधान में निदेशक सिद्धांतों की पहली पंक्ति के बड़े सुन्दर शब्दों में उस का जिक्र आया है, लेकिन वह जिक्र बड़े ही प्रकारांतर से आया है, सीधा नहीं। मैं समझता हूँ कि मौजूदा परिस्थिति में बेकारी की समस्या के हल का निर्देशन स्पष्ट रूप से हमारे निदेशक सिद्धांतों में लिखा जाना चाहिए।

संशोधन विधेयक में जो मौलिक कर्तव्य दिये गये हैं, मैं उन का बहुत स्वागत करता हूँ। प्रधान मंत्री ने ठीक ही कहा है कि ये कर्तव्य तो शुरु में ही लिखे जाने चाहिए थे। माननीय सदस्य, श्री साठे, को उन में से एक अंश सुन्दर लगता है, लेकिन मुझे दूसरा अंश सब से सुन्दर लगता है और मैं समझता हूँ कि उस को प्रथम स्थान पर रखना चाहिए। वह इस प्रकार है।

"to cherish and follow the noble ideals which inspired our national struggle for freedom."

यह वह जमाना था, जब हिन्दुस्तान का मनुष्य महात्मा गांधी के नेतृत्व में अपनी सबसे बड़ी ऊँचाई पर पहुँचा था।

इस बात की आलोचना की जाती है कि स्पष्ट रूप से यह प्रावधान किया जा रहा है कि राष्ट्रपति को मंत्रि-मण्डल की राय माननी पड़ेगी। वास्तव में अनेक अवसरों पर यह बात स्पष्ट की जा चुकी है, लेकिन भविष्य में किसी विवाद के उठने से बचने के लिए ऐसा लिखना आवश्यक है।

यह भी एक सुन्दर बात है कि केन्द्रीय कानूनों की वैधता की जाँच करने का अधिकार केवल सर्वोच्च न्यायालय को दिया गया है,

क्योंकि हमारे देश में अनेक उच्च न्यायालय हैं और वे अलग अलग फैसले कर सकते हैं।

प्रशासकीय ट्रिब्यूनलों की संख्या बढ़ी होगी। मैं चाहता हूँ कि विधि मंत्री विचार करें कि क्या उच्च न्यायालयों को भी उन की अपीलें सुनने का अधिकार नहीं दिया जा सकता है।

शिक्षा और वन को भी समवर्ती सूची में रखा गया है। हमारे देश में कृषि और सिंचाई का विषय इतना प्रमुख है। इसलिए मेरी समझ में नहीं आता है कि कृषि और सिंचाई को समवर्ती सूची में क्यों नहीं रखा जा रहा है।

इस बात की भी आलोचना की जा रही है कि संसद् की बड़ी हुई अवधि में यह संशोधन किया जा रहा है। लेकिन हमारे देश में जो परिस्थिति है, उस में इस बात का विवेक करना मुश्किल है कि संसद् की बड़ी हुई अवधि में क्या किया जाए और मूल अवधि में क्या किया जाये। यद्यपि हमारा देश आर्थिक दृष्टि से पहले से ज्यादा सक्षम है, लेकिन आर्थिक संकट जैसा का तैसा बना हुआ है। रिजर्व बैंक की रिपोर्ट और अर्थ-शास्त्रियों की राय को पढ़ने से यह बात मालूम हो जाएगी। इस लिए इस अवधि में यह कार्य किया जा रहा है, इस का मैं स्वागत करता हूँ।

मैं इस विधेयक का समर्थन करता हूँ।

श्री शंकर दयाल सिंह (चतरा)। समापति महादय, पहले तो मुझे दो जरूरी बातें कहनी हैं। एक बात मैं यह कहना चाहता हूँ कि हम लोगों को अंग्रेजी और हिन्दी के बिल की जो प्रतियां दी गई हैं लगता है कि दोनों दो तरह की चीजें हैं। या तो अनुवाद ठीक नहीं हैं या जो हिन्दी के रूप को बनाई है उन्होंने अंग्रेजी के उन लफ्जों को नहीं समझा है। मैंने जो अपना हिन्दी का भाषण तैयार किया है और अपने अमेंडमेंट्स दिए हैं वह हिन्दी

की प्रति को पढ़ कर दिए हैं। थोड़ा बहुत हिन्दी का ज्ञान मैं भी रखता हूँ लेकिन यह ऐसा अनुवाद है कि जो न मैं समझ सका न कोई प्रोफेसर समझ सका, पी० एच० डी० के पास गया, वह भी नहीं समझ सका और जिन्होंने अनुवाद किया है वह भी नहीं समझा सके होंगे। इसलिए आगे के लिए मैं एक बात यह अर्ज करना चाहता हूँ कि जो भी अनुवाद की भाषा हो वह सरल हो, अंग्रेजी के भी जो कामन शब्द हों उ। को दे दिया जायें वजाय इसके कि इस को बहुत अधिक बिलग्ट बनाया जाए।

श्री एम० रामगोपाल रेड्डी। इसमें मेरी एक तरफ़ी है कि पहले हिन्दी में बनाना चाहिए और फिर उसका जर्जुमा अंग्रेजी में करना चाहिए।

श्री शंकर दयाल सिंह : यह बिलकुल ठीक कह रहे हैं।

संविधान के संशोधनों पर तीन दिनों से हम बहस करते आ रहे हैं जो कुछ भी इस में संशोधन करने हैं वह हम कर लेंगे। हमारा जैसा संविधान अभी था वह भी एक पवित्र संविधान था जिसे बड़ी मेहनत के साथ हमारी संविधान सभा ने तैयार किया था। हम तो यह कहना चाहते हैं कि इस संविधान के प्रति अगर भारतीय जनता के मन में हम ने निष्ठा और मर्यादा की भावना कायम नहीं की तो फिर उस का कोई बहुत ही उपयोगी अर्थ नहीं निकेलगा। देश में जिस तरह से रामायण, गीता, कुरान, बाइबिल वगैरह के बारे में इज्जत और प्रतिष्ठा है देश की जनता को उसी तरह की प्रतिष्ठा इस संविधान के प्रति रखनी होगी। इसलिए मैं यह कहना चाहता हूँ कि आप इस के प्रति पहले तो निष्ठा जागृत कीजिए जिस से देश के नागरिक इस बात को समझ सकें कि हमारे जीवन में संविधान का क्या महत्वपूर्ण स्थान है और इस के लिए जनता और नागरिक दोनों की कोटी को आप अलग रख कर सोचिए। जनता कोई भी हो सकता है, हमारे यहां कोई

[श्री शंकर दयाल सिंह]

बाहर का विदेशी आदमी आया, कहीं चला गया, वह भी जनता का एक अंग है लेकिन नागरिक हमारा वह है जिस को कि मत देने का अधिकार है और उस को कम से कम यह ज्ञान हो कि हमारा संविधान क्या कहता है। इसीलिए आपने जो नया चैप्टर बनाया है मूल कर्तव्यों का उस सम्बन्ध में यह कहना चाहूंगा कि सारे स्कूलों, कॉलेजों और विद्यालयों में आवश्यक रूप से उस की पढ़ाई होनी चाहिए, सब जगह वह टंगा रहना चाहिए जिस से लोगों को उस का ज्ञान रहे।

चूँकि दस मिनट में अपनी बात मुझे कहनी है इसलिए मैं केवल मूल मूल बातें कहना चाहूंगा। हमारे कानून मंत्री गोखले जी ने जो मूल कर्तव्य यहां पर जोड़े हैं उन में पहला क्या है? संविधान का पालन और उसके आदर्शों, संस्थाओं, राष्ट्र ध्वज और राष्ट्र गान का आदर करें। मैं बड़े ही अदब के साथ कहना चाहता हूँ कि जहां आप ने राष्ट्र ध्वज और राष्ट्र गान की बात कही है वहीं आप को राष्ट्रीय भाषा की बात भी कहनी चाहिए। आप ने नेशनल ऐंथम कहा, उस के साथ साथ नेशनल फ्लैग कहा तो नेशनल लैम्बेज क्यों नहीं रखा जब कि भारत का संविधान यह कहता है अनुच्छेद 343 में कि संघ की राज भाषा हिन्दी और लिपि नागरी होगी। यह मैं नहीं कह रहा हूँ। यह तो संविधान में दिया हुआ है। या तो इस को डिलीट कर दीजिए और नहीं अगर इस को रख रहे हैं तो मूल कर्तव्यों में आप को इसे भी जोड़ना बहुत आवश्यक है।

मुझे बहुत दुख के साथ यह कहना पड़ता है कि कल जब फ्रैंक एंथोनी साहब बोल रहे थे, आज वह यहां हैं नहीं लेकिन वह इस सदन के एक सदस्य हैं, जब वह बोल रहे थे तो ऐसा लग रहा था कि हाउस आफ लार्ड्स या हाउस आफ कामन्स का कोई सदस्य बोल रहा हो।

अंग्रेजी की, एक विदेशी भाषा की कोई वकालत करे और भारतीय भाषाओं को उपेक्षा की दृष्टि से देखे यह किसी को सख्त नहीं होगा। हम यह मानते हैं कि भारत की सभी भाषाएं फ़ुल्ले फ़ुल्ले चाहे वह उड़िया हो, मलयालम हो या तेलगू हो, सब को स्थान मिलना चाहिए और हिन्दी को भी मिलना चाहिए। लेकिन एक विदेशी भाषा की जब हम वकालत करते हैं तो मुझे ऐसा लगता है कि जिस व्यक्ति ने इसकी वकालत की उस का दिमाग अभी भी साफ नहीं है और अभी भी वह उसी रूप में सोचता है। इसलिए मैं यह कहना चाहता हूँ कि एक जो यह साजिश चल रही है कि एट्यु शेड्यूल में अंग्रेजी को भी हम रख दें यह कभी नहीं होना चाहिए। इस से हमारा संविधान अपमानित हो जाएगा।

सभापति जी, जहां तक अमेन्डमेन्ट्स की बात है, जहां तक मुझे याद है, मुझे माफ़ करेंगे हमारे कानून मंत्री जी, संविधान सभा में सात हजार से अधिक अमेन्डमेन्ट्स आये थे जिनमें दो हजार से अधिक यहां पर पेश किए गए थे। हम जानते हैं यहां 6 से 8 सौ अमेन्डमेन्ट्स आयेंगे, हमसे कहा जायेगा तो हम वापिस कर लेंगे लेकिन एक बात मैं जरूर कहना चाहूंगा कि हमारा ला मिनिस्टर सरदार स्वर्ण सिंह और दूसरों ने बैठकर इतनी मेहनत से इस को बनाया है तो उसमें इस तरह की बातें जरूर रखें जिससे कि वास्तव में हमारा यह जनता के लिए जनता के द्वारा प्रतिपादित संविधान बन सके।

मैं एक बात की ओर आपका ध्यान दिलाना चाहता हूँ। आपने कहा है कि उद्योगों में श्रमिकों को भागीदार या साझेदार का हक मिलेगा। आपने औद्योगिक श्रमिकों को तो ले लिया है लेकिन इस देश में इतनी बड़ी संख्या में जो खेतिहर मजदूर हैं उनका क्या होगा? औद्योगिक श्रमिकों की संख्या एक करोड़ या डेढ़ करोड़ होगी लेकिन खेतिहर मजदूरों की संख्या लगभग सात करोड़ है। खेतिहर मजदूरों के सामने सबसे बड़ी समस्या यूनतम मजदूरी की है और साथ साथ उनको काम की गारंटी भी नहीं है। आपने धारा 9 में कहा है :

“43क—राज्य उपयुक्त विधान द्वारा या किसी अन्य प्रकार से, किसी उद्योग में लगे हुए उपक्रमों, स्थापनों अथवा अन्य संगठनों के प्रबन्ध में, कर्मचारियों का भाग लेना सुनिश्चित करने के लिए कदम उठायेगा।”

आपने उन मजदूरों की बात तो कही है जिनकी संख्या एक करोड़ है लेकिन बेचारे खेतिहर श्रामीण मजदूर जिनके पास कोई साधन नहीं है, जो संगठित नहीं हैं, जो अपनी बातें शहरों तक पहुँचा नहीं सकते हैं, प्रखबारों में जिनकी बातें आ नहीं सकती हैं, जिनका कोई संच नहीं है, कोई यूनियन नहीं है उनकी बात कौन करेगा? बीस सुवी कार्यक्रम में प्रधान मंत्री जी ने पहली बार उनकी बात कही है। नरौरा कम्प में पहली बार उनकी बात उठाई गई और आज उनकी बातें हर जगह कही जाती हैं। इसलिए आपको इस संशोधन में भी रखना होगा कि खेतिहर मजदूरों की मजदूरी तथा रोजगार की गारंटी प्रदान की जायेगी।

सभापति जी, इस संशोधन के द्वारा संविधान में बहुत अच्छी बातें जोड़ी जा रही हैं। इसमें जो निःशुल्क कानूनी सहायता की बात कही गई है वह गरीबों के लिए बहुत फायदेमन्द है। लेकिन इस संबन्ध में मैं आपसे अनुरोध करना चाहता हूँ कि जो निःशुल्क सहायता देने की

बात है उसमें वहाँ ऐसा न हो कि ऐसे बकीलों को उन गरीबों के मुकदमों में दे दिये जायें जो हारते ही चले जायें। इसलिए जरा इस बात की ओर भी आपको ध्यान रखना होगा।

एक बात में और विनीत स्वर में कहना चाहता हूँ कि संविधान की धारा 343 और 351 में हिन्दी और देवनागरी को एक स्थान दिया गया है लेकिन कार्य रूप में उसका पालन कभी नहीं होता है। हमने हिन्दी को राजभाषा मान लिया और देवनागरी को लिपि मान लिया लेकिन जब तक उसका व्यवहार सरकारी अधिकारियों और मंत्रियों की ओर से नहीं होगा तब तक नीचे के स्तर पर कैसे हो सकता है? जब आप संविधान बनाते हैं तो जब संविधान के नियमों की रक्षा आप और हम करेंगे तभी सामान्य जनता भी करेगी। मैं कहना चाहता हूँ कि बुद्धिजीवी ही सभी चीजों के ठेकेदार नहीं हैं। जो सामान्य आदमी है वही सामान्य आदिमियों की समस्याओं को समझता है। जो बुद्धिजीवी होते हैं वे जटिलता पैदा करते हैं जिससे गरीब आदिमियों की उपेक्षा होती है। अभी हमारे विभूति मिश्र जी बड़े दर्द के साथ बोले, हरीसिंह जी भी दर्द के साथ बोल रहे थे और हमारे श्री रामगोपाल रेड्डी भी उस दर्द के साथ बोलने वाले हैं। हमारा कहना यह है कि गरीबों के लिये आप ने इस में जो चीजें रखी हैं, उनकी जानकारी भी उन तक पहुँचनी चाहिये, इस के लिये अधिक से अधिक व्यवस्था होनी चाहिये।

सभापतिजी, एक बात की ओर मैं जरूर इस वक्त आपका ध्यान दिलाना चाहता हूँ। जब यह संविधान पारित हुआ था, उस समय यह तथ्य हुआ था कि 15 वर्षों के बाद अंग्रेजी का स्थान गौण हो जाएगा और हिन्दी की प्रधानता हो जायेगी। लेकिन ऐसा न हो सका। उस के बाद 1963 में एक कानून पास हुआ, बायदा यह है कि जो भी कानून पास होता है, उस के चार छः महीने के

[श्री शंकर दयाल सिंह]

अन्दर उसके रूलज बन जाया करते हैं, परन्तु वे रूलज भी नहीं बन सके। लेकिन एक खुशी की बात यह हुई कि जिस दिन इस देश में एमरजेन्सी कायम हुई यानी 26 जून, 1975 को उसी दिन, एक नये विभाग की रचना हमारी प्रधानमंत्री जी ने की—एक राज-भाषा विभाग अलग से बनाया गया और यह भी एक खुशी की बात है कि 28 जून, 1976 को रूलज बन गये—12 रूलज बने जो 17 जुलाई को गजट में प्रकाशित हुए और उसी दिन से लागू हो गये। अब मैं यह कहना चाहता हूँ कि ये रूलज हमारे सामने आये हैं जिस तरह से आप अन्य कानूनों को एन्फोर्स करते हैं, उसी तरह से भाषा के सम्बन्ध में, हिन्दी के सम्बन्ध में, अन्य भारतीय भाषाओं के सम्बन्ध में जो कानून और नियम बने हैं, उन को दृढ़ता के साथ, सजगता के साथ लागू कीजिये, उन का पालन कीजिये।

समापति जी, एक बात और—इस में दो राये नहीं है कि इस संसद् को यह अधिकार है, संविधान में किसी भी परिवर्तन के लिये यह संसद् सक्षम है। प्रधानमंत्री जी ने अपने भाषण में स्वयं कहा है कि जब जनता ने वोट देकर हम को यहाँ भेजा था तो यह कर भेजा था कि तुम को सारे अधिकार देकर भेज रहे हैं। उसी के अन्तर्गत आज यह विवाद यहाँ चल रहा है, 59 संशोधन हमारे ला मिनिस्टर महोदय ने यहाँ पर प्रस्तुत किये हैं। सरदार स्वर्ण सिंह जी ने भी यहाँ पर भाषण दिया, उन की कमेटी के एक मेम्बर, श्री स्टीफेन ने इस पर 69 अमेण्डमेंट्स दिये हैं। मैं यह कहना चाहता हूँ—जो भी अमेण्डमेंट्स आई हैं उन पर गम्भीरता से विचार होना चाहिये और जो अच्छी हैं उन को पारित भी किया जाना चाहिये। ऐसी हालत में सब से अच्छी बात तो यह होगी कि एक बार सही दिल व दिमाग से, सोच समझ कर सारे कांस्टिट्यूशन पर विचार करें और इस काम के लिये एक सक्षम कांस्टीच्यूट प्रसेम्बली बनाई जा सकती है। यह भी है कि पहली

संविधान सभा जनता की प्रतिनिधि संविधान सभा नहीं थी, लेकिन आज जो संविधान सभा इस चुनो हुई लोक सभा की बनेगी, वह वास्तव में प्रतिनिधि सभा होगी। इसलिये मेरा अनुरोध है कि आज के परिपेक्ष में यदि हम इस संविधान सभा का गठन कर के इस पर विचार करें तो ज्यादा अच्छा होगा।

इन शब्दों के साथ हमारे ला मिनिस्टर साहब जो संशोधन सदन के सामने रखे हैं, मैं खुले दिल से उन का समर्थन करता हूँ।

श्री एन० एस० कांबले (पंढरपुर) : मैं रिपब्लिकन पार्टी की तरफ से इस संविधान (संशोधन) विधेयक का स्वागत करता हूँ और स्वागत करते हुए यह कहना चाहता हूँ कि बाबासाहब अम्बेकर ने इस देश के लिए एक घटना (संविधान) लिखी और उस घटना को बनाते वक्त उन्होंने शेड्यूल कास्ट्स और शेड्यूल ट्राइब्स के वास्ते नौकरियों में कुछ रिजर्वेशन की बात रखी थी। प्रधानमंत्री इन्दिरा गांधी जी के बीस सूत्री कार्यक्रम को हमारी पार्टी ने स्वागत किया है और सभी ग्रुप के लोगों ने उस का स्वागत किया है मगर रिजर्वेशन सब जगहों में होते हुए भी शासन के डिपार्टमेंट्स में अभी भी शेड्यूल कास्ट्स और शेड्यूल ट्राइब्स के सेवकों के लिए जो परसेन्टेज निर्धारित है, उस परसेन्टेज में उन लोगों को नहीं लेते हैं। इस को देख कर मुझे बहुत दुःख होता है। इस वास्ते मैं कानून मंत्री, गोखले साहब से प्रार्थना करूंगा कि वे इस बात को देखें। अपने देश की स्वतन्त्रता के इतने वर्षों बाद भी आज जो परसेन्टेज शेड्यूल कास्ट्स और शेड्यूल ट्राइब्स के लिए है, वह उन को नहीं मिलती है और जो लोग सत्ता में हैं, वे इस कानून को फ्रॉक देते हैं और शेड्यूल कास्ट्स और शेड्यूल ट्राइब्स के आदिमियों को नहीं देते हैं। मैं कानून मंत्री जी से प्रार्थना करता हूँ कि इस तरफ उन को ध्यान देना चाहिए।

एक दूसरी बात मैं यह कहना चाहता हूँ कि देश के अन्दर हरिजनों पर जो अत्याचार होता है, उस में जो कैसे चलते हैं उन में न्याय उन लोगों को जल्दी नहीं मिलता है। कानून मंत्री जी से मेरा यह निवेदन है कि न्याय को जल्दी से जल्दी दिलाने के लिए उन्हें कोई न कोई कानून बनाना चाहिए। मैं आप को अपने यहां की एक घटना बताऊँ। हमारे यहां एक हरिजन के छोकरे को विष्ठा डाल कर सबैशों ने मारा और पांच वर्ष हो गये हैं लेकिन अभी तक उस मुकदमे का कोई फैसला नहीं हुआ है, अभी तक उस में न्याय नहीं मिला है। इस वास्त में प्रार्थना करूंगा कि हरिजनों के ऊपर जो अत्याचार होता है, इस के वास्ते कोई कायदा कानून बने और उन लोगों को न्याय जल्दी मिले।

इतनी प्रार्थना कर के मैं रिपब्लिकन पार्टी की ओर से इस विधेयक का समर्थन करता हूँ।

SHRI INDER J. MALHOTRA (Jammu): Mr. Chairman, Sir, much of the ground of arguments about this Bill has already been covered. Therefore, I would not like to repeat those arguments, but I would like to point out two or three things and lay great emphasis on them.

For the first time, it has been realised that when the Constitution grants fundamental rights, the same Constitution should also emphasise on the fundamental duties of the citizens.

It is mentioned in Part IVA—Fundamental Duties—under sub-para (e) as:

“(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;”

Sir, I would like to say that on the one hand under Fundamental Rights, freedom of speech, freedom to assemble or freedom to form associations or other freedoms are granted. But it is our past experience that some crooks or even political parties in this country have misused these Fundamental Rights and created a number of problems for this country.

Sir, I would like to be very specific in so far as the 44th Constitution Amendment Bill is concerned. We have seen organisations like R.S.S., paramilitary organisations like Anand Margis and others who had created communal riots in this country. They had created disorder in this country. They had destroyed the peaceful atmosphere of this country. I would like to know from the Hon'ble Law Minister what other steps would be taken by the Government to see that in future the Fundamental Rights granted under this Constitution are not misused and also see that they are not used for anti-national purposes. Therefore, I would suggest that since this is the first time that we are putting these fundamental duties in the Constitution which is before the country, a widest possible publicity should be given to these fundamental duties especially in the educational institutions and other such institutions so that right from their childhood, our future generation can be more conscious of the Fundamental Duties. These constitutional amendments are required because we are in the process of building up a new society. The entire nation is grateful to the hon. Prime Minister, who has always been giving the right leadership at the right moment, to take care of the various problems which the country has been facing. We are also trying to build up a new economic order in which that section of the society which is till now not getting the rightful share of production in various fields will get priority in the distribution of the production of the country. It is very necessary that no hardles or obstacles

[Shri Inder J. Malhotra]

come in the way of building up this new economic order. Therefore, these constitutional amendments are required so that we can go ahead with full speed to build up a new economic order and a new society in our country.

There has been much talk about fundamental right to property. It has two aspects. One is that no individual or group or business house has unlimited right to accumulate wealth and exploit the country's resources in any way they like. The other aspect is that the millions in this country who have no property of their own of any kind—land or house or other property—deserve the right of property, not those who have already accumulated huge wealth in various forms; their right of property has to be curtailed.

We have also been talking for the last two or three years of having a ceiling on urban property. We have not been able to do this in the entire country. It is high time we gave reconsideration to this fundamental right of property and found a way out by which the accumulated wealth may be utilised properly for the benefit of those who have not got any property. In future, we should make it sure that by this right of property, no individual, group or business house will be able to accumulate unnecessary wealth and exploit the country for their own benefits.

Since so many changes are being brought about, I was hoping that something will be done about article 370 which directly affects Jammu & Kashmir. I am not suggesting that you delete it. My only plea is, we should find a way out by which as soon as this House passes a legislation, automatically, simultaneously that legislation should also be applicable to Jammu & Kashmir. There should not be any delay in that. I humbly request the Law Minister to see if

some way out can be found to take care of this.

With these words, I support the Bill.

SHRI S. M. BANERJEE (Kanpur): Mr. Chairman, Sir, first of all, I would like to reiterate once again that my Party stands for passage of this Bill without referring it to any committee. We have heard the speeches of many Members and our Prime Minister has made it clear and we have no doubt in our mind that this Bill will be passed without any reference to the Select Committee or to any other committee.

A doubt has been raised as to what will happen after the passage of this Bill and how Directive Principles will be implemented. We have suggested in our amendment to clause 10 to answer that. "There shall be a standing committee of Parliament and the State Legislatures as the case may be for reviewing and investigating all matters relating to the implementation of the Directive Principles." Such a Committee could be formed both at the Central and State levels.

Sir, now I shall confine myself to two or three points. About the Directive Principles, we want under clause 8 to insert clause 39B saying that the State shall take all necessary steps for full protection of the rights of Muslims and other minority communities and those belonging to the Scheduled Castes and Scheduled Tribes and other weaker sections in all spheres of national life, particularly in matter of education and employment. Since we have got the word 'secular' in our Preamble, we want to assure the minority communities that we shall protect their rights.

A second point was made by my friend, Shri Indrajit Gupta about collective bargaining. We want that there should be no strike. We want that there should be no confrontation with the employers. We want another

clause 43B in clause 9: "The State shall take suitable steps through legislation and otherwise to ensure the right of collective bargaining to workers and employees". If this is conceded, I am sure there would not be any strike because nobody is a professional striker, not even myself. We are not professional strikers. Everybody wants collective bargaining but the employers do not agree to that. I say that collective bargaining should also be ensured in the Constitution along with the instrument of settlement of disputes.

Then I say something about Article 311. I asked the Law Minister as to what will be the scope of the tribunal. He has not spelt out anything in the Bill. We are taking away all the rights of the Central Government employees which were given to them under Article 311. These are actually the reproduction of certain words taken from Article 311. Article 311 is not applicable in the case of Defence employees. While at Article 311, it may also be mentioned that that Article on its plain language applies to all the persons who are members of any civil service of the Union or any all India service or any civil service of any state or hold civil post, under the union or in State.

The Supreme Court has in the case of Lekhraj Khurana taken the view that persons who hold civil posts connected with defence are not protected under that Article. Due to this decision. Perhaps, there are six lakhs of civilian employees in the Defence who are not covered under Article 311. I would beg of Shri Gokhale to see that they are covered. Adequate and reasonable opportunities should be given to the government employees for defence. What is happening is that the second opportunity is taken away. Our amendment was that those words should be taken out and replaced by

"Provided that where it is proposed after such enquiry to impose

upon him any such penalty, such penalty may be imposed on the basis of the evidence adduced during such enquiry after giving such person an adequate opportunity of making representation on the penalty proposed."

Mr. Chairman, you were a Member of the House when Shri Asoke Sen was the Law Minister; he wanted to amend Article 311. All the central government employees organizations were unanimous in opposing it—whether they belonged to AITC, INTUC or any other organization. We requested the then Law Minister, Shri Asoke Sen not to press it and not to deprive the government employees of this opportunity. We said that at least two opportunities should be given to the Central government employees. One is on the occasion of giving the charge-sheet. After a reply is received to it, there should be a court of enquiry. If the court of enquiry holds that the employee is guilty, then he should be given a show-cause notice. Nothing is lost thereby. These two opportunities were always given. Article 311 is a charter of liberty, or Magna Carta for government employees. This should not be taken away.

Then about what issues should be discussed in the tribunals. The present clause says:

"Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public service....."

We were told by the Minister of Home Affairs in a meeting with the representatives of JCM which the Secretary, Department of Personnel had called, that cases of dismissal, removal and compulsory retirement will not be taken up in the tribunal. We have protested against this.

[Shri S. M. Banerjee]

Now about the composition of the tribunal and who should head it. We were told that it would be headed by retired administrators. We opposed to. We have said that in the tribunal, cases of reversion, discharge, removal, dismissal from service, premature or compulsory retirement also should be taken up. Even in the case of compulsory retirement, a chance should be given to the persons concerned. Even if I shoot somebody here, I am allowed to go up to the Supreme Court; but a man compulsorily retired has no remedy. Such a person, compulsorily retired for any reason whatsoever, should be given an opportunity to go to the tribunal.

About the composition of the tribunal we have said that it should be composed of High Court or Supreme Court judges. Then eminent public men and representatives of the employees should be there; otherwise it will not enjoy the confidence of the employees. I want Shri Gokhale kindly to note this. We have accepted the tribunal in principle but its composition and terms should be such as to enjoy the confidence of employees. We have made this clear in a meeting of the JCM before the Department of Personnel, viz. that all cases be covered by the tribunal. And regarding its composition, it should not be that the retired administrators, persons belonging to ICS and IAS continue there. I want eminent people and public men to be there. We should spell this out in the bill itself; or we must be assured in the House, that this will be done.

With these words, I support the bill. When the question of amendments is taken up, we will request the hon. Minister to consider and agree to them, and not merely reject them off-hand. We have opposed bureaucratic action. But we still support the bill.

श्री लाल भूषण (दक्षिण दिल्ली) :
सभापति जी, संविधान कोई पूजा की वस्तु नहीं

है, बाइबल का कुरान नहीं है। संविधान एक साधन है, जनता की सेवा के लिये, सामाजिक क्रांति के लिये और उसी रूप में हमें उसे देखना चाहिये।

संविधान में हम असल में काफ़ी संशोधन करते आये हैं और यह लोक-सभा का अधिकार है, हमारा मौलिक अधिकार है। संविधान-सभा में जो अधिकार थे, वह लोक-सभा तथा संसद को पूरे अधिकार दिये गये हैं और हम देश की जनता को बराबर इस बात के लिये आश्वासन देते आये हैं कि हम आपके लिये, देश के लिये, कानून बनायेंगे, प्रस्ताव रखेंगे और संशोधन रखेंगे। यह कोई नई बात नहीं है, जो संशोधन आज हम कर रहे हैं।

मैं खास तौर से इस बात का स्वागत करता हूँ कि प्रीएम्बल में "धर्म-निरपेक्ष और समाजवाद" शब्दों को जोड़ा गया है। मैं आप को पुराने इतिहास की याद दिलाना चाहता हूँ कि अमर शहीद सरदार भगतसिंह, चंद्रशेखर आजाद और उन के साथी ने उस जमाने में हिन्दुस्तान सोशलिस्ट रिपब्लिकन आर्मी और हिन्दुस्तान सोशलिस्ट रिपब्लिकन पार्टी की स्थापना की और समाजवाद की कल्पना किया करते थे। आज जब हम अपने संविधान के प्रीएम्बल में "समाजवाद" शब्द जोड़ते हैं, तो हम यह भी समझते तथा गवँ करते हैं कि हमारे शहीदों ने जो दिशा दी थी, हम उस में आगे बढ़ रहे हैं।

कुछ लोग संविधान में यह संशोधन करने में शामिल नहीं हो रहे हैं। उन में से एक तो जनसंघ जैसी पार्टी के सदस्य हैं, जो संकुलरिज्म पर विश्वास नहीं करते हैं। दूसरे वे हैं, जो समाजवाद पर विश्वास नहीं करते हैं और पूंजीवाद के समर्थक हैं। तीसरे सी० पी० एम० के सदस्य हैं, जो एक नई संविधान सभा निर्मित करना चाहते हैं, और चूँकि वह नहीं बनाई जा सकी, इस लिए उन्होंने इस सदन का वायकाट किया है। नई संविधान सभा की बात टोटल रेवोल्यूशन के नेता श्री जयप्रकाश

नारायण, ने भी कही थी। उस समय देश के सभी प्रतिक्रियावादी यह चाहते थे कि लोक सभा और राज्य सभा का घेराव कर के उन को समाप्त किया जाय और एक नई संविधान सभा बनाई जाये। लेकिन उन का स्वप्न पूरा नहीं हुआ।

अमरीका से एक संस्था: "इन्डियन एसोसियेशन फार डेमोक्रेसी" नाम की संस्था सदस्यों को चिट्ठियां भेज रही है कि हिन्दुस्तान में "संविधान सभा" बनानी चाहिए। एक भारतीय लखनपाल साहिब लन्दन में बैठ कर अरब लोगों में चिट्ठियां और लीफलेट बांट रहे हैं, जिन में कहा गया है कि हिन्दुस्तान में सिर्फ मुसलमानों का फैमिली प्लानिंग किया जा रहा है। वह भी इस संस्था के सदस्य हैं। वे लोग इस देश के लोगों को गुमराह करना चाहते हैं, काश्मीर का मसला और कई दूसरे सवाल फिर से उठाना चाहते हैं और डी० एम० के० को बढ़ावा देना चाहते हैं। इसलिये संविधान सभा चाहते हैं।

लेकिन इन सदस्यों के यहां होने या न होने से कोई फर्क नहीं पड़ता है। जनता के प्रतिनिधि प्रधान मंत्री के नेतृत्व में इस संविधान संशोधन विधायक को बहुमत से पास करने जा रहे हैं। श्री स्वर्ण सिंह की अध्यक्षता में एक सूयोग्य कमेटी ने देश के कोने कोने में जा कर इस संशोधन के लिए स्वीकृति ली। हमारी अखिल भारतीय कांग्रेस कमेटी ने भी इस को स्वीकार किया है। कुछ कमजोर बुद्धि के लोग हो सकते हैं, इस संशोधन के बारे में जिन की आस्था और विश्वास हट गया है। लेकिन फिर भी यह कारवां चल रहा है; जो लोग "समाजवाद" शब्द से घृणा करते हैं, वे चाहते हैं कि इस विधेयक पर विचार करने के लिए सिलेक्ट कमेटी या नई संविधान सभा बनाई जाये, ताकि कम से कम तीन चार साल के लिये तो इस समाजवाद शब्द से मुक्ति मिले।

आज जो प्रतिक्रियावादी सदस्य हमारे साथ नहीं बैठे हैं, हम उन को जनता के सामने एक्सपोज करेंगे कि ये लोग संसद की शक्ति को, जो सर्वाधिकार है, जो सुप्रीम कोर्ट से सुप्रीम है, जनशक्ति को कम करना चाहते थे। आज कुछ लोग यह भय दिखाते हैं कि अगर हम ने संविधान में यह संशोधन कर दिया, तो सुप्रीम कोर्ट उस को स्ट्राइक डाउन कर देगी। एक प्रकार से वे सुप्रीम कोर्ट को यह निमंत्रण, दावत दे रहे हैं कि हम जो कुछ पास करें, मेहरबानी कर के उस के खिलाफ फ़ैसला करे। लेकिन यह सम्भव नहीं हो सकता है।

अगर हम सुप्रीम कोर्ट के फ़ैसलों पर चलें, तो इस देश में राजाओं के प्रिवी पर्स समाप्त नहीं हो सकते थे और बैंकों का नेशनलाइजेशन नहीं हो सकता था। मैं आज भी सुप्रीम कोर्ट को जनता की अदालत नहीं समझता हूं। जै-हम ट्रिब्यूनल कायम करने जा रहे हैं, वैसे ही हमें समरी ट्रायल के लिए छोटी छोटी मोबाइल अदालतें बनानी चाहिए और डिस्ट्रिक्ट बोर्ड्स और पंचायतों को न्याय के कुछ अधिकार देने चाहिए। इस वक्त सुप्रीम कोर्ट में लाखों कैसिज का अम्बार लगा हुआ है। यह अदालतों के बस की बात नहीं है कि वह एयर-कन्डीशन में बैठ कर उन मामलों का फ़ैसला कर सके। तुरन्त न्यायालयों का फ़ैसला हमें करना है। जनता को निःशुल्क न्याय की जरूरत नहीं है। यह किन्हीं वकीलों के रहम करम की बात नहीं है। जनता चाँची द्वारा अपना न्याय खुद कर सकती है। इसलिए पंचायतों को अधिकार दो, मोबाइल कोर्ट्स बनाओ, तुरन्त फ़ैसले हों।

19.00 hrs.

इस संविधान के संशोधन में जो शिक्षा को समवर्ती सूची में रखा है उस का मैं स्वागत और समर्थन करता हूं। अभी तक यह नहीं हो सका था इसलिए हिन्दुस्तान में 70 प्रतिशत लोग अशिक्षित हैं, निरक्षर हैं। लोग भाषा की बड़ी बात चढ़ाकर करते

[श्री शशि भूषण]

हैं। 70 प्रतिशत लोग जिस देश में निरक्षर हों कोई भी भाषा उन को पढ़ाईए लेकिन उन को शिक्षित तो कीजिए, साक्षर तो कीजिए। तो मैं इस बात का स्वागत करता हूँ और जिस तरह शिक्षा को कान्करेंट बनाया है उसी तरह कृषि को भी बनाइए। चीन में 70 करोड़ लोगों को एक साल के अंदर भूमि का वितरण किया है क्यों कि वहाँ जो सत्ता थी वह केन्द्र के हाथ में थी। अगर वहाँ भी राज्यों की सूबेदारी होती और थानेदारी होती तो कभी भी चीन में भूमि वितरण नहीं हो सकता था। आज भी मैं यह कहता हूँ कि जब तक आप कृषि को कान्करेंट सबजेक्ट नहीं बनाएंगे हिन्दुस्तान में 20 प्वाइंट प्रोग्राम में जो लैंडसेस को जमीन देना चाहते हैं वह देना मुश्किल होगा। चाहे जितनी निःशुल्क परेड ये जो काला कोट पहनने वाले बकील है उन की करा लीजिए उनको जमीन इस तरह से मिल नहीं सकती है। चीन में 70 करोड़ लोगों को जमीन दी गई है तो कम से कम हमारे देश में जो 10 करोड़ भूमिहीन लोग हैं उन को हम जमीन दे सकें, यह तो होना चाहिए और इस दिशा में हमें चलना है। इसलिए कृषि केन्द्रीय समवर्ती सूची में होनी चाहिए।

जो संविधान हम संशोधन करते हैं उस की व्याख्या का जहाँ तक सवाल है उस की व्याख्या के लिए एक कमेटी बननी चाहिए। पार्लियामेंट के दोनों सदनों के दो-दो तीन-तीन सदस्य उस में रहें और एक दो जुरिस्ट भी रहें, वे उस की व्याख्या करें। हम संविधान की व्याख्या सुप्रीम कोर्ट पर नहीं छोड़ सकते। इसके बारे में एक कमेटी पार्लियामेंट बनाए जो सुप्रीम का भार हल्का करे। इतना ही मैं कहना चाहता हूँ। संविधान के 44वें संशोधन विधेयक का समर्थन करता हूँ।

श्री जगन्नाथ मिश्र (मधुबनी) : सभापति

महोदय, चवालीसवें संविधान की सर्व्व चर्चा है। अब हम उस पर विचार भी कर रहे हैं। यह बड़ी खुशी की बात है। आप ने मुझे इस पर बोलने के लिए समय दिया उस के लिए आप को बहुत बहुत धन्यवाद।

मैं विषय पर प्रकाश डालूँ उस के पहले मुझे जो एक घटना का स्मरण हो आया है उसकी चर्चा आप के समक्ष किए बिना मैं नहीं रह सकता हूँ। वह यह है। एक अपसर था, उसको वहम हो गया कि जो कोई मुझसे मिलने आता है वह केवल नाव मांगता है। इसलिए जब भी कोई उस से मिलने के लिए आए तो वह उस पर बहुत बिगड़ जाये और बैंगर उस से पूछे कि उस को क्या चाहिए वह हल्ला करे कि वापस चले जाओ, मेरे पास नाव नहीं है। अब जिसे नाव चाहिए वह तो समझ सकता था कि साहब के पास नाव नहीं है इसलिए ऐसा कह रहे हैं लेकिन जिसको कोई अन्य जखुरत होती थी वह नहीं समझ पाता कि बैंगर उस की बात सुने क्या नाव नाव हल्ला कर रहे हैं। इस सदन में विपक्ष के कुछ दलों का रवैया ऐसा ही है। वे प्रथम तो हल्ला करेंगे कि यह हो, वह हो। मिसाल के लिए कांस्टीट्यूशन अमेंडमेंट को ले लीजिए। वे इस के लिए सदन में और सदन के बाहर कई बार बोल चुके हैं लेकिन जब सरकार अमेंडमेंट सदन के विचारार्थ लायी तो वे बदल गए। उन्होंने न उस को पढ़ा न उस की गंभीरता को देखा न कुछ सोचा, केवल चूँकि सरकार की ओर से आया है इसलिए वह बहुत बड़ा हीरा है ऐसा सोचते हुए बहिर्गमन भी कर गए और

यह प्रयास भी उन की तरफ से हो रहा है, यह कह रहे हैं कि यह बहुत बुरा हो रहा है।

मैं से बहुत ही अनचित और दुर्भाग्यपूर्ण मानता हूँ। मैं चाहता हूँ कि बहिर्गमन करने वाले और इस में भाग न लेने वाले दल स पर सौंचे और मैं भगवान से भी प्रार्थना करूँगा कि वह उन को सुबुद्धि दे ताकि, वे रास्ते पर आएँ, इस में भाग लें और अपने सुझाव दे। हमारी सरकार बहुत उदार है। उस ने कहा है कि विचार के समय जो इस में आवश्यक सुझाव आएँगे उन को मानने में उसे कोई एतराज नहीं होगा। फिर उनको क्या पड़ी है कि वे बाहर पड़े ए हैं। क्या जनता ने उन्हें सीलिए बोट दे कर यहां भेजा था? मैं जनता का भी अह्वान करता हूँ कि वह अपने प्रतिनिधियों के रवैये को देखे कि जहां जहां उन को सं में रहना चाहिए, और अपना योगदान देना चाहिए उस के बदले वे असहयोग किए हैं। तो मैं जनता से कहूँगा कि समय आने पर वह भी उन से असहयोग करे।

दूसरी बात मैं यह कहना चाहता हूँ कि पार्लियामेंट को संविधान बदलने का हक है या नहीं, इस विषय में मैं अनो राय जाहिर करूँ इस के पहले जो देश और विदेश के बड़े बड़े विधि विशेषज्ञ और राजनैतिक हैं उन्होंने क्या कहा है उस की एकाध भिन्नता आप के सामने रखूँगा। सब से पहले तो जब ब्रफ्ट कांस्टीट्यूशन तैयार हुआ तो उस को 4 नवम्बर, 1948 को कांस्टीट्यूट असम्बली के समक्ष विचारार्थ रखते हुए इस कांस्टीट्यूशन के जनक श्री बी० आर० अम्बेडकर ने कहा था कि इस कांस्टीट्यूशन के बारे में कि :—

It is workable. It is flexible.

बिल्कुल सफ है। कहां बाधाएं आती हैं ?

अब इस के बाद जस्टिस ह्यूम्ज का कहना है :

Constitution is made by the people and not by the Judges.

बिल्कुल सफ है कि संविधान में तब्दीली लाने का अधिकार किसको होता है। डा० जैफर्सन का कहना है :

"The Constitution which cannot be charged is necessarily destroyed."

संविधान को परिवर्तनशील और जनता की जरूरतों के मुताबिक होनी चाहिए। हमारे विधि मंत्री श्री गोखले साहब ने कहा था

"Nothing is immutable in the world and everything has to be changed according to the situation so as to meet the demands of the people."

यह भी बिल्कुल सफ है।

अब मैं उर्दू की एक कविता आपकी सेवा में पढ़ना चाहता हूँ :

रगवत में अदावत को बदलना होगा
उलफत में कुदरत को बदलना होगा
इस मुल्क को खुशहाल बनाने के लिए
तर्जें आईन को बदलना होगा, बदलना होगा।

जो एलेक्टेड गवर्नमेंट है उसका काम जनता के कल्याण का काम करना होता है और हमारा संविधान इसी लक्ष्य को प्राप्त करने की कोशिश करता है। अब मैं उर्दू के एक दूसरे कवि को कोट करना चाहता हूँ :

हयात ले के चलो; कायनात ले के चलो
चलो तो सारे जमाने को साथ ले के चलो।

हमारे पं० जवाहरलाल नेहरू ने एक अवसर पर कहा था।

"Within limits no judge and no Supreme Court can make itself a third chamber. No Supreme Court and no judiciary can stand in judgment over the sovereign will of Parliament representing the will of the entire community."

[श्री जगन्नाथ मिश्र]

इसी प्रकार हमारी प्रधान मंत्री श्रीमती इंदिरा गांधी ने, जब वे कांग्रेस के 75वें अधिवेशन में भाग ले रही थीं और कांस्टीट्यूशनल रिकार्म पर बान कर रही थीं, कहा था।

"India's Constitution was a living Constitution and democratic in content but perhaps some changes might be necessary to safeguard democracy."

फिर दूसरी बात उन्होंने टेलिविजन वार्ता के अवसर पर कहा फरवरी, 1976 में।

"It is upto Parliament to see that the Constitution does not block any major social or academic reforms."

इन सभी बातों को देखते हुए इस में कोई शक नहीं रह जाता है कि पार्लियामेंट संविधान में तब्दीली लाने के लिये पूर्णतया सक्षम है और उस का उसे पूरा हक है।

अब मैं एक दूसरी बात यह कहूंगा कि इस को संशोधन की क्या आवश्यकता पड़ी? हक तो है ही, लेकिन आवश्यकता क्या पड़ी? आवश्यकता यह पड़ी कि इस में एक द्वंद खड़ा हो गया कि सुप्रीम बाडी किस को कहें। पार्लियामेंट को या सुप्रीम कोर्ट को? यों तो यह साफ है, लेकिन चूंकि कुछ लोगों के लिए यह साफ नहीं है, इसी लिये अंशट खड़ा हुआ। इसी लिए जरूरी हुआ कि इस को स्पष्ट कर दिया जाए कि पार्लियामेंट सुप्रीम बाडी है और कांस्टीट्यूशन में संशोधन लाने में वह सक्षम है।

अभी पहल आप ने देश में देखा कि जय प्रकाश जी के नायबत्व में कुछ लोगों ने क्या गजब किया, उपद्रव और अशांति फैलाई, जनता के प्रतिनिधियों को पीटा। इसी लिए संविधान में संशोधन लाने की जरूरत पड़ी ताकि इन सब चीजों पर रोक लगे। यह इसलिए भी आवश्यक हुआ क्योंकि तामिलनाडु में डी० एम० के० की सरकार ने बहुत से गजब किये। इसीलिए रोक लगाने की जरूरत पड़ी।

दूसरी आवश्यकता यह हुई कि समाजवाद, धर्मनिरपेक्षता और राष्ट्र की अखण्डता के उच्च आदर्शों की स्पष्ट व्याख्या के लिए भारत के संविधान में सुधार किया जाए— इस दृष्टि से यह संशोधन यहां लाया गया।

श्रीमन्, संविधान को प्रस्तावना में दो शब्द जोड़ दिए गये—वे हैं—“धर्मनिरपेक्ष और समाजवादी” गणराज्य। ये दोनों शब्द बिल्कुल जायज है।

इस में नागरिक के लिए दस मूल कर्तव्य शामिल किये गये हैं—जो वास्तव में बड़े महत्वपूर्ण है। कुछ लोगों को शंका है कि सरकार ने इस संशोधन के द्वारा अपना उल्लू सीधा किया है और विपक्ष को दबाने की कोशिश की है। यह कथन तर्कहीन है। इस में 59 क्लोजेज हैं—मैं सब की चर्चा तो यहां नहीं कर सकता और न उस की आवश्यकता ही है। केवल एक-दो की ओर आप का ध्यान आकर्षित करूंगा। इस में किसी की शका करने की जरूरत नहीं है, बल्कि सहयोग करने की जरूरत है।

जैसे, श्रीमन्, आपात-स्थिति की घोषणा के सम्बन्ध में राष्ट्रपति जी को अधिकार दिया गया है, वे सारे देश में या जहां पर उपद्रव हो, हिंसा हो, उस क्षेत्र में आपात-स्थिति की घोषणा कर सकते हैं और जब वहां स्थिति सुधर जाय तो उस घोषणा को वापस ले सकते हैं—आप बतलाईये इस प्रावधान में क्या बुरी बात है? मैं उन विरोध करने वालों से पूछना चाहता हूं, वे आगे आये और बतलाये इस में क्या खराबी है।

अभी जैसा मेरे पूर्व-वक्ताओं ने कहा कि इन संशोधनों में राष्ट्र-ध्वज और राष्ट्रगीत की सुरक्षा के लिए प्रावधान है, मेरा सुझाव है कि इस के साथ

ही राष्ट्रभाषा को जो स्थान मिलना चाहिए, उस के बारे में एक निश्चित प्रावधान होना चाहिए ।

एक सुझाव यह भी है कि आप ने औद्योगिक संस्थानों के कर्मचारियों की सुरक्षा के लिये प्रावधान किया है, उसी तरह से खेतीहर मजदूरों की सुरक्षा के लिए भी प्रावधान होना चाहिए ।

इन शब्दों के साथ मैं इन संशोधनों का समर्थन करता हूँ ।

सभापति महोदय : श्री पैन्थली । . .

(अवधान) . . .

श्री मूल चन्द बाणा (पाली) : यह गलत बात है ।—जो लिस्ट बनी हुई है, आप उस के मुताबिक बुलाइये ।

श्री पी० गंगा रेड्डी (आदिलाबाद) : आप हाउस का टाइन बड़ा दीजिए ।

श्री मूल चन्द बाणा : मैं एक बात कहना चाहता हूँ—आप हाउस का समय बड़ा दीजिए मुझे इस में कोई ऐतराज नहीं है; लेकिन आप से नम्र प्रार्थना है कि जो सूची बनी है, उस के अनुसार बुलाइये ।

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): I suggest that everyone who is here and who wants to speak must be given a chance. We will sit as long as is necessary till everyone speaks. (Interruptions).

MR. CHAIRMAN: You want to go by serial order? All right.

SHRI K. SURYANARAYANA (Eluru): Mr. Chairman, Sir, I am very happy to support the Bill. But I am unhappy about the allotment of time by Chair. The Minister of Parliamentary Affairs has given certain names to the Speaker. But the Chair

is not following the list given by the Minister of Parliamentary Affairs. What happens is that the opposition parties are getting more time than what we are getting. Hereafter, I would request the hon. Chairman and the Speaker also that if you want to follow the list given by the Minister of Parliamentary Affairs, it should be followed fully. Otherwise, you ask him not to give the list and you regulate the debate.

19.14 hrs.

[SHRI BHAGWAT JHA Azad in the Chair]

Therefore, I am grateful to the Chairman. I rise to give my full support to the Forty-fourth Amendment Bill. The Amendment seeks to convert the Constitution into an effective instrument for carrying out changes that are vitally needed to bring about a socio-economic revolution in the country.

Hon. Members have given various suggestions and it is now left to the Prime Minister. Some wanted a new Constituent Assembly, some wanted a Select Committee and some others wanted some Committee to consider all these things. So, I will not go into all these things that have been touched upon by my friends; I will speak only about the Seventh Schedule.

I am glad that Education has been included in the Seventh Schedule as a Concurrent subject. In the beginning when there was an enquiry by a Committee of the Government, several people, particularly agriculturists and rural population, suggested that Agriculture, Irrigation and Power should also be in the concurrent list, not for the benefit of any particular constituency or a particular area but in the interests of the nation, in the interests of the country and in the interests of the whole world because in our country there are several rivers

[Shri K. Suryanarayana]

which are inter-State rivers, like the Godavari. Let me give an illustration. There is one Godavari project, an anicut which was constructed in 1852 but, from that time, because there was no money with the Andhra Government and with the Madras Government also, they have not undertaken any new projects, excepting the Pochampad project. I want to say that not only the Government of India but the World Bank also should come forward to advance money. The Government has to give serious consideration to the development of agriculture side by side with industry. You are giving protection to Education and Industry, but without money how can paddy be produced? My district alone has given 3-1/2 lakhs of foodgrains while the entire State of West Bengal has given 3-1/2 lakhs tonnes, but still, only 10 per cent of the Godavari water is being used while 90 per cent of it is going to the sea. Our Government has no money. They spent Rs. 12 crores on the new barrage but that is only a drop in the ocean.

So I want to make a request, through you, to the Minister of Law to consider putting Irrigation & Power and Agriculture also in the Concurrent List. When I raised this question before the Enquiry Committee on amendments I was given the impression that they have agreed but, for political reasons somebody may not have agreed. All the Chief Ministers have been nominated by Congress Party leader and they are all direct representatives of the Government of India.

The other day the Andhra Chief Minister said he had approached the Government of India and the World Bank also. Rs. 11 crores were collected from the farmers and these were spent, and they have no money now. Suddenly, in July, there was a breach to Godavari Anicut—this is a 125 year-old constructed anicut. There was a warning but there was no

money and our Chief Minister said that because he was short of funds he could not do it in time and the Andhra Government could not repair the dam.

Now, coming to this Bill, it is unfortunate that some of my friends from the Opposition have chosen not to participate in the discussion on the Amendment Bill. The reasons are not known; they are known only to them. This is not a party issue. The desire of the Congress to secure the largest measure of agreement for the Constitution could also be seen from the composition of the Drafting Committee. This is a national issue and not a party issue. It is a national subject. They should have participated in the Debate. Late Dr. Ambedkar, the Chairman of the Drafting Committee, was not only not a Congressman but was a vigorous critic of the Congress and its policies for many years. He himself expressed surprise on his choice:

"I came into the Constituent Assembly with no greater aspiration than to safeguard the interests of the Scheduled Castes. I had not the remotest idea that I would be called upon to undertake more responsible functions. I was, therefore, greatly surprised when the Assembly elected me to the Drafting Committee. I was more than surprised when the Drafting Committee elected me to be its Chairman. There were in the Drafting Committee men bigger, better and more competent than myself such as my friend Sir Alladi Krishnaswami Ayyar."

That has been the policy of the Congress; it has been so lenient. But the Opposition has not come to participate in the debate.

Coming back to the Godavari, I would like to point out that it is a national asset; the Godavari is not only in Andhra area; it comes from Maharashtra and covers other States.

also. It is a river next to the Ganga and the Brahmaputra. I would like to quote a few sentences from this book. *The Engineering Works of the Godavari Delta*, published by the Government of Madras in 1896:

"The Godavari takes rank amongst the great rivers of India next after the Ganges and the Indus. Rising some 70 miles north-east of Bombay and only 50 miles from the Arabian Sea, it runs in a generally south-east direction across the Peninsula till, after a course of nearly 900 miles, it falls into the Bay of Bengal about 250 miles north of Madras. It receives the drainage from 115,000 square miles, an area greater than that of England and Scotland combined, and its maximum discharge is calculated to be 1-1/2 millions of cubic feet per second, more than 200 times that of the Thames at Staines, and about three times that of the Nile at Cairo."

My request to the Government of India is this. They must give due consideration to all inter-State river waters—not only the Godavari but also the other rivers. Then only, we will be able to give water to Madras, Kerala and so on. What is the use of merely passing Resolutions? Where is the money? The Andhra Government cannot do. You are only passing Resolutions. What is socialism? Everybody has his own property and he also goes on accumulating; there is no limit for holding properties.

When the black-marketeers are caught, their names are not being published. Only the names of those officers who caught them are published, just for the sake of publicity. They are not publishing the names of the persons who are caught for black-marketing and for evasion of income-tax and, so on.

श्री शिवनाथ सिंह (बुलुनु) : सनापति महोदय, जब से हमारा संविधान बना तब से ही उसमें संशोधन करना शुरू हो गया और जब तक यह रहेगा इसमें संशोधन होते रहेगे। किसी न किसी तरह से यह कहा जाता रहा है कि पार्लियामेंट को संविधान में संशोधन करने का अधिकार नहीं है और बार बार वे किसी हाई कोर्ट से, या सुप्रीम कोर्ट के निर्णयों का सहारा लेते रहे हैं। न्यायपालिका वाले इतने दिनों से यह समझने लगे थे कि कुर्सी पर बैठ कर जो कुछ हम इन्टरप्रेट करते हैं वही कानून है, जो कुछ हमारे मुंह से निकल गया वही न्याय है। उन्होंने अपने अधिकारों का दुरुपयोग करना शुरू किया। इसके लिए उनका इलाज करना जरूरी है और इस संशोधन में थोड़ा सा इलाज उन्हें दिखाया गया है कि अपने तरीके को ठीक करो। न्यायपालिका इस परिवर्तनशील जमाने को देख चुकी है और मैं समझता हूं कि अब वह ठीक तरह से वह व्यवहार करेगी। अब मैं समझता हूं कि कोई भी विधान में हम परिवर्तन करेंगे तो ऐसा नहीं हो सकेगा कि उसको सुप्रीम कोर्ट स्ट्रक डाउन कर दे। जनता की आवाज को मानना होगा। जनता ने संविधान में संशोधन करने के लिए कांग्रेस पार्टी को इतना बहुमत दिया है कि वह संविधान में संशोधन करने की स्थिति में है और इतना भारी बहुमत उसने इसीलिए दिया है ताकि वह संविधान में संशोधन कर सके। देश की जनता सिर्फ प्रधान मंत्री ही श्रीमती इंदिरा गांधी को बनाना चाहती तो उसके लिए उसको दो-तिहाई मैजोरिटी देने की आवश्यकता नहीं थी। सिम्पल मैजोरिटी देकर भी वह देश की प्रधान मंत्री बन सकती थीं। सिम्पल मैजोरिटी देकर, बैअर मैजोरिटी देकर वह कांग्रेस को शासन की बागडोर सौंप सकती थी। किसी भी देश में शासन करने के बैअर मैजोरिटी की ही आवश्यकता होती है। वह बैअर मैजोरिटी जनता दे सकती थी। लेकिन जनता ने ओवर व्हेल्सिंग मैजोरिटी कांग्रेस को दी। जनता जानती है किसी भी

[श्री शिवनाथ सिंह]

शासन के लिए यह अच्छा नहीं होता है कि उसको ओवर-वैल्युमिंग मैजोरिटी में लाया जाय। लेकिन बूँक संविधान में जनता चाहती थी कि परिवर्तन १ इस वास्ते उसने कांग्रेस को दो तिहाई बहुमत दिया। मैं नहीं समझ पाया हूँ कि कोई किस तरह से कह सकता है कि मंच्द को संविधान में परिवर्तन करने का अधिकार नहीं है। सबको यह मान लेना चाहिए कि उसको अधिकार है। देश की जनता ने संसद को यह अधिकार दिया है। संविधान के निर्माताओं ने भी तय कर दिया था कि विधान में अगर परिवर्तन करने की आवश्यकता पड़े तो वैसे भी किया जा सकता है। हमारा संविधान परिवर्तनशील है। अगर आवश्यकता हो तो इसमें परिवर्तन करने का प्रावधान इसमें रखा गया है। जिस तरह का छाँचा संविधान सभा का था उसको आप देखें। उसमें जागीरदारों के प्रतिनिधि थे, राजा महाराजाओं के प्रतिनिधि थे, सेठ साहूकारों के प्रतिनिधि थे, करोड़पतियों के प्रतिनिधि थे, जनता के प्रतिनिधि भी थे। संविधान के निर्माताओं ने एक कम्प्रोमाइज की भावना से काम किया और कुछ ऐसे प्रावधान इसमें रखे जिनका रखना उचित नहीं था। उस वक्त के हमारे नेता पंडित जवाहरलाल नेहरू भी जानते थे कि इन प्रावधानों का होना उचित नहीं है। लेकिन बूँक तब सब को साथ लेकर चलना था इसलिए उन्होंने कहा था कि इनको हम रख रहे हैं। लेकिन संविधान में परिवर्तन करने की विधि भी इसमें तय कर दी गई थी। वे जानते थे कि परिवर्तन करने की आवश्यकता पड़ेगी इस वास्ते यह प्रावधान इसमें कर दिया गया था और इसके लिए एक अलग से चैप्टर रख दिया गया था। उसमें यह कह दिया गया था कि किस प्रकार से संशोधन होगा। लिहाजा जो कहते हैं कि संविधान में परिवर्तन नहीं हो सकता है उनसे मैं पूछना चाहता हूँ कि इस चैप्टर को रखने की क्या आवश्यकता थी, क्यों एक सेपरेट चैप्टर इसके लिए रखा गया

था। इसलिए उन लोगों को सोचना चाहिए जो इस तरह की बातें कहते हैं कि यह बकवास बाजी नहीं चल सकती है। समाज की प्रगति के लिए कानून बनाने के लिए अगर संविधान में संशोधन करने की जरूरत पड़े तो हमें सबव इसके लिए तैयार रहना चाहिए। ऐसा करने का संसद को पूर्ण अधिकार है। जो इस तरह की मांग की जाती है कि रेफ्रेंडम लेकर आओ, मंडेट इसके लिए लेकर आओ, यह चीज चलने वाली नहीं है। मेरी मान्यता है कि संसद को संविधान में कोई भी संशोधन करने का पूरा अधिकार है और सुप्रीम कोर्ट या हाई कोर्ट या किसी भी दूसरी अदालत में उसको चुनौती नहीं दी जा सकती है। जनता की अदालत का जो निर्णय है उसको चैलेंज करने का किसी को अधिकार नहीं है।

जो संशोधन है इनमें कई अच्छी बातें हैं। लेकिन १ तीन बातों की ओर जिनका जिक्र पूर्व वक्ताओं ने भी किया है मैं भी करना चाहता हूँ। सम्पत्ति का जो अधिकार है उसको मूल अधिकार आपने रखा है। कोई बात नहीं है। इसको मूल अधिकार रखें। लेकिन मैं समझता हूँ कि सम्पत्ति पर आपको अंकुश रखना पड़ेगा। जब तक आप कोई अंकुश नहीं लगायेंगे जो हमारे डायरेक्टिव प्रिंसिपल्ज हैं वे कामयाब नहीं होंगे, उनको हम प्राप्त नहीं कर सकेंगे। हमारे डायरेक्टिव प्रिंसिपल्ज सुपीरियर हैं। उनको प्राप्त करने के लिए हमको सम्पत्ति पर सीमा करनी पड़ेगी। अगर आप समझते हैं कि यह समय नहीं है जब सम्पत्ति के अधिकार को खत्म कर दिया जाए तो मैं कहूँगा कि आप उस पर कोई न कोई अंकुश अवश्य लगायें। इसके बिना देश की प्रगति नहीं हो सकती है।

देश के जो उत्पादन के साधन हैं चाहे खानें हों, नदियों का पानी हो, बिजली हो, बिजली का उत्पादन हो तथा इस प्रकार की जो चीजें हैं उनके बारे में भी केन्द्र के पास अधिकार होने चाहिये। ये अधिकार उसको

लेने पड़ेंगे। आज अन्त ज़िंयीय झगड़े कई मामलों को लेकर चल रहे हैं जिनका नतीजा पड़ रहा है कि ये जो साधन हैं इनका उपयोग नहीं हो पा रहा है, सदुपयोग नहीं हो पा रहा है। बिजली एक प्रान्त में अधिक है तो दूसरे में बहुत कम है। इस तरह की जो चीजें हैं इनका प्रावधान हमें संविधान में करना पड़ेगा और इस संबंध में कानून बनाने का अधिकार जो आज केन्द्र के पास नहीं है वह उसको प्राप्त करना पड़ेगा। बिना इस अधिकार के केन्द्र को कानून बनाने में दिक्कत पड़ती है। उत्पादन के जो साधन हैं उनको संविधान में आपको अवश्य जगह देनी चाहिये ताकि केन्द्र उनके संबंध में जिस तरह के उचित समझे कानून बना सके।

डो०एम०के०के माननीय सदस्य फ्रैंडल स्ट्रुवर की बात कर रहे थे और कह रहे थे कि इसको स्पष्ट किया जाना चाहिए। मैं समझता हूँ कि जब तक केन्द्र मजबूत नहीं होगा हमारा जो फ्रैंडल स्ट्रुवर है वह कामयाब नहीं होगा। केन्द्र के लिए शक्तिशाली होना आवश्यक है। जितना अधिक केन्द्र मजबूत होगा उतना ही तेजी से देश प्रगति करेगा। पिछले दिनों का इतिहास बताता है जब केन्द्र ने शक्तिशाली ईश्वर से कार्य किया हमारे सब प्रांतों ने ठीक से काम किया, जनता ने ठीक काम किया। दुनिया में अपना स्थान अगर हमारे देश को बनाना है तो यह बहुत आवश्यक है कि केन्द्र मजबूत हो और इसके लिए जो कुछ भी किया जाए कम है।

सभापति जी, अंग्रेजी के बारे में यहां एक माननीय सदस्य ने कहा है, मैं उसके बारे में एक कहावत यहां कहना चाहता हूँ। कहावत बहुत अच्छी नहीं है, लेकिन मैं उसको यहां उद्धृत करना चाहता हूँ—

खाये खसम का, गीत गाये बीरा का।

इस देश के बाशिन्दे हैं, इस देश में रहते हैं, इस देश का अन्न खाते हैं, लेकिन वह बातें

सात समुद्र पार की करते हैं। उनको शर्म आनी चाहिए। इस देश में रहते हुए यह तो कह सकते हैं कि जिन लोगों को अंग्रेजी आती है, हिन्दी नहीं आती उनको हिन्दी में कन्वर्ट धीरे धीरे करना चाहिए। आज हिन्दी को जो राजभाषा के रूप में स्थान मिलना चाहिए, नहीं मिल पाया है जो मिलना चाहिये लेकिन वह कहें कि हिन्दी के मुकाबले अंग्रेजी हमारी मातृ भाषा हो, तो इस प्रकार विचार बहुत ही निन्दनीय है। मैं झगड़ा नहीं करना चाहता, लेकिन उनको इस बात को सोचना चाहिए।

जो संशोधन हम करना चाहते हैं, उसमें कई अच्छी बातें हमने रखी हैं। आज तक हमारे अधिकार थे और सरकार के कर्तव्य थे, लेकिन इंडीविजुअल के कर्तव्य नहीं रखे गये थे। आज हमने वह भी रखा है। हालांकि वह कर्तव्य आज भी हम पूरा नहीं करते हैं, लेकिन संविधान में रखने की एक खास अहमियत होती है। हर आदमी के मन में यह होता है कि संविधान में जो चीज है, वह पवित्र है, उसका हम पालन करें। प्रीएम्बल में जो शब्द रखे गये हैं सोशलजम और सैकुलरिजम, ये बहुत अच्छे हैं। इन सब बातों को देखते हुए जो संविधान में परिवर्तन करने की आवश्यकता थी, उसे अब हम कर रहे हैं। इसीलिए मैं इसका समर्थन करता हूँ।

सभापति महोदय : हर सदस्य को 8 मिनट बोलने का मौका मिलेगा। जिनके नाम यहां हैं, जब तक वह न बोल लें, डिबेट समाप्त नहीं होगी। जिनके नाम लिस्ट में नहीं हैं, मैं उनको नहीं पुकारूंगा। अन्त में टाइम होगा तो देखा जायेगा। अब श्री लक्प्पा 8 मिनट में अपनी बात कहें।

SHRI K. LAKKAPPA (Tumkur): I am supporting this constitutional reform. The reform that has been suggested, I can only say, is a moderate reform. It is not revolutionary in character.

[Shri K. Lakkappa]

Friends on the other side were talking and were questioning the constitution and this amendment and the supremacy of the Parliament. They must understand that the sovereignty lies and the Indian sovereignty lies with the people and the will of the people has to prevail as an outcome of the freedom struggle.

I would like to trace the evolution and as to how Pandit Nehru laid the foundation for socialistic measures and socialistic action. It is a long-drawn struggle for a socio-economic change, that means a struggle from political freedom to economic freedom. That is the most important aspect I would like to concentrate upon.

Constitution is a living document whatever you may say. You say that it is not sacred because it was not written by angels but drafted by mortals like us. Therefore, you should not treat this document as sacred and see whether it reflects the aspirations and the living conditions of the people of this country and the will of the people should be reflected in the Constitution. That is how these constitutional reforms, these deliberations and the conflict on all these things have been a long-drawn struggle and whether this document has to be reformed and whether this document has to be changed, these are the most important aspects, and deliberations have been made and several conflicts arose and all these important reforms of legislation in this country have been put down either by the executive authority or by the judiciary or by the legislature. This is a conflict between the economic freedom and the political freedom. But the will of the people should prevail in order to reflect the social ideologies in our Constitution. Therefore, the supremacy of the Parliament cannot be questioned even if there is a conflict between the economic freedom and the political freedom. I, therefore, support all the amendments that have been propos-

ed. It may kindly be seen whether these amendments which have been proposed are enough to bring socialism in the country.

Adding certain words in the preamble was questioned by certain Members. A lot of criticism took place in this regard. Can we bring socialism by adding certain words in the preamble? We have to meet the basic needs of the people in order to bring socialism in the country. Unless we give a practical shape in letter and spirit to what we add in the preamble, this document will not become a living document nor will it reflect the views of the people.

This country needs reforms of various types—socio-economic change, change in the living conditions of the people and economic freedom. These reforms have been proposed by the Committee. This has been criticised by the Opposition in this House and outside. I do not know why the Opposition parties are not coming for a dialogue.

It has been stated that the basic structure is being changed. Golaknath case is an outcome of a conflict between political freedom and economic freedom. Shri Siddharth Shankar Ray has stated that there is no change in the basic structure. We have not changed the parliamentary system of democracy. We have not changed the executive. Three pillars of democracy—executive, judiciary and legislature—have not been changed. What is there if we have introduced certain reforms to achieve economic freedom? Golaknath case and other cases or a series of judgements given by the judiciary have done nothing but to block the way to economic freedom. It has retarded economic growth. These reforms in the Constitution cannot be questioned or argued, unless you want to make it a political issue.

With the proposed reforms the bureaucracy that is now functioning would be humbled down. This is what I would like to tell my friends on the other side who were saying that deletion or an amendment to Article 311 is not revolutionary in character. Our Constitution is a living document. If you want it to be more effective, the right to work should be introduced. What is it that we get out of the Constitution? What is it that the people get out of the election? What for are they sending their representatives?

MR. CHAIRMAN: Your time is over. Shri Daga.

SHRI K. LAKKAPPA: I have a right to develop my point.

MR. CHAIRMAN: Please sit down. I am on my legs. The hon. Member will appreciate that there are 20 more to speak. If all of you want to speak you have to put a discipline on yourselves. I cannot give even 5 seconds more than the 8th minute. At the 7th minute, I will ring the bell. Please conclude within half a minute. You should definitely conclude within the 8th minute. Not even a second more will be given. Now, Mr. Daga.

SHRI K. LAKKAPPA: I have not concluded, Sir.

MR. CHAIRMAN: No, no. You have already concluded. I have already called Mr. Daga.

SHRI M. C. DAGA (Pali): Mr. Chairman, Sir, moving the Twenty-Fifth Amendment Bill in the Lok Sabha in 1971 Shrimati Indira Gandhi said:

'We are determined to implement the directive principles and if need be we shall amend the fundamental rights also.'

इतिहास में बदलते हुए जमाने में हम सब लोगों का नाम लिखा जायगा। हम सब

भाग्यशाली हैं। श्रीमती इंदिरा गांधी जी के नेतृत्व में गोखले साहब ला मिनिस्टर इस बिल को पाइलट कर रहे हैं। उनका नाम इतिहास में लिखा जा रहा है इस बदलते हुए जमाने के साथ। हमने मूल अधिकारों से बढ़ कर नीति निदेशक सिद्धान्तों को मान लिया। अब इन अधिकारों को आड़ में जो लोग चांदी बना रहे थे उनके ये अधिकार अब खत्म कर दिये गये हैं। इसलिए मैं भी अपने आपको इस बात के लिए भाग्यशाली समझता हूँ कि मैं भी इस संविधान सभा में भाग ले रहा हूँ। इतिहास में जो आदमी बाहर रह गए हैं, जिन्होंने असहयोग दिया है, असमर्पण दिया है वे अपने कर्मों पर पश्चाताप करेंगे। यह बहुत अच्छा सूनहरा अवसर है कि जब हम लोग देश के अन्दर लोगों की भावनाओं को समझ कर उनकी भावनाओं के अनुसार परिवर्तन करने जा रहे हैं।

The non-scholar and non-professional Ho Chi Minh and Gandhiji were deeply aware of these fundamentals but not the lawyers and the politicians who prepared the constitution.

मैं आज यह समझ रहा हूँ कि गांधी जी का सपना साकार हो रहा है। गरीबों का स्वराज्य ही उनका सपना था। हमें यह जरूरत नहीं कि बड़े बड़े वकील और धुरन्धर विद्वान हों इसके अन्दर। जनता की इच्छाओं और आकांक्षाओं को मूर्त रूप देने वाली संसद सदस्यों ने हिम्मत के साथ संविधान की धाराओं को बदल कर यह बतला दिया कि देश में संविधान और हमारी संसद सर्वोपरि है। जनता की इच्छाओं को मूर्त रूप देने का काम सिर्फ संसद का है और संसद को पूरी ताकत है। इसलिये मैं अपने को भाग्यशाली समझता हूँ कि हम लोगों ने बहुत अच्छा कदम उठाया।

The soul and the spirit of our Constitution is justice, social, political and economic, to all the citizens.

[Shri M. C. Daga]

एक बात मैं यह कहना चाहता हूँ कि कुतुब मीनारों पर बैठ कर अगर जमीन पर खड़े रहने वालों की समस्याओं को समझ सकते हैं तो अलग बात है बरना आपने बिल्कुल ठीक कहा है कि जो नीति निदेशक सिद्धांत हैं वे अब मूल अधिकारों से आगे माने जायेंगे, उनको प्राथमिकता दी जाएगी। मैं आपका इसके लिए आभार मानता हूँ। लेकिन एक बात यह कहना चाहता हूँ कि जब तक आप इस ढाँचे से मंजूरी के साथ नहीं निकल आयेंगे तब तक काम होने वाला नहीं है। धीरे धीरे उठाए हुए कदम कभी कारगर नहीं होते।

ये पांच सौ अमेंडमेंट्स इसलिए नहीं हैं कि आप के बिल का ये विरोध करते हैं। ये पांच सौ अमेंडमेंट्स जो लोगों ने दिये हैं उनके द्वारा उन्होंने अपनी भावनाएं प्रकट की हैं। एक माननीय सदस्य ने यह अमेंडमेंट दिया है कि लोगों को गारंटी दे दी जाय कि उनको नौकरी मिलेगी, उनकी रोजी का सवाल हल होगा। ये अमेंडमेंट्स इस विधेयक के विरोध में नहीं हैं। लोग श्री गोखले साहब से यह चाहते हैं कि ऐसा संविधान बनाया जाय कि देश के करोड़ों लोगों में किसी की आंखों में आंसू न रहे और लोग यह कहें कि हिन्दुस्तान में एक शोषणहीन समाज बन गया है। यह सवाल है और इसको हम कहाँ तक हल कर सकते हैं यह हमें सोचना है। समय बहुत कम है। मैं केवल यह कहूँगा कि जो लोग यह कहते हैं या जिन्होंने यह कहा है उन्हें अपने शब्द वापस लेने होंगे—

"On the other hand, Shri B. Dass said that these are only pious wishes and as such these should not be incorporated in the Constitution. Prof. K. T. Shah compared the Directive Principles with a cheque whose payment depended on the desire and convenience of the Bank. Shri Damodar Swaroop Seth termed them inexplicit and of uncertain character and said that they do not give any

clear indication of the type of economic and social system that would be established."

हमें अधिकार हो गया है लेकिन कब अमली रूप दिया जायेगा—यह एक बहुत बड़ा सवाल है। इसको अमली रूप देना ही सबसे बड़ी बात है। अगर समाजवाद के बातूनी पक्ष को काफी उछाल दिया और अमली रूप नहीं दिया तो कोई फायदा नहीं होगा। हम नीतियाँ बनाने में बहुत कुशल हैं लेकिन उन नीतियों का कुशलता से पालन किया जाये—यह बहुत बड़ा सवाल है।

इस बिल में मैंने बहुत से अमेंडमेंट दिए हैं, मैं नहीं चाहता सभी के बारे में इस समय कहूँ लेकिन एक बात मैं कहना चाहता हूँ। आपने कहा है कि दो तिहाई रूल्स, आर्डर्स ब्यूरोक्रेट्स बनाते हैं। इस देश में जो नीकरशाही है वह हमारे कानून, रूल्स, बाई-लाज, आर्डर्स, सारी की सारी चीजें बनाती है। जो डेलिगेटिड पावर्स हैं उनका मिस्यूज होता है। आप विचार करें कि एक केरल में बैठा हुआ आदमी है जिसको एक अफसर ने आर्डर दिया है, उसके अधिकार को छीन लिया है लेकिन वह आदमी केरल की हाई कोर्ट में नहीं जा सकेगा, ट्रिब्यूनल की कोर्ट में वह नहीं जा सकेगा बल्कि उसे सीधे दिल्ली में सुप्रीम कोर्ट में जाना होगा। इस बात की ओर मैं आपका ध्यान दिलाना चाहता हूँ। कहीं ऐसा न हो जाए कि सुप्रीम कोर्ट में ज्यादा केसेज हो जायें और हाई कोर्ट्स में कम केसेज हो जायें—इस बात का भी आप ध्यान रखें।

इस अलावा मैं एक बात यह कहना चाहता हूँ कि आपने एजुकेशन को कानून-कॉरेंट लिस्ट में रखा है लेकिन जो लाइब्रेरीज हैं वह कहाँ रहेंगी? आपने टेक्निकल एजुकेशन को ले लिया है लेकिन लाइब्रेरीज को छोड़ दिया है। इस सम्बन्ध में मैंने

प्रमोट किया है कि जब आप एजुकेशन को ले रहे हैं तो लाइब्रेरीज को भी उसमें इनक्यूड करना चाहिये।

SHRI M. SATYANARAYANA RAO (Karimnagar): Mr. Chairman, Sir, after two or three days, I have got at last the chance to speak on this Bill. I am very grateful to you for this. I support this Bill wholeheartedly.

MR. CHAIRMAN: The understanding of the hon. Members is this that those who have spoken already will please sit down and not go away. That is the understanding reached.

SHRI M. SATYANARAYANA RAO: Sir, I wanted to be enlightened by the speeches of the hon. Members that if there are any defects in the Bill, they might point them out. But, I am sorry to say that they have not enlightened me on anything. The only objection they have raised is that this Parliament has no powers. They have given two or three reasons which are wellknown. Firstly, during emergency, we should not introduce this Bill and we should not pass this Bill and that we should not amend the Constitution.

MR. CHAIRMAN: Mr. Daga, the understanding is that after a Member speaks, he should remain in the House.

SHRI M. C. DAGA: I am coming back.

MR. CHAIRMAN: All right.

SHRI M. SATYANARAYANA RAO: The second objection raised is that this is the extended term of Parliament and hence this Parliament has no authority to pass this Bill. On moral grounds also, they have said so many things by way of objection. But I think these objections have already been answered by my colleagues and also by the Prime Minister, Shri Swaran Singh and Shri Gokhale.

Another objection raised was that this Bill was not brought earlier. It was asked: 'After getting this mandate from the people in 1971, why did you wait so long? Why did you not bring it earlier? I say: better late than never. When it is a good piece of legislation, why should they raise objection that it is brought at such a late stage and so on? So these objections are not at all tenable.

My view is that Parliament has got every authority, supremacy and competence to amend the Constitution including fundamental rights. We know that our elders fought for our freedom not for the sake of the rich people, the zamindars, traders and businessmen. When the struggle for freedom was going on under the leadership of Mahatma Gandhi, he made it very clear that the fight for the liberation of the country was not for the rich people but for the poor people. We know that the poor sections of the people constitute 80 per cent of our population. In order to alleviate their condition, for their sake we were fighting for freedom, not for these rich people. After independence, we have taken so many measures toward this end. Of course, these are not enough to improve the conditions of the people.

Before going to the people in the mid-term elections in 1971, the Government had taken the step of abolition of privy purses, nationalisation of banks, coal mines, key industries etc. But those measures were struck down by the High Courts and the Supreme Court. Then when she went to the polls in 1971, she sought a mandate from the people for bringing about these reforms. The result was that the Party was returned with a strength of over 352 which constituted a two-thirds majority in the House.

Now we have taken these steps. The objection that we have no mandate is not valid. We have sufficient mandate. There should not be any difficulty on that score.

[Shri M. Satyanarayana Rao]

Regarding other matters, since the time at my disposal is short, I will not take long. Under the new provision enunciating certain fundamental duties, so many things have been mentioned. But one thing is missing, that is about family planning. I am very happy that Dr. Kailas and other members also referred to this. You know that the population explosion is the greatest problem facing this country. Unless we control the population and stabilise it, it will be very difficult to make any progress in spite of increased production and better progress. My view is that family planning should be made one of the fundamental duties of the citizen. It should be made a fundamental duty on the part of the citizen that he should not have more than two children. Such a provision is essential to control the increase in population. The opposition leaders do not believe in family planning. They are raising a hue and cry about this.

AN HON. MEMBER: Why not put it under directive principles?

SHRI M. SATYANARAYANA RAO

Whatever it is. This should be implemented. This is very essential for the success of our endeavours to improve the condition of the people. We are very happy that under the leadership of Shri Sanjay Gandhi, the youth have taken up this programme in right earnest and have succeeded to a large extent. But to support them in this effort, it should be provided in the Constitution as a fundamental duty. Then I think their task will be made very easy. Therefore, I would request the hon. Minister, Shri Gokhale, to consider the inclusion of a provision in this regard in the fundamental duties even at this late stage.

As was rightly pointed out by my colleagues, the right to work should also from part of fundamental rights.

We have provided for so many things. The right to work is also a good provision and it should be considered by the Law Minister. I am

happy to note that the powers of the High Courts have been reduced to a large extent. Under article 226 they had unfettered powers and I refer to not only the writ jurisdiction but also other purposes. They were misusing those powers and those powers have been rightly removed.

I am also happy that this Bill amends the preamble of the Constitution in order to make clear the concept of secularism and socialism. We know socialism is necessary for the welfare of the people and unless we improve their conditions we will not be doing justice to them in this country. Some people ask why it should be in the preamble; socialism is our objective no doubt, they say. The fathers of these amendments, Sardar Swaran Singh and Shri Gokhale probably want to make it clear to the nation that secularism, socialism and integrity of the nation are our main concepts. Then there is legal aid to the poor.

MR. CHAIRMAN: Your time is up; you need not take up a new point now. Shri Giridhar Gomango.

SHRI GIRIDHAR GOMANGO

(Koraput): Sir, I will conclude by referring to two points. I reject the proposition to have a constituent assembly. Because, it is clear that the Constituent Assembly had already given the constituent power to Parliament and so when this Parliament does it, no constituent assembly is necessary. This special session is only for adopting the amendments for the Constitution.

The second point is that we are introducing a new chapter about duties. It has been welcomed all over the country. The other point is that article 194 should be amended, which refers to the House of Commons. Those words should be deleted. Because, when we delete the same words from provisions applicable to Members of parliament, why not we delete them for the state assemblies.

wanted to say those few words. A lot of controversy had arisen about the constituent assembly. If senior colleagues confuse the issue, I think we are not doing justice.

MR. CHAIRMAN: Shri Jamilurrahman; kindly follow in the footsteps of Shri Gomango.

20 hrs.

SHRI MD. JAMILURRAHMAN (Krishanganj): First of all I should like to thank the leadership in the country and in the House that during such a period this amendment had been brought in.

Mr. Chairman, Sir, this is a very timely action taken by us for bringing forward this piece of legislation and I would like to support this 44th Constitution Amendment Bill. Sir, this Parliament, like the Constituent Assembly, is represented by the Members of Congress, depressed classes Muslim League, All India Scheduled Castes Federation, All India Women's Conference, All India Landlords' Association and so on. So far as I remember, the Constituent Assembly was fairly represented by the members of minority communities, Christians, Anglo-Indians, Parsis, Sikhs and other sections of the people. So, we are quite competent to pass any legislation which is for the good of the society and for the progress of the country. Therefore, there is no bar on this present Parliament to pass this important legislation. We can go on amending the Constitution according to the suitability and according to the needs and aspirations of the people. We have got a clear-cut mandate from the people of this country under the leadership of Shrimati Indira Gandhi. We should also see that the Constitution is amended according to the moving time and it should not at all be static. I would like to quote here our great leader Pandit Jawaharlal Nehru:

"A Constitution, if it is out of touch with the people's life, aims

and aspirations, becomes rather empty: if it fall behind those aims, it drags the people down. It should be something ahead to keep people's eyes and minds upto a certain high mark."

"Speaking on his famous Objectives Resolution, Panditji expressed his faith that the Constitution will lead us to the real freedom that we have clamoured for, and that real freedom in turn will bring food to our starving people, clothing for them, housing for them and all manner of opportunities of progress."

If the Constitution is not able to fulfil these commitments to the people of India until this time, we can certainly amend this Constitution so that it fulfills the aspirations of the people. I would again like to quote Panditji in this connection. He further observed:

"We shall frame the Constitution, and I hope it will be a good Constitution, but does any one in this House imagine that, when a free India emerges, it will be bound down by anything that even this House might lay down for it? A free India will see that bursting forth of the energy of a mighty nation. What it will do and what it will not, I do not know, but I do know that it will not consent to be bound down by anything. Some people imagine, that what we do few may not be touched for 10 years or 20 years, if we do not do it today, we will not be able to do it later. That seems to me a complete mis-apprehension. I am not placing before the House what I want done and what I do not want done, but I should like the House to consider that we are on the eve of revolutionary changes, revolutionary in every sense of the word, because when the spirit of a nation breaks its bonds, it functions in peculiar ways and it should function in strange ways. It may be that the Constitution this House may frame may not satisfy that free India. This House cannot bind down

[Shri Md. Jamilurrahman]

the next generation, or the people who will duly succeed us in this task."

We are quite competent to amend the Constitution in a manner which fulfils the aspirations of the people of this country. The directive principles should prevail over the fundamental rights and this Bill fulfil that condition. If there is curtailment of fundamental rights in the interest of the betterment of society and the country, there is no harm in that.

I have two proposals to make. I want that the term of Parliament should be extended to 7 years. We have a five year plan for the betterment of the society and the country. At present we have no time to review what action has been taken under the plan and how far it has been implemented for the betterment of society. So, during the sixth year, we should review the implementation and in the seventh year, we should do the work which has been left undone. I appeal to the Prime Minister that my amendment seeking to extend the life of the House to 7 years may be accepted. Now during the emergency, the nation is moving on the path of discipline and there is increase in production both in agriculture and in industry. If we loosen this, the gains of the emergency will be lost. Therefore, I submit that the emergency should not be lifted, election or no election. More than the election, what matters more is the philosophy of the Prime Minister to remove poverty and 'garibi hatao'. We have to work for the betterment of the 85 per cent of our people who live in the villages and who have not got any benefits under the present bureaucratic system of government. The powers of the bureaucracy should be curtailed. I was listening to your speech yesterday, Sir, and you said, one gentleman was killed and in spite of your being the public representative of ten lakhs of people, you could not do anything

immediately. Action was delayed because of the manner of functioning of bureaucracy. Immediately action should have been taken.

I do not agree that this House is not competent to pass this Bill. I feel that this House is fully within its powers in passing this Bill. But if at all there is any doubt in the mind of anybody, we should re-frame the entire Constitution. Let us sit together and completely change the Constitution in its entirety, so that it may fulfil the aspirations of the masses of this country to which you and I and all of us are committed.

श्री राजेन्द्र प्रसाद भादव (मेघपुरा) :
विधि मंत्री द्वारा प्रस्तुत इस 44वें संविधान संशोधन विधेयक का मैं समर्थन करता हूँ ।

सभापति महोदय, हर देश का संविधान उस देश की परम्पराओं, उस देश की मान्यताओं, उस देश की जरूरतों के मुताबिक बनता है । भारत का संविधान 1950 की 26 जनवरी को लागू हुआ था । उसमें यह निहित कर दिया गया था कि जरूरत पड़े तो दो तिहाई बहुमत से इसमें संशोधन किया जा सकता है । सभापति महोदय, आपने देखा होगा कि 1951 में ही वास्तव में इस संविधान में संशोधन किये गये ।

भारतीय संविधान, संविधान सभा की देन है जिस के सदस्य बालिग मताधिकार के आधार पर नहीं चुने गये थे बल्कि उसमें राजा महाराजाओं के, बकीलो के व्यापारियों के, संगठित मजदूर संघों के और मूल्य संवर्धकों के प्रतिनिधि थे ।

इनके विचारों का एक कम्प्रोमाइज सा हमारा संविधान है । सभी जो हमारी

संसद् है, वास्तव में बालिग मताधिकार के आधार पर चुनी गई हैं। इसकी सार्वभौमिकता और सत्ता को संविधान में माना गया है। इसीलिये इसकी व्यापकता पहले की संविधान समा से कहीं ज्यादा है और इसको ज्यादा अधिकार हैं कि जरूरत के मुताबिक संविधान में संशोधन करे। आज तक समय की मांग के मुताबिक अनेक संशोधन हुये हैं, पर इस पर विवाद सन् 1967 के बोलकनाथ केस में आया, जिसमें संसद् के मूलभूत अधिकारों को चुनौती दी गई कि मूलभूत अधिकारों का संशोधन यह कर सकती है या नहीं। इसके बाद की जानकारी सभापति महोदय, आपकी होगी, चूंकि आप इस सदन के माननीय सदस्य रहे हैं। नाथपाई साहब ने यह संशोधन रखा था जिसमें उन्होंने संसद् की सार्वभौमिकता को फिर से स्थापित करने के लिये कहा था। उसी दिन से यह एक विवाद रहा है कि संसद् का अधिकार बड़ा है या सुप्रीम कोर्ट का ?

गत कई वर्षों से संविधान के संशोधन की मांग विभिन्न दलों से आती रही है। आपोजिशन के मेम्बरो ने और कई प्रवृद्ध जनों ने यह बात कही और इसी परिपेक्ष्य में कांग्रेस पार्टी ने एक समिति बनाई, जिसके अध्यक्ष सरदार स्वर्ण सिंह नियुक्त हुये और उन्होंने संविधान में संशोधन का एक प्रारूप तैयार किया, जिसके आधार पर यह विधेयक सामने लाया गया है।

सन् 1971 के चुनाव घोषणा-पत्र को यदि आप देखेंगे तो हम जनता के सामने यह कह कर गये थे कि संविधान के संशोधन के लिये जितने सदस्यों की जरूरत होती है, यदि वह संख्या हमें मिली तो हम संविधान में संशोधन करेंगे आपकी और देश की हालत को ठीक करने के लिये। उसी के बाद जब हमारी पार्टी सरकार में आई तो संविधान में संशोधन करने के बारे में सोचा गया। हमारा संविधान संसद् की सर्वोच्चता की स्वीकार करता है, जिसको फिर से इस विधेयक के

द्वारा प्रतिष्ठित करने का प्रयास किया गया है।

प्रथम बार भारतीय संविधान में धर्म-निरपेक्षता, समाजवाद और राष्ट्रीय एकता की परम्परा को स्पष्ट किया गया है। इसमें दो बातें उभर कर सामने आती हैं। और वह है समाजवाद और धर्मनिरपेक्षता की। समाजवाद क्यों और क्या होता चाहिये, यह हमें अपोजिशन के लोगों ने कहा। बातस्व में उसमें विभिन्न विचारधारायें हैं। लेकिन किस तरह का समाजवाद इस देश को सूट कर सकता है, किस तरह के समाजवाद की अपेक्षा है, यह किसी से आज छिपा नहीं है और उसकी गहराई में जाने की आवश्यकता नहीं है। संविधान में वास्तव में किसी भी वर्ग के लोगों को संवैधानिक अधिकार होंगा, उनका धर्म के आधार पर डिस्क्रिमिनेशन नहीं किया जाएगा। यह बिल्कुल प्रावीजन है।

सभापति महोदय, अब मैं बाडली प्वाइंट्स को ही टच करूंगा। प्रथम बार देश के नागरिकों के लिये मूलभूत कर्तव्य निर्धारित किये जायेंगे, इससे पहले आज तक अधिकार की बात ही की गई, कर्तव्य की बात नहीं की गई।

दुनियां के संविधान को जहां जहां हैं, यदि उठाकर देखें तो कहीं पर भी इस तरह की व्यवस्था नहीं है जहां कि कर्तव्यों की व्यवस्था न हो, अधिकार अवश्य हों। अगर कर्तव्य होंगे तभी देश आगे जा सकता है।

दूसरी बात जो कही गई है, उसमें केन्द्रीय कानूनों की वैधता की जांच का क्षेत्राधिकार केवल उच्चतम न्यायालय तक ही सीमित रखा गया है। वहां भी निर्णय जजों के स्पेसिफिक नम्बर, दो-तिहाई, से करना निश्चित किया गया है।

[श्री राजेन्द्र प्रसाद यादव]

तीसरी बात जो की गई है, वह है नीति निर्धारण सिद्धान्तों की। इनकी अहमियत को पहली दफा समझा गया है और उसको वास्तव में प्रधानता दी गई है, उसकी उपादेयता को समझा गया है, बजाये मौलिक अधिकार के जो कि वैयक्तिक हैं, खास लोगों के लिये हैं।

आगे आर्थिक दृष्टि से पिछड़े वर्ग को मुफ्त कानूनी सहायता की बात कहीं गई है। जहां तक आप जानते होंगे, यह गरीबों का देश है और वहां कानून का व्यापार तहसील की अदालत से लेकर सुप्रीम कोर्ट तक होता है। उसमें गरीब पीछे छूट जाता है, पैसे वाले आगे बढ़ जाते हैं। इसलिये यह एक वैल्यू-प्रोजेक्शन है।

उद्योगों की व्यवस्था में कामगरो की सशेदारी के सम्बन्ध में निदेशक सिद्धान्त जोड़ा गया है। यदि कामगर यह समझें कि यह उद्योग उनका भी है, तो वे अधिक मेहनत और ईमानदारी से काम करेंगे।

आपोजीशन के लोगो ने यह चार्ज लगाया है कि स्वर्ण सिंह कमेटी ने जो रिपोर्ट दी थी, उसके अलावा भी कुछ बातों को इस बिल में शामिल किया गया है। यह बात सही है। स्वर्ण सिंह कमेटी की रिपोर्ट आने के बाद सारे देश के लोगों से अपनी ओपीनियन देने के लिये कहा गया था। आपोजीशन के लोगो ने भी अपनी ओपीनियन दी। उन्हीं सब सुझावों को दृष्टि में रखते हुये इस संशोधन विधेयक को लाया गया है।

आपोजीशन के लोग यह भी कहते हैं कि इस बिल को जनता की ओपीनियन जानने के लिये प्रसारित नहीं किया गया है। वास्तव में इतने बड़े देश में इतने बड़े विधेयक के बारे में सारी जनता के पास जाना और उस की राय प्राप्त करना सम्भव नहीं है। यह सदन सार्वभौम-सत्तासम्पन्न है और इस देश

की जनता का प्रतिनिधित्व करता है। इस लिये जब इस सदन ने इस विधेयक पर विचार कर लिया, तो फिर इसके बारे में हर एक व्यक्ति से राय लेना आवश्यक नहीं है।

SHRI Y. S. MAHAJAN: (Bul-dana): Mr. Chairman, I rise to support the Constitution (44th Amendment) Bill. The bill differs from all such bills considered in the past by the House, because it is comprehensive in character. It not only to resolve in a bold manner the constitutional controversies we had to face during the last 15 years, but also anticipates in a bold manner, a number of difficulties which are likely to arise in implementing a radical programme of socio-economic reforms in the near future. It does resolves the controversies and difficulties of the past and meets the needs of the future. In my view, the most significant feature of the bill is clause 55. It states categorically and beyond doubt, the constituent power of Parliament. In fact this position was clear before 1967 and it was admitted by the Supreme Court in the Shankari Prasad and Sajjan Singh cases; but there were certain constitutional developments since then—I will not like to dilate on them. In the light of his background I welcome the change proposed in the bill to Article 368. It will put an end to a long and fruitless controversy about the interpretation of Article 268 and the constituent power of Parliament. In my view, the framers of the Constitution had absolutely no doubt about the supremacy of Parliament and its power to amend any part of the Constitution, even the fundamental right and Article 368 itself. The amendment proposed to Article 368 should however be made—I hope the Law Minister will take notice—subject to Article 122, which it bars litigation in respect of any question that may be raised regarding the validity of proceedings in Parliament or about any irregularities in procedure.

The philosophy underlying the idea of the amendments of our Constitution was expanded by Mr. Nehru in these words:

"No Supreme Court, no judiciary can stand in judgement over the sovereign will of Parliament representing the will of the entire community. It can pull up that sovereign will if it goes wrong, but in the ultimate analysis, where the future of the community is concerned, no judiciary can come in the way. Ultimately, the fact remains that the legislature must be the supreme and must not be interfered with by the courts of law in such measures as social reforms."

A second provision of equally fundamental importance is clause 4 of the amending Bill, which gives priority to the Directive Principles of State Policy over the Fundamental Rights. This amendment is in keeping with the intentions of the framers of our Constitution. They never had the intention to regard the Directive Principles as mere pious intentions or as an idealistic frill of the Constitution. They wanted it to be treated as fundamental in the governance of the country. The fact that the Fundamental Rights are enforceable in a court of law but the Directive Principles are not, gave the Directive Principles a subordinate position, unfortunately. This matter was discussed at the time of the Constitution (Fourth Amendment) Bill, when Pandit Nehru said "it is up to this Parliament to remove the contradiction between the two by making the Fundamental Rights subservient to the Directive Principles. This is exactly what clause 4 of the Amendment Bill seeks to do, though belatedly, after 22 years. I welcome it, because it will carry out the intentions of the framers of the Constitution and help us march more rapidly towards our socio-economic goal.

So far as Centre-State relationships are concerned, there are three important changes, namely, transfer of education to the Concurrent List, enabling the Centre to send the army or police force to a State, which is facing a grave law and order situation....

MR. CHAIRMAN: Not army, but armed forces.

SHRI Y. S. MAHAJAN: Yes. Thirdly, we have included family planning in economic planning. Though constitutionally not very important, these are significant changes, so far as economic development is concerned. Apart from these things, the Centre-States relationship remains intact.

Coming to Fundamental Duties, it is good that we have included a chapter on Duties. The over-emphasis on Fundamental Rights gave a wrong direction to the political life of this country. Organised groups insisted on their group interests to the detriment of the interests of the community as a whole. They held the society to ransom and carried out movements which resulted in violence and sometimes, in firing. I am glad the Swaran Singh Committee recommended a chapter on duties. Such a chapter was advocated by Gandhiji as early as in 1945. It is not as if we are the only country which will have a Chapter on Fundamental Duties in its Constitution. Russia and Japan have got such a provision. In Yugoslavia, a country which I visited, there is in their Constitution a Chapter on duties which says that the freedom and rights of a citizen shall be realised through the fulfilment of his duties and responsibilities.

Lastly, I would like to deal with the point which has been raised in this House that we should have a Constituent Assembly. I think this demand is made because of some confusion in thinking. When Parliament is acting under article 368 of the Constitution, it is acting as a

[Shri Y. S. Mahajan]

Constituent Assembly. To say that we should have a Constituent Assembly is derogatory to the powers and dignity of this House. There is nothing which this House cannot do which a Constituent Assembly can do. We are a sovereign Parliament and our Constitution invests us with plenary power to amend the Constitution.

Then, some other Members have demanded that there should be a Joint-Select Committee. The Swaran Singh Committee has done a good job. It consulted numerous constitutional experts, lawyers and Members of Parliament. What more can we do by setting up a Joint-Select Committee? Therefore, both these proposals are not. In my view, unacceptable. With these words, I support this Bill.

SHRI K. MAYATHEVAR(Dindigul): Mr. Chairman, I rise to support the Constitution (Forty-fourth) Amendment Bill. One of its provisions says that a Central law can be challenged only before the Supreme Court. Therefore, a person who is aggrieved by a Central law cannot go to a High Court for the redressal of his grievances.

The Supreme Court is sitting in Delhi. The people in the southern States, especially the poor, cannot come to far-off Delhi to file writ cases against Central laws. I, therefore, plead that Government should consider having a branch of the Supreme Court, or some sittings of the Supreme Court, at Madras or some other place in the south to deal with such cases.

Article 236(d) lays down that subordinate services up to the rank of a District Judge will belong to the All-

India Judicial Service. I plead for the inclusion of first class magistrates, district munsiffs and sub-judges also in the All-India Services as they are also class I officers equivalent to the Deputy Superintendent of Police or the Deputy Collector.

It is a very good thing that we are going to have administrative tribunals as this will lessen the burden on the High Courts and also make for speedy disposal of cases, but I suggest that the tribunals in respect of State laws should be presided over by High Court Judges and those in respect of Central laws should be presided over by High Court or Supreme Court Judges.

Inter-State river water disputes have been pending for a long time. My hon. and learned friend pointed out that the Narmada and Krishna disputes have been pending for a hundred years. Even now there are some disputes pending regarding the Cauveri among the southern States. It is, therefore, high time that this subject be placed in the Concurrent List to help the States arrive at a solution.

This Parliament is a supreme body under the democratic set-up in India. However, some people, strange enough, from the Treasury Benches are doubting its competence to amend the Constitution. Why should they entertain unnecessary doubts? This is a supreme body elected by the people, while the Constituent Assembly consisted of Members who were not elected on adult franchise as also some nominated Members. Therefore, this Parliament is really representative of the people of India and more supreme than any other body, much more than the Constituent Assembly and we are competent to amend any part of the Constitution. If some of the Judges of the High Courts and the Supreme Court do not like our amending the Constitution, it only shows that they are against the poor masses of India. Nobody knows what the "basic structure" of the Constitution is, it has not

been defined. Each has his own conception of it like the four blind men who had each his own conception of the elephant.

Every provision of the Constitution is basic. Therefore, every basic structure can be amended by our Parliament.

As far as education is concerned, it is a State subject. On behalf of my party, I request that the *status quo* should be maintained.

Regarding the administrative tribunal, I am an affected advocate or going to be an affected advocate. We are taking so many cases from the High Courts to be heard by the administrative tribunal. The advocates of the Madras Bar have requested me to plead on their behalf before you that they should be permitted to appear before the administrative tribunal.

Regarding Article 19 which deals with property right, I request that it should be properly amended to implement real socialism. Unless and until we amend the property right, it is really doubtful whether we can implement or attain the goal of socialism. As far as Birlas, Tatas, T.V.S., so many capitalists, multi-millionaires, factory owners, landed property owners and bankers are concerned, unless they are touched by proper amendments, we cannot attain the goal of a welfare State.

श्री परिपूर्ण नन्द पैन्सली (टिहरी-गढ़वाल) : सभापति जी, विधि मंत्री जी के इस संशोधन विधेयक का समर्थन करता हूँ। मुझे उन बातों में जाने की जरूरत नहीं है, जिन पर अभी तक बहुत कुछ कहा जा चुका है। इस अवसर पर विशेषकर उन दलों के सम्बन्ध में, जिनकी पार्लियामेंट्री डेमोक्रेसी में कभी आस्था नहीं थी, कुछ

कहना चाहता हूँ। आज ये दल इस सदन में आकर पार्लियामेंट्री डेमोक्रेसी की दुहाई दे रहे हैं, हमको कहते हैं कि पार्लियामेंट्री डेमोक्रेसी चलाओ, लेकिन वास्तव में ये वे लोग हैं जिन्होंने इस देश में एमरजेंसी लागू करने के लिये सरकार को प्रवोक किया, अपनी गैर-कानूनी कार्यवाहियों से सरकार को ऐसा करने के लिए बाध्य कर दिया।

हमारे कुछ मित्रों ने यहां पर जानबूझकर या शायद अनजान में संविधान सभा बनाये जाने का सुझाव दिया है। सबसे पहले तो मैं उन से यह जानना चाहता हूँ कि इसके बारे में उनके दिमाग में कौन-सा नक्शा है, किस तरह की संविधान सभा वे बनाना चाहते हैं। सभापति महोदय, जब एक सिस्टम की व्यवस्था खत्म होती है और उसके बाद जब एक बिल्कुल भिन्न प्रकार की व्यवस्था आती है—चाहे किसी तरह से आये, हिंसा के द्वारा, सशस्त्र क्रान्ति के द्वारा या किसी अन्य तरीके से, तो जो नये शासक आते हैं, वे अपनी इच्छा या अपनी रुचि के अनुसार संविधान सभा बनाते हैं—लेकिन यहां तो इस वक्त ऐसी स्थिति नहीं है—तब मैं जानना चाहता हूँ कि उनके दिमाग में क्या नक्शा है, किस तरह की संविधान सभा वे चाहते हैं, इस बात को किसी ने भी स्पष्ट नहीं किया है। यहां पर एक बात और भी साफ होनी चाहिये, मान लीजिये आज आप कोई संविधान सभा बनाते हैं, लेकिन यदि साल भर के बाद आपको फिर संशोधन करना पड़े, तब आप क्या करेंगे, कितनी संविधान सभायें बनाते चले जायेंगे। इसके लिये आप रेफ्रेन्डम की बात करते हैं—मैं उनसे कहना चाहता हूँ कि हम 1971 के रेफ्रेन्डम के बाद ही यहां आये थे, उस समय हमने यह घोषणा की थी कि संविधान में आवश्यक संशोधन करेंगे—उस समय हमारी इस घोषणा पर किसी ने क्यों आपत्ति नहीं की, क्यों नहीं कहा कि ऐसा करोगे तो यह असंवैधानिक होगा।

[श्री परिपूर्ण नन्द पैन्यूलो]

इस सदन में जनसंघ और कम्युनिस्ट (मार्क्सिस्ट) ऐसी पार्टियाँ हैं जो पालिया-मेंट्री डेमोक्रेसी को नहीं मानती हैं, लेकिन उन्होंने यहाँ पर अपने चेहरों पर नकाब चढ़ा रखे हैं। इनके नेताओं ने एक नहीं, अनेकों बार इस सदन में यह कहा है कि यह संसद् सर्वशक्तिमान है, इसको पूरी शक्ति प्राप्त है। कभी यह नहीं कहा कि इसकी शक्ति कमजोर है। अगर इसकी शक्ति को पूरा स्वीकार करते हैं तो इसको संविधान बनाने का अधिकार है, इस बात को वे क्यों नहीं स्वीकार करते।

मान्यवर जिस समय संविधान सभा थी उस समय नेहरू जी, पटेल जी और दूसरे बड़े विद्वानों जैसे डा० अम्बेडकर साहब ने चेम्बर आफ् रिजिस्ट्रेशन की बात की जबकि महाराजा अपनी महारनियों का प्रतिनिधित्व नहीं करते थे। तो उस संविधान सभा में जिन परिस्थितियों में सम्मिलित करना पड़ा था वे परिस्थितियाँ आज की परिस्थितियों से बिल्कुल भिन्न थीं। उस समय इस बात की कल्पना नहीं की गई थी कि पावरटी लाइन के नीचे के तबके की क्या हालत होगी। हिन्दुस्तान के गरीबों के लिये अब ज्यादा अह-सास हुआ है कि गरीब जनता के अधिकारों की रक्षा के लिये संविधान में मौलिक परिवर्तन करना पड़ेगा। जो लोग तरह तरह की बातें करते हैं उन्होंने यह नहीं बताया कि वे अमेरिका की किस्म का विधान चाहते हैं या फ्रान्स जैसा विधान चाहते हैं या कोई और तरह का विधान चाहते हैं। यह किसी ने नहीं कहा। कोई लक्ष्य सामने नहीं रखा कि किस टाइप का डेमोक्रेटिक सेट-अप वे देश में चाहते हैं। इसलिये मैं भयभीत हूँ कि वे लोग बिल्कुल अंधकार में हैं और उन को कुछ पता नहीं है कि वे किस तरह का संविधान चाहते हैं। मैं यह निवेदन कर दूँ कि अमेरिका की बहुत दुहाई दी जाती है और वहाँ की जूडिशियरी की बहुत दुहाई दी जाती है। 1787 में सबसे पहले अमेरिका का विधान

बना था और उस विधान में बहुत रिजिडिटी थी। इस रिजिडिटी को दूर करने के लिये संसद् को यह उपाय करना पड़ा कि इस को कोई इन्टरप्रेट करे और इस के लिये कोर्ट्स बना दी गईं। वहाँ जो कोर्ट्स बनी और उन्होंने जो इन्टरप्रीटेशन दिये उनसे उनकी ताकत बढ़ती चली गई और अमेरिका के शासक एक के बाद दूसरी गलती करते चले गये। उन्होंने न केवल पालिटिकल क्षेत्र में गलती की बल्कि संविधान के बारे में भी गलती की और उसका परिणाम वहाँ की जनता को भोगना पड़ा। नार्थ ब्राडम ने इसके बारे में यह कहा था

"The Supreme Court has twisted and tortured the terms of the Constitution."

तो इस तरह के संविधान की दुहाई दी जाती है मैं यह निवेदन करना चाहता हूँ कि उन परिस्थितियों को ध्यान में रखें जिन परिस्थितियों में अमेरिका का विधान बना वहाँ के संविधान में रिजिडिटी थी लेकिन हम उस रिजिडिटी को कायम नहीं रखना चाहते हैं। इसलिये हम कहते हैं कि इस संसद् को संविधान में संशोधन का अधिकार बराबर रहे। हमारे देश में बेसिक चीज डेमोक्रेसी है और उस डेमोक्रेसी को हम खत्म नहीं होने देना चाहते हैं। हमारे यहाँ रूल आफ ला है, हमारे यहाँ अपोजिशन को बोलने का हक है और हमारी जूडिशियरी के प्रति रेस्पेक्ट है। इतनी सी बातें हमारे देश में हैं और मैं निवेदन करना चाहता हूँ कि संसार में शायद ही कोई ऐसा देश होगा जिसमें ऐसी डेमोक्रेसी हो जैसी कि हमारे देश में है। इसी का आप यह परिणाम देख रहे हैं कि बहुत सी जगहों पर डेमोक्रेसी खत्म हो गई है।

इसके बाद मैं यह कहना चाहता हूँ कि प्रीएम्बल में सोशलजिज्म की बात तो कही गई है लेकिन यह अच्छा होता अगर डाइरेक्टिव प्रिंसिपल्स में भी इस की व्याख्या की गई होती। मैं यह बात इसलिये कह रहा हूँ कि मेरे जैसे गरीब आदमी के पास भी आज अपना कोई

मकान नहीं है और मैं एक संसद का सदस्य इस देश की करोड़ों जनता ऐसी है जिस के पास रहने के लिए अपना कोई मकान नहीं है। दूसरी तरफ हम यह देखते हैं कि आज कुछ लोग ऐसे हैं जिनके पास अगर आज दस हवेलियां हैं तो अगले साल पांच और खड़ी हो जाती हैं। इस विषमता को दूर किये बिना समाजवाद कैसे लाया जा सकता है। समाजवाद के साथ इसका कोई तालमेल नहीं है। करोड़ों आदिमियों के पास एक मकान भी नहीं और दूसरी तरफ कुछ लोगों की सम्पत्ति बढ़ती चली जाए, यह विरोधाभास है। इसलिये मैंने इस सम्बन्ध में एक संशोधन भी पेश किया है। मैं चाहता हूँ कि इसके साथ साथ लोगों को नौकरी भी मिले मेरा संशोधन इस प्रकार है :

"Every able-bodied person in the State shall have the guarantee of employment."

जब तक आप ऐसा नहीं करेंगे मैं समझता हूँ कि इस देश में हम अग्रे नहीं बढ़ पाएंगे।

मान्यवर, यह संसद् हिन्दुस्तान की 60 करोड़ जनता का प्रतिनिधित्व करती है। हमारी सर्वमान्य नेता प्रधान मंत्री श्रीमती इन्दिरा गांधी हैं और उन को इस समय इस संविधान को बदलने की आवश्यकता पड़ी है और अग्रे भी पड़ सकती है जैसी परिस्थितियाँ आएंगी, वैसे ही उसको बदलना पड़ेगा क्योंकि बहुत सी बातें ऐसी हैं जो कहने की कम है और समझने की ज्यादा है। इसलिये मैं यह समझता हूँ कि जो लोग जूडिशियरी की तरफ देखते हैं वे इस बात को भूल जाते हैं कि जूडिशियरी में सम्पन्न वर्गों के वही लोग

आते हैं जिनके बाप दादाओं ने बड़ा शोषण किया है और अग्रे भी वे करेंगे। उनको देश की स्थिति का पता नहीं है और वे गरीब वर्गों की झोंपड़ी के बारे में नहीं जानते हैं।

इसके बाद मैं यह कहना चाहता हूँ कि एजुकेशन को जो कानफ्रेन्ट लिस्ट में रखने की बात है, वह बिल्कुल ठीक है। सारे देश में समान एजुकेशन होनी चाहिये और गरीब और अमीर के बच्चों में कोई अन्तर नहीं होना चाहिये। मान्यवर इस देश में 18 क्षेत्र ऐसे हैं जिनके विकास के बारे में हमने संशोधन प्रस्तुत किया है। वह हैं नागालैंड, मेघालय, यू० पी० हिल एरियाज, हिमाचल प्रदेश, कश्मीर। यह संशोधन इसलिये प्रस्तुत करना पड़ा कि अब तक इनके विकास की तरफ ध्यान नहीं दिया गया। प्रधान मंत्री जी की इंटेंशन इनके विकास के लिये है और सके लिये धन का भी प्रावधान कर दिया गया है लेकिन इस पर अभी तक अमल नहीं हुआ सका है क्योंकि संवैधानिक संरक्षण नहीं है। आपकी नीतियों में जो बड़ी भारी बाधाएं हैं—एक तो कांस्टीट्यूशनल सेफ्टीगार्ड नहीं दिया हुआ है और दूसरे आर्टिकल 311 में परिवर्तन की आवश्यकता है ब्यूरोक्रेसी जिस ढंग की हमारे देश में है वह नहीं चाहती है कि देश के गरीब तबकों का कल्याण हो। अगर उसका कल्याण हो जायगा, समानता आ जायगी तो उनकी बात नहीं चल पायेगी।

इन शब्दों के साथ मैं इस संविधान संशोधन विधेयक का स्वागत करता हूँ और आशा करता हूँ कि संशोधन में गंभीर दूर करने के लिये आपने जो कोई व्यवस्था नहीं की है, वह आप करेंगे।

श्री पी० गंगा रेड्डी (अद्विजावाद) : जनता के अग्रज साहब, मैं अपने आप को बड़ा खुशनामीब समझता हूँ जो ऐसे दौर में इस पालियामेंट के एवान का रुकन हूँ जिनके तिर पर सेहरा बाँधा जायगा कि हमने हमारे महबूब कायदः श्रीमती इंदिरा गांधी के कयादत और रहनुमाई में बरबस्त ऐसे नूमायां दस्तूरी तरमीमात कीं। मैं जुरंत मंदाता इक्तामात पर श्रीमती गांधी को उनके काबिना रुकना और स्वर्ण सिंह कमेटी के अरकान और खारः कर वांग्रेस सदन को मुबारकबाद पेश करता हूँ। हालिया सेशन हिन्दुस्तान की तारीख में मुनहरी हकी में लिखा जायगा। हमारा दस्तूर एक जिदा दस्तावेज है। इसको बदलते हुए हालात के साथ तबदील करना जरूरी है। हमारे यहाँ अदम मसावात का खलीज इतना ज्यादा हो गया था और अंगः कानूनी तरीके से तरमीमात न लाये जाते तो बरबस्त यहाँ खून की नदियां बह कर इक्ताब आता ; जैसा कि इकबाल ने कहा है कि—

उठो मेरी दुनिया के गरीबों को जमा दो ।
काखे उमरा केदरो दीवार को हिला दो ।
जिस खेत के दहकान को मुयस्सर हो रोजी
उस खेत के हर गोशये गंदुम को जला दो ।

श्रीमती इंदिरा गांधी एक अनोखे अंदाज से मुसास्सी और समाजी इक्ताब ला रही है जिसकी मिताल दूसरी नहीं मिलती। नाहीं ये तरमीमात अदलातों के अकयारात सलब के लिए लाये गये हैं नाहीं प्राइम मिनिस्टर को डिक्टेटर बनाना है बल्कि मुल्क की बेहतरी के लिए लाये जा रहे हैं। पालियामेंट अदालतों और एक्जीक्यूटिव के दाराए अमल की मजाहत है।

1970 में पालियामेंट को रद्द किया गया और 1971 में कांग्रेस के इलेक्शन मैनिफेस्टो में साफ अल्फाज में इन तबदीलियों का जिक्र किया गया और इसी बिना पर हमारी पार्टी को टूथड से ज्यादा मेजोरिटी से कामयाबी

मिली। अबाम को हम पर एत्माद है और हमें फरीजा अबल को पूरा करने के लिये हिचकिचाता नहीं चाहिए। हमको यह देखना चाहिए कि हमारे हर शहरी को रोटी, कपड़ा, मकान, इलाज, तालीम और रोजी मिल जो इन के पैदायशी, बुनियादी हक्क हैं। कानून साज असेम्बली के अकियारात पालियामेंट को हासिल है। मैं कहूंगा कि इस पर काफ़ी राय आमां हो चुकी है, डिबेट हो चुकी है। इसके बाद इसको सेलेक्ट कमेटी के सुपुर्द करना बेमानी है। कांग्रेस की पालिसी हमेशा मुल्क के अबाम का ख्याल रख कर बनी है। ए० आई० सी० सी० वांस्टेड्यूशन का आर्टिकल 1 यह है —

“Objects of well-being and advancement of the people of India to establish in India, by peaceful and Constitutional means, a socialistic State based on Parliamentary democracy in which there are equality of opportunity and political, economic and social rights and which aim at world peace and fellowship.”

1935 में नेहरू ने अपने आप को सोशलिस्ट और सिबलिकन कहा है।

“I am convinced that the only key to the world problems and to India's problems is socialism.”

इसके बाद 1931 में कांका में, फिर आंबेडकर में, फिर भुवनेश्वर में, आए दिन इसको दोहराया गया। इसके बारे में बहुत से लोगों की तरफ से तनकीद की जाती है कि इसको सही मानों में समझना और इंटरप्रेट करना मुश्किल है। मैं बताना चाहता हूँ कि हाल ही में आक्सफोर्ड डिक्शनरी में सोशलिज्म का मानव बताया गया है। उस में इसका मतलब यह दिया गया है :

“A theory of policy of social organisation which advocates the ownership and control of the means of production, capital, land, property etc. by the community as a

whole and their administration or distribution in the interest of all".

1970 में कांग्रेस में फूट की वजह भी सोशलिस्टिक स्टेप ही थे जोकि श्रीमती इंदिरा गांधी ने उठाए। जिन लोगों का हमारी पार्टी के सोशलिज्म और सेक्युलरिज्म पर एतमाद है विश्वास है, उनको अगर इन पर भ्रमल किया जाता है तो कोई एतराज नहीं होना चाहिये। मैं इस के बारे में एक शेर अर्ज कर देना चाहता हूँ :-

नाम से काम की उम्मीद न रखिये
काम से नाम हुमा करता है।

हमने भ्रमल से जाहिर कर दिया है कि सोशलिज्म और सेक्युलरिज्म पर हमारा पूरा एतकाद है।

अदालती जो अबतयारात थे उन में से कुछ अबतयार उनके कम किये गये हैं। आर्टिकल 226 के तहत जो ये अवकाज थे एनी अदर परराज उनको हमने निहाज दिया है। बहुत सी अदालतों ने, हाई कोर्ट्स ने तबादलों तक में दखल दिया था। इतना ही नहीं जो और चावज के परमिट देने के एजेंकटिव के अबतयारात में उन्होंने मुदाखलत की थी। आपने बहुत अबका किया है जो इन अवकाज को निहाल दिया है और इन से निजात दिला दी है। आपने देखा होगा कि भूसूरी कम्प्रोमाइज के तहत अमरीका में गुलामो को खत्म किया गया था और सुप्रीम कोर्ट में यह मामला जव गया था और लागू किया गया था कि स्वेच मजिक की प्रांटी है और इसको अग्रहोख किया गया था तो वहा पर निविले बार हुई थी। मैं समझता हूँ कि अगर हम इस वक्त इस तरह का कदम नहीं उठाते तो हमारे मुल्क में भी ऐसे ही हालात पैदा हो सकते थे।

जहां पर हमारे आइन में बुनियादी हकूक का जिक्र है उसके साथ साथ फरायज को इस में बढ़ाया जा रहा है, उनको बरान

किया जा रहा है। यह बहुत जरूरी था। हकूक और फरायज साथ साथ चलते हैं। यह जरूरी है कि फरायज की भी भ्रमल आवरी हो।

प्रायर्टी राइट्स के बारे में जो कहा गया है कि यह फंडेमेंटल राइट है और इसको निकाल दिया जाना चाहिये, इसके बारे में मैं कहूँ कि प्रायर्टी राइट और सोशलिज्म में कोई तसादुम नहीं है चूँकि हके जायदाद सोशलिज्म के खिलाफ नहीं है। आइडिया आफ प्रायर्टी इज नाट अगोज्ड टू सोशलिज्म

जहां पर आपने बुनियादी हकूक के साथ साथ फरायज बयान किये हैं वहां मैं समझता हूँ कि यह बहुत जरूरी था कि इस में आप कैमिली प्लानिंग, कम्पलसरी मिलिटरी ट्रेनिंग और मिलिटरी सर्विस को भी फरायज में शामिल करते इस से न सिर्फ मुल्क को फायदा होता बल्कि कोन में एक डिसिप्लिन को भावना भी पैदा होती है।

पावर, इल्लिगन, इंटर स्टेट रिजर्व वगैरह कनक्रेट लिस्ट में शामिल किये जाने चाहिये थे ताकि मुल्क को जो इन डिसिप्लिन्स को वजह से नुकसान हो रहा है वह न हो सता

काशमीर को जो खास दर्जा दिया गया है, जो मुरायज दी गई है इनका कहीं तो खातना होना चाहिये, उसको भी भारतीय निग्राम के दायरे में लाया जाना चाहिये। मैं चाहता हूँ कि 370 जो आर्टिकल है इसके बारे में आप गौर करें। तरमीमे दस्तूर के बारे में शेख अब्दुल्ला क्या कह रहे हैं यह मैं शमीन साहब से पूछता अगर वह यहां होते। वः शेख साहब को बड़ी तारीफ दिया करते हैं।

आखिर में एक शेर अर्ज करके मैं बतन करता हूँ :

महज दावों का नहीं, बका बेकार बातों का नहीं
अब इस में हुस्ने धनल का रंग भरना है।

[شری پی کلثا ریڈی (عادل آباد):

جناب چیئر مین، صاحب - میں اپنے آپ کو بڑا ہی خرس نصیب سمجھتا ہوں جو اسے دور میں اس پارلیمنٹ کے ایوان کا رکن ہوں - جس کے سر پر سپرا باندھا جائے کہ ہم نے ہمارے معصوبہ قائد شریمنی اندرا گاندھی کی قیادت میں اور دہشتانی میں ہر وقت ایسے نمائندے دستوری ترمیمات کئے۔ میں جرت ملذبان اقدامات پر شریمنی گاندھی کو ان کے کاہنا کو اور سوون سنگھ کمیٹی کے ارکان اور خاص کر کانگریس صدر کو مبارکباد پیش کرتا ہوں - حالیہ سیشن ہندوستان کی تاریخ میں سنہری الفاظ میں لکھا جائیگا - ہمارا دستور ایک زندہ دستاویز ہے - اس کو بدلتے ہوئے حالات کے ساتھ تبدیل کرنا ضروری ہے - ہمارے یہاں عدم مساوات کاخلیج اتنا زیادہ ہو گیا تھا اور اگر قانونی طریقے سے ترمیمات نہ لائے جائے تو یہاں خون کی ندیاں بہہ کر انقلاب آتا - جسے کہ اقبال نے کہا ہے کہ -

اتھو میوی دنیا کے غریبوں کو چکا دو
خاکہ عمار کے در و دیوار کو ہلا دو

جس کھیت سے دھقان کو مہسر نہ
ہو روٹی

اس کھیت کے ہر خوشہ کدند کو چلا دو
شریمنی اندرا گاندھی ایک انوکھے انداز سے معاشی اور سماجی انقلاب لا رہی ہیں - جس کی مثال دوسری نہیں ملتی - نہ ہی یہ ترمیمات

عدالتوں کے اختیارات سلب کے لئے لائے گئے ہیں اور نا ہی پرائم منسٹر کو ڈائیکٹر بنانا ہے - بلکہ ملک کی بہتری کے لئے لائے جا رہے ہیں - پارلیمنٹ عدالتوں اور ایگزیکٹو کے دائرہ عمل کی مزاحمت ہے۔

* < ۱۹ میں پارلیمنٹ کر رہ گیا

کہا - اور ۱۹۷۱ میں کانگریس کے الیکشن میمنسٹر میں صاف الفاظ میں ان تبدیلیوں کا ذکر کیا گیا - اور اسی بنا پر ہماری پارٹی کو تو تھرت سے زیادہ معجزوٹی سے کامیابی ملی - عوام کو ہم پر اعتماد ہے اور ہمیں فرض اول کو پورا کرنے کے لئے ہچکچاتا نہیں چاہیئے - ہم کو یہ دیکھنا چاہیئے کہ ہمارے ہر شہری کو روٹی - کپڑا - مکان - علاج - تعلیم اور روزی ملے - جو ان کے پیدائشی و بلوائی حقوق ہیں - قانون ساز اسمبلی کے اختیارات پارلیمنٹ کو حاصل ہوں - میں کہونگا کہ اس پر کافی رائے عامہ ہو چکی ہے - قیادت ہو چکی ہے - اس کے بعد اس کو سلیکٹ کمیٹی کے سپرد کرنا بے معنی ہے - کانگریس کی پالیسی ہمیشہ ملک کے عوام کا خیال رکھ کر بنی ہے - اے آئی سی سی کانستیتوشن کا آرٹیکل ۶ یہ ہے -

"Objects of well-being and advancement of the people of India to establish in India, by peaceful and Constitutional means, a socialistic State based on Parliamentary democracy in which there are equality of opportunity and political, economic and social rights and which is aim at world peace and fellowships."

۱۹۳۵ میں نہرو نے اپنے آپ کو سوشلسٹ اور ریپبلکن کہا تھا -

"I am convinced that the only key to the world problems and to India's problems is socialism."

اس کے بعد ۱۹۳۱ میں کہا کراچی میں اور پھر آہلی میں - پھر بھونیشور میں آئے دن اس کو دھرایا گیا ہے - اس کے بارے میں بہت سے لوگوں کی طرف سے تعلقہ کی جاتی ہے کہ اس کو صحیح معنوں میں سمجھتا اور انگریزیت کرنا مشکل ہے - میں بتانا چاہتا ہوں کہ حال ہی میں آکسفورڈ ڈکشنری میں سوشلزم کا مطلب بتایا گیا ہے - اس میں اس کا مطلب یہ دیا گیا ہے -

"A theory of policy of social organization which advocates the ownership and control of the means of production, capital, land, property etc. by the community as a whole and their administration or distribution in the interest of all."

۱۹ کانگریس میں پھوٹ کی وجہ بھی سوشلسٹک سٹیپ ہی تھے - جو کہ شریستی اندرا گاندھی نے اٹھائے - جن لوگوں کا ہماری پارٹی کے سوشلزم اور سیکولرزم پر اعتماد ہے - ان کو اگر

ان پر عمل کیا جانا ہے تو کوئی اعتراض نہیں ہونا چاہئے - میں اس کے بارے میں ایک شعر عرض کر دینا چاہتا ہوں -

نام سے کام کی امید نہ کوئے -
کام سے نام ہوا کتا ہے -

آئندہ عمل نے ظاہر کر دیا ہے کہ سوشلزم اور سیکولرزم پر ہمارا پورا اعتقاد ہے -

عدالتی جو اختیارات تھے ان میں سے کچھ اختیارات ان کے کم کئے گئے ہیں - آرٹیکل ۲۲۶ کے تحت جو یہ الفاظ تھے - وہ اپنی اور پوپز " ان کو ہم نے نکال دیا ہے - بہت سی عدالتوں نے ہائی کورٹس نے تبادلوں تک میں دخل دیا ہے - انفا ہی نہیں جو اور چارل کے پرمٹ دیئے گئے ایگزیکٹو کے اختیارات میں انہوں نے مداخلت کی ہے - آپ نے بہت اچھا کیا ہے - جو ان الفاظ کو نکال دیا ہے - اور ان سے نجات دلا دی ہے - آپ نے دیکھا ہوگا کہ مسوری کپرو مالٹز کے تحت امریکہ میں غلامی کو ختم کیا گیا تھا - اور سپریم کورٹ میں یہ معاملہ جب کیا گیا اور لاگو کیا گیا تھا کہ سلیو مالک کی پریپرٹی ہوں اور اس کو اپ ہولڈ کیا گیا تھا - تو وہاں پر سول وار ہوئی تھی - میں سمجھتا ہوں کہ اگر ہم اس وقت

[شری پی۔ گنٹا دہی]

اس طرح کا قدم نہیں اُٹھاتے تو ہمارے ملک میں بھی ایسے ہی حالات پیدا ہو سکتے تھے۔

جہاں پر ہمارے آئین میں بلیدی حقوق کا ذکر ہے۔ اس کے ساتھ ساتھ فرائض کو اس میں دیکھا جا رہا ہے۔ ان کو یہاں دیکھا جا رہا ہے یہ بہت ضروری تھا حقوق اور فرائض ساتھ ساتھ چلتے ہیں۔ یہ ضروری ہے کہ فرائض کی بھی عمل آوری ہو۔

پرائیڈی رائٹس کے بارے میں جو کہا گیا ہے کہ یہ فلڈامینٹل رائٹس ہے اور اس کو نکل دیا جانا چاہیئے اس کے بارے میں میں کہونکا کہ پرائیڈی رائٹس اور سوشلزم میں تصادم نہیں ہے چونکہ حق جائداد سوشلزم کے خلاف نہیں ہے۔

Idea of property is not opposite to socialism.

جہاں پر آپ نے بلیدی حقوق کے ساتھ ساتھ فرائض بول کئے ہیں۔ وہاں میں سمجھتا ہوں کہ یہ بہت ضروری ہے۔ کہ اس میں آپ فیملی پلاننگ، کھلسری ملگری ٹریڈنگ اور ملگری سروس کو بھی فرائض میں شامل کرتے۔ اس سے نہ صرف ملک کو فائدہ ہوتا بلکہ قوم میں ایک تسلی کی بھانا بھی پیدا ہو جاتی۔

پارر - ایڈیٹیشن - انٹرنیٹ

ریونیوز و فہرہ کلتریکٹ لسلٹ میں شامل کئے جانے چاہیں تھے۔ تاکہ ملک کو جو ان دستوں پوترس کی وجہ سے نقصان ہو رہا ہے وہ نہ ہو پاتا۔

کشمیر کو جو خاص درجہ دیا گیا ہے۔ جو مراعات دی گئی ہیں ان کا کہیں تو خاتمہ ہونا چاہیئے۔

اس کو بھی بھارتیہ نظام کے دائرے میں لایا جانا چاہیئے۔ میں چاہتا ہوں کہ ۳۰ جو آرٹیکل ہے اس کے بارے میں آپ غور کریں۔ تو ہم دستور کے بارے میں شمع عبدالسمد کیا لہے رہے ہیں یہ میں شمع صاحب سے پوچھتا اگر وہ یہاں ہوتے۔ وہ شمع صاحب کی بڑی تعریف کیا کرتے ہیں۔

آخر میں ایک شعر عرض کرتے ہوں ختم کرتا ہوں

معضل وعدوں کا نہیں

وقت بیکار باتوں کا نہیں

اب اس میں حسن عمل

کا رنگ بھرنا ہے۔]

श्री विश्वनाथ राय (देवरिया) : सभापति महोदय, समय की प्रगति के साथ साथ समाज में विभिन्न प्रकार की समस्याएँ भी उत्पन्न होती हैं और उन को हल करने के लिए कानूनों में, नियमों में, संविधान में परिवर्तन करना भी आवश्यक हो जाता है। समाज को गति प्रदान करने के लिए, समाज में सुधार लाने के लिए समाज की उन्नति के लिए यह आवश्यक होता है कि संविधान में भी समय समय पर परिवर्तन किए जाएं। इसी दृष्टिकोण को सामने रखते हुए हमारी प्रधान मन्त्री श्रीमती इन्दिरा गांधी की सरकार ने हमारी पार्टी ने ऐसा करना उचित समझा है। संविधान जब बना तब यह उन लोगों के द्वारा बनाया गया जो लोग जनता द्वारा, जन साधारण द्वारा निर्वाचित हो कर नहीं आए थे बल्कि जो नामजद किये गए थे, जो निहित स्वार्थों के प्रतीक बन कर आए थे। हमारे कांग्रेस के नेता, राष्ट्र के नेता जो देश को आगे बढ़ाना चाहते थे उनके रास्ते में कुछ व्यवस्थायें आड़े आईं और ऐसी दशा में उन्होंने संविधान में संशोधन करना आवश्यक समझा और संशोधन संविधान में किए। अब इन परिवर्तनों का सुझाव देने के लिए और आगे बढ़ने के लिए एक कमेटी बनाई गई थी जिस के योग्य संचालकों ने कुछ सुझाव दिए और उनके सुझावों पर इस समय हम विचार कर रहे हैं। इस में सब से महत्वपूर्ण बात राजनीतिक बात है। सार्वभौम सत्ता किस को प्राप्त है ? जनता द्वारा निर्वाचित प्रतिनिधि सभा को सार्वभौम सत्ता प्राप्त है या नहीं, यह मुख्य सवाल है। कभी कभी इसके बारे में सन्देह प्रकट किया जाता था, उसके द्वारा निश्चित की गई बातों को उलट दिया जाता था न्याय-पालिका द्वारा या अन्य प्रकार से। फिर से उसकी सार्वभौम सत्ता को स्थापित करने के लिए, उसको स्पष्ट करने के लिए ताकि यह चीज बिल्कुल विवादग्रस्त न बन सके, जो संशोधन आए हैं उन में इसकी व्यवस्था

कर दी गई है। विधान में प्रस्तावित है, उसमें स्पष्ट किया है कि यह पालियामेंट जो जनता द्वारा निर्वाचित है, उसकी सत्ता देश में सर्वोपरि है। न्यायपालिका के स्पर्श करने पर या उसमें रद्द करने पर उसकी सत्ता सन्देहास्पद नहीं हो सकती है, यह बिल्कुल स्पष्ट किया है। इसका यह राजनीतिक दृष्टिकोण है। उसके साथ ही राजनीतिक और सामाजिक विकास के लिये अब इन संशोधन में स्पष्ट बातें कही गई हैं।

यद्यपि हमारी सरकार ने बहुत पहले ही इण्डस्ट्रियल रैज्यूलूशन के साथ सोशलिस्ट पर्टन आफ सोसाइटी की बात सोची थी और उस समय राष्ट्रीयकरण या सामाजिक नियन्त्रण में चलने वाले उद्योग-धंधों के विकास के लिये काफी विचार प्रकट किया था फिर भी यह स्पष्ट नहीं हो पाया था कि हमारी आर्थिक नीति इस आधार पर होनी चाहिये। इस बारे में हमारा जो वर्तमान संशोधन है, उसमें स्पष्ट किया गया है हमारी सोशलिस्ट रिपब्लिक होगी। सोशलिस्ट रिपब्लिक एक ऐसा वर्ल्ड है जिसके बारे में चर्चा करते समय प्रसन्नता हो रही है क्योंकि आज ही नहीं सन 1928 में भारतीय गुप्त क्रांतिकारी पार्टी, हिन्दुस्तान सोशलिस्ट रिपब्लिकन एसोसिएशन ने यह पास किया था कि हिन्दुस्तान में सोशलिस्ट रिपब्लिक कायम होनी चाहिये। आज मुझे उसी दल का एक साधारण सदस्य होने के नाते बड़ी प्रसन्नता हो रही है कि हिन्दुस्तान में अब हम सोशलिस्ट रिपब्लिक स्थापित करने जा रहे हैं। यह सोसलिज्म इस तरह का नहीं है जो हम किसी देश से उधार ले रहे हैं और उसको देखकर कर रहे हैं। पण्डित जवाहर लाल नेहरू ने हिन्दुस्तान सोशलिस्ट रिपब्लिक पार्टी के नेता चन्द्रशेखर आजाद से पूछा था कि किस प्रकार का सोसलिज्म चाहते हो, सोशलिज्म तो इटली में भी है, अन्य देशों में भी है। उस समय श्री चन्द्र शेखर आजाद, जो रिबोल्यूशनरी

[श्री विश्वनाथ राय]

पार्टी के कमाण्डर-इन-चीफ थे ने कहा था कि हम उसी तरह का समाजवाद चाहते हैं, जिस तरह कि क्रांतिकारी पार्टी के काम थे। आज वह स्पष्ट हो रहा है। वह सोशलिज्म हमारे देश के लिये हितकर है। यह ग्रामीण जनता के लिये उपयोगी होगा। सोशलिज्म और सैकुलरिज्म पहले ही इस सरकार की नीति थी, हमारी कांयेंस की नीति थी लेकिन अब उसका विधान में और स्पष्टीकरण कर दिया गया है। यह तो हमारी सैद्धांतिक बातें थीं। सबसे महत्वपूर्ण बात यह है कि जनता की जनसत्ता है, उसको स्पष्ट करने के लिए इसमें कोई वाक्य छोड़ा नहीं है बल्कि स्पष्टशब्दों में उसका स्पष्टीकरण किया गया है।

इस प्रकार से न्यायपालिका द्वारा जो कभी-कभी इस सदन के निर्णय को बाई पास किया जाता था, अब वह नहीं हो सकेगा और जो अब संसद् का निर्णय होगा वह सार्वभौमिक संसद् का निर्णय होगा और वह सर्वमान्य होगा, सर्वोपरि होगा और उसमें किसी प्रकार का कोई सन्देह या उसे रद्द करने का प्रश्न नहीं उठेगा।

जहां हमारे विधान में बहुत बातें थीं वहां एक बात यह भी महत्वपूर्ण थी कि विश्व के विधान में सबसे अधिक अधिकार हमारे संविधान में जनता को दिये गये थे और दूसरी तरफ कर्तव्य का उल्लेख नहीं था जिससे अनेक प्रकार के भ्रम पैदा हो गये थे। बहुत से लोग अपने व्यक्तिगत स्वातन्त्र्य का निजी लाभ उठाते थे। पीछे अमरजेंसी लागू करने से पहले हमारे एक साथी नेता पुलिस और सेना के सम्बन्ध में भी अनुचित बातें कहने लगे थे। उससे उसी तरह की बातें होती थी। इसीलिये अब कर्तव्य को भी विधान में स्पष्ट किया जा रहा है। उतना स्पष्ट तो मैं नहीं समझता जितना कि होना चाहिये, लेकिन मैं समझता हूँ कि कर्तव्य का भी स्पष्टीकरण वैसा ही होना चाहिये जिस तरह से हमारे मौलिक अधिकारों की बातें होती हैं, ताकि कर्तव्य के साथ

ही अपने अधिकार की बात हो और अधिकार के साथ-साथ कर्तव्य की बात हो। कई विरोधी लोगों ने कांस्टीट्यूएण्ट एसेम्बली का नारा दिया है। मैं कहना चाहता हूँ कि यह सदन सार्वभौम-सत्तासम्पन्न है और वालिग मताधिकार के आधार पर चुना हुआ है। इस महत्वपूर्ण संशोधन को पास करने के बाद यदि आवश्यकता हो तो अन्य संशोधनों के लिए इस संसद् के द्वारा किसी नाम से या किसी रूप में कार्यवाही की जा सकती है। इस समय कांस्टीट्यूएण्ट एसेम्बली बनाने की कोई आवश्यकता नहीं है।

मैं इस विधेयक का समर्थन करता हूँ।

श्री चन्दूलाल चव्वाकर (दुर्ग) : सभापति महोदय, मैं इस संविधान संशोधन विधेयक का बहुत स्वागत करता हूँ।

किसी भी देश का संविधान उस की अर्थ व्यवस्था, राजनैतिक व्यवस्था और सामाजिक व्यवस्था का दर्पण होता है। जिस समय हमारा देश आजाद हुआ, उस वक़्त हालात ऐसे थे कि हमारे संविधान को केवल राजनैतिक ढांचे पर बनाया गया और उस में आर्थिक तथा सामाजिक दृष्टिकोण और नीतियों को महत्व नहीं दिया जा सका। यह स्वाभाविक है कि इतना समय बीतने के बाद संविधान को आज की स्थिति के अनुकूल बनाने की आवश्यकता अनुभव की गई है। यह कार्य कुछ देर से ही हुआ है, लेकिन “देर आयद दुस्त-आयद”—देर से ही सही, अब यह संशोधन किया जा रहा है, यह सन्तोष का विषय है।

इस आशय के सुझाव दिये गये हैं कि इन संशोधनों पर विचार करने के लिए एक संविधान सभा बनाई जाये। मेरी समझ में यह बात नहीं आती है कि इस प्रकार के सुझाव क्यों आये हैं? जिस समय यह संविधान बनाया गया था, उस समय ही, संविधान के एक प्रमुख निर्माता, डा० अम्बेदकर

ने कहा था कि इस संविधान को परिस्थिति के अनुसार बदला जा सकता है, और चूंकि संसद में जनता के प्रतिनिधि होंगे, इस लिए इस सम्बन्ध में कोई संविधान सभा बनाने की आवश्यकता नहीं होगी। मैं समझता हूं कि इस प्रकार के सुझाव केवल लोगो को गुमराह करने के लिए दिये जा रहे हैं, और इस लिए हमें उन की उपेक्षा करना चाहिए। मेरे विचार में हमेशा के लिए यह बात निश्चित हो जानी चाहिए कि संविधान में कोई भी संशोधन करने का इस संसद का पूरा अधिकार है।

हम इस संविधान में 42 या 43 संशोधन कर चुके हैं। वे सब संशोधन एक या दो अनुच्छेदों से सम्बन्धित होते थे, जब कि इस समय बहुत से अनुच्छेदों में एक साथ संशोधन हो रहे हैं। प्रधान मन्त्री ने यह ठीक कहा है कि इन संशोधनों के द्वारा एक प्रकार से संविधान का रैनुवैशन किया जा रहा है।

इस में कोई शक नहीं है कि इन संशोधनों को बहुत ज्यादा क्रान्तिकारी नहीं कहा जा सकता है। लेकिन उन को देश की आकांक्षाओं के अनुकूल बनाने का बहुत प्रयत्न किया गया है। सरदार स्वर्गसिंह कमेटी को इस दिशा में काफी सफलता मिली है। प्रधान मन्त्री के नेतृत्व में कमेटी ने जो कार्य किया है, उसमें सब से महत्वपूर्ण बात यह है कि राइट्स के साथ कर्तव्यों को भी जोड़ा गया है। देश का कोई भी राजनैतिक या सामाजिक ढांचा हो, जब तक हम अपने कर्तव्यों को नहीं समझेंगे, तब तक हम देश को आगे नहीं बढ़ा सकेंगे। इस में कोई शक नहीं कि उन कर्तव्यों में कई और बातें भी जोड़ी जा सकती हैं। लेकिन यह कहा जा सकता है कि लगभग सभी महत्वपूर्ण बातें उन में आ गई हैं। कर्तव्यों की सूची में हमारे राष्ट्रीय झंडे और राष्ट्रीय गीत का सम्मान करने की बात भी सम्मिलित है। जैसा कि कुछ माननीय सदस्यों ने सुझाव दिया है, उस सूची में कई कारणों से राष्ट्र भाषा के सम्बन्ध में एक कर्तव्य जोड़ना भी आवश्यक है, क्योंकि उससे

राष्ट्र की एकता बढ़ता है। वैसे, हम यह चाहते हैं कि देश की सभी भाषाओं को राष्ट्र-भाषाएँ समझा जाये और हर प्रकार से उन के विकास, प्रचार तथा प्रसार पर ध्यान दिया जाये। जब हम दूसरे देशों में एक दूसरे के साथ अंग्रेजी में बात करते हैं तो लोग समझते हैं कि ये ब्रिटिश कालोनी के लोग हैं तभी अंग्रेजी बोल रहे हैं। यह आम प्रतिक्रिया वहां हम लोग सुनते हैं कि ये ब्रिटिश कालोनी वाले लोग हैं। यह बहुत गलत प्रतिक्रिया इस कारण होती है।

21 hrs.

यहां बहुत स दल संविधान संशोधन में भाग लेने के लिए आये नहीं या उसका वायदा काट किये या चले गये। अरुन्धती को वान यह है कि यही सदस्य गण बरम्बर यहां पर संविधान संशोधन के लिए अपने प्रस्ताव लाया करते थे। कि जने प्रस्ताव वह लाये थे ? मैं समझता हूं कि कई ऐसे प्रस्ताव इसमें इन्हीं सदस्यों के होंगे जो आज नहीं आए हैं। ये बार बार प्रस्ताव लाते थे लेकिन जब मौका आया संविधान में संशोधन करने का और सुझाव देने का तो ये सब यहां से चले गये। जैसा कई पूर्व बक्ताओं ने कहा है हमने अपने चुनाव के समय यह बहुत स्पष्ट कह दिया था कि हम संविधान में संशोधन करेंगे। गरीब जनता को समस्याओं को हल करने में जो कठिनाइयाँ आ रही है उन को दूर करने के लिए हम संविधान में संशोधन लायेंगे यह बात बार बार कही गई है। लेकिन फिर भी जो वायदा कर गए हैं या नहीं आये हैं, मैं समझता हूं यह कोई बहुत सारा बात नहीं है। मैं तो समझता हूं कि देश में ऐसा वातावरण बनाया जाय जिसमें जनता को वह मालूम हो कि ये ऐसे लोग हैं जो संविधान में संशोधन करने की बात कहते थे लेकिन जब संशोधन करने का मौका आया तो ये वायदा कर के चले गए। इन के विरुद्ध जनता की आवाज उठनी चाहिए और इन को कभी सदन में नहीं आने देना चाहिए। ऐसे व्यक्ति जो

[श्री चन्द्रलाल चन्द्राकर]

कि बाद में ऐन वक्त पर घोषणा देते हैं उन के लिए कोई कड़ा शब्द मैं नहीं कहना चाहता हूँ लेकिन यह राष्ट्रद्रोह का काम बो कर रहे हैं। उन को यहाँ आना चाहिए था और अपनी बात कहनी चाहिए थी, अपने सुझाव देने चाहिए थे। लेकिन वे नहीं आए तो जनता को उन्हें सबक सिखाना चाहिए क्योंकि समय पर ये लोग घोषणा देते हैं।

जो संशोधन लाए गए हैं उन में बहुत से संशोधनों में बहुत अच्छी बातें हैं लेकिन दो तीन चीजों की बहुत स्पष्ट कमी है। एक तो यह है कि जब कभी संसद सदस्य अकेले में बैठते हैं तो सभी यह समझते हैं कि आजकल का जो हमारा शासन है उस में आई० सी० एस० और आई० ए० एस० इतने हावी हो गए हैं कि उन के ऊपर भी हमें कुछ थोड़ा सा सोचना चाहिए कि वे ठीक ढंग से जनता के साथ व्यवहार करें और जनता की सेवा की भावना से वहाँ बैठें। जब तक धारा 311 इस रूप में रहेगी तब तक उन की यह स्थिति बनी रहेगी। इस संविधान संशोधन विधेयक में कुछ किया गया है लेकिन मैं समझता हूँ कि वह बिल्कुल अपर्याप्त है। इस को या तो पूरा हटा दें या कम से कम ऐसा हो कि जो अभी तक इन में जनता की सेवा करने की भावना नहीं है वह भावना उन के अन्दर पैदा हो। जब तक यह भावना नहीं आयेगी तब तक बहुत से हमारे काम नहीं हो सकेंगे। आज 20 सूत्री कार्यक्रम को धमल में लाने में जो दिक्कत हो रही है वह इसी कारण हो रही है कि वे यह समझते हैं कि हम कोई जनता के प्रतिनिधि तो हैं नहीं, जनता के प्रतिनिधि तो दूसरे हैं, हमें तो सिर्फ बैठे रहना है। इसलिए मेरा सुझाव है, माननीय स्वर्ण सिंह जी इस बात को ध्यान में रखें जब भी बाद में कभी संविधान में संशोधन करना हो तो 311 पर भी विचार किया जाय।

इसी तरह से सम्पत्ति के सम्बन्ध में बात आती है। वैसे धाम और पर मैं यह नहीं

कहता हूँ कि सम्पत्ति को बिल्कुल हटा दो। लेकिन एक सीमा उस पर अवश्य होनी चाहिए। पांच लाख हो, दस लाख हो, बीस लाख हो कोई सीमा होनी चाहिए वरना अभी तक स्थिति क्या है वह सब को मालूम है।

हम एक बहुत महत्वपूर्ण बात संविधान में समाजवाद की कह रहे हैं। संविधान के अन्दर हम समाजवाद शब्द जोड़ रहे हैं लेकिन साथ-साथ इस को मूर्त रूप देने के लिए हमें दो तीन चीजें करनी होंगी। एक तो सम्पत्ति के सम्बन्ध में सीमा निर्धारित करनी होगी और दूसरे जो लोग काम ढूँढ़ते हैं उन को काम देना होगा। वैसे हमारे देश के अन्दर कामों की कमी नहीं है। चाहे सड़क बनाने में हो, चाहे बिजली लगाने में हो, चाहे सिंचाई की व्यवस्था में हो हमारे देश में काम बहुत हैं। हम को और बड़ी बड़ी चीजें न ला कर काम दिलाने के बारे में कुछ न कुछ करना होगा। जैसे हम लोग कर्म के बारे में कह रहे हैं वैसे ही हर एक व्यक्ति को काम दिलाने के बारे में भी कहना चाहिए। मैं समझता हूँ कि भविष्य में इस सम्बन्ध में भी संशोधन होगा।

इन्हीं बातों को कह कर मैं अपनी बात समाप्त करता हूँ।

SHRI D. BASUMATARI (Kokre-jhar): Mr. Chairman, Sir, at last I have been called to speak.

MR. CHAIRMAN: Don't say that. There are still fifteen Members who want to speak.

SHRI D. BASUMATARI: Mr. Chairman, Sir, while supporting this Bill I would like to make a few observations. When the Constitution was framed on December 9, 1946 I was lucky to be one of the Members of the Constituent Assembly and I know how our Constitution was framed then.

This Constitution was framed on the recommendations of the then British Government and, at the same

time, on the basis of the 1935 Act. This was modelled on the Irish and British Parliaments and also a few things were taken from American Parliament. So, taking all these together, this Constitution is not suitable to the present society, to meet the needs of this country. In fact, this point was raised times without number but in vain.

Somehow our Constitution was framed under the able leadership of Pandit Nehru and Sardar Patel. At that time itself it was felt that the Constitution would not bind the future generation.

Last time a Bill was brought before the House to bring the status of the Prime Minister and the Speaker on par with that of our President and Vice-President in the matter of electing them. There were all sorts of criticisms voiced from both sides of the House. After that Bill was passed, I went to the Prime Minister and requested her to bring in a fresh look converting those two Houses of Parliament into Constituent Assembly. Some hon. friends were telling that this Parliament is supreme and that, for bringing forward a new Constitution, this can be converted into a Constituent Assembly and I fully support it.

It was said that this Parliament was formed, based on adult franchise. They should not however forget this fact that in the 1971 elections, when we came to power, we got the mandate from the people. Many a time we found the laws framed by us being struck down by the Courts. Since we inherited the model from the British, the 1935 Government of India Act was passed by the British people. This only suited their administration to rule and suppress the people of India. Many difficulties came in our way to develop the country.

On the basis of the experience, we are bringing forward this Bill. Already we have amended this Constitution so many times. Now there

are 59 clauses in this amending Bill. What does it mean? It means that we have to pass this Bill with so many amendments because of the difficulties experienced by us in interpreting the provisions of our Constitution by our courts. After the passage of this Bill, I am sure, there would be no such difficulties. For framing a new Constitution, we have to convert both the Houses into a Constituent Assembly and in doing so I am sure no courts can come in our way to achieve the cherished goal. We want to see that there is a Constituent Assembly and Parliament functioning side by side as happened when the Constitution was originally framed. I was lucky enough to attend both the Constituent Assembly and the Provisional Parliament.

Now the Opposition parties have been asking, 'Why this emergency?' Outside India other countries have also been questioning the need for the emergency. But we know what have been the gains of the emergency for the country. Now students are attending schools and Colleges, teachers are attending to their duties regularly. Officials are attending to their work regularly. We have registered all round development. There has been agricultural development. We have brought about more production. There is more of industrial production. There is more of fertilisers. There is more production of iron ore and so on. Looking to all this, we know that as a result of the emergency and the steps taken, there has been considerable all-round development in the country. The Opposition are envious of this achievement. Foreign countries are envious about our progress. Therefore, they have been asking our Prime Minister whether there would be elections immediately. But the Prime Minister has answered that 'election is not important; what is important is the progress and development of the country'. At the same time, she also said that the unity of the country is most important. She made it clear that the Opposition which engaged in

[Shri D. Basumatari] anti-national activities was only subdued for the time being and they had not given up their policy.

In view of all this, because we want the development of the country to proceed without hindrance, there is need for extending the life of this Parliament. We have an amendment by which the term of Parliament is made 6 years. This is the sixth year of this Parliament and the term will end in March next year. But do you think we can go to the pools now? I asked our Prime Minister expressing my sincere feeling, whether if we go to the pools now, we would have to lift the emergency and at the same time release those people who are in Jail, who should be in jail looking to what they have been doing in the country. She said, yes we have to do that. But I feel that if they are released, they will continue with their old activities when they come out of jail. You know the psychology of the Indian people. They will be heroes.... (Interruption).

SOME HON. MEMBERS: No, no.

SHRI D. BASUMATARI: I have been misunderstood. They will go on propagating the same thing. They will claim to be heroes.

Therefore, I request the Minister to see that the life of this Parliament is extended upto 7 years. We have to continue our development without hindrance. We have to continue our secular approach. The achievement so far made is not enough.

MR. CHAIRMAN: Please sit down.

SHRI D. BASUMATARI: Thank you.

SHRI K. RAMAKRISHNA REDDY (Nalgonda): I rise to support the 44th Constitution Amendment Bill which was piloted by Shri H. R. Gokhale, hon. Minister of law and justice and also heartily congratulate Sardar Swaran Singhji who has taken much pains to give final shape to the amendments under consideration. There are some observations which are adverse to the amendments which are baseless and without substance. I am pained to note that some persons pro-

fessing to belong to the ruling party are still in doubt about the need for such progressive measures being introduced as amendments to the Constitution. Hon. Members are aware that times have changed and the needs and aspirations of the people remain to be attended to, ever since the passing of the Constitution in 1950. The ruling party has the conviction that the people are not for the Constitution but Constitution is meant for implementation on programmes to meet the needs and desire of the people. That is why the Constitution was amended 43 times. This, which is the 44th amendment, is suited to the changed circumstances, social, economic and political in the country.

I shall now briefly deal with the salient features of the Bill and try to answer some points of criticism by the opposition parties. The main objection is that the proposed amendments have been taken up in the haste and sufficient time should be given for the public to go deep into the issues involved in these amendments. I am convinced that there had been a good debate so far as the proposed amendments are concerned and nationwide opinion had been expressed for and against them. So, this is the proper occasion to introduce such amendments in the Constitution and it shows the farsightedness and timely action of our beloved and dynamic leader Shrimati Indira Gandhi. Mr. Chairman, hon. Members will recollect that in the election manifesto of the Congress Party for the 1971 elections, there is a clear and categorical commitment that necessary constitutional amendments would be introduced in proper time to achieve the cherished goal of socio-economic advancement of the downtrodden and weaker sections of our country. Various pronouncements by the courts have proved fatal impediments to the ruling party in serving common man. I am sure that this correct step in time will solve the problem. Some feel that the amendments to the Constitution will result in depriving the people of fundamental rights enshrined in chapter III of the

constitution but I submit that it is an erroneous notion. The fundamental rights are not affected by these amendments and there is no subordination of the fundamental rights to the directive principles.

One more point of criticism in some quarters is that the powers of the court are being ignored by the amendments; that is not correct. That criticism proceeds from a misreading of the object of the proposed amendments. No powers of the High Courts in the matter of the enforcement of fundamental rights by issuing writs had been taken away. Only the High Courts are asked to order stay after hearing the party. They should not issue stay orders without giving the state or central government an opportunity to represent their case. Such an amendment is a dire necessity for administration of justice. Hon. Members will agree with me that justice delayed tantamounts to justice denied. One more aspect which has become the subject of criticism is the provision for appointment of tribunals to deal with certain cases. From our experience of the past, this is quite essential.

I am glad that our Government has for the first time introduced a provision of the Fundamental Duties for the citizens of India. Everyone speaks of Fundamental Rights but there are a few who concentrate on their responsibilities and duties. This lacuna in statute was badly felt by our Prime Minister and proposed amendments in this regard are being widely applauded and welcomed throughout the nation. As the matter stands thus there are some cynical elements in the country who entertain the doubts as to the effective implementation of such enactment. It is the bounden duty of all well-wishers of the nation that the masses are educated in this regard and to see that the purpose for which such a progressive measure is put forth is realised. Family Planning should be included in the fundamental duties. The term of the Parliament

and the State Assemblies should be kept as 7 years instead of 6 years as proposed. Under article 368 of the Constitution this Parliament has got the power to amend Constitution.

Lastly, I submit, that for the first time in the Constitutional History of India, the aims and objects are elaborated and the preamble of the Constitution is being amended which gives a definite goal to be achieved by the proposed amendment to the preamble by substituting the words:

"Sovereign, Socialist, Secular, Democratic Republic"

for the previous wording of "Sovereign Democratic Republic". This indicates how the Government is leading the country to become a prosperous India.

All the proposed amendments are essential as a follow up action is necessary to reach the goal. The criticisms of some vested interests are baseless and I hope the Bill will be passed unanimously.

SHRI ARJUN SETHI (Bhadrak): Mr. Chairman, Sir, the 44th Constitution Amendment Bill represents the culmination of a long-standing controversy, a controversy which certainly became a nationwide debate in 1967 after the decision of the Supreme Court in the Golak Nath case. It is no doubt that the 24th Amendment of the Constitution sought in its own way to resolve that controversy. But in aftermath of the 24th amendment to the Constitution, the Supreme Court had occasion to consider the scope of Article 368, as amended, and held, as we all know and the different speakers have pointed out in this House earlier, that there are certain essential features of the Constitution which are not subject to the amending power of the Parliament. The Supreme Court did not, however, point out, as the hon. Members are aware, what precisely is the definition of basic structure or frame-work. This has certainly given rise to considerable uncertainty because Parliament does not

[Shri Arjun Sethi]

quite know where its amending powers stop, how far can it go and what are those essential features of the Constitution which are beyond its amending power? The present amending Bill seeks once again to clarify the position. So far as the Parliament is concerned—it says unequivocally—no amendment of the Constitution made by Parliament could be liable to be called in question in the court of law, except on the ground that it has not followed the procedure prescribed in Article 368 of the Constitution. At this point, I cannot but cite the observations of Dr. P. B. Gajendragadkar, ex-Chief Justice of India:

"It is necessary to remember that, when Parliament amends the Constitution as a result of the difficulties disclosed by judicial decisions in implementing national policies in socio-economic spheres it is not a case of any conflict between the Parliament and the Judiciary. The Judiciary discharges its functions fearlessly and objectively by interpreting the relevant provisions of the Constitution, and Parliament in the exercise of its power to amend the Constitution, changes the provisions of the Constitution to give effect to its socio-economic policy and programme. This is a part of the democratic process. It is essential that the common citizens of this country should recognise the validity and relevance of this democratic process."

Therefore, it is clear that whenever Parliament amends any provision of the Constitution, it does so in exercise of its constituent power and any court going into the validity of any such amendment has only the power to decide whether Parliament has followed the procedure prescribed in article 368. Justice Holmes observed:

"The Constitution of a free country was not what the judges said, but what the people wanted it to

be."

So, in this context it is clear that no court can challenge the constituent power of the Parliament. I was amazed to note that a seasoned colleague like Shri Basumatari said that although there is no need for a new Constituent Assembly, but this House and the other House can meet together in the Central Hall, converting themselves into a Constituent Assembly. But so far as my limited experience goes, I feel that whenever Parliament amends the Constitution, it converts itself into a constituent body and by virtue of that power, Parliament has got the right to amend any part of the Constitution. Hence, I think there is no need to suggest that this House and the other House should meet together to amend the Constitution.

I have one or two suggestions to make. The fundamental duties lays it down as a duty of the citizen "to abjure communalism in any form". I do not know what would be the scope of the expression 'abjure' and what would be the coverage of the various forms—direct, indirect, apparent and real—that communalism can take. Moreover, as bad as communalism, if not worse, is the casteism that is practised in India. I would, therefore, suggest the replacement of this clause by one that will be more concrete and specific in terms of communalism and casteism in the context of the social disharmony and conflict they create and the danger they pose to the unity and integrity of the nation.

Lastly, I suggest that inter-State rivers should be included in the concurrent list, so that litigations and quarrels between States are over once for all.

With these words, I support the Bill.

SHRI S. N. SINGH DEO (Bankura): I am very much thankful to you for the opportunity you have kindly given to me to speak a few words on the 44th Constitutional Amendment Bill

that has been brought before the House in a very comprehensive manner and I wholeheartedly support the amendments in this connection. Since the time is very short, I would try to confine myself on some of the salient features of some of the constitution amendments only.

Now, the question arises why these amendments are going to take place? Have the socio-economic justice that we have promised to the people been fulfilled? The answer would be no. Because if we look back to the past then we find that even after a period of 29 years of our Independence, we still find that a major section of our society are lagging behind and are living below poverty line and until and unless something is done to improve their lot immediately, then the concept of socialism or democracy whatever we might say, becomes meaningless to a large section of our society. It is not that Government has not done anything in this direction. Much has been done. But at the same time, we find that last time when such cases like abolition of privy purses or nationalisation of banks came before the Supreme Court, how the constitution amendments made by the Parliament were struck down by the finding of

the Supreme Court and how our Prime Minister Smt. Indira Gandhi had no other alternative but to dissolve the Lok Sabha before time and had to go to a much higher court of the people and you know, Sir, what was the result. The people in a body responded to her call and she came out victorious and fully authorised with more than two-third majority in the Parliament, to make any amendment in the Constitution, which she thinks fit and proper in the greater interest of the nation through this Parliament. And I would rather say that the recommendations of the Swaran Singh Committee which have been presented before us in this House in a Bill form are nothing but a direct outcome of the people's will based on the result of the mid-term election on

fulfilment of the election pledges made to the people by the Congress under her leadership. We must realise that now a stage has come when society as a whole has to progress and not any individual or a section of our society only and I am glad that the present constitution amendments are going to fulfil all such necessities. I am equally happy that the supremacy of the Parliament to make constitutional amendments are going to be ensured under the amendments, and I would rather say that this is a right step in the right direction.

In course of their speeches some of my friends opposite also said that the Parliament be converted into a Constituent Assembly and redrafting of the Constitution be made on the light of our past experience and socio-economic changes to be brought about in our society. But at present, there is no such necessity as our Constitution is flexible enough to meet any such eventuality and our present Parliament is competent enough to make any amendments considered fit and proper in the greater interest of the nation and the country.

I would like to say that the addition of the words 'secular' and 'socialism' in the Preamble of our Constitution are very significant as they clearly indicate the direction in which the nation is to move in order to achieve socio-economic justice in our society.

In course of their speeches some of my friends opposite have said that we are going to amend the Constitution in a hurried way but this is not a fact because we are doing it on the basis of difficulties experienced by us in the course of functioning of our Constitution for the last 25 years and also after a nation-wide debate on the recommendations of Swaran Singh Committee in which various sections of our society such as lawyers, thinkers, students, working class participated. Of course it is really very unfortunate that some of my friends opposite deliberately refused to partici-

[Shri S. N. Singh Deo]
pate in the discussions, in this House
which is really to be regretted.

With these words, I whole-heartedly
support the Bill.

MR. CHAIRMAN: The Chair appreciates such of the hon. Ministers and hon. Members who are neither going to speak, nor are concerned with the department, and yet are present.

SHRI SHYAM SUNDER MOHAP-
ATRA (Balasore): How I wish, Sir,
that Pandit Nehru was present in the
world to-day to see that the unful-
filled task left behind by him is ful-
filled by his great daughter and our
esteemed Prime Minister.

On the floor of this House, Pandit
Nehru had spoken in August 1963 and
said:

"If any hon. Member on the
opposite side criticized us for not
having gone fast enough on the
road to socialism, I would accept
that criticism. We have been slow
for a variety of reasons, some of
which were within our control
while some others were not. But I
am convinced that there is no choice
for India. No party, whatever it
may feel, can stop this country's
march to socialism."

We are proud that for the first time,
under the leadership of Shrimati
Indira Gandhi, the word 'socialist'
has been incorporated in this Consti-
tution. Democracy is not socialism,
nor socialism is democracy. When
we say that there are democracies in
the world, we look to UK and USA;
when we say that there are socialist
countries, we look to East European
countries. That is why Harold Laski
had said in "Grammar of Politics" that
capitalism and democracy are in-
herent contradictions. We say that
we are a democracy and yet we say
that we can embrace capitalism.
That is why Laski said in "Grammar
of Politics" that it was not possible.
We aim at a socialist democracy.
That is why we have been thinking
for many years that the idea of late
Prime Minister Nehru should be

fruitful some day or the other. We
first adopted the socialistic pattern;
then came to accept democratic soci-
alism and from that we have come
to this word 'socialism'. I am proud
that in Bhubaneswar, in Orissa the
Congress in its session accepted soci-
alism as its creed. India's tradition
is democracy, but India aims at soci-
alism. The socialist countries may
say that they are democracies and
they have given freedom to workers
and peasants and everybody else; but
in Communist countries there is still
a lot of regimentation and curtailment
of liberties. And in the Soviet Con-
stitution, the word 'socialism' is there,
as also the word 'world peace'. But
still they preferred to intervene in
Czechoslovakia and Hungary.

India, built in the traditions of
Mahatma Gandhi and Nehru, wants
to keep democracy in its Constitution,
yet we want to say that we are soci-
alist. Nehru said on a number of
occasions that his ideas were inspired
by Marxism, by scientific socialism
and by his visit to the USSR.

What does the USSR write in its
Constitution? The Third Congress of
Soviets met on January 24, 1918
under the leadership of Lenin and it
immediately made a Declaration
of Rights of the Toiling and Exploited
People; and on January 28, 1918 it en-
acted a Declaration on the Federal
Institutions of the Russian Republic.
What does it convey? These two
declarations became the basis for the
constitutional law of the Soviet Re-
public and were incorporated ulti-
mately into the formal constitution.
They deprived bourgeois elements of
the right to vote and to hold office,
established socialism as a national
goal, abolished private ownership of
land, forests, mineral deposits, waters,
livestock and banks and instituted
workers' control in industry and
transport.

In India to-day, under the leader-
ship of Prime Minister Indira Gandhi,
we have incorporated the word 'so-
cialist' and we have brought into our

Constitution the basic change which Lenin thought fit to do in 1918. No-body can say we have imbibed socialism. We are proud of India's culture and we believe in following Gandhian ideology. Gandhiji had thought of trusteeship because in those days it was very difficult to think that we would nationalize industries and control the means of production and distribution; and that is why a great jurist said about our Constitution that its dominant voice was the voice of the vested interests who formed a majority of the constituent assembly.

To-day, having come to this Parliament in 1971 with a mandate from the people and after telling them that we will usher in an egalitarian and socialist society under the leadership of Shrimati Indira Gandhi. I may say, Sir, that this is more than a constituent assembly. Even if we go to the polls for a mandate, it is not for a Constituent Assembly, it is not something much more than that. There cannot be a better election than the 1971 elections and there cannot be a far-reaching mandate than that of 1971.

France is now passing through the Fifth Republic. There were five Constituent Assemblies during the last 150 years. But, has it changed the character of the class ruling the French? No, it remains the same because France was an imperial power till the other day. So, by changing the Constitution, by forming the Constituent Assembly, by enacting legislation, you do not bring socialism to your country. It depends on the will of the people, it depends on the masters who rule the people, which means the Government, the bureaucracy or the officers.

Sir, when you spoke you wanted to do away with article 311 and you were right because to-day the bureaucracy holds all the power. It is not the Minister, but it is the bureaucrat, the IAS or the IPS officer, who rules the country. They think "what can the Government do, what can the

Minister do, they can only transfer us from one part of the country to the other, our rights and privileges are secure". This is a British legacy, given to us through the ICS officers. It would be much better, if we could do away with it. Because, the Prime Minister's 20-Point Programme remains the Bible for the people and the 20 plus 5 programme is the beginning of the ushering in of the socialist society. That is why I say that we could probably do away with it because it is synonymous with autocracy, it is synonymous with bureaucratic oligarchy.

Coming to the Fundamental Duties, it is very good that we have incorporated them in our Constitution. Gandhiji himself in the Constitution which he gave us, included some fundamental duties. There can be no right without duties. But I would say that there should have been a fundamental duty for the bureaucrats also. Some of the Communist countries have such a provision in their Constitution. For instance, in article 6 of the Constitution of Yugoslavia it is stated:

"Every citizen shall consciously discharge any public or other social office vested in him and shall be personally accountable for the discharge of it."

Perhaps, we could have brought the bureaucrats also under the constitutional obligation and said that they have to fulfil their duty towards the people. Even though we are bringing them in our Constitution for the first time, we are not the first country to do that. I have with me a list of about 50 countries which in their Constitution have put in some fundamental duties to their citizens.

Lastly, I will say that by trying to improve the environment and protest the forests and wild life—we are doing a great service. Our youth leader, Shri Sanjay Gandhi has given a clarion call for the preservation of forests and trees. Probably for the first time it is now dawning on us

[Shri Shyam Sunder Mohapatra]
that this is a very vital thing which we should not lose sight of.

I will conclude by saying that the greatest good to the greatest number will be achieved through these amendments, dynamic and revolutionary as they are.

SHRI K. NARAYANA RAO (Bobilli): Mr. Chairman, since we are the tail-enders you could not expect many runs from us.

MR. CHAIRMAN: There are still 20 after you. You are No. 5 batsman; there are still 20 behind you.

SHRI K. NARAYANA RAO: Any-way, let me begin from the beginning. I will begin with the preamble. Since we are the tail-enders, Sir, I hope you will give us more consideration.

MR. CHAIRMAN: No, consideration; only 8 minutes; rather 7 minutes. Otherwise, you will not get your chance.

SHRI K. NARAYANA RAO: The preamble is the key to the Constitution. Unfortunately what is happening is that the judiciary is taking the Constitution as an ordinary legislation, ignoring the fact that it is something which is very fundamental. The preamble of the Constitution says that we, the people of India, shall do this and this. Unfortunately, what the judiciary has been doing is to equate the Preamble of this Constitution with the preamble of ordinary legislation. There, they committed a mistake. They concede that the Preamble is the key to the Constitution, that you cannot open the box without the key in order to see its contents, but still they miserably failed because of their mistake.

So far as fundamental rights are concerned, our Prime Minister must be given the totality of the credit for introducing this concept. I have with me a list of 24 countries, excluding the communist countries, where duties of citizens have been clearly specified in their constitutions.

Socialism as an Indian concept is the product of Jawaharlal Nehru.

Here it is distinguished clearly from communism, but there is a common corridor which moved Jawaharlal Nehru to distinguish capitalism from communism. This is an area which we are now putting into the Preamble.

Article 37 says that the directive principles as such are not enforceable. No quarrel about that. But it is the duty of the State to give effect to the directive principles. My simple argument is this. The State has been obliged to do certain things. If what the State has been obliged to do in Part IV of the Constitution comes in conflict with certain things that the State is restrained from doing in Part III, what shall be its duty? That was the problem I was confronted with long ago when I was a student. One professor stated that the directive principles should be thrown out and repealed *en bloc*. The judiciary stated that the directive principles occupied a subordinate position. I took objection to that and did a bit of research, not as a politician, but as a student, as a research scholar in the Madras University. My simple argument is this. As a citizen I cannot compel the State or Government or Parliament to do this and that as prescribed in the directive principles, but, if, in pursuance of the directive principles as enjoined on Parliament and the State Legislatures, they did something, what is the status of that law? Fundamental rights are individual rights, but directive principles are rights derivable from certain things which are enjoined on the State. So, if the State did something in pursuance of Chapter IV, I as a citizen have got a concrete right. So, there can be a conflict, there was a conflict.

In conclusion, it says:

"An attempt has been made to analyse the legal content of Part IV of the Indian Constitution and it has been suggested that the view that Part IV enjoys an inferior status *vis-a-vis* the fundamental rights

merely because it is unenforceable by any Court is not warranted. Outside the domain of enforcement which is essentially associated with judicial remedies, Part IV is as supreme as Part III. Enforceability does not pertain to the essence of a legal norm. As the Courts admitted that other portions of the Constitution may prevail over Part III, there is no reason why Part IV should not be included in the category of 'other portions' of the Constitution."

In the *Searchlight* case, the Supreme Court admitted that the fundamental rights can be subordinated to certain other provisions of the Constitution. So, there is no special treatment for fundamental rights as such. Whenever Directive Principles are warranted, fundamental rights can be subordinated to the Directive Principles. I am happy that the present Bill gives an excellent expression to the dominating spirit of the Directive Principles over the fundamental rights.

SHRI P. ANKINEEDU PRASADA RAO (Angole): Mr. Chairman, I support the 44th Constitution Amendment Bill, as it intend to eradicate poverty and promote an equality of opportunity stated in the Preamble of the Constitution itself. After struggling for 25 years, it has been found necessary to bring in some constitutional amendments to fulfil the present day needs, desires, aspirations and ambitions of the people. When it was decided to bring in the 44th Constitution Amendment Bill, the interested parties had floated rumours about referendum, Constituent Assembly, basic structure of the Constitution and the extended Parliament, etc. etc. So, I want to emphasise that there is no other way but to amend the Constitution in a constitutional way. The Constitution framers while drafting the Constitution had accepted it. In the Preamble of the Constitution, it has been mentioned, "WE, THE PEOPLE OF INDIA adopt this Constitution." But even these people were not directly involved either in drafting the Cons-

titution or adopting the Constitution. Peoples' representatives, the then existing States' representatives and the representatives of the Princely States met together, drafted a Constitution and adopted it. But the Preamble reads: "We, THE PEOPLE OF INDIA". At the time of drafting of the Constitution itself, there were many pulls and strains upon the drafters about drafting the Constitution, about its ideologies and about the future of the country.

21.53 hrs.

[**SHRI ISHAQUE SAMBHALI** in the Chair] So, a comprehensive document was prepared and it was called as the Constitution by the Constituent Assembly, which was formed for the purpose, of the representatives of the people, not the people directly.

Then, envisaging the need and the necessity of amending the Constitution afterwards to meet the needs, the desires and the aspirations of the people, whenever necessary, they have provided an opportunity to amend the Constitution and prescribed the norms for that also. They have made out a separate Chapter XX, Amendment of the Constitution, with only a single article 368—Power of Parliament to amend Constitution and procedure therefor. There is no other article in the whole of the Constitution to amend the Constitution in any other way. So, if at all we have to amend the Constitution, we have to amend it according to article 368 of the Constitution. All these words of referendum or another Constituent Assembly or any other words which are being used now find no place in the Constitution. There is no other way of amending the Constitution except under article 368.

Now, if we do not amend the Constitution, what is going to happen? The Constitution should reflect the needs, the desires and the aspirations of the people. If we block that, if the new needs, new desires and new aspirations of the people are not met, there will be frustration amongst the people which will ultimately result in the form of a revolution. Perhaps, those who are opposing the amendment of

[Shri P. Ankineedu Prasada Rao]

the Constitution to-day may be wishing to put an end to democracy. But we do not wish to put an end to democracy. We want democracy to survive and for its survival, we have brought this Constitution (Forty-fourth Amendment) Bill.

Even to-day, we are not blocking an opportunity to further amend the Constitution. As we are the representatives of the people and we have every power to amend the Constitution, we are leaving the scope for the future representatives of the people also to amend the Constitution, if necessary, as per the desires, the needs and the aspirations of the people who come afterwards. So, if the Opposition feels that we are going to gain by amending the Constitution, it is not so. If we amend the Constitution and then go to the polls, we have to convince the people about the acts which we have done. If we are not able to convince the people, the people will not return us. Again, if the people do not return us, the people will return the Opposition and the Opposition has got the full opportunity to amend the Constitution if the desires, the needs and the aspirations of the people are not met by the present amendment of the Constitution. We are leaving the full scope to them, if necessary, to amend the Constitution further.

The point that I want to emphasize is that the only forum which has got the power to amend the Constitution is the Parliament. In no other way, it can be done. We cannot seal off the amendment of the Constitution and bring about frustration amongst the people which will ultimately lead to revolution.

The Constitution has defined the powers of the judiciary, the powers of the executive and the powers of the Parliament also. The Constitution has given supervisory powers to the Parliament over the judiciary. But it has not given powers to the judiciary over the Parliament. The judiciary can annul any executive action, any law

made by the Government or it can annul any constitutional interpretation given by a lower court. But they have not been given the power to touch the Constitution or touch the constitutional amendments.

Finally, I would like to say that the Opposition parties have brought in a clash between the Directive Principles and the Fundamental Rights. The Fundamental Rights are concerned to individuals whereas the Directive Principles are concerned to masses. Article 37 says that the Directive Principles are as fundamental as the Fundamental Rights and that they concern the masses. The Directive Principles should have a say over the Fundamental Rights, not *vice versa*.

With these words, I support the Constitution (Forty-fourth Amendment) Bill.

22 hrs.

श्री रामोवर पांडे (हजारीबाग):

सभापति जी, संविधान के संशोधन का बिल सदन के सामने उपस्थित है उसका मैं स्वागत करता हूँ, हृदय से समर्थन करता हूँ। जैसा कि अभी कुछ देर पहले प्रधान मंत्री जी ने कहा था कि एक मजबूत कदम एक अच्छे काम करने के लिए उठाया गया है जिसकी आवश्यकता थी। हालाँकि यो काफी नहीं है। अभी बहुत कुछ करना बाकी है। लेकिन यह मजबूत कदम स्वागत योग्य है। सलिए मैं हृदय से इस संविधान संशोधन विधेयक का स्वागत करता हूँ।

जिस तरह से हमारे संविधान में समाजवाद की व्यवस्था रखी गयी है जिस तरह से मौलिक अधिकारों के उपर निदेशक सिद्धांतों की अहमियत का बयान किया गया है, जिस तरह से मूलभूत कर्तव्यों की बात कही गयी है, गरीबों को कानूनी सहायता देने का बचन दिया गया है और राष्ट्र निर्दोषी गतिविधियों पर पाबन्दी लगाने की बात कही गयी है,

इन सब की जितनी आवश्यकता थी उसे बयान नहीं किया जा सकता। राष्ट्र को किस तरह से गति दी जाय, राष्ट्र को किस तरह से आगे बढ़ाया जाय उसके बारे में भी सिद्धांत रूप में संविधान में रखा गया है और यह सब स्वागत योग्य कदम हैं।

लेकिन समापति जी इन सब बातों के बावजूद बहुत सी ऐसी बातें हैं जिनकी आवश्यकता थी। एक तरफ तो हम समाजवाद की बात करते हैं और सके साथ-साथ हमको यह मालूम नहीं है कि हमारे राष्ट्र की बेतन नीति क्या होगी, हमारी बेज पालिसी क्या होगी। जो काम करने वाले लोग हैं, मजदूर हैं, उनकी मजदूरी क्या होगी, कम से कम मजदूरी क्या होगी, अधिक से अधिक मजदूरी क्या होगी, इसके बारे में एक सिद्धांत होना चाहिए था। देश में एक बेतन नीति निर्धारित की जायगी इसके बारे में बयान करना चाहिए था। इसी तरह से बयान में गरीबी दूर करने की बात भी होती कि हम कैसे काम की व्यवस्था करेंगे। हमें अधिक से अधिक लोगों को रोजगार देना है अधिक से अधिक लोगों के लिए एंजेंट्सशिप स्कीम लागू करनी है। इसकी भी आवश्यकता है। हम चाहते हैं कि हमारे जितने भी एबिल बोडीड लोग हैं, जितने भी सक्षम लोग हैं, उनके काम की व्यवस्था की जाय। इसके लिए भी इसमें व्यवस्था होनी चाहिए थी।

इसके साथ-साथ आज आजादी के 29 साल के बाद भी अभी तक हमने यह तय नहीं किया कि हमारी राष्ट्रभाषा क्या होगी। सिद्धांत में तो कबूल किया गया है और संविधान में भी यह रखा गया है। लेकिन आज हम यह तो कबूल करते कि हमारी एक राष्ट्रभाषा होगी। इस मामले में अभी हम पीछे पड़े हुए हैं।

ये जो सभी स्वागत योग्य कदम उठाये गये हैं इनका तो मैं स्वागत करता हूँ, समर्थन करता हूँ, लेकिन इसके साथ-साथ मैं यह भी महसूस करता हूँ कि अभी बहुत कुछ करना बाकी है। बहुत सारी बातों को इसमें छोड़ दिया गया है। किस तरह से इन्हें किया जायगा, किस तरह से बाद में इनके बारे में संशोधन लायें यह स्पष्ट नहीं है। जैसे बेतन निर्धारण करने की बात है, लोगों को काम देने की बात है। एक राष्ट्र भाषा की जरूरत है। इसके बारे में एक स्पष्ट मत होना चाहिए था, एक स्पष्ट विचार होना चाहिए था और यह तय करना चाहिए था कि हम कब इसको करना चाहते हैं, कहां कहां ग्रमेंडमेंट की आवश्यकता है। इन सब कामों को अभी भी करने की आवश्यकता है। एक तरफ तो कृषि के क्षेत्र में हमने काफी सफलता पायी है। अपने खाने के लिए अनाज पैदा कर लेते हैं, सरपलस भी हुआ है लेकिन जिस रफ्तार से हमारी खेती की "दावार बढ़ रही है उससे अधिक रफ्तार से आबादी भी बढ़ रही है। यह ठीक है कि फैमिली प्लानिंग के बारे में हम किसी पर दबाव डालना नहीं चाहते हैं और जबर्दस्ती नहीं करना चाहते हैं। लेकिन मैं समझता हूँ कि इसको भी निदेशक सिद्धांतों में स्थान दिया जाना चाहिये था। इसे लोग स्वीकार करें, इसकी व्यवस्था होनी चाहिये थी।

खेती के लिए जो सब से बड़ी चीज है वह पानी है, इरिगेशन की सुविधा है। आज हर जगह रिवर वाटर डिस्प्यूट्स चल रहे हैं। अलग-अलग स्टेट्स के डिस्प्यूट्स को अलग-अलग तौर पर तय किया जाता है। सिंचाई का काम स्टेट के जिम्मे छोड़ दिया गया है। केन्द्र की कोई जिम्मेवारी नहीं थी। कोई व्यवस्था नहीं हुई है कि केन्द्र की भी जिम्मेवारी हो। मेरा खयाल है कि इरिगेशन को कनकरेंट लिस्ट में आपको रखना चाहिये।

[श्री दामोदर पांडे]

इस विधेयक का मैं मर्थन करता हूँ। जो चीजें छूट गई हैं उनकी आपको व्यवस्था करनी चाहिये। उनके बारे में आपको अभी से गम्भीरतापूर्वक सोचना चाहिये; विचार करना चाहिये। यह विचार अभी से शु हो जाना चाहिये। संविधान में संशोधन करने के लिये आप सक्षम हैं। उस सक्षमता का आप पूरा पूरा परिचय हैं। मैं यही चाहता हूँ कि इन सब बातों के बारे में आप संविधान में संशोधन करने के लिये जल्दी विधेयक लाये।

इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

डा० गोबिंद दास रिश्वाहिया (झांसी):
44वें संशोधन का मैं समर्थन करता हूँ। मैं आप को बधा देना चाहता हूँ कि इस ऐतिहासिक संशोधन विधेयक पर लोकतंत्र के आधार पर, समानता के आधार पर आप ने हमें भी विचार प्रकट करने का अवसर दिया है।

इस के लिये मैं आप को बधाई देता हूँ। मैं समझता हूँ कि निश्चित तौर से इस संशोधन के द्वारा हम उस लक्ष्य तक पहुँचने की कोशिश कर रहे हैं जो इंदिरा नेहरू ने प्रतिपादित किया था कि हम अपने देश में लोकतंत्र के आधार पर अहिंसात्मक तरीके से समाजवाद लायेंगे। स से उस लक्ष्य तक पहुँचने का रास्ता सुगम होता है, सहल होता है। जैसे और साथियों ने कहा है निश्चय ही इस में बहुत कुछ किया गया है और बहुत कुछ करना बाकी है।

मैं समझता हूँ कि इस संशोधन को प्रस्तुत करने हुए कोई रास्ता बन्द नहीं किया गया है और ऐसी कोई बात नहीं की गई है जिस से 45वां या 46वां

संशोधन इस लोकसभा द्वारा या अगली लोक सभा द्वारा पेश न किया जा सके या उस को पारित न किया जा सके। जो चीजें बाकी रह गई हैं उन को करने के लिये रास्ता खुला हुआ है। यह एक प्रयोग है जो हमारे राष्ट्र के नेताओं ने, हमारी संस्था ने अपने देश में किया है। हम ने दुनिया के सामने एक भिस्तार रखी है। इस दुनिया में जितनी भी क्रान्तियाँ हुई हैं या समाजवाद आया है वह हथियारों के बल पर आया है। जो प्रयोग हमारी लोक सभा के द्वारा किया जा रहा है यह संसार के सामने एक उदाहरण है। यह एक नया प्रयोग है। बिना हिंसा किये हुए, अहिंसात्मक तरीके से, लोकतन्त्र के आधार पर समाजवाद के लक्ष्य तक भी पहुँचा जा सकता है यह हम इस के द्वारा संसार के सामने सिद्ध करना चाहते हैं। यह लोक सभा या अगली लोक सभा अपने संविधान में तब तक परिवर्तन करती रह सकती है जब तक इस प्रयोग को हम पूर्ण रूप से सफल नहीं बना देते हैं समाजवाद के लक्ष्य तक हम पहुँच नहीं जाते हैं। जो संशोधन पेश हुए हैं निश्चित रूप से इस के लिये हमारी प्रधान मंत्री हमारे विधि मंत्री, इन को पेश करने वाले सरदार स्वर्ण सिंह और उन के साथी बधाई के पात्र हैं। इस लोक सभा को यह अवसर मिला है कि इस सुन्दर संशोधन को पारित करे और क्रान्ति को कामयाब करे।

विधि मन्त्री जी ने लोकतन्त्र के तीन आवश्यक अंग बताए हैं, विधायिका, न्याय-पालिका और कार्यपालिका। इसमें विधायिका को उन्होंने ताकत दी है। न्यायपालिका कुछ गड़बड़ी करने लगी थी, विधायिका के अधिकारों पर आक्रमण करने लगी थी उसको ठीक किया है। लेकिन जो कार्यपालिका आपकी है उसे भी कुछ कसने की आपको आवश्यकता है। विधि मन्त्री ने उस और

ध्यान नहीं दिया है। उस और धाये ध्यान देने की आवश्यकता है। हमारे विधान में समाजवाद और धर्म निरपेक्षता शब्द जोड़ दिये गए हैं। कार्यपालिका का जो छोटे से छोटा कर्मचारी है जो गांव में कार्य करता है और केन्द्र का बड़े से बड़ा कर्मचारी जो है उन सबको संविधान के प्रति बकादार रहने की अपेक्षा लेनी पड़ती है। उसको संविधान की शपथ लेनी पड़ती है। मैं अपने विधि मंत्री जी से अनुरोध करता हूँ कि वह किसी तरीके से उसकी व्यवस्था करें, इसकी बहुत आवश्यकता है। इस संशोधन के पास होने के बाद जो भी लोग कार्यपालिका में लगाये जायें, उनके बारे में कोई न कोई एक कसौटी होनी चाहिये जिससे पता लग सके कि उनकी निष्ठा समाजवाद के प्रति हो और समाजवाद लाने में सहायक हो। ऐसे लोग ही हमारी कार्यपालिका में रहने के अधिकारी हो सकते हैं। वर्ष की जो प्रविष्टियाँ की जाती हैं, उसमें यह समावेश करने की आवश्यकता है कि उसमें यह लिखा जाये कि उस व्यक्ति ने इस वर्ष में समाजवाद लाने के लिये अपने कार्यकाल में क्या काम किया है। इस तरीके से हम एक निष्ठावान कार्यपालिका अपने देश में बना सकेंगे तभी हम एक सुगम रास्ता कर सकेंगे और जल्दी रास्ता तय कर सकेंगे। लोकतन्त्र के आधार पर समाजवाद लाने के लिये इस 44वें संशोधन विधेयक का समर्थन करते हुए मैं फिर अपने विधि मंत्री और अपने उन साथियों को जिन्होंने इसका समर्थन किया है, धन्यवाद देता हूँ।

श्री शंकर देव (बोदर) : सभापति महोदय, मैं केवल अपने प्वाइन्ट ही रखूंगा, लम्बी स्पीच नहीं करूंगा।

अब तक हमने कांस्टीट्यूशन को जिस दृष्टि से देखा है, वह राष्ट्रीय आधार पर देखा है। राष्ट्रीय दृष्टिकोण के अपने सामने रख कर काम किया है। लेकिन जो

बोड़ी देर के लिये अन्तर्राष्ट्रीय दृष्टिकोण से भी इस पर सोचना चाहिये। उसी दृष्टिकोण से मैं निवेदन करना चाहता हूँ कि हमारे जो डायरेक्टिव प्रिंसिपल्स हैं कांस्टीट्यूशन में, उनमें यह भी होना चाहिये—

"The State shall move progressively towards one world authority and one world law."

जब हमारा कांस्टीट्यूशन बना था तो उस वक्त इंटरनेशनल सिचुएशन ऐसी नहीं थी, जैसी कि आज है। इसके अभाव जो भयंकर अस्त्र-शस्त्र आज पैदा हो गये हैं वह उस समय नहीं थे। इसीलिये उस समय इस बात को नहीं सोचा गया लेकिन आज की इंटरनेशनल परिस्थिति बिल्कुल बदल गई है। ऐसी हालत में इनको एक वर्ल्ड-वन वर्ल्ड-अपेण्ड जगत् की बात सोचनी चाहिये। हमें इस बात को भी देखना चाहिये कि जब तक हमारा इंटरनेशनल दृष्टिकोण नहीं रहेगा, इंटरनेशनल क्षेत्र में हमारी ख्याति नहीं रहेगी और तब तक हमारा देश भी सबल नहीं रह सकता है। हमें इंटेग्रिटी, एकता को बढ़ाना है तो हमको अन्तर्राष्ट्रीय क्षेत्र में भी बढ़ना होगा। उसको भी हमको याद रखना होगा। लेकिन आज तक जो सोचा है, वह राष्ट्रीय स्तर पर ही सोचा है, अन्तर्राष्ट्रीय क्षेत्र के बारे में नहीं सोचा।

सभापति महोदय : आपको इस संविधान संशोधन पर भी कुछ कहना है।

श्री शंकर देव : मैं बहुत अधिक न कहने हुए, इयूटीज के बारे में इतना ही कहना चाहता हूँ कि हमें जानन ब्रदरहुड की जगह यूनिवर्सल ब्रदरहुड की बात सोचनी चाहिये। मैं तो यह कहूंगा कि इयूटीज में यह होना चाहिये कि राइट टू प्रापर्टी नहीं होना चाहिये। अगर आप यह नहीं कर सकते हैं तो इयूटीज में कम-से-कम यह तो रख सकते

[श्री शंकर देव]

है कि सम्पत्ति वालों को यह समझना चाहिये कि हम सम्पत्ति के मालिक नहीं, बल्कि इस सम्पत्ति के हम ट्रस्टीज हैं। हमें कम-से-कम यह तो अपनी इयूटीज में मैनशन करना चाहिये। अगर सम्पत्ति वाले अपने को ट्रस्टी समझें फिर भी राइट टू प्रापर्टी तो रहेगा। आगे चलकर फिर हमको कांस्टीट्यूशन को रिव्यू करना पड़ेगा और फिर राइट आफ प्रापर्टी और राइट आफ वर्क के बारे में पुनः पार्लियामेंट को कुछ न कुछ सोचना पड़ेगा। उस समय कांस्टीट्यूशन असेम्बली बनायें या कुछ भी बनायें, लेकिन उस वक्त फिर सोचना पड़ेगा।

इयूटीज में यह भी कहा गया है कि साइटिफिक टैम्पर को हम माडर्न साइटिफिक टैम्पर में क्रीएट करें। मैं उसको आपत्तिजनक समझता हूँ। क्योंकि पश्चिम के लोग स्प्रिचुअल टैपर के लिए इछर आ रहे हैं और हम माडर्न साइंस के लिये वहां जा रहे हैं। तो हम लोग उनके छोड़े हुए मैटीरियल साइंस को लेने के लिये उधर भाग रहे हैं। हमारे संविधान में स्प्रिचुअल टैपर को डेवलप करने के लिए प्राविजन होना चाहिए।

इयूटीज में हार्ड वर्क और स्ट्रिक्ट डिसिप्लिन वगैरह को भी रखना चाहिए। गांधी जी ने सत्य, अहिंसा और प्रेम की बात कही थी। इस लिए इयूटीज में इस बात को शामिल करना चाहिए कि प्रत्येक भारतीय का यह कर्त्तव्य है कि वह सत्य, अहिंसा और प्रेम की भावना को अपने अन्दर लाये।

इस बात की हमेशा चर्चा होती रहती है कि पार्लियामेंट सुप्रीम है या जूडिशरी।

स बात की आवश्यकता है कि एक क्लीयर-कट क्लार्ज के द्वारा यह मैनशन कर दिया जाय कि पार्लियामेंट ही सुप्रीम बाडी है। लेकिन इन पूरे एमेंडमेंट्स में इस आशय की कोई क्लार्ज नहीं है कि सुप्रीमेसी आफ पार्लियामेंट कायम रहेगी। ऐसी क्लार्ज बहुत आसानी से संविधान में डाली जा सकती है। मंत्री महोदय को इस बारे में सोचना चाहिए।

SHRI JAGDISH CHANDRA DIXIT (Sitapur): Mr. Chairman, future generations will reckon you and this night as historical because the Parliament of India through the instrumentality of the amendments that are before it is going to herald a new era in which constructive efforts to build a socialist society will get their place of pride.

There has been a long debate in academic circles amongst jurists and judges as to the basic features of the Constitution which cannot be amended. My submission is that if at all there can be anything basic, it could only be the amelioration of the downtrodden, the dignity of man and dignity of labour. Now in achieving that basic ideal for which philosophers and martyrs have been labouring hard, sacrificing themselves, if any structure of the Constitution, any structure of any institution, comes in the way, it has to be removed.

Our founding fathers had to contend against the mighty forces of British imperialism ruling over this country from far abroad—England—while in this country they were confronted with mighty powers of feudalism both of which were together persecuting

people. Therefore, their immediate task was to give the country a Constitution which could protect people from the onslaughts of feudalism and imperialism. In the process our Constitution became protectionist. That was the idea behind swadeshi policy. Protectionism negatively led to a capitalist order of society and generated new forces that created neo-capitalist classes and imported anomalies. Now, therefore the question arises how to change the constitution in a manner that those who are guilty of violating it, doing injustice to those under their command would not be protected, but those who are the victims of this injustice would be protected. That is why this set of amendments is very material. People who cry hoarse for democracy forget that in the wide range of human lives demography cannot be separated from ecology. Everybody must recognise compelling power of demographic forces of which family planning is only a part. It was a mistake which needs to be corrected. You, sir, are a very seasoned parliamentarian. You know and the House knows that times without number constitutional writer and thinkers, have said this. Sir William James in his speech at the Madras University in 1952 said in essence that when the constitution came to be created it resulted in a constitution for the lawyers to be administered by the lawyers.

Dr. B. Rama Rau in his book *India's Constitution in the making* has pointed out that there was a schedule attached to the draft constitution by which the

powers of the President were sought to be defined. That schedule could not get into the constitution for some reason or the other, creating a confusion between the power of the President; the power of the Government and the power of the House.

Therefore, what we have done is to rectify what was omitted and to meet those problems which have emerged as a result of the mistake that we have done by giving to this country a constitution in 1950. We want to ensure to our people social justice, political justice and economic justice. That is something which cannot be judiciously administered. They are exercises in human engineering. They are exercises in social architecture. That is why Parliament has to meet those obligations and to meet those obligations we have, under the leadership of Prime Minister, Shrimati Indira Gandhi, approached you and through you the Members of Parliament to adopt these amendments to give the existing policy a cosmic socialist shape. I hope that this House would accept these very valuable amendments and this session will go down in history as a very important session of Parliament ever held in this country so far.

श्री एम. रामगोपाल रेड्डी (निजामाबाद) : भागति महोदय, यह आज का दिन बड़ा शुभ दिन है और इसके लिए हम अपने को बधाई दे सकते हैं कि आज हमको इस संविधान के परिवर्तन का अवसर मिला है। इस सिलसिले में बहुत सी बातें कही गई हैं। जो बातें कही गई हैं वह मैं नहीं करूंगा और

• [श्री एम० रामगोपाल रेड्डी]

जो बातें नहीं कही गईं वह हैं नहीं। फिर भी मैं एक दो चीजें कहना चाहता हूँ।

मैं पहले फ्रेंच एंथानी के भाषण से अपना भाषण शुरू करता हूँ। वह अभी भी अपने आपको एंग्लो-इण्डियन समझते हैं। एंग्लो को गए हुए 30 साल हो गये हैं, अब सिर्फ इंडियन रह गए हैं। अब फिर क्या अंग्रेज यहां आएंगे और वे एंग्लो हो जाएंगे, यह हमारी समझ में नहीं आता है।

दूसरी बात उन्होंने कही है कि अंग्रेजी उनकी मातृ भाषा होनी चाहिये। 6 हजार मील दूर की भाषा अंग्रेजी की तो वे सीख सकते हैं लेकिन अपने घर की जो भाषाएँ हैं, हिन्दी, तेलगू, तमिल उनको नहीं सीख सकते हैं। मैं चाहता हूँ अंग्रेजी को इस देश में कोई स्थान मातृ भाषा की हिसियत से नहीं देना चाहिये। कोई अगर सीखना चाहता है तो वह अंग्रेजी, जर्मन या कोई दूसरी विदेशी भाषा सीखे लेकिन संविधान में किसी भी मातृ भाषा अंग्रेजी नहीं लिखी जानी चाहिए तभी इस देश का गौरव बढ़ सकता है।

तीसरी बात मैं यह कहना चाहता हूँ कि यहां पर यह कहा गया कि इस लोक सभा के पांच साल का समय मार्च, 1976 में समाप्त हो गया था इसलिये इसको संविधान में कोई संशोधन करने का अधिकार नहीं है, मैं इस बात को रिवर्स प्रोसेस में ले जाना चाहता हूँ। चौथी लोक सभा का कार्यकाल मार्च, 1972 तक था लेकिन इंदिरा जी ने 27 दिसम्बर 1970 को उसे भंग करा दिया। मैं जानना चाहता हूँ उस लोक सभा के जो सदस्य थे

जैसे कंवरलाल गुप्त, आचार्य कृपालानी, संजीव रेड्डी, आचार्य रंगा क्या उनको जनता 1972 तक अपना चुनाव भ्रष्टा प्रतिनिधि समझ रही थी, जब लोक सभा भंग हो जाती है तो फिर किसी की मेम्बरशिप नहीं रहती और उसी तरह से जब लोकसभा का कार्यकाल बढ़ाया जाता है तो हर सदस्य उसका सदस्य रहता है। इस लिहाज से इस संसद् को संविधान बदलने का पूरा पूरा अधिकार है :

चौथी बात मैं यह कहना चाहता हूँ कि हमारी राष्ट्र भाषा हिन्दी है, संविधान में इसको लिखा गया है फिर कौन सी रुकावट है जिसके कारण हर जगह पर आप हिन्दी का प्रयोग नहीं कर रहे हैं? आई ए एस, आई पी एस अफसरों के लिये हिन्दी सीखना बहुत ही जरूरी है। जजें अगर हिन्दी सीख तो उनको आप जज बनाये बरना मत बनायें। आप जानते हैं अगर कोई स्वीमिंग सीखना चाहता है तो उसे किसी झील में या स्वीमिंग पूल में गिरना चाहिये तभी उसको स्वीमिंग आ सकती है। उसी तरह से राष्ट्र भाषा हिन्दी का इस्तेमाल आप शुरू कर देंगे तभी उसकी उन्नति हो सकती है। बिल्स की जो ड्राफ्टिंग है वह हिन्दी में होनी चाहिये। अगर कोई गलती होती है तो कोई बात नहीं है। हम अगर कोई मोटर बनाते हैं, वह ठीक नहीं होता तो आईंदा साल उसमें इम्प्रूवमेंट होता है। इसलिये मैं चाहता हूँ जितनी हमारी ड्राफ्टिंग है वह हिन्दी में हो। उसका अनुवाद अंग्रेजी में या तमिल और तेलगू में हो सकता है। राष्ट्रभाषा हिन्दी को संविधान में बिठाकर उसको नमस्कार करें और सारा

काम अंग्रेजी में करे यह बड़े दुख की बात है।
यही दो बातें मैं कहना चाहता था।

इक बात मैं और कहना भूल गया।
मेरा निवेदन है कि इमरजेंसी के दौरान जो
प्रणित हुई है उसको बनाये रखने और उसको
आगे बढ़ाने के लिए इमरजेंसी को समाप्त न
किया जाय। मेरा दूसरा सुझाव यह है कि
एलेक्जन्स को एक साल के लिये और टेस्टपोन
कर दिया जाये। घन्यवाद।

SHRI I. H. KHAN (Barpeta): Mr.
Chairman, Sir, I congratulate the
Law Minister for piloting this Con-
stitution Amendment Bill under the
dynamic leadership of our Prime
Minister, Shrimati Indira Gandhi.

Parliament is a sovereign body. It
has got unlimited power in making
laws, amending Constitution. There
is no limit over this sovereign po-
wer. If there is any limitation to the
effect that it cannot alter or amend
laws, then it cannot be a sovereign
body. This is the touch stone of
Sovereignty.

In the U.K. there is a maxim that
British Parliament can do and undo
everything and anything except to
change a man a woman and a wo-
man into a man. But, I do not find
any ground why our Indian Parlia-
ment is so undermined by some of
our friends that it has got no power
to amend the Constitution according
to the need of the time and need of
the people of the State. Our Con-
stitution is flexible in character and
there is sufficient scope for altering
and amending our constitutional
laws.

As regards fundamental duties. I
would like to say that when we
think about our right, we must think
about our duties too. When we de-
fine good we must be conscious about
the evils also. Rights and duties
are inter-related. One implies ano-
ther.

Article 131A has curtailed the
powers of the High Courts. This
will bring about a great change in
the judiciary. It will save the ex-
chequer and the poor man some
amount of money. It will save the
poor man from unnecessary hardship.
It will also save the valuable time
of the court and thereby save the
court people from unnecessary hard-
ship.

There are so many different rul-
ings of High Courts on the same
laws and in the same circumstances.
There are so many interpretations of
the same laws which have complicated
the functioning of High Courts. Some-
times injunctions are issued on very
insignificant matters and on flimsy
grounds which have delayed justice
hampered speedy disposal of cases.

In the last session of Parliament,
when the Minister of Parliamentary
Affairs introduced a Bill to give pen-
sion to MPs, the Marxist leader op-
posed it saying that they represent
the poorer section of the people and
cannot support it. When the 44th
Constitution Amendment Bill was
introduced for the economic eman-
cipation of the people, these
friends walked out and did not sup-
port the Government stand. They
want socialism, but what sort of so-
cialism do they want do not under-
stand it.

Here I am reminded of a story.
One gentleman asked an artist to
paint the picture of a tiger on his
hand. The artist went about the
job and started painting. The gentle-
man asked, 'What are you doing'.
He said 'This is the teeth of the
tiger.' Then he said, 'You leave the
teeth'. Then the artist went in paint-
ing another part of the tiger. The
gentlemen said that he felt paint' and
asked the artist what he was doing.
The artist replied 'This is the claw of
the tiger'. Then he told the artist to
leave it out. Then the artist asked
him, 'What sort of tiger do you want
to be painted?' A tiger without claws,
with no eyes, with no teeth? There
cannot be such a tiger'.

[Shri I. H. Khan]

Our friends opposite cry for socialism. But when Government take steps to destroy capitalism, they cry out. This is very wrong. When Government take steps to destroy bureaucracy, they cry out. So if they want socialism, they must have patience. They must wait for the results.

With these words, I support the Bill.

SHRI D. B. CHANDRA GOWDA (Chikmagalur): I fully support the 44th Constitution Amendment Bill not because I am privileged to be a member of this great national party, the Congress. But I am fully convinced about the intentions and object behind the Bill.

I would say that the Constitution of any nation should give expression to the political philosophy it professes and the economic structure which it wants to adopt to achieve its political goal. Through these 25 years, the people of India have fully accepted and have expressed their acceptance through five consecutive elections the philosophy which the Congress has professed right from the 1930s onwards. Therefore, it is only right that the terms 'secularism' and 'socialism' have found their place in the preamble of the Constitution.

The framers of the Constitution, the founding fathers, rightly thought that the future generation would not accept the Constitution as accepted by them in November 26, 1949 and as inaugurated in 1950, and they would require certain changes to be made. I would say that the incorporation of article 368 in the Constitution itself has solved the entire problem when it makes it clear that the Parliament has the right as part of its constituent power to amend the Constitution. We need not explain in so many terms that we have the right to amend the Constitution, whether it is the Golaknath case or Keshvanand Bharati case where they have enunciated a

new proposition, the basic structure of the Constitution. I should say that it is not within the power and jurisdiction of the Supreme Court to give expression to what is the basic structure of the Constitution. It is within the right and jurisdiction of the constituent power of this House to give expression to what the basic structure of the constitution is. I would go to the extent of saying that that is exactly what we have done under the 44th amendment. If there is anything as basic structure I should say that it is unity in diversity, socialism and secularism, which is the basic structure which should have found a place. It is time that the leadership of the Congress, particularly Prime Minister of India Shrimati Indira Gandhi, Swaran Singh and the Committee members in their knowledge thought it fit to describe and give expression to the basic structure of the Constitution. That is exactly what the 44th amendment, in unequivocal terms, has placed on record, that is, the basic structure of the Constitution. I would not agree with these who had said that there was no basic structure of the Constitution. I do say that the 44th amendment has given expression to the basic structure of the Constitution which the judges of the Supreme Court have advocated in Keshvanand Bharati case. Coming down to fundamental duties, I feel that the rights have no meaning without being tagged on to duties. The light of rights is more visible when we look through duties. So the incorporation of fundamental duties in the present amendment is a welcome feature.

Last but not the least, shrill voices had been raised about converting this House into a constituent assembly or referring the Bill to a Joint Committee. Those who advocate this course are opening the floodgate to anti-national elements, anti-democratic and communal parties, such of the parties who plead or State autonomy and are not prepared to cross the barriers of linguism. Secondly,

people have waited for thirty long years after Independence, more than 25 years, for this historic day; they are not prepared to wait a day longer. I should say that this House in its power and authority as a constituent body has every right to pass; it is the duty of this House to legislate on the 44th amendment.

Thirdly, I should say that this has more representative character than any other which we could think of. So far as this House is concerned, for passing the constitution amendment bills, we require two-thirds majority but in a constituent assembly a simple majority can pass a constitution amendment Bill.

In a Constituent Assembly, any provisions could be included or amended with a simple majority. I would submit that this House has more authority than even the Constituent Assembly to go into the basic features of the Constitution. When compared to the Fundamental Rights, the Directive Principles are the inherent rights of the people and after 24 years of experience we have thought it fit to place the Directive Principles over and above the Fundamental Rights. With these words, I welcome the 44th Constitution Amendment Bill and hope that this House will pass this historic Bill unanimously.

श्री रामजी राम (अकबरपुर) : सभापति महोदय यह बात मूलतः निर्विवाद है कि इस संसद् को धारा 368 और 345 के तहत पूरा अधिकार है कि वह संविधान में संशोधन करें।

सभापति महोदय, मैं आपके माध्यम से एक बात स्पष्ट कहना चाहता हूँ कि अभी तक यह धारणा रही है कि संविधान लब्धप्रतिष्ठित व्यक्तियों को प्रमाणित करता है। इस धारणा को हमारे देश की प्रधान मंत्री ने इस

संशोधन के जरिये से बदला है। इसमें उन लोगों का भी समावेश किया गया है जो सर्वहारा वर्ग के हैं जो ग्रामीण मजदूर हैं। किंतु जो लोग रात दिन कृषक परिश्रम करते हैं उनके परिश्रम के हिसाब से उन्हें साधन मिलें इसका समावेश इसमें नहीं किया गया।

सभापति महोदय, जहाँ प्रस्तावना में समाजवाद, धर्मनिरपेक्षता तत्त्वों को जोड़ा गया है वहाँ चाहिये तो यह था कि जाति विहीन वर्ग विहीन समाज की स्थापना के लिये प्रस्तावना में व्यवस्था होनी चाहिये? जो जाति सूचक और ऊँच नीच की भावना को व्यक्त करने वाले उपनाम हैं इनकी कोई आवश्यकता नहीं है और तभी हम सही रूप से समाजवाद के लक्ष्य की पूर्ति में आगे बढ़ सकते हैं।

सभापति महोदय, शिक्षा को समवर्ती सूची में रखा गया। यह बड़ी खुशी की बात है अभी तक शिक्षा प्राइवेट लोगों के लाभ का साधन बनी हुई थी। पब्लिक स्कूलों में अरिस्टोक्रेसी फैली हुई है उनके होते हुए एक गांव का मजदूर किस तरह से कम्प्यूटेशन में उनके बराबर आ सकता है। हरिजनों अनुसूचित जातियों और अनुसूचित जन जातियों के लिये जब दस साल का संरक्षण प्रदान किया गया तो उसके तरह सभापति महोदय एक पाबंदी उसमें लगा दी गयी। यह पाबंदी धारा 335 में एफिशियेंसी ग्राफ एडमिनिस्ट्रेशन की है। अब 27 साल के बाद जब हम संविधान में संशोधन करने जा रहे हैं तब भी यह नहीं हटाया गई है।

चेयरमैन साहब, मैं सरदार स्वर्ण सिंह से मिला और उन्होंने मुझे इस बात का आश्वासन दिया था कि जब यह संशोधन हो रहा है तो उसमें धारा 335 के ऊपर भी विचार किया जायगा और जो अनावश्यक अंश है उनको

[श्री रामजी राम]

हटाया जायगा। लेकिन अफसोस है कि जो धारा 335 अनुसूचित जातियों और अनुसूचित जनजातियों के संरक्षण देने में बाधक है, नौकरी में उनके लिये जो रिजर्वेशन है, उसमें पूर्ण रूप से बाधक है, उस पर कोई विचार नहीं किया गया। इसलिए निकट भविष्य में जो भी संशोधन उसमें इस बात का समावेश होना चाहिये।

मिलों में काम करने वाले मजदूरों के वास्ते सहस्वामित्व की बात कही जाती है, उनको प्रबन्ध में भागीदार बनाए जाने की बात की जाती है। लेकिन गांवों में काम करने वाला जो सर्वहारा वर्ग है,— ग्रामीण खेत मजदूर हैं जो सीजनल काम करते हैं, साल भर में जिनको करने के लिये दो तीन महीने ही काम मिलता है, मैं पूछना चाहता हूं कि उनके लिये आपने कौन सी पेंशन की व्यवस्था की है; कौन से पेंशन की व्यवस्था है। आज खेती को एक सीमित उद्योग माना गया है। उसमें काम करने वाले जो ग्रामीण मजदूर हैं सर्वहारा वर्ग के लोग हैं जिन की आय के कोई साधन नहीं हैं उनके वास्ते आप बोनस की व्यवस्था करें। यही नहीं उनके बच्चों को मुफ्त तालीम देने की व्यवस्था करें। साथ ही साथ उनके वास्ते नौकरी की गारंटी होनी चाहिये। आय पर कोई सीमा नहीं लगाई है आय के साधनों को बांधा नहीं गया है। यह भी किया जाना चाहिये। लोगों के पास आय के असीमित साधन हैं। एक लड़का डी० सी० भी है, खेती का सो बीघे का उसका फार्म भी चलता है, तिजारत भी उसकी अच्छी होती है और उसके पास इस तरह से आय के असीमित साधन हैं लेकिन दूसरी तरफ ऐसे लोग भी हमारे देश में हैं जिनकी आय के कोई साधन नहीं हैं। समाजवाद और समाजवादी दृष्टिकोण तभी चरितार्थ होगा जब इस तरह की चीजों को संविधान में स्थान दिया जाय और उसमें स्थान दिया जाय जो राष्ट्र के

आगने को प्रतिबिम्बित करता है। आज उस दिशा में हमारी प्रधान मंत्री जी चली हैं संविधान सभा में बाबा साहब अम्बेडकर ने पंडित नेहरू ने जिस तरफ इशारा किया था आज हमारे देश की नेता श्रीमती इंदिरा गांधी उस दिशा में चल पड़ी हैं। निर्भीकतापूर्वक चल पड़ी हैं। मैं चाहता कि जो बुनियादी चीजें हैं खेत मजदूर हैं सर्वहारा वर्ग के लोग हैं उनके वास्ते आय के साधन सुलभ करने के लिये संविधान में कहीं न कहीं आप को समावेश करना चाहिये। साथ ही यह जो धारा 335 है और जो रद्द हो चुकी है इसको आपको इस में से हटा देना चाहिये। सक्रिय और सही कदम आपके उठने चाहिये। इस किस्म की चीजों का समावेश होना चाहिये जिनके तहत जो हम उनको रिजर्वेशन देते हैं वह पूरा हो सके। कब तक आप जो दस साल की अवधि रखी गई थी उसको बढ़ाते चले जायेंगे। हरिजनों को पंगु आप बनाते रहेंगे? अनुसूचित जातियों और अनुसूचित जनजातियों को आप कब तक अपंग बनाते रहेंगे? उनको अपने पैरों पर खड़े होने का आप मौका दें। एक बहुत ही अच्छा अवसर आपको मिला है। आप उनको अपने पैरों पर खड़ा होने में मदद दे सकते हैं। यह तभी हो सकता है जब उनको समानान्तर ले कर चलें। इस तरह से हमारा राष्ट्र भी मजबूत बन सकता है।

इन शब्दों के साथ मैं इस संशोधन विधेयक का हार्दिक स्वागत और समर्थन करता हूं।

SHRI C. K. JAFFER SHARIEF (Kanakapura): Sir, I thank you for giving me this opportunity to associate myself with the passing of this historic Constitution (Forty-fourth Amendment) Bill. The people of this country have elected us with great faith and confidence in us and it is our sacred duty to protect the will and the voice of the people. The will and voice of the people is the supremacy of this Parliament. This will have to be demonstrated by amending the

Constitution. This Parliament has got the inherent right to amend the Constitution and it will have to be preserved. If we want to be true to our people, I suggest that the right to property should go. Article 311 should be dropped. I suggest that all the services should be on contract basis and incentives should be given on the basis of performance. The stability given to this country is by the rural masses. If we have to take the socio-economic programmes to the poor people of this country who have given stability to this country, this amendment is inevitable and it has come at the right time.

I was very keen to participate in this debate for the simple reason that we should feel proud of ourselves that we are Members of this august House today at this historic occasion. We are not only the Members of this august House but also we are the followers of the greatest leader of the world, Smt. Indira Gandhi. I am happy that in this amendment we have thought about fundamental duties also. About duties I am very keen. I would like to say that we should give more importance to family planning. This is an economic programme and this is nothing to do with any community or religion. There should not be any apprehension that this family planning programme is going to be forced on all sections of the people. If there is any excess on any sections of the people by the bureaucracy who are implementing it, that can be taken care of. But this programme should be welcomed and it should be implemented vigorously.

I would like to make one more point and it is with regard to emergency. One year before the emergency was declared, I had made an appeal to the leadership of the country that discipline should be enforced in the country. It is now said that the emergency was declared due to political reasons or for the advantage

of the Congress. It is not so. It was declared in the interest of the people and in the interest of the country. I have recently been to some South-East Asian countries and I was really very happy to know that the Indians living there and the people of these countries are very proud of our country, of our stability, the way we have been able to control inflation and of our economy. These are not ordinary achievements. These are major achievements. I therefore, not only welcome this Bill but I wholeheartedly support the 44th Amendment Bill.

I once again express my thanks for giving me the opportunity to speak on this Bill.

SHRI PAOKAI HAOKIP (Outer Manipur): Mr. Chairman, Sir, I rise to support this Constitution (Amendment) Bill. In this connection, I have no new thing to add because many Members of this House have spoken at length and they have covered almost all the aspects of this amendment. I can only say that this Bill is brought before the House to enable us to guide the nation towards our cherished goal. But it is unfortunate to point out that over the years, the development of hill areas has not been effected in spite of a number of policies and programmes of the Government in this regard.

The reason for this is not far to seek. According to every one of us, one of the reasons responsible for this is the non-incorporation of a certain Directive Principle in the Constitution, for the development of hill regions. Backwardness of the hill areas of the country is essentially the backwardness of the country as a whole. So, though it is late, it is better late than never. It would be most appropriate for the Government to give serious thought to this matter in this Constitution Amendment Bill.

[Shri Paokai Haokip]

Something has to be done in order to develop the hill areas. The hill areas possess a great potential for the development of our economy; and if we lay railway lines, roads and also provide transport and other infra-structures in these areas, these areas can be exploited very usefully. It is high time for us to put a mandatory provision in the Constitution, so that in the next Plan there can be a base for development of the hill areas. Unless we do it without any delay, planning will not be effective.

Apart from the policies and programmes for the hill areas inhabited by tribals and other communities, the other hill areas of the country, viz. those in UP, J&K, Nagaland, Manipur, Arunachal Pradesh and others also need to be developed. Therefore, this matter should very seriously be thought of by the government.

Now about the supremacy of Parliament and its authority to make constitutional changes. There are no two opinions on it. But in this context, I want to be enlightened on one point, viz. on Section 55, amending Article 368 in order to provide the addition of the following:

"(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article (whether before or after the commencement of section 55 of the Constitution (Forty-fourth Amendment) Act, 1976 shall be called in question in any court except ment) Act, 1976 shall be called been made in accordance with the procedure laid down by this article."

My confusion here is this. We accept the principle that the authority of the Indian Parliament cannot be questioned by the Supreme Court. That concept is very clear; but at

the same time, another point is also made. I am not a legal man. I do not understand it.

I want to be enlightened on this. I hope the Law Minister will reply to this point. There is still some powers granted to the court to question what we do. What do we mean by saying "except on the ground that it has not been made in accordance with the provisions laid down by Parliament"? Everything that is passed by Parliament is supposed to be done in accordance with the procedure laid down by Parliament. If that is so, why afterwards we allow the courts to go into this? I hope my confusion will be clarified by the Minister.

23.00 hrs.

In the beginning there were many points on which I wanted clarification. Now I am enlightened by the discussion and the speeches of so many eminent and learned members. Lastly, I would like to say that though all the amendments made by this measure are important, personally I feel the inclusion of education in the Concurrent List is the most important one. One of the main reasons why education could not progress all these years was its non-inclusion in the Union or Concurrent List. Education has the greatest role to play in integrating the people. Without education we cannot progress. Want of education is the greatest barrier between regions. So, this amendment is the most welcome thing, so far as the future progress of the nation is concerned.

I conclude by saying I congratulate the Law Minister and the Prime Minister for bringing forward this measure. I especially thank our beloved Prime Minister for the vision that she has shown in facing the problems confronting the nation by bringing forward this Bill.

सभापति महोदय: कांग्रेस पार्टी ने 63 सदस्यों की सूची दी थी। चार और बोलने वाले थे—87 और इस के अलावा और लोग थे। सब लोगों को बुलाया जा चुका है। अब कोई लिस्ट में नहीं है। अगर कोई माननीय सदस्य बोलना चाहें तो बोलें उन को समय दिया जायगा।

2 घंटे की सलामी बहस और विचार विमर्श के बाद लोक सभा ने यह सिद्ध कर दिया

है कि वह चवालीसवें संविधान संशोधन को कितना महत्वपूर्ण समझती है।

क्योंकि अब कोई सदस्य बोलने के लिये नहीं है इसलिये कल 11 बजे विधि मंत्री बहस का जबाब देंगे।

सदन की बैठक कल 11 बजे तक के लिये स्थगित की जाती है।

23.02 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, October 28, 1976/Kartika 6, 1898 (Saka).