

area after 22 kilometres to regulate fishing. Upto 12 kilometres it is the jurisdiction of the States. That is why we have sent a model Bill to them to enact the law to protect the fishermen and we are taking the follow-up action by convening a meeting of the State Ministers in charge of fisheries and the Central Board of Fisheries. So, we are leaving this matter to the State Governments.

MR. CHAIRMAN : I think the people who are running the State Governments are also reasonable men and certainly they will listen to you and act.

(Interruptions)

AN HON. MEMBER : He has asked for the permission to withdraw the Bill.

MR. CHAIRMAN : I am conscious of it and I am doing the needful.

SHRI B.K. NAIR (Quilon) : What about the assurance of subsidised supply of diesel to mechanised boats ?

(Interruptions)

MR. CHAIRMAN : The hon. Member who has moved the Bill wants to withdraw the Bill.

SHRI R.V. SWAMINATHAN : I want to inform the House and also want to correct my previous statement. Though we have law to punish the foreign Trawlers under some Acts we have no law to confiscate the foreign trawlers. That is what I want to say.

SHRI R.K. MHALGI : Therefore, my word 'shock' was correct.

MR. CHAIRMAN : Instead of arresting some people, putting them behind the prison bars, feeding them for a few months, that will be the most effective punishment.

(Interruptions)

MR. CHAIRMAN : I shall now deal with the amendments.

Shri Bapusaheb Parulekar had moved an amendment. Unfortunately, he is not here in the House. I put his amendment to the vote of the House.

Amendment No. 1 was put and negatived.

MR. CHAIRMAN : Shri R.K. Mhalgi wants to withdraw the Bill.

SHRI R. K. MHALGI : I beg to move for leave to withdraw the the Bill to provide for the protection of country fishing boats from the competition of motor boats and trawlers.

MR. CHAIRMAN : The question is :

"That leave be granted to withdraw the bill to provide for the protection of country fishing boats from the competition of motor boats and trawlers."

The motion was adopted.

SHRI R.K. MHALGI : I withdraw the Bill.

16.17 hrs.

CONSTITUTION (AMENDMENT) BILL

(AMENDMENT OF ARTICLE 15, ETC.)—
Contd.

SHRI BHOGENDRA JHA (Madhubani) : I beg to move :

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

This Bill arises in the background of the experience that we have got since the enforcement of our Consti-

[Shri Bhogendra Jha]

tution and coming into being of our Republic in 1950.

At that time our Constitution took into consideration the social and economic background of our social set-up which had been inherited from the past thousands of years. In the beginning there was no caste division in our society. There was no caste based on birth, in what we characterised *satyug*, *krit yug* and *brahm yug*. At that time there was no birth based on any profession. So, whosoever performed any profession, irrespective of his or her birth was characterised or taken by the society to belong to Brahmin, Kshatriya, Vaishya or Shudra.

There are hundreds of such instances in the vedas and, particularly in the Mahabharata, in some of the Upanishads and, above all, in Hari Vansh. There, it is categorically stated:

पुत्रांगृत्स मदस्यापि शुनकां यस्य शोनकाः

ब्राह्मणः क्षत्रियाश्चैवं वैश्याः शू स्तथैव च।

That *grihasth* had got several descendents, one of them was Shunak, his descendents were called Shaunak and they were Brahmins, Kshatriyas, Vaishyas and Shudras.

एते त्वांगिरसः पुत्रा जाता वैशेधमार्गवे

ब्राह्मणः क्षत्रिया वैश्यस्तयोः पुत्राः सहस्रशः।

In the dynasty of Brigu, the people were called Bhargavas, from there Angirak descendent, people who belonged to Brahmin, Kshatriya, Vaishya and Shudra. But at that time, there was no division of society, between the rich and the poor, between the ruled. As you know, on the basis of one Vanashlok Balmiki and several in the Mahabharata, when Bhishampitama tells Pandavas led by Shri Krishna:

न वै राज्यं न राजसीलं च दंडयोर्न दण्डिकः

धमेनैव प्रजाः सर्वाः रक्षन्तिस्म परस्परम्।

There was neither the ruler nor the ruled, nor any force of State power. The people cooperated with each other and helped each other by nature itself.

So, at that time, the society was divided not between the rich and the poor, but on the basis of duties and the rights performed by them. They were characterised as such.

There are thousands of such instances. For example, we know Ved Vyas, very popularly known as Bhagwan Vyas. His mother was Shudra. He became a great scholar, a compiler of Vedas, a writer of the Brahmsutra Vedanta and of the Purnas. He was characterised not only as a Brahmin but as a Brahman. In the Chhandogiy Upanishad, not an epic, only Sutras are there. There it is narrated that one was Satyakam who went to Gautam. Gautam asked him, what his father's name was. The boy said, he did not know it. He went and asked his mother Jwala. Mother Jwala told him, "In my youth, I lived with many young people, many men. I am not sure from whom you were born. So, I cannot exactly say as to who actually your father is. So, you go and tell your guru Gautam that your mother's name is Jwala and, therefore, your gotra will be Jwala from Jwala." The son went and narrated this very story in those very words to Gautam. Had there been any teacher of our era, he or she would have expelled the boy from the class. But Gautam tells him, "You must be a Brahmin because you have told this truth." So he taught him and Satyakam became a great Brahmin rishi whose *richas* are found in the Rig Veda itself.

That was the social order. But when the society was divided

between the rich and the poor, the class division in society took place, a few people emerged at the top to exploit the toils, the fruits of labour of others which have, according to that social set-up, according to that economic set-up, a new social set-up was born, a new philosophical super-structure was born and, then, caste based on birth emerged which has been a bane to our society.

Sir, I am not going into all aspects of this problem. Though we know that every one in our society is against this system, every one is criticising this system and yet we see that it is flourishing. It is flourishing to the extent that now this caste backwardness does not belong to the villages only. Because of the necessity to defend the capitalist system, this capitalist order, the caste or political life goes from Delhi to the State capitals, district headquarters and then to the villages and so on. The Country is divided on caste lines. This is the tragedy of the situation.

Taking this aspect of the situation into account, the founding-fathers of our Constitution at that time thought of how to minimise the rigours of this class system, how to help the society to develop gradually towards less intolerable system. The Constitution-makers did not go to the basic root of the system which is economic inequality and class exploitation. That is why I say that they tried to slightly modify the system. It was a hesitant step rather a half-hearted step, but a step in the right direction none-the-less.

So, in Article 15 of the Constitution it was given that :

"Nothing in this Article or in Article 2 or Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens

or of the scheduled castes and scheduled tribes."

That is what the Constitution provides and consequential changes were made in Article 335 and again in Article 340 of the Constitution. This had been in force since then and we do find that the educational backwardness, the social backwardness, the course of untouchability and the backward conditions in our society of the scheduled tribes and non-scheduled tribe people have not been eliminated or minimised to any extent or degree.

We all know that this division of India into those who were originally Indians—and by the Britishers they were characterised as aboriginals—the original Indians, who were declared by Veda to be much more advanced, much more civilised than the invading Aryans, and the Aryans.

Mohanjedaro is a proof of the cultural and material development of India and thousands of years of age-old Stupas have been excavated near Baluchistan which now forms part of Pakistan. At that time, the pre-Aryan India was much more developed and much more advanced than when the Aryans came to India and settled here. The Aryans tried to keep themselves separate from the original Indians.

Another tribe developed led by Viswarath, the disciple of Agastya. Viswarath, when he was imprisoned by Ambarishi, another tribe developed. Viswarath decided that there should be inter-mingling and that there should be inter-marriages between the Aryans and the original Indians who were called non-Aryans. So, he himself married. Because of that, a section of the Aryans decried him. But he stuck to it and so he was later called not as Viswarath but only as Viswamitra and his dissidents later were known as Viswamitra. So, in the initial stages of our history, there was a struggle on this land that there should be

[Shri Bhogendra Jha]

inter-mingling of blood and that there should be matrimonial alliances between different races, different colours of people and not only among different Varnas which were prevalent at this time.

I have given the example of Vedavyasa. But there are hundreds of instances. Guru Vashisht himself is known to be the son of a prostitute :

"Vaishya Putro Vashishta"

We find this at several places, because at that time it was dependent upon merit, upon scholarship, upon profession, upon the quality of the individual, and not upon his or her birth. So, these things were there. But, I think, after the enactment of these provisions and coming into force of the Constitution, it seems that progress in this direction is almost non-existent, the progress in the direction of inter-racial marriages is almost non-existent, though it is true that those of us who reside in India at present are not of pure Aryan blood; we are of the mixed blood because of the trend led by Vishwamitra; in that sense we are all *Kalmis*, we are of the mixed blood, of the mixed origin. Even then, marriages or matrimonial alliances between these people and those who are original Indians known as tribals are very rare, almost negligible.

Similarly, a section of our society who refused to be subordinated to the slave system, and later to the feudal system, who revolted against that, who resisted that were characterised as *Sudras*. Society was divided into Brahmins, Kshatriyas and Vaishyas and those who refused to accept subordination, slavery, were called *Sudras*. One important segment of it was characterised as *Dusadhya*, that is, very difficult to control, because they were un-

controllable; now-a-days they are known as *Dusadh*, an important section of Scheduled Castes.

So, those who were the actual tillers of the land, most of them, were characterised as *Sudras*, and later made untouchable. This was not there in the beginning. I do not know if there is, in any part of the world, such a thing in recorded history, text, as we have got with us here. Previously, formerly, the land was uninhabited; there was no settlement, no villages, no towns, people were moving here and there; they lived on fruits, roots, leaves, etc., and also fish and mutton. When that was the social order, many people died because of starvation. There was one individual; for the first time he levelled some portion of land, then he sowed some seeds and grew some corn; he was the first farmer, he was the first person who tilled the land, who produced foodgrains for the first time; his name was Prithu. That is why, after his name, this world is known as *Prithvi*. This is not my interpretation. This is the interpretation given in so many words in *Harivamsh Mahabharat*. At that time, labour was not a taboo; labour was a matter of honour. As I said, the world was named '*Prithvi*' after the name of the first farmer, *Prithu*. Later when the slave society emerged, when the feudal society emerged, when the exploiters emerged, at that stage they decided that those who toiled should be untouchable, those who produced foodgrains should not be allowed to touch the food. They could plough the land; at that stage they are not untouchable; they could do the planting, at that stage they are not untouchable; they could harvest it, at that stage also they are not untouchable; they could thrash it; even then, the paddy does not get polluted.

When the time for eating comes, they should be kept aloof, they should be kept away. That is the caste

exploitation in its cruellest form, in its most terrible form. It is not only the social thing but it is a class thing resting on the economic exploitation of the real producers of wealth, the producers of foodgrains, the *Annadata*. So, this class exploitation got a superstructure in the form of caste system which has perpetuated itself in the social order. This is one of the factors why a big country like India—by 'big country' I mean when Pakistan was also part of it—such a vast country could not defend itself against the minor aggressions from abroad. When I was a child and when I read Indian history, I was perplexed how it could be that when any conqueror came with an army of one lakh or two lakhs men, he could defeat some emperor or King in Delhi and the whole of India lay prostrate before him, what the other people of the country were doing. One Rana Pratap and then Shivaji sometimes fought but what was the rest of the society doing? The reply lies in this pernicious caste system which prescribed that those who toiled, those who had the strength in their arms, those who used the blades and other means of labour, they need not take to sword, they have nothing to do with the defence of the country and they have nothing to do with the *raksha* of the society or the country. They were damned socially and morally and they were kept aloof and the defence of the country was put in the hands of the few. Some of them excelled themselves as Amarsingh, Kumar Singh, Shivaji and others but the rest of them bowed their heads before any conqueror or invader.

So, this is the bane of our social order which has been persisting for some thousands of years. Our Constitution prescribes something hesitatingly, without touching the economic and even the social division and that is why the result has not been as desired by most of us and by many of us.

So, what I want to submit is this. I personally know that as long as the land relationship persists as it is today, as long as the share in the land, in the unearned income of the land, the traditional hereditary land is there, the caste system is bound to prevail, it is bound to exist and it is not going to be eliminated. Because now-a-days we find medical students, the engineering students—they have no thread—what is called the sacred thread. They are without the thread for more than a decade. When some trouble arise, with knives and spears they attack other people in the name of the thread. When I inquired, 'Where is your thread?', they shrugged their heads saying, 'That is not there'. So, this is the modern caste, where the caste travels from Delhi, the new leaders of groupings, Prime Ministers, ex-Prime Ministers, would be Prime Ministers—their caste character is romped about this village and that village. I am not talking of any one individual. This caste is now transferred from Delhi to the villages. That is the new reality and an unfortunate reality. In such a situation, this Bill is brought. Sir, this Bill is not concerned with all aspects of the problem. The Bill I have moved is very limited in its scope but it tries to take the State one step forward in the same direction. Article 15(1) says:

"Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancements of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes."

Here I want to add 'and economically also.' In our society, in our country, recently there has been sharp polemic on this issue—whether there can be reservations, there should be preferences on the basis of caste or economic consideration—either or not. This has been the barricade dividing

[Shri Bhogendra Jha]

our society and our political life for the last few years in a very serious form, particularly, in most parts of northern India. But this 'either or or' will not do because, as I have stated, the caste division itself is historically based on class exploitation. That is the root cause and the basis of the caste superstructure. So, sir, where it is written socially and educationally I want to add 'and economically also.' Sir, the social and educational backwardness must remain a criterion for the present for reservation and for giving special impetus to the people but economic backwardness must also be included as one of the criteria. So, it should social, educational and economic. I hope the Members of this House will take this into account while discussing this Bill.

I would like to submit another thing. Where in Article 15 there is mention 'for scheduled castes and scheduled tribes' I want to add 'or for those having entered into inter-caste matrimonial relationship or their offspring'. I mean those of the people who are from non-scheduled caste and non-scheduled tribes section if they enter into matrimonial alliance then their offsprings should also get some impetus and encouragement in the form of reservation etc. so that our social set-up becomes mobile and does not remain static. There should be some impetus for this mobility, for inter-mingling on social lines and inter-mingling on racial lines also.

Sir, there is another Section 335. This is also a consequential amendment on those very lines. Where the present Article reads 'the claims of the members of the scheduled castes and scheduled tribes' I want to add 'and of those having entered into matrimonial relationship with any member of the scheduled castes and scheduled tribes and the offsprings of such marriages.' Further this Article says 'shall be taken

into consideration, consistently with the maintenance of efficiency of administration. etc. etc.

Again in Article 340 there is a consequential amendment of mine. Where it is written socially and educationally backward classes I want it to be amended as 'socially, educationally and economically backward classes'. Sir, as I have already stated since the coming into being of our Constitution and despite our reservations we have not been able to do social justice to the oppressed.

MR. CHAIRMAN: Please conclude.

SHRI BHOGENDRA JHA: In all the censuses of 1951, 1961 and 1971 the ratio of the scheduled castes has remained the same. There has been no inter-mingling and if there has been the society has not taken cognizance of that. Law has not taken cognizance of that.

Sir, I myself got some inter-caste marriages brought about but later on I found that from both sides they were decried as unsocial elements. That is the tragedy of the situation. It is only an enabling amendment. So, I hope, the House will take into consideration the points put forward by me and I will appeal to the Law Minister and others who are here that they should give due consideration and Government should support my Bill so that it becomes part of our Constitution.

MR. CHAIRMAN: Motion moved:

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

Mr. Daga are you moving your amendment ?

SHRI MOOL CHAND DAGA
(Pali): Yes.

I beg to move :

"That the Bill be circulated for the purpose of eliciting opinion thereon by 30 June, 1981." (1)

श्री अटल बिहारी वाजपेयी (नई दिल्ली)
सभापति जी, मैं विधेयक का समर्थन करता हूँ।

श्री० मधु बडवत (राजापुर) :
मैं भी इस विधेयक का समर्थन करता हूँ।

श्री मूलचन्द डागा : सभापति जी, मैं हृदय से तथा मन से इस विधेयक का समर्थन करता हूँ। अगर जाति प्रथा को मिटाना है, जाति प्रथा को खत्म करना है तो उसका एक ही तरीका है कि अन्तर्जातीय विवाह शुरू हो जायें। श्री भोगेन्द्र झा ने यहां पर जो बिल पेश किया है उसके लिए वे धन्यवाद के पात्र हैं। आज हमारे समाज में जो जाति की दीवार खड़ी है उसके कारण झगड़े-फसाद होते हैं। यह साम्प्रदायिक झगड़े भी इस प्रकार से समाप्त हो जायेंगे और यह एक बहुत बड़ा फायदा समाज को पहुंचेगा।

श्री साहब ने अपने बिल में एकोनामिकली बैकवर्ड को रखने की बात कही है। समाजवाद का यह खुला सिद्धान्त है कि सोशली बैकवर्ड ही नहीं, जो एकोनामिकली बैकवर्ड हैं उनको भी प्रोत्साहन मिलना चाहिए। आज जो शोषण और दमन पर टिका हुआ हमारा समाज है उसमें शोषित लोगों को शोषण मुक्त करने के लिये उन्होंने बड़ा अच्छा सिद्धान्त प्रतिपादित किया है। मैं चाहूँगा

इसका सारी जगह प्रचार किया जाए। इस बहस का यहां पर ला मिनिस्टर या होम मिनिस्टर जो भी जवाब दें, मैं चाहूँगा वे अपने लड़के को अन्तर्जातीय विवाह में मदद देने की बात कहें।

दूसरे जहां तक कल्याणकारी राज्य की स्थापना की बात है, समाज को सारी विषमताओं से मुक्त करके ही लोकतांत्रिक कल्याणकारी राज्य की स्थापना की जा सकती है। इस के विस्तार के लिए हमारा यह परम कर्तव्य है कि हम इस काम को करें। इसलिए जिन्होंने इस बिल को पेश किया है, वे धन्यवाद के पात्र हैं और मैं चाहता हूँ कि इसका प्रसार हो जाए तो इस पर ओपीनियन आ जाएगा। तो मैं फिर इस पर चर्चा करूँगा। इस बिल का मैं समर्थन करता हूँ।

सभापति महोदय : आपने तो बिल को हवा खिलाने का प्रस्ताव किया था।

श्री मूलचन्द डागा : सारी जनता में यह बात फैले। उन्होंने संविधान के जो पंडित हैं, संविधान के उन पंडितों को चैलेंज किया है कि मेहर-बानी करके, खास तौर से लां मिनिस्टर से, कि आप अपने संविधान में परिवर्तन कर दो। यहां पर लां मिनिस्टर मौजूद हैं और होम मिनिस्टर भी मौजूद हैं, वे तो पिछड़ी जातियों की रक्षा कर रहे हैं और इसका काम है संविधान में परिवर्तन करने का, इसलिए अच्छा मौका है कि दोनों मिनिस्टर यहां पर मौजूद हैं। पिछड़ी जातियों और आर्थिक रूप से जो पिछड़े हुए लोग हैं, उनको बढ़ावा देने के लिए यह अच्छा मौका है और उन्होंने बड़े सुन्दर शब्दों में इसका विवेचन किया है। इतना ज्ञान तो शायद मेरे में भी नहीं है। इस पर जो बहस की बातें कही हैं, ये तो आप ही समझ सकते हैं, क्योंकि आप बड़े पंडित हैं। मैं इसका हार्दिक समर्थन करता हूँ।

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI P. SHIV SHANKAR) : Mr. Chairman, Sir,

MR. CHAIRMAN: I think, on this Bill, only those members who are married or who have issues have the right to speak.

SHRI P. SHIV SHANKAR: Then why did you permit Mr. Vajpayee ?

SHRI ATAL BIHARI VAJ-PAYEE: I spoke only one sentence and I sat down.

MR. CHAIRMAN: If I were in your position I would not have spoken anything.

Now, the hon. Minister. Please continue.

SHRI P. SHIV SHANKAR: Sir, this Bill seeks to make amendments to three Articles of the Constitution of India. The first one is Article 15(4). You may kindly recall that Article 15(4) was introduced by virtue of the First Amendment of the Constitution. This matter came up before the Madras High Court in the Champakam-Dorairajancase and later the Supreme Court struck down the Government order which gave reservations to the backward classes. What was argued before the Supreme Court was this. Article 46 of the Constitution makes a definite provision for safeguarding the interests of the socially and economically backward classes and the scheduled castes and it was because of this Directive Principle that the Government order was issued. But the High Court and the Supreme Court felt the Directive Principles are not justiciable and they are not enforceable in a Court of Law and therefore, for want of provision, the Government order was set at naught. It is to get over this difficulty that in the First Amendment to the Consti-

tution, Article 15(4) was introduced. The Mover of the amendment who has gone down in history as one of our best Constitutional experts, Dr. Ambedkar, expressed the view that this Amendment was being brought in order to safeguard the interests of those classes which historically had suffered under the burden of society. It is with this concept that he propounded the theory of socially and educationally backward classes. Now, it is no doubt true that the concept that was originally thought of was merely socially and educationally backward classes. Now, it is well settled by the various judgements of the Supreme Court particularly what is called Balaji case decided by the Supreme Court at the end of 1962 that the caste is also a relevant factor for the purposes of determining a class.

Now, one fact that stands confirmed in the Indian society is the recognition of the caste. Notwithstanding the fact that our leaders from time to time had been taking up the issue of a caste-less society unfortunately we have not reached that stage. Well, personally speaking for myself, I am very much in favour of a class-less and caste-less society both but this is an ideal which is yet to be achieved. One is faced with a situation where one has to take a pragmatic approach in these matters and situated as we are, we confronted with the problem of caste and their social and educational backwardness.

16.58 hrs.

[SHRI CHINTAMANI PANIGRAHI in the Chair]

Sir, I may bring to your notice that as it was very rightly said even yesterday that it is hardly in nine States of the country where an enumeration based on social and educational backwardness of the classes

has been completed. Of course, this has been subjected to a rigorous test by the various courts from time to time and notwithstanding the fact that this particular clause was introduced by the very first amendment still there are many States where the backward classes have not at all been enumerated and in the nine States where backward classes have been enumerated this enumeration is of a very recent origin. Therefore, what I am now more concerned is that this amendment which was brought in to ameliorate the conditions of the socially and educationally backward classes has not satisfied the ends that were thought of by the propounders of this amendment.

Now, what has been sought to be introduced is the concept of economic backwardness. Sir, as I said we have not reached the ideal stage so far and it is possible when the society reaches a particular stage perhaps one will have to think and I am firmly of this opinion that even among the socially and educationally backward classes the first stage should be the economic criteria.

17.00 hrs.

So that even among those classes, really backward people start getting the benefit instead of only those that are at the upper strata getting all the benefits and the benefits not seeping down to the people at the lower level. Perhaps, that will have to be the first stage. As I said, this particular Article was originally in my view in the shape of Article 46 and I personally feel that without this amendment also, the courts could have upheld the principle contained in Article 46 because that was the objective which the Constitution makers wanted to achieve. But once that was declared *non est.*, necessarily this amendment was brought in. As I said,

this has a historical background. If you permit me to say, I will recall to the House a particular part of the speech of Pandit Jawaharlal Nehru rendered on the midnight of 14th and 15th August, 1947; addressing the Constituent Assembly he said that long ago we had tryst with destiny and the time has come to redeem the pledges that we made to the nation. These pledges were made from time to time to ameliorate the conditions of the people, and one of the pledges in my submission is the pledge of social justice. In order to ameliorate the conditions of the weaker sections, this is one of the pledges leading to the principle of social justice which is adumbrated as one of the main objectives in the preamble of the Constitution. This very objective is sought to be achieved by introducing Article 15(4). Because of the historical background, when this amendment has been brought in, I would very much wish that at least people who are really socially and educationally backward, must get the proper benefits. And after the society comes to a stage where there is a feeling that these benefits are, more or less, sufficient for this segment of the society, which has been reeling under the burdens of poverty, squalor and hunger for centuries, perhaps then one could think in terms of putting a hedge, as I said, making two sections in this class itself, where the economic concept would be introduced among the socially and educationally backward classes. Then, perhaps one could think of the other concept of backwardness at a later stage, but this is not the time to think of that.

I, for one, am of the view that as on today as the Constitution exists, if we have not been able to subserve the interests that are engrained in this clause, merely by introducing the other provisions or by giving a directions to a different concept you are not really subserving the interest of the society; you would

[Shri P. Shiv Shankar]

be creating a complication and a commotion in that society which society is not in a position to accept this amendment. And this chunk of the society is a large chunk and if you permit me to say, it is in any case not less than 60 to 65 per cent of the population. Unless we ameliorate the condition of these people, I do not think, it would be well advised to introduce the concept of economic backwardness alone and create complications and create further dissatisfaction in this large segment of the society.

While I concede that certain concept could be ideal, but this ideal concept will have to be judged in the conditions that prevail. I for one would like to commend to the House that it is not time that we conceive of this concept at this stage, this might be considered as an ideal concept—and it is from this point of view I would request the mover of the Bill to consider and withdraw the amendment that he proposes.

Sir, the later part of Clause 4 of Article 15, by an amendment which is sought to be added, the concept of inter-caste matrimonial relations or their off-springs, is against a very wide concept. Inter-caste matrimonial relationships or their off-springs is an expression in my submission of a very wide connotation. Inter-caste marriage could also be a marriage within the two different communities having faith in the same religion. And supposing if the two castes which are already upper castes and if inter-marriage takes place in these two castes, and if you would like to bring in the concept of sub-article 4 of Article 15 to the benefit of such people, I regret that it would be a matter of very wide amplitude.

Even assuming for a moment the amendment only confines itself to the marriages of an upper caste man with the Scheduled Caste, even

there I do not know whether in the case of Scheduled caste man marrying a girl from the other caste, the concept need not be introduced because he himself and his off-springs are automatically taken to be the Members of the Scheduled castes and as the provision stands today they take care of them.

But the difficulty arises where a man belongs to an upper caste and the girl belongs to a Scheduled Caste. If this amendment is sought to help only this type of cases, I do not think again would be doing a justice, because ultimately it is the male dominated society; and the fact remains notwithstanding the great compliment that I can give to Professor Sahib:

PROF. MADHU DANDAVATE: But the Government is not that way.....

SHRI P. SHIV SHANKAR: Society I am saying. Government has got to work for the furtherance of the benefit of society tomorrow. I am saying of the society that is constituted today. And looking from this point of view if the man has already advantages, merely because he happens to marry the girl from the Scheduled Caste, it is a big question mark where we should effect the concept of socially and educationally backward classes and try to bring in this concept also within the peripheral approaches of the concept of socially and educationally backward classes. It is possible the gentleman may be very forward and socially and educationally much more advanced. After all, when we consider the social and educational backwardness of that person or his family merely because he gets married, he does not become socially and educationally backward. It is purely from this point of view that I don't think that this part of the amendment is such which should be accepted at this stage. I cannot

say; may be that once, as I said, the concepts of the society and the socio-economic convulsions that this country is taking, take a turn where it becomes necessary for us to introduce the other social and economic concepts, perhaps at that moment somebody can take it up. But I submit that this is an inopportune time for the purpose of taking up this amendment.

On the same grounds, I would like to oppose the amendment to Article 335. There also, the concept of matrimonial relationships with any member of the SC and ST and the off-springs of such marriages, is sought to be introduced. As I have said, merely because a man marries a Scheduled Caste lady, that does not mean that he becomes a person, as though belonging to the SC or ST, as the case may be, in order to achieve the benefits which are provided in the various provisions of the Constitution. As I said, our society undoubtedly is a caste-based society, and there is no provision, in law, as on to-day where under merely by virtue of the marriage a person converts his own caste to a different caste. As on today, a man retains his own caste even if he has married a person belonging to SC or ST. If this be the position, I am not in a position to understand how we bring in the concept of Article 335 for the consideration of employment opportunities.

The last is with reference to the enumeration of the socially and educationally backward classes. Hon. Members are aware that under Article 340, the President has the power to appoint a commission for enumerating the socially and educationally backward classes. This drill was undertaken some time back in 1955 when the Kaka Kalelkar commission was appointed. Notwithstanding the report of that commission, it was decided by the Central Government that the matter should be left

to the realm of the States, so that the States may themselves take it up; and the House is aware that some of the States did appoint the Commissions. Those Commissions went into the problems of the socially and educationally backward classes in those States. They went into the details as to the criteria for enumerating a particular class as a socially and educationally backward class. After obtaining the requisite data—educational and otherwise—they decided as to which particular class could be enumerated as a socially and educationally backward class. And, as I said, even in a State like that of mine viz Andhra Pradesh, this matter could be resolved only sometime in 1970 because in every State—I must bring this to the notice of the House—i.e. wherever the list of socially and educationally backward classes was prepared, it was subjected to the rigour of scrutiny of court; and it is only in recent times that the courts have upheld those lists. And those socially and educationally backward classes have started getting the benefits. So far as the Centre is concerned, there is no such enumeration so far, except that the previous Government had appointed the Mandal Commission; and they have submitted their report in December 1980. That report is under the scrutiny of the central Government. Therefore, so far as the Central services are concerned, there are no socially and educationally backward classes, enumerated backward classes who have been given the benefits as envisaged either under Article 14 of the Constitution or 16 of the Constitution which deals with equal opportunity for employment. There is none of that type. But some States, as it was very rightly said yesterday, in 9 States socially and educationally backward classes have been enumerated and some benefits are flowing to them for the reservation of seats in educational institutions or for a little bit of scholarships for the off-springs of these classes or in the services they are getting a little reservation. So, as I said, to bring in again

[Shri P. Shiv Shanker]

the concept of economically backward classes. I would rather say that Article 340 is still born in the sense that it has not been brought into force at all. There are no enumerated socially and educationally backward classes. If this is the state of affairs, to bring in the concept of economically backward classes into it and again going through the drill of enumerating the backward classes, I do not know whether it will take a quarter of a century or more or whether it would only be brought into practice. I would rather put it this way. The same arguments that I have advanced with reference to the other two articles, namely, these, I consider to be not an opportune time for bringing in the concept of economically backward classes and injuring the feeling of a large segment of the society which the Indian society has recognised to be a society which has undergone suffering from centuries. Therefore, let those who have suffered claim a little priority by virtue of the constitutional provision which our founding fathers so assiduously fought that they should be extended to them. It is perhaps at an opportune time that these issues could be taken up; and in my submission, this would be a premature approach to consider these amendments at this stage; and I am confident that the mover of the Bill would kindly consider it proper to withdraw the Bill having regard to the explanations that I have tried to give.

These are realities of life which we are facing. Emotional problems have got to be tackled in a different form; mere emotional approaches do not solve problems; we are concerned with the realistic problems. I would request the hon. member to coolly ponder over it and withdraw the Bill. I shall be grateful if he withdraws this Bill so that we could consider these aspects at a later stage when the society has taken a little proper convulsion.

MR. CHAIRMAN: Mr. Bhogendra Jha, would you like to reply?

SHRI BHOGENDRA JHA: I am disappointed to find that the major part of the speech of the hon. Minister has gone off the mark. He has replied on the lines on which the debate in the country has been going on for long; whether the criterion should be social and educational or economic. Here the question is not 'either of' here the question is 'and'; and I am afraid, he did not take into cognisance this aspect though he tried to touch this point. But perhaps he was afraid of it.

Recently, during the last two years, in Bihar, the Government led by Shri Karpooori Thakur tried to have a Bill for reservation of the backward classes as under the constitution. I individually we as a party, and I think almost all the political parties of the State supported that. But then the opposition came from those who were in the category of socially and educationally backward and the economically backward among those classes. Their grouse was that the upper class in the so-called backward classes were not only dominating but taking away the entire lion's share. (Interruption). So, the State Government had to put a criterion, again unanimously adopted in the Assembly, that those who have a family which has got an income of Rs. 500 and above shall not come in this category. Among those so-called backward classes which are more than 125 in Bihar enumerated in accordance with the provisions that the Minister has stated 89 in Schedule II and about 13 in Schedule I, it was decided that out of the 26% reservation--all below Rs. 500 per month income from any source, agriculture, trade, service or anything all within that limit 3% was for women, 3% for those belonging to the so-called non-backward class, 12% to those belonging to Schedule I of the backward classes and 8% to those belonging to Schedule II of the backward classes, about 30 who were

less backward than other but all within Rs. 500 monthly income limit that had to be done and that was passed unanimously. I as an individual not only had to support it from outside but write books and pamphlets, fight with the people and go among the people when many people had not the courage to go among them. So, what I have said is this is again perpetuating and creating *status quoism*—the way our caste system has been created. What I appeal here, what I seek to introduce by the matrimonial section, is to make our social system mobile on the social lines, bring in mobility here. This is not a new thing. Those who have read Manusmriti know how the four Varnas got transferred into 2500 classes. There it is mentioned that if a daughter of a *brahmin* gets married to a *kshatriya* male, the offspring will belong to a fifth class. If the daughter of a *brahmin* is married to a *Vaishya* male the offspring will belong to a sixth class. If she is married to a *sudra*, the offspring will belong to a seventh class. If the daughter of a *kshatriya* is married to a *brahmin*, the offspring will belong to an eighth class and so on. Like that it has come to 2500 classes now. When the Britishers for the first time went about what did they find? After all, how did it become 2500? One among the scheduled caste is not prepared to touch the water given by another person from the scheduled caste. That is the reality. Against this, we have been fighting throughout our life. The Minister may not be knowing it. In 1940, I was declared an outcaste without taking any meal, because I had given 3 years time to our Pandit and 6 months were there. In Gandhiji's satyagraha training camp, people were there and they performed the rituals. When the outcasting began, all of them denied that they had taken their meal. So, I had to take up the cudgels and I was declared an outcaste without being an individual satyagrahi because I was a communist at that time also. So, society has to be fought and it has to be resisted, wherever

vested interest is there. most of those castes are perpetuating it and they are monopolising those things. So, the question is not 'either' or 'but' and economically backward. It should also become the criterion. This is born out of the experience we have got in Bihar and how we can fight it. It may be known that Minister's party took advantage of it the other way by mobilising—the so-called upper class people against this reservation. That is the tragic side of the situation, which the Minister must be knowing.

So, I think that this Bill is not inopportune. After our experience since 1950, on the basis of that experience, for maintaining whatever we have sought to achieve and at the same time accelerating the pace and giving a new impetus to it, to bring about some mobility in our social order, I have sought to move this Bill.

Mr. Moolchand Daga has moved an amendment. I can understand that it is not easy for the Minister to accept off hand any amendment of this character. I will request the Minister to accept that amendment. I personally accept that amendment and I do not see any reason to withdraw my Bill.

MR. CHAIRMAN: Mr. Daga, are you withdrawing your amendment?

SHRI MOOL CHAND DAGA: I want a classless society, but looking to the way in which the Law Minister has replied, I withdraw my amendment.

MR. CHAIRMAN: Has he the leave of the House to withdraw his amendment?

SOME HON. MEMBERS: Yes.

Amendment No. 1 was, by leave withdrawn.

MR. CHAIRMAN: The question is:

"That leave be granted to Shri Bhogendra Jha to withdraw

SHRI BHOGENDRA JHA: No, Sir; I have not sought leave to withdraw my Bill. I said, I accepted Mr. Daga's amendment, but he has withdrawn. I have not sought leave to withdraw my Bill.

MR. CHAIRMAN: Then I will have to put the consideration, motion to the House. This being a Constitution (Amendment) Bill, there has to be a division. Let the lobbies be cleared.

Now the lobbies are cleared. The question is:

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

The Lok Sabha divided.

Division No. 7] [17.33 hrs.

AYES

Dandavate, Prof. Madhu
*Sultanpuri, Shri Krishan Dutt
Vajpayee, Shri Atal Bihari

NOES

Ahmad, Shri Mohammad Asrar
Bairwa, Shri Banwari Lal
Baleshwar Ram, Shri
Bansi Lal, Shri
Bhagat, Shri H. K. L.
Bhoi, Dr. Krupasindhu
Chavan, Shri S. B.

Dabhi, Shri Ajitsinh
Daga, Shri Mool Chand
Dalbir Singh, Shri
Dennis, Shri N.
Dogra, Shri G. L.
Gehlot, Shri Ashok
Gireraj Singh, Shri
Gowda, Shri H. N. Nanje
*Jha, Shri Bhogendra
Jitendra Prasad, Shri
Karma, Shri Laxman
Kulandaivelu, Dr. V.
Mallikarjun, Shri
Mani, Shri K. B. S.
Mohanty, Shri Brajamohan
Murugian, Shri S.
Muttamwar, Shri Vilas
Nagaratnam, Shri
Naikar, Shri D. K.
Nair, Shri B. K.
Panday, Shri Kedar
Pandey, Shri Krishna Chandra
Parashar, Prof. Narain Chand
Pardhi, Shri Keshao Rao
Patil, Shri A. T.
Patil, Shri Shankarrao
Poojary, Shri Janardhana
Prasan Kumar, Shri S. N.
Ramamurthy, Shri K.
Ranga, Prof. N. G.
Rao, Shri M. S. Sanjeevi
Rathod, Shri Uttam
Reddy, Shri K. Obul
Reddy, Shri P. Venkata
Sathe, Shri Vasant
Sharma, Shri Nawal Kishore
Shiv Shankar, Shri P.
Sinha, Shrimati Ramdulari
Tewary, Prof. K. K.
Thungon, Shri P. K.
Venkataraman, Shri R.

*Wrongly voted for AYES.

*Wrongly voted for NOES.

Venkatasubbaiah, Shri P.
Verma, Shri Raghunath Singh
Verma, Shrimati Usha
Yadav, Shri Ram Singh

cidental thereto, be taken into consideration."

MR. CHAIRMAN: Subject to correction the result *of the Division is as follows : Ayes : 3 ; Noes 52

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

The motion was negatived.

SHRI UTTAM RATHOD: Before we take up the next item may I make a request ? Four bills are being taken up today. Mr. Mhalgi was given 2 hours but he had taken 2 hours and 45 minutes. Now my request is that Prof. Dandavate be given half-an-hour and I be given five minutes only.

MR. CHAIRMAN ; Two hours are allotted for this Bill.

17.31 hrs.

BLIND PERSONS (EMPLOYMENT) BILL

PROF. MADHU DANDAVATE^{*}
(Rajapur) : I beg to move :

"That the Bill to provide for employment to blind persons and for matters connected therewith or in-

Sir, it is a great augury that I am moving this Bill for consideration in the year 1981 which has been declared all over the world as the International year of the Disabled.

Sir, the entire world picture today is that in the entire world there are 30 million people who are blind. To our shock and surprise, out of 30 million blind persons in the world, the blind persons in India happened to be 10 million. That is only next to Egypt. This is the position of population of blind persons in our country. Therefore, I want to move for the consideration of the House this Bill, which strives to give some opportunities to the disabled like the blind persons in the country, and I have not the least doubt that even the Government is sympathetic towards the blind. Already some negotiations have taken place and, in the spirit of the negotiations that have taken place with the representatives of the National Federation of the Blind, I am sure the Minister concerned will not find any difficulty in accepting the Bill, which I have already placed before the House for its consideration.

As far as the blind in the country are concerned, who number ten million, though they have total darkness all around, I do not want them to have darkness in their life at least in job opportunities. It has been the medical and psychological experience that as far as the disabled persons are concerned when they are disabled with respect to one particular human faculty, their other human faculties are sharpened

*The following Members also re-recorded their votes.

AYES: Shri Bhopendra Jha.

NOES: Shri Krishan Dutt Sultanpuri and Shri Sontosh Mohan Dev.

*Moved with the recommendation of the President.