

आगे संशोधन करने वाले विधेयक को पेश करने की अनुमति दी जाए।

MR. DEPUTY-SPEAKER : The question is :

"That leave be granted to introduce a Bill further to amend the Constitution of India."

The motion was adopted.

श्री मोक्ष प्रकाश त्यागी : मैं विधेयक पेश करता हूँ।

16.34 hrs.

CONSTITUTION (AMENDMENT) BILL

(Omission of article 314) by Shri

Madhu Limaye—Contd.

MR. DEPUTY-SPEAKER : The House will now take up further consideration of the motion of Shri Madhu Limaye :

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

We have already started the discussion. Shri Madhu Limaye has taken one minute. He may continue his speech.

SHRI N. K. P. SALVE (B:tl) : I rise on a point of order. My point of order is that we cannot proceed ahead with this Bill. This Bill takes us into an area entry into which requires President's recommendation under Article 117 read with Article 110 of the Constitution. I wish to make it absolutely clear that I consider the measure proposed in the Bill as extremely salutary and very desirable. We should get rid of the privileges of this un-Indian Indian Civil Service which are sought to be done away with by this Bill. I have absolutely nothing against the Bill. Since I considered the measure very salutary,

I too consider it very necessary for us to make sure that we are not guilty of any technical laps which might bring about invalidation of the Act itself.

This Bill seeks deletion of Article 314 of the Constitution.

Inter-alia, Sir, Article 314 of the Constitution provides as follows. I quote :

"Except as otherwise expressly provided by this Constitution, every person who having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India continues on and after the commencement of this Constitution to serve under the Government of India or of a State shall be entitled to receive from the Government of India and the Government of the State, which he is from time to time serving, the same conditions of service as respects remuneration, leave and pension, etc. etc."

This Article guarantees continuation of the same service conditions to the I. C. S. Officers notwithstanding the transfer of power from the British to the Indian hands. The crucial words under consideration, I submit, are 'the same rights as respects remuneration, leave and pension'. These have to be considered. The term 'remuneration' has been the subject matter of interpretation by the Supreme Court in the case of Accountant General, Bihar *versus* N. Bakshi reported in A. I. R. 1962, Supreme Court 505. In that judgment, the Supreme Court, while dealing with the term 'remuneration' have stated that the term 'remuneration' is of the largest amplitude and is of the widest connotation. I would, with your permission, read only the relevant portion of the placitum. The expression 'remuneration' in Article 314 is not used in any limited sense as merely salary. If a person was in receipt of a payment, or receipt of a percentage, or any kind of payment annually, it would be termed remuneration.

[Shri N. K. P. Salve]

The expression 'remuneration' has been used in the Constitution in this wide connotation. The right to passage benefits was statutory and was under the Indian Independence Act in the nature of allowance or in any event a privilege or facility paid in kind. It was expressly made part of the remuneration earned by the Members of the Indian Civil Service. The conditions of Service as to remuneration having been guaranteed, the right to this benefit remained guaranteed to those Members of the Indian Civil Service who were entitled to it before the Constitution. This guarantee which was continued in force even after the commencement of the Constitution was for the first time, by the All-India Service Rules, made in June 1957 by retrospective amendment of the said statutory rules from July 1956 sought to be cancelled. But the Central Government, in exercise of the rule-making power was incompetent to destroy or cancel the constitutional guarantee.

It follows therefore that rule 3 of the All India Services (Overseas Pay, Passage and Leave Salary) Rules 1957 is *ultra vires* having regard to the guarantee contained in Art. 314 of the Constitution.

It follows clearly from this that term remuneration in article 314 involves various pecuniary and financial rights of the Indian Civil Service Officers. It is not merely confined to salary but the aggregate—the totality—of the various financial benefits. These financial benefits are to be considered as remuneration. If this is the correct view of the matter, then it follows that Art. 314 guaranteeing remuneration to the I. C. S. officers has clearly gone into the realm of financial obligations which have been undertaken by the Government.

Then, Sir, we may refer to Act. 117.
...(व्यवधान).....

श्री मधु लिमये (मुंबई) : मैं इनसे कह रहा था कि जायुंमेंट बढ़िया जायेगा, आप जरा सुनिए। I am only complimenting him.
(Interruption)

MR. DEPUTY-SPEAKER : Order please.

SHRI NAMBIAR (Tiruchirappalli) : Sir, the point of order cannot be so long.

SHRI N. K. P. SALVE : It has to be enough to react this hon. Members.

MR. DEPUTY-SPEAKER : It is not merely a point of order. But his submission is that this House does not have the legislative competence to discuss the Bill.

SHRI N.K.P. SALVE : without the recommendation of the President. If Shri Madhu Limaye bears with me I shall try to convince him Article 117 reads to say. The Bill for amendment making provisions for any of the matters specified in sub-clauses (a) to (g) in clause (1) of Article 110 shall not be introduced or moved except on the recommendation of the President. The Bill making such provisions shall not be introduced in the Council of State etc., etc.

Now, Sir what do clauses (a) to (g) contemplated in Art. 110 ? For the purposes of this Chapter.

"A Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters"—I shall forget (a) and go to (b)—

"the regulation of the borrowing of money or the giving of any guarantee by the Government of India or the amendment of the law with respect to any *financial obligations* undertaken or to be undertaken by the Government of India".

Clause (g) which is the residuary clause says :

"any matter incidental to any of the matters specified in sub-clauses (a) to (f)".

The position is that 's that of Art. 117 in terms states that as long as a bill deals with—not the impact, not the effect—but its subject matters as such has any nexus with

the financial obligations undertaken by Government, recommendation of the President is necessary.

SHRI S. KUNDU (Balsore) : What about (d) ?

SHRI N. K. P. SALVE : I am going on clauses (b) and (g) primarily. This is implicit in Shri Madhu Limaye's brilliantly drafted statement of objects and reasons which says :

"In a society wedded to the democratic ideals of equality and social justice, special privileges and vested rights, no matter whether of ex-rulers, bureaucrats, capitalists or Ministers have no place"—

The last two are out of place here —

"The guarantees given in art. 314 were as much the product of the essential conservatism of the then dominant leadership of the national movement as of the political compulsions characteristic of the transition from the imperialist domination to complete independence".

Therefore, article 314 carries certain financial obligations is implicit Shri Limaye's argument.

Two eminent commentators on the Constitution, Basu and Seervai, support my point. Basu in p. 177, 4th ed. says :

"A financial bill of the first class, that is to say, a Bill which contains any of the matters specified in art. 110 but does not exclusively deal with such matters has two features in common with a Money Bill, that it cannot be introduced in the Council of States and also cannot be introduced except on the recommendation of the President".

Similarly, Seervai, in p. 835 of his book says :

"A my Bill providing for matters in art. 110 (1) (a) to (f) cannot be introduced except on the recommenda-

tion of the President and cannot be introduced in the Council of States".

In this view, it will be extremely dangerous to proceed with this Bill now. I submit we may do so a little later after it comes back from the President with his recommendation. Assuming all these are very detailed technicalities, it would be better for us to err on the safe side by taking the President's recommendations and then debate it, as this is an important Bill which we want to support.

श्री शिव चन्द्र झा (मधुबनी) : मेरा पौइंट प्राफ बाइंडर है। केवल इसके कि आप कोई रुलिंग दें, आप हम को सुन लें।

MR. DEPUTY-SPEAKER : No point of order when I am dealing with one. Before I ask Shri Limaye to reply, I want to allow Shri Bhandare and a few other hon. members who want to speak.

श्री मधु लिमये : इसके बारे में सफाई चाहते हैं तो हम को आप मौका दें।

SHRI R. D. BHANDARE (Bombay Central) : Let others speak first.

श्री शिव चन्द्र झा : उपाध्यक्ष जी, माननीय सालवे जी ने यह कहा कि जो मनी बिल या फाइनेंसियल इन्वाल्बमेंट की बात आती है उस में राष्ट्रपति की अनुमति की जरूरत होती है। प्राइवेट मेम्बर का बिल होम मिनिस्ट्री के मातहत आता है। प्राइवेट मेम्बर बिल के साथ यह परम्परा रही है कि होम मिनिस्ट्री उसके मुतालिक राष्ट्रपति को लिखती है कि इस तरह का विधेयक है और इस पर आप की अनुमति होनी चाहिए, आप अपनी अनुमति देंगे या नहीं देंगे। तो मैं पूछना चाहता हूँ कि यह मंत्रालय ने क्या राष्ट्रपति को लिखा है कि इसमें एक ऐसी बात है जिसमें पैसे की बात आ जाती है, फाइनेंसियल इन्वाल्बमेंट की बात आ जाती है और आप अपनी रिकमन्डेशन दें। तो मैं जानना

[श्री शिव चन्द्र झा]

चाहता हूँ कि क्या राष्ट्रपति ने रिक्मन्डेशन दी है ?

मेरा एक विधेयक था प्रेस के बारे में उस पर राष्ट्रपति ने स्वीकृति नहीं दी। दूसरा एक फाइनेंशियल बिल था, मोरार जी देसाई वित्त मंत्री थे, उन्होंने राष्ट्रपति को लिखा। राष्ट्रपति की स्वीकृति नहीं आई। मुझे जबाब आया कि राष्ट्रपति की स्वीकृति नहीं आई।

इसी तरह ये माननीय जार्ज फर्नेंडीज का ट्रस्टीशिप के बारे में एक विधेयक था.....

MR. DEPUTY-SPEAKER : It is a little out of the question that we are considering.

श्री शिव चन्द्र झा : राष्ट्रपति श्री जाकिर हुसैन साहब की अनुमति नहीं मिली, माननीय गिरि साहब की अनुमति नहीं मिली। फिर माननीय हिदायतुल्ला साहब के सामने वह बात रखी गई तब जाकर अनुमति मिली और तब माननीय जार्ज फर्नेंडीज ने अपना विधेयक पेश किया। अनुच्छेद 117 (1) में जैसा माननीय सालवे ने कहा है, यह बात आती है। लेकिन मंत्रालय का यह कर्तव्य हो जाता है कि इस विधेयक को राष्ट्रपति के सामने पेश करें और बतायें कि इस पर आप की रिक्मन्डेशन मिलनी चाहिए। मैं जानना चाहता हूँ कि मंत्रालय ने इस को राष्ट्रपति के सामने भेजा या नहीं ? यदि भेजा है, तो राष्ट्रपति का क्या जवाब आया ? और अगर नहीं भेजा तो क्यों नहीं भेजा ?

SHRI NAMBIAR : After all, the objection of Mr. Salve is that this is a money Bill and this should get the approval of the President. (Interruption) At least it is considered like that. It has got the implication that whatever was guaranteed by the Constitution is sought to be taken away. Therefore, it should have the President's approval; that is what our friends say. But here, the purpose of Mr.

Madhu Limaye's Bill is this : It is not only a question of money. It is a question of the concept : the privileges, the rights, which they enjoy. All these items are to be taken away. If you want to pay them a little more, pay them. The question of money does not arise. (Interruption) Hear me, please. Mr. Salve, I have heard your argument. Mr. Salve says that he is not against the Bill (Interruption). I am not going into the merits, but what say is this. If the Bill is to be taken back and sent to the President and then sent back here, it will not come here at all. That is the difficulty.

MR. DEPUTY-SPEAKER : The limited question is whether the House has the legislative competence.

SHRI NAMBIAR : It has ; it has the right.

SHRI S. KUNDU : Mr. Deputy-Speaker, Sir, whatever may be the emotion and enthusiasm to rush through this Bill, I must say that the point raised by Mr. Salve should be given due consideration. But I have a fear; it is like this, Article 314 says :

"...to receive from the Government of India and the Government of the State, which he is from time to time serving, the same conditions of service as respects remuneration..." etc.

When we put this in contrast to article 110 (1) (b), what do we find ? Article 110 (1) (b) says :

"...or the amendment of the law with respect to any financial obligations..." etc.

The true question is, what does this Bill seek to do ? The Bill seeks to delete the special powers, privileges, etc. which ICS people had enjoyed and are now enjoying. The Bill wants to take away the obligation which was there on the Government of India. Since it does not become an obligation, it does not come within article 110

(1) (b) and therefore, the Bill is proper. It should be discussed.

SHRI R. D. BHANDARE (Bombay Central) : To understand the character of the Bill, we have to take into consideration the judgment of the Supreme Court, to which Mr. Salve has already referred. It has not been considered by these who would like this Bill to be moved. The Bill deals with the question of remuneration and other matters.

We have to look into the subject-matter of article 314. As soon as we read the judgement of the Supreme Court as cited in Vol. 49, 1962 AIR page 505, we have to take into consideration whether it is a Bill which deals with "financial matters". I am underlining the words "financial matters" and not Money Bill. Money Bill as such has been dealt with under article 110. But we have to take into consideration articles 110, 111, 112 and 117. I am relying on article 110, specially sub-clauses (d), (e) and (g). If we are to draw any amount from the Consolidated Fund, it is but natural that there ought to be a financial memorandum. Also, it is only with the previous consent of the President that such a measure could be moved. That is the constitutional position.

We are not opposing the merits of the Bill as such. All that we are urging is that the author of the Bill has to obtain the recommendation of the President. We have to wait till then. We are not going to lose anything by waiting for that recommendation.

So far as the privileges are concerned, let me make the point very clear, we are one with him in opposing them. But that is not the point at issue. Here it is a question of constitutional propriety in dealing with such a case. After all, it is a matter of fifteen to twenty days. We can wait till then. Therefore, Sir, I would urge on you to uphold the point of order.

SHRI RANDHIR SINGH ROHTAK : The point made by Shri Salve is not only valid but something mandatory and imperative. A money Bill cannot be introduced without the previous recommendation of the President. So far as the ICS officers

are concerned, some constitutional guarantees have been given to them under article 314. There is no doubt about it that they are financial obligations entered into by the Government of India with the ICS officers. If you try to modify them it will certainly affect the Consolidated Fund of India and thereby attract the provisions relating to money Bill. Therefore, unless the conditions mentioned in the Constitution are satisfied, we will be by-passing the Constitution. So, this lacuna has to be rectified before we proceed with the consideration of the Bill.

SHRI BEDABRATA BARUA (Kaliabor) : Sir, on a point of order.

MR. DEPUTY-SPEAKER : There is already a point of order. Let me dispose of that first.

SHRI BEDABRATA BARUA : How can you prevent members from raising point of orders ?

MR. DEPUTY-SPEAKER : There is already one point of order. Let me dispose of that

17.00 hrs.

THE DEPUTY MINISTER IN THE MINISTRY OF LAW AND IN THE DEPARTMENT OF SOCIAL WELFARE (SHRI M. YUNUS SALEEM) : Sir, the point is very clear and very simple. The Bill seeks to amend article 314 of the Constitution. The only question is whether this articles is attracted by article 117 (1) of the Constitution of India or not.

If article 117 (1) is read along with article 110 (1) (b) the matter becomes very clear. I am reading article 110 (1).—

"For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely—

X X X X

(b) the regulation of the borrowing of money or the giving of any guarantee by the Government of

India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India."

"For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters."

This sub-clause (b) of clause (1) of article 110 is very important for the consideration of this important question.

Now, article 314 reads:—

"Except as otherwise expressly provided by this Constitution, every person who having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India continues on and after the commencement of this Constitution to serve under the Government of India or of a State shall be entitled to receive from the Government of India and the Government of the State, which he is from time to time serving, the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters".

In this article certain financial obligations are definitely involved and in order to give a correct interpretation to the words used in article 117 read with article 110 (1) (b) of the Constitution it may not be very difficult to come to the conclusion that financial obligations are involved. Once it is determined that financial obligations are involved, definitely it is attracted by article 117 (1) of the Constitution and the Bill could not be introduced without the recommendation of the President.

श्री मधुलिमये (मुंगेर) : साहब ने जो मुद्दा सदन के सामने रखा है। उसको मैंने गौर से सुना है। बाकी माननीय सदस्यों ने भी उन्हीं की बात को दोहराया है।

सब से पहले तो मैं यह कहना चाहता हूँ कि संविधान की जिस धारा पर यह निर्भर कर रहे हैं, उसको आप देखिये। उसकी परिभाषा को देखिये। एक तो वह है :—110(1)

एमालुमैट्स के साथ साथ कंविशज आफ सबिम आदि पचासों चीजें हैं। इसलिए आप जिस को "ओनली" यानी सिर्फ मनी मैटर्ज कहते हैं या लाइनेशल आवलगेसज कहते हैं, इसकी चर्चा नहीं है, सारे विशेषाधिकारों की चर्चा है। उस में एक एमालुमैट्स भी हो सकता है। सिर्फ नहीं है। इस में सिर्फ जिस में वेतन और भत्ता यानी पैसे की जो बात है, उसकी चर्चा नहीं है। आई० सी० एस० लोगों के भी विशेषाधिकारों की इस में चर्चा है और उसका एक हिस्सा वेतन भत्ता आदि भी हो सकता है।

अब आप वो देखिये।

"...or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India."

अब मैं जो स्मैंड करने का जा रहा हूँ वह ला नहीं हूँ वह कांस्टीट्यूशन है। मेरा जो बिल है वह पास होने के बाद ला बनेगा। दोनों में फर्क है। मैं जो बदलने जा रहा हूँ वह ला नहीं है, कानून नहीं है, वह संविधान है, लेकिन मैं जिस के द्वारा बदलने जा रहा हूँ सुप्रीम कोर्ट के गोकलनाथ केस के अनुसार वह ला है, विदिन दो मीनिंग आफ आर्टिकल 13। यह सुप्रीम कोर्ट का डिजिशन है। अगर इसको आप नहीं मानते हैं तो कोई भगड़ा नहीं है। लेकिन सुप्रीम कोर्ट का यह डिजिशन है कि मैं जो परिवर्तित करने जा रहा हूँ वह कानून नहीं है, वह संविधान है लेकिन जिस के द्वारा मैं करने जा रहा हूँ, बिल, वह पास होने के बाद सुप्रीम कोर्ट के निर्णय के अनुसार ला बन जायगा। यह बुनियादी फर्क है। इसलिए पहली बात इस

में नहीं आएगी क्यों कि मैं संविधान बदलने जा रहा हूँ—

श्री मु यूनस सलीम : बिल है या नहीं है ?

श्री मधु सिमये : इतना सटल डिफा डिफेंस आप नहीं समझते हैं ।

what I am seeking to demand is not a law but the Constitution. I am seeking to amend it through a Bill which after the assent of the President will become a law according to the Supreme Court judgment.

कहने का मतलब यह है कि संविधान को परिवर्तित करने का जो साधन है, पास होने के बाद और राष्ट्रपति की अनुमति मिलने के बाद सुप्रीम कोर्ट के गोलकनाथ निर्णय के अनुसार वह ला है । लेकिन मैं जो बदलने जा रहा हूँ—

“...or the amendment of the law with respect to any financial obligations...”

मैं बदलने नहीं जा रहा हूँ । किन्तु यह पास होने के बाद जब नियम बनेंगे वह कानून हो जाएगा संविधान की धारा 110 (बी) के अनुसार ।

आप 117 (3) पर आइये :

“A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.”

मेरा संशोधन पास होने के बाद और 314 धारा जब हट जाएगी तो सरकार को नया खर्चा नहीं करना पड़ेगा । सरकार का पैसा बच जायेगा । आपने सुप्रीम कोर्ट के निर्णय को कबूल किया है, उसी के आधार पर मैं कह रहा हूँ । सुप्रीम कोर्ट के निर्णय में क्या हुआ था, उसकी पृष्ठभूमि क्या थी ? उसकी पृष्ठभूमि यह थी

कि आई. सी. एस. अधिकारियों को पुराने नियमों अनुसार यह सुविधा प्राप्त है कि वे विलायत की यात्रा करें । उसका उनको खर्चा मिलता था, न केवल उन अफसरों को उनकी विधियों के और उन के बच्चों को भी, फिर चाहे एक या दस बच्चे हों । हुआ क्या ? बिहार के एकाउंटेंट जनरल ने चाहा कि उनको भी वह मिले । लेकिन 1957 में सरकार ने नियमों में परिवर्तन किया कि भविष्य में यह सुविधा नहीं मिलेगी । उसने उसके ऊपर आपत्ति की । बिहार सरकार ने कहा, चलो, आपको दे देंगे । उन्होंने कहा मेरी पत्नी को भी देना चाहिए, बच्चों को भी देना चाहिए । इस पर यह मामला सुप्रीम कोर्ट में गया । सुप्रीम कोर्ट ने कहा कि धारा 314 जब तक है तब तक यह नियम कानून नहीं है, असंवैधानिक है, अल्टा-वायरस इसको उसने डिक्लेयर कर दिया । इसलिए विधेयक लाया है । शायद चव्हाण साहब चर्चा के दौरान हमारी दलीलों से प्रभावित हो जाए और इसको मान लें । इसलिये मैंने कहा है कि संविधान संशोधन विधेयक पास होने के बाद सरकार का कोई खर्चा बढ़ने वाला नहीं है, बल्कि बहुत घटने वाला है । अगर किसी बिल में खर्चा होने की कोई व्यवस्था हो, तो बिल पेश करने वाले सदस्य को फिनांशल मेमोरेण्डम देना पड़ता है । उपाध्यक्ष महोदय, आप देखते ही हैं कि हम कई बार मंत्रियों को टोकते हैं कि उन के बिलों में फिनांशल मेमोरेण्डम, या डेलीगेटेड लेजिसलेशन का मेमोरेण्डम, नहीं है । अपने इस बिल को देखने के पश्चात् मैं इस नतीजे पर पहुंचा कि चूंकि इस में खर्चा बढ़ने की बात नहीं है, बल्कि खर्चा घटाने की बात है, इस लिए फिनांशल मेमोरेण्डम देना आवश्यक नहीं है और इसलिए राष्ट्रपति की अनुमति लेने का प्रश्न ही नहीं उठता । जैसा कि मैंने कहा है, चूंकि इस बिल के द्वारा कोई नया खर्चा नहीं होने वाला है, इस लिए अनुच्छेद 117 (1) या 117 (3)

[श्री मधु लिमये]

के अन्तर्गत इस पर आपत्ति नहीं उठाई जा सकती है।

सुप्रीम कोर्ट ने नोलकनाथ और बैंकों के नेशनलाइजेशन के मामलों में यह निर्णय दिया कि संविधान के तीसरे हिस्से में जो अधिकार दिये गये हैं, वे पार्लियामेंट के द्वारा खत्म नहीं किये जा सकते हैं सुप्रीम कोर्ट ने उन अधिकारों को इतना पवित्र माना है। इस लिए अगर हम अनुच्छेद 314 को नये सिरे में रखने के लिए कोई कानून बनाते, तो संविधान के समानता वाले अनुच्छेदों तथा अन्य अनुच्छेदों के कारण वह पास न हो सकता। संविधान के तीसरे हिस्से के अनुसार जो बुनियादी अधिकार दिये गये हैं, वे इतने पवित्र हैं कि उन से टकराने वाला कोई संविधान संशोधक विधेयक असांविधानिक करार दिया जायेगा। लेकिन चूँकि अनुच्छेद 314 पहले से ही मौजूद है, इस लिए संविधान को संशोधित करने का काम सुप्रीम कोर्ट नहीं करेगी।

अन्त में मैं कहना चाहता हूँ कि इस विधेयक के लिए राष्ट्रपति की सिफारिश की कोई आवश्यकता नहीं है। इस विधेयक के द्वारा मैं कानून में कोई परिवर्तन नहीं करने जा रहा हूँ, संविधान में परिवर्तन करने जा रहा हूँ, हालाँकि सुप्रीम कोर्ट के निर्णय के अनुसार यह पास होने, और राष्ट्रपति को अनुमति मिलने के बाद कानून बन जायेगा।

SHRI N. K. P. SALVE : Before you give your ruling, Sir, I beg your indulgence for a minute.

MR. DEPUTY-SPEAKER : You have spoken enough.

SHRI N. K. P. SALVE : This is a very important matter. Please give me half a minute. The basic point has not been replied to by Mr. Madhu Limaye. According to Art. 117 (1) a Bill or amendment making provision for any of the matters

specified in sub-clauses (a) to (f) of clause (1) of Art. 110 shall not be introduced... etc. Therefore, whether the pecuniary liability is lessened or increased or extinguished is not the consideration. The only consideration is whether the subject matter is such which happens to be specified in sub-clauses (a) to (f) of article 110. Secondly, to say that Constitution is not the law is to misread Golakhnath's case completely. Constitution has been described as the law of laws.

MR. DEPUTY-SPEAKER : The question is about the legislative competence of this House.

SHRI N. K. P. SALVE : No, No. I have not raised any question of Parliament's Legitimate competence.

MR. DEPUTY-SPEAKER : And that it is necessary that the President should give his recommendation.

Now there are two aspects to this question. One is the question of introduction which has already been done last time and no objection was raised. The Bill was introduced and we have entered the consideration stage. Mr. Madhu Limaye has already taken one minute and he is to continue his speech.

Now, I think, the crux of the whole question lies in Article 117 (3). This Article reads as follows :

"A Bill which, if enacted and brought into operation, would involved expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill."

Article 110 (b) make special provision and the wordings are, "financial obligations undertaken or to be undertaken by the Government of India."

My own feeling is this. When those obligations attract expenditure from the Consolidated Fund of India, then only

the President's recommendation will be necessary. In any case, the question is still open whether this House can pass the bill or not. And I think, all this will be considered at the stage of passing; and it is for the Members to establish now that this Bill would involve expenditure from the Consolidated Fund of India.

If, in the course of the debate, it is established that it will involve expenditure from the Consolidated Fund of India, then the question whether we are component to pass it or not without the recommendation of the President will be considered at that stage.

Shri Madhu Limaye has already started; he may please continue his speech.

श्री मधु लिमये : अध्यक्ष महोदय, यह विधेयक जो सदन के सामने मैं विचारार्थ पेश कर रहा हूँ यह सभी निहित स्वार्थों के खिलाफ जो एक अभियान हम लोगों ने चलाया है उसी का एक हिस्सा है। आर्थिक बराबरी और सांसाजिक न्याय की भूख हमारे देश में जग गई है और हम लोगों की कोशिश है कि यह और प्रज्वलित हो ताकि जितने निहित स्वार्थ हैं या विशेष सुविधा हासिल करने वाले और उस का उपभोग करने वाले जो वर्ग हैं उन की सारी सुविधाएं खत्म हों। राजाओं के विशेषाधिकारों को समाप्त करने का जो मुद्दा यहाँ पर रखा गया वह भी उसी का अंग था और आज यह जो 314 धारा को समाप्त करने का विधेयक मैं लाया हूँ वह भी इसी का एक अंग है। अध्यक्ष महोदय, यह विधेयक 16 दिसंबर 1967 को मैंने पेश किया था। सरकार को बहुत पहले इस पर विचार कर के निर्णय करना चाहिए था। लेकिन जिस के बारे में सरकार आश्वासन दे चुकी है वह निजी कोष वाला मामला जो है उस पर भी सरकार ने अपने वादे को पूरा नहीं किया और अभी भी बिल पेश नहीं हो पाया है। जिस तरह जमींदारी प्रथा का खात्मा हुआ,

उसी तरह राजा सहाराजाओं के निजी कोष को समाप्त करने के बाद सामन्तवाद को समाप्त करने का कार्य पूरा हो जायगा। हम यह चाहेंगे कि निजी क्षेत्र में जो कम्पनियाँ हैं और इन की मैनेजिंग एजेंसी है, सोल सेलिंग एजेंसियाँ हैं, पचासों तरह की ऐसी बातें हैं जिन से विशेष सुविधाएं, तनखाह और भत्ते कम्पनी वालों को भी प्राप्त होते हैं तो अगर हम निहित स्वार्थों को खत्म करना चाहते हैं तो निजी क्षेत्र की कम्पनियों के अन्दर जो बातें चलती हैं उन के ऊपर भी रोक हमें लगानी पड़ेगी।

तीसरी बात-जिस तरह से राजाओं, कम्पनी वालों और आई. सी. एस की बात है, मैं यह भी चेतावनी देना चाहता हूँ, एक नया राजनैतिक नेताओं का वर्ग उत्पन्न हो रहा है और हम लोग भी चूँकि कानून बनाने की हालत में हैं, हम अपनी सुविधाओं को और मंत्रियों की सुविधाओं को भी बढ़ाते चले जा रहे हैं। लेकिन उस का साधारण जनता के ऊपर क्या असर हो रहा है, इस का भी हमें विचार करना चाहिए। और इसी एक अभियान का यह भी एक अंग होगा कि जो राजनैतिक नेता हैं, मंत्री हैं, या विधायक हैं वह भी अपनी सुविधाओं के बारे में पुनर्विचार करें और इन विशेष सुविधाओं को खत्म करने का, घटाने का प्रयास करें। लेकिन सवाल सिर्फ सामाजिक न्याय का और आर्थिक बराबरी का नहीं है, साथ साथ प्रशासन के आधुनिकीकरण का भी सवाल है। आज जो मैं बोल रहा हूँ आई. सी. एस. अधिकारी को एक प्रतीक के रूप में ले रहा हूँ। एक साधारण प्रशासक, जनरल एडमिनिस्ट्रेटिव की जो श्रेणी है, उस का यह प्रतीक है। आई. ए. एस. केवल उस का नया अवतार है।

उपाध्यक्ष महोदय, जब अंग्रेजों ने इंडियन सिविल सर्विस का निर्माण किया, उस समय राज्य के कार्य बहुत सीमित थे। आर्थिक मामलों में, व्यापार में राज्य का हस्तक्षेप नहीं

[श्री मधु लिमये]

होता था। इसी तरह से राज्य समाज कल्याण के जितने काम आज कर रहा है, उस तरह के कार्य उन दिनों राज्य नहीं करता था। अंग्रेजों के जमाने में जो आइ० सी० एस० अधिकारी आते थे, उन का एक मुख्य काम यह रहता था कि वे जिलों में लगान बसूल करते थे, कानून और अमन-चैब का इन्तजाम रखते थे, साधारण प्रशासन के जो कार्य थे, उन्हीं को वे अधिकारी किया करते थे, और जो सचिवालय में बैठते थे, इन में से जो अनुभवी लोग थे, बड़े लोग थे, व सचिवालय के विभिन्न विभागों में जा कर सचिव का काम करते थे। लेकिन, उपाध्यक्ष महोदय, आज राज्य का कार्यक्षेत्र बहुत बढ़ गया है, समाज-कल्याण का कार्य राज्य करता है, बैंकों के क्षेत्र में भी राज्य-आया है। रिजर्व बैंक उन दिनों नहीं था, वह बाद में बना, 1935 के आसपास बना। 14 साल पहले स्टेट बैंक का राष्ट्रीयकरण हुआ और इस के बाद हम देखते हैं कि राज्य के कार्य में परिवर्तन आने लगा, लेकिन हम लोग देख रहे हैं कि ये जो आई.सी.एस. अधिकारी हैं, सभी कामों के लिये इन को लायक माना जाता है। आजादी के पहले तकरीबन 1084 आई. सी. एस. अधिकारी थे। मुल्क के बटवारे के बाद 451 रहे, आज के आंकड़े क्या हैं मुझे पता नहीं हैं, उम्मीद है यह मंत्री जी अपने उत्तर में यह जानकारी हम को देंगे। लेकिन हम ने सुना है कि 111 आई. सी. एस. अधिकारी सरकार में बचे हैं, आपके मंत्रालय ने ही यह जानकारी मुझे दी थी, हो सकता है कि यह पुरानी जानकारी हो....।

THE MINISTER OF HOME AFFAIRS (SHRI Y.B. CHAVAN) : Less than 100.

SHRI S. KUNDU : With all the public sectors it is more than 150. About 40 people are in the public sectors.

श्री मधु लिमये : उपाध्यक्ष महोदय, इन जनरल एडमिनिस्ट्रेटर्स का चयन कैसे होता था। 19 से 24 साल के लोगों को इस में लिया जाता था, उन की परीक्षाएँ होती थीं स्पर्धा के आधार पर, उस के बाद साक्षात्कार में घुड़-सवार होना या ऐसी दूसरी चीजों के जरिये इन में से ऐसे लोगों को छांट दिया जाता था जो साधारण गरीबों में से आते थे या जिन में ये सारी खूबियाँ नहीं होती थीं। इस तरह से एक विशिष्ट टाइप, विशेष प्रकार के अधिकारी आई. सी. एस. के रूप में यहां आये।

इन में एक दूसरी विशेषता यह थी कि चयन के बाद बाहर से किसी भी ग्रादमो का बाद में इन में प्रवेश नहीं होता था। इस तरह से एक सीमित गुट बन कर, क्लास-ग्रुप बन कर इन का सारा काम चलता रहा। इन लोगों का हमेशा यह दावा होता था कि प्रशासन के अन्दर जितने बड़े पद हैं, ये सब पद इन्हीं को मिलने चाहिये, यद्यपि ये उस पद के विशेषज्ञ नहीं थे। बल्कि एक लेखक ने तो यह कहा है—

Technical innocence was considered a strong point of the I.C.S.

यानी विशेष ज्ञान जिनको नहीं है, ऐसे लोगों का— Technical point was the strongest point of the I.C.S.

इन का यह दावा था कि हम विशेषज्ञ नहीं हैं, लेकिन सर्वज्ञ हैं, हम सब चीज जानते हैं। ग्राइ. सी. एस. क्या नहीं कर सकता था, जज भी बन सकता था और बम्बई में आप जानते हैं एक आइ. सी. एस. चीफ जस्टिस भी बन गया था, ऐसा अंग्रेजों के जमाने में होता था, अब नहीं होता है। शिक्षा के क्षेत्र से इन का क्या सम्बन्ध है, 20-24 साल की उम्र में स्कूल या कॉलेज छोड़ने के बाद इन का क्या सम्बन्ध रहता था, लेकिन आइ. सी. एस. अधि-

कारी उपकुलाति बनाये जाते हैं, राज्यपाल के पद पर तो इन का विशेष अधिकार है और कूट-नीति इन से अधिक अच्छी कौन जानता है। सारे राजदून भी धीरे-धीरे यही लोग बनते रहे। कोई ऐसा क्षेत्र नहीं रहा, जहाँ इनको न रखा गया हो। रिजर्व बैंक या स्टेट बैंक के गवर्नर का चयन करना है—उस के लिए भी आई. सी. एस., लाइफ इंशोरेंस कारपोरेशन के लिये भी आई. सी. एस. इतना ही नहीं सार्वजनिक क्षेत्र में जब बड़े-बड़े कारखानों का निर्माण हुआ, उनकी जो बरबादी हुई, उन के सत्यानाश का कारण भी यही लोग हैं। ऐसे लाट साहब लोगों को इन कारखानों का प्रमुख बनाया गया। नतीजा यह हो गया कि शीकीनी और फिजूल खर्चा के साथ सारे प्रशासकों में अंग्रेजों के जमाने में जो सारे गुण या दुर्गुण आये थे—मैं यह कहने वाला नहीं हूँ कि इनमें सभी दुर्गुण हैं, कुछ गुण भी हैं—लेकिन उन गुणों के साथ जो सारे दुर्गुण थे उनको लेकर ये कारखाने के प्रशासक बने। स्टेट ट्रेंडिंग कार्पोरेशन में आयात-निर्यात के बारे में जानकारी, प्रशिक्षण और संस्कारों की जरूरत है लेकिन उसके बारे में आई. सी. एस. लोगों को कोई ज्ञान नहीं परन्तु उसमें भी इनको योग्य माना गया।... (व्यवधान)...

इसके अलावा यह जो हमारी नौकरशाही है और समाज के भन्दर जो जाति व्यवस्था है उसी का प्रतिबिम्ब इस नौकरशाही में है। ये जो आई० सी० एस० अधिकारी हैं वे समाज के ब्राह्मण, क्षत्री और ठाकुर हैं। ब्राह्म. ए. एस का नम्बर बाद में आता है। और बाकी जो लोग हैं वे सारे पिछड़े वर्ग के हैं जिनको शुद्ध कहिये, अच्छत कहिए या हरिजन कहिए। तो हमारे समाज में जाति व्यवस्था का जो दुर्गुण है, जो ऊँच नीच का भेदभाव है वह इन लोगों में आ गया है। मैं मानता हूँ कि इन लोगों में भाषा की सफाई जरूर है। वे परिष्कृत भाषा में बोलते हैं। इन

में बहुत सारे ग्राक्सफंड और कैम्ब्रिज में पढ़े हैं। चूँकि अंग्रेजी हमारे व्यवहार की भाषा है इसलिए ये अंग्रेजी की परिष्कृत भाषा में बोलते हैं। इनके व्यवहार में शिष्टाचार और बातों में सफाई रहती है इसलिए ये लोग अपना काम चला सेते हैं। लेकिन जहाँ-जहाँ विशेष ज्ञान की जरूरत है, चाहे वह समाज कल्याण का क्षेत्र हो, मजदूर-मालिक रिश्ते का सम्बन्ध हो, व्यापार और कारखानों का सम्बन्ध हो या विज्ञान और तकनीक का सम्बन्ध हो, मैं समझता हूँ वहाँ पर इनकी कोई उपयोगिता नहीं है। इन लोगों को प्रशिक्षण से कहा गया था कि कुछ नहीं करेंगे, यह इनका सब से बड़ा कर्तव्य है और इसके बारे में, एक बड़े अंग्रेज प्रशासक हैं, उन्हीं के ही कुछ वाक्य रखना चाहता हूँ :—

वे कहते हैं :

"The Government of India is a mighty and miraculous machine for doing nothing. Nothing has been done hitherto under six months. When I suggested six weeks, the attitude is one of pained surprise; if six days, it is one of pathetic protest, if six hours one of stupefied resignation."

और यही व्यक्ति आगे कहता है :

"It is worked by loyal and hard-worked men."

तो गुण तो कुछ हैं।

"I have not one word against their devotion to duty and their industry, but they are so absorbed with the daily grind that their eyes are never lifted from the ground. No ray of imagination strikes upon their minds, no spark of initiative springs from their breast. If left to themselves, they will instinctively oppose and throttle every reform."

[श्री मधु लिमये]

अध्यक्ष महोदय, ये अंग्रेज कौन थे ? यह हिन्दुस्तान के बाइसराय कर्जन साहब की उक्ति है। यह किसी समाजवादी या कम्युनिस्ट की उक्ति नहीं है बल्कि कर्जन की है जिसकी योग्यता के बारे में, सन्देह नहीं रहा। उनके साथ हमारे मतभेद थे, राष्ट्रवादियों के झगड़े और संघर्ष उनके साथ जरूर रहे लेकिन उनकी काव्यलयत के बारे में, उन की योग्यता और बुद्धि के बारे में किसी को सन्देह नहीं था। वे स्वयं अपनी सेवाओं के बारे में कह रहे हैं इसलिए कोई भी यह न समझे कि विद्वेष या जलन की भावना से प्रेरित होकर हम लोग इसके बारे में कुछ कह रहे हैं। बाहरी शिष्टाचार से तो काम चलता नहीं है। अगर भीतरी शून्यता है विचारों की, मूल्यों की और सिद्धांतों की और अगर जनता के प्रति आस्था नहीं है तो ये सारे काम नहीं होंगे। साधारण प्रशासक में ये सारे दुर्गुण अंग्रेजों के जमाने से आ गये। उन में जो गुण थे उन गुणों का भ्राज फायदा नहीं है। विशेषज्ञों की जरूरत है जिनका जनता के साथ जीवित सम्बन्ध हो, जो जनता की समस्याओं को समझते हों और जनता की तकलीफों के बारे में जिनको आस्था हो। ऐसे लोगों की भ्राज आवश्यकता है। इसके अलावा हम लोगों ने, मुझे याद है कि 1948 में...

MR. DEPUTY-SPEAKER : We have allotted one hour and there are a large number of Members who want to speak. I would like to regulate it so that we do not take too much time.

श्री मधु लिमये : मैं पांच छः मिनट में समाप्त करता हूँ। 1948-49 की बात है जब आर्थिक योजना की बात हमारे यहाँ शुरू हुई और लोग समझने लगे कि अब सार्वजनिक क्षेत्र में उद्योग खुलेंगे, आर्थिक व्यवहारों में राज्य दखल देगा। तो हम ने उस समय एक सुझाव दिया था कि एक आर्थिक और व्यापारिक सेवा, इकोनामिक सिविल सर्विस चाखू की जाय जिस

में जिन को औद्योगिक प्रशिक्षण हो, जो कारखानों, व्यापारों और बैंकों का काम कर सकते हैं, जिन को इस बारे में जानकारी है, ऐसे लोगों को भर्ती किया जाय। उन को और प्रशिक्षण दिया जाय और उन के जरिये जितने सरकारी प्रकल्प हैं उन को बढ़िया ढंग से चलाया जाय। लेकिन अभी तक सरकार ने इस सुझाव को नहीं माता। आज सार्वजनिक क्षेत्र की ओर सरकारी प्रकल्पों की जो लोग आलोचना करते हैं उस का कारण यही है कि सरकार ने सारी जिम्मेदारी जनरल ऐडमिनिस्ट्रेटर के ऊपर, साधारण प्रशासक के ऊपर छोड़ दी।

अब सामाजिक समता का जो पहलू है, मेरी समझ में नहीं आता कि आई. ए. एस. में भी बहुत अच्छे लोग हैं, जैसे इन लोगों में हैं, लेकिन दोनों सेवाओं में एक ही देश के प्रशासन में इतनी असमानतायें हैं। और इस के चलते क्या हुआ कि जाति व्यवस्था की बात नौकर-शाही में और तेजी से चल रही है और स्त्रीवरी का निर्माण होता चला जा रहा है, और कुछ राजनीतिक नेता भी इस के लिये दोषी हैं। क्यों कि मैंने सुना है कि पुराने जमाने में जब आई. सी. एस. लोगों की संख्या घटने लगी और दूसरे लोग भी भर्ती होने लगे, तो कुछ मंत्री कहते थे कि मेरे विभाग का सचिव आई. सी. एस. क्यों नहीं है। इस का मतलब यह है कि मेरे विभाग के बारे में सरकार ठीक ढंग से नहीं सोचती है। तो आई. सी. एस. सचिव रहेगा यह स्टेटस का सिम्बल बन गया। जैसे कैडिकेक, रोल्स रायस गाड़ी स्टेटस सिम्बल बन गयी उसी तरह से यहाँ भी स्टेटस सिम्बल बन गया। माननीय चव्हाण साहब को पहले से ही यह सिम्बल प्राप्त है। लेकिन बहुत सारे मंत्री हैं, और मैं ने सुना है कि कई मंत्री ऐसा कहते थे कि हमारे विभाग की सरकार में कोई कदर नहीं है क्यों कि हमारे लिये एक मामूली आई. ए. एस. अधिकारी को लगाया दिया है, आई. सी. एस. को नहीं लगाया। तो राजनीतिक

नेता भी इस बीमारी से मुक्त नहीं हैं। यह जो ऊँच, नीच, स्नीबरी वाली बीमारी है उस से हम लोग भी मुक्त नहीं हैं।

अब इन लोगों को जो विशेष सुविधायें हैं, बहुत तफसील में मैं नहीं जाना चाहता, क्योंकि बहुत सी बात इन्होंने स्वयं कह दी, जब आई. सी. एस. अधिकारी अधिकांश इंग्लैंड से आते थे तो विलायत की यात्रा और बच्चों तथा बीबी को ले जाने की, ये सारी सुविधायें उन को थीं। लेकिन आजाद हिन्दुस्तान में इस तरह की सुविधाओं को देने का कोई मतलब नहीं था, लेकिन बहुत सारी बातें ऐसी हो गयीं उपाध्यक्ष महोदय, आजादी आ गयी लेकिन आजादी आते आते हमारी जो राष्ट्रीय लोकतांत्रिक क्रान्ति थी यह क्रान्ति कैंद हो गयी, अबरुद्ध हो गयी और नतीजा यह हुआ कि हमारे संविधान में, प्रशासन में, राजनीति में और सार्वजनिक जीवन में यह बहुत सारी बीमारियाँ आ गयीं। माननीय नेहरू और माननीय पटेल साहब ने राजाओं के साथ समझौता किया, प्रिन्सी पर्स का बोझ उठाया। अगर उन के लिये कोई चारा नहीं था तो बाद में राज्य स्थिर होने के बाद तो कम से कम यह करना चाहिये था, लेकिन उल्टी इन की शक्ति और ताकत बढ़ने लगी। आई. सी. एस. के बारे में भी शाब्द उन दिनों में यह लोग कहते थे कि अगर सब के सब वह आई. सी. एस. लोग चले जाते तो हम प्रशासन कैसे करते। इसलिये उनको खुश करने की जरूरत थी। लेकिन कम से कम नया संविधान लागू होने के पहले नियमों और सेवाओं की शर्तों में परिवर्तन करना चाहिये था। एक मुरदा और भी है। नतीजा क्या होगा। यह सब लोग विलायत जाते रहते हैं, कम्पनियों के साथ व्यवहार होते हैं, ठेके होते हैं। अब यह सोचने लायक बात है कि कितने आई. सी. एस. अधिकारी सेवानिवृत्त होने के बाद कम्पनियों में नौकरी पाते हैं। अभी मैं ने सुना है कि लाइफ इंश्योरेंस

कारपोरेशन के श्री भिडे को बोल्टाज में बड़ी नौकरी मिली है। इसी तरह से हमारे इस सबन में कुछ लोग हैं जो आई. सी. एस. से सेवानिवृत्त होने के बाद बड़े बिजनेसमैन बने। इस का साफ मतलब है कि उन का पहले से उद्योगपतियों के परिवारों से सम्बन्ध था और उन्होंने जरूर उन के साथ कोई न कोई रियायतें और गैर-कानूनी व्यवहार किया है, विलायती कम्पनियों के साथ भी और यहाँ की कम्पनियों के साथ भी।

उन को एक अधिकार है जिस के कारण उन के खिलाफ कोई कानूनी कार्रवाई मुश्किल हो जाती है। दूसरे आई. ए. एस. अधिकारियों को राज्य सरकारें और गवर्नर बगैरह सस्पेंड कर सकते हैं, लेकिन आई. सी. एस. अधिकारियों के साथ ऐसा नहीं हो सकता। कपूर के मामले में सुप्रीम कोर्ट का निर्णय है कि :

“We, therefore, allow the appeal and declare rule 7 of the Discipline Rules in so far as it applies to members of the Indian Administrative Service who are members thereof by virtue of Rule 8(a) and (6) of the Recruitment Rules to be bad to the extent to which it permits an authority other than the Government of India to suspend as an Interim measure (and not as a punishment) such members of the services. In consequence, we set aside the order of the Governor dated July 18, 1959.” (1964 ASC 798)

आज सुप्रीम कोर्ट उन के विशेषाधिकारों को खत्म करने वाले सारे नियमों को इस लिये खत्म करता जा रहा है कि वह धारा 314 से टकराते हैं। यही कारण है कि आई. सी. एस. के लोग आज लाट साहब बनते चले जा रहे हैं।

इस लिये मेरी प्रार्थना है और मैं मंत्री जी से अपील करूंगा कि वह हमारे इस बिल को

[श्री मधु लिमये]

मान ले। अगर वह तत्काल इस का पास करवाने की स्थिति में नहीं हैं तो मैं कहूँगा कि जैसे कम्पनी कानून के बारे में किया गया था, इस बिल के सिद्धान्त को मान ले। हो सके तो इस बजट सत्र में कैबिनेट में निर्णय लेकर इस तरह के विधेयक को लाने के बारे में सदन को आवश्‍यत करें। आज एक अभियान, एक आन्दोलन सारे निहित स्वार्थी के खिलाफ शुरू होना चाहिये, वरना हम जो समाजवाद की घोषणायें करते हैं उन का कोई मतलब नहीं रह जाता।

श्री ओंकारलाल बोहरा (चित्तौरगढ़) : यह बहुत महत्वपूर्ण बिल है, इस लिये समय को बढ़ाना चाहिये।

SHRI A. S. SAIGAL (Bilaspur) : Time should be extended.

MR. DEPUTY-SPEAKER : 7 hon. member would like to speak on this and out of the 1 hour, Mr. Limaye has taken 20 minutes. I will be guided by the House. For the moment, let us stick to the time-limit of 5 minutes for each speaker.

SHRI Y. B. CHAVAN : This is an important Bill and I would like it to be discussed in much more detail. Let us not have any time-limit for the discussion of this Bill.

MR. DEPUTY-SPEAKER : Does the House agree with that proposal ?

HON. MEMBERS : Yes.

श्री भोगेन्द्र भा (जयनगर) : सभापति महोदय, इस के बाद जो विधेयक है वह अपने संविधान के बाइरेबिटव प्रिंसिपल्स के बारे में है। इस लिये मेरा आग्रह यह है कि आप भले ही इस विधेयक पर समय बढ़ाइये, इस में मुझे कोई ऐतराज नहीं है, लेकिन अगला विधेयक बाज पेश किया जा सके इस की सुविधा आप जरूर दें।

SHRI Y. B. CHAVAN : It can be postponed to the next sitting.

SHRI NAMBIAR : If the House agrees, Mr. Bhogendra Jha's Bill may not be included in the ballot next time. Otherwise, if it is included in the ballot, he may not get a chance.

SHRI BEDABRATA BARUA (Kallabar) : Mr. Deputy-Speaker, Sir, at the very outset of the consideration of the Bill a number of legal arguments were raised against it. So far as article 368 is concerned it gives Parliament the power and authority to amend any article of the Constitution except those articles that have been mentioned therein. The article that is now sought to be amended is not one of those articles which are considered to be not subject to amendment. So, that argument is not valid.

The other argument was whether a Bill to amend or delete an article would itself become a money Bill. On the very face of it, it looks absurd that an amendment of the article, which has been specifically allowed under article 368, cannot be amended because by some legal interpretation of some other article of the Constitution that Bill would be a money Bill. I cannot describe it as anything but absurd.

The Constitution allows certain privileges to the legislature, the political sovereign, to bring about certain changes in regard to the democratic functioning of the Constitution and all those basic and vital decisions can be taken only on the basis of the needs of the people and any attempts to stall those decisions on the plea that they are unconstitutional should not be allowed.

It is true that in the Golak Nath case, as the mover has rightly pointed out, the Supreme Court has struck down the right of Parliament to amend certain parts of the Constitution. But this article under reference does not come within the articles mentioned in the Golak Nath case. So, no bone should be made about it. It is very clear that it is an article of the Constitution which can be amended by Parliament.

If we believe in the concept of democracy or rule of the people then the civil

servant must be an adequate instrument for social change or an adequate instrument for administration. So far as the protection that is given is concerned, that has to be there. It is not that the civil servant need not be protected, whether by Constitution or by law. In a democratic system some of the protections that are given to the civil servants are just and proper because sometimes a civil servant has to stand up to the political authority and say "this cannot be done" and he should be above being persecuted for giving correct advice or even sticking to that advice. But the final decision has to be taken by the political authority over which he has no control.

But we are continuing under the cover of this article the protection that was given by the British Government to the loyal British administrative officers of those times. Somehow, this provision in the Constitution is a hang-over of the British imperialism. This provision smack of the British concept of law and order, as they understood it, and that was put into the Constitution and it has continued pretty long. So, it is necessary that we have a second look at it and find out if it is really relevant to the functioning of administration today.

The British concept of administration, as administering law and order for the peace and tranquillity of the British Empire, can no longer obtain in a democratic set-up. Therefore, what we have to do now is to make the administration an effective instrument of change.

17.42 hrs.

[SHRI K. N. TEWARI *in the chair*]

As the hon. Mover has said, the concept of administration has changed vastly and the rights of administration have been replaced by the rights of the people. If the rights of people have to be guaranteed, the administration must be informed with the will of the political sovereign, that is, the people, and expression in the form of the Government and Parliament.

If a certain decision is made by Parliament or, with the approval of Parliament, by

Government, it demands a commitment on the part of the administration to carry out that decision. There has been a lot of controversy about this commitment. This question of commitment was discussed by political theorists in the West and they have very categorically stated—the conclusion is obvious and unanimous—that the administration must be an impartial instrument, like a knife in the hands of a surgeon. The administration must function for good or for evil; it can function as a surgeon's scalpel or as a knife in the hands of a dacoit. The administration must be an adequate instrument for the exercise of power and authority. The impartiality of the administration can be guaranteed when the administration functions not upon its right but upon its duties. Those duties have to be laid down from time to time by the political administration, the Parliament. Therefore while I would not like that there should be vendetta against the civilian officers or that they should not be protected in substance, it becomes an entirely different matter when the Constitution itself comes forward and guarantees certain privileges which in a democratic set-up cannot be sustained in relation to their functions.

Again, as the Mover has said, we have now to carry out a large number of functions which are mostly in terms of business, commerce and so many other things. We have to control trade and industry. Unless we do away with the very special position that we have given to the civil services, unless the type of emphasis that has been placed upon the civil service is done away with, unless we put other groups of entrepreneurs and nation-builders like engineers, technicians, on par and place them equally in command of different enterprises, it would not be possible for us to fulfill the demands of the time. These demands cannot be fulfilled because the Government happens to have its eyes and ears in the civil service. Even when the Government wants or would like to do certain things, because of the very special position that has been guaranteed to them the administration cannot be made to respond to the policies that are laid down, I can give a hundred instances but I do not have the time. But every time when the policies have been laid down, whether on

[Shri Bada Brata Barua]

import substitution or on indigenous know-how or no economic matters, the details that are worked out are quite out of tune with the policies openly laid down by the Government or Parliament.

This type of situation cannot continue for long. In the name of democracy and freedom of the people we would like that these privileges that have been enjoyed by the ICS officers should go. It is true that the ICS is a vanishing entity; it is not that there are larger numbers of officers in the ICS cards today. But the very atmosphere that a speciality is created militates against the basic concept of democracy. I do not think, the ICS as it is placed in the Indian Constitution and administration obtains a parallel anywhere in the world not even in great Britain. They have made their civil servant a sort of a pivot in the administration of the country. So, this special position is completely out of tune with the basic requirement of democracy. We have possibly to look further afield and find out new cadres in terms of our need. We will have to establish a new trend, a new type of administration, in country. Any country in Asia and Africa that has achieved much, that has achieved their aims and objectives, is because they have an administration that is willing to respond to the needs of the situation.

An example was just cited about ICS officers retiring and becoming officials of the private firms. Here is a Constitution that has guaranteed all types of privileges to a set of people. What is their commitment? They have only one commitment, that after they retire, they join private firms—not all but nearly all of them do so. I would like the Government to make an enquiry how many ICS officers are in the employ of business houses. As soon as they retire, they go into those business houses with which they were connected as administrators and with whom they were in contact. This is the most tragic thing. Mr. Bhude, for some obscure reasons, has very peculiar opinions to express on economic and other matters. 27 per cent of the shares of the company were supplied to the Voltas by the L.I.C. of which he was the Chairman. We can always argue that this does not involve

an impropriety. But the impropriety is very clear if we look at it very closely.

We have created rights without any consequent duties. I think, we must have a look at it. We must make every privilege respond to the needs of the situation and the functions of bureaucracy. A functions-less bureaucracy cannot have any privilege. We have always given only the privileges and, when it comes to duties, not even in law we have created duties for them and made them obligatory for them. In France they have made two sets of codes. It is not a common law like in England. They have got a code for administrative officers. To our concept of democracy, it looks rather wrong. Here, an administrative officer not only has protection but when it is found there is an impropriety involved, as is evident in so many cases we have not even enquired into it. The House does not know it. If a question is put as to how many ICS officers are in the employ of business houses, we do not know how many of them are employed there. I am told that in public sector enterprises, out of 54 public enterprises 45 public enterprises have either ex-ICS officers or presents KS officers. In this way, these privileges have been utilised not for national benefit but for private benefit. Unless we do away with these privileges and not only do away with these privileges but we have a mind to replace them by a more balanced outlook on the administration so that the administration functions and responds to the needs of the situation and of the people, we will not be able to achieve our aims and objectives that we are pursuing now.

MR. CHAIRMAN : Shri Kundu.

SHRI R. BARUA (Jorhat) : May we know from the hon. Home Minister how many ICS officers are on the rolls today so that the debate becomes purposeful?

SHRI Y.B. CHAVAN : I may mention for the information of the hon. Member that we have just had a general census of the KS officers who are functioning as ICS officers today and they are less than a hundred. Taking in to account their period of service and possibility of their retirement etc., my information is that the last ICS

officer will retire in 1979. This is rather on the wasting side.

SHRI S. KUNDU : How many of them are in the public sector after retirement ?

SHRI Y.B. CHAVAN : After retirement they are not supposed to be members of the I.C.S.

SHRI S. KUNDU : Not formally as members of the I.C.S. But how many to them are there ?

SHRI Y.B. CHAVAN : I can give the details later on.

MR. CHAIRMAN : There is a list of Members who want to speak. I will call one by one. Mr. Kundu.

SHRI NAMBIAR : He is giving it to me because I requested him.

SHRI N.K.P. SALVE : Since when you have started doing this ?

SHRI S. KUNDU (Balasore) : It is a great tragedy for us that when I look at the entire administration of this country which has been carried out from 1947 till this day, I feel whether our struggle for independence has been successful, whether our independence is really complete. I have my doubts that the Independence is really in essence complete. It is not because you get certain powers to rule. The question is that after a great struggle you have an effective power to implement your ideas and for that you choose a band of dedicated workers who can translate the hopes and aspirations of the people. There is no such parallel anywhere. In any part of the country where after long years of subjugation and being beaten by the Police and the military by the British people a system has been allowed to be run by those people who are responsible for doing all this. It is indeed very strange that has happened which has no parallel anywhere. When we discuss these things, I do not have any particular anguish in mind. I do not have any particular objection to I. C. S. officers as such. What was the reason for the Secretary of State of the Crown demanding so much vehemently of the then leaders of our national movement

to keep special reservation by certain agreements ? They were not satisfied that they should be in some sort of agreement but they were keen that they should be enshrined in our Constitution I do not know. What were the circumstances ? I will read out some of the speeches made during that time when this Article was inserted in the Constitution. You find two different views. One view was taken by Mr. Ananthasayanam Ayyangar and another view was taken by our late Sardar Vallabhbhai Patel, Mr. Ayyangar wanted that the entire privileges should be abolished lock, stock and barrel. But Sardar Vallabhbhai Patel was a stout defender of this ICS class. As I read the speech of Sardar Patel, I am really shocked that only when the draft Bill was sent as passed by the Crown there, this provision was there and they could not change it. Though the British people said that they would make some relaxation for the Indian ICS officers, no relaxation whatsoever was made for the Indian ICS even after 22 years. Therefore, I doubt whether we have our national freedom, whether we have actually in the real sense full independence and whether the power is really transferred to the people. Somebody becoming Minister of Prime Minister—that is not important. The source of power which is carried through the instrument of people is very very important.

18 hrs.

This instrument was thought to be most indispensable at that time. I cannot imagine how the ICS officers who ordered shooting and hitting of Indians till the other day can suddenly become good, dedicated, patriotic noble chaps. They are incomparable in refinement ; they are incomparable to please Ministers who are good quite people who want a little simple courtesy. I have been seeing this during the last 2 or 3 years as to how the class of bureaucracy has worked. When they want something to be done, they run after the Ministers, they go on opening the handle of the car and also polishing the tables and chairs of the Ministers, but once the work is over, they think : "What are these people ? These are all fools ; these politicians are illiterate people ; and yet they are going to teach us !" This is something strange,

[Shri S. Kundu]

We thought of building up a new India, we thought of giving all encouragement and help to the weaker sections of our society, we wanted to produce more food, we wanted to build up more factories and set up more industries, and whom did I think to be the instruments to achieve all these things? It is these people, who were educated in England, who were supposed to carry on the message or the orders of the British Crown and the British Imperialists. These ICS people passed their examinations in the British days and their knowledge has no relevance to the present-day needs of our times.

Sir, this is an unfortunate situation from which we would like to seek deliverance somehow or the other. I do not know what is the way.

Now certain points were raised by others. The Supreme Court says, you cannot take away these special privileges, unless and until Article 314 is removed. As long as Article 314 is there and the guaranteed covenants which you have codified, you cannot alter or remove them. I do not know what is the legal remedy and how the Government is thinking about it.

It is interesting to read a few lines from the Debate which took place in the Constituent Assembly in those days. This heaven-born Service was given all sorts of privileges; the objective was to make the Civil Service contented; the object was to give them stability; and to give them their rights. But what is position regarding Members of Parliament? For us, Members of Parliament, our privileges are not codified. For these people who represent this country, their privileges are not codified. If there is a Parliament session anybody can arrest me under Sections 107 and 109 Cr P.C. Anybody can arrest me and put me there. Even a police constable can arrest me and I have no privilege but the ICS people who wanted to crush the freedom movement, who sailed with the British Imperialist, except of course some noble friend like Mr. Kamath and Mr. Subhash Chandra Bose—their privileges and rights have been codified.

It is interesting to know what Mr. Anant-

hasayanam Ayyanagar says when this Bill was passed. I quote :

"The European Government that ruled over us sometime ago could not rely upon the loyalty of any citizen in this country, because their loyalty and our loyalties were different. They belonged to a different country from ours and therefore that prejudiced their loyalty. It was the money that could attract loyalty of any citizen of this country to the King of England and therefore the salaries they gave and the scales they fixed knew no bounds. The Governor-General got Rs. 21,000 a month ; Governor got Rs. 10,000 a month ; a Secretary got Rs. 4,000 a month,—out of all proportion to our national income."

Further on, he says :

"The persons, who are our leaders and the winners of freedom of this country say that they have given a guarantee collectively and individually to every one of those people that this was a condition of the transfer of power by the British Government into our hands. They wanted these conditions, particularly in the interests of the Europeans, not so much in the interests of the Indians. Possibly they wanted the interests of the Indian bureaucrat to be safeguarded because they were loyal to them and they did not want to let them down when our own Government came in. I am not in favour of any provision in this Constitution. We could as well incorporate it in an Act of Parliament later on. But we must have the power to regulate. These are becoming 'super-sovereigns' of this country."

After we had our freedom, we made these people super-sovereigns. This is not my word but this is the word used by Shri Ananthasayanam Ayyanagar. Now it is interesting to know how Sardar Patel defended that. I miss no words. He used words sometimes in a jocular way. He said

'Do you want to run this Government by the Congress Workers?' I would have been really happy if this Government had been run by the Congress workers. And I would have relied on the strength of my own people from whom a very strong party would have emerged. They would not have grown food for the people but they would have grown only flowers in their small gardens. I will cite another example. This is what Sardar Patel had said. I quote :

"I feel very sad that the very instruments from whom we have to take work, we have been continuously quarrelling with. If that is so, we are not doing a service to the country. We are doing great disservice."

I do not want to take the time of the House by quoting what Shri Ananthasayanam Ayyangar said with regard to these privileges. There was a difference in their attitude gap. These people took advantage of this attitude gap. Some of our leaders had spent many more days in the prison in their struggle for freedom. We would have got our freedom on any account after a few more years. And heavens would not have fallen even if it was too late. The British people would have been forced to give us the freedom. But we struck to our guns. Mr. Hendersons came from England and he wanted certain rights to be given to them. These people fell prostrate before him. They had their own interests. Our Indian leaders also agreed that the rights to the Indian I.C.S. Officers should not be there. I do not know why? Were they not patriotic, loyal and good citizens? Why should they like this sort of rights? Mr. Henderson said that these rights should not be there for the Indian I.C.S. Officers. These rights were specifically meant for the British people who were serving here. For 22 years these Officers put pressure on the home Minister to continue with these privileges. Whenever a delegation comes here there is a long queue to get more and more privileges and advantages. This is another lever where by the vested interests try to remain in power. I do not know whether, Shri Chavan will take us into confidence. There is a news which has come in the papers that some of the I.C.S. people are trying to

oppose these privileges being withdrawn. The Minister had hardly any time to reply to letters that we wrote. I think the Ministers go on signing the letters without reading the contents of the letters. Who produces these draft letters? These are produced by our young, and brilliant I.A.S. officers. They are also patriotic and they are made work under the I.C.S. people. And whatever they write that comes to the Ministers. But I am disgusted with the type of replies that I get to my letters. If I write a letter to-day I get a reply after one year or so. Then I write a letter. Then I get a reply in six months. Crores of rupees are spent on the bureaucracy. This is the agony of an MP. The letters are couched in so many words that you cannot just catch it. They are true, they are not true. I have so many letters to prove this. Whom are we serving? It is time we took a decision I have nothing against them individually. But they are as a class not fit for anything. I am astounded to know—Shri Chavan will tell us—that in disciplinary matters, they are not subject to the UPSC whereas the IAS and others are subject to the UPSC's disciplinary jurisdiction. I hope now there is not much furore about going to England every two years and getting all those privileges. They have special privileges in emoluments, in retirement allowance. They get a salary of Rs. 4000. They get larger bungalows bigger amenities. After 1947, they enjoyed the maximum fruit of our freedom.

To which sphere have they not been assigned? They have been ambassadors. Some of them have been very good. I have been abroad two or three times touring the world. I have issued statement also. It is a purposeless visionless mission which these people are doing. They are there sleeping and enjoying nicely without knowing, without bothering to know what they are meant for.

Our foreign embassies are absolutely sleeping islands and within these people are having a luxurious holiday home. This is most unfortunate. Do they carry the mission, the real feelings and the real objects for which India stands to the other parts of the world? I can quote many instances, but I do not want to. I am speaking from the depth of my heart. How are these people going about their tasks?

[Shri S. Kundu]

In 1956 I had gone to Bandung as a delegate from India to the Asian-African students' conference. It would be interesting to know that the Chinese embassy gave a gala party for 150 people which went on from 7 p.m. to 3 a.m. We then went to our abassador and asked whether we should also not do something. But he said : 'Do not worry, Mr. Kundu. Nehruji and Gandhiji are completely stabilised in the heart of people of this region. We are firmly in the heart of the people'. We now know how firmly we are in the heart of the people of Asia, Africa and Latin America.

These people are manning our public sector. Lots of money have been sunk in it. It is a contradiction in ideas we see. Can a humble worker go to the manager's office and will he be offered a chair ? Even joint secretaries and deputy secretaries have to stand and cumble before the ICS Secretary. They are not offered a chair.

Sir, we have been fighting that you should trust these workers in the public sector. There have been many pieces of legislation, but how many of them have been implemented ? Who says, who tells in the ears of these Ministers, "Do not trust these people, the workers. They are the men who are responsible for all the agitation, and so keep them at a distance." Mr. Chavan has no time; he has been in office for a long number of years, but has hardly any time to go and see the problems. I wish he were in office for five more years to see how these things go on !

Before there is production, there should be swimming pools ! In a small enterprise I can disclose the name—they said there should be first two swimming pools; big bungalows; even in the lavatory there should be a carpet ! 45 per cent of our money has been wasted in such things. Who defends this ? Who says this is a necessity ?

I can tell you another interesting story. In a party I met a very big army officer, and he was telling me that "You are only giving us Rs. 1,800 with deductions, and how can I fight and defend the country ?" I said that in my constituency people are

dying of hunger and without any tube-well and whether he would not like that money to be spent there. He said "I do not believe in these things. I have 50 junior officers and if I give them each just half a peg of whisky this amount of money is finished". Is that a necessity ? In modern civilisation 50 pegs of whisky are a necessity. But in the villages, sinking of a well is not a necessity. This is the concept, this new civilisation, especially the concept of having more and more of affluent living and catering to the affluent society ; It is this thing that goes into our heart and soul. We demand more and more, and these people are for them.

It is a question of utter orientation. The greatest tragedy today is this : thousands of young boys and girls are turned out from the colleges. Who trains them ? Who trains them in their schools ? Some of these young IAS boys come and tell me. Some of them are very patriotic. Many of them come from the poor strata of society. They say horse-riding is compulsory ; they have to wear a certain dress in a certain fashion ; eat in a certain fashion. "And the lesson that we learn ultimately is, how to open a soda bottle." I do not say about bottle.

Has this got any relevance to the needs of the present society ? Even when some of the Advaisi Harijan boys becomes IAS men, when they come back, they do not say that they are Advaisi Harijans ! They defend themselves in a false sense of prestige. They are completely cut out off from the roots ; they remain in an Ivory tower. Many of the younger people now are rebelling, and the younger generation of the affluent society in the Scandinavian countries like Norway, also in America rebel against these things ; that is out of their feeling; not education.

I would not take much of your time.
(*Interruption*)

AN HON. MEMBER : He has already taken more than 20 minutes.

SHRI S. KUNDU : As I said in the beginning, I have no personal quarrel with

any member of the ICS. But I have one feeling; I cannot understand why these ICS officers did not say to Sardar Vallabhbhai Patel. "Please for us do not keep this provision in the Constitution." Something of the great Subhas Chandra Bose and Mr. Kamath, they should have learnt. It is very difficult for me to excuse them because I am not prepared to excuse them. I do not want to hang them, but I just want to say, "What you have given them, please do not give it to them perpetually. Please for Heaven's sake, for the sake of the teeming millions of poor people, do not give it perpetually. Please reorient the education which you give to these IAS bureaucrats." Because somebody is an IAS, I do not say he becomes a bureaucrat, but if he does not conform to the will of the people, he becomes a bureaucrat. Even a technologist becomes a bureaucrat if he forgets the work that is assigned to him in the interests of the people.

I would, therefore, support this Bill. One of my short notice questions is also there. Keeping that in view, I have been telling them that this privilege, special privilege, should go. I have my doubts. Mr. Chavan may consult his experts, but I have my doubt that these privileges cannot be tinkered with piecemeal; you cannot take away one privilege and allow the others to remain, because the Supreme Court will strike it down.

I would conclude with the request that Mr. Chavan may make some announcements regarding positive steps to do away with these privileges, when he replies.

श्री श्रीकार लाल बोहरा (चित्तौड़गढ़) : सभापति महोदय मैं सर्वप्रथम इस बिल के सूवर, श्री मधु लिमये, को बधाई देना चाहता हूँ कि देर से ही सही, उन्होंने इस बिल को सदन में प्रस्तुत किया है। सांप चला जाये और फिर हम लाठी पीटें, कुछ इस तरह का अनुभव मुझे हो रहा है। आजादी के बाइस वर्ष बाद आज हम यह चर्चा करने बैठे हैं कि हमारी आजादी का बगीचा कुछ लोग चर गये। अगर हम ने आजादी के दूसरे प्रामात में ही यह निर्णम के

लिया होता कि हमें अपने आजाद देश के प्रशासन को निष्ठावाम सेवकों और मिशनरी भावना वाले सरकारी अधिकारियों के द्वारा चलाना है, तो मैं समझता हूँ कि आज हमारे देश की तस्वीर कुछ दूसरी होती। लेकिन यह दुर्भाग्य का विषय है कि हम ने बाइस वर्ष तक उन पुराने घाघ और खूसट लोमों के द्वारा देश के प्रशासन को चलने दिया।

हमारे देश केन्द्र में और हर राज्य में सरकारें एक प्रजातांत्रिक ढांचे के अन्तर्गत काम कर रही हैं। लेकिन पंडित नेहरू और श्री बख्शान जैसे जो लोग सार्वजनिक जीवन में काम करते रहे हैं, उन सब लोगों को समय समय पर यह अनुभव होता रहा है कि प्रशासन की जो मशीनरी अंग्रेजों के द्वारा उनके समय में स्थापित की गई और उन के जमाने में पनपी, जिस का जन्म-भावना से कोई सम्बन्ध नहीं है, वह निरंतर प्रगति के रास्ते में रोड़ा बनी रही है; जब तक हम यह स्वीकार नहीं करते कि प्रजातंत्र का पौधा केवल मिशनरी भावना के और निष्ठावाम सेवकों के द्वारा ही पनपाया जा सकता है, तब तक हम इस देश को प्रगति और विकास के रास्ते पर आगे नहीं बढ़ा सकते।

हमने समाजवाद को अपना लक्ष्य घोषित किया है। समाजवाद या सामाजिक कल्याण का आदर्श और लक्ष्य एक विशेष प्रकार के मानसिक सेट-अप की मांग करता है। लेकिन इन पुराने भाई-० सी० एस० लोगों की छाया में चलने वाले इस प्रशासन का सारा ढांचा इतना नाकामयाब हो गया है कि पिछले बाइस वर्षों में हम सहस्रों लेबल से लेकर केन्द्रीय लेबल तक अपनी जनता को राहत नहीं दे सके, उसके लिए आवश्यक सुख-सुविधायें उपलब्ध करने के अनुकूल वातावरण नहीं बना सके। हमने सामुदायिक विकास योजनाएँ, कम्प्यूनिटी प्रोजेक्ट्स एवं समाज कल्याण के विभाग खोले हैं, शिक्षा और

[श्री ओंकार लाल बोहरा]

सेवा की कई योजनाएँ चलाई हैं, पंचवर्षीय योजनाओं के द्वारा जन-सहयोग को माध्यम बना कर हमने अपने देश के विकास का एक कार्यक्रम बनाया है, लेकिन देश की प्रगति और विकास के इन कार्यों में इन आई० सी० एस० अधिकारियों और उनके मातहत काम करने वाले अन्य छोटे अधिकारियों का कोई सहयोग हमें नहीं मिला है। यही कारण है कि आज आजादी मिलने के बाईस वर्ष बाद भी श्री कुन्दू और श्री मधु लिमये सांप निकल जाने के बाद लाठी पीट रहे हैं।

अतः मैं अतीत की बात में ज्यादा नहीं जाना चाहता हूँ। मैं चाहता हूँ कि आज भी श्री चव्हाण, जिन्होंने इस विचार-विनिमय में बहुत अधिक उत्साह दिखाया है, यह निर्णय लें कि हमारे देश का प्रशासन निष्ठावान सेवकों के हाथ में रहेगा, वह उन लोगों के द्वारा संचालित होगा, जिनका कमिटमेंट है समाजवाद के लिए, जनता के लिए, प्रजातंत्र के लिए और प्रजातंत्रीय व्यवस्था को सुचारु रूप से चलाने के लिए। मंत्री, संसद सदस्य और एम० एल० ए० आते हैं और चले जाते हैं, लेकिन प्रशासन की मशीनरी बनी रहती है इसलिए यदि इस देश में प्रजातंत्र को कायम रहना है, यदि इसको सुगंध देनी है, यदि प्रजातंत्र के इस पीछे को हरा-भरा रखना है, तो हमें यह देखना होगा कि हमारे प्रशासन की मशीनरी की, हमारे अधिकारीगण की, जन-सेवक के नाम से हमारी छाती पर लदे हुए लोगों की नीतियाँ और भावनाएँ क्या हैं। क्या ये लोग सचमुच हमारे देश की जनता को प्यार करते हैं और उसके हित में काम करना चाहते हैं, या केवल अपनी सर्विसिज अपने कैंडर, अपने ग्रेड और अपनी सुविधाओं के लिए ही जिन्दा रहना चाहते हैं? श्रीमान, जैसा श्री चव्हाण साहब ने बताया कि आई० सी० एस० तो केवल सौ से

कम रह गए हैं, लेकिन मैं आपसे कहना चाहता हूँ कि आई० सी० एस० भले ही सौ से कम रह गए हों लेकिन इन आई० सी० एस० वालों ने जो वातावरण बनाया है पिछले 22 वर्षों में और जिस तरह से हमारे प्रशासन को दूषित किया है, हमारे प्रशासन को निर्जीव, निष्क्रिय और अनुपयोगी बनाया है, उसको सम्भालने की भाज भी दरकार है। यदि हम चाहते हैं कि हमारे देश की शासन-व्यवस्था हमारे देश का प्रजातन्त्र और हमारी समाजवादी व्यवस्था तेजी से आगे बढ़े तो मैं चाहूँगा कि आज यह मौका आ गया है कि जब हम सार्वजनिक उद्योग क्षेत्र में, समाज-कल्याण के क्षेत्र में और कई ऐसे जनोपयोगी क्षेत्रों के अन्दर निश्चित रूप से इस बात का प्रयत्न करें कि वह लोग उनमें चुने जाएँ जिनकी जनता में आस्था हो, जिनकी प्रजातन्त्र के अन्दर श्रद्धा हो और जो नीचे से जनता को ऊपर उठाने के लिए अपने आर को प्रस्तुत करते हैं। हम बराबर उन्हें पब्लिक सर्वेंट्स कहते हैं। पब्लिक सर्वेंट का सीधा अर्थ है जन सेवक। वह हमारे राजनैतिक कार्यकर्ताओं की तरह, हमारे सार्वजनिक कार्यकर्ताओं की तरह उनका एक पद है। वह भी जन सेवक हैं। मैं उनको नीची दृष्टि से नहीं देखना चाहता। मैं यह सोचता हूँ कि हम लोगों से अधिक, राजनैतिक कार्यकर्ताओं और सामाजिक कार्यकर्ताओं से अधिक इस देश के करोड़ों लोगों के जीवन को बदलने में यदि कोई सबसे बड़ा योगदान कर सकता है तब-वह हमारे प्रशासनिक अधिकारी और हमारे उच्च अधिकारी तथा छोटे स्तर के जो कर्मचारी हैं, वह कर सकते हैं। लेकिन दुर्भाग्य का विषय है कि आज आप किसी गांव में चले जाइए, किसी शहर में चले जाइए, कहीं जाइए, यह वातावरण आप देखेंगे कि इन अधिकारियों के प्रति एक विशेष प्रकार की नफरत हमारे देश के अन्दर फैली हुई है। लोगों को यह लगता है कि यह अधिकारी सचमुच में राज करते हैं और नेता और मंत्रिगण केवल इनके इशारे पर चलते हैं।

और उसका कारण यह है कि कानून के अन्दर, टेक्निकल ढांचे के अन्दर इन को ऐसा महत्व दिया गया है और ऐसी एक टेक्निकलिटी हमारे सारे प्रशासन में पिछले 22 वर्षों में पैदा हो गई है कि हम चाह कर भी इस माहोल से जो हमारा जन-जीवन का कारवां है, उसे आगे नहीं बढ़ा सके। मैं कहना चाहता हूँ, आज पब्लिक सेक्टर के अंदर क्या स्थिति है? पब्लिक सेक्टर क्यों चौपट हो रहा है? मैं मधु लिमये जी से सहमत हूँ कि ऐसी एक सर्विस तैयारी की जानी चाहिये जिन का सब विषय में विशेष अनुभव हो और हम विश्वास करना सीखें। आज उद्योग के क्षेत्र में, व्यापार के क्षेत्र में, सहकारिता के क्षेत्र में, छोटे से छोटे दूकानदार से लेकर अछड़े से अच्छे व्यापारी और उद्योग-पति की हम राष्ट्रियता के नाम पर, देश-सेवा के नाम पर मांग कर सकते हैं कि वह आयें और हमारे पब्लिक सेक्टर में काम करें। जब निजी क्षेत्रों को वह सम्भाल सकते हैं, उस में मुनाफा कमा सकते हैं तो क्यों नहीं जो देश की विशेष योजनाएँ हैं, जिन में करोड़ों रुपया हम ने लगाया है, उन में उन को मौका दें काम करने का और उन पर विश्वास रखें? लेकिन मुश्किल यह है कि जो हम ने ढांचा बनाया है, उस में हम केवल उन लोगों को जिन का उस विषय में कोई अनुभव नहीं है, मौका देते हैं और परिणाम यह होता है कि हमारे सारे पब्लिक सेक्टर का इन अनुभवहीन लोगों की वजह से सारा उद्देश्य उस का चौपट होता जा रहा है। इसी तरह से आप देखेंगे कि समाज-कल्याण के क्षेत्र में भी हम ने इन सरकारी अधिकारियों का उपयोग किया। मैं सरकारी अधिकारियों को बदनाम नहीं करना चाहता। मैं जानता हूँ कि जो नई पीढ़ी के आई० ए० एस० हैं उन में बहुत से बड़े देशभक्त हैं, कासेज के लेबल पर, विद्यालय के लेबल पर सब जगह उन्हें ट्रेनिंग मिली है, वह आजाद हिन्दुस्तान में पैदा हुए हैं, मैं मन में से अधिकांश को जानता हूँ, इन के

मन में कुछ करने की तमन्ना है, वह चाहते हैं कि देश का यह ढांचा बदले। उन में से बहुत से इमानदार और अच्छे हैं। लेकिन उन को मौका नहीं मिलता। जैसे विश्वविद्यालयों के अन्दर बड़े बड़े डीन और प्रोफेसर हमारे साधारण स्तर के सेक्टरों को पनपने नहीं देते ऐसे ही यह हमारे जो बड़े पुराने और खूबसूरत अधिकारी हैं जिन के ऊपर पुराना ढांचा खड़ा हुआ है, वह हमारी नई पीढ़ी के प्रतिभावान अधिकारियों को और छोटे अफसरों को काम करने का मौका नहीं देते हैं। यही वजह है कि हमारे देश की प्रतिभाएँ आज विदेशों में जा रही हैं। हमारे डाक्टर, इंजीनियर और और भी कई अच्छे अच्छे कुशल कार्यकर्ता और कुशल अधिकारी आज देश को अपनी प्रतिभा का योगदान नहीं दे पा रहे हैं और वह अमेरिका या विदेशों में जा कर काम करना चाहते हैं। यह इसी वजह से है कि जो हमारे यहां का पुराना ढांचा चला आ रहा है उस को हम तोड़ नहीं पाये।

इसलिए मैं बहुत अदब के साथ कहना चाहता हूँ कि अब समय आ गया है कि यदि सचमुच में हम इस देश को समाजवादी व्यवस्था की ओर ले जाना चाहते हैं तो हमारे जो अनोपयोगी कार्य हैं और हमारा जो सारा प्रशासन है उस को हम तेजी से बदलें। और अगर हम तेजी से नहीं बदले नारे लगाते रहे, बड़ी-बड़ी राजनीतिक पार्टियाँ अपना काम करती रहें, लेकिन हमारे अधिकारी और प्रशासनिक सेक्टर जो हैं इन का सब नहीं बदला, इन का मनो-विज्ञान नहीं बदला और इन के माइंड सारा सेट अप, इनके दिमाग का जो नजरिया है वह नहीं बदला तो आप चाहे कितने नारे लगाइए, कितना ही अपना उद्देश्य घोषित कीजिए समाजवाद का, यह एक मृग मरीचिका होगा। सचमुच आज समय आ गया है, चाहे बेर से ही सही, इन प्रशासनिक सेवाओं के बारे में हम को यथार्थवादी दृष्टिकोण से विचार करना

[श्री ओंकार लाल बोहरा]

चाहिए, फेक्ट्स और तथ्य के आधार पर विचार करना चाहिये तथा इस पूरी प्रशासनिक मशीनरी को नया आधार देना चाहिये। जो सुविधाएं आज इन को मिल रही हैं—छुट्टी, प्रिविलेज, रिटायरमेंट तथा अन्य अनेकों सुविधायें—ये सब ब्रिटिश साम्राज्य की देन है, अब हमें इन को खत्म करना चाहिये तथा आगे के लिए इन तमाम प्रशासनिक सेवाओं के लिए एक नया आधार स्थित करना चाहिए। यदि बुनियादी दृष्टि से हम प्रशासनिक सेवा का गठन कर सकें तो मैं समझता हूँ कि जिस समाजवादी भारत का निर्माण हम करना चाहते हैं, उस में सहायता मिलेगी।

अभी जैसा हमारे कुछ जी ने कहा कि हमारे दूतवासों में ऐसे ऐसे अधिकारी हैं जिन को हमारे देश के रहन सहन, कला, सांस्कृति, हमारे देश के इतिहास का कोई ज्ञान नहीं है, लेकिन आज वे विदेशों में हमारे देश का प्रतिनिधित्व करते हैं। मैं सब के बारे में नहीं कहवा हूँ, लेकिन अधिकांश की यही स्थिति है। इस लिए अब समय आ गया है यदि हम अपने देश का वास्तविक प्रतिनिधित्व देश विदेश में करना चाहता हूँ तो हमें समाज के तपे तपाये लोगों को या जिन्होंने इस देश की मिट्टी में अपने जीवन को आत्मसात रखा है, ऐसे लोगों को अबसर देना चाहिए। देश में, योग्यता की कमी नहीं है, प्रतिभा की कमी नहीं है, आवश्यकता यह है कि उन के लिए वातावरण बनायें और केन्द्रीय सरकार के मातहत सारे देश के अन्दर ऐसे लोगों को मौका दें, खास तौर से नई पीढ़ी के लोगों को मौका दें, जो अपनी प्रतिभा से देश का नव निर्माण करने में लग सकें।

SHRI N.K.P. SALVE : Mr. Chairman, it was a decision of very great parliamentary propriety that the Deputy-Speaker has kept the question of the Presidential recommendation entirely open and that the matter would be duly considered from all angles before we pass this Bill.

I extend my wholehearted support, approbation and commendation for the spirit behind this Bill. I really do not know I am unable to comprehend the precise circumstances under which Sartar Patel so stoutly defended the un-Indian Indian Civil Service which was neither Indian nor civil nor service. But it is impossible for a person, who has been making and is capable of making an objective and realistic evaluation and assessment of things and events in India in the preceding two decades, not to accept the points made by Shri Madhu Limaya in his Bill and enumerated in the statement of objects and reasons as valid. They are most rational. It is impossible to refute their rationale. It is irrefutable.

Shri Limaya has made three points in statement of objects and reasons. I am extremely impressed by the way he drafted the statement of objects and reasons. When he speaks on the Constitution, I am dumbfounded. He is one of the greatest exponents of Constitutional law. The only thing is that when he comes down to the applied Constitution and super imposes politics, we see that Mr. Hyde in him; otherwise, he is Dr. Jekyll.

SHRI MADHU LIMAYE : He does not like my politics.

SHRI N.K.P. SALVE : Yes; I do not like it sometimes. It is open to me to do so, for sometimes he brings too much politics in the Constitution. Otherwise his original thinking in the Constitution is that of a genius.

The three points Shri Limaya makes are these. The first point he makes is that the special privileges are opposed to democratic ideals of equality and social justice. This is absolutely irrefutable. It is undeniable that special privileges which have been conferred on members of the ICS are certainly opposed to our democratic ideals or to our concept of social justice.

The second point that he has made in which he has been ably supported by all the Members is that the members of the

Indian Civil Services have established a vicious strangle-hold over the administration. Undoubtedly, they hold the top-most civilian posts and these small men are assigned to the highest civilian posts.

The third point that he has made is that the cause of this rancour, this inviolability, against the ICS offices and the immense dislike which they have earned for themselves is entirely due to the most unwarranted snobbery they have been showing. There is no justification for them to show snobbishness.

In fact, in any other country, after achieving independence, the treatment to be meted out to a set of people who had always been trampling the rights of their people and crushing the forces of nationalism would have been different. It is only in the land of Buddha and Gandhi that a very kind treatment had been given to the ICS people after the British Rule. Article 314 gives them guarantees safeguards. This was a gesture of the magnanimity of the Indian people. But what did they give in return? Did they live up to this trust. No. They have completely abused the magnanimity of the Indian people.

These ICS officers were described as an iron-frame of the administration in the British days and they continue to be so described even today. To build up this iron-frames of the administration, it is necessary that the officers must be elevated to the Herculean position, they must be raised to dizzy heights of power and comfort, they must be raised to the position of demi-gods because, unless they are demi-gods, they cannot be powerful enough to make an iron-frame of the administration. One can understand, in the British days, when certain slaves were picked, who were willing to barter away their conscience, who were willing to barter themselves away and their intellect only to perpetuate a colonial rule on their fellow countrymen that such people had to be elevated to such dizzy heights of kingly grandeur and had to be given all the privileges and the untrammelled authority. But, I submit, in all humility, this concept of iron-frame today is not only

an anachronism but, to me, it is a most morbid, a most obnoxious of concepts for a Government which is a Government of the people by the people, and for the people dedicated to cater to the welfare of starving millions.

Where is the place for any privileged section at all in this country today when teeming millions of people do not have, as Mr. Kundu pointed out, even pure drinking water? When I go to my constituency, when I go through the Adivasi villages, whom I represent here I find, people in villages after villages do not have even a single wrist watch, many of them have never worn shoes, or socks for generations and there are many families who have never seen white crystal sugar, to eat the same art of question. Our rural economy today is in a miserable condition. But that is different aspect of the country's malaise. What I am trying to submit is what disparities we are bringing about. Have we not, as a result of the privileges confined in Article 314, given to the ICS men, widened and augmented these disparities between the peoples of our country and the administrators.

Then the next aspect to which I should like to refer is this tremendous hatred and invidiousness which the ICS men have earned for themselves from the Indian people. I submit, there were other also who served in the British days and, after the British rule was over in this country, they fully aligned themselves with the aspirations, ambitions in happiness and sorrows of their own Indian people. I would like to give the example of the men in army, air force and navy. They had also served the British people. But after Independence, today, the people in the defence services are most respected and esteemed Govt. employees all over the country. Why? There is only one reason and that the country is sure that these men in defence force are people who can be counted upon and depended for selfless dedication and sacrifice for the cause of the country and for the cause of the Indian people. It is most regrettable that the only thing we can depend upon for the ICS men is intrigue, infinite snobbery and selfishness and capacity rough-shod over all the officers and Minis-

[Shri N. K. P. Salve]

ters and politicians. They demonstrate as much as arrogance as they can and, if no thing else they have proved to the world that they live for themselves, they think for themselves and they act for themselves. We have no use for such a selfish tribe. There are, of course, certain exceptions among the ICS officers which I must make clear at this juncture itself. As has been so rightly pointed out, so long as I.C.S. officers are in office, they adopt an attitude of tremendous snobbery and stiffneck as though they are put in a straight jacket. Soon after they retire and when they are faced with the day to day problems of life and living and when they are no longer at the dizzy heights of power and comforts they act as the best liaison officers and as contact men. What unseemly double standards are these? My respectful submission is: If nothing else is done, whether this Bill is accepted by the Home Minister or not, I would very humbly appeal to Mr. Chavan to so amend the service Rules that these men in high positions after they retire are not allowed to abuse their authority and power almost retrospectively.

Another thing to which I would like to draw your very kind attention is the high posts in which we keep these ICS men. Every Member who spoke today had his own tale to narrate about the misdeeds of the ICS men. Most of them continue on the top civilian posts. Is it not possible, even if Article 314 is not amended, to give these officers smaller jobs? Can they not be sent to be in charge of zoo or put in charge of museum or some archaeological department. That will show them their proper place and would save the country from the cumbresomeness that these people have brought into the administration.

AN HON. MEMBER : That is not possible.

SHRI N. K. P. SALVE : I hope the Minister will deal with this matter. If this is not possible, at least withdraw I.C.S. officers completely, lock stock and barrel, from our public sector undertakings. In

all humility I submit that I have a some knowledge about the modern techniques of management of Business and industrial undertakings. After coming into Parliament I have been watching with very great interest the working of public sector undertakings where the ICS men head the organization. And if the management techniques can be categorised into, techniques which ever a most for adoption for purposes of progress of any business undertaking, and the techniques which must be discarded in the interests of the business then 90% of the techniques followed by ICS officers are those which need to be discarded. By training, by temperament and by tradition, if I may use the word, these I.C.S. men are demand not to understand how industry or business are run. How can they carry on a business undertaking efficiently or profitably. They have acquired Himalayan arrogance. Mr. Kundu complained that junior officers when called by their ICS bosses tremble before them. I submit that even a Minister's decision to my knowledge was thrown in the waste paper baskets by an ICS officer of a large industrial undertaking saying that the Minister does not understand the matter. This is how they treat the Minister's decisions. I am not referring to Minister who know how to treat the ICS officers. But it is this stupendous arrogance they have acquired which is most inconsistent with the techniques to be followed by the head of a business organization. All these people are saturated and dripping with arrogance and the sooner we get rid of them, the better it shall be, for our Public Sector undertakings.

Therefore, I submit that the matter needs to be fully examined. Even if the Home Minister is magnanimous enough and accepts the Bill of Shri Madhu Limaye it will only mean that the guarantee of their continued service conditions will no longer last. Still it will continue to remain subject to the contract. Because there are agreement and covenants with its I.C.S. officers, I would really like to know from the Home Minister what exactly is the position of these covenants. Assuming we get rid of Art. 314, still in terms of the contract, and in terms of the covenant, are we still bound to afford them the same privileges and the same position. If you are going to keep them out the same dizzy heights,

of affluence and power then, there is no use of getting rid of Art. 314. I hope Mr. Chavan will consider this aspect of the matter and tell us what he has to say about this.

Before I close, please permit to me recite a couplet, particularly for Shri Chavan's benefit to understand the ICS officers. It is in very simple Urdu :

“तालिबे हुस्न तो सैकड़ों हैं मगर,
दर्दगम का लतबगार कोई नहीं,
पीने वालों में बैठे हैं कुछ गैर भी,
एक कतरा न देना इन्हें साकिया,
ये मयखवार हैं वक्त के भार हैं,
इनमें तेरा परिस्तार कोई नहीं।

18.46 hrs.

BUSINESS ADVISORY COMMITTEE FORTY-SEVENTH REPORT

THE MINISTER OF PARLIAMENTARY AFFAIRS AND SHIPPING AND TRANSPORT (SHRI RAGHU RAMAIAH): Sir, I beg to present the Forty Seventh Report of the Business Advisory Committee.

CONSTITUTION (AMENDMENT) BILL

(Omission of Article 314)

by Shri Madhu Limaye

श्री सरजू पाण्डेय (गाजीपुर): समापति महोदय, जो बिल सदन में आया है मैं उसका समर्थन करने के लिए खड़ा हुआ हूँ। कई माननीय सदस्यों ने तरह तरह के तर्क दिये हैं लेकिन हिन्दुस्तान की आजादी के बाईस वर्ष के बाद भी मैं नहीं समझता कि हमारे संविधान में जो व्यवस्था की गई है और आई०सी०एस० अफसरों को जो सुविधायें दी गई हैं उनको देने का कारण क्या है।

बाईस वर्ष की आजादी के दौरान हम ने देखा है कि देश में एक चेतना आई है, समाज में एक नई चेतना पैदा हुई है और आज कई

प्रश्न हमारे सामने आये हैं। कई बार इस संविधान को बदलने का अवसर भी आया है। हमने बैंकों का राष्ट्रीयकरण किया है और जिन बुनियादी अधिकारों को हम ने अपने संविधान में रखा है उनके सम्बन्ध में देश के बहुत से लोगों ने, बहुत सारे विधिवेत्ताओं ने मांग की है कि संविधान में से सम्पत्ति के अधिकार को हटा दिया जाये। यह आई० सी० एस० हमारे संविधान में कलंक है। यहाँ पर नौकरशाही ने देश की जनता को छूटने, उसको दबाने और बरबाद करने का काम किया है। उनमें हमारे आई० सी० एस० आफिसर भी हैं। इन आई० सी० एस० आफिसरों ने आज तक देश की जनता के साथ बेईमानी की है। हम कानून बनाते हैं, लेकिन लागू करने वाले अधिकारी उसका अर्थ कुछ और लगाते हैं। नतीजा यह होता है कि समाज में गड़बड़ियाँ पैदा होती हैं।

कई लोगों ने प्रश्न किया कि हमारे देश में आई० सी० एस० आफिसरों को सुविधायें देने की क्या जरूरत है जबकि हम देश में समाजवादी समाज की रचना की बात करते हैं? खासतौर से कुछ लोगों को इस तरह की सुविधायें देना और उसका संविधान में बना रहना अच्छी बात नहीं है। भ्रष्टराज राजाओं के बारे में प्रश्न उठता है। हम लोगों ने कई बार मांग की है, और वह प्रश्न आने वाला भी है, कि उनकी सुविधायें खत्म की जायें। अब वह वक्त भी आ गया है कि हम अपने संविधान में संशोधन करें और जो आई० सी० एस० अफसर हमारे देश में बैठे हुए हैं उनकी सुविधाओं को हटा दें, उनको समाप्त करें।

जो लोग हमारे देश की आजादी के लिए लड़ें, जिनकी कुर्बानियों से आज हम लोग इस सदन में बैठे हुए हैं, आज वह नहीं हैं, और अगर हैं भी तो राज काज में हिस्सा नहीं ले रहे हैं, अपने घरों में बैठे हुए हैं, लेकिन जिन लोगों ने हमको कुचला था, जो हम पर जुल्म