

CODE OF CIVIL PROCEDURE
(AMENDMENT) BILL

Shri M. L. Dwivedi (Hamirpur Distt.): I beg to move:

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration".

सभापति जी, मैं ने पिछले सत्र में एक विधेयक इस सदन के सामने रखा था। यह एक छोटा सा विधेयक है लेकिन एक बहुत महत्वपूर्ण सवाल को ले कर रखा गया है। जैसा कि सदन के सभी सदस्यों को मालूम है और देश भर में तमाम लोगों को मालूम है, हमारे देश में बहुत से राजे महाराजे जो पुराने राज्यों के शासक थे, अभी भी हैं, और संविधान ने उन को नागरिकता के अधिकार दिये हैं। क्योंकि वे इस देश के नागरिक हैं। लेकिन एक विचित्र बात यह है कि सिविल प्रोसीज्योर कोड के अन्तर्गत उन को कुछ ऐसे अधिकार दिये गये हैं जो कि संविधान में लिखी हुई बातों के बिल्कुल विरोध में हैं। उन को उसी भांति इस समय समझा जा रहा है जैसे कि वे कोई विदेशी शासक हों या इस देश के दुश्मन हों। इस संहिता की धारा ८५ में लिखा है :

"किसी विदेशी शासक की प्रार्थना पर अथवा किसी ऐसे व्यक्ति की प्रार्थना पर जो कि केन्द्रीय सरकार की अनुमति में विदेशी शासक की ओर से कार्य करने के लिये समर्थ हो, आज्ञा द्वारा किन्हीं भी व्यक्तियों को ऐसे शासकों के पक्ष में न्यायिक कार्य करने, दोषारोपण करने अथवा उन का पक्ष प्रतिपादन करने के लिये नियुक्त किया जा सकता है और जो व्यक्ति इस तरह नियुक्त किये जायेंगे वे अधिकृत कर्ता समझे जायेंगे। ये कर्ता लोग ऐसे शासकों की ओर से विधान प्रक्रिया संहिता के

अन्तर्गत साक्षी का कार्य कर सकते हैं, प्रार्थना पत्र दे सकते हैं और अन्य कार्य भी कर सकते हैं।"

इसी प्रकार से धारा ८६ की उपधारा (१) में लिखा है :—

बिना केन्द्रीय सरकार की अनुमति के और जब तक उस सरकार के सचिव द्वारा ऐसी अनुमति का लिखित प्रमाणपत्र न जारी किया जाय, किसी भी विदेशी शासक के विरुद्ध किसी ऐसे न्यायालय में, जो कि अन्यथा कार्यवाही करने में समर्थ हो, अभियोग नहीं चलाया जा सकता।

उपधारा (३) में लिखा है :—

इस विधान प्रक्रिया संग्रह के अन्तर्गत कोई भी विदेशी शासक बन्दी नहीं किया जा सकता और बिना भारत सरकार की अनुमति के जो उस सरकार के सचिव द्वारा लिखित प्रमाणपत्र द्वारा प्रदत्त हो, किसी भी ऐसे शासक की सम्पत्ति पर जारी की गई डिगरी पर कार्यवाही नहीं की जायेगी।

जहां तक विदेशी शासकों का सम्बन्ध है या उन लोगों का सम्बन्ध है, जो कि देश के विरुद्ध हैं, मैं मान सकता हूँ कि ये धारायें बिल्कुल सही हैं और उन पर अमल करना चाहिये। जब तक इस देश में ६ सौ के करीब रियासतें थीं और उन के शासक स्वतन्त्र थे, तब तक उन को विदेशी शासकों के समान अधिकार प्राप्त थे। उस समय इस देश में अंग्रेजी शासन था, इसी लिये इन रियासतों के राजा महाराजा इस प्रकार के अधिकारों का उपयोग करते थे। लेकिन अब तो वे ६०० रियासतें पूरी तरह से

[Shri M. L. Dwivedi]

हमारे भारत संघ का अंग बन चुकी है। अंग ही नहीं, राज्य पुनर्निर्माण अधिनियम के द्वारा, जो कि हम ने अभी हाल में बनाया है, वहाँ के नागरिकों को वही अधिकार प्राप्त हो चुके हैं, जो कि देश के शेष नागरिकों को प्राप्त हैं। पुराने देशी राज्यों के नरेश अब सब मायनों में भारतीय नागरिक बन चुके हैं और हमारे संविधान में लिखा है कि सब भारतीय नागरिकों के अधिकार एक समान होंगे और उन में किसी प्रकार का भेद-भाव नहीं किया जायगा। ऐसी स्थिति में मेरी समझ में नहीं आता कि भारत सरकार ने उन को ऐसे अधिकार और सुविधायें क्यों दी हुई हैं, जो कि विदेशी शासकों को या हमारे देश के शत्रुओं को मिलती हैं।

एक बहुत महत्वपूर्ण बात मैं इस सदन के सामने यह रखना चाहता हूँ कि जब कोई व्यक्ति इस देश का नागरिक बनता है, तो उस के कुछ कर्तव्य हो जाते हैं, जिन का पालन करना उस के लिये उचित और आवश्यक होता है। हम देखते हैं कि हमारे सामने पंच-वर्षीय योजना आई, द्वितीय पंच-वर्षीय योजना आई। देश भर में एक नवीन जागृति का सूत्रपात हुआ और हमारे वहाँ अनेक क्षेत्रों में ऐसी गहन प्रगति हुई कि जिस को देख कर दूसरे देशों के लोग चकित हो गये। हम यह भी देखते हैं कि हमारे देश के साधारण नागरिक—चाहे वे ग्रामीण हों, और चाहे नगर के निवासी अपनी अपनी शक्ति के अनुसार अपने अपने क्षेत्र में सरकार के साथ सहयोग कर रहे हैं, पंच-वर्षीय योजनाओं में अग्र दे रहे हैं, सम्पत्ति दे रहे हैं और अनेक प्रकार के कर इत्यादि दे रहे हैं और इस प्रकार अपने देश के नाम को उज्ज्वल बनाने और उस को प्रगति की ओर ले जाने के लिये पूरा प्रयास कर रहे हैं। हमारे गृह मंत्रालय के मंत्री जी इस समय यहाँ पर बैठे हुए हैं। वह हम को बतलायें कि कौन से शासक हैं, जिन्होंने भी अग्र दान आन्दोलन में कार्य किया हो या पंच वर्षीय योजना के अन्तर्गत कोई आर्थिक सहायता दी हो या देश

की प्रगति सम्बन्धी कोई आशातीत कदम उठाया हो। अगर वह इस तरह कुछ इशारा करें, तो मैं समझूँगा कि आप इन भूतपूर्व शासकों को निजी स्वर्च के लिये जो बड़ी बड़ी धनराशियाँ दे रहे हैं, उस में कुछ भीचल्य है। मैं जानता हूँ कि आप ने उन से कुछ समझोते कुछ करारनामे कर रखे हैं। मैं यह भी जानता हूँ कि वे करारनामे सही हैं और उन का हमें पालन करना चाहिये, लेकिन क्या इन करारनामों के अन्तर्गत ऐसी बातें भी नहीं कर डाली गई हैं, जो कि हम को नहीं करनी चाहियें थीं। हम ने यह तय किया था कि राज्यों में राजप्रमुख और उप-राजप्रमुख होंगे और हम ने उन को कुछ अधिकार भी दिये थे। हम ने पहले एक कावेनेन्ट बनाया और फिर उस को बदल डाला।

इस सम्बन्ध में मुझे सरदार पटेल की याद आती है, जिन्होंने इस देश में एक विशाल कार्य किया— जिन्होंने एक ऐसा कार्य कर के दिखलाया, जो कि असम्भव मालूम होता था। सब देशी राज्य भारत संघ में विलीन हो गये अथवा उस के साथ एकीकृत हो गये जिस के कारण हमारे देश की स्थिति बड़ी सुदृढ़ हो गई है और आज हम देश में चारों तरफ सुख समृद्धि देख रहे हैं। अगर ये भूतपूर्व शासक उन बड़ी बड़ी रकमों से जो कि उन को प्रिवी पर्स के रूप में मिल रही है, हमारी योजनाओं को चलाने में और इस देश को अपना देश समझ कर ऊँचा उठाने में सहायता करते, तो मैं उन को कुछ विशेषाधिकार दिये जाने का कुछ भीचल्य समझता, लेकिन मुझे तो उन के रवैये से यह मालूम हुआ है कि वे इस देश की प्रगति के लिये किये जाने वाले कार्यों के साथ नहीं हैं, उन के साथ उन की सहानुभूति नहीं है। आज इस देश के निर्धन किसानों की खून पसीने की कमाई का पैसे उन के पास जा रहा है। जो कुछ इस देश में हो रहा है, जरा हम उस की तुलना दूसरे देशों से तो करें। चीन में काम पर बेतन मिलता है जायदाद पर नहीं मिलता है। जायदाद तो वहाँ सरकार की है। वहाँ घंटों के हिसाब से भी तनक्याह

नहीं दी जाती है। वहाँ तनख्वाह इस बात पर दी जाती है कि किसी व्यक्ति ने कितना काम किया है। वहाँ पर सामूहिक खेती का तरीका अपनाया गया है और सहकारी समितियाँ बनाई गई हैं। उपज से जो धन मिलता है, वह सब में बराबर बांटा जाता है, लेकिन बराबर इस मायने में नहीं कि वे को-ऑपरेटिव सोसायटी के बराबरी के सदस्य हैं बल्कि जितना अधिक काम किसी व्यक्ति ने किया होता है, उतना ही अधिक उस को पारिश्रमिक मिलता है। दूसरे देशों में भी इसी तरह की प्रवृत्ति अपनाई गई है। जिस किस्म की स्थिति हमारे देश में आप ने उत्पन्न कर रखी है, वैसी किसी भी देश में नहीं मिलेगी।

मैं यह चाहता हूँ कि हमारे देश के पुराने राजा महाराजा लोग इस बात को समझें कि यदि हम साधारण नागरिक की तरह यहाँ पर रहना चाहते हैं तो हम को सब विशेषाधिकार छोड़ देने चाहियें। उन को चुनाव लड़ने का अधिकार दिया गया। वह ठीक है। उन को नागरिक बनाया गया। वह भी ठीक है। अब उन को आप बड़ी बड़ी तनख्वाहें भी दे रहे हैं। और वह इसलिये कि उन्होंने त्याग किया था और अपने राज्यों को भारत में मिलाया था। मैं यह कहना चाहता हूँ कि यह तो उन को करना ही था। यह तो देश की मांग थी। ऐसी ही देश की हवा था कि उन को ऐसा करने के लिये विवश होना पड़ा। अगर वे ऐसा न करते, तो यहाँ पर ऐसे उपद्रव होते, ऐसे ऐसे बवंडर उठते कि कि उन के राज्य मिट जाते, उन्हें कोई तनख्वाहें न मिलतीं और उन्हें कोई जानता भी न। उन्होंने ने समय को पहचाना और सरदार पटेल की आवाज पर, भारत सरकार के कहने के अनुसार उन्होंने ने देश का साथ दिया, इसलिये हम ने उन के लिये पेन्शनें मुकर्रर कर दीं। अगर कोई यह सोचता है कि देश चाहे कितना आगे निकल जाये, परन्तु उस पुरानी स्थिति को न बदला जाय, जिस में एक ऐसा तबका बना हुआ है, जो कि संविधान के विपरीत काम कर रहा है—विपरीत इस दृष्टि से कि उन्होंने ने देश के निर्माण

के कामों में क्या सहयोग दिया है, कौन कौन से सहायता के काम किये हैं, आप यह गिनाने में असमर्थ होंगे, क्योंकि इस सम्बन्ध में उन का रवैया बिल्कुल नकारात्मक रहा है—तो मैं कहना चाहूँगा कि वर्तमान स्थिति में यह ठीक नहीं है। बदलती हुई परिस्थितियों के अनुकूल हमें सब वातावरण को बदलना होगा।

हमारे सामने सैकड़ों ऐसे उदाहरण आये हैं कि साधारण नागरिकों ने, गरीब लोगों ने राजाओं के पास कर्ज के रूप में, डिपाजिट के रूप में रुपये जमा किये हुए हैं, लेकिन वे वापिस नहीं देते हैं। आज परिस्थिति यह है कि अगर वे उन राजाओं के खिलाफ मुकदमा चलना चाहते हैं, तो पहले उन को केन्द्रीय सरकार के पास अनुमति प्राप्त करने के लिये जाना चाहिये। आप देखें कि यह शासक लोग बड़े प्रभावशाली होते हैं और मंत्रालय और सचिवालय की हालत हम देख ही सकते हैं कि किस प्रकार हमारे बीच में भ्रष्टाचार फैला हुआ है। परिणाम यह होता है कि ये लोग प्रभाव डालते हैं, व्यय करते हैं और उन के विषय में आज्ञा निकलने में बहुत विलम्ब होता है और कार्य शीघ्रतापूर्वक नहीं होता है। राजा महाराजाओं के पास धन व्यय करने और मुकदमा लड़ने की जो शक्ति और साधन होते हैं, उस को देखते हुए एक साधारण, गरीब नागरिक उन के खिलाफ मुकदमा चलाने में कैसे समर्थ हो सकता है। उन दोनों का मुकाबला ही क्या है। इस के अलावा वह न्याय तक पहुँच ही नहीं सकता, जब कि वह केन्द्रीय सरकार की आज्ञा न ले और केन्द्रीय सरकार का अर्थ है सचिवालय और वहाँ प्रभाव के प्रयोग और भ्रष्टाचार की जो बातें होती हैं, उन को हम सब जानते ही हैं। सैकड़ों ऐसे उदाहरण हैं कि केन्द्रीय सरकार को पता ही नहीं चल पाता है और इसलिये आज्ञा नहीं मिल पाती है और साधारण नागरिक राजा महाराजाओं से अपना पैसा बसूल नहीं कर सकता है।

• श्री श्री० चं० शर्मा (होशियारपुर) : एक उदाहरण तो दें।

श्री म० ला० द्विवेदी : एक उदाहरण तो यहां पर है। यहां पर महाराजा आनन्द चन्द बैठे हैं। एक गरीब बुढ़िया ने, जो कि पहिले इन के राज्य में थी, अपने कई हजार रुपये इन के पास जमा कर दिये थे लेकिन जब वह रुपया मांगने के लिये आई तो उन्होंने उस को मकान से बाहर निकलवा दिया और कहा कि हमारे पास पैसा नहीं है। वह बेवा मरने वाली है। उस के पास खाने को पैसा नहीं है। उस का कोई लड़का या बच्चा भी नहीं है, जो कि उस को सहारा दे। वह उस रुपये से अपना शेष जीवन सुख से बिता सकती है और अपना निर्वाह कर सकती है, लेकिन उस के पास इतनी सामर्थ्य नहीं है कि वह भारत सरकार के पास पहुंच सके। उस का कोई वकील नहीं है, जिस से वह भ्रष्टाही ही लिखवा सके। न्यायालय में जाने का अधिकार आप ने उस को दे नहीं रखा है।

मैं यह निवेदन करना चाहता हूँ कि मैं इस सदन का समय इस प्रकार की मिसालें दे कर खर्च नहीं करना चाहता हूँ। अगर कोई जानना चाहे, तो उस को इस प्रकार की दर्जनों नहीं, सैकड़ों मिसालें मिल सकती हैं।

आप के ये कावेनेन्ट किस के लिये हैं ? वे बनाये किस ने हैं ? संविधान सभा किस ने बनाई है। संविधान सभा जनता की प्रतिनिधि थी। अगर आज जनमत लिया जाय, तो मालूम हो जायगा कि जनता यह चाहती है कि ऐसे अधिकार अब भूतपूर्व शासकों के पास नहीं होने चाहियें। अगर आप जनमत लें, तो आप को इस का प्रत्यक्ष प्रमाण मिल जायेगा। आप अगर जनता की आवाज नहीं सुनते हैं तो मैं चाहता हूँ कि आप संसद सदस्यों को छूट दे दीजिये कि वे जिस पक्ष में चाहें अपनी राय दे दें, आप उन को किसी तरह मत देने के लिये मजबूर न करें, आप द्विपक्ष की बात छोड़ दें, सचेतक का इस्तेमाल न करें, तो आप देखेंगे कि कितने माननीय सदस्य इसके पक्ष में वोट देते हैं। ५०० सदस्यों में से शायद ही कुछ एक सदस्य ही ऐसे होंगे जो इस के खिलाफ वोट देंगे। बहुत कम सदस्य ही इस बात को चाहेंगे कि

राजाओं के ये विशेषाधिकार बने रहें। मैं समझता हूँ कि अगर माननीय मंत्री भी अपनी अन्तरात्मा को टटोलेंगे, तो वह भी बोल उठेंगे कि राजाओं और महाराजाओं के ये अधिकार आज के जमाने में बने नहीं रहने चाहियें। ये अधिकार समय के प्रतिकूल हैं।

मैं इस बात को जानता हूँ कि उन को इस विषयक के विषय में बोलना है क्योंकि वह समझते हैं कि उन के ये विशेषाधिकार कुछ दिन और चलने चाहियें। मैं समझता हूँ कि जब तक बवन्डर खड़ा न हो जाये, देश की जनता आन्दोलन न करे, वह चिल्ला न, उठे तब तक ये अधिकार समाप्त नहीं हो सकते। मैं आप को बतलाना चाहता हूँ कि १० सालों से निरन्तर मैं यह आवाज उठाता आ रहा था कि आप ने यह जो क लख और घ श्रेणी के राज्य रखे हैं इन को समाप्त कर दीजिये क्योंकि राज्यों को ऊंची नीची श्रेणियों में विभक्त करना गलत है और सारे भारतवर्ष में एक ही श्रेणी के राज्य होने चाहियें। मैं इस बात की मांग करता रहा हूँ कि राजप्रमुख की प्रथा समाप्त कर दी जाये और सब राज्यों में राज्यपाल होने चाहियें इस प्रकार की बहुत सी बातें मैं ने कही हैं। इन सब बातों को कहने से मेरा तात्पर्य यह था कि जो आप यह चाहते हैं कि सारे राज्य तरक्की करें यह बिना वर्गीकरण मिटाये बुरा नहीं हो सकता था और ये जो पिछड़े हुए हिस्से थे वे तरक्की नहीं कर सकते थे। आप इस चीज को टालते गये। आखिरकार आप को राज्य सीमा आयोग की नियुक्ति करनी पड़ी और उस ने जब इसी प्रकार की सिफारिशों की तो आप को मजबूर हो कर इन को मानना पड़ा। आज भी अगर आप कोई कमीशन मुकर्रर करेंगे, तो मैं बिश्वासपूर्वक कह सकता हूँ कि वह भी इस बात की सिफारिश करेगा कि इस विशेषाधिकार को समाप्त कर दिया जाय और आप को मजबूर हो कर उस की इस सिफारिश को मानना पड़ेगा। इस वास्ते इस कमीशन को नियुक्त कर के और उस पर लाखों रुपया खर्च करने के बाद

अगर आप इस चीज को स्वीकार करते हैं तो इस से अच्छा तो यही है कि आप इस विधेयक को अभी स्वीकार कर लें। आप को चाहिये कि आप समय की जो पुकार है उस को सुनें और उस के मुताबिक काम करें।

भारतीय प्रक्रिया संहिता में नम्बर ८७ (ख) एक छोटी सी धारा है। इस में यह लिखा हुआ है:

"87 (b). The provisions of section 85 and of sub-sections (1) and (3) of section 86 shall apply in relation to rulers of any former Indian State as they apply in relation to the ruler of a foreign State."

मैं ने अभी धारा ८५ भी पढ़ी थी और धारा ८६ की भी कुछ उपधारायें पढ़ी थीं और जिन को इन राजाओं महाराजाओं पर उसी तरह से लागू किया गया है जिस तरह से विदेशी शासकों पर। यह सब निरर्थक है, बेकार है और आप के लिये अच्छा यही है कि आप इस विधेयक को स्वीकार कर लें और जनता को बता दें कि आप उस के साथ हैं और पूंजीवादी लोग या बड़े बड़े राजा महाराजाओं की, जो हमारे स्वच्छ शरीर में जाँक की तरह चिपके हुए हैं, बात आप नहीं मानते।

आप ने इन शासकों को समान अधिकार दे रखे हैं और वे भारत के वैसे ही नागरिक हैं जैसे कि दूसरे लोग। अगर आप यह नहीं करते तो मैं चाहता हूँ कि जो शासक हैं उन को यह कह देना चाहिये कि वे साधारण नागरिक के जो अधिकार हैं, वे उन्हें नहीं चाहिये, और केवल वे अधिकार जो विदेशी शासकों को मिले हुए हैं, वही चाहते हैं। इस बात की यदि वे घोषणा कर दें तो उन को इस कानून से मुक्ति मिली रहे, मुझे इस में कोई आपत्ति नहीं है। इस से हमें बहुत प्रसन्नता होगी उन को बहुत से विशेषाधिकार प्राप्त हैं, मैं उन सब के सम्बन्ध में नहीं कहता। मेरे पास व्हाइट पेपर है और इस के पैरा २४० में विशेषाधिकारों आदि के विषय में लिखा

हुआ है कि :—

"guarantees have been given to the rulers under the various agreements and covenants for the continuance of their rights, dignities and privileges. The rights enjoyed by the rulers vary from State to State and are exercisable by them within and without the States. They cover a variety of matters ranging from the use of red plates on cars to immunity from civil and criminal jurisdiction and exemption from customs duties, etc. Even in the past it was neither considered desirable nor practicable to draw up an exhaustive list of these rights. During the negotiations following the introduction of the scheme embodied in the Government of India Act, 1935, the Crown Department had taken the position that no more could be done in respect of the rights and privileges enjoyed by the rulers than a general assurance of the intention of the Government of India to continue them."

इस तरह से इन के बहुत से स्वतंत्र और अधिकार हैं और छोटे से छोटे अधिकार से लेकर बड़े से बड़े अधिकार आप ने उन को दे रखे हैं। मैं यह कहना चाहता हूँ कि बाकी सब अधिकार उन के बने रहेंगे। हम उन को शासक मानेंगे। आप उनको बंदूक वगैर लाइसेंस के देते हैं और दूसरे हथियार देते हैं। मैं बतलाना चाहता हूँ कि इन हथियारों का दुरुपयोग किया जाता है, इनको किराये पर दिया जाता है, इनको डाकघों को दिया जाता है। अगर आप का गुप्त-चर विभाग कुशलतापूर्वक कार्य करता है तो वह आप को यह सब बातें बता सकता है। इस तरह से आप उन को जो भी अधिकार दिये हुए हैं वे दिये रहें। जहां तक ये चीजें साधारण नागरिक पर कोई असर नहीं डालतीं या उस की स्थिति में कोई अन्तर नहीं डालतीं, तब तक हम आप की सब बातें स्वीकार करते हैं। लेकिन एक छोटा सा विशेषाधिकार जो कि उन को ८७(ख) के अन्तर्गत मिला हुआ है, मैं उस की

[Shri M. L. Dwivedi]

बाबत कह रहा हूँ। इस के अलावा जितने भी और उन के विशेषाधिकार हैं वे बने रहें, मैं उन का विरोध नहीं करता। आप जानते ही हैं कि किस प्रकार से उन्होंने जनता के साथ दुर्व्यवहार किया है, किस प्रकार से जन सम्पत्ति की हानि की है, किस प्रकार से बड़े बड़े मकान, बड़ी बड़ी जमीन उठा रखी हैं और किस प्रकार से मकान बरबाद हो रहे हैं। इन अलीशान मकानों में सरकारी कार्यालय भी बन सकते हैं। खैर एक अध्याय तो समाप्त हो गया। अब जब हम ने अपना संविधान तैयार कर लिया है और बड़े बड़े कानून हम हर रोज बनाते हैं लेकिन एक ऐसी बात हम नहीं करते हैं और वह यह कि जो साधारण नागरिक हैं उस को हम यह अधिकार भी नहीं देते हैं कि वह इन राजाओं और महाराजाओं के खिलाफ सीधे जाकर न्याय प्राप्त कर सकें। उस को अगर न्यायालय में जाना होता है, तो पहले उस को एक सचिव के पास पहुंचना पड़ता है, वहां से इजाजत लेनी पड़ती है जिस के अन्तर्गत कई भ्रष्टाचार की बातें घाती हैं और उस से इजाजत लेने के बाद ही यदि मिल गई तो, वह न्यायालय का दरवाजा खटखटा सकता है। यह न्याय नहीं है, यह बराबरी नहीं है, यह संविधान के अनुसार बात नहीं है और ऐसा कर के मैं तो यह कहूंगा कि आप संविधान की उपेक्षा करते हैं। इस किस्म के वाहियात विशेषाधिकार आप अब भी राजाओं को दिये हुए हैं जिस से जनता को परेशानी उठानी पड़ती है।

आप ने संविधान में लिखा हुआ है कि आप अपाहिजों को, उन को जो काम काज करने के काबिल नहीं हैं, पेंशन देंगे। आप आज तक उन को पेंशन नहीं दे सके हैं। आप ने चन्द दिन हुए एक छोटा सा विधेयक पारित किया था और उस में आप ने कुछ व्यवस्था का किया जाना स्वीकार किया था। लेकिन मैं कहना चाहता हूँ कि जिन विधवाओं के पास कुछ सम्पत्ति थी और उन्होंने ने तथा दूसरे लोगों ने उसे इस उद्देश्य से राजाओं के पास जमा करवा दिया था कि बढ़ापे में वे उन से ले कर उस का उपयोग

करेंगी, आज उस से वे वंचित हो गई हैं, क्योंकि आप का कानून उन की राह में रुकावट पैदा करता है। उन के पास इतने साधन नहीं हैं कि वे आप तक पहुंच सकें और आप की स्वीकृति प्राप्त करने के बाद, मुकदमा चला सकें। ऐसी स्थिति में मैं चाहता हूँ कि आप साधारण नागरिक की सहायता करें। इससे आप साधारण जनता के मत भी प्राप्त कर सकेंगे और उस के साथ न्याय भी करेंगे। अब इन शासकों की सहायता आप के किसी काम नहीं आयगी। आप को देन के लिये इन के पास आज कुछ भी नहीं है, मत भी नहीं है और जनता में कोई इन के समर्थक भी नहीं रह गये हैं।

इस वास्ते में चाहता हूँ कि मंत्री महोदय अपनी राय को बदलें और न्याय मंत्रालय ने जो राय बना रखी है उस की परवाह न करें। न्याय मंत्रालय तो लकीर का फकीर है। उन्होंने ने तो एक कार्वेन्ट देख रखा है और उन का कहना है कि वे उस के खिलाफ नहीं जा सकते हैं। इस देश में आप ने एक सरकार को खत्म कर दिया और उस के स्थान पर दूसरी सरकार बना ली है और जो गवर्नमेंट आप इंडिया एक्ट था वह रखा का रखा ही रह गया। इंग्लैंड की पार्लियामेंट ने जितने भी कानून बना रखे थे वे तमाम के तमाम रद्द हो गये और यहां पर एक स्वतन्त्र सरकार कायम हो गई। उस के बाद एक कानून था जिस के जरिये भारतीय राज्यों में डाक तार, सुरक्षा, और वैदेशिक कार्य के महकमे आप के हाथ में आये। यह कानून भी रखा रह गया और आप ने तमाम की तमाम रियासतों को भी खत्म कर दिया। उन को किसी न किसी भारतीय राज्य में विलीन कर दिया गया और एक नया नक्शा आप के सामने आ गया। अब आज के जमाने में आप पुरानी लकीर को पीटते रहेंगे और लकीर के फकीर बने रहेंगे, तो इस देश की प्रगति रुक जायेगी। हमारे न्याय मंत्रालय को भी चाहिये कि वह प्रगति के पथ पर चले। उस को चाहिये

कि वह सुन्दर कानूनों के पारित होने में रोड़े न घटकाये। जब सदस्यगण किसी का इन को लाते हैं तो वे बड़े सोच विचार के बाद ही लाते हैं। अगर आप जनता की भावना की उपेक्षा करना चाहते हैं तो कर सकते हैं लेकिन इस तरह से काम नहीं चलेगा। आज हमारा देश बहुत भागे बढ़ गया है। पंडित जवाहर लाल नेहरू देश विदेश में जा रहे हैं और हमारी शान बढ़ा रहे हैं, हमारी प्रतिष्ठा को बढ़ा रहे हैं। विदेशों से जो लोग आते हैं, दूसरे देशों के जो प्रधान मंत्री आते हैं, वे भारत की तारीफों के पुल बांधते हैं और कहते हैं कि भारत बड़ी तेजी से प्रगति कर रहा है। यहां पर बड़ी बड़ी योजनायें कार्यान्वित हो रही हैं। इस सब के होते हुए हमारा जो न्याय मंत्रालय है वह अपनी राय को बदलना नहीं चाहता और यह नहीं जानता कि हमारे प्रधान मंत्री हमारे देश को कहां ले जाना चाहते हैं और न्याय मंत्रालय कि गढ़े की ओर बढ़ रहा है।

इस वास्ते अब भी समग्र है कि न्याय मंत्रालय अपनी राय को दोहराये। मैं विश्वासपूर्वक कह सकता हूँ कि अगर आप गृह मंत्री पंडित पंत को यह बात कहेंगे तो वह मान लेंगे और कहेंगे कि यह सही है और हमें उस विधेयक को स्वीकार कर लेना चाहिये। विधि मंत्री श्री पाटस्कर ने ही ऐसा ही कानून सदन में प्रस्तुत किया था, जब वे मंत्री नहीं थे। आज वे अपनी राय नहीं बदल सकते। पंडित जवाहरलाल नेहरू भी इसके पक्ष में होंगे और कांग्रेस में जितने भी माननीय सदस्य हैं वे भी इस को पसन्द करेंगे और साथ ही साथ विपक्ष के जो सदस्यगण हैं वे भी इस का विरोध नहीं करेंगे। ऐसी परिस्थिति में मैं नहीं समझता कि जब सारे का सारा जनमत एक तरफ है तो आप क्यों एक सेक्रेटरी साहब जो एक कमरे में बैठ कर अपनी राय बनाते हैं उन की बात को मानते हैं और इस का विरोध करते हैं।

ऐसी स्थिति नहीं होनी चाहिये। आज देश का और समय का तकाजा है, कि आप इन बातों को मानिये जिन को जनता बहुत बड़ी तादाद और बहुमत से चाहती है।

18 hrs.

इन शब्दों के साथ मैं इस विधेयक को विचार के लिये और पारित होने के लिये प्रस्तुत करता हूँ और आप से प्रार्थना करता हूँ कि मेरे इस विधेयक को आप स्वीकार कर लें। इससे बहुत बड़ा जनकल्याण होगा।

Mr. Chairman: Motion moved:

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration".

Shri Tek Chand: (Ambala-Simla):
Mr. Chairman, Sir, I offer my sincere felicitation to the hon. Mover of this Bill. I congratulate him because his endeavour is to remove a stigma and a stain from our Code of Civil Procedure. So long as the provisions to which objection has been raised are retained on our statute book, they are a standing black spot, a blemish—apart from the fact that this provision is an inroad upon the principle of equality so far as citizens are concerned. It is also misconceived, because its genesis is no longer there.

This privilege that was given to the Rulers of Indian States had a history behind it. The history is that they were once recognised as Rulers, and as their States were treated foreign territories, they were given a privilege that is well known to publish international law under the name of 'Ex-territoriality' or 'Immunity of Jurisdiction'. That such a principle is necessary and desirable in the interest of comity of nations, admits of no doubt. But when that status is lost, that is to say when the foreign status of a Sovereign or of the Head of a State is lost, there is no reason left why these privileges should be retained. Such privileges, under the doctrine of immunity of jurisdiction, are given not only to the Monarchs of Kingdoms and Presidents of Republics, but also to Ambassadors, Envoys and even High Commissioners, because they represent the Head of a foreign and a friendly State. They enjoy

[Shri Tek Chand]

those privileges. Their house is supposed to be upon a portion of the land belonging to the sovereign State and, therefore, the house of an Ambassador is sacrosanct. So far as their man-of-war is concerned, even if it were in our maritime belt, it is supposed to be a floating island of the foreign country, even in our waters. All these reasons which are necessary, desirable, worthy of retention, are parts and parcel of public international law.

You might have kept these privileges so long as they had not acquired the status of the citizens of this country. But once they become citizens of this country, in logic, in reason, there appears to be no ground why one citizen in this land should exercise certain privileges which in their origin, in their history, belong exclusively and entirely to a foreign Monarch or the Head of a foreign State. The reason is no longer there. How is it open to you to adhere to the privileges and bestow upon them privileges which no longer belong to them?—because they have ceased to be Heads of foreign States.

Now, Sir, so far as the applicability of this principle is concerned, you have created a privileged class. I do not mind conferring privileges upon a class so long as the bestowal of that privilege does not take away the basic and fundamental rights of another citizen. I may not object to privileges of an absolute character, but to privileges of a relative character, I certainly take exception. Confer any such privilege upon them; if you want that they may, have guns without licences I do not mind it. If you want that they should have gun salutes, let them have them. If you want that their cars should carry red plates, I would not object. But if you are conferring upon them a privilege by denying me a corresponding right, I have just reason to object.

What is conceived of in this Bill, I have had several occasions to deal

with them professionally in my practice as a lawyer. What happens? My experience of a professional character is fairly extensive *vis-a-vis* the petty rulers whose states have now merged into Himachal Pradesh. There were rulers with full rights, but with an annual income starting from a couple of thousands down to Rs. 400 a year. They were in the enjoyment of full rights of ex-territoriality. What happened? A large number of them led a penurious existence. They would come and borrow monies. I know some of them borrowed money even as little as Rs. 200. When the unfortunate man in whose favour a promissory note had been executed by this Lilliputian ruler and the creditor wants his loan back, the answer is given to him, not by the ruler, but by my hon. friend there, the hon. Minister. The answer given to the man, on his behalf, is, "He is a foreign monarch. He is not amenable to the jurisdiction of the civil courts of this land. Therefore, you may be driven to insolvency, Mr. Plaintiff; it does not matter. But the couple of hundred rupees that he owes you cannot be touched". Several times I have approached the Ministry with applications, with petitions, praying that I sent to you a copy of the original promissory note. I sent to you also half a dozen or a dozen letters in which he has acknowledged his indebtedness to this unfortunate man. The only defence of the Ruler is, "The Government of India shelters me and screens me and though I owe you money, under this section I can snap my fingers at you and say, 'I am above you, because I enjoy the privilege of ex-territoriality or immunity of jurisdiction from the courts of this country'."

I do not see any logic, I do not see any policy, I am not aware of any high principles as to why this privilege should have been conferred, and when conferred should now be retained, and why invariably, permission has never been given to institute a suit against a ruler. Now, these suits relate not only to the cases in which

the Rulers have incurred debts, not only where they may be guilty of torts, but also to breaches of contract. Any type of civil suit is barred. I can well conceive of a case when this holder of a privilege can run over a child or an old man, fracture his leg and disable him, maim him and kill him. If a suit is instituted for recovery of damages which suit lies against every wrong-doer against every tort-feasor, the reply which is given by the law of this land is, 'he is a privileged person'. He is permitted to break the leg of a pedestrian; he is allowed to kill anybody as a result of negligence. If you institute a suit for recovery of any damages sustained because of the loss of life or loss of limb or loss of leg, the law of this land says, you cannot do so, you have no status in a court of law. The doors of the law courts are barred against you. You cannot knock at the door of a court. You may engage counsel, you may pay court fee, you may be willing to incur all the obligations that the law lays on a citizen. But, so far as relief against this privileged person is concerned, that relief is not available against him.

I am aware of another case which I recall to my mind. There is a ruler—there was at least a ruler—whose name I have no intention to disclose, a rake and a rou'e who had been guilty of all the diabolical crimes that one can think of, who belonged to this privileged class of this type of princes. He had committed grave and serious breaches of contract. All that his victim wanted the Government to do was, to look at his papers, and then to decide it for itself, at least persuade him to pay up the money if State was satisfied. If its conscience was satisfied that the claim of the plaintiff was just; then bring some sort of pressure, some sort of persuasion upon this privileged gentleman. With the utmost of difficulty, and after several refusals, this permission was granted. What was the result? It became absolutely unnecessary for the plaintiff to go to a court of law. He sent his emissary saying, he was willing to pay, let there

be a compromise. Therefore, the only shield they have, the only protection you are giving them, the only screen that there is, is this particular provision, a provision intended in its origin, and intended even today, for heads and representatives of foreign States.

Not only that. This is a privilege of a reciprocal character. The history of international law is full of any number of instances. It was reciprocal in the sense that the head of this State or representative of this State enjoys similar and corresponding privileges when in the foreign State and that privilege is being reciprocated when the head of the foreign State or the representative of the foreign State happens to be in this land. It was of a reciprocal character. Just as the Ambassador of this great country enjoys immunity of jurisdiction whether it is of a criminal or civil character in foreign countries, a similar immunity of jurisdiction is being extended by us to the representative of a foreign State in our land. So far as these rulers are concerned, they have no State. Their State is gone. Where is the question of reciprocity? What is the privilege that you get in exchange for conferring a privilege on them, which they have been gratuitously having? Therefore, you can understand and appreciate the enormity of this law when you realise that they have a privilege recognised in law to commit any act which is tortious, to commit any civil wrong, any breach of contract. In short, they are absolutely at liberty not only not to recognise your laws, but to snap their fingers at your law, scoff at your laws. So far as rights in torts are concerned, they can defame anybody *ad lib*. Yet, if the person defamed wants to sue them for libel, the court will helplessly wring its hands and say: "No relief, go away". They can abduct a person. They can seduce a girl. If the seduced person institutes a suit for damages for seduction, our courts will say: "We are helpless. We cannot give you any succour, any relief".

An Hon. Member: As bad as that?

Shri Tek Chand: They can as a result of a negligent, tortious act deprive a person of his limb or life. The civil courts will say: "You have no civil rights against the civil wrongs done by him to you". How can we tolerate it? What is the reason, what is the logic, to what purpose is this bounty, why this generosity, what for is this magnanimity? You may keep on conferring one privilege after another, but the privilege of immunity of jurisdiction is beyond my comprehension. I cannot see any reason behind it. I cannot see any equity behind it. I cannot see any good basis or foundation for it. Therefore, in endorsing...

Shri K. K. Basu (Diamond Harbour): You must end with that.

Shri Tek Chand: May I go on with my swan song?

Therefore, I submit that while endorsing this Bill the hon. Minister should appreciate and should realise that such privileges, in any country where there is no reciprocity, where the question is not *vis-a-vis* any foreign rulers, are unknown, unrecognised. Pray remove this taint, remove this stigma, remove this blemish.

Shri H. N. Mukerjee (Calcutta North-East): I am happy that at the fag end of the session we are discussing Shri Dwivedi's Bill for amending our Civil Procedure Code and removing from it what is a crying anomaly. I am hoping that we pass this Bill unanimously and that Government does not come forward with pettifogging technical objections which are perhaps the only pseudo arguments which can be employed against this Bill.

18.18 Hrs.

[**SHRI BARMAN** *in the Chair*]

This Bill is more than overdue because I feel it is our duty to remove from our laws certain rather ugly birth-marks which have been left in our Constitution and in our ways of administration on account of the fact that we won our freedom which was the result of a kind of compromise

which imperialism imposed upon us.— the kind of immunity which the Rulers of Indian States have got, the kind of anomaly which Shri Dwivedi's Bill seeks to remove by deleting section 87B and by placing the Rulers of the former Indian States on a par with the rest of the citizens of India before the civil law of the land. This kind of anomaly is merely a symptom of the kind of administration we have had before and because we have inherited certain things which were passed on to us at the time of the transfer of power, they are still with us. But it is more than time that we remove this kind of anomaly. It is more than time that we realise that the idea of princedom is a hangover from the past. We have already taken some very striking steps for eradicating that hangover.

We have nothing against the members of the former Princely Order. In this House there are some of them who are very estimable individuals, but it is only fair to them and to the country that invidious distinctions of the sort which they enjoyed are removed, and therefore this Bill which wants to remove a certain kind of disparity certainly should appeal to everybody in this House and in the country.

We know very well how the existence of these disparities is a kind of vulgarity. The advertisement of the Princes' ostentatious separateness from the rest of the people is a variety of vulgarity which this country surely is not going to tolerate.

I know that it might be pointed out that unfortunately there are certain provisions in our Constitution which conceivably militate against Government accepting this Bill. I know that reference might conceivably be made to article 362 or article 291 where certain assurances have been given in regard to the rights and privileges of the Rulers of the former Indian States. But I say that even if we consider that these articles are something of a hindrance, I feel that if we interpret these articles properly, if, for

example, we try to understand what the intention of the Constitution was when the expression 'due regard' was employed, then we shall find out that we can very well, in spite of these two articles, go ahead and pass this Bill.

We have been told in article 362 that:

".....due regard shall be had to the guarantee or assurance given under....."

certain covenants or agreements to the Rulers of Indian States. It is nowhere said in the kind of obligatory fashion, which would have been used if that was the intention of the Constitution, that every single item of those privileges which the Rulers of Indian States enjoyed in the British period would all be obligatorily continued. We are only to give due regard, that is to say, we are only going to take some kind of consideration in regard to the continuation or otherwise of these privileges. I feel, therefore, that, as far as these two articles are concerned, there should not be a rigid literal lifeless interpretation of the sort that might have been communicated to my friend the Minister in the Ministry of Home Affairs, but I feel that in view of the feeling in the country, in view of the opinion in this House, which is fairly obvious, he should accept this Bill.

I say this also because of another very important reason. In a few days' time we shall be in 1957, and then we shall celebrate the Centenary of our War of Independence of 1857. If we recall the history of the so-called princely order in India, we shall find out how the princes were buttressed by British rule in order that they might checker-board the whole of India, in order that they might enable Britain to carry on its policy of divide and rule, and just in order to further its own imperialist interests. Britain had invested these members of the princely order with certain special privileges and rights.

Now, these special privileges and rights are redolent of an atmosphere

which we detest and especially in the Centenary year of 1957. I think Government would be well advised in agreeing to the principles of the Bill which has been put before the House by Shri M. L. Dwivedi. I feel that, particularly in deference to the feeling in the country, this Bill which wishes to remove a disparity which is glaring, this Bill which wants to delete an anomaly which absolutely is intolerable should be accepted by the House unanimously and Government should put no spoke in its wheel.

Shri D. C. Sharma: To me this Bill presents a very simple problem, and I want to seek an answer to that problem from myself as well as from the Minister in the Ministry of Home Affairs. The problem is this. Do we want to have in India two types of citizens, or do we want to have in India only one type of citizen? The citizenship of free India, of India, which is a sovereign democratic Republic, means political equality. I think all the citizens of India enjoy that political right. They have the right to vote. Everyone has the right to vote. It also means, if I understand it aright, equality of opportunity. I believe that that equality of opportunity is being extended in ever-widening circles in this country. It also means economic equality, and I believe our new policy of the socialist pattern of society guarantees to every citizen this economic equality also. But more important than any one of these privileges or rights is equality before the law.

Sir, I read the proceedings of international assemblies and I find that they are always harping on one thing, that there should be the rule of law. The rule of law means that law is not discriminatory in its nature. Law is like the sun which shines upon all in the same way.

But when I find this kind of thing in India, I feel that it is a kind of legal illegality. I believe that this legal illegality should be done away with as early as possible. I do not want to go into the instances which my hon. friends have given. But I

[Shri H. N. Mukerjee]

believe that the kind of immunity which we have conferred upon the former rulers of our Indian States is detrimental to the free and effective functioning of democracy in India.

My hon. friend, Shri Tek Chand, was just saying that they could abduct a person and he could not claim any damages for it; that they could seduce somebody and she could not claim any kind of damages for it. I think Shri Tek Chand is a lawyer of great eminence and he knows what he is talking about.

Shri K. K. Basu: Did the hon. Member doubt it before?

Shri D. C. Sharma: I have never had any doubt about the eminence of Shri Tek Chand as a lawyer, as I have no doubt about the eminence of Shri K. K. Basu also as a lawyer.

What I mean to say is that this kind of privileges should be done away with. In the good old days and bad old days—I do not go into the merits of that phrase—we used to divide India into British India and princely India. When we had our independence, we did away with princely India. By several methods, we tried to absorb that India into what we call India now. All honour to those persons who absorbed them. At that time, we gave them certain concessions and privileges. When you want to have a rupee, there is no harm in giving an anna back. So we gave them a few annas back so that we could have the whole of it to ourselves. In that way, those privileges are there. But now the time has come when they should be taken away. It is because I find that these rulers are now functioning as full-fledged citizens of India. Some of them have gone into hotel business, some of them have gone into automobile business, some of them want to contest elections and some of them want to do other things. They are now behaving like any other citizens of India. They have taken to gainful professions, and they have shed the glamour of those privileges which they enjoyed under a foreign ruler.

As my hon. friend, Shri H. N. Mukerjee, has said just now, these persons were kept there to strengthen the strangle-hold of alien rule upon our country. They were propped up, they were boosted and they were fortified in their position. They were kept going so that the hold of the alien rulers should be as firm on India as possible.

Now, the alien rulers are gone. Freedom has dawned and everything is undergoing a change, a change for the better. I feel that in India everything is undergoing a kind of sea-change, and the change is better. It is a legal anachronism, constitutional anachronism, that these persons should not be subject to those civil laws to which I am subject, to which anybody else is subject, to which even our Prime Minister is subject, to which all our big persons and even my friend, Shri Datar, are subject, to which all of us are subject. I do not know why those laws to which all of us are subject, should not apply in their case.

I would like to ask one question of Shri Datar. I agree that in the Constitution we did this, we did that, but we have been amending the Constitution; we have amended it 8 or 9 times—I do not remember the exact arithmetical figure—but we have changed the Constitution so that it may promote greater democracy in India, promote greater equality in India. We have done all that for that reason. Why should we stick to the sacrosanctity of the Constitution only in the interest of the rulers who at one time enjoyed all these privileges? Moreover, I would say that when you read the Code, you find that these rulers have been bracketed with foreign ambassadors and foreign envoys, that is, they come in a class which is not indigenous, which is not of the soil of this country, which is not of Bharat, try but they have been bracketed with those persons who come from other countries, they have been bracketed with foreigners. They might have been foreigners at one time because

this princely India was so at that time. But these ex-rulers should themselves come forward and say "We do not want to be bracketed with them, we do not want to have the stigma of being foreigners placed upon us and we want to be absorbed into the civil economy, or if I may say so, the political economy on a wholesale basis which is here in India". I think it is up to them also to say that.

I find that many rulers have surrendered a part of their privy purses. Some of them are in the process of doing so. Our Prime Minister once addressed an appeal to them, and I know some of them, two I know, did respond to that appeal very generously. They said that they would give up a part of their privy purses.

Shri Achuthan (Cranganur): Has anybody announced so?

Shri D. C. Sharma: A few of them did say that. It is one thing to surrender money—of course it is a good thing to surrender money—but the best thing is to surrender a privilege which has the stigma of having a privilege accorded to him at a time which is reminiscent of the days when India was not free India, but was subject India.

There was a great social writer of England, Brailsford, who wrote a book called *Rebel India*, and others also wrote other types of books. We are not now living in India which is bound; we are living in India which is free. I think these are reminders of the foreign rule which should be done away with.

I think and I have heard on the floor of the House people getting up and saying "Why are the statutes of foreign rulers still there?" Of course, I do not know what the policy of our Government is with regard to statutes of foreign rulers here, but there are some persons who want that these statutes should not be there in the streets and other places in India, and that you should remove the statutes of the foreign rulers.

The rulers who are in enjoyment of these privileges remind us of the days when India was ruled by foreigners. These rulers should be asked to surrender all those privileges.

I submit very respectfully that one of the freedoms which a human being cherishes most is equality before law. I think it is the basis of civilisation, freedom and everything. It is on this basis that some of the revolutions have been fought in this world. This principle should be given effect to all along the line. No person should enjoy any kind of superiority. Only by abolishing this privilege can we come to the conclusion that we have only one type of citizenship in India and not more than one type.

Shri Kazmi (Sultanpur Dist.—North cum Faizabad Dist.—South West): There is no doubt that some protection has been given to the princes and foreigners under the Constitution. There is also no doubt that the princes and the ex-rulers had the privileges which they had at one time. But the question is what has been brought by Shri Dwivedi and Shri Tek Chand. Are they at all within the scope of the privileges that are being given to these ex-rulers who are now *nawab-be-mulak*. They have not got buildings to reside but in India. They have got no property outside India. They cannot trade but inside India, where they had to carry on every business of theirs. Then, can they be allowed to have any of those privileges?

Let us examine the privileges that they have been granted. Section 85 gives only the privilege of appointing an agent to carry on a particular work inside India. Any other person in India has got that privilege. I do not think we grudge this.

The next section is section 86. Now, there are two privileges that are granted to them. Sub-clause (1) says:

"No ruler of a foreign State may be sued in any court otherwise competent to try the suit except with the consent of the Central Government certified in writing by

[Shri Kazmi]

a Secretary to that Government.”

Sub-clause (3) says:

“No Ruler of a foreign State shall be arrested under this Code and except with the consent of the Central Government certified in writing by a Secretary to that Government, no decree shall be executed against the property of any such Ruler.”

There is an exception to both these in sub-section (2) which says:

“Such consent may be given with respect to a specified suit or to several specified suits or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the court in which the Ruler may be sued, but it shall not be given, unless it appears to the Central Government that the Ruler—

(a) has instituted a suit in the Court against the person desiring to sue him.”

We may leave that.

Then—“(b) by himself or another, trades within the local limits of the jurisdiction of the Court”.

Which is that gentleman who is living inside India, who is borrowing money, who is carrying on trade? Even if he were a foreign Ruler, sanction must be given for instituting a suit against him if he carries on business or trade inside India.

Then “(c) is in possession of immovable property situate within those limits and is to be sued with reference to such property or for money charged thereon”.

Now, every ex-Ruler, if he owns any immovable property, it is inside India. Any suit that is to be brought against him is to be brought in respect

of that immovable property that is in India.

And “(d) has expressly or impliedly waived the privilege accorded to him by this section”.

My submission is that the kind of transactions that have been mentioned by my friend, and which are conceivable, are factual transactions which are entered into by these ex-Rulers with the citizens of India. They are also citizens of India. Now, had they got any suit outside India, some protection would be granted that in respect of this, sanction of the Central Government would be necessary. But when they cease to reside outside, then the Central Government must make it clear that sanction will be given in every case. There is no question of any privilege. It is a question that today, under section 86(2), they are contravening every one of the provisions. And as such, I would submit that it is not for the Central Government to give them any privilege.

As a matter of fact, the privileges that are contemplated by articles 362 and 291 are absolutely different privileges. What does article 291 say? Article 291 says:

“Where under any covenant or agreement entered into by the Ruler of any Indian State before the commencement of this Constitution, the payment of any sums, free of tax, has been guaranteed or assured by the Government of the Dominion of India to any Ruler of such State as privy purse—

(a) such sums shall be charged on, and paid out of, the Consolidated Fund of India”.

The money will be paid; only the method of payment has been specified. And then—

“(b) the sums so paid to any Ruler shall be exempt from all taxes on income.”

This is a matter which is between the States and the Ruler. The public has nothing to do with it. They have taken something and granted something in lieu of that. Therefore, this article would not come in here.

Now comes article 362 which says:

"In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State."

My submission is, does article 291 contemplate any such guarantees? It does not contemplate. I have read out article 291. It does not contemplate this guarantee with respect to the personal rights, privileges and dignities of the Ruler of an Indian State. I do not think the hon. Member would contend that "personal rights" means the right of cheating others. Is that personal right the right of cheating others, the right of abducting people?

Shri Nand Lal Sharma (Sikar): That will not be civil. It will then be criminal.

Shri Kazmi: But it will give rise to damages. Adultery is one of the offences which may result in damages. Not cheating.

Shri U. M. Trivedi (Chittor): Neither is kidnapping.

Shri Kazmi: According to you cheating is a thing which is to be treated as a privilege!

Shri Nand Lal Sharma: Cheating is an offence.

Shri Kazmi: I can realise the money either by a civil suit or by taking criminal action. The word 'cheating' is used by me now in the general

common sense. A person who has executed a promissory note and has refused to pay money is called a cheat.

Shri U. M. Trivedi: That will be too much.

Shri Kazmi: Then will that be a privilege? Is it something better or worse? Though my friends disagree, the question, however, remains. Personal rights do not involve taking money from others illegally and retaining it themselves and not returning it. Privileges do not mean the enjoyment of property of others without any civil liability.

So far as the question of dignity is concerned, the only question is of arrest. I have already submitted that so far as arrests and civil liability out of contractual obligations are concerned, they are not at all protected by any of the articles, articles 291 and 362. As such, my submission is that so far as the present practice is concerned, it contravenes the provisions of article 14 of the Constitution. Article 14 of the Constitution lays down as follows:

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

So far as article 14 is concerned, it is an article not only protecting minorities against the majority but also protecting the majority against the minority. We cannot say that a person who have advanced money to an ex-ruler is also entitled to the protection of realising that money through the court. He cannot be deprived of the right of realising the money through the court only because these persons happen to be in a majority. I say it is all right for a minority to be protected but the majority has also to be protected against the high-handedness of the minorities.

Shri Nand Lal Sharma: Suppose none is protected?

Shri Kazmi: Then it goes out of the Constitution. So, the present practice of the Government in not giving the sanctions is a contravention against the provisions of article 14 of the Constitution and it is not in consonance with any of the articles. As such, I think the present Bill will remove that doubt and difficulty and would clarify the position. I support the Bill.

Shri Ramachandra Reddi (Nellore): I shall be very brief in this matter. This Bill has not come a day too soon and I think, the Government must have, by this time, made up its mind to accept a Bill of this kind. It has been before the country and before this House for over eight months by now and I think Government must have, by this time, thought fit to accept a Bill like this.

There was a time when the rulers thought that they were rulers. Now that they have been liquidated, they are more anxious.....

Shri U. M. Trivedi (Chittor): They are still rulers under the Constitution.

Shri Ramachandra Reddi: They are ex-rulers.

Shri U. M. Trivedi: Rulers: Not ex-rulers.

Shri Ramachandra Reddi: For certain purposes alone the term 'rulers' seems to be there, for example, when they have to receive privy purses and so on. But, as regards protection against the law, it does not seem to be any more necessary for them. It is the common law of the land that should apply. I do feel that most of them are anxious to be known as commoners rather than as rulers.

Shri U. M. Trivedi: Some of them.

Shri Ramachandra Reddi: If there was any protest against this law, I think, some of the ex-rulers, who are Members of this House, must have been present here to protest against

it. I am only trying to tell the House and the hon. Minister that at this stage, they feel shy to be called rulers for all purposes and they do not want this protection to be continued. The continuation of the centralisation of this power seems to be unnecessary and it should be left to the courts to deal with them like common men. Of all people, I do not see any reason why the Congress Government, which stands for equality, freedom and other things, should persist in maintaining this particular section in the Civil Procedure Code. I would, therefore, urge upon the hon. Minister to accept this Bill and see that these people who are anxious to be commoners, are allowed to be commoners.

Shri Sadhan Gupta (Calcutta—South-East): Mr. Chairman, this Bill, as Shri Ramachandra Reddi said,.....

Mr. Chairman: There are seven minutes more. The hon. Member can speak and continue on the next occasion or he may say concisely whatever he wants to say.

Shri Sadhan Gupta:..... has not come a day too soon. I should think that the Bill is at least a fortnight too late because it should have been discussed thoroughly and passed by this House before we break up for about three months or so.

I would have supported the Bill on considerations which have been brought out by Shri Tek Chand, considerations of the absurdity of allowing a certain section of the people of this country to commit tort or break contracts with impunity. He has given a catalogue of how individual persons had to face difficulties in instituting suits against rulers, in obtaining permission of the Central Government to institute such suits and so on. But, so many other more important principles are involved and vehemence of sentiment is involved in this matter, that these inconveniences, great though they are, simply pale into insignificance. I would

support the Bill principally on the ground of the disgraceful history behind the provision that is sought to be deleted, and also because of the disgraceful principles involved in it.

You know, Sir, the history of these provisions. The British had need of the Princes. They did not care a straw for them when it concerned their own interests. They deposed them, installed them and humiliated them whenever they wanted, when it suited them. But they had need of them to keep down the people, and therefore in the eyes of the people they wanted to glorify them with many devices like the 21 gun salutes, 19 gun salutes and so on, and in addition, they wanted to hold them up before the people of this country as Rulers of the same status as foreign sovereign rulers. That is why they had enjoyed these immunities from proceedings in the courts of India.

One would have thought that with the coming into force of a Republican Constitution, we would have made a complete break with that past, but it is a great misfortune that far from doing so, we perpetuated the same thing. Shri Mukerjee has described it as an ugly birth-mark. I must painfully say that it is worse than a birth-mark, because it has been stamped on us after the coming into force of the Constitution.

You know, Sir, that this section 87B was introduced in 1951 by an amendment to the Civil Procedure Code. I know it carries into effect, it continues the old provision in a different way, but the point is that a Government professing to be a democratic Government of the Republic of India has not felt it a matter of shame to enact such a piece of legislation. It is against this that we revolt, and it is against this law introduced by our own Government that we have to stand today, that we have to express ourselves most vehemently.

What I am apprehensive of is that the Bill may not be accepted by the Government. I have my reasons for

having this apprehension. Because, whenever the question of Prince is taken up, whenever questions are asked about their private property, about the extent of the property they command, the answer has been that it is against public interests to disclose it. When the Princely Order is concerned, when the ex-Rulers are concerned, there is some kind of hide and seek in the Government, some kind of suspicious behaviour which makes me apprehensive. That is why I think that in spite of the general support, I should say the unanimous support from all quarters of this House, this Bill may not have the fate that it deserves to have. But I would add my voice to the strong voices that have come forth from different parts of this House.

I am also aware that constitutional difficulties will be paraded. Interpretations have been given of articles 362 and 291 by Shri Mukerjee and Shri Kazmi, and those interpretations, I submit, are quite reasonable, but even apart from interpretations, if there is any difficulty in the Constitution, I would plead for an amendment of the Constitution for removing this blot, rather than parading this Constitution as a bar to this Bill. There is no doubt that whatever the Constitution is or whatever the clause in the Constitution is, if the interpretation is that a Bill of this kind would be ruled out by the Constitution, then the Constitution goes against the spirit of the democratic sentiments of the people, it runs counter to and it completely contradicts the democratic sentiments of the people. This should not be allowed and even a document like the Constitution should yield to the democratic sentiments of the people. And if the Government brings forward an amendment to the Constitution on those lines, then they would have the thanks, the congratulations of all sections of the people, and whichever side of the House we belong to, we can assure that we will join hands in carrying into effect the requisite amendments to the Constitution.

[Shri Sadhan Gupta]

19 hrs.

Now, there are assurances; assurances might have been given to Rulers regarding protecting their personal privileges, but those assurances have no moral value. Those assurances are entirely out of harmony with the prevailing circumstances in the country. Therefore, I would strongly plead that this Bill should be accepted, and if there is any constitutional bar—I do not agree there is a bar—that bar should be removed, and the Bill should not be thrown out on that ground.

We are not prepared to see a Bill of this kind thrown out on technical grounds. We want our sentiments to be respected. We want the democratic aspirations of the country to be respected and it is only that way that Government can make good their profession of being a democratic government. Otherwise, their professions will be in very great doubt.

19.02 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Saturday, the 22nd December, 1956.
