HOUSE OF THE PEOPLE

THE CONSTITUTION (FIRST AMENDMENT) BILL, 1951

(REPORT OF THE SELECT COMMITTEE)

PARLIAMENT SECRETARIAT
NEW DELHI.

May, 1951

REPORTS OF SELECT COMMITTEE PRESENTED

TO PARLIAMENT IN - 1961.

S. No.	Short title of the Bills.	Date of introduction. (Presentation)	Date of Publication. (in the Gazette)
	2.	3.	4.
1.	The Port Trusts and Ports(Amendment) Bill, 1960.	7- 2-61.	24-2-61.
2.	The Representation ofthe People (No.2) Bill, 1960.	31- 3-61.	14-4-61.
3.	The Finance Bill, 1961.	21- 4-61.	24-4-61.
4.	The Constitution(First Amendment) Bill, 1961.	25- 5-61.	2-6-61.
5.	The State Financial Corporations Bill, 1951.	10- 8-61.	26-8-61.
6.	The Tariff Commission Bill,1951.	-do-	-do-
7.	The Forward Contracts (Regulation) Bill, 1950.	20- 8-61.	1- 9-61.
8.	The Indian Companies(Amendment) Bill, 1961.	30- 8-61.	8- 9-61.
9.	The Evacuee Interest(Separation) Bill, 1961.	10- 9-61.	29- 9-61.
10.	The Benares Hindu University (Amendment) Bill, 1961.	7- 9-61.	29- 9-61.
11.	The Aligarh Muslim University (Amendment) Bill, 1961.	-do-	-do-
12.	The Press(Incitement to Crime) Bill, 1951.	27-9-61.	6-10-61.
13.	The Industries(Development and Control) Bill, 1949.	24- 9-61.	-do-
14.	The Plantations Labour Bill,1951.	29- 9-61.	13-10-61.

1.	2.	3.	4.
15.	The Delhi Premises (Requisition and Eviction) Amendment Bill,1951.	10- 9-51.	22- 9-51.
16.	The Displaced Persons (Debts Adjustment) Bill, 1951.	1-10-51.	20-10-51.
17.	The Notaries Bill, 1951.	4-10-51.	-do-

THE CONSTITUTION (FIRST AMENDMENT) BILL, 1951.

REPORT OF THE SELECT COMMITTEE.

We, the undersigned Members of the Select Committee, to which the Bill to amend the Constitution of India was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Clause 2.—We agree with the principle underlying the amendment of article 15(3) proposed in this clause. We consider, however, that, for the sake of clarification, the scope of the amendment should be extended to cover article 29(2) as well as article 15. We accordingly recommend the addition of a new clause (4) to article 15. In this clause, instead of referring to "the educational, economic or social advancement of any backward class of citizens", we think it preferable to refer to "the advancement of any socially and educationally backward classes of citizens" following the language used in article 340(1).

Some apprehensions have been expressed in respect to this amendment. The Select Committee is of the view that this provision is not likely to be, and cannot indeed be, misused by any Government for perpetuating any class discrimination against the spirit of the Constitution, or for treating non-backward classes as backward for the purpose of conferring privileges on them.

Clause 3.—Our discussions centred mainly round the proposed clause (2) of article 19. After considering several alternative forms, we have come to the conclusion that the only substantial change required in the draft clause is the insertion of the word "reasonable" before the word "restrictions". This will bring clause (2) into line with clauses (3) to (6), all of which refer to laws imposing "reasonable restrictions". Certain consequential drafting changes have been made in the clause.

We approve of the amendment of article 19(6) as proposed in sub-clause (1) (b) of this clause. We approve also of the validating provision made in sub-clause (2), but suggest the omission of the last three lines (immediately before the *Explanation*) which appear to be superfluous.

Clause 4.—We have made two amendments in the new Article 31A. A proviso is added to clause (1) on the lines of clause (3) of Article 31 to the effect that where the law is made by a State Legislature, it should be reserved for the consideration of the President and should receive his assent, before the law could claim the protection given to it by the new Article. Secondly, we have amended the definition of "estate" to cover cases where "the existing law relating to land tenure" is in a regional language, *e.g.*, Hindi or Urdu, and uses the local equivalent of "estate".

Clause 5.—Although we understand that the last two lines of the new Article 31B follow a time-honoured formula, we have suggested a verbal change bringing out the intention without ambiguity.

Clauses 6 to 14.—We approve of all these clauses as they stand, except clauses 7 and 9. It is necessary to provide in these two clauses for a case where the first session of Parliament or, as the case may be, the State Legislature, after a general election does not coincide with the first session in that year. In such cases also, there should be provision for an address by the President or the Governor, as the case may be. We have suggested the necessary modifications in clause 7(1) and clause 9(1).

2. The Bill was published in Part II—Section 2 of the *Gazette of India* on the 19th May, 1951.

3. We think that the Bill has not been so altered as to require circulation under Rule 77(4) of the Rules of Procedure and Conduct of Business in Parliament, and we recommend that it be passed as now amended.

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C. RAJAGOPALACHARI
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*G. DURGABAI
*H. N. KUNZRU
M. GAUTAM
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DEV KANTA BOROOAH
AWADHESHWAR PRASAD SINHA
MANILAL CHATURBAI SHAH
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V. S. SARWATE
K. HANUMANTHAIYA
SATYANARAYAN SINHA

NEW DELHI,
The 25th May, 1951.

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*Subject to a Minute of Dissent.
**Subject to Minutes of Dissent.

MINUTES OF DISSENT

I

Section 3, Clause (a) of the Constitution (First Amendment) Bill 1951, amending Article 19 of the Constitution has been devised to remedy the situation arising from the decision of the Supreme Court which considered that while the right of peaceable assembly and the right of association guaranteed by article 19, clauses (b) and (c) may be restricted under clauses (3) and (4) of article 19 even in the interest of public order, nothing short of danger to the State and threat to its existence can justify curtailment of the right of freedom of speech and expression guaranteed by article 19, clause (a) of the Constitution. As it was not the intention of the Constituent Assembly to formulate varying criteria for permissible legislation imposing restrictions on the fundamental rights enumerated in article 19(1), it has become necessary to clarify the position by the instant legislation which undoubtedly is well calculated to achieve its object.

2. The opportunity for amending the constitutional guarantee in regard to freedom of speech may, in my opinion, be availed of to invest Parliament alone, to the exclusion of the State legislatures, with the power of interfering, when and to the extent necessary, with the fundamental right of the citizen to freedom of speech and expression. I feel that there is considerable force in the criticism that in regulating freedom of speech and expression, uniformity of laws can be secured only if the legislative decisions are taken by Parliament. Further, the present amendment authorises the curtailment of this freedom in the interest, *inter alia* of friendly relations with foreign states which obviously is a subject falling entirely and exclusively in the legislative ambit of the Union. For these reasons it seems to me that it is eminently desirable to amend part (a) of sub-clause (1) of clause 3 so that clause 2 of article 19 may read "Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law in so far as it imposes or prevents the Parliament from making any law.....incitement to an offence." The substitution of the word "Parliament" for the word "State" in the place indicated will ensure to Parliament the exclusive power of abridging the fundamental right of freedom of speech in the plenitude of its wisdom.

3. There is no basis for the argument that the change herein suggested will entail any revision or interference with the Legislative Lists. Article 368 dealing with the amendment of the Constitution specifically enumerates certain articles and chapters and other matters which cannot be amended except by more elaborate procedure of ratification by not less than one half of the States. It is significant that Chapter III on Fundamental Rights has been deliberately omitted from this enumeration. It is also obvious that no clause on the Fundamental Rights can be amended without restricting or enlarging the scope of the legisaltive power of Parliament or the State legislatures. It is also wrong to think that item 1 of the State List, *viz.* "Public order" has any precise relation to laws relating to freedom of speech and expression. The entire Criminal Procedure Code of the Penal Code are comprised within that item and to argue that a minor restriction on this legislative power amounts to an interference with the legislative Lists does not seem to be reasonable at all. The scope of item 1 in the State List will continue to be nearly as large as it is to-day. It is wrong to argue that the scope of Parliament can be restricted or enlarged without at the same time enlarging or res-

tricting the scope of the State legislatures. There are many instances in the Fundamental Rights where Parliament is given exclusive jurisdiction, as for instance in 16(3).

4. On the other hand, to include the new items, public order and maintenance of friendly relations with foreign States, does justify the apprehension that these extensions may result in serious encroachments of the librety of person and press, especially at the time of Elections. There are going to be tens of thousands of polling stations and even after the General Election, there will be about 100 by-elections every year. It will be open to any State legislature to abridge the freedom of the press and the public and then take the chance of being overruled by Parliament.

5. No other reason can be or has been assigned for opposing this suggestion which, I believe, will go a long way towards allaying public apprehensions, so vigorously and vehemently voiced by powerful sections of the Press, that the extensive power of control over the fundamental right of freedom of speech and expression might be abused by some of the State legislatures. There is no more effective remedy for dispelling such apprehensions than the conferment upon Parliament of the exclusive right to exercise that control in the manner suggested by me *supra*.

G. DURGABAI.

NEW DELHI;
The 25th May, 1951.

II

After a careful consideration of all the arguments put forward by Government in support of this Bill seeking to amend certain articles of the Constitution, I think that Government have not established any clear and convincing case for the proposed amendments. The constitution has been in force only for sixteen months and in a few months, the general elections will take place bringing a new Parliament into existence. Yet Government propose to force these amendments to the Constitution through Parliament immediately.

2. It is a matter of deep regret that Government should not have given the Committee full information with regard to the laws that had become void as a result of the recent judicial pronouncement and that are to be validated under clause 3(2) of the Bill though they were repeatedly asked to place before the Committee a clear picture of the position created by the decisions referred to above.

3. In the course of the discussion on the Bill, Government referred to the cases of Brij Bhushan *vs.* The State of Delhi, Ramesh Thapar *vs.* the State of Madras and Master Tara Singh *vs.* the State of Punjab as showing the need for an immediate amendment of the Constitution. The Supreme Court decided in the first case that the pre-censorship of news to be published in a newspaper was inconsistent with the right to freedom of speech and expression guaranteed by article 19 of the Constitution and in the second that orders banning the entry and circulation of a newspaper in a state in the interest of public order was equally unconstitutional.

4. Is it the intention of Government to validate the exercise of these powers by the State? Restrictions like these were imposed only during the war under the Defence of India Rules. The authorities can exercise no such powers in the U. S. S. whose constitution guarantees the right of free speech to its citizens. There is no reason why they should be allowed in India to exercise such powers, which were not exercised even during the British regime in peace time.

5. In Master Tara Singh's case, the East Punjab High Court declared 124A and 153A of the I. P. C. void in accordance with Adticle 19 of the Constitution. The history of Section 124A is well known. It was passed in its present form in 1898 to curb the activities of Indian patriots. While in England sedition is treated as a minor offence, in India it is regarded as a major offence for which severe punishment can be imposed. Now that India is free it should find no place in an statute book in its existing form.

6. I think that the introduction of the word "reasonable" before the word "restrictions" in Article 19(2) introduces a very important change in the original draft. It places in the hands of the judiciary the power to determine whether a restrictive piece of legislation is reasonable or not. The wide language of the proposed amendment to Article 19(2) is open to criticism but I do not want to lengthen this minute by referring in detail to all those points to which objection can be taken, in view of the important change referred to above.

7. Sub-clause 2 of Clause 8 of the Bill validates retrospectively the laws that had become void on the ground of their inconsistency with sub-clause (a) of clause 1 of Article 19 of the Constitution. Government should give an assurance that no one will be prosecuted for havinv acted in contravention of these laws while they were invalid.

In regard to the proposed amendment to Article 15 of the Constitution, I think that a central authority should determine which classes should be regarded as backward so that a uniform standard may be observed in respect of the specification of such classes pending the report of the Commission referred to in article 340 of the constitution. A provision similar to the one contained in articles 341 and 342 of the Constitution is necessary to enable the President to decide which classes should be regarded as backward.

H. N. KUNZRU.

NEW DELHI;
The 25th May, 1951

III

The Constitution of India was framed by the Constituent Assembly after several years of devoted labour and deliberations. It has been given a trial only for 16 months. I do not suggest for a moment that under no circumstances should the Constitution be amended within such a short period. In fact, so far as the amendment relates to any formal matters, there can be no serious objection to the same. But the onus of proving the imperative need for making fundamental changes lies heavily on the proposers of such changes. That onus, in my opinion, has not been satisfactorily discharged in the present case. The procedure adopted indicates how the Constitution is being denied its inherent sanctity and sacredness. The main reason given for altering the provisions is that the Judiciary has pronounced its opinion on some articles affecting the validity of certain laws—opinions which are dis-favoured by the Government in power. Incidentally, we have not been furnished, though we repeatedly asked for it, with a list of such laws which, having been declared invalid, have created difficulties for Government. We have deliberately clothed the Judiciary with the duty of ensuring that our laws do conform to the Constitution. It is essential that nothing should be

done to impair the independence of the Judiciary, or to lower its prestige. Government is too impatient even to wait for the verdict of the Supreme Court, and the novel procedure has been followed in declaring several laws as valid under the Constitution which High Courts have pronounced as void or unconstitutional. In our country, under the old regime many laws were formulated which were repressive and retrograde in character. Their object in many cases was to restrict freedom of the individual, or of the Press. Government has made no effort to revise these laws. On the other hand, we have meanwhile passed our Constitution which guarantees certain fundamental rights to all citizens. Instead of amending the "lawless laws", and making their provisions consistent with the fundamental rights, we are following the strange procedure of adhering to such reactionary laws and changing our fundamental rights so as to make such laws valid and constitutional. Changes in fundamental rights affecting freedom of speech and expression have been proposed, curtailing them in material respects. To do so without giving the public the fullest opportunity to express their views thereon, and to hurry the enactment through at the fag end of Parliament's life, when after six months the first General Elections under the new Constitution will be held, naturally give rise to serious misgivings in public mind and are considered improper and arbitrary.

2. *Article 19.*—The addition of the word "reasonable" before 'restrictions' in 19(2) is a very wholesome change. It makes 19(2) justiciable and I do not wish to minimise the importance of this change in the protection of civil liberty in this country.

3. Fundamental rights are never absolute anywhere. There are limitations flowing from the citizens' obligations and duties without which organised society cannot function. But these limitations should never be such as to take away the substance from these rights or to curb the expression of free opinions of the people, which is the very essence of a really democratic Government. The tyranny of laws sponsored by a majority party may be as oppressive as those arbitrarily imposed by a depot. Fundamental rights act as a deliberate check to this tendency. From this viewpoint, the existing limitations on freedom of speech and expression, as provided in the Constitution, are more than sufficiently restrictive and no fresh addition to them is justified. The only lacuna which may be thought to exist in the provisions of fundamental rights is that the limitations do not cover incitement to violence. If this is a lacuna, it may be removed, but beyond this there is no justification for forging fresh fetters. Incitement to any offence is of the widest connotation and may be abused by any Government to curb honest expression of views. The terms "security of the state" and 'public order' have been added and left undefined in the amendment, thus further restricting the liberty now given. "Public Order" should be definitely subject to the "clear and present danger test", that is "the substantive evil must be extremely serious and the degree of imminence extremely high". This is the accepted interpretation of the term "Public Order" every where, particularly in the United States of America.

4. There is no justification for bringing in the unrestricted provision of "friendly relations with foreign states" which is too wide a term and may include any acts or expression of free opinion adversely affecting foreign states, friendly and unfriendly. At the most, the phrase should not extend beyond defamatory attacks on heads of foreign states or similar acts.

Government agrees to this principle but is not prepared to make it clear and unambiguous in the Constitution itself.

5. It should not be forgotten that many of the law-making powers may be exercised by the State Legislatures on matters affecting people's rights and liberties. There may thus be conflicting approaches in different states, influenced by local considerations at the will of the majority party. These laws, at least those relating to restriction of fundamental rights, should be framed by Parliament and not by the State Legislatures.

6. Retrospective effect is being given to the laws that have been declared inconsistent with Article 19, of the Constitution. This is most undesirable, and may theoretically clothe Government with the authority to launch prosecutions for alleged offences, committed during a period when the laws were void according to decisions of Courts. Both the Prime Minister and the Home Minister have assured that this is not Government's intention and instructions would be issued to the State Governments accordingly, if necessary. Still, the dangerous implication of such retrospective provision cannot be minimised.

7. *Article 31(A) and Article 31(B).*—Both these articles relate to acquisition of estates. Article 31 of the Constitution gave rise to bitter controversy when it was under discussion. The policy ultimately approved was to the effect that private property could not be expropriated and that acquisition of property could be made on payment of compensation which should be settled by law. The amount of compensation, or the principles on which compensation should be paid, or the manner in which payment is to be made were left to be decided by legislative enactment according to Article 31. It was further laid down that such laws would require the President's assent. Since the passing of the Constitution, several State Legislatures have enacted laws for the abolition of zamindari. Only one of such laws has been declared invalid by the High Court of Patna, not for any infringement of Article 31, but for violation of Article 14 of the Constitution. Obviously, the appropriate course in such a case must be for Government to appeal to the Supreme Court, and find out if the said law was actually unconstitutional. If the Supreme Court gave a verdict which Government was not prepared to accept on the ground that it was a violation of the basic principle of acquisition of property for public purposes as laid down in the Constitution, there could have been a justification for amending the Constitution in order to make the point at issue clear beyond any doubt. Without doing this, Article 31(A) seeks to validate all future laws even though they may be inconsistent with the provisions in the entire chapter dealing with fundamental rights. Nothing has as yet happened which would justify our taking away the jurisdiction of the Judiciary in this sweeping manner. Even if it is considered necessary that the Judiciary should have no voice with regard to the laws for abolition of zamindaries, the wording of Article 31(A) should be suitably modified and the responsibility for ensuring the compliance with the provisions of Article 31 in respect of this class of property should at least be vested in the President. This will at least be some guarantee that the State Legislatures follow a uniform policy in accordance with the principles laid down under Article 31 which is not proposed to be abrogated.

8. Regarding Article 31(B), it appears that some of the laws sought to be validated are today pending before the Judiciary. To include particular laws in the Constitution itself as valid, which have been deliberately

declared to be invalid and unconstitutional is an extraordinary procedure. These laws should at least be carefully tested by the President once again with a view to ensuring that none of them violates the provisions of the Constitution, and only after this has been done, should the laws be declared valid. This alone can give the President the constitutional right to secure an amendment of such laws, where such amendment is called for in order to make them conform to our Constitution.

9. If we have a written Constitution and Fundamental Rights, as indeed we have solemnly and deliberately chosen to have, we have to abide by their provisions. No Government can afford to brush them aside or hurriedly seek their alterations simply on the plea that judicial interpretations and decisions are not to its liking. A better and more honourable course would have been not to have a written Constitution at all and make Parliament the supreme body.

SYAMA PRASAD MOOKERJEE.

NEW DELHI;
The 25th May, 1951.

IV

We regret we are unable to agree with our colleagues on the Select Committee for reasons given below, and have, accordingly, felt ourselves compelled to write this Minute of Dissent.

2. Parliament having accepted the principle of the amending Bill, and referred it to the Select Committee to consider the specific amendments, it is not open, at this stage, to question the propriety of making amendments in the basic Constitution of the country. At the present moment that Constitution has been in operation for hardly 16 months. During this brief period while, the Constitution, or rather some specific articles thereof, may have come up for interpretation or adjudication by the proper constitutional authority,—the Judiciary—charged under the Constitution, with that function. But the experience gained of the Constitution in operation is too short, and the difficulties noticed are too few to warrant the conclusion, implicit in the Bill, that particular articles of the Constitution need amending.

3. But even if we do not,—as, indeed, under the prevailing Parliamentary conventions, we cannot,—question the principle of the amending Bill, we cannot persuade ourselves, either as to the urgency of the measure,—and the consequent haste with which it is being rushed through all stages of legislative business in Parliament,—or even as to the advisability of the present Parliament, the successor of the Constituent Assembly, to deal with and dispose of the measure, in the manner in which it is now proposed to be done.

4. We do not, indeed, question the competence, technically speaking, of this Parliament to undertake, and, if so minded, to pass this legislation. For we realise that, under article 379 of the Constitution, until both Houses of Parliament have been constituted and summoned to meet for the first session the body functioning as the Constituent Assembly of the Dominion (now Republic) of India, immediately before the commencement of the Constitution (26th January, 1950), is declared to be the provisional Parliament, with all the powers and duties of an ordinary Parliament,

as laid down in the Constitution. And, under article 368, Parliament is empowered, with a given procedure and under certain conditions, to amend the Constitution. These two articles, read together, leave no room for doubt as to the competence, technically speaking, of the present Parliament to introduce, consider and pass any amendment of the Constitution it thinks necessary, subject to the procedure and reservations prescribed in article 368 in that behalf. But, for these very reasons, it is only untechnical competence of this Parliament which we cannot question. But that does not prevent our pointing out that it is a unicameral body, elected indirectly, five years ago, by a limited electorate, itself chosen on a very limited franchise.

5. While, however, we do not question the technical competence of this Parliament to deal with this Bill, we have grave doubts and misgivings as to the wisdom, the propriety and the justification for this Bill, taken as a whole, or its various clauses individually. As indicated above, this Parliament, though technically successor of the Constituent Assembly, expressly vested with all the powers and duties of that body in its Legislative as well as Constitution-making aspects, is a materially different entity. It was elected indirectly over five years ago, on nothing like Adult Suffrage, which is to be the basis of representation for the Parliaments of the future. It has thus nothing like a direct specific mandate from the people for this purpose, even though the body whom it has succeeded was elected for Constitution-making. Not having any mandate from the Sovereign People, it may well be asked what authority, or opportunity, it has had to test or ascertain public opinion on this subject. Such elections as have taken place in the interval.—[Numerically, they were quite a large number, changing almost one-third of the House in 1950, and a still larger proportion since, because of deaths, resignations, and other similar causes],—have been indirect; and that, too, by the States' Legislatures, themselves elected on a very limited franchise, five years ago. The claim of this Parliament to be representing public sentiment on the subject today, is thus rather slight. No such opportunity to ascertain public opinion can, in fact, occur until the first General Elections, under Adult Franchise, as prescribed by the Constitution, take place. This direct method of ascertaining public sentiment on such crucial matters of vital importance is thus unavoidably lacking.

6. Parliament, moreover, is, today, a unicameral body, and not the full organisation contemplated under the Constitution, which may justly claim to represent popular, as well as the States' collective, opinion and interests. Amendment of the Constitution, even by a full, normal, bicameral Parliament, is hedged round with conditions and reservations, which, under the circumstances of the moment, cannot really operate. This makes the present attempt at amendment open to question on grounds of propriety, if not of constitutionality. The attempt made in Parliament, while the motion for reference of this Bill to the Select Committee was under consideration, was defeated. That channel of ascertaining public opinion was thus also blocked, incidentally revealing a desire, on the part of the sponsors of the Bill, to hurry through the measure, which is not in consonance with Parliamentary tradition, the conventions of democratic government, or the demands of popular sovereignty.

7. It must also be remembered that not all the present Members of Parliament,—perhaps not even a majority,—were members of the Constituent Assembly which framed, discussed and passed the Constitution,

now under process of amendment. They cannot have, presumably, the same appreciation of the several Articles, clauses and sub-clauses, and of their implications which those who took part in those discussions may claim to have. To seek to amend the Constitution, in some of its fundamental provisions and vital Articles, in a body thus composed and circumstanced, —and at a time when the Elections are hardly six months away,—is we cannot help feeling, hardly in the best traditions of constitutional progress, democratic ideals, or effective popular sovereignty. While, again, the Constituent Assembly was functioning for making the Constitution, Party whips and instructions were wisely kept out. Today, however, the Parliament functions in the full sway of the Party machine; and it needs but to point out this fact to show that the Amendments now proposed, if passed, would not have been in tune with the spirit and tradition of the Constituent Assembly.

8. The Select Committee, like the House before it, had not, we may add, all the necessary material on which the need to make these amendments is supposed to be based. We had not before us the text of all the laws which we are called upon, in this Bill, to keep alive, or permit being made without fear of being declared invalid under the Constitution. We had not even any copy of the Press Laws Enquiry Committee Report before us, even though some of the most crucial of these amendments, relate to the Freedom of Speech and Expression, and, incidentally, of the Press in India. And though we have been furnished copy of a Bibliography on Fundamental Rights, and some points or extracts from Judgements of the Supreme Court and of some of the High Courts calling in question the laws made by Parliament or by some State Legislatures, we have had no time to study the text of these judgements, and compare the line taken by our Supreme Judiciary, or the High Courts, with the corresponding pronouncements in other countries where they have had similiar problems to face under their own written constitutions. Under these circumstances, it becomes impossible to assess the validity of the claim that, because of these judgements particular Articles in the Constitution, passed only 16 months ago, need to be amended.

9. Not only had we not sufficient material to assess for ourselves the necessity and justice of this attempt to amend the Fundamental Rights of the citizens, we had no explanation of any convincing character for that purpose from the sponsors of the Bill. The Statement of Objects and Reasons is a bald summary of certain facts and events which have cast doubt on the meaning of certain Articles, not a satisfying explanation of the consequent need to hasten with these amendments. The speeches accompanying the motion for reference to Select Committee went, no doubt, a little further, at least from the standpoint of the sponsors of the Bill. But those speeches we feel, made out no case for these drastic and radical amendments. We cannot conceal from ourselves,—that this Bill is not an ordinary piece of routine legislation for administrative convenience, for which the only justification necessary would be administrative difficulties actually encountered that need to be removed. This is a Bill for amendment of the Constitution in some of its most vital parts, affecting the fundamental freedoms of the citizens, which the Constitution has deliberately placed outside the ordinary business of Parliament. We must, therefore, record our conviction that there is neither foundation nor justification adduced by the sponsors of this measure for attempting to effect such radical changes in our Fundamental Rights, limiting, if not denying, them in material particulars.

10. Because of these considerations, we find that the individual clauses of the Bill offend against our basic convictions. Clause 2, for instance, amends Article 15 permitting special facilities being provided for the educational, or social advancement of any backword classes of citizens. No definition is given of these "backward classes" not even that indicated in Articles 340-341 and 234 of the Constitution. This was necessitated, we are told, because the Supreme Court held that the so-called Communal G. O. of the Madras Government was *ultra vires*. We have no desire to stand in the way of the educational, social, or economic advancement of the so-called "Backward Classes". But, from the standpoint of all the criteria mentioned in the clause, India may well claim to be a land of backward citizens. More than two thirds of our population has not enough to eat, or clothe or shelter themselves, let alone the other fundamental wants of man, in respect of moral growth or cultural development. The Constitution has provided a whole Chapter of Directives of Policy, which, though not justiciable, is aimed at improving steadily the lot of the average citizen, and make up for the heavy deficit from which he suffers to-day. The clause as agreed to in the Select Committee leaves out economic considerations and speaks of "educationally and socially backward classes", which would needlessly rivet attention upon one of the most deplorable features of our social system. We consider that to be objectionable as being incompatible with the letter and spirit of the Constitution. Those in power and authority have, however, done nothing hitherto to implement any important Article in the Chapter on Directives of Policy which breathes the spirit of the Constitution, even though somewhat asthmatically. And while this deficit of the entire population remains unremedied, certain so-called "Backward Classes" have to be selected, and the Constitution is proposed to be amended to enable State Governments to pass legislation calculated to make up for such deficiencies in some selected sections of the community. The guiding principle furnished by reference to Articles 340-342, also, would not prove adequate to realise the basic aims of the Constitution,—the objectives stated in the Preamble,—when and where the full fury of Party regime is established. Incidentally, we may add that the scope of the amending Bill is substantially widened by including reference to Article 29(2), which is nowhere mentioned in the Original Bill.

11. Far more objectionable, however, is the proposed amendment to Article 19, relating to certain fundamental freedoms of the citizen. The Article, as it stands in the Constitution does not declare and guarantee the freedoms enumerated therein in a categorical form. Each freedom is limited or qualified in a manner unparalleled in other Constitutions of a like character. But even these restrictions or limitations pale into insignificance when one considers those now proposed. At least three new categories of restrictions have been introduced; while those already in the Article have been, in some respects, materially modified. The need to safeguard "friendly relations with foreign States" is made the principal excuse for the most considerable and novel of these limitations; and the claims of "public order" or "incitement to offence" have been specifically added to curb the freedom of speech and expression, including, incidentally and inevitably, the Freedom of the Press. In the amendment as it now stands, the term "reasonable" is added before "restrictions". To this extent, there is a welcome improvement made by the Select Committee over the original draft. We see however no justification for including "friendly relations" with foreign states to restrict, however reasonably freedom of thought and expression even though

in a given case the press or publicists or other States may not show similar solicitude to maintain friendly relations with us. The press in India, as a whole, has shown no evidence to justify this wholly gratuitous and unwarrantable restriction on civil liberties. No reference is made to any provision by way of reciprocal agreements for mutual accommodation in this behalf which might have lent a colour of reasonableness to this proposal. No argument is also given to show why the Press or publicits of India should not be trusted to observe all reasonable restraint in dealing with such matters, or, if they fail to do so, to be dealt with under the ordinary law of the land. We think, therefore, that even in its modified form, there is no justification for thus limiting the most important of the Civil liberties, characteristic of a modern, progressive, free democracy.

12. We fear likewise, that the term "public order" is much too wide, and may open the door to much greater restriction of this elementary freedom than appears on the surface.

13. The term "incitement to offence" is likewise, much too wide not to be objected to by those who desire as we do, the minimum of restriction on our basic civil liberties.

14. We would, in this connection, invite attention to that other feature of the amending Bill, which seeks to keep alive existing laws that might have offended against the Constitution, and permits the making of new laws in a similar direction. Not all the laws which might conceivably offend against the Constitution,—against this Part in particular,—have been neither listed, nor placed before us. The provisions of Article 372 of the Constitution have yet to be carried out but the proposed Amendment would not wait for any proper consideration of the need or justification of the laws passed under a foreign regime, and their adaptation, if so considered necessary; but would summarily keep alive all the sundry of such laws. Most of these laws have also not been pronounced upon by the Supreme, or even by any High Court, as offending against the Constitution, or any part of it. Under these circumstances, to make a sweeping amendment of this kind is neither expedient, nor advisable.

25. Some of us have their own views to submit on other particular clauses, with which, therefore, we shall not burden this Note. But we cannot but draw attention to the change made in the Select Committee, in the proposed new Article 31A which adds a provision to clause (1) on the lines of Clause (3) of Article 31. While such special consideration is shown to owners of landed property, *viz.* reserving a Bill for consideration by the President, and for his Assent, if it seeks to abolish land-ownership or corresponding rights in land, no such consideration will be shown for any Bill aimed at restricting civil liberty, particularly in regard to Freedom of Speech and Expression. We think this makes too invidious a discrimination not to demand serious attention of Parliament, if only because it violates, by implication at least, the basic spirit of the Constitution which promises equality before the law to all citizens.

K. T. SHAH.
NAZIRUDDIN AHMAD.
HUKAM SINGH.

NEW DELHI;
The 25th May, 1951.

V

I have signed a general note of dissent jointly with Professor K. T. Shah and Mr. Nazir-ud-Din Ahmed. But there are certain details on which I have my own views and which I must necessarily deal in a separate note.

2. I cannot agree to the present form of amendment of Article 19(2). It is too wide, and the abridgment of freedom of speech would be very material and extensive. When the Constituent Assembly framed the Constitution we were so generous as to allow full freedom except when the security of the State was endangered or its overthrow was threatened. After the framing of the Constitution we should have enacted fresh legislation in conformity with the spirit of our Constitution. The old antiquated laws continued to be on the Statute Book. The Constitution was to be the touch stone with which our Laws were to be scrutinised. They were tested and found faulty. And naturally so as we had been clamouring against them that they unjustifiably restricted our liverties. The natural consequence ought to have been that we should have enacted our laws in the spirit of our Constitution and in accordance with the judicial interpretations. But we are doing just the reverse. As the old reactionary laws come into conflict with the constitution and both cannot pull together constitution must be changed to adopt itself to those laws.

3. The insertion of the word "reasonable" is welcome and provides the Courts an opportunity to scrutinise whether any restriction imposed abridges the freedom to an unjustifiable extent. But the scope of limitations is much too wide. In the interest of "the security of the State", "friendly relations with foreign States," and "public order" as well as "incitement to offence" are too general terms and the circumstances existing or the experience gained do not warrant such abnormal changes.

4. The amendment proposed in article 15(3) indirectly amends article 29(2) as it restricts the scope of the latter. In my opinion this was beyond the scope of the Select Committee. It would have been more proper to amend 29(2) and leave article 15 as it was. Any how the present amendment would leave very wide scope to the State Legislatures and consequently to the Executives to corrupt the list of backward classes by including groups that were not backward. Political considerations would defeat the ultimate objective, and the really deserving persons, intended to be benefited, may not get the full advantage.

5. Though in principle I agree to the State carrying on business or trade to the exclusion of citizens I am afraid this would give powers to the State Legislatures to pass laws that may not be in consonance with the spirit of the Constitution. We are committed so far to the principle of acquisition of property with compensation. But cases have been fought in Uttar Pradesh and Bombay where it has been alleged that the property was acquired without paying any compensation. To take one instance of transport the operators were denied the right to carry on their trade but their vehicles and other property necessary for the carrying on the trade was not taken over on the pretext that they were free to use their vehicles. That was a device to get over the clear provisions of law. The operators could not use their vehicles and were suddenly thrown out of the trade though technically no tangible property of theirs had been acquired and so they could be refused any compensation. The High

Courts of Bombay and Allahabad had given certain relief to such sufferers but now under the present amendment they would be completely out of Court and would be left entirely at the mercy of the Executive. Again in clause 4(2) a definition of the word 'Estate' has been given. The object is to do away with the intermediaries. But in Punjab the word 'Estate' means any area of land for which a separate record of rights is kept. So all lands, however small in area and without any intermediaries at all, could be taken over if the Punjab Legislature was so minded. But this was not the intention of the Constitution.

NEW DELHI;
The 25th May, 1951.

HUKAM SINGH.

VI

1. Besides the general considerations for dissent advanced in the Note I have signed with my other colleagues, I would like to invite attention to the invidious discrimination, implicit in the change made by the Select Committee in Clause 4 of the amending Bill. That Clause adds Article 31A by which it would be possible to exclude the jurisdiction of the Courts in regard to the question of compensation to land-owners while abolishing their rights in land. Though the original Article 31 refers both to the landed as will as the personal wealth in commerce or industry, by the new Article, the term "Estate" is defined restrictively, and so confined to proprietorial or analogous rights in land, including subinfeudatory rights. The definition is not extended to personal or movable property, which also may have to be socialised. The presence of private property rights in land block radical agarian reform the same way as private property operated under the profit motive block industrial and social reform. If land ownership creates a class of parasites exploiting the natural resources of the country for private benefit, and yet to obstruct improvement in agricultural technique and increased production, individual ownership of productive industry service or untilities exploits even more effectively the workers engaged in such industry utilities or services, and at the same time, stand in the way of planned co-ordination, modernisation and rationalisation of industry, which may be expected under socialised ownership and management. The amending Bill, by its very amendments, creates a needless unjustifiable discrimination which is definitely against the spirit of the Constitution, aiming at egalitarian society.

2. The general note has referred to another equally objectionable change, which concerns the provision for reserving Bills relating to land rights for the consideration of the President, and for his assent, before such legislation can claim the protection of this amending legislation. No such safeguard is included for the protection of Civil Liberties, when threatened by any State legislation.

3. The proposal to validate, by this Amending Bill, all existing law relating to the points dealt with in this Bill, including the Schedule, containing as many as 11 such pieces of legislation, is open to fundamental objection. Not all these laws have been declared by competent judicial authority to be offending against the Constitution, and so to be invalid. None of these laws have been examined carefully by the Select Committee. And yet they have been declared all summarily to be valid, and given the

protection *en bloc* of this amending legislation. This is a dangerous precedent, which ought not to be allowed.

4. There is a much more serious objection to the new additions in the proposed new Articles, 31A and 31B. The basic justification, on social as well as economic grounds may be found in the desire to effect radical agrarian reforms; but the existence of private rights in land stand as an indefensible obstruction to such a measure of peaceful social revolution. While seeking to abolish the larger landowners, and their intermediaries parasites on land, and putting the Articles concerned outside the competence of the Judiciary in discussing the claims for compensation of dispossessed landowners, or other such *incubi* on land, no provision is made to guard against the entire purpose of such legislation being defeated by the setting up of such smaller but more tenacious landlord or peasant proprietors. The latter not only are, taken individually too small to provide really economic cultivation and development of land; they would very likely be more ignorant, impecunious and unprogressive, and so unable to effect indispensable and overdue improvements in the technique and instruments of land cultivation and development. The larger landlords, being fewer in number, can be much more easily liquidated than the smaller ones in an admittedly democratic set up. Unless, therefore, the dispossession of the larger landowners is accompanied by an effective and simultaneous socialisation of land, permitting its collective, or at least co-operative, cultivation and development, there would be no real benefit from this amendment. The original intention of Article 31 would, consequently, as well as of the new additions, will be defeated.

5. The amendment proposed to Articles 85 and 87, vesting the power to summon each House of Parliament, in place of the existing provision saying "The Houses of Parliament shall be summoned &c. seems to me to be not only unnecessary; it is fraught with the greatest potentiality for mischief to a nascent democracy. It is, in my opinion, likely to pave the way for a Presidential Dictatorship, which it was never the intention of the Constitution to facilitate. No satisfactory explanation was forthcoming for suggesting this radical change from the Articles as they stand today. The same objection applies to the corresponding amendment in the Articles relating to the States' Legislatures.

6. The amendment proposed under Clause 13 (article 376) permitting the appointment of non-citizens of India to high judicial office, in the Union,—including even the office of the Chief Justice of the Supreme Court,—is objectionable, in my view, both on grounds of national self-respect as well as the limited number of persons for whose benefit this Amendment appears to have been proposed. There are, it is said, only 4 non-citizens of India who might benefit if this Amendment is accepted. I see no reason why these persons should not acquire Indian citizenship, if they desire to serve this country in such exalted positions. Much less can I persuade myself that we should amend our fundamental Constitution for such individual benefit, as this Amendment seeks to do.

7. The Schedule attached to the amending Bill, validating a number of laws relating to land-tenure, passed by some States, is equally objectionable. Except one, in which the highest judicial authority has pronounced the State legislation in this behalf to be invalid, no other such law has been considered by the supreme judicial authority, and pronounced upon adversly. Two of these laws have, I understand, been actually

upheld. Under these circumstances, I cannot help considering the proposed validation *en bloc* in the schedule to be as unnecessary as it is objectionable.

NEW DELHI;
The 25th May, 1951.

K. T. SHAH.

VII

I have signed the majority report subject to dissent. I have also signed a joint dissentient minute dealing with some general objections against the Bill. The following are some additional notes dealing with certain specific objections.

2. *Clause 2.*—We have provided for the advancement of some "Socially and educationally backward classes of citizens". I think this description should be enlarged to include "economically" backward classes also.

Clause 3(1)(a).—Clause (2) of article 19 of the Constitution which this clause seeks to amend, now stands much improved by the new provision that all restrictive laws against "freedom of speech and expression" guaranteed under Article 19(1)(a) must be "reasonable". This will enable our superior Courts to pronounce whether any law unduly restricts the right and will ensure that the restrictions will be reasonable. This is a great protection on this fundamental right. The reason for refusing to incorporate the words "reasonable restriction" in the clause herein was due to an erroneous belief that the Supreme Court did not correctly interpret the Constitution according to its time spirit. It was urged in the House that the Supreme Court should have found that our Legislatures had some "police powers" outside the Constitution according to the rules of interpretation of the U.S.A. Supreme Court. But it was pointed out by our Supreme Court that the American doctrine was due to the existence of "due process of law" in their Constitution which we had at first adopted and then rejected and adopted the "procedure established by law" formula. It is respectfully sumbitted that the Supreme Court of India correctly interpreted the Constitution and the liberties of the subject and the freedom of Parliament are safe in their hands.

4. I think that article 19(2) as it is now proposed to be amended, has many other serious faults. Legislation against mere incitements to offence goes too far. Under the Indian Penal Code, mere incitements to an offence is no offence unless the incitement is agreed to by any other person in which case it amounts to an offence of conspiracy, or unless the offence abetted or any other offence is done in consequence of the incitement in which case the incitement is punishable as an abetment. The Penal Code which has stood the test of over ninety years did not make mere incitement an offence unless it is followed by agreement on a criminal act. It was only in some emergency Acts that this was made an offence. With the passing of the emergency, these Acts should be repealed.

5. Another serious fault is to empower legislation to punish defamatory attacks on foreign States, and what is much more serious, is any thing which impairs friendly relations with foreign States. Dr. Ambedkar claim-

ed that he was thinking of only defamatory attacks. If so, it is sufficiently provided for in the clause, as defamation of any foreign personality is covered by the clause. All that we need do is to enlarge the scope of the Foreign Relations Act, 1932, if Parliament is so minded. The power sought goes too far and may be used too easily to prohibit and punish ordinary and fair criticism of foreign affairs. Again, any fair or outspoken criticism of the Government my be made punishable by law and the obsolete law of sedition under Section 124-A of the Penal Code will be revived and perpetuated. Again, communal differences may too easily be made penal.

6. A serious cause of difficulties in the way of citizens and of disappointment of Government is that our penal and other laws were never adapted to suit the standards laid down by the Constitution. If the adaptation article of the Constitution was made use of, as it should have been, we would have got a clearer picture of the real shape of much of our laws. A serious consequence of passing the clause as recommended by the Select Committee will be that many obsolete and dead laws will be revived with retrospective effect, and, again, their real scope and effect could not be known with any certainty or exactitude. This will continue to trouble our courts for many a time to come. The clause should further be amended to remove the objections.

7. *Clause 3(1)(b).*—This clause demands article 19(6). The real change is to be found in the amended clause (6) (ii) which enables the State to enter any business or commercial field and practically oust any competitor from business and virtually "acquires" his property with nominal compensation or even with no compensation.

8. *Clause 3(2).*—I have already indicated the danger and uncertainty of reviving and giving retrospective effect to dead laws while no one will know for certain how much of the law is revived. This is a most dangerous provision and must be omitted. Even judgments and decrees of courts will be entirely multified.

9. *Clauses 4 and 5.*—These clauses attempt to enact a new article 31-A and affect the validity of the zamindary abolition Acts. Although the principle of these Acts is widely accepted, the crucial test is adequate or proper compensation as was admitted by the Prime Minister in Parliament. But all existing laws whether good or bad in that respect are attempted to be revived irrespective of the question as to whether they satisfy the crucial test of compensation. This is utterly expropriatory and shows highhandedness and would serve as a warning to owners of other properties and business of their approaching fate. The result will be widespread panic and uncertainity rendering industrialisation of the country a difficult process.

10. *Clauses 6, 7, 8 and 9.*—The amendments suggested by these clauses would enable the President and the Governors and Rajpramukhs to address the legislatures only once in the year thus refusing to indicate policies of Governments on various outstanding matters. This will curtail the opportunities of any furture "Opposition", if any, in our legislatures, fewer opportunities of discussing and debating those policies. This will considerably curtail the right of the opposition to criticise the policy of the Government.

11. *Clauses 10 and 11.*—No change in the Constitution is necessary.

12. *Clause 12.*—This clause seeks to amend article 372 of the Constitution which empowered the President to make adaptations to our laws within two years of the commencement of the Constitution. The present clause seeks to enlarge the period to three years. These adaptations should have been completed soon after the passing of the Constitution and may in any case be completed within the available period if necessary. These adaptations are urgent and should never be delayed. The Adaptation Orders under the Government of India Act, 1935 completed before that Constitution came into force. The present amendment would encourage dilatoriness on the part of the advisers of the President in a matter of the utmost urgency.

13. *Clause 13.*—This relates to promotions of some Judges who are not citizens. This could have been done by the "Removal of Difficulty" article of the Constitution.

14. *Article 14.*—This article seeks to introduce a new Schedule to the Constitution which would revive all dead and half dead enactments irrespective of their propriety or adequacy or their conformity to the standard of compensation declared by the Prime Minister. These Acts have not been examined with a view to finding out whether they are properly framed. Parliament is asked to put rubber-stamp certificates of fitness to them without examining their contents. Some glaring examples of injustice and arbitrariness have been brought to light, which should be condemned outright as outrageous, are going to be sanctified by the validation process. This can never be justified on any grounds of principle or policy on any recognisable standard.

15. The entire Bill is hastily conceived and is being rushed through Parliament without any proper or satisfactory scrutiny by the public or even by the Department. Nothing has been placed before us to show that any but the most inadequate consideration has been given to the subject. There was no urgency and this indecent haste cannot but be condemned. Even this dissentient minute had to be prepared with considerable haste.

NAZIRUDDIN AHMAD

NEW DELHI;
The 25th May, 1951.

VIII

I desire further to put on record that up to the time of writing this minute (8-45 A.M. on the 25th May, 1951) I have not, nor as far as I could ascertain, no other member of the Select Committee has, seen the actual text of the Bill as finally settled by the Select Committee after several revisions. This has acted as an additional handicap in the way of the drawing up any accurate and up to date dessentient note.

NEW DELHI;
The 25th May, 1951.

NAZIRUDDIN AHMAD

GIPD—LAD—269PS—26-5-51—1,200

BILL No. 48 of 1951.

THE CONSTITUTION (FIRST AMENDMENT) BILL, 1951

(AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined or sidelined indicate the amendments suggested by the Select Committee; asterisks indicate omissions.)

A

BILL

to amend the Constitution of India.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Constitution (First Amendment) Act, 1951.

2. Amendment of article 15.—To article 15 of the Constitution, the following clause shall be added:—

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

3. Amendment of article 19 and validation of certain laws.—(1) In article 19 of the Constitution,—

(a) for clause (2), the following clause shall be substituted, and the said clause shall be deemed always to have been enacted in the following form, namely:—

"(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, including, in particular, any existing or other law relating to contempt of court, defamation or incitement to an offence.";

(b) in clause (6), for the words beginning with the words "nothing in the said sub-clause" and ending with the words "occupation, trade or business", the following shall be substituted, namely:—

"nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise."

(2) No law in force in the territory of India immediately before the commencement of the Constitution which is consistent with the provisions of article 19 of the Constitution as amended by sub-section (1) of this section shall be deemed to be void, or ever to have become void, on the ground only that, being a law which takes away or abridges the right conferred by sub-clause (a) of clause (1) of the said article, its operation was not saved by sub-clause (2) of that article as originally enacted * * * *.

Explanation.—In this sub-section, the expression "law in force" has the same meaning as in clause (1) of article 13 of the Constitution.

4. Insertion of new article 31A.—After article 31 of the Constitution, the following article shall be inserted, and shall be deemed always to have been inserted, namely:—

"31A. *Saving of laws providing for acquisition of estates, etc.*—(1) Notwithstanding anything in the foregoing provisions of this Part, no law providing for the acquisition by the State of any estate or of any rights therein or for the extinguishment or modification of any such rights shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

(2) In this article,—

(a) the expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area;

(b) the expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder or other intermediary and any rights or privileges in respect of land revenue."

5. Insertion of new article 31B.—After article 31A of the Constitution as inserted by section 4, the following article shall be inserted, namely:—

'31B. *Validation of certain Acts.*—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts shall, subject to the power of any competent Legislature to repeal or amend it, continue in force."

6. Amendment of article 85.—For article 85 of the Constitution, the following article shall be substituted, namely:—

"85. *Sessions of Parliament, prorogation and dissolution.*—(*1*) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(*2*) The President may from time to time—

(*a*) prorogue the Houses or either House;

(*b*) dissolve the House of the People."

7. Amendment of article 87.—In article 87 of the Constitution,—

(*1*) in clause (*1*), for the words "every session" the words "the first session after each general election to the House of the People and at the commencement of the first session of each year" shall be substituted;

(*2*) in clause (*2*), the words "and for the precedence of such discussion over other business of the House" shall be omitted.

8. Amendment of article 174.—For article 174 of the Constitution, the following article shall be substituted, namely:—

"174. *Sessions of the State Legislature, prorogation and dissolution.*—(*1*) The Governor shall from time to time summon the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(*2*) The Governor may from time to time—

(*a*) prorogue the House or either House;

(*b*) dissolve the Legislative Assembly."

9. Amendment of article 176.—In article 176 of the Constitution,—

(*1*) in clause (*1*), for the words "every session" the words "the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year" shall be substituted;

(*2*) in clause (*2*), the words "and for the precedence of such discussion over other business of the House" shall be omitted.

10. Amendment of article 341.—In clause (*1*) of article 341 of the Constitution, for the words "may, after consultation with the Governor or Rajpramukh of a State," the words "may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof," shall be substituted.

11. Amendment of article 342.—In clause (*1*) of article 342 of the Constitution, for the words "may, after consultation with the Governor or Rajpramukh of a State," the words "may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof," shall be substituted.

12. Amendment of article 372.—In sub-clause (*a*) of clause (*3*) of article 372 of the Constitution, for the words "two years" the words "three years" shall be substituted.

13. Amendment of article 376.—At the end of clause (*1*) of article 376 of the Constitution, the following shall be added, namely:—

"Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court or of the Supreme Court."

14. Addition of Ninth Schedule.—After the Eighth Schedule to the Constitution, the following Schedule shall be added, namely:—

"NINTH SCHEDULE

[*Article 31B*]

1. The Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950).

2. The Bombay Tenancy and Agricultural Lands Act, 1948 (Bombay Act LXVII of 1948).

3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).

4. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bombay Act LXII of 1949).

5. The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bombay Act LXIII of 1949).

6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).

7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950 (Bombay Act LX of 1950).

8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act I of 1951).

9. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).

10. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950 (Madras Act I of 1950).

11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act I of 1951)."

PARLIAMENT OF INDIA

Report of the Select Committee on the Bill to amend the Constitution of India.

(As amended by the Select Committee)

GIPD—LAD—270 P S—25-5 51—15,00