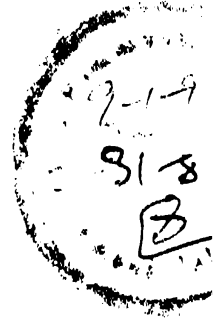
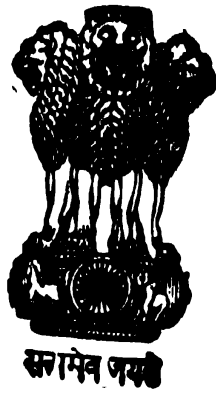


Thursday, 17th May, 1951



PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

VOLUME VII, 1951

(2nd April to 16th May, 1951)

Third Session (Second Part)

of the

PARLIAMENT OF INDIA

1951

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THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT

4329

4330

PARLIAMENT OF INDIA

Thursday, 17th May, 1951

The House met at Half-past Eight of the Clock.

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

ANTI-BLACKMARKETING DEPARTMENT

***4216. Master Nand Lal:** Will the Minister of Commerce and Industry be pleased to state:

(a) the circumstances under which the Government of India established their own Anti-blackmarketing Department about two years ago;

(b) whether the consent of the States was obtained for establishing such a Department; and

(c) what was the function of the Department?

The Minister of Commerce and Industry (Shri Mahtab): (a) The Central Enforcement Directorate was established to enforce Control Orders regarding Cotton Textiles and Iron and Steel, and to detect contraventions in respect of these Control Orders.

(b) Yes.

(c) As given in answer to part (a) above.

Mr. Speaker: We go to the next... ..

Shri Jangde: Sir, I want to put a supplementary question.

Mr. Speaker: All right. Hon. Members should be alert. I actually look round before calling the next question.

श्री जंगड़े : क्या आन्धीय मंत्री बतलावेंगे कि कौन से ऐसे प्रान्त हैं जहाँ
96 P. S. Deb.

ऐसे विभाग हैं जो ब्लैक-मार्केटिंग और प्राफिटियरिंग करने वालों को पकड़ता है।

[**Shri Jangde:** Will the hon. Minister please state which are those States where there is a separate Department to detect blackmarketing and profiteering?]

श्री महताब : हर प्रान्त में ऐसा विभाग है ?

[**Shri Mahtab:** Every State has such a department.]

Dr. V. Subramaniam: Is it a fact that the Central Government is going to abolish this Central Enforcement Directorate?

Shri Mahtab: It is not a fact.

ARREST OF AN ASSISTANT CONTROLLER OF EXPORTS

***4217. Shri Kamath:** Will the Minister of Commerce and Industry be pleased to refer to the answer given by him to Starred Question No. 1935 regarding violation of Import and Export Regulations asked on the 8th March, 1951 and state:

(a) whether it is a fact that an Assistant Controller of Exports has been arrested; and

(b) whether any inquiry or investigation has been held?

The Minister of Commerce and Industry (Shri Mahtab): (a) Yes. Mr. G. R. Mankikar, Assistant Controller of Exports in the office of the Deputy Chief Controller of Exports, Bombay was arrested by the police on 13th January, 1950 and was released on bail. He is under suspension. Subsequently another Assistant Controller Mr. B. M. Sapre was also arrested on 28th July, 1950 and was placed under suspension.

(b) The case is under investigation by the police.

Shri Kamath: Is the name of the officer arrested "Manikkar" or "Mankikar"?

Mr. Speaker: I think it is Mankikar.

Shri Mahtab: Yes, Sir. It is Mankikar.

Shri Kamath: Is it a fact that prior to the arrest of Mr. Mankikar, a clerk in the office was arrested and the information given by the clerk led to the arrest of Mr. Mankikar?

Shri Mahtab: I have not got that information. The case is about one year old. I find the Chief Controller first brought it to the notice of the Customs Authorities and the Customs Authorities brought it to the notice of the police.

Shri Kamath: What is the date of the arrest?

Shri Mahtab: I have already given it.

Mr. Speaker: Yes, he gave it as the 13th of...

Shri Mahtab: Yes, Sir. It is 13th January, 1950.

Shri Kamath: Is it a fact that Mr. Mankikar issued some bogus permits for the export of certain commodities whose export was banned?

Mr. Speaker: I think that question is premature. The police investigation is going on and it will be premature to assume that the accused person is guilty.

Shri Kamath: At what stage is the investigation now?

Shri Mahtab: We have again reminded the police to finish up the investigation and submit the charge-sheet or final report.

INDIANS IN MALAYA

*4220. **Shri Krishnanand Rai:** Will the Prime Minister be pleased to state:

(a) how many Indians have been hanged, shot dead and imprisoned in Malaya in the anti-terrorist activities of Malayan Rulers by this time;

(b) whether it is a fact that some Indians have been forced to leave Malaya or taken to task for refusal to be informers of the Malayan Government;

(c) whether the Indian Representative in Malaya sends reports of the activities of Malayan Rulers against Indians there; and

(d) if so, whether Indians outside Government service in Malaya are living in a panicky condition or otherwise?

The Deputy Minister of External Affairs (Dr. Keskar): (a) Two Indians have so far been executed in Malaya under the Emergency Regulations.

About 153 Indians have lost their lives from the beginning of the Emergency upto the end of February, 1951. This includes insurgents and also civilians and police killed by the insurgents.

The number of Indians detained in Malaya during the period is nearly 900. Of this number about 180 have been released, about 500 have been sent back to India, and the rest are still in detention.

(b) Some Indians have been deported from Malaya under the Emergency Regulations for suspected Communist activities. It is likely that they include persons who have refused to divulge information about the insurgents.

(c) The Indian Representative in Malaya keeps the Government fully informed of all matters of importance, affecting the Indian community in Malaya.

(d) As far as the Government is aware, there has been no panic among Indians in Malaya.

Shri Krishnanand Rai: Is it a fact that recently there have been mass arrests, detentions and punishments of Indians simply on the charge that they did not give information about the insurgents to the authorities and if so whether the Government of India have protested against this arbitrary procedure?

Dr. Keskar: I think the hon. Member is incorrect and his information is without foundation. As I said in my reply, a number of Indians have been arrested, amongst whom are people who probably have been arrested because they refused to divulge information regarding Communist insurgents. Their number is approximately what I gave in my reply.

Shri Krishnanand Rai: In view of the fact that Indian personnel is working in Malaya in the police and in the military, may I know whether the Malayan Authority consults the representative of India there when they take action against Indians?

Dr. Keskar: Questions have been asked many times on the floor of the House with regard to Indians employed in Malaya or in certain other colonies. I think it ought to be clear to hon. Members that Indians in certain British colonies do not enjoy the status of Indian nationals, and at the same time

have the liberty of joining the particular Government services. The position of Indians in Malaya is peculiar. The majority of Indians there are those who have either been born there or whose parents had emigrated to Malaya when they were very young and most of them are eligible to Malayan citizenship. It is true a number of them have not accepted that citizenship yet. They are mostly people who will not be coming back to India. In those circumstances it would not be right to say that the Representative of the Government of India in Malaya has the right in most of these cases to protest or to do anything on behalf of many of these persons who have been detained or affected in any other way.

Dr. Ram Subhag Singh: May I know, Sir, whether Indians have been hanged because of their refusal to divulge political information which the Malayan authorities wanted?

Dr. Keskar: I think the hon. Member is misinformed. Two Indians were hanged, and both of them, as far as we could find out, were hanged because they were found with deadly weapons in their possession which at this time, under the emergency regulations, is an offence punished with death.

Shri Kamath: Is every case of Indians convicted or detained in Malaya reported by the British authorities there to the Government of India?

Mr. Speaker: I think that question has been answered in the reply to the previous one.

Shri Kamath: But is the matter reported?

Mr. Speaker: Why should it be reported?

Shri Kamath: Just formally.

Shri Brajeshwar Prasad: Do Government propose to lay on the Table of the House copies of the annual reports submitted by the Indian representative in Malaya?

Dr. Keskar: No such copies can be laid on the Table of the House as the information is confidential.

Shri R. Velayudhan: May I know whether there are any special reasons why the majority of the Indians in Malaya have refused Malayan citizenship?

Mr. Speaker: Order, order. It is covered by the previous reply.

Shri A. C. Guha: In view of the fact that India continues to remain in the

Commonwealth, is there any proposal to give Indians residing in Malaya something like a double citizenship?

Dr. Keskar: I think such a proposal is under consideration. At first the Malayan authorities themselves had proposed dual citizenship—rather that a person would have the nationality of one country and at the same time have Malayan citizenship. But now there is a proposal before the Malayan Government that there should be a Malayan nationality and a Malayan citizenship also. But a person is permitted even now to have nationality of different countries and Malayan citizenship.

Shri Sidhva: May I put a question?

Mr. Speaker: He may put the next question.

YARN SUPPLIES TO POWER-LOOMS IN DELHI

*4221. **Shri Sidhva:** (a) Will the Minister of Commerce and Industry be pleased to refer to the answer given to my Starred Question No. 3661 asked on the 30th April, 1951 regarding yarn quota to power-looms in Delhi and state why only the Ajudhia Textile Mill, Delhi is supplied full quota for one shift working whereas the other four power-loom factories get *pro-rata* supplies?

(b) Is the same principle as exists in Delhi State being followed in other States where power-loom factories exist?

(c) Is the figure of average consumption arrived at by the Director of Civil Supplies, Delhi identical or different from the figure arrived at for other States by the Textile Commissioner, Bombay and if so, what are the reasons?

(d) Was any hank yarn released to Ajudhia Mill and if so, what was the ratio of hank yarn to yarn on beams and bobbins supplied to them?

(e) Is hank yarn released through the medium of wholesalers or at *ex-mill* prices and if it is the latter, why is it released through wholesalers to others?

The Minister of Commerce and Industry (Shri Mahtab): (a) The Ajudhia Textile Mill employs 300 looms whereas the other factories have 8 to 10 looms. In order that a big power-loom factory of the size of the Ajudhia Textile Mill should run on economic lines, it is essential to supply it full quota for one shift working.

(b) Government of India is not aware whether the same principle in regard to big powerloom factories is followed in other States.

(c) Internal distribution of yarn is the concern of the State Government concerned and the Government of India are not aware as to the basis on which yarn is distributed to powerloom factories by various States. However, in view of the complaints received, the question of allotting separate quotas of yarn to handloom, powerloom and other industries is under consideration of the Government of India.

(d) No hank yarn was supplied to the Ajudhia Mill during this year.

(e) Yarn supplies to Ajudhia Mill are made direct from the mills at ex-mill prices. The quotas of other manufacturers being too small cannot be given direct from the mills and as such are released through wholesalers.

Shri Sidhva: Arising out of question part (a), may I know what is the monthly quota of yarn fixed for the Ajudhia Textile Mill against those given to power looms?

Shri Mahtab: They are getting 263 bales a month.

Shri Sidhva: Is it a fact that the Fact Finding Committee fixed 83.3 points per loom and why this 37 per cent. is given more to this mill and less to others?

Shri Mahtab: The hon. Member is right. The Committee estimated that quantity for handloom but this is regarding power looms.

Shri Sidhva: May I know why this particular mill has been given a larger quota than that given to power looms? May I know what is the quota for power loom?

Shri Mahtab: No quota has been fixed for power loom. We are just considering the question of allocating a definite quota to power looms.

Shri Kesava Rao: May I know whether Government's responsibility will cease with the supply of yarn to these power looms or whether the mills will supply them with figures of cloth produced thereafter?

Shri Mahtab: The Government of India makes allotments to the different States and the States are responsible for internal distribution. In the last conference of the States Ministers we have taken up the matter to introduce a common system of distribution in all the States.

Shri J. R. Kapoor: Is it a fact that a number of labourers have been thrown out of employment because of the

reduction of supply of yarn to the Ajudhia Textile Mill this year and those labourers approached the hon. Minister to secure his help for re-employment?

Shri Mahtab: That is a fact but that could not be helped on account of shortage of yarn.

Dr. Deshmukh: Is there any control exercised either by the State Government or the Centre on the opening of new power looms because of scarcity of yarn?

Shri Mahtab: Opening of new power looms have been banned and none can be opened without a license from the State Government.

Shri Sidhva: The hon. Minister stated that some labourers were thrown out. May I know in view of the larger quantity given to the Ajudhia Mill, will they see that a larger quantity is given to other power looms so that the labourers may not be thrown out of work.

Shri Mahtab: Adequate quantities will be given to all power looms, if yarn is available.

रायपुर अनुप्रादेशिक सेवा योजनालय

*४२२२ श्री जागड़े : क्या धन मंत्री

यह बतलाने की कृपा करेंगे कि :

(क) सन् १९४९ तथा १९५० में मध्यप्रदेश के रायपुर अनुप्रादेशिक सेवा-योजनालय में कितने व्यक्तियों ने अपने नाम पंजीबद्ध कराये; तथा

(ख) इन पंजीबद्ध व्यक्तियों में से कितनों को सरकारी सेवाओं तथा असरकारी फ़ैक्टरियों, व्यवसायों एवं दुकानों में सेवायुक्त किया गया ?

RAIPUR SUB-REGIONAL EMPLOYMENT EXCHANGE

[*4222. **Shri Jangde:** Will the Minister of Labour be pleased to state:

(a) the number of persons who got their names registered in the Raipur Sub-regional Employment Exchange of Madhya Pradesh during the years 1949 and 1950; and

(b) how many of these registered persons were provided employment in Government services and private factories, trades and shops?]

The Minister of Labour (Shri Jagjivan Ram): (a) 4,849 in 1949 and 4,011 in 1950.

(b)

Year	Persons placed in employment in		Total
	Govt. Services.	Private establishments.	
1949	1362	132	1494
1950	781	630	1411

श्री जांगड़े : क्या माननीय भ्रम मंत्री बतलायेंगे कि क्या यह सत्य है कि मध्य प्रदेश की सरकार तथा स्वायत्त संस्थायें कई पदों या स्थानों की जिनकी नियुक्तियां करानी होती हैं, रायपुर अनु-प्रादेशिक सेवा योजनालय में सूचना नहीं देते ?

[Shri Jangde: Will the hon. Minister of Labour please state whether it is a fact that the Madhya Pradesh Government and other local bodies do not inform the Raipur Sub-Regional Employment Exchange about the vacancies to be filled up?]

श्री जगजीवन राम : यह बहुत अंश में सत्ता है ?

[Shri Jagjivan Ram: It is true to a great extent.]

श्री जांगड़े : क्या माननीय मंत्री बतलायेंगे कि उक्त सेवा योजनालय में कितना रुपया गत दो वर्षों में उसके संस्थापन और संचालन में व्यय किया गया है ?

[Shri Jangde: Will the hon. Minister please state the amount expended during the last two years on the establishment and working of the said Employment Exchange?]

श्री जगजीवन राम : यह सूचना तो मेरे पास अभी नहीं है, अगर आप इसके लिए नोटिस देंगे, तो मैं उसको दूंगा।

[Shri Jagjivan Ram: I have not got the information at present; if the hon. Member gives me notice, I can get the information for him.]

श्री जांगड़े : क्या माननीय मंत्री बतलायेंगे कि उक्त सेवा योजनालय में पंजीबद्ध व्यक्तियों में से कितने व्यक्तियों ने अनस्किल्ड भ्रम में लगाये जाने के लिए अपने नाम पंजीबद्ध कराये थे ?

[Shri Jangde: Will the hon. Minister please state how many of the persons who registered themselves in the said Employment Exchange got their names registered for employment in unskilled labour?]

श्री जगजीवन राम : कितने लोगों ने दरखास्त दी थी, यह मैं नहीं कह सकता, लेकिन कितने लगाये गये थे, यह मैं आपको बतला दूंगा। जो लगाये गये उनमें से १९४९ में २.५ प्रतिशत तथा १९५० में आठ प्रतिशत स्किल्ड और सेमी-स्किल्ड थे।

[Shri Jagjivan Ram: I cannot give the number of those who applied but I can tell you how many were employed. The percentage of skilled and unskilled persons out of those who were provided with employment was 2.5 in 1949 and 8 in 1950.]

Shri Jaipal Singh: May I know whether these Employment Exchanges are managed purely on a provincial basis or is there some machinery whereby there is inter-provincial co-ordination so that information about avenues of employment is made available to other provinces particularly in regard to Government undertakings?

Shri Jagjivan Ram: There is the Central Co-ordinating Bureau here in Delhi. If there is a demand from a certain State where that category of personnel is not available from that employment exchange, that demand is transmitted to the Centre which requests the other Employment Exchanges to supply personnel of that category, if available.

लाख तथा टसर उद्योग

*४२२३. श्री जांगड़े : (क) क्या ब्रजिन्ध तथा उद्योग मंत्री यह बतलाने की कृपा करेंगे कि लाख तथा टसर कुटीर उद्योगों को प्रोत्साहन एवं पुनर्जीवित करने के हेतु सरकार ने क्या पग उठाये हैं।

(ख) क्या यह सत्य है कि उपरोक्त उद्योगों के लिए अपेक्षित कच्चे पदार्थों की उपलब्धता में कमी होती जा रही है ?

LAC AND *Tassar* COTTAGE INDUSTRIES

[*4223. Shri Jangde: (a) Will the Minister of Commerce and Industry be pleased to state what steps have been taken by Government to encourage and to revive the lac and *Tassar* cottage industries?

(b) Is it a fact that there is decline in the availability of the raw materials needed for the above-mentioned industries?]

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) and (b). As the Governments of Bihar, Orissa and Madhya Pradesh, where *Tassar* silk breeding worms are mostly found, are taking adequate steps to develop this industry, the Government of India have not taken any specific steps in this direction.

There is no decline in the availability of *Tassar* silk breeding worms.

Information regarding lac cottage industry is being collected.

श्री जांगड़े : क्या माननीय मंत्री बतलायेंगे कि यह सत्य नहीं है कि टसर और लाख के कीड़े जिन झाड़ों में पैदा किये जाते हैं, उन झाड़ों को मालगुजार लोग नष्ट कर रहे हैं ?

[Shri Jangde: Will the hon. Minister please state whether it is not a fact that the trees and plants on which *Tassar* and lac worms are reared are being destroyed by the malguzars?]

श्री करमारकर : सिर्फ उड़ीसा के बारे में हमें यह शिकायत मिली थी कि वहां टसर और लाख के कीड़ों की पैदायश कम हो रही है, और उड़ीसा गवर्नमेंट इसको बढ़ाने की कोशिश कर रही है ?

[Shri Karmarkar: We have received complaints only with regard to Orissa that the production of *Tassar* and lac worms is on the decline. But the Government of Orissa is making efforts to augment the production.]

श्री जांगड़े : क्या माननीय मंत्री बतलायेंगे कि केन्द्रीय ग्रह उद्योग बोर्ड में

टसर या लाख के उत्पादन को और उन धन्धों को प्रोत्साहन देने के लिये इस विषय को शामिल किया गया है।

[Shri Jangde: Will the hon. Minister please state whether encouragement of the production of *Tassar* and lac and the occupations connected with them, have been included in the scope of the Central Cottage Industries Board?]

श्री करमारकर : हां यह सब विषय काटेज इंडस्ट्री में आते हैं जितना संभव है गवर्नमेंट आफ इंडिया उसकी पैदायश में प्रोत्साहन देने की कोशिश करती है।

[Shri Karmarkar: Yes, all these come in the scope of Cottage Industries. The Government of India are giving as much encouragement to their production as possible.]

श्री द्विवेदी : मैं यह जानना चाहता हूँ कि लाख जो इस देश में पैदा होती है वह यहीं खर्च होती है या बाहर भी भेजी जाती है ?

[Shri Dwivedi: May I know whether lac produced in this country is consumed only here or is also exported?]

श्री करमारकर : लाख के बारे में मैंने कहा कि हम ज्ञातव्य इकट्ठा कर रहे हैं जब इकट्ठा हो जायेगा तो हम माननीय सदस्य को पहुंचा देंगे।

[Shri Karmarkar: As I said, we are collecting information about lac. The hon. Member will be given the required information as soon as it is available.]

श्री टी० एन० सिंह : क्या यह सत्य है कि लाख की इंडस्ट्री कुछ असें से गिरती जा रही है और उसकी खास बजह यह है कि लाख के एक्सप्लायटेशन का तरीका साइंटिफिक नहीं है और यदि यह सत्य है तो हमारे साइंटिफिक डिपार्टमेंट ने इस बारे में क्या काम किया है ?

[Shri T. N. Singh: Is it a fact that the lac industry has been deteriorating for some time past and that the main

reason for this is the unscientific method of exploiting lac, if so, what has our Scientific Department done in this regard?]

श्री कर्मकार : मैंने पहले ही कहा हम ज्ञातव्य संग्रह कर रहे हैं उसको ठीक करने के लिए।

[**Shri Karmarkar:** I have already said that information is being collected to ascertain the facts.]

Shri Chattopadhyay: May I know whether the Central Government has allotted any money to the States mentioned by him for the improvement of *Tassar* industry?

Shri Karmarkar: No.

Shri Chattopadhyay: May I know whether the State approached the Central Government for help in this matter?

Shri Karmarkar: No.

Dr. Deshmukh: The hon. Minister has not replied about the condition in Madhya Pradesh. That was asked by my friend Mr. Jangde. He stated the position in Orissa but did not refer to Madhya Pradesh which is a very large *Tassar* and lac producing centre.

Mr. Speaker: I believe his question was confined to Orissa about the deterioration.

Dr. Deshmukh: He particularly asked about Madhya Pradesh.

Shri Karmarkar: What I said was that information was correct according to our information in respect of Orissa. In respect of Madhya Pradesh and Bihar we have not received information that *Tassar* industry is deteriorating or there is anything wrong with it.

Dr. Deshmukh: The *malguzars* are cutting down the trees.

PENICILLIN FACTORY

*4224. **Prof. S. N. Mishra:** Will the Minister of Works, Production and Supply be pleased to state:

(a) the reasons for the difference between the original and present estimates for the Penicillin Factory; and

(b) the names of foreign firms from which tenders were received by Government for the setting up of the factory?

The Minister of Works, Production and Supply (Shri Gadgil): (a) The increase in the estimates of capital cost of the project is mostly due to a

marked rise in the prices of equipment since the original estimates were made. Moreover, no provision was made in the original estimates for items such as railway sidings, pipeline and power generation in the Penicillin Factory itself. Devaluation has also affected the cost considerably. I should add that all the estimates are very rough ones.

(b) No tenders were invited.

Prof. S. N. Mishra: May I know whether any offer was made by a British firm in this connection and if so, what are the reasons for the rejection of the offer by the British firm.

Shri Gadgil: So far as my information goes, no offer was made by any British firm.

Prof. S. N. Mishra: May I know whether any agreement has been entered into with an American firm for patents and formulæ and if so, whether Government are not going to incur double royalty both to the Swedish firm and also to the American firm.

Shri Gadgil: No agreement has been agreed upon between the Government of India and any of the American firms. The position is that a team of scientists from this country were asked to visit several Penicillin Factories in the U.K., U.S.A. and countries in the Continent. They returned and made a report that the best plan would be to back up the knowledge the Indian scientists have with the knowledge and co-operation of some firms from foreign countries. With that object in view, an agreement was entered into with a Swedish firm called Karnbolegt. Later on an offer of help was made by the W.H.O. to the extent of 68 lakhs of rupees and that offer has been accepted and the agreement with the Swedish firm will now be terminated.

Prof. S. N. Mishra: May I know whether any provision has been made for a research fund in this connection?

Shri Gadgil: The idea now evolved is that this factory will be erected in co-operation with the W.H.O. and the principles on which the W.H.O. organization work is that there should be no secret kept and knowledge of all discoveries should be shared with the entire world and therefore there would be enough scope for training our own people—not only our own people, but even people from outside this country.

Shri Sidhva: May I know whether the Bombay Government was consulted in this matter and if so, what was their opinion about the offers?

Shri Gadgil: It is not in the public interest to state it here.

Shri Kamath: Is it a fact that the Penicillin Factory will be located not in Poona as originally proposed but in West Bengal?

Shri Gadgil: That is incorrect. It will be located near Dehu Road which is about 10 miles from Poona and as many miles from the sacred place Dehu.

Shri Sarangdhar Das: Arising out of reply to (a), may I know if Government consider a plan for a factory complete without planning for the railway siding and other accessory things.

Mr. Speaker: His point is that in selecting the location have Government taken into consideration the facilities of a railway siding? Perhaps he does not know that Dehu has a railway siding.

Shri Sarangdhar Das: In view of the fact that the hon. Minister says that the cost has gone up due to the rise in prices, as well as the fact that in the original plan the railway siding and some other ancillaries that he had mentioned were not taken into consideration, but when they were taken into consideration the cost of the factory went up, I want to know if a plan is considered complete without providing for railway siding and other necessary things?

Shri Gadgil: I may perhaps enlighten the hon. member by stating that the location is hardly one hundred yards from the Dehu Road station.

Mr. Speaker: His point is one of opinion. The hon. Minister said that the first plan did not contain proposals for a siding; therefore he asks whether a plan is considered to be complete unless, wherever it is located a siding is also taken into consideration.

Shri Gadgil: A siding is absolutely necessary. The only fault was that the original plan was drawn up by a scientist and not by a full-fledged economist.

AWARD OF ALL-INDIA INDUSTRIAL (BANK DISPUTES) TRIBUNAL

*4225. **Prof. S. N. Mishra:** Will the Minister of Labour be pleased to state:

(a) the number of banks affected by the strike of employees in protest against the setting aside of the Award of the All-India Industrial (Bank Disputes) Tribunal; and

(b) whether Government have any information about the total number of employees involved in the strike?

The Minister of Labour (Shri Jagjivan Ram): (a) 9 Banks covering 186 Branches.

(b) 2,679.

Prof. S. N. Mishra: May I know, Sir, whether a Conciliation Board has recently been constituted in pursuance of the decisions of a Conference? If so, which were the parties represented at the Conference and which are the parties represented on the Conciliation Board?

Shri Jagjivan Ram: The parties represented at the Conference were the employers and the employees. The employers were represented by the Bank Association, the Exchange Bank of India, the Imperial Bank, the Central Bank and the Punjab National Bank. The employees were represented by the All-India Bank Employees' Association and three or four regional associations of the employees and the Indian National Trade Union Congress.

The Conciliation Board is in the process of formation. Two representatives of the employers and two representatives of the workers and one independent Chairman will constitute the Conciliation Board.

Prof. S. N. Mishra: May I know whether it has been decided which are the points to be considered by the Conciliation Board?

Shri Jagjivan Ram: It has been decided.

Prof. S. N. Mishra: May I know the points, Sir?

Shri Jagjivan Ram: I have not got it with me. In the first instance there will be ten or twelve points from the Bank Award.

Prof. S. N. Mishra: May I know, Sir, whether almost all the major points have been excluded from the purview of the Conciliation Board?

Shri Jagjivan Ram: It is not a fact.

Shri Venkataraman: May I ask what the Government propose to do to freeze the present wages, dearness allowance and other conditions of service, pending the report of the Conciliation Board?

Shri Jagjivan Ram: I will draw the attention of my hon. friend to the statement which I made in this House on the 28th of April.

Shri Venkataraman: Is any legislation contemplated in that respect, Sir?

Shri Jagjivan Ram: It is contemplated in that statement itself and Government propose to implement the terms of that statement.

Shri Venkataraman: May I know when the legislation is expected to be brought before the House?

Shri Jagjivan Ram: During the course of this session.

Shri Hussain Imam: May I know what is the position of the Punjab National Bank strikers in Delhi and Uttar Pradesh?

Shri Jagjivan Ram: It has been decided, in consultation with the management of the Punjab National Bank that they will reinstate most of the employees, but they have serious objection to the reinstatement of 150 employees, whose cases will be referred to adjudication or to this Conciliation Board.

Shri Kamath: Have Government got any precise information as to how many of the employees who went on strike have already been dismissed or in other ways victimised?

Shri Jagjivan Ram: A very large number—more than a thousand—were dismissed in the Punjab National Bank alone, but as I have just now said, practically all of them are going to be reinstated, except 150, whose cases will be referred either to conciliation or to adjudication.

Shri Sidhva: Out of the thousand employees who were dismissed, how many were employees of the Bharat Bank?

Mr. Speaker: The question relates to the Punjab National Bank.

CEMENT

*4226. **Pandit Munishwar Datt Upadhyay:** (a) Will the Minister of Commerce and Industry be pleased to state what is the deficiency of cement in the country in view of large industrial projects undertaken by Government?

(b) How much additional supply of cement would be needed to meet the demand?

(c) Has any arrangement been made so far to meet any portion of the demand for cement?

The Minister of Commerce and Industry (Shri Mahtab): (a) to (c). The total requirements of Development Projects under execution as well as those yet to start, during the next five

years, have been roughly estimated at three million tons, that is, about 600,000 tons per year. The present requirements of these projects are about 5,00,000 tons per year which are being met. The total deficit of cement in the country is of the order of one million tons. The expansion schemes already under execution are expected to meet this deficit by the middle of 1952.

Pandit Munishwar Datt Upadhyay: May I know what is the capacity of production of cement factories that have been installed?

Shri Mahtab: Today the installed capacity is 3.3 million tons.

Pandit Munishwar Datt Upadhyay: Is that capacity to be fully attained in the near future—say in a year or two?

Shri Mahtab: The capacity will be increased because of the expansion schemes and in that case by about the middle of 1952 the capacity will be 4.1 million tons.

श्री द्विवेदी : मैं यह जानना चाहता हूँ कि क्या यह सत्य है कि विन्ध्य प्रदेश के सतना जिले में एक सीमेंट फैक्टरी बनाने की योजना थी। और यदि थी तो क्या उसके सम्बन्ध में कुछ किया जा रहा है।

[**Shri Dwivedi:** May I know whether it is a fact that there was a scheme to set up a cement factory in the Satna District of Vindhya Pradesh, if so, what is being done in that connection?]

Shri Mahtab: I require notice of that question.

Shri Sidhva: What was the quantity imported from foreign countries last year?

Shri Mahtab: I require notice for that too.

Ch. Ranbir Singh: Is the hon. Minister aware of the fact that there is an acute shortage of cement for the construction of residential buildings in the Punjab in rural areas?

Shri Mahtab: I have received no such complaints; but that is possible.

Kaka Bhagwant Roy: Has the Government very recently entered into an agreement with some South-East Asian countries like Malaya and Indonesia for the export of cement, and if so what quantity has been exported to those countries?

Shri Mahtab: An agreement has been arrived at for the export of some quantity; the exact quantity I cannot say offhand. If the hon. Member gives notice of a question I shall be ready to answer it.

Shri Jnani Ram: May I know if large quantities of cement are sold in the black-market, and if so the source from which it comes?

Shri Mahtab: Government cannot take responsibility in the matter, because we do not distribute it. It is the State Governments which distribute it.

Pandit Munishwar Datt Upadhyay: May I know why, in view of deficiency of cement in the country, this step of exporting cement has been taken?

Shri Mahtab: In order to receive those commodities which we require here.

GREEN BELT AROUND DELHI

*4227. **Pandit Munishwar Datt Upadhyay:** (a) Will the Minister of Works, Production and Supply be pleased to state whether there has been a proposal under the consideration of the Delhi Planning Committee to have a Green Belt around the boundaries of greater Delhi?

(b) Has the survey work been completed in this connection?

(c) What is the idea and plan behind this Green Belt scheme?

The Deputy Minister of Works, Production and Supply (Shri Buragohain): (a) Yes.

(b) No specific survey work has been carried out except for Government and Rehabilitation housing schemes and the Diplomatic Enclave which at places extend upto the Green Belt.

(c) The Green Belt is intended to play an important part in the extension and orderly development of the city. It will limit the size of the City to manageable proportions and stabilize the agricultural land necessary for the requirements of a large city. The Green Belt will also provide open areas for pasture land, recreation ground and space for installations like Wireless stations which need a very large unbuild area around.

Pandit Munishwar Datt Upadhyay: May I know, Sir, what is the proposed area of this belt?

Shri Buragohain: As I stated, Sir, this is yet to be marked out; it is only

tentatively marked on the Delhi Guide map. The town Planning Officer has done general reconnaissance by going over the area. It is still very flexible.

Pandit Munishwar Datt Upadhyay: May I know whether this will only be round the town or whether there will be any portion inside the town also?

Shri Buragohain: It will be just outside the Greater Delhi city. That has been planned and the area will be covered by vegetation mostly. Some portions will be open land and some agricultural land.

Pandit Munishwar Datt Upadhyay: What is the proposed initial expenditure and cost of maintenance as estimated?

Shri Buragohain: All these things have not been decided. The idea perhaps is not to acquire this portion of land at all. The area will be only notified and it will be included in the Municipality so that control can be exercised.

Pandit Munishwar Datt Upadhyay: From what funds will the charges be met?

Shri Buragohain: There is no question of acquisition.

Shri Sidhva: May I know whether the aluminium roofs to the tune of Rs. 20 lakhs which are lying at the housing factory will be purchased by these factories?

Mr. Speaker: Order, order. That happens because hon. Members are engaged in talks the moment their questions are answered.

ALUMINIUM FACTORIES

*4228. **Shri Jnani Ram:** Will the Minister of Commerce and Industry be pleased to state:

(a) the number and places of aluminium factories in India;

(b) the quantity produced in the year 1950-51;

(c) the quantity consumed in India both crude and refined; and

(d) the quantity exported?

The Minister of Commerce and Industry (Shri Mahtab): (a) to (d). A statement is laid on the Table of the House.

STATEMENT

(a) Number of Aluminium factories	Two (one is at Jaykey Nagar in West Bengal and the other is at Alwaye in Travancore).
(b) Quantity produced in 1950-51	3,677 tons.
(c) Quantity consumed	About 5,284 tons.*
(d) Quantity exported	Nil

*The actual consumption figure is not available. Apparent consumption based on actual imports of ingots plus indigenous production works out to 5,284 tons. This figure does not include (i) electrolytic wire rods, the annual consumption of which is 2,500 tons required for the manufacture of A.C.S.R. cables, and (ii) other forms of aluminium such as sheets and circles etc. imported during 1950-51.

Shri Jnani Ram: From the statement it appears that 2,500 tons are required for A.C.S.R. cables. May I know if this is a Government demand?

Shri Mahtab: It includes all demands.

Shri Jnani Ram: May I know if any priority is fixed for Government demands?

Shri Mahtab: There is no priority fixed for Government demands.

Shri Jnani Ram: May I know if there is an aluminium factory at Muri in Ranchi District and, if so, what is its total production?

Shri Mahtab: I can give the hon. Member all the information about the two factories which are working today. There are two units in the country producing virgin aluminium ingots from Indian bauxite. They are: Messrs. Indian Aluminium Company Ltd., Calcutta, and Messrs. Aluminium Corporation of India Ltd., Calcutta. The alumina plant of the Indian Aluminium Co. is at Muri near Ranchi, reduction plant at Alwaye (Travancore) and rolling mills at Calcutta. It cannot exactly be said how much is produced at Ranchi and elsewhere.

Shri Jnani Ram: May I know the quantity imported in 1949-50 and 1950-51?

Shri Mahtab: The imports in the calendar year 1950 were as follows:

Aluminium ingots	1,095.6 tons.
Aluminium sheets and circles	3,685.1 ..
Aluminium foils	270.9 ..
Other sorts	714.7 ..
	Total 5,766.3 tons.

Shri Kamath: Is it not a fact that large quantities of bauxite ore are found in Madhya Pradesh and, if so, has Government got any plan for setting up an aluminium factory in Madhya Pradesh?

Shri Mahtab: Large quantities of bauxite are found not only in Madhya Pradesh but in many other parts of India. In Madhya Pradesh, the hon. Member must have known, the State Government took some steps to start a factory. In other places no attempt has yet been made by anybody.

Shri T. N. Singh: Is it a fact that the exploitation of bauxite resources for extraction of aluminium as practised at these two factories is said to be not economical, and may I know whether any researches have been carried out by any scientific research institutes or other agencies in the matter?

Shri Mahtab: I don't know whether there is anything wrong in the working of the existing units, but there are many things to be said against the present position: supply of electricity and various other things. The whole question has been gone into by the Tariff Board; they have submitted their report recently and it is under consideration of Government.

MICA CONCILIATION AWARD

*4229. **Shri Jnani Ram:** Will the Minister of Labour be pleased to state:

(a) the time up till which the Mica Conciliation Award given on the 10th July, 1947 will remain in force; and

(b) whether Government propose to fix or revise the minimum wages of workers in mica area in the near future?

The Minister of Labour (Shri Jagjivan Ram): (a) It is presumed that the hon. Member refers to the award of the Industrial Tribunal, Dhanbad which was published by Government on 10th July, 1948. The award was made binding on the parties for a period of one year with effect from

1st July, 1948 but was extended up to 30th June, 1951 by mutual agreement of the parties concerned for a period of 2 years.

(b) The State Governments of Madras, Bihar and Ajmer propose to fix shortly minimum rates of wages for employment in mica works (including mica mines) under the Minimum Wages Act, 1948.

Shri Jnani Ram: May I know if the State of Bihar is proposing to fix minimum wages under the Minimum Wages Act, for mica mines?

Shri Jagjivan Ram: Yes.

Shri Jnani Ram: May I know the parties which were represented in the conciliation proceedings of 1948?

Shri Jagjivan Ram: They were not conciliation proceedings—it was a case of adjudication.

WAR INJURIES COMPENSATION INSURANCE FUND

*4230. **Shri Sanjivayya:** (a) Will the Minister of Labour be pleased to state what are the Welfare Schemes to utilise the unexpended balance of War Injuries Compensation Insurance Fund?

(b) Has any one of these Schemes been taken up already?

The Minister of Labour (Shri Jagjivan Ram): (a) The unexpended balance is proposed to be spent in equal proportion on the following two Schemes:

(i) Award of scholarships to skilled workers for further training; and

(ii) Provision for welfare facilities for industrial workers.

(b) Not yet. Necessary provision for the purpose has been made in the Budget for the current year.

Shri Sanjivayya: May I know what is the unexpended balance of funds available for the training scheme?

Shri Jagjivan Ram: Rs. 4,77,070-7-0.

Shri Sanjivayya: Do Government propose to spend this entire amount during the current year or not?

Shri Jagjivan Ram: No. it won't be possible to spend it during the current year. The training scheme is for a period of three years and it may take four or five years by the time the entire amount is spent.

MICA MINES LABOUR (AMENITIES)

*4231. **Shri Sanjivayya:** (a) Will the Minister of Labour be pleased to state what special steps are taken by Gov-

ernment for the Mica Mines Labour with regard to (i) hospital facilities, (ii) maternity and child welfare, (iii) education of children, and (iv) recreation?

(b) What amounts do Government propose to spend on the above items during the year 1951-52?

The Minister of Labour (Shri Jagjivan Ram): (a) I would invite the attention of the hon. Member to the report on the activities of the Mica Mines Labour Welfare Fund for the year 1949-50, published in the Gazette of India, dated the 7th October, 1950, copies of which are available in the Library of the House. A list of welfare schemes sanctioned during 1950-51 is placed on the Table of the House. [See Appendix XXV, annexure No. 31.]

(b) About Rs. 5,59,000.

Shri Kesava Rao: May I know whether there is any woman Labour Welfare Officer working in any of the mica mines to look after women labourers working in those mines?

Shri Jagjivan Ram: I cannot say offhand—there may be.

Shri A. C. Guha: May I know the total collection to the Mica Mines Labour Welfare Fund and the total expenditure during the last two years?

Shri Jagjivan Ram: I have not got the figures for the whole country.

TRADE WITH MALAYA

*4234. **Dr. Ram Subhag Singh:** Will the Minister of Commerce and Industry be pleased to state the total values of our exports to and imports from Malaya in the year 1950-51?

The Minister of Commerce and Industry (Shri Mahtab): A statement showing the total value of imports, exports and re-exports by sea and air from and to Malaya during the year 1950-51 is laid on the Table of the House.

STATEMENT

The total value of imports, exports and re-exports by sea and air from and to Singapore and Federation of Malaya, during the year 1950-51.

	Imports	Exports	Re-exports
	Rs. (lakhs)	Rs. (lakhs)	Rs. (lakhs)
Singapore	15,76	30,33	4
Federation of Malaya	80	4,99	2
Total	16,59	35,32	16

Dr. Ram Subhag Singh: May I know what are the largest single items of our exports to and imports from Malaya?

Mr. Speaker: Are they not given in the statement? He can find it out from the figures in the statement. It is better that he studies the statement before he puts the question.

Shri Chaliha: May I know what is the quantity of tin and rubber imported into India from Malaya?

Mr. Speaker: Order, order. Let him study the statement and table further questions.

MARKET IN KAROL BAGH

*4235. **Dr. Ram Subhag Singh:** (a) Will the Minister of Rehabilitation be pleased to state whether it is a fact that a market for displaced persons is proposed to be constructed in Karol Bagh, Delhi?

(b) If so, what is the estimated cost of constructing that market?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) Yes.

(b) Rs. 5,90,000.

Dr. Ram Subhag Singh: May I know the number of residential flats and shops this market will consist of?

Shri A. P. Jain: Immediately it is not proposed to build the residential flats but we propose to build 176 shops. These shops will have sufficiently good foundations to bear the weight of a second storey whenever it is decided to build it.

Dr. Ram Subhag Singh: May I know whether the cost of constructing shops has been wholly borne by the Rehabilitation Ministry or whether a portion thereof has also been borne by the Delhi Municipal Committee?

Shri A. P. Jain: It is wholly borne by the Rehabilitation Ministry.

Sardar B. S. Man: May I know where the site of the proposed market for refugees will be—whether it will be very near the existing site of their business and, if not, why not?

Mr. Speaker: Let him not anticipate the reply.

Sardar B. S. Man: All right, Sir. May I know where will be the site of this proposed new market for refugees?

Shri A. P. Jain: On the Arya Samaj Road in Karolbagh, but the exact situation we can know only when we receive the plans.

Sardar B. S. Man: When there are vacant sites available at the existing places of business, may I know why those vacant sites are not being acquired?

Mr. Speaker: That is entering into an argument.

Shri A. P. Jain: I can answer his argument, Sir.

Mr. Speaker: It is wrong to admit questions which are *prima facie* inadmissible.

लाला अचिंत राम : क्या माननीय मंत्री जी कृपा करके बतायेंगे कि उस मारकेट में दूकानों किराये पर दी जावेंगी या ईजी इंस्टालमेंट बेसिस पर दी जावेंगी।

[Lala Achint Ram: Will the hon. Minister please state whether shops in the proposed market will be given on rent or on easy instalment basis?]

श्री ए० पी० जैन : अभी मैं इसका कोई वादा नहीं कर सकता। उस वक्त जैसे मूनासिव होगा वैसा किया जावेगा।

[Shri A. P. Jain: I cannot promise that at present. Whatever would be deemed reasonable at that time will be done.]

YARN EXPORT TO CEYLON

*4236. **Dr. Ram Subhag Singh:** (a) Will the Minister of Commerce and Industry be pleased to state whether India exports cotton yarn to Ceylon?

(b) If so, what was the quantity of India's yarn export to Ceylon in the year 1950-51?

The Minister of Commerce and Industry (Shri Mahtab): (a) Yes, Sir.

(b) 2,000 bales of yarn were exported to Ceylon during the year 1950. The Government propose to allow export of 3,250 bales of cotton yarn to that country in the months of July, August and September, 1951.

Shri Kamath: When there is so much scarcity of yarn, what is the reason for the export of yarn to Ceylon?

Mr. Speaker: I believe this question has already been answered.

Shri Mahtab: The reason is to secure other commodities which we require here.

Prof. Ranga: Is it not a fact that Government have assured the country as well as the handloom weavers that they will stop all export of yarn?

Shri Mahtab: The export of yarn has been stopped but this is an agreement which we must fulfil; otherwise we cannot deal with other countries.

Several Hon. Members rose—

Mr. Speaker: Next question.

MONAZITE SANDS TO U.S.A.

***4237. Shri Krishnanand Rai:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether Government contemplate to lift the embargo on shipments of Monazite Sands to the U.S.A.;

(b) when this embargo was enforced; and

(c) whether the Government of U.S.A. asked India recently to lift this embargo?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) No, Sir.

(b) A complete embargo on the export of Monazite Sand was imposed on the 17th May, 1947.

(c) No, Sir.

Shri Krishnanand Rai: May I know whether this embargo on the shipment of Monazite Sand is confined only to the U.S.A. or to all countries?

Shri Karmarkar: All countries.

Prof. Ranga: Where are these sands found and what steps are being taken in the country to utilise the sand for industrial purposes?

Mr. Speaker: The question is too wide and comprehensive.

Prof. Ranga: Where are these Monazite Sands found?

Mr. Speaker: He may make that enquiry by putting down a specific question.

Shri Brajeshwar Prasad: What was the total quantity of Monazite Sand exported to the U.S.A. before the embargo was imposed?

Shri Karmarkar: I require notice.

Shri A. C. Guha: Is it true that India has the largest deposit and the best in quality of Monazite in the world?

Mr. Speaker: That would be a matter of opinion.

Shri A. C. Guha: Then I would ask another question. Now that the export

of Monazite Sand has been banned, may I know how Government is going to utilise the sand? Have the Government entered into any negotiation with any foreign company for the utilisation of the sand?

Shri Karmarkar: I want notice.

Shri Chaliha: May I know if Monazite Sand is used for the production of atomic bombs?

Shri Karmarkar: I want notice for that also.

SULPHUR (IMPORTS)

***4238. Shri Krishnanand Rai:** (a) Will the Minister of Commerce and Industry be pleased to state what is the target for imports of Sulphur in 1951 and how will it differ from 1950?

(b) From which country will it be imported?

(c) What is the consumption of sulphur in India and how far is it met by indigenous production?

(d) Has the price of sulphur gone high and has it become difficult to obtain in foreign countries?

The Minister of Commerce and Industry (Shri Mahtab): (a) 62,000 tons. Imports in 1950 were 56,487.8 tons.

(b) The bulk of the supplies are expected to come from the U.S.A.

(c) India's requirements for essential purposes are estimated at 62,000 tons per annum. There is no indigenous production.

(d) Yes, Sir.

Shri Krishnanand Rai: What control does the Government exercise on the distribution and price of sulphur?

Shri Mahtab: Sulphur has been put under control under the Prices and Supplies Act, 1950. Under the provisions of that Act the prices and disposal of sulphur are controlled by Government.

Shri A. C. Guha: Is there any scheme before the Government for utilising iron pyrite for the manufacture of sulphur?

Shri Mahtab: I do not know of any such scheme. Two schemes for the manufacture of sulphuric acid from gypsum have been received and they are under consideration.

Shri Kamath: Is this sulphur obtained from the U.S.A. strictly on a cash basis or in exchange for commodities which India supplies to the U.S.A.?

Shri Mahtab: On a cash basis.

Shri A. C. Guha: May I know if the Government have tapped any other sources from which sulphur can be produced in India?

Shri Mahtab: As I have already said, sulphur can be produced from gypsum. Two schemes in this regard have been received from two firms and they are in the process of examination.

Dr. Ram Subhag Singh: What is the percentage of increase in the import price of sulphur from the U.S.A.?

Shri Mahtab: I am sorry I cannot give that information.

COAL MINES LABOUR WELFARE FUND

*4239. **Shri A. C. Guha:** Will the Minister of Labour be pleased to state:

(a) the amount collected in the last three financial years for Coal Mines Labour Welfare and Housing Fund;

(b) the break up of the collection State-wise;

(c) the break up of the expenditure of the Fund State-wise; and

(d) whether there is any Selection Board or any such body for the selection and appointment of officers handling the Fund?

The Minister of Labour (Shri Jagjivan Ram): (a) to (c). A statement giving the requisite information is placed on the Table of the House. [See Appendix XXV, annexure No. 32.]

(d) *Ad hoc* Selection Boards are generally set up for appointments under the Fund where necessary and at times appointments are also made through the Union Public Service Commission.

Shri A. C. Guha: From the statement I find that in one State the expenditure is practically as much as the collection for all these three years, whereas in other States the expenditure is far below 50 per cent. of the collection and in some States it is even below 20 per cent. What is the reason for this disparity?

Shri Jagjivan Ram: The reason is obvious. Some of the States have been recently taken over by the Central Government. Previous to that they were being administered by the so-called States or the State Governments. There were some difficulties in regard to some of the States where the fund was being administered by us. To be explicit, for example in Bengal there was difficulty in getting the land required for hospital and workers' colonies. But whether the expenditure is 50 or 20 per cent. it

does not affect the province. The principle is that the money realised from a particular State is spent in that State *minus* whatever is required proportionately for the maintenance of the Central Organisation.

Shri A. C. Guha: During these three years the total saving has been as much as 70 lakhs. How does Government propose to utilise the money, particularly in those States where the savings have been too much?

Shri Jagjivan Ram: A forward budget for five years has been framed and these sums are to be spent on hospitals, workers' colonies, dispensaries and other welfare activities such as anti-malaria work, mobile cinemas and mobile vans.

Shri A. C. Guha: My question was that during these three years the saving particularly in all provinces except one has been great. I want to know if the Government has got any particular scheme, so that the savings may be utilised in those States?

Shri Jagjivan Ram: I am saying that these schemes pertain to those States and the money not spent in any particular year will be spent only in that State and no other in subsequent years.

INDIAN FORCES AIDING NEPALESE FORCES

*4240. **Dr. M. M. Das:** (a) Will the Prime Minister be pleased to state the total number of Indian Armed Police and regular soldiers (if any), that have been employed to help the Nepalese Police and State Forces for suppressing the unlawful gangs, that are operating in the border regions of India and Nepal?

(b) How far have they been successful in suppressing these unlawful gangs?

The Deputy Minister of External Affairs (Dr. Keekar): (a) Joint operations were conducted on the Indo-Nepalese border on two occasions—once in February, 1951 and again in April, 1951. On the first occasion, 4 companies of U.P. Provincial Armed Constabulary and one battalion of Indian troops were employed. On the second occasion, 5 companies of U.P. Provincial Armed Constabulary and one battalion of Indian troops took part.

(b) On both the occasions, these combined operations were entirely successful.

Dr. M. M. Das: May I know whether besides the two combined operations mentioned by the Deputy Minister

there were any other combined operations by the Government of Nepal and the Government of India for quelling border disturbances?

Dr. Keskar: There were no combined operations before this which I have mentioned just now. In one or two stray cases our police forces helped the Nepal Government, but there were no combined operations.

Dr. M. M. Das: May I know whether the expenditure incurred for these combined operations is shared by the two Governments and, if so, what is the proportion?

Dr. Keskar: I think both the Governments bore the expenses of their forces. I do not think there was any sharing.

Dr. M. M. Das: May I know whether the men supplied by the Indian Government are under the command of the Indian officers or whether they have been placed at the disposal of the Nepalese officers?

Dr. Keskar: My hon. friend is under a misapprehension. The combined operations took place only for a very short time. The moment the operation was finished our troops and our Provincial Armed Constabulary withdrew to the Indian side.

Dr. M. M. Das: May I know whether the bandits that were captured by the Indian soldiers were handed over to the Nepal Government?

Dr. Keskar: Yes, they were handed over to the Nepal Government.

Shri J. N. Hazarika: May I know the number of Armed Police or soldiers killed or injured so far in the operations?

Dr. Keskar: In the first operation which I mentioned in answer to the question, two persons were injured. There were no casualties—there was nobody killed on the police side. But seven of the dacoit gangs were killed and one was wounded.

Shri Kumbhar: May I know, Sir, how many persons were arrested on the side of Nepal and how many were arrested on Indian territory?

Dr. Keskar: All these operations took place in the Nepal territory, not in Indian territory.

EXPORTS AND IMPORTS (INVOICING)

*4241. **Shri S. N. Das:** (a) Will the Minister of Commerce and Industry be pleased to state how many cases of under invoicing of exports and over

invoicing of imports have been detected during the year 1950-51?

(b) Were any steps taken during the year to check wastage of dollars in these ways?

(c) Out of the detected cases, how many have ended in conviction?

The Minister of Commerce and Industry (Shri Mahtab): (a) to (c). The required information is being collected.

NEWSPRINT AND PAPER

*4242. **Dr. Deshmukh:** (a) Will the Minister of Commerce and Industry be pleased to state the annual consumption of newsprint in India during the years 1947-48, 1948-49 and 1949-50?

(b) Are Government aware that there is extensive black marketing in newsprint at the present moment?

(c) Have Government calculated the demands of newsprint and other paper for the forthcoming general elections in India and if so, what is the estimate of newsprint and other kinds of paper which will have to be imported?

(d) What is the stock that is expected to be actually available in India at the time of the elections?

(e) Have any steps been taken to increase the manufacture of hand-made paper?

(f) If so, what are they and what would be the total quantity of paper that would be manufactured in the year 1951-52?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) On an average 50,000 tons per annum, during the years 1947-48, 1948-49 and 1949-50.

(b) As there is no control on the price of newsprint, the question whether a black market exists or not does not arise.

(c) It is not possible to calculate separately the demand for newsprint and other varieties of paper for the forthcoming general elections. State Governments who are responsible for the preparation of electoral rolls etc., have arranged for the procurement of their respective requirements.

(d) Approximately 10,000 tons of newsprint might be available at the time of the elections.

(e) and (f). The normal capacity of hand-made paper units is estimated to be 12,000 reams per annum. Information in regard to actual production is not available. In addition to the normal assistance rendered to this cottage industry, Government propose

to purchase 1,200 reams of hand-made paper during the current year with a view to providing an incentive to the industry to step up their production. The question of establishing pilot plants for hand-made paper is being examined.

Dr. Deshmukh: Has the Government any idea of the newsprint available in the country and as to who are holding it?

The Minister of Commerce and Industry (Shri Mahtab): Under the Newsprint Control Order those who hold stocks declare their stocks and send weekly reports to the Government. From those reports we know which person has got what stock.

Dr. Deshmukh: Will the hon. Minister be pleased to lay on the Table this information as to who holds what stocks—would it be possible?

Shri Mahtab: That is a weekly report and I shall be very glad to lay it on the Table for any week.

Dr. Deshmukh: With regard to the stock that would be obtained here—after what steps are the Government contemplating to see that they do not go into the hands of one person and that they will be equitably distributed all over the country?

Shri Mahtab: That question has not yet been taken up. When the stock will be received that will be the proper time to take into consideration the suggestion of the hon. Member.

Prof. Banga: Have Government received any complaints from the Newspaper Editors Conference or Association that one or two individuals have been able to corner most of the supplies?

Shri Mahtab: I think the hon. Member is referring to some incident which is several months old. In the mean time Government have accepted all the recommendations made by the Newspaper Editors Conference. What the hon. Member says was their complaint before their annual Conference in Calcutta.

Shri Sidhva: May I know whether the hon. Minister has examined the recommendation or rather the complaint made by the Conference that certain companies hold a large quantity of newsprint and that they are not releasing the same?

Shri Mahtab: I do not understand how that question arises. Newsprint stock is not controlled. We simply know what stock is held by which firm. Otherwise there is no other control. If the hon. Member suggests that

the stocks should be seized, Government do not propose to take that action now.

Short Notice Questions and Answers

RAILWAY ACCIDENT AT DARBHANGA

Shri Sidhva: (a) Will the Minister of Railways be pleased to state whether a serious railway accident occurred on 11th May, 1951 at 6-25 P.M., at Darbhanga station on Narkatlaganj-Mokamaghat passenger train?

(b) Whether proper line clear was given?

(c) Who was responsible?

(d) How many were killed and injured?

(e) When did the Relief Train reach the place of accident?

(f) How many have been treated in hospital and what is their condition?

The Minister of State for Transport and Railways (Shri Santhanam): (a) Yes; at about 18-25 hours on 11th May, 1951 No. 32 Down Passenger while entering Darbhanga station side collided with a shunting engine.

(b) Details of the circumstances leading to the accident will be definitely known as soon as the Government Inspector of Railways enquiry which commenced on 14th instant is concluded.

(c) Responsibility will be fixed in the light of the findings of the Government Inspector of Railways, as to the cause of the accident.

(d) 11 were killed and 15 injured.

(e) Ambulance and breakdown trains from Samastipur arrived at 20-58 and 22-10 hours respectively.

(f) All the injured were admitted in the Darbhanga Medical College Hospital. They are reported to be progressing well.

Shri Sidhva: Arising out of the answer to part (b), during the departmental enquiry was it ascertained whether the line-clear was wrongly given?

Shri Santhanam: We have not yet got the Government Inspector's report. We will know it only when we get his report.

Shri Sidhva: I want to know whether he has made an enquiry departmentally from the General Manager of this Railway whether the proper line-clear was given.

Shri Santhanam: When there is a regular enquiry we cannot anticipate that enquiry by giving any kind of informal information we may get in the mean time.

Shri Sidhva: In view of the serious nature of the accident and the fact that a large number of people have been killed, may I know whether a preliminary enquiry has been made by him and whether he is satisfied about the proper line-clear having been given?

Mr. Speaker: He has said that it will be known only after the enquiry by the Government Inspector is completed.

Shri Sidhva: But that will be an expert enquiry. I want to know...

Mr. Speaker: The hon. Member will appreciate that all enquiries of any type do take some time.

Shri Sidhva: That is true. But as far as the giving of the line-clear is concerned, information can be obtained.

Mr. Speaker: I do not think. It has to be enquired into as an entire whole and not piecemeal

Shri S. N. Das: Is it a fact that due to insufficient light the salvage work was not done in the night?

Shri Santhanam: There was no delay in taking on the salvage work. The breakdown train, as stated in the answer, reached the place at 22-10 hours and the work was taken up immediately.

Shri S. N. Das: By what time was the debris cleared?

Shri Santhanam: The 32 Down train proceeded onward at 22-25 hours.

Shri S. N. Das: What was the time when the last dead body was extricated from the debris?

Shri Santhanam: I have not got the detailed information. We shall get it as soon as the Government Inspector's report is available.

Shri Sidhva: At what distance from the Darbhanga railway station did this accident occur?

Shri Santhanam: It was within the station yard premises.

Shri S. N. Das: May I know the distance between Darbhanga and Samastipur and what was the cause that the Relief Train took three hours to come to Darbhanga?

Shri Santhanam: There was only one engine in steam available in Samastipur and therefore, the ambulance train started at 19-45 and then the breakdown train left afterwards.

Shri S. N. Das: May I know the total number of deaths that occurred on the spot and deaths that occurred in the hospital?

Shri Santhanam: Those killed on the spot were three Railway Servants and others seven, and in hospital one death took place.

Shri Sidhva: May I know at what speed the train was running in the Station yard which led to the serious accident of loss of lives?

Shri Santhanam: All the details will be available when we get the report of the Government Inspector.

Shri Sidhva: Even about the speed of the train in the Station yard?

Mr. Speaker: We will go to the next question.

OUTBREAK OF FIRE IN RAILWAY COMPARTMENT AT BILASPUR STATION.

Shri Sidhva: (a) Will the Minister of Railways be pleased to state whether on 11th May, 1951 a fire broke out in a third class compartment of 2 Up Calcutta-Bombay Mail at Bilaspur station?

(b) If so, what was the cause of the fire, how many died and how many were injured?

(c) Has any enquiry been made into the cause of fire and when was it noticed?

(d) When did train stop after the fire was noticed?

The Minister of State for Transport and Railways (Shri Santhanam): (a) Yes.

(b) 9 persons died and 5 were injured.

(c) and (d). The definite cause of the fire will be known as soon as the Government Inspector's enquiry, which commenced on the 14th instant has concluded. The fire was noticed at about 9-31 hours when the train was about to start and was extinguished within five minutes.

Shri Sidhva: May I know how was the fire detected? Was the alarm chain pulled by anybody?

Shri Santhanam: The train was about to start and there should have

been some shouting of the passengers and it must have been noticed.

Shri Sidhva: Is it a fact that the axle box got hot originally and that led to the fire?

Mr. Speaker: Now he is going into the causes of the accident. That is the matter for enquiry.

Shri Sidhva: May I know whether this matter came to his notice before the enquiry started? These are serious matters and the hon. Minister should have got this information before now.

Mr. Speaker: I think it is a wrong way of approach to the whole question when the enquiry has started. After all, this is a post-mortem in a sense and the conclusions are to be used for purposes of future improvement of the administration. So far as what has happened, an enquiry is a post-mortem and before that enquiry is completed, you cannot distinguish between an important point of an inquiry and an unimportant point of an inquiry. As such all these points have to be gone into in a connected manner and the inquiry will cover the whole field.

Shri Sidhva: I appreciate your point. The Toofan Mail Express accident took place nearly six months ago and the report was made available four days ago. It becomes stale and therefore, it is not possible to suggest future actions. My point is that when the iron is hot, we should strike and therefore, I wanted to know whether they are taking any steps to prevent accidents in future.

Shri Santhanam: I think the hon. Member is not correct. As soon as the report comes to us, we publish a press communique. It is only in the case of a judicial inquiry it took so much time to place the matter on the Table of the House. It is true that the judicial inquiry took place many months after the event but the report of the Government Inspector's inquiry will be available in a few days' time and as soon as the report is received it will be available.

Mr. Speaker: Any other points about the facts, because the whole matter is under inquiry?

Shri A. C. Guha: The hon. Minister stated that within five minutes the fire was extinguished. In that case may I know how there could be so much loss of life?

Mr. Speaker: That is a matter for enquiry.

Shri Massey: Will the Government Inspector's report be available to Members?

Shri Santhanam: The conclusions will be available. As to the details of the report, I shall consider the matter.

WRITTEN ANSWERS TO QUESTIONS

FILM FIRES

*4218. **Shri Lakshmanan:** Will the Minister of Works, Production and Supply be pleased to state:

(a) the number of film fires that have occurred during the years 1949 and 1950;

(b) the total number of lives lost in these fires during each of these years;

(c) what steps Government have taken to prevent such accidents; and

(d) whether the Department of Explosives are concerned with the enforcement of safety regulations in Part B States also and if so, what is the machinery by which this is done?

The Minister of Works, Production and Supply (Shri Gadgil): (a) and (b). A statement is laid on the Table of the House.

(c) (i) Premises are inspected by the Inspectorate of the Department of Explosives to ensure proper storage, and defects noticed are pointed out to the parties for early rectification.

(ii) Necessary action is taken against film concerns responsible for illegal storages which are detected either by the Inspectorate of the Explosives Department or by the District Authorities.

(d) The responsibility for the administration of the Cinematograph Film Rules, 1948, in Part B States will devolve on the Department of Explosives as soon as these Rules are extended to these States. Steps are being taken to extend the Rules to Part B States.

STATEMENT

The number of film fires during the year 1949 and 1950 and the number of lives lost in these fires during each these years.

Year	Licensed premises		Unlicensed premises	
	No. of fires reported to the Explosives Department.	Persons killed	No. of fires reported to the Explosives Department.	Total No. of Persons killed.
1949	5	..	2	7
1950	7	..	3	10

MANGANESE

*4219. **Shri Rathnaswamy:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether any approach has been made by U. S. A. to the Government of India to increase the export of Manganese and if so, what is the total quantity expected to be exported in the year 1951-52;

(b) whether any other materials are to be exported to U. S. A. and if so, what they are; and

(c) what were the materials exported to U. S. A. in the year 1950-51 and the quantity of such materials sent?

The Minister of Commerce and Industry (Shri Mahtab): (a) No approach has been made by the U.S.A. Government to the Government of India to increase the export of Manganese. A quota of one million tons of high grade Manganese ore and an unlimited quantity of low grade ore has been fixed for export in the current year. There is no destination control over exports of Manganese ore and it cannot therefore be said as to how much of it will be exported to the U.S.A.

(b) Other similar materials exported to all permissible destinations including the U.S.A. in the past are Kyanite, Chrome ore and Ilmenite.

(c) A statement is placed on the Table of the House.

STATEMENT

Quantities of Manganese ore and other similar materials exported to the U.S.A. in 1950.

	<i>Quantity in tons</i>
(1) Manganese ore	530,885
(2) Chrome ore	1,767
(3) Kyanite ore	11,167 (a)
(4) Ilmenite ore	35,227 (a)

(a) excludes information for Bombay owing to non-receipt of returns.

FOOD SUPPLY IN GOVERNMENT HOSTEL

*4233. **Shri Kshudiram Mahata:** Will the Minister of Works, Production and Supply be pleased to state:

(a) whether there has been any cut in the food supply by Caterers of various Government Hostels in New Delhi after the 25 per cent. cut in ration and if so, how; and

(b) if the answer to part (a) above be in the affirmative, whether there has been any proportionate reduction in the rates charged by Caterers and if not, why not?

The Minister of Works, Production and Supply (Shri Gadgil): (a) No, as the reduction in the quantity of cereals has been made good with non-cereals.

(b) Does not arise.

INDUSTRIAL LABOUR

*4243. **Dr. Deshmukh:** Will the Minister of Labour be pleased to state:

(a) the total number of employees in each of the following industries in the years 1948-49, 1949-50 and 1950-51:

(i) textile, (ii) cement, (iii) sugar, and (iv) jute;

(b) the total of all industrial labourers in the years 1948-49, 1949-50 and 1950-51;

(c) out of this total, the number of labourers who are members of various labour organisations; and

(d) the rise in the wages of industrial labourers since 1945-46 every year upto 1950-51?

The Minister of Labour (Shri Jagjivan Ram): (a) to (d). Information is being collected and a statement will be laid on the Table of the House in due course.

INDUSTRIAL STRIKES

*4244. **Dr. Deshmukh:** (a) Will the Minister of Labour be pleased to state the total number of strikes in industries for each of the years 1948-49, 1949-50 and 1950-51;

(b) What is the total number of man-days lost and what is the loss in production?

(c) Did any of those who struck work lose their wages and jobs and if so, how many in each year?

The Minister of Labour (Shri Jagjivan Ram): (a) and (b). A statement showing the total number of industrial disputes resulting in work stoppages and the number of man-days lost during the years 1948, 1949, 1950 is placed on the Table of the House. Statistics of industrial disputes are compiled by the calendar year and not by the financial year. The figures include both strikes and lock-outs and no distinction is made between the two as often strikes are followed by lockouts and vice versa. Information regarding loss in production due to strikes is not available.

(c) Information as to how many workers lost wages and how many lost their jobs, during 1948, 1949 and 1950 is not available.

STATEMENT

Industrial Disputes in India

	No. of disputes resulting in work-stoppages.	No. of man-day lost.
1948	1,259	7,837,173
1949	920	6,000,595
1950	814	12,806,704

ARREARS OF RENT

*4245. **Shri Sidhya:** Will the Minister of Works, Production and Supply be pleased to state:

(a) whether there are any arrears of rent due from Government servants to Government and requisitioned buildings occupied by them;

(b) if the answer to part (a) is in the affirmative, what the amount of arrears of rent was on the 31st March, 1951;

(c) what are the arrears recoverable from the displaced Government servants and other Government servants; and

(d) what are the reasons for the non-recovery of rent in time and what steps have been taken to improve the procedure?

The Deputy Minister of Works, Production and Supply (Shri Buragohain): (a) Yes.

(b) The arrears amount to Rs. 13,47,301 in Delhi. I should perhaps add that this figure includes arrears that may have already been recovered but intimation of which has not been received in the Estate Office from Departments and the Accounts Officers concerned.

(c) It is not easy to give separate figures for displaced Government servants and other Government servants, as separate accounts are not maintained.

(d) The main reasons are:

(i) Records of the Estate Office were misplaced or taken away by the staff who opted for Pakistan.

(ii) With the migration of some of the experienced personnel to Pakistan, the Estate Office had to carry on the work with inexperienced staff in their place.

The following steps have been taken to improve the position:

(i) All work relating to arrears up to 31st March, 1951 has been centralised in the Estate Office and a special staff has been set apart to deal with it.

(ii) Old records and old rent cards have been checked up and arranged properly.

(iii) The procedural rules relating to rent recovery have been revised and the Rent Section in the Estate Office reorganised to ensure prompt recovery.

MANGO EXPORTS

*4246. **Shri P. Basu Reddi:** Will the Minister of Commerce and Industry be pleased to state:

(a) the value of mango exports from this country to the United Kingdom in the year 1950-51;

(b) whether it is a fact that the fruit is in great demand in that country; and

(c) if so, the steps Government have taken for increased exports of the fruit to that country during the current year?

The Minister of Commerce and Industry (Shri Mahtab): (a) No statistics of exports of mangoes for the financial year 1950-51 are available. During the calendar year 1950, however, 502 lbs. of mangoes valued at Rs. 460 only were exported to the United Kingdom.

(b) Mangoes are considered an expensive luxury in the United Kingdom and there appears to be a very limited market there.

(c) Some experimental consignments were sent from Uttar Pradesh by air last year. Licences for export of mangoes are issued freely to all permissible destinations including the United Kingdom.

EXPORT OF COTTON PIECE GOODS

*4247. **Shri M. Nalk:** (a) Will the Minister of Commerce and Industry be pleased to state whether it is a fact that the total exports of cotton piece goods for the year 1950-51 have exceeded the target figure as recommended by the Export Promotion Committee?

(b) If so, what is the excess over the target?

(c) How does the figure for 1950-51 compare with that of the previous year?

The Minister of Commerce and Industry (Shri Mahtab): (a) Yes, Sir.

(b) and (c). Exports during 1949-50 and 1950-51 were 700.9 million yards and 1,295.44 million yards respectively. Exports during 1950-51 exceeded the target figure of 800 million yards recommended by the Export Promotion Committee by 495.44 million yards.

COTTON TEXTILE DEVELOPMENT PLAN

***4248. Shri M. Naik:** (a) Will the Minister of Commerce and Industry be pleased to state the progress made so far under the Cotton Textile Development Plan?

(b) How many textile mills have been started in the country in implementation of the Post-war Development Schemes?

(c) What is the number of such mills that have gone into production?

(d) What is the increased output thereunder?

The Minister of Commerce and Industry (Shri Mahtab): (a) to (d). A statement is placed on the Table of the House. [See Appendix XXV, annexure No. 33.]

YARN QUOTAS OF FORMER INDIAN STATES

***4250. Shri Kumbhar:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether there was any fixed quota of yarn for the former Indian States;

(b) if so, how it was arranged after these Indian States areas were merged in the neighbouring States; and

(c) whether it was added to the original quota of the respective States and if not, why not?

The Minister of Commerce and Industry (Shri Mahtab): (a) Yes.

(b) and (c). The yarn quotas of these States fixed in November, 1948, were subsequently added to the quotas of the States with which they were merged.

INDIAN PAPERS BANNED IN MALAYA

***4251. Shri Rathnaswamy:** Will the Prime Minister be pleased to state:

(a) whether any Indian papers have been banned by the Federal Government in Malaya and if so, for what reasons;

(b) the papers and journals from Indian source which have been in circulation in Malaya; and

(c) whether any move has been made by the Government of India in regard to the lifting of the ban on Indian papers?

The Deputy Minister of External Affairs (Dr. Keskar): (a) Government are not yet in possession of any information in the matter. They have asked their representative in Singapore to find out if this news that appeared in some newspapers is correct.

(b) It is not possible to collect information easily.

(c) Does not arise.

INDIANS IN IRAN

***4253. Shri Kamath:** Will the Prime Minister be pleased to state:

(a) whether Indians in Iran are subject to any disabilities as regards residence, movement, occupation, trade, commerce or of any other kind;

(b) if so, what the various disabilities are;

(c) whether any talks have taken place so far between the Governments of India and Iran with regard to the removal of those disabilities; and

(d) if so, with what result?

The Deputy Minister of External Affairs (Dr. Keskar): (a) and (b). Indians in common with other foreign nationals are subject to certain disabilities in Iran. A list of these disabilities is placed on the Table of the House. [See Appendix XXV, annexure No. 34.]

(c) and (d). No formal negotiations have taken place. The question of the removal of disabilities imposed by the Iranian Foreigners' Act as well as the question of remittance facilities for Indians in Iran were discussed with the Iranian Economic Mission which visited India towards the end of 1949. The Mission stated that their Government were taking up the question of the modification of the Foreigners' Act and that Indian traders would have no difficulty in conducting their normal business when this was done. The Iranian Mission also promised to examine the question of giving facilities to Indian traders in Iran for remittance of funds.

A Treaty of Commerce and Navigation between India and Iran is under negotiation. It is hoped that many of the disabilities suffered by Indians in Iran will be removed with the conclusion of that Treaty.

HIMALAYAN EXPEDITION

300. Shri Jnani Ram: Will the Prime Minister be pleased to state:

- (a) the groups (or parties) which plan to climb Himalayas this year;
 (b) the nationalities of the parties; and
 (c) whether any Indian Party is planning to make Himalayan expedition?

The Deputy Minister of External Affairs (Dr. Keskar): (a) and (b). The Government of India know of only four foreign mountaineering expeditions to the Himalayas proposed to be undertaken during 1951:

- (i) An expedition of New Zealanders headed by Mr. H. E. Riddiford to climb certain peaks in Garhwal Himalayas.
 (ii) A French expedition organised by the Lyons Section of Alpine Club to climb certain peaks in Garhwal Himalayas.
 (iii) An expedition of Ceylon mountaineers organised by the Physics Department of the Ceylon University to climb certain peaks in Himalayas.
 (iv) A German expedition headed by Dr. Rudolf Peters to climb certain peaks in Garhwal Himalayas.
 (c) So far as Government are aware, only Mr. Ashoka Madgavkar of Bombay proposes to climb in Nepal Himalayas.

METALS (PRODUCTION)

301. Shri Sidhya: Will the Minister of Commerce and Industry be pleased

to state what quantities of the following materials are annually produced in India:

- (i) Nickel, (ii) Copper, (iii) Zinc, (iv) Sulphur, (v) Manganese, (vi) Iron Ore, (vii) Aluminium, (viii) Tin plates and (ix) Brass?

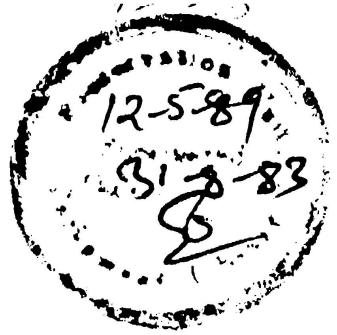
The Minister of Commerce and Industry (Shri Mahtab): A statement is laid on the Table of the House.

STATEMENT

Items	Approximate quantity produced in India in tons.
(i) Nickel	Nil
(ii) Copper	6,500
(iii) Zinc	Nil
(iv) Sulphur	Nil
(v) Manganese (Metal)	Nil
(vi) Iron Ore	2,808,520
(vii) Aluminium	3,600
(viii) Tinplates	68,000
(ix) BRASS	35,000 approxi- mately.

*There are innumerable foundries engaged in making brass and it is not possible to say what quantity is actually produced in the country. The reported production from some of the organised foundries during 1950 was about 20,500 tons and it is presumed that about 35,000 tons of brass ingots are produced in the country per annum.

Thursday, 17th May, 1951



PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

Third Session

of the

PARLIAMENT OF INDIA

1950-51

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THE
PARLIAMENTARY DEBATES
(Part II—Proceedings other than Questions and Answers.)
OFFICIAL REPORT

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PARLIAMENT OF INDIA

Thursday, 17th May, 1951.

*The House met at Half Past Eight
of the Clock.*

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

9-40 A.M.

CONSTITUTION (FIRST AMEND-
MENT) BILL.—*contd.*

Mr. Speaker: We will now proceed with the further consideration of the motion to refer the Constitution (First Amendment) Bill to a Select Committee moved by the hon. Shri Jawaharlal Nehru on the 16th May, 1951.

Babu Ramnarayan Singh (Bihar): I rise to a point of order. I beg to draw your attention to Part XX, article 368 of the Constitution. It reads:

“An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House. . . .”

The Bill is to be passed in each House. This means that the other House must be in existence.

Shri Hussain Imam (Bihar): Article 379 cures it.

Babu Ramnarayan Singh: After the coming elections, when both the Houses of Parliament will come into existence, I think, the Bill to amend the Constitution can be considered and proceeded with.

Mr. Speaker: The hon. Member's point seems to be that according to 125 PSD

article 368 as originally passed, it is not competent for this House to take up the question of amendment of the Constitution as there are no two Houses. Is that the point?

Babu Ramnarayan Singh: Yes.

Mr. Speaker: Then I may invite his attention to the further fact which it seems has not been brought to his notice that this particular article is adapted by the President long ago and the article as adapted reads like this:

“An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in Parliament and when the Bill is passed by a majority of the total membership of Parliament and by a majority of not less than two-thirds of the members of Parliament present and voting. . . .”

So long as the provisional Parliament is working, this Parliament is supposed to be doing the functions of both the Houses under the adaptations in the Constitution. That is, I think, the most correct answer to the point so far raised by the hon. Member.

Shri Naziruddin Ahmad (West Bengal): There is another article covering the same point, namely, article 379 which says that so long as both Houses of Parliament are not constituted, this Parliament shall exercise all the powers and perform all the duties conferred by the provisions of this Constitution on the next Parliament.

Mr. Speaker: That is also there.

Pandit Thakur Das Bhargava (Punjab): Yesterday, when we parted, I had made a point in this House that as a matter of fact the rulings of the Supreme Court and our High Courts had created a void in this country and the country was in such a desperate

[Pandit Thakur Das Bhargava]

situation that there was no law existing by virtue of which Government could curb the activities of those who wanted to create disorder and take advantage of the vacuum. I submitted this in all humility but at the same time I must say with all the emphasis at my command that this particular situation as it is at present has been the cause of grave anxiety to all the Provincial Governments and possibly to the Central Government also. In reply it was said that the detention law was there to meet the situation but when a question was put by me to Dr. Syama Prasad Mookerjee whether any delinquent could be punished under the present law as it existed, he did not reply to the question and referred me to the effect of a continuous detention on the whole life of a person implying that such a weapon was fairly deterrent.

Now, Sir, Dr. Syama Prasad Mookerjee, when there were interruptions from Members of this House, treated us with some contempt.

Dr. S. P. Mookerjee (West Bengal): Not at all; with great respect.

Pandit Thakur Das Bhargava: This is the respect that he showed. He said that the heat of the sand is sometimes greater than that of the sun. It is quite true that we are just like sand. We are like dust: everybody is formed of dust. "Dust thou art to dust returnest". But, I must say that a humble Member of this House is certainly entitled to more courtesy from our leaders be he Dr. Syama Prasad Mookerjee or be he the Leader of the House. If he could not answer some of the inconvenient interruptions, it was only fair that he should have admitted and said that the case was as I submitted it to be. As a matter of fact, even now, I submit that the present position of the law is that no person can be punished unless his act or speech or publication is brought within the purview of some existing law, which according to the Constitution, endangers the security of the State or tends to overthrow it. Therefore my humble submission is that the present state of the law is certainly such that calls for a change in the Constitution. He will be a bold man who like Dr. Syama Prasad Mookerjee will give us some platitudes to live upon. He said in his speech yesterday that as a matter of fact, a country could not be governed by coercive processes, as if all the laws of the land are in the nature of coercive processes. It is quite true that politicians are perhaps much greater sinners than lawyers. Lawyers are

traduced for nothing. Politicians give out arguments which in their calmer moments they will never support. Can any country be governed by persuasive methods alone? Do we not require any laws in any country? May I just enquire what was the relevancy of the Cooch-Bihar firing in relation to this Bill? Dr. Syama Prasad Mookerjee waxed eloquent when he expressed that the firing in Cooch-Bihar had some relation with this law. I humbly submit that if you go into the causes which produced this incident in Cooch-Bihar, it may be found that the speeches and writings of some people who were out to create disorder might be responsible for the situation. It is quite true that coercive methods are not absolutely necessary; but it is unjust to say that any Government can subsist without some law. Not only for some centuries, but from time immemorial, in fact from the birth of civilisation, we have always had laws to curb crimes and punish offenders. At the present moment, we have got no law—I have repeated it so many times and I want somebody to challenge me—there is no law today, according to the judgments of the High Courts and the Supreme Court which can deal with a situation in which all kinds of offences which do not fall within the category of endangering the security of the State or which threaten to overthrow the Government can be committed with impunity. Therefore, in this situation, I must say that no Government can function, and it is none too soon that our Government has brought in this measure. Our Government would have been guilty of apathy and neglect of its duty if it did not bring a Bill of this nature as soon as possible.

Having said this much, I may submit that the present state of the law is such that it was not even contemplated by the framers of the Constitution or even by the Press men. A committee was appointed some time after we attained independence, the Press Laws inquiry Committee. When they examined article 13 (2), they came to the conclusion that some of the present laws will subsist as good. Even when confronted with the provisions of article 13 (2), they came to this conclusion and a summary of their recommendations is given on page 49 of the report. They were under the impression that some of the present laws were conformable to article 13(2). But, the Supreme Court and the High Courts have been pleased to hold, and rightly, I should say, that some of these provisions could not exist and were void. In my opinion, even if a man makes a violent speech, advocating the creation of disorder as a result

of sedition, he cannot be convicted under section 124A or section 153A of the Indian Penal Code even though his speech could be brought under the purview of those sections, because our High Courts have held that those laws do not exist, as these sections are too wide and innocent persons could be enmeshed in them. The High Courts having held that these laws do not exist at all, no case, whatever the nature may be, could be brought within the purview of those sections. This is a thing which the man in the street cannot understand and appreciate. A void has been created. A person is able to make any speech he likes, even such as may endanger the security of the State, and he does not come under the clutches of the law because such laws as could have relation to such a situation have been declared void. Therefore, it is absolutely necessary in my opinion that Government should make a change in the Constitution and enact suitable laws for enforcing public order and ensuring good Government in the country.

The next question is whether the present Bill which has been moved in the House is sufficient to meet the situation or insufficient to meet the situation, or whether the necessities of the hour are met by the proposed changes. My submission is that clause 3 (2) of this Bill is very wide, and would revive all those obnoxious laws for which no countrymen of mine would be agreeable. At the same time, it is too narrow and it will not meet the situation. As I submitted yesterday, I would respectfully request the House to read carefully clause 3 (2). This sub-clause is divided into two parts. A cursory reading of article 19 of the Constitution will show that it is divided into six liberties and six controlling provisions of those liberties. In the first part, the Fundamental Rights are given; in the succeeding parts the safeguards against these liberties are given. It is provided that in regard to these liberties, certain restrictions could be put in by law, but they must be reasonable restrictions. But, in article 19 (2) no question of any reasonable restrictions comes in. On the contrary, absolute power has been given for making laws. The extent of this power was defined by the last words of the clause so that the powers could be exercised to that extent only and no further and no less. In prescribing this limit we made a mistake that it did not include 'public order' in those last words. Had we included 'public order', all this confusion would not have arisen. In the present clause 3, which seeks to amend article 19 (2),

the difficulty is that it is much wider than the provisions we have enacted in article 19 (2), previously. The words used are too vague, too wide and too drastic and too unbridled. The words are:

“ . . . prevent the State from making any law imposing, in the interests of the security of the State, friendly relations with foreign States, public order decency or morality, restrictions on the exercise of the right or prevent the State from marking any law. . . . ”

I do not know what is the full import of the words, “in the interests of friendly relations with foreign States”. We have got, in this connection, the Foreign Relations Act passed by the previous Government and that Act says that the rulers of foreign nations are immune from attack from us and the law of defamation applies to them. But, reading the words here as they are, “in the interests of friendly relations with foreign States”, what is the meaning? Does it mean that any sort of criticism as would endanger the security of those States or endanger our relations with those States? What is taboo? What is allowed? Unless and until you put in the word ‘reasonable’, this clause will not be justiciable and may destroy a considerable part of the liberties of the citizens of India. After all, these rights have been made justiciable and the courts have been empowered to protect people from embargo on them. The Courts should be able to determine whether the restrictions put are reasonable. If you put in only the restrictions and do not say what these restrictions are in relation to foreign States, the position is left vague. The restrictions may be any restrictions, in the absence of the word “reasonable”.

And what is the meaning of “public order”? What exactly is the import of restrictions in the interest of public order? That is left too wide and it is something even unheard of even in the history of the British regime. Unless and until you define the full scope of it and make it amenable to the justiciability of the courts, you will not be justified in granting these powers in the Constitution.

And as regards the making of laws relating to contempt of court, defamation or incitement to an offence, it is absolute in the Bill. I am yet to find the meaning of the words ‘incitement to offence’. Offence itself is defined in probably section 40 or 41 of the Indian Penal Code. Anything prohibited by law is an offence under

[Pandit Thakur Das Bhargava]

the factory Act spitting in a place not prescribed is an offence. Many acts of omission and commission fall under section 34 of the Police Act. But that definition of section 40 may or may not be applicable. Moreover what incitement to an offence is has not been defined, as far as I know. We know what abetment is. But what is the meaning of incitement to an offence? So far as my knowledge goes, it has not been defined in any Act so far. And here we are giving the full power to Government without restriction, unbridled power. This is not fair. I submit that article 19 (2) is extremely wide and the Members of the Select Committee may please look into this carefully.

In every land, in England, in America and other countries, the Government has the power to see that disaffection and enmity are not preached between different sections of the people or against the Government, provided such disaffection tends to affect the public peace. But even under the present wide powers, any person can take it into his head to disseminate disaffection and enmity between different classes and he may not come within the clutches of the law. India is inhabited by different classes and there are so many prejudices and animosities among them and there should certainly be provision to see that the Government has the power to prevent the spread of enmity or disaffection between different sections. But so far as the present provisions go, even though they are wide, they do not arm Government with the power to see that such disaffection is not spread. Such power is essential in the nascent situation in which the State now is. The proposed clause 19(2) is too narrow in one sense and too wide in another. This provision needs to be amended. The word "reasonable" should be put before "restrictions" and again, in the later portion also, dealing with the making of laws relating to contempt of court, defamation or incitement to an offence. Reasonable restrictions have to be put on the exercise of the right to make the laws. Restrictions are put on individual rights of freedom of speech and expression in the interest of security of the State. There should be a balance of the two. Unless there is this balance it will be difficult to protect such fundamental rights as have been given to us by the Constitution.

I now come to part (b) of clause 3 and I do not want to say much on this, except that I feel that even the change sought is neither called for nor

just. Every person has been given the right to practise any profession or carry on any occupation, trade or business. At the same time we realise 10 A.M. that in the interest of the general public nationalisation of industries is necessary. I do not grudge it. But I do not grudge it. But I fail to understand the import of the words "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". It is not clear what the words "or otherwise" mean. They may have reference to "State or corporation", or to "exclusion complete or partial" or to "citizens". Thus they may encourage or curb monopolies or cartels, may include foreigners or may exclude others than State or corporation. I therefore suggest that the words "reasonable restrictions" as used in sub-clauses (3), (4) and (5) should be used here also, and the construction of this sub-clause should be on the same lines.

Mr. Speaker: In view of the fact that the Bill is a very important one, and there must be discussion of the essential points and as many hon. Members have a desire to speak, I would suggest to the speakers that they may confine themselves to the salient points and state them broadly, instead of going into the language which, in the light of whatever suggestions are made here will certainly be gone into very carefully by the Select Committee. But if we are to take up each of these clauses in the light of the wording, we may perhaps be leaving out a number of points. Moreover, we have another chance of the Bill being scrutinised when it emerges from the Select Committee. Therefore, it would be better if hon. Members confine themselves to salient points and just say a few words in support of them. That is what I suggest. Otherwise one of two courses will have to be followed. We may not be able to deal with it fully or we may not be able to give sufficient time to a large number of people who desire to speak; and hon. Members are anxious that the session should come to an end as early as possible. That should not be done at the cost of the full debate so as to bring out all the points. Therefore, I would suggest that hon. Members need not go into the wordings at the present stage. They may take up just those objectionable features that they want to discuss and point to certain things, if necessary, by way of example, without going into details.

Pandit Thakur Das Bhargava: I certainly accept your advice and I will not go into the wording of the clauses. Actually I was not going into the wording. The point I was trying to explain is one of great substance. Anyway I will not encroach on the time of the House farther by referring to particular words in the Bill. This is an important measure and that is my justification for taking more time of the House than I do usually.

Yesterday I submitted that sub-clause (2) would create great confusion, if the intention is to give retrospective effect to this Bill. I can understand the giving of retrospective effect to certain measures, but to ask that a Bill of this nature should be given retrospective effect is asking for too much. Usually according to the accepted principle of legislation a Bill is not given retrospective effect in the ordinary course, though as I said in certain cases, for instance, when relief has to be given to down-trodden people, this sort of retrospective effect has been given. But if we give retrospective effect to certain provisions of a Bill of this nature, it would create great confusion. It is stated that it shall be taken as if this amendment existed already, when article 19(2) was enacted, which means that all the effect of the judgments of the High Courts and the Supreme Court is sought to be washed off. The scope of clause 3 is very wide and it would even otherwise create confusion. Where is the occasion for courts to review these cases? Even if the article is amended in the manner we seek now, still it may be held by the courts that certain acts are not valid according to the amended Constitution. That is not possible which means that all these acts will be revived according to the will of the executive. It will not be the Courts who will be called upon to review the cases in the light of the amended article. Unless similar cases go again to the High Court and the Supreme Court, we will be in a state of suspense because according to this provision if the law cannot stand the scrutiny from the standpoint of the amended article it has to be declared void. Therefore, my submission is that so far as this aspect is concerned, this should be carefully considered and this question of giving retrospective effect should not be insisted upon.

In regard to article 31, I agree hundred per cent. with the Mover of the Bill that not only the Congress Party but all the parties in this country are committed to the principle of abolition of *zamindari* and it is not any innovation now. In the previous Constitution also we had a provision

in Section 31 (4) and (6) that the pending legislations will not be questioned by any court. The Constituent Assembly spent a good part of its time in coming to an agreed conclusion in regard to this article. I remember the occasion when our Prime Minister moved this amendment in the Constituent Assembly when he said that this abolition of *zamindari* must be given effect to. He said a balance must be found between the will of the people and the static structure of the society. He thought the provision in article 31 was a good adjustment and we all accepted it. In insisting that compensation should not be adjudicated by courts we are not going beyond the provision which we enacted there already. We want only to see that they are given effect to and the dilatory tactics of those who are interested should not be allowed to prevent it. At that time, all the lawyers in the House came to the conclusion that there was very little justiciability in article 31. According to the present article 31 also, the Courts have little to do so far as the amount of compensation is concerned. Even then it is quite true that our Supreme Court has not had the occasion to finally decide this point whether article 31 came in the way or not because the Patna High Court decided about Bihar *Zamindari* Act in a different way. The will of the country is quite clear that we want abolition of *zamindari* and the whole country wants it. It is also not true that Government want to take estates without compensation. Compensation is to be determined according to the will of the State in which the legislation is enacted. Now when Dr. S. P. Mookerjee was confronted with the question, he also said that he was in favour of abolition of *zamindari* with compensation. Let us not delude ourselves about the amount of compensation. When such a large amount is involved, it is absolutely clear that the same amount of compensation cannot be given as in the ordinary way. In regard to abolition of *zamindari*, the whole country is of one view that the Court should not be allowed to question the amount of compensation when it is determined by the Legislature of any State. I placed an amendment in the Constituent Assembly that so far as the abolition of *zamindari* and certified agrarian reforms are concerned, no court should be allowed to poke its nose into it in regard to amount of compensation and whatever is the will of the state Legislation must be given effect to. That was not accepted then and I am glad that the principle is accepted now that so far as abolition of *zamindari* and the measure of compensation is concerned, the Court will have nothing

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to do. All the same I must submit that these provisions in new articles 31A and 31B go much beyond the necessities of the case. Under these articles it appears that nine Acts which are given in the Schedule are finalised by one stroke of the pen. I have not read all those Acts nor have I been able to find copies of those Acts in the Library. Some of the Acts may be based on certain principles which we may not, like. So far as compensation is concerned.

Shri Hussain Imam: Uniform policy regarding payment of compensation all over India.

Mr. Speaker: Whatever that may be, when the hon. Member gets a chance he can speak.

Pandit Thakur Das Bhargava: From the interruption I find that my friend is in favour of the abolition of *zamindari* and so far I do not find anyone who objects to it. I heard the speech of an hon. Member who is a very big landlord himself and I did not find anything in his speech which went counter to the will of the nation that *zamindari* should be abolished.

When I was a Member of the Constituent Assembly I had occasion to speak about the Bihar law. In that law by one stroke of the pen on a certain day all the rights of the people in the land were taken away and the Government of Bihar became the sole master and proprietor of all the lands in Bihar. This is to unjust. I for one cannot agree to this way of enacting a law. There is no occasion for finalising all these Acts and saying that none of these Acts shall be questioned in any court of law. We provided a safeguard by enacting that the assent of President will be the condition precedent but this is being done away with. As far as compensation is concerned we are committed to it and we stand by it. I do not want to be a party to this drastic amendment which seeks to validate all the laws by one stroke without going through those laws and coming to the conclusion as to whether any of the other provisions of the Constitution have been contravened them. Even in article 31A the words are a bit too wide to the mark.

While recognising all that, I submit for the consideration of the House that the court should not be given the power of finding out if the compensation given is more or less or equitable or otherwise. We should look into

these Acts rather carefully. It is practically an accepted principle that in regard to acquisition of property which does not come within the ambit of the words "abolition of *zamindari*", the law should be as it is today. The Act I of 1894 is just and not so drastic as article 31 of the Constitution. According to article 31 the matter is not justiciable, whereas previously when the executive officer fixed the value the matter could be taken to the court. My submission is that that law should be allowed to continue and should not be interfered with. Apart from cases in which the question of the abolition of *zamindari* is involved the amount given should be justiciable and therefore in the Constituent Assembly I suggested that the word 'appropriate' should be inserted in the proper place in article 31. I still hold that view.

In articles 16 and 340 the words "backward classes" are used. I do not know the exact connotation of the words. I know what is meant by the Scheduled Castes and Scheduled Tribes but I do not know who these people are who are known by the term backward classes. In the Constituent Assembly I wanted to define the word by including the Scheduled Castes and such other classes as were recommended by the Commission to be appointed by the President under article 340. Unfortunately my amendment was not accepted. I adhere to the view that the Scheduled Castes are the real backward classes. There might be a few other classes which may be on the same level but which are not in the Schedule. Beyond that I do not know what is meant by backward classes. So far as backwardness is concerned all the Brahmins of India are backward economically. I think the Rajputs, who are considered as one of the most influential classes in India are very backward socially because they observe *purdah* and previously resorted to infanticide. In article 340 we have used the words "socially and culturally backward" and my fear is that if these words are allowed without being defined we may be confronted with difficulties.

Dr. Deshmukh (Madhya Pradesh): A Commission is going to be appointed to investigate it.

Pandit Thakur Das Bhargava: I know it and I will advert to it later. It is quite right that those classes who are considered by the Commission to be backward should be included and I have no objection. But supposing the Madras Government notification about the reservation of seats in uni-

versities, etc. is sought to be maintained by the backdoor method and some classes who are not backward are brought in as backward, then I am very much against this.

Dr. Deshmukh: It is not the intention.

Pandit Thakur Das Bhargava: The Mover of the Bill was pleased to say that our Government is committed to bringing about a classless society. We all stand by it. But if by this backdoor method the Government of Madras wants seats reserved for the non-Brahmins, including other classes, I am opposed to it.

Dr. Deshmukh: Is it the Brahmin in you speaking?

Pandit Thakur Das Bhargava: I respect the Brahmins and I respect the other classes also. But I want that the really backward classes alone should be given the protection. Give them all that you can and even if you want that property should be given to them I am quite ready to agree. But at the same time it would be quite wrong to bring in those classes which are not backward by virtue of an ambiguous phrase and introduce confusion and uncertainty. As regards reservation of seats I was of opinion that under article 16 you can very easily include it, as you have already included reservation of appointments for the backward classes. These words "economically, educationally and socially" throw open a very wide field and I want to know which way we are going, how far we are going and where exactly we are going. Whatever can be done for the Scheduled Castes should be done and I do not want to be misunderstood in this regard. We would be failing in our duty if we do not do all that we possibly can for the weaker and Scheduled Classes. During the last three years we have done quite a bit but that is not sufficient. We should give them proprietary rights on their houses and every student should get a stipend or scholarship to go up to the highest standard and they should also be given jobs. But I do not want that communalism should be introduced by the backdoor methods. I know that the Government do not want it. At the same time it is not the Central Government that is going to implement it. But it is the Provincial Ministers who will give effect to it and I do not know what they may or may not do. As a matter of precaution I am uttering this warning, though I am not opposed to the proposed amendment.

I shall now deal with the clause which deals with the appointment of the Chief Justice. I do not want that a non-Indian should be appointed as Chief Justice. I quite realise that those judges who are already in service may feel a sort of injustice that they are not allowed to go up to the highest position. But I am yet to know any country where such a responsible office is allowed to be filled by any person except the national of the country.

In the end I would make one request to you, Sir. In the Select Committee on this Bill I would beg of you to allow that any Member who wants to appear before the Select Committee may be heard there, though his vote may not be taken. So far as the provisions of this Bill are concerned every Member should be given the opportunity to contribute his mite for the improvement of the Bill as was done in the Representation of the People Bill.

I am very glad that the Prime Minister gave us this assurance while moving this motion that he would certainly go into the provisions of the Bill with an open mind. I welcome that assurance and hope that when the Bill emerges from the Select Committee it may not only place us in a much better position than we are today so far as the laws of the land are concerned, but at the same time may be such as to give satisfaction to all the parties in the land.

Several Hon. Members rose—

Mr. Speaker: Before we proceed further, I think, we must make some arrangements for shortening speeches and for lengthening the hours of sitting—otherwise it will not be possible for us to progress further. So far as speeches are concerned, I have already made my suggestion while the hon. Member, Pandit Thakur Das Bhargava was having his say. Now, as regards the lengthening of the time, instead of sitting for five hours as we do from day to day, it is better if we could also sit in the afternoon today. And if the House is agreeable I might suggest from four to six today.

Hon. Members: Yes, Sir.

Mr. Speaker: So, that will be the time fixed then.

Shri Hussain Imam: Every day, or only today?

Mr. Speaker: Not every day, but only for today.

Pandit Kunzru (Uttar Pradesh): The Bill before us seems to be very simple, but it is nonetheless of a very far-reaching character. It affects not merely the Constitution but also the spirit in which the Constitution is to be dealt with. A measure of such importance requires careful consideration and I think that we ought, all, to welcome the scrutiny to which it has been subjected by previous speakers. In order to justify the important changes that are sought to be made in the Constitution, Government should have taken care to supply us with full information on every point, to tell us exactly why each particular amendment was needed. The Prime Minister spoke at considerable length but dealt, generally speaking, with principles. When he dealt with specific matters he was very tantalizing; he did not throw much light on the reasons for the specific measure that the Government have placed before us. In view of this, some other Member of the Government should have given us fuller information than the Prime Minister gave. Perhaps my hon. friend, Dr. Ambedkar would have been the fittest person to explain to us in detail the provisions of the Bill, particularly those which relate to the amendment of article 19 and the insertion of two new articles 31A and 31B. I have no doubt that he will take part in the debate. He will probably get up in the end in order to have the last word on the subject.

The Minister of Law (Dr. Ambedkar): No, no.

Pandit Kunzru: That may suit him and the Government of which he is an important member, but it is most unfair to the House that it should be called upon.

Shri Sidhva (Madhya Pradesh): What is the unfairness?

Pandit Kunzru: If Mr. Sidhva will have a little patience he will realise that every Member is not as enlightened as he is and that most of them require a little more instruction than he has ever done or ever will do.

I was saying that it is most unfair to the House that it should be called upon to consider a measure that vitally affects the liberties of the people and their economic rights without having been supplied with the material on which a correct judgment could be based. Not being in possession of this material, I am forced to take some of the more important amendments and deal with them in the light of such information as I have.

[SHRIMATI DURGABAI in the Chair]

Easily the most important amendment before us relates to article 19. This article was not passed in a hurry by the Constituent Assembly. It gave the Assembly and the Drafting Committee a great deal of trouble and it was after a full consideration of the matter by the Drafting Committee and probably by the Government that the language of the draft Constitution was changed and Parliament was given power to control the freedom of speech and expression only in certain limited cases. What is now being sought to be done is not a mere amendment of article 19 in one unimportant respect or another. What these changes mean is that article 19 will be brought into line with the Preventive Detention Act. Under the Preventive Detention Act persons can be detained for acting in any manner prejudicial to the relations of India with foreign Powers, or the maintenance of public order. I shall say nothing about the security of the State because that is already provided for in the article under reference. Now, why is it necessary for Government to go so far in the amendment of article 19 as to try to place the Preventive Detention Act and the Constitution on the same footing? I listened as carefully as I could to the Prime Minister, even when he, as is his habit, inconveniently dropped his voice, but I did not discover any reason in his speech for such a policy. I know the difference between the Preventive Detention Act and any law that Parliament may make under article 19, if the amendment proposed by Government is passed. The Preventive Detention Act, as its name shows, is preventive, while any law passed under article 19 will be punitive. It is not detention, but trial in a court of law that will be necessary to bring a man within the purview of any legislation passed after article 19 is amended in the manner desired by Government. But the scope of the two pieces of legislation will be the same. We have not been told that the Preventive Detention Act will be done away with if the scope of article 19 is made wider. We shall, therefore, have both the Preventive Detention Act and a law passed on the wide grounds on which the Preventive Detention Act is based. I think that if Government think that it is only a small number of persons that has been or will be guilty of inciting people to commit offences, or to do any other thing that would seriously endanger the interests of the State, then I think that the Preventive Detention Act, however, objectionable it may be in principle should be enough for this purpose.

Again I do not see really, taking the present situation in the country into account in the absence of any information of an alarming character or of a serious character being given by Government, that there is any need for the drastic changes proposed by the Prime Minister.

I have already pointed out what the character of the Bill is by comparing it with the Preventive Detention Act. But I should like to draw the attention of the House in a more pointed manner to what the Prime Minister seeks to do. If the amendments proposed are accepted then it is not merely that article 19 will be amended, but that, for all practical purposes part (a) of clause (1) of article 19 will be deleted. The provision relating to freedom of speech and expression will be reduced to the position that Fundamental Rights occupy in the continental Constitutions. In those Constitutions Fundamental Rights are no more than pious wishes. At the best, they are indications of the policy of the authorities; nothing more than that. I therefore, think that if Government really feel that the clause to which I have referred must be hedged round with such serious limitations as to make it valueless for all practical purposes than they should courageously come forward and ask for the deletion of that clause.

I shall now consider the three changes that Government desire to make in article 19. The Statement of Objects and Reasons says that the provision relating to the freedom of speech and expression as interpreted by certain courts, has created a very inconvenient situation. We are told that some courts have taken the view that article 19 is so comprehensive as not to render a person culpable even if he advocates murder and other crimes of violence. I understand this and I am for the time being prepared to allow—and when I say for the time being I mean subject to full information given by Government—that some amendment of the law of the Constitution is necessary in order to prevent incitement to violence. But the language of the Bill is so wide as to cover not merely incitement to violence, but other things. It prohibits incitement to the commission of an offence. Now, the word "offence" is of a very general character. It is very wide in its scope and if all that the Government desire is to check incitement to violence, why should they not use the words that will make these words plain. But while some reason has been given in the Statement of Objects and Reasons in favour

of the last amendment, no reason whatsoever has been given to justify the insertion of the words "public order" and "friendly relations with foreign states".

The words "friendly relations with foreign States" raise a very important issue. My hon. friend Dr. Mookerjee when he referred to this matter yesterday and said that it amounted to a restriction on the criticism of foreign powers, the Prime Minister corrected him and said that it did not relate to criticism. But surely if a law is made in pursuance of the amended article 19, it is Government that will decide what would be prejudicial to the maintenance of friendly relations between India and other States and it is quite possible that strong criticism of foreign policy may be banned. I do not think that there is any such law in the United States of America. When the Constituent Assembly was in session we frequently referred to the Constitution of other countries. I consider myself justified, therefore, in taking into account the provision made in the Constitutions of other countries in this respect.

So far as I know, the United States Constitution has made no provision of the kind in our Bill. This matter was considered by the Press Laws Enquiry Committee and it too has not pointed out that the United States Constitution does not enable Government to deal with this matter. The Committee also referred to the position in England and said:

"With regard to foreign relations in Great Britain words which may expose a foreign Government to contempt or hatred or may cause disquiet in some way are not punishable unless they contain an incitement to commit violent crimes".

In France, according to the same Committee,

"The State has the power to prevent defamation of heads of States and diplomats, public insult to a sovereign or to a foreign Government as well as defamation of a foreign nation and any person who indulges in these can be punished both with fine and imprisonment".

The position that has been placed before us is not merely contrary to the position in England but also to the position as it is in France. If these countries which have to deal with foreign powers find it unnecessary to have such sweeping powers

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as the general language of the amendment that I have referred to will arm Government with, why should our Government ask for this power? If all that they desire is to control defamation, even the defamation of a State, that is complete distortion of its actions, they have the Foreign Relations Act which can be amended in order to cover the wilful distortion of the motives of States in friendly relations with India. I should like to refer in this connection once more to the Press Laws Enquiry Committee. The Committee on page 34 of its Report says:

"We recommend that the Act (that is the Foreign Relations Act, 1932) in its present form should be repealed and legislation should be undertaken to make provision on a reciprocal basis to protect heads of foreign States, foreign Governments and their diplomatic representatives in India from defamatory attacks and to prevent the circulation of false or distorted reports likely to injure India's friendly relations with such States".

Clearly, it is within our power to punish those who defame the persons mentioned in the Foreign Relations Act. As regards the punishment for the distortion of the motives of a foreign power, something more will be required. But I do not know whether it is necessary at the present time even for this limited purpose to change the Constitution. Government has told us nothing that can incline us for the moment in favour of so sweeping an amendment.

Then, I come to the words "public order". Is there any limit to the meaning of these words? They are of unlimited scope. Government can under cover of these words pass any kind of law that it likes. Virtually it means that in future even actions which do not seriously injure the State—the man who commits them—may be made liable to punishment. I have said that all these words taken together make so fundamental a change in the right of free speech and expression as to amount to a complete abrogation of that right. It is true that the Constitution does not abrogate that right. Well, the Constitution will abrogate that right. The Prime Minister said yesterday while Dr. Mookerjee was speaking that the Bill before us does nothing, that it only empowers Parliament to do certain things. This was a somewhat surprising remark. For the object of Fundamental Rights is not to confer powers on the State

but to confer rights on the individual so as to protect him against the tyranny of changing Parliamentary majorities in the future. That is what I understand to be the meaning of Fundamental Rights. When you give Parliament the right to make a law that will affect our liberties, then our liberties are not guaranteed against an attack in moments of excitement and passion under the direction of a Government that may find certain acts done by the people very inconvenient. Taking all things into account I cannot support the amendments proposed by the Prime Minister in their present form.

Now I shall say a word with regard to the insertion of the new articles 31A and 31B. When the Prime Minister made in the Constituent Assembly the motion that subsequently became article 31 of the Constitution, he asked us to consider the matter with reference to two principles. The first principle that he enunciated was that the right of property was not an abstract, absolute right but was subject to the rights of the community which were greater than the rights of the individual. The second principle that he laid down was, in explanation of the various clauses of the proposal made by him, that property would be acquired only on compensation, that there would be no expropriation without compensation. I wholeheartedly accept these principles. I think whatever Government may be in power in future will be guided, or will have to be guided, by the principles on which the Prime Minister moved the acceptance of article 31 of the Constitution. And I want to consider the new articles proposed only in the light of the principles recommended to us by the Prime Minister. So far as I know, the comprehensive character of clause (2) of article 31 has been admitted by all the High Courts that have been called upon to consider the legislation passed by the States under article 31. The Bihar High Court has set aside the Bihar Land Reforms Act not because of any flaw in article 31 but because it thought that the different scales provided for the payment to the different categories of holders of zamindari property were contrary to the provisions of article 14. The High Courts of Allahabad and Nagpur have held that even that article does not modify the operations of article 31. Is it necessary in these circumstances for Government to come forward with the two new articles referred to by me? What does the article 31 amount to? If one considers the language of article 31, one feels as one does in the case of amendment of article 19, that

it is no mere amendment that Government are seeking, but the virtual repeal of article 31. So far as I have been able to see nothing will be lost if we retain only the first clause of article 31, "No person shall be deprived of his property save by authority of law," and delete the rest of the article. Perhaps my hon. friend Dr. Ambedkar will explain to us what effect the proposals embodied in articles 31A and 31B will have on article 31. But so far as I can see it, these articles will leave only the first clause of article 31 intact. Again I say if that is the intention of Government, why should they not then choose this simpler course rather than the indirect and cumbersome course that they have adopted? There may be a need only for the legislation passed in Bihar. The legislation passed is sought to be validated before the Supreme Court has had any opportunity of considering the matter. This is not a purely formal decision. I am not referring to this matter in order to delay the operation of article 31, though the decision of the Supreme Court will inevitably involve some delay. Normally I am certain that Government could have adopted this course. They could have allowed the matter to come to the Supreme Court and awaited its decision. What are the special reasons compelling Government to take the extraordinary course that they have adopted? I can discover only one reason and that is that General Elections will be held at the end of the year. If that is the real reason, then the two new articles that I have referred to are to be inserted not because article 31 has been found ineffective but for a political purpose (*Hear, hear*) and I deprecate this in connection with so vital a matter as the spirit in which we should consider an amendment of the Constitution. We must, if necessary, change the Constitution so as to enable it to fulfil the social purpose for which it was designed. . . .

11 A.M.

Shri Hanumanthaiya (Mysore): May I know what is the political purpose referred to?

Pandit Kunzru: I can explain things, but I cannot compel my hon. friend to see their meaning.

Shri Hanumanthaiya: That does not explain matters.

Pandit Kunzru: Perhaps my hon. friend will require a little more time than I can give him just now to explain the matter to him. I deprecate that this was not the spirit in which the amendment of the Constitution should be considered. We should

not act in such a way as to make anybody feel that mere impatience or anything that thwarts our will can drive us to take up so serious a matter as the amendment of the Constitution.

Another reason why I ask Government to allow the Supreme Court to consider the matter is this: The Supreme Court may after considering the matter feel that the agrarian laws passed by some of the States are constitutionally valid. It may point out the manner in which the powers are exercised by the State have not been fair in all cases. One of the Judges of the Patna High Court who considered the validity of the Bihar Land Reforms Act has drawn attention to the case of a *zamindar* whose total income was Rs. 10,05,000 but whose liabilities after the payment of the agricultural income-tax and the statutory deductions would amount to Rs. 10,26,000. Though the courts may be debarred from considering such a thing, the Prime Minister's intention has not been fulfilled in the manner in which this question has been dealt with. The number of such cases has been small, but I venture to think that this is a matter requiring the attention of so fair-minded a man as the Prime Minister is. I should not be willing to agree for a moment that the Prime Minister had as a matter of policy put forward either of the principles to which I have referred. I am certain that he did so out of conviction and he would be the last person in India to throw any of his convictions overboard for the sake of any convenience. I ask him, therefore, whether it would not be an advantage to him and to the State to allow the Supreme Court to consider the matter and then to take up the amendment of the Constitution in the light of the views expressed by the Supreme Court.

Let me guard myself once more against any misunderstanding. There can be no re-opening of the questions which were at issue when the Constituent Assembly discussed the Constitution. Those questions have been laid to rest. Article 31 has to be given effect to. The rights of the community have to be given precedence over the rights of the individual. But, the Prime Minister sought to reconcile the one with the other so that there may be not only progress, but also stability. In view of this, I support the view of those hon. Members who think that the Bill should be circulated even though it may be for a short time, for a fortnight, in order to enable the public to express its opinion. It is not the same thing as the consideration of the matter by the Supreme Court. But, it will enable us to consider the

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measure more fully than it could be done at the present time. I am almost certain that this view will not commend itself to the Government. But, even if a Select Committee is appointed, they can still give some time for the expression of public opinion. If we want to go forward in such a way as to have both progress and stability, it is of the utmost importance that we should give the fullest opportunity for the expression of views by those who are interested in such matters.

Shrimati Renuka Ray (West Bengal): I am very glad that this Bill which seeks to make certain changes in the Constitution we drew up a year and a half ago, is being sent to a Select Committee for careful consideration and scrutiny. Even when we were in the midst of passing the Constitution, we realised that in the light of experience, certain amendments would become necessary. There were many of us who felt and who expressed the view that the Constitution we were drawing up was of a very voluminous nature, and that in our zeal, and a righteous zeal, to see that the executive Government should not wield too much power and that this Constitution of our Sovereign Republic should not become a pawn of dictatorship either of the right or of the left, we forgot that we were in the meantime circumscribing in many ways the powers of the sovereign Parliament, which expresses the will of the people and which is the very basis of the democratic system.

I believe, as we all do, that there are certain inviolable sacred rights that pertain to individual citizens such as the right of liberty and freedom of expression. Such rights must be guarded at all costs. But, we have to remember that wherever there are rights, there are responsibilities. If the rights are not utilised in a proper way, if they are turned into licence, then, we cannot have or protect the greatest good of the greatest number which is the basic tenet of democracy. Yesterday, when the Prime Minister spoke, he pointed out that in the United States, the Fundamental Rights in the Constitution took some time to establish themselves and that judicial findings through many decades have brought about the present position. It is very interesting reading to go through the judicial decisions on the American Constitution. But, as he very rightly pointed out, we are living in times when swift-riding changes are taking place, times which are dynamic, and we cannot go through decade after decade before we can find suitable judicial decisions which will allow of such changes that are urgently needed

in the interests of the State, in conformity with the times in which we live.

There are two provisions in this Bill on which I want to speak. There are also other amendments of a minor character. I do not want to take up too much of the time of the House; nor do I feel that I have the eloquence to hold the House for a long time. Therefore, I shall confine myself to the two clauses in which we are particularly interested. The first is article 19. I think the Prime Minister said in his speech yesterday, and it is quite right, that the unwritten Constitution of Britain is so different and very elastic: When there is no written Constitution, one is able to uphold the precious rights of the citizens while also seeing that liberty is not turned into licence. This system has worked well in the United Kingdom. But, it is unfortunate that it is not possible in a country which is so large and with so many complex problems to have such an unwritten Constitution. But, as I have said before, we have made a written Constitution, which is very bulky. In this written Constitution, we have however to see that while we do not infringe or curtail in the least bit the right of liberty of expression, at the same time, we must give to the Government such powers as would enable them to curb those who would restrain the liberty of others. Preservation of law and order and the creation of an atmosphere in which the citizens are able to exercise their rights are the fundamental duties of every Government and it is Parliament which rightly must have the power to check and to curb the Government if it exceeds its powers. Our Constitution as it has been drawn up has certain escape provisions in order to effect these things. We have seen that perhaps these provisions are not altogether sufficient. At the same time I must say that I also feel that we must be very careful before we introduce any changes in the Constitution by which we may go further than we want to. I hope the Members of the Select Committee will give careful thought to article 19 and will keep a proper sense of balance so that there is a harmonious balance about it, that in our anxiety to see that rights are not turned into licence, we do not go to the other extreme and take away those rights altogether. Both sides are of equal importance.

When my hon. friend Pandit Kunzru was speaking, he mentioned something about this enabling measure being on the same level as the Preventive Detention Act. I do say that there is something very different here from

that Act. I do not say that the amendments now proposed are quite perfect. They will probably require some changes. At the same time I do think that the two things are not akin. This is an enabling measure and the other is something very different, and to mix up the two does not help us in any way.

I am very anxious to speak on the clauses amending article 31. We know to-day that the content of democracy does not mean merely political democracy. It does include economic and social equality for the citizens. In the Directive Principles we have introduced certain measures which to-day due to practical difficulties we have not been able to lay down as Fundamental Rights. In the Directive Principles we have laid down that "the ownership and control of the material resources of the community should be so distributed as best to subserve the common good", and further "that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment". Though we have laid this down, we have made it impossible for this Parliament, almost, or for any future Parliament to implement these Directive Principles, because we have laid down in the Constitution itself provisions which entrench the vested rights on property which make it impossible to change the economic pattern of society even when such changes are urgently required. Inclusion of article 13(2) further strengthened by article 31(2) deprives Parliament of the right to determining what the pattern of society should be. It is surprising that while in the matter of other rights and liberties we have not made the assurance doubly sure, we have done so in this matter of property. While the Constitution was under consideration some lawyers held the view that clause (2) of article 31 was not very justiciable—I think that is the word they used—that the principle of compensation as laid down by Parliament would not be challenged. They did not say the same thing about the amount of compensation. But what is significant is that clause (4) had to be put into this article 31 by which exemption was made in the case of certain *zamindari* Acts. Pandit Kunzru in his speech just now said that obviously after the decision regarding *zamindari* Bills, particularly of the Allahabad High Court, the Constitution as it stands is good enough. I say that the reason why the Allahabad Court has upheld the Bill is only because of clause (4) being there and this clause only deals with certain legislations which were

pending before certain legislatures. Further, to-day when we have this new article 31A, in view of the urgency of the matter—and I do not deny the urgency of land reform—it has been extended to include all forms of *zamindari*. Does this not show that clause (2) by itself does not cover or meet the situation? The very fact that we had to introduce this legislation goes against the interpretation of those lawyers who hold that this is not justiciable—that clause (2) is not justiciable. I remember our Constitutional Adviser—Shri B. N. Rau said at the time that unless it was explicitly laid down that a court of law should not challenge Parliament's decision or the Legislature's decision in regard to the amount and the principle of compensation the question would necessarily be interpreted otherwise. This question has not actually come up for interpretation in regard to other forms of property, because so far the State has not in the national interest, acquired any other form of property since the Constitution was passed. But if it is compelling to have land reform, it is equally compelling to see that Parliament is not bound down and fettered in this way, that it is not left to a court of law to put varying interpretations and defeat the very purpose of nationalisation that is so necessary. I do admit that to-day practical difficulties arise. We do not have adequate administrative machinery to nationalise all forms of property or even all the basic and key industries. But is it fair that we should lay down such provisions that we bind and fetter Parliament of tomorrow also from doing the same thing? I know there are amongst us certain sections of the community who suspect that if these powers are given to Parliament which is the expression of the will of the people, then Parliament might do certain very unjust and unfair things. I do not think that so long as constitutional government lasts, so long as we follow the path of evolution and not that of revolution, that any Parliament would be so unjust or would be so much against its own interest, as to create a new class of the poor by taking away property without compensation or with some very nominal compensation. I am perfectly satisfied that the Parliament of to-day will not do that. And no Parliament of the future also will do it. But if you bind and fetter Parliament and if it is made impossible to evolve a proper economic pattern of society then it will not be through constitutional means that changes will come, but through revolution. When that comes this Constitution that we have adopted and which we seek to-day to amend, will be considered just a scrap of paper.

[Shrimati Renuka Ray]

It is true that amendments to the Constitution can come in the future as well as to-day. But as we see our country to-day, it looks as if we are going to have Government not of two-party system but perhaps of many parties and the provisions in the Constitution for amendment of the Constitution are such that it may become impossible to apply the constitutional method in the future. I would appeal to the hon. Prime Minister who, I know, above all, believes in a society where there is equality of opportunity for all, where economic equality does obtain, that he and the Select Committee should alter this provision in such a manner that it will be applicable in regard not only to *zamindari* but to all forms of property and that the right of Parliament to express the will of the people—its inalienable right in this matter—is not challenged by any court of law. I do not want to enter into the phraseology but I hope that the Select Committee will take into account all this.

Yesterday when Dr. Mookerjee was making a very eloquent speech, he was perhaps interrupted many times and I also tried to say something to him but he would give me no opportunity. The question I wanted to ask him was this that does he not think that there is one great transgression in this Constitution—one great flaw—that the right of Parliament to decide the economic pattern of society has been taken away and he would not allow me this opportunity but he claimed to know what I thought in my heart of hearts. There is one question which I would like to address to the hon. Law Minister. That is in regard to new article 31A. In this article there are certain definitions given—the definition of "rights" for instance. I want to ask him whether even in regard to land reforms or agrarian reforms, all forms of land and agrarian reforms will really be included in this clause. Because it seems to me, of course I may be wrong, that there is some differentiation. Whereas we are talking about intermediaries, it is necessary in the interests of the people and of the State to have reforms of a different nature. For instance the Congress Government and the Congress Party are committed to the formation of a co-operative commonwealth. At the Nasik session this was reiterated. I want to ask, will it be possible for them to go ahead with the formation of a co-operative commonwealth if this new clause is not changed and made wider not in regard only to other property but even in regard to land and agrarian reform? I hope

when Dr. Ambedkar replies, he will give us some explanation about this.

Lastly, I want to appeal to this House that in the Preamble of our Constitution we have said that we, the People of India having solemnly resolved to constitute a Sovereign Democratic Republic, to secure to all its citizens, justice, social, economic and political, is it not for us to see to it that Parliament has the power to bring in such legislation as is necessary? This is, after all, only an enabling power and if we bind through this Constitution further the power of Parliament, is it in keeping with the Preamble of the Constitution that we laid down? What will future generations think of us when they see our Preamble and see also how we have entrenched the right of vested interests as the only economic right in our Constitution whereas the other economic rights are relegated for the moment to Directive Principles which even cannot come in as long as this stands in its way?

Mr. Chairman: Before I call upon hon. Members to speak, may I suggest that with the consent of the House we should have some time-limit to the speeches?

Shri Hussain Imam: I shall be as short as possible.

Shri Kamath (Madhya Pradesh): Yesterday the Speaker held in another connection that this was an extraordinary piece of legislation and he even relaxed the rule that Members of the Select Committee should not take part in the discussion here. In view of that, there should be no restriction on the right of Members to participate in the discussion and if necessary, we may sit longer and for three or four or five days more.

Mr. Chairman: I do realise that this is a very important matter but it is also necessary to realise that a number of Members want to speak and that will not be possible if hon. Members get up and speak for hours together. Therefore, however much we are inclined even to extend the consideration of this Bill, it will not be possible to enable more Members to participate and therefore, I would request hon. Members to agree to some kind of time-limit. It may be 15 minutes or in some cases, it may extend to another 10 minutes more.

Shri Sarangdhar Das (Orissa): On many previous occasions I had pointed out that when the discussion began there was no time-limit and after a day or two, limits are imposed. I do not think it is fair to Members. If

any time-limit has to be imposed, it should be done in the beginning itself.

Shri Sidhva: At the beginning the Speaker will not know how many wish to speak.

Mr. Chairman: Some hon. Members are interested in one particular article which is sought to be amended. Suppose they confine their remarks to that particular article, it may not be necessary to speak for more than 20 minutes.

Shri Syamnandan Sahaya (Bihar): There are eleven Acts of different States which are affected. Those who have interest in the amendment should have their say about it. This sort of Bill does not come everyday.

Mr. Chairman: It is for that reason that I am anxious that all such Members have their say. So I want a time-limit so that every Member wanting to speak can speak.

Shri Sondhi (Punjab): How many days have been fixed for the debate?

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): It is hoped to finish by tomorrow midday. If necessary, we can sit tomorrow afternoon also.

Shri Sidhva: Time-limit is necessary then.

Mr. Chairman: I will leave it to hon. Members to see that they do not take much time.

Shri Kamath: I beg to move:

In the motion, for "Monday, the 21st May, 1951" substitute "Monday, the 4th June, 1951".

This shifts the date by a fortnight.

Coming to the motion before the House straightway I felt as I listened to the Prime Minister that he was in two minds. There was a conflict raging in his mind as he spoke and as he dilated upon the different clauses of the Bill. It looked as if he was kicking against the pricks of his soul and conscience.

The speech that he made yesterday, while it touched great heights, also revealed certain fundamental contradictions. May I bring to the notice of the House two or three passages in the speech which appear to me to be so relevant that they go to the root of the matter before the House?

At one stage he remarked that it was not intended by his Government

to take advantage of this enabling measure. He said:

"It is highly unlikely that this Government or this Parliament will take advantage of them by passing laws to that effect unless some very severe crisis, national or international arises. In effect, therefore, it is not this Government that is trying to seek power or consolidate itself and certainly I do repudiate the suggestion which has been made here and there that any of these amendments are meant to be utilised for political or party purposes, because nothing could be farther from our thought and indeed from the practical point of view, the House will observe that that can hardly be done".

And this is the most important part:

"We do wish, when we walk away from this present scene before the election or after, to leave something for the succeeding Parliament and for the younger generation that will come up—something that they can wield and handle with ease for the advancement of India and not something which will come always in their way and deflect them from the set purpose we have in view".

It is from that point of view that we have to address ourselves to this Bill. It is obvious from his speech that there is no very great hurry or emergency that calls for the introduction of this measure before Parliament. The Prime Minister made it clear that neither his Government nor this Parliament will in all likelihood take advantage of this Bill. If that be so, I ask him a straight question, what is the occasion for bringing this Bill at all before the House? If it is meant for the next Parliament which comes after the General Elections we can certainly leave the whole matter to the next Parliament which will be elected on the widest franchise that India has ever seen.

There was another remark that he made which I thought was made in a temper, I will not say in a huff, but perhaps in a temper. He said:

"Personally I confess my own belief is that it is better in any event and always for Parliament to have a large measure of authority, even the authority to make mistakes and go to pieces."

[Shri Kamath]

If that be his view that Parliament must have the authority to go to pieces, I do not know whether he meant that Parliament itself should go to pieces or make the State or the Government to go to pieces. I do not know what exactly was in his mind or whether he meant at all what he said. But I may straightway say so far as this Parliament is concerned and I hope future Parliaments are also concerned, we will hold fast to the oath or affirmation that we made when we all came into Parliament, and that was that we shall be loyal to the Constitution. The oath or affirmation reads:

"I, A.B., having been elected (or nominated) a member of Parliament do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

That, I submit, will completely dispose of that part of the argument that Parliament will think of anything which will allow it to go to pieces.

But the first part of the speech read with the second makes me doubt what exactly was in his mind when he moved the motion yesterday.

The Bill is a curious mixture of revolution and reaction.

I am rather surprised but it is not unusual with the hon. Prime Minister to thus walk out of the House. It may not be as a protest against my remarks: perhaps he has some other important business to attend to.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): I am here taking notes.

Shri Kamath: I see his deputy, rather, the Minister of State for Parliamentary Affairs taking his place physically. I hope therefore that every thing said is noted down for the benefit of the Prime Minister.

Shri Satya Narayan Sinha: Yes.

Shri Kamath: Though a pencil is not provided for us I hope he has before him a pencil and paper.

I was saying that the Bill has provisions which are a curious mixture of revolution and reaction. The amendment to article 31 may be looked upon as an amendment of a revolutionary character. But the amendment to article 19, in my humble judgment, is definitely one of a reac-

tionary nature. And the Bill therefore, I have no hesitation in saying, is a mixture of sugar and sand.

I must also say something about the way in which the Bill is being rushed through the House. Usually in many other countries an amendment of the Constitution is before the people for three or six months and people are asked to give their considered views. The forum is furnished all over the country and on the platform and in the press it is debated? But here this Bill was introduced last week, taken up for consideration this week, hardly two or three days are given to the Select Committee and the Bill is being brought back to the House for final consideration and passing next week. I can only say that this action of rushing this amending measure, important as it is, is midsummer madness. I cannot find any other words to describe such a procedure. It is nothing short of midsummer madness. What I mean is that we must be given some more time and that is the least that can be done.

Shri Amolakh Chand (Uttar Pradesh): All the leading newspapers have commented on the Bill.

Shri Kamath: I do not have as much time as my hon. friend has for reading newspapers. In any case there are other organisations, parties and associations which are vitally interested in a measure like this and they must be given an opportunity to express their views on this measure. Therefore, I suggest as the least that can be done is that the Select Committee should be given more time, say a fortnight, to deliberate on this measure. And during that interval they should summon witnesses who are representatives of political parties, bar associations, of industrial and commercial organisations, and even of rural organisations of which my friend Prof. Ranga, I believe, is the president. I hope, therefore, that the Select Committee will not hustle itself, will not rush this measure, and will give itself more time to consider and to examine witnesses before submitting their report to Parliament.

Coming to the Bill as a whole, the Prime Minister yesterday observed that the problems of India could be summed up in five words: land, water, babies, cows and capital. He spoke on land and water and also referred, in passing, to capital, but he omitted, or he did not make any further reference to, babies and cows. I personally feel that a large majority of the problems that be set us, that are fast overwhelming us today, are

due to the fact that in many of the States, in many of the State Governments, in some of the State Governments at any rate, those who are in charge of administration—some of the Ministers—are political babies, and unfortunately they are surrounded by docile “cows”. This combination of political babies and docile “cows” has contributed in a large measure to our ills. I personally think, therefore, that if one were to go deep enough into the matter one would come to this conclusion so far as political babies and their entourage of docile “cows” are concerned.

The *raison d'être* for the amendment of article 19 is, as I have already remarked, very strange as propounded by the Prime Minister. He says, we must empower future parliaments, we do not want this power. We are *tyagis*, we are self-denying! We want to empower future parliaments to do what they like in the interest of the country. And the strange part of the proceeding is that the Statement of Objects and Reasons is founded on incorrect assumptions, I may almost say false pretences. It is stated here in the Statement of Objects and Reasons:

“The citizen's right to freedom of speech and expression guaranteed by article 19(1) (a) has been held by some courts to be so comprehensive as not to render a person culpable even if he advocates murder”.

The Prime Minister was asked by an hon. friend yesterday what was his authority for the statement and he replied that it was unnecessary for us to go into that question. And my friend Mr. Krishna Chandra Sharma interrupted and said the Supreme Court had reversed the judgment. It is therefore a mere *obiter dictum* or an *ipse dixit* on the part of the Prime Minister. And unless and until the highest tribunal of the land, the Supreme Court, holds this view either in this matter or in any other matter, there is, in my humble judgment, no valid reason, no *raison d'être* for the Government to come before Parliament for an amendment of the Constitution. That is a fundamental point on which I hope Dr. Ambedkar will agree—he is now keenly listening to me in the absence of the Prime Minister.

As regards the other amendments contemplated to article 19, that is to say, with regard to friendly relations with foreign States, public order, incitement to offence, there is no basis

or ground quoted in the Statement of Objects and Reasons as to why this amendment is being brought forward as regards these three matters. As regards public order, Dr. Ambedkar may recall the debate that took place in the Constituent Assembly on the 17th October, 1949. My friend, Mr. T. T. Krishnamachari, who is not here now, on the 16th October, 1949 brought this amendment to article 13 (then 13, now 19) seeking to include “public order” within the purview of that article. Then when it was about to be moved, Mr. Krishnamachari got up on behalf of the Drafting Committee—he was a member of the Drafting Committee in those days—and suggested it be held over. On the next day Mr. Krishnamachari made a statement that after prolonged deliberation they have thought it fit to delete the words “public order” from the amendment suggested earlier. That was the official view, and one endorsed by the Constituent Assembly. Now, within barely a year and a half after that date, just fifteen months after the inauguration of the Constitution, this clause is again sought to be included in this amendment to article 19. I fail to see how or in what way the existing statutes have been found inadequate to deal with offences relating to public order. I am sure there are enough laws and Acts in the armoury of Government for all such offences against public order, and that amendment therefore read with this other one relating to incitement to an offence make very dangerous reading indeed. An “offence” may be of any kind; an offence may range from a petty violation of the municipal Act or of the Motor Vehicles Act, right up even to sedition and treason or murder. I wonder whether Dr. Ambedkar has carefully bestowed careful attention upon this when it was drafted. And rightly it was decided that it should go to the Select Committee and the Select Committee must have some scope, some sort of satisfaction; as is usually done here, some sort of loophole is left, some lacuna is left to be filled by the Select Committee who may have the satisfaction of “changing” the Bill, lay the flattering unction to their soul that after all they have done something; and the House will be happy that the Select Committee has done something I believe that is the only reason. Otherwise an able constitutionalist and a jurist of Dr. Ambedkar's calibre would not have left this so vague as it is in this Bill. I am sure he has got something up his sleeve, to let the Select Committee do some improvement in this measure. Otherwise there is no reason at all whatever for this delightfully vague manner.

[Shri Kamath]

Then, even as regards the security of the state, the scope has been very much enlarged. Article 19 as it stands in the Constitution refers only to the overthrowing of the State or undermining the security of the State. But here the phrase used is "security of the State" and under that blanket provision many a law can be passed by this Parliament or the next Parliament—I am not interested in the next Parliament, I am interested in this Parliament because what we do concerns us intimately. As I said, if we were to leave it to the next Parliament, if we were to leave the whole thing to them, we need not bother our heads about it at all. Reference was, I believe, made to the American Constitution. But, so far as I am aware, the amendments that were proposed and accepted to the Constitution of the United States of America in the first three years of its life sought to enlarge the freedoms that had been already conferred upon the citizens of the new country, of the new State, and throughout the 150 years of its life, I believe, not more than a dozen amendments have been carried out. (An Hon. Member: No, no. Many more.) If not, at the most two dozen. For the first three years of its life, at any rate, the amendments carried out sought to enlarge the fundamental freedoms and not restrict them, as is sought to be done in this Bill.

I would like to refer to the Prime Minister's statement wherein he said that his anxiety was to give power to the future Parliament. I am afraid the power that is sought to be conferred upon the future Parliament will come in the shape of a boomerang to those who might not be in a majority in the future Parliament, but may find themselves in a minority. We must be farsighted enough to see that.

A Schedule is proposed to be added as the Ninth Schedule to the Constitution, which lists about eleven Acts in all, not brought before Parliament so far, which as my hon. friend Pandit Bhargava said, will legalise all these Acts that have been passed in spite of any judicial pronouncements thereon. Late last evening I got a telegram from Bombay, (not from the Bombay City but from Kumta in Bombay) saying that one of the Acts listed here (the Bombay Tenancy and Agricultural Lands Act, 1948) is already before the Bombay High Court and, therefore, to discuss its validity in Parliament at this stage, when the High Court of Bombay is seized of the matter, will be highly irregular, if not improper and unconstitutional. As

my hon. friend Pandit Bhargava has already remarked, now that this matter is before the High Court we have no right to consider it; yet it is sought to list them in the Schedule and get them legalised and validated.

Next, I would very much welcome the suggestion made by Pandit Bhargava that as was done in the case of the other provisos to article 19, the word "reasonable" may be pre-fixed to the word "restrictions". It has been done in the case of all the provisos to article 19. This is the only proviso left out and now that that is being amended, it is wise on our part to say that we impose only reasonable restrictions that will reconcile the liberty of the individual with the security of the State.

As regards the proposed amendment to article 15, it is rather inconsistent with article 29 of the Constitution. Article 29 (2) of the Constitution, which is not sought to be amended says:

"No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them".

I wonder how the ingenuity of Dr. Ambedkar and other legal advisers to Government will reconcile the proposed amendment to article 15 with clause (2) of article 29 as it still stands in the Constitution.

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The amended article 15 (3) will read as follows:

"Nothing in this article shall prevent the State from making any special provision for women and children or for the educational, economic or social advancement of any backward class of citizens".

The background to this amendment is very well known. I need not go into the history of the Communal G.O. (the Government Order) issued by the Madras Government and later held *ultra vires* and invalid by the Supreme Court. To obviate any difficulties arising out of the Supreme Court's judgment this amendment has been brought before the House. But I submit that so long as article 29(2) stands as it is, this amendment will be wholly inconsistent with that article, and I do not know what will happen to it in the Supreme Court if it were to go before the Supreme Court again. Two fundamentally inconsistent articles will be incorporated in the Constitution and it

will militate against the consistency of the whole provision as it is sought to be brought before the House in this amendment to article 15.

I was saying that the assumptions on which this Bill is based are incorrect. Because, the Statement of Objects and Reasons makes certain sweeping remarks, there are certain unfounded remarks for which no evidence or proof has been adduced by the Prime Minister. The proposed amendment, in clause 13 of the Bill, to article 376 which entitles foreigners to sit as Judges—either as puisne Judges or as Chief Justice—in our High Courts and Supreme Court militates against the spirit of the struggle which we have waged all these many years. It is well known to the House that Indianisation was a slogan raised as far back as 1920, or soon after that, and steps were taken almost every year to see that the services—administrative, judicial and other—were Indianised gradually, and quickly too. It was expected that with the advent of freedom, so far as these key services were concerned they would not be left in the hands of foreigners. When the Constitution was being discussed in the Constituent Assembly this question was raised and Dr. Ambedkar made it clear that so far as the qualifications for Judges were concerned one of the essential qualifications should be that he should be a citizen of India, an Indian citizen. It was very gladly accepted by the House. Now, so soon after the Constitution has been promulgated, we are by this amendment seeking to appoint foreigners in our High Courts and Supreme Court. Is that not, I ask, an indirect reflection upon the Indian Judges who have discharged their duty so wisely and so well? Will they not resent it as an aspersion cast upon them—that they have been in a way found wanting and therefore it is sought to appoint foreigners as their colleagues or their chief in our High Courts and in the Supreme Court? I am sure you too, Madam, who have practised before the High Court and the Supreme Court will agree that our Judges are not behind anyone else, and perhaps even superior to many foreign Judges, in the discharge of their duty. What then is the reason I ask, that this amendment is brought forward seeking to appoint Judges who are foreigners in our High Courts and in the Supreme Court? Is it because Government feel that they will be more pliable? Do they think that that foreigner who has come here on a very fat salary, just because he could not get a better job and therefore comes here, will be more pliable so far as the Government is concerned,

and more accommodating to the Government? If that is so I must repudiate any such attempt against our Indian Judges.

Shri Venkataraman (Madras): May I point out to the hon. Member that this is a transitory provision intended to cover only those non-national Judges who are now in service and is not intended to enable the appointment of foreigners hereafter?

Mr. Chairman: I think the hon. Member is making the point that he has no objection to their continuing but to their elevation as Chief Justice. Perhaps that is his point.

Shri Kamath: That is right. I hope, Madam, in view of the light that you have shed upon this point raised by my friend Mr. Venkataraman, that this matter will rest there and will not be controverted in the House, and that our Government and Parliament will see to it that there is no permanent right conferred upon foreigners to sit in our High Courts or in the Supreme Court, in the highest judicial tribunals of the land.

There is another amendment, to article 372.

Mr. Chairman: Was this question discussed when the Constitution was under consideration—this question of nationality?

Shri Kamath: I believe so. I do not recall every debate that took place then, but I believe it was. But anyway I leave it to Dr. Ambedkar who was the architect and chief pilot of the Constitution.

Now, article 372 (3) refers to the power conferred upon the President during the transitional period. It says:

“Nothing in clause (2) shall be deemed to empower the President to make any adaptation or modification of any law after the expiration of two years from the commencement of this Constitution.”

It is now sought to be amended from two to three years. This will again provoke doubt and suspicion in the mind of the people as regards the vital matter before the nation, that is to say the General Elections, that the nation is expecting would be held in November or December. If the elections are to be held in November and December then by February or March we will have a new Parliament and a new President, that is in 1952. Therefore, unless the Government has

[Shri Kamath]

already decided or is thinking of postponing the elections by a year or six months. I see no reason why an amendment of this nature should be brought forward today. Dr. Ambedkar knows the mind of the Government and he might tell us, honestly and straightly, whether the elections are definitely intended to be held in November or December or whether he has still got doubts if it will be feasible to hold the elections in November or December or whether Government are thinking of postponing them by three or six months.

Government have already armed themselves with extraordinary powers under the Preventive Detention Act, and in this amendment again they have sought to include those very matters like foreign affairs and public order as under the Preventive Detention Act. I make bold to say that in no country in the world except those governed by totalitarian or dictatorial regimes is there such a power arrogated to itself by Government, powers of detention along with such wide sweeping powers under the Constitution apart from the power to detain indefinitely. To my mind, therefore, it makes it repugnant to the spirit of the Constitution which only 15 months ago we enacted and as the Preamble says: It is not we members of the Assembly who adopted it, but we the people of India adopted this Constitution as stated in the Preamble. I do not know whether the people did actually adopt the Constitution, whether meetings were held in every town and city to adopt this Constitution. I recollect that some of our Members here in the House refused to sign the Constitution but that is a different matter. But if the spirit of the Preamble is to be maintained, namely that "We the people of India, having solemnly resolved . . . we do hereby adopt, enact and give to ourselves this Constitution". If you intend seriously and earnestly to promote, to maintain the spirit of the Preamble, then I for one feel that the amendment of the Constitution, vital as it is—nobody will deny that it is not—this amendment must go to the people and the people must be given time (*hear, hear*), one month, two months or three months to pronounce their views. The Prime Minister made it clear and said: We do not want to have the power to ourselves. We want to give it to future Parliaments. If it is intended for the future Parliament which will come into being in January or later, then there is no reason why it cannot go to the people at all. In the Constitution of Eire and in that of some

other countries also any amendment of the Constitution must be before the public for six months before the legislature or the Parliament of that country can consider it. That is a very healthy provision and it was unfortunate that we could not provide for it in our Constitution so far as amendment of the Constitution is concerned, but even now it is not too late. If the Prime Minister is taken at his word, or if he meant what he said, then the way is clear. If the Prime Minister said and meant what he said, that it is for the future Parliament to enact a law, that we do not want to arrogate or confer upon ourselves this power, then it is easy to postpone this further consideration of the Bill till the next session of Parliament at least, if not to the next Parliament. It can be done and in the meantime it can be circulated, for eliciting public opinion thereon. If that too is not acceptable to Government and to Parliament, I would earnestly implore Government and Parliament to accept this very simple amendment of mine, giving a fortnight more to the Select Committee. After all we are not dispersing till I believe the 10th of June. The delimitation orders of some of the States are yet to come and the Speaker ruled yesterday that 20 days will and must elapse before the motion for consideration is made. Members will get 20 days time if they want to submit amendments. I do not know when the delimitation orders will be placed before the House, perhaps tomorrow or on Monday. Anyway it will not be before tomorrow and that is 18th and from the 19th it will take us up to the 8th or 9th of June and my amendment seeks to give more time to the Select Committee so as to enable them to summon witnesses from various political parties, organizations, associations, bar councils and examine them, in the absence of circulating this Bill for eliciting public opinion thereon.

The Prime Minister in the course of his speech yesterday referred to the valiant efforts that are being made by Vinobha Bhave to set matters right and to curb or arrest the Communist menace in some parts of Telengana, in Hyderabad. He commended those methods to the House. He said ultimately that armed force will be of no avail. He said that the methods that must be adopted for the solution of problems must be different ultimately from the use of coercion or armed force. If that be so, I for one think that nothing has happened during the last 15 or 16 months during which the Constitution has been in force which warrants an amending Bill of this nature. There have been no upheavals in the country which

call for an amendment of this nature. In substance it is almost as if we are suspending some of the Fundamental Rights which under the Constitution can be done only in the case of an emergency under article 352 of the Constitution. If that be so, it will be honest for the Government to tell the House that there is an emergency in the country because an emergency under the Constitution can be proclaimed, not merely when there is war or internal aggression, but also when there is internal disturbance. When the Prime Minister spoke yesterday, he was torn between several thought currents. At one place he appeared reluctant to introduce this amending Bill, while at another stage it looked as if he wanted this measure because the circumstances and conditions of the country demanded it. It would be more honest for the Government to say that there is so much internal disturbance in the country that an emergency must be proclaimed. Then all the consequences of that proclamation will follow. Otherwise, we will lay ourselves open to the universal objection and protest in the country that this amending Bill, coming as it does on the eve of General Elections, is being rushed and hustled in this House merely with a view to make the elections smooth for the party in power. That impression, I am sure, every one in the House wishes to avoid. Nothing will be more unfortunate than if that impression gains ground in the country. Especially in view of the Prime Minister's statement that we do not want this power, but it is for future Parliaments, the only reason that the people would attribute to this measure, in the light of the Prime Minister's speech yesterday, would be that these powers are being sought for a definite and particular end, and that is, for the General Elections which are not very far off. That impression, we must avoid, and the least that should be done is to take as many people as possible, representatives of organisations and individuals into our confidence, summon them before the Select Committee and listen to what they have got to say.

Before I sit down, I will say this that the conditions in the country today are such that what is needed is not a Bill to amend the Constitution, but very resolute and definite measures to amend the policy of Government in respect of food, clothing and shelter. I have been talking about this on various occasions. Unfortunately, these fundamental, vital necessities of life have not been provided to all the teeming millions in our country. I know a large majority

of the population have got enough to live on. But, it will not be far from the truth to say that about 100 million people in our country live on perhaps not even one full meal a day. It may be a legacy of the past. But, the policy adopted by Government during the last three or four years has not advanced us very far towards the implementation of the promises that were made to the people. The Prime Minister waxed eloquent yesterday upon the commitments that we had made to the people in the past as regards the abolition of *zamindari*. I wholeheartedly support him in the implementation of that promise given to the people. But, has he forgotten the other promises made to the people of a better and more abundant life, of a fuller life? What have the Government done to see that food is not hoarded, to see that the offenders are brought to book and drastic punishment is meted out to them, and not to pursue the mirage, will-o'-the-wisp of self sufficiency, which however they have already abandoned. As regards clothing, the short-sighted policy of the export of yarn has created so much trouble in the country. Today, I got a telegram from Madras that weavers who wanted yarn were lathi charged in Saidapet, a few of them killed and many wounded. I do not know how far it is true; I am only reading from a telegram. . . .

Shri Kesava Rao (Madras): No, your information is wrong.

Shri Galib (Madras): That is wrong.

Shri Kamath: I do not vouch for its truth; I said I have received a telegram to that effect. It appears the hon. Minister of Commerce and Industry instead of giving yarn to the people has been giving so many yarns to Members of Parliament. As regards shelter, the promise given even to the displaced persons in Delhi, that within a few months of August, 1947, they would get roofed shelter, still remains to be implemented. A crore has been wasted on a foolish project, the Pre-fab., and that factory in Jangpura stands as a monument to the folly of the Government and a lesson for the coming generation and the next Parliament. I hope they will not indulge in such stupidity. I was saying that instead of amending the Constitution, what is needed is the amending and implementation of the policy of Government in regard to vital matters, food, clothing and shelter I repeat, if that is done, there will be no need for amending the Constitution. If that is done, the troublesome elements, the anti-social elements and the trouble makers in the country will be silenced, the people will be

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contented, and there will be no disorder or upheaval as has been feared by the Government and the Prime Minister. The other day, there was trouble in Cooch-Bihar. Dr. Mookerjee referred to. . . .

Mr. Chairman: Is it the suggestion of the hon. Member that the Government has done nothing to meet the situation?

Shri Kamath: I did not say so. I only said that one-third of our population is not getting even one full meal a day. In the capital, under the very nose of the Government. . . .

Pandit Krishna Chandra Sharma (Uttar Pradesh): All this is hardly relevant to the question at issue.

Shri Kamath: That, the Chair will decide, and not you.

Pandit Krishna Chandra Sharma: I am only pointing it out to the Chair.

Shri Kamath: I will only say this that Government will think twice before rushing this Bill in this House and in the Select Committee and will see their way to accepting this very simple amendment of mine changing the date to the 4th of June, giving a fortnight more to the Committee, lest it should be dubbed by the people of this country. . . .

Shri Husain Imam: And the world.

Shri Kamath: . . . and the world as sheer midsummer madness.

Shri Syamnandan Sahaya: It is tragic, I say indeed tragic, that we should be called upon so soon after giving ourselves the Constitution to amend it.

Mr. Chairman: I wish that the hon. Members instead of making complaints against the Chair, would appeal to their colleagues, other hon. Members to make short speeches and give them also time to speak.

Shri Syamnandan Sahaya: The first impression that I got when I read the proposed amendments was that our Constitution is really being reduced to the position of an ordinary legislation. **A Constitution, is not meant for one Government or the other. It is meant to cover the needs of the country as a whole; it is meant to foresee even the future up to a point and lay down such rules that may be suitable for the country at large for some time to come. Even the best admirers of this Constitution when it was framed did not claim infallibility for it and did not say that it was the last word.**

But, even its worst critics did not apprehend or anticipate that the sponsors would be coming up so soon to amend it. I am reminded in this connection of a suggestion by some Members in the Constituent Assembly that we should in the Constitution itself lay down that no amendment will be made for a certain period. That suggestion, of course, did not find favour with the Members of the Constituent Assembly. But, one does feel now that there was some point in it and that if we had made some provision at least for eliciting public opinion upon amendments, we should not today be faced with an amendment which, on all accounts, is being rushed through. An important Bill which we were considering has been postponed. This Bill is being referred to a Select Committee with the direction to report to the House within a few days. The powers sought in the Bill for Parliament are not, it is said, for using presently, but just to enable Parliament to pass certain legislation if needed. But, I submit that the attempt to rush through this measure is not the proper attitude which we should adopt, in any case, that this House should adopt. Perhaps, Government may feel the necessity for it; but this House has to consider it ultimately and we think we should not at least create this precedent of amending the Constitution in such a way. At present, we are not only responsible for passing legislations and the present Government is responsible not only for the governance of the country, but it devolves upon us as Members of this House to create good conventions and good precedents. And might I not ask my hon. friends here to consider whether we are in this way really laying down good precedents for amending the Constitution? It is another matter whether the amendment that we are effecting is useful or not. But certainly we are not laying down healthy conventions for taking up amendments to the Constitution. It devolves upon this House being the first to take up amendments, to lay down such procedure as may be followed by posterity in the matter of amending the Constitution and maintaining its sanctity and solemnity which it fully deserves.

Even now in the short time that this matter has been before the country, have we tried to find out what has been the reaction of the public to this measure? Public opinion, I was told in State Assembly at one time was what the Government themselves thought. But I do not think we should take public opinion so lightly. In the absence of opportunities to the general public to express an opinion, we are

to be guided by what opinions have been expressed in the press. I have tried, in the course of these few days, to go through newspapers and I find that almost all of them are against having this amendment and at least against their being rushed through in this manner. Newspapers occupying very high positions in the country, like the *Hindu* of Madras for instance, wrote a very big article on this question a couple of days ago in which it had shown how unnecessary the present amending provisions were. Men of the position of Dr. Jayakar have spoken against these amendments. Different bar associations of different High Courts have assembled in meetings and passed resolutions against these amendments. I saw reports of one passed at the Allahabad High Court Bar and another at the Patna High Court Bar. And above all, Madam, the Bar which you represent, the Supreme Court Bar Association here under the presidency of the Attorney-General Mr. Setalwad also passed a resolution saying that these amendments were unnecessary and not called for.

Shri R. Velayudhan (Travancore-Cochin): What did they say?

Shri Syamnandan Sahaya: I do not have the copy of it with me, but what I say is correct, as I have got the copy of the resolution at my place and I have read it carefully. And the Supreme Court is just next door and any hon. Member can verify.

Shri Rudrappa (Mysore): Is it because it will reduce litigation?

Shri Syamnandan Sahaya: That is for the hon. Member to ask the Bar Association.

Mr. Chairman: That suggestion is not correct. Even before the Constitution was passed, these Bar Associations were in existence.

Shri Sidhva: Did the hon. Member Shri Sahaya say that the resolution was passed by the Supreme Court Bar Association?

Shri Syamnandan Sahaya: Yes. My hon. friend Shri Sidhva is getting old and does not hear or listen to what is said here. In the absence of any public opinion being elicited, what is the opinion that is available to this House. As I said, the opinions expressed in the press, the opinions expressed by the intelligentsia, the men who are important people among the middle classes, the lawyers, the bar associations and as I said, the last meeting of the Supreme Court Bar Association itself presided over by no

less a person than the Attorney-General opposed the amendments.

Shri Sidhva: Why do you give importance to the bar associations? They want more cases.

Shri Syamnandan Sahaya: I do so because they have been our saviours in many cases and almost always produced front rank leaders of public opinion. I submit therefore that from the opinions that we have got from outside this House and even from the opinions that have been expressed by Members here, it is clear that the matter deserves more careful consideration than it has received so far and I wish to submit that it makes out a very good ground for circulation of the Bill for eliciting public opinion. The information conveyed to this House by the hon. Prime Minister yesterday—portions or extracts thereof were read out by Mr. Kamath here—gives one the impression that there is no immediate hurry about this. The hon. Prime Minister also said that there was likelihood of another session of the Parliament being held before the elections. So there is ample time for circulation and also for bringing it back to the House and passing it. The House must therefore consider this matter very carefully, weigh the precedent they are setting up, weigh the procedure they want to adopt and in any case nothing should be done in a hustling manner.

If you read the Objects and Reasons attached to this Bill, you will find that one of the reasons for the amendments is supposed to be judicial pronouncements. I have no doubt all of us assembled in this House and many outside, will admit that it is the judiciary that is the strongest bulwark of democracy. It is they who are the best custodians of the liberties of the people, and that the business of the judiciary is not merely to decide matters between one citizen of the State and another citizen of the State but their business also is and very much more important is, that they are to decide matters even between a State and the citizen. That being so, I submit, the mere fact of a judicial pronouncement should not hustle us into amending the Constitution: It is the needs of the case that is most important and I submit that no case was made out in the Objects and Reasons or even in the speech delivered by hon. Prime Minister introducing this measure which would justify that the amendments sought for are really required. I repeat that no case has been made out for the amendment of any of the provisions which have been laid down in the amending Bill.

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If you take up the amendments, one gets lost and begins thinking if the matter has really received serious consideration. The first amendment regarding article 15 leaves us in serious doubts. In the first place, the amendment seeks to introduce a new phrase 'backward class'. I do not know if the phrase 'backward class' has been defined anywhere, and if it has not been, it will create a position extremely difficult to fulfil the objectives which the present Government and the Congress had for a long time. We have already made provisions in the Constitution with regard to Scheduled Castes and Scheduled Tribes. Now we propose to make this change with regard to backward classes.

Dr. Deshmukh: There is provision for backward classes also in the Constitution.

Shri Syamnandan Sahaya: In the Directives.

Mr. Chairman: The provision enables the Government to appoint a committee.

Shri Syamnandan Sahaya: If there is already a provision in the Constitution, then what is the amendment for. I suppose it is only there to meet the requirements of a certain Provincial Government.

Dr. Deshmukh: The purpose is not being fulfilled.

Shri Syamnandan Sahaya: That is what some people may think and there are others again who think that the provision in the Constitution is sufficient. If you read the clause to which the amendment is proposed. . . .

Mr. Chairman: The Prime Minister made it clear yesterday in his speech that what is added to article 15(3) is only to give effect to what is laid down in the Directive Principles and also the provision enabling the President to appoint a committee. He further clarified the position by saying that it was to enable the backward classes to make progress and not to allow any other communal point of view to enter into it.

Shri Syamnandan Sahaya: The term backward classes has first to be defined. The President has the power to appoint a commission. If the President had already appointed the commission and if the commission had reported and if as a result of that report we found that these backward classes were not included in the Scheduled Castes or Scheduled Tribes and their number was so large as to neces-

sitate such a provision then we might have agreed to amend the Constitution. At present we are not aware of what is meant by backward classes. When we talk in terms of backward classes we know that it generally refers to Scheduled Castes and Tribes. By calling a new set of people as backward classes you want to bring in new communities by the backdoor.

Some Hon. Members: No, no.

Shri Syamnandan Sahaya: I am entitled to my opinion and you are entitled to yours. I do not know what particular conditions obtain in different parts of the country but I do not see that there is any special case.

Shri Rudrappa: We want an explanation from the hon. Member as to what is meant by backdoor.

Shri Kesava Rao: For the information of the hon. Member

Mr. Chairman: Is he giving information or does he want information?

Shri Kesava Rao: The hon. Member said that there was no definition of backward classes. The President has already notified the backward classes.

An Hon. Member: A Commission is going to be appointed.

Shri Syamnandan Sahaya: I do not follow what the hon. Member has said. As far as I know it is not defined anywhere. An amendment is proposed to be made in clause 15(3) which reads:

"Nothing in this article shall prevent the State from making any special provision for women and children".

To that it is proposed to add "or for the educational, economic or social advancement of any backward class of citizens". When the clause is thus amended we are faced also with another provision in article 29(2) which lays down:

"No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them".

On the top of these there is the directive policy about it in article 46.

Article 46 lays down:

"The State shall promote with special care the educational and economic interests of the weaker

sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation”.

I would ask the House through you to consider what anomalies and complicated situation this amendment will create. We say now in this amendment that we shall make special arrangements for the educational, economic and social advancement of what are called “backward classes”. At another place we say in clause (2) that we shall not discriminate with regard to admissions to colleges on the ground of caste, religion, etc. etc. Then we have also a directive in article 46 that where necessary Government will take special steps to see that the weaker sections are encouraged to improve. Then again, as Dr. Deshmukh said, the President has got the power to appoint a commission to look into the question of backward classes. In view of all this, where is the justification for this amendment? Let us first of all know what are the requirements, and of which section in the country, before we are asked to amend the Constitution. I submit this amendment is more with a view to meet a certain judgment which has been passed by the Supreme Court with regard to admission to colleges. But if that is the purpose of this amendment, then I submit that it does not cure the trouble; as long as article 29(2) is there there can be no discrimination in the matter of admission of students to colleges aided by Government or entirely financed by them.

Dr. Deshmukh: Suggest an amendment of that.

Shri Syamnandan Sahaya: That is quite a different matter, but so long as that article 29(2) is there this amendment would make confusion worse confounded and that is why I have been trying to tell the House not to accept it.

Coming to article 19, I have nothing to add to what has been already said. But I would draw the attention of the House to one thing, that is to what happened in the Constituent Assembly itself. If the House is satisfied that the question of introducing the words “public order” in this clause was raised in the Constituent Assembly and that the consensus of opinion being against it was dropped, I think it would not be proper for this House to introduce so soon those words again into the same clause. Surely nothing has happened within

the last fifteen months to warrant the introduction of these words which, after careful consideration, we rejected about fifteen months ago. Surely, it cannot be claimed that we have grown suddenly very wise and feel that the introduction of these words is now necessary! I submit that this matter was raised by Mr. Krishnamachari in his speech which is reported on page 394, Vol. X. No. 10, of the Constituent Assembly Debates.

Mr. Chairman: That was already referred to.

Shri Syamnandan Sahaya: That was already referred to and I shall not read it. He said they—the members of the Constituent Assembly—objected to the words “public order” being included, and the matter was ultimately dropped. Therefore, it is not as though it had not been considered at the Constituent Assembly stage, and when it was considered at that stage this House will not be justified in re-introducing those words.

The second point which has also been referred to in the different speeches so far is that the restrictions that are proposed to be imposed are “restrictions” of all kinds and not “reasonable restrictions” as in the case of clauses (3), (4), (5) and (6) of this very article 19 where the restrictions to be imposed are to be “reasonable restrictions”. The word used in the amending Bill is “restrictions” only. Either the word “reasonable” is an inadvertent omission or it is not. If it is a conscious one the House should not give its assent to all kinds of reasonable and unreasonable restrictions being placed on freedom of speech and expression.

Now I want to come to article 31. Reading the article I was reminded of the fear expressed by Dr. Ambedkar in his concluding speech in the Constituent Assembly. He then said that he apprehended that our democracy may not tend to become totalitarian. I have never claimed to know very much about constitutional laws. I tried to read some of them when I was in the Constituent Assembly. But I, like everyone else, have a general impression about what a constitutional law should be and when I read new articles 31A and 31B, I could not reconcile how these provisions could form part of any constitutional law. We are validating laws which, as several speakers previous to me have said, may be infringing not only the compensation clause, but which may be infringing other vital fundamental rights which have been guaranteed under the Constitution, and

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by a stroke of pen we are going to decide that these Acts should become valid laws.

I was also for long a member of the Provincial Assembly. Latterly I found that there had grown a fashion of passing laws prefaced by the words "notwithstanding anything contained in any law, for the time being in force, or in any rules or in any circulars, etc., etc.". I find that tendency here also, and particularly in the matter of Constitution we are adopting that formula. Whatever may have happened, whatever judgments might have been passed, whatever decrees might have been passed, whatever executions under those decrees might have taken place, when this amendment comes into force, everything is restored to the *status quo ante*. That, I submit is a very wrong way of amending a constitution. It is a wrong thing even for ordinary legislation, but I submit that this is very wrong for amending a constitution. If the members of the Central Government, particularly those interested in this amendment, would have cared to read the judgment of the Patna High Court in the matter of the Bihar Land Reforms Act, I have no doubt in my mind that they would have been convinced that the saving which was introduced in article 31 by incorporation of sub-clause (4) was completely effective. It did serve its purpose. The Judges have held that in the matter of compensation, they cannot go into, in view of sub-clause (4). They have held that the Act was *ultra vires* on other grounds.

I will just cite an example. There are different scales laid down for what is termed as benefits to tenants. Now I am a landlord in the same village as my hon. friend to my right who is also a landlord in the same village. If his total income is Rs. 50,000 he has to pay ten per cent. of his income, or whatever it may be for the benefit of tenants. But if my income is Rs. 5,000, I will pay only 2½ per cent. for the benefit of the tenants, with the result that some of the tenants of the same village benefit by a larger amount whereas other tenants will benefit only to the extent of 2½ per cent. The Judges held that this type of distinction was unfair and undesirable.

Now again the hon. the Prime Minister in his speech, when introducing amendments to the then article 24 (now 31) said most emphatically, which he also repeated in this House yesterday, that it was not a measure of expropriation, that compensation

and adequate and fair compensation for acquisition of *zamindaris* shall be paid. I shall not read the extracts—it is known to everybody and I hope it will be accepted as the correct position. Then when the report of the Fundamental Rights Committee was placed before the House there was a general discussion in which it was expressed and in the report itself it was laid down that in the matter of acquisition of property compensation shall be paid. It has now been a kind of fashion, as they say, to give a dog a bad name and hang him. They say "Well, the *zamindars* have fought, they have entered into litigation, therefore we shall pass such a law that there shall be no litigation". That is not the right attitude to take either for the House or for the Government. The *zamindars*, as far back as 1937, in Bihar conceded all the rights that were demanded of them and a Congress-*zamindar* agreement was entered into and the agreement published under the signatures of Dr. Rajendra Prasad and Maulana Azad—this was the year in which the first Congress Government came into power. Since then many a legislation granting special concessions and privileges to tenants have been passed in the Legislative Assembly of Bihar, and with the consent and concurrence of the *zamindars* who were represented in the Assembly. To say now that they have...

Dr. Deshmukh: You have enjoyed it too long!

Shri Syamnandan Sahaya: That is another matter. Some people say you have been sitting in the House too long and get away therefore unceremoniously.

Under the present system and under the present rules of paying compensation as laid down in the Bihar Act, the result is that in the case of a person like the Maharaja of Darbhanga whose income is nearly fifty lakhs. (*Interruption*). Have patience. There are many of us who after five or ten years may have that income. I wish and pray to God that that may happen soon and my country may prosper in that way. As I was saying, the Maharaja of Darbhanga has an annual income of nearly fifty lakhs of rupees. This has been reduced to three lakhs on account of different deductions, and the amount of compensation is calculated to be nine lakhs. (*Interruption*). Kindly listen to me. I am not asking you to agree with me. My whole request is that you should listen to me. That will help you to understand the problem. I was saying that this income of fifty

lakhs as a result of different deductions is reduced to three lakhs. Compensation is proposed at three times which comes to nine lakhs.

Mr. Chairman: Does the hon. Member want to plead individual cases here?

Shri Syamnandan Sahaya: That is not pleading any individual case. I am only telling you that there is no compensation under the Act. It is not a case of any individual at all. I am referring to the High Court judgment. It is all mentioned there. In the Maharaja's *zamindari* there are arrears of rent to the extent of thirty lakhs. Under the Act fifty per cent. of the arrears will be taken away by the Government without compensation. Therefore the actual position in this estate is that the whole of the estate will be acquired and Government will not have to pay anything. On the other hand six lakhs will be a saving to Government after payment of the compensation.

Mr. Chairman: I have also read the Act and the judgment. I think the other amounts are taken away for effecting improvements.

Shri Syamnandan Sahaya: I said, Madam, that after deductions for effecting improvements they come to an income of three lakhs and the Maharaja is supposed to get nine lakhs. The Government are keeping 50 per cent. of the arrears of rent, for which revenue and cess and all items of Government demand, agricultural income-tax etc. has been paid by the landlord. After realisation of all these arrears, six lakhs is kept by the Government and they pay him nine lakhs and say they have paid compensation! Is it, I ask any compensation or clean expropriation.

The other case was referred to by my friend Pandit Kunzru in which it was pointed out by him that after deductions not only is there no balance left over which compensation is to be paid but there is a liability of twenty thousand over which perhaps the landlord may be asked to pay something in order that his estate may be acquired. These are matters which require serious consideration. Several Members who have spoken have said that the land system is out-moded and one friend even said "You have enjoyed it too long". What the landlords would like to know whether you stick to what you have already decided namely to pay compensation. If you have decided to pay compensation pay it. If not, have the courage to come

and say that you will pay no compensation for property. Why not come up to Parliament and pass an amending Bill that acquisition of private property will not be paid for? That will be an understandable proposition.

1 P.M.

Shri Hussain Imam: All property, including banks.

Shri Syamnandan Sahaya: Analysing the whole matter. . . .

Mr. Chairman: The hon. Member may continue in the afternoon.

The House then adjourned till Four of the Clock.

The House reassembled at Four of the Clock.

[MR. SPEAKER in the Chair.]

Shri Syamnandan Sahaya: I was speaking on the amendment to article 31 when the House rose. I had said that in proposing the amendment to the Constitution in the manner in which it had been done, I had the feeling that the matter has not been given the consideration that the problem deserved. This question of land reforms has been agitating the minds of the people of this country for a long time and I have no hesitation in saying also as a *zamindar* that land reforms are called for. You will however appreciate that land reforms should not be carried on in a manner which may create other and more serious complications. Perhaps it has not been appreciated as to what is the total number of people who will be affected by carrying on the reform in the manner in which it is proposed to be done. In Bihar alone there are about 13 lakhs of recorded proprietors and if you calculate at the rate of three members to a family, you will find that in Bihar alone there are about 40 lakhs of people involved in this matter. As far as I have been able to appreciate the real reason for passing these different Acts and the manner in which they have been passed is that it is not financially possible for the Government to pay the compensation that by any stretch of interpretation the *zamindars* may have to get. My grievance is that if it is so, there has been no attempt at consulting the landlords and finding out if they can themselves suggest a way out. It is not that the landlords are now enamoured of the *zamindari* system but their grievance is that they have not been taken into confidence and that no opportunity has been given to them to suggest what is the method which would suit

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them and which would also be within the financial capacity of the Governments to undertake this land reform. If we have gone to the civil courts, it is in pursuance of the Constitution which we have framed. The *zamindars* so far have taken to no unconstitutional methods for the remedy of their grievances. It was perfectly open to them to go to courts and even if they have gone to courts, the result as I said, has not in any way gone against the objective of the Constitution that is in the matter of the compensation. As you know two High Courts have already held the laws *intra vires* and the Patna High Court has held it *ultra vires*, not on grounds of compensation but on other grounds. I submit that it is not difficult to approach this question in another way and to find out a solution. I had desired to place a new formula, which I have been thinking over for some time, in the discussions of this measure. Of course, the proper place for that would have been the Select Committee, but as it has not been possible to give us a chance to work on the Select Committee, I think, I will take this opportunity. . .

Shri Satya Narayan Sinha: I think you have been invited to attend the Select Committee.

Shri Syamnandan Sahaya: Very well. Then I shall probably state it there if I get an opportunity. In the meantime I say the real point in the matter of the present land reforms is the removal of the intermediary. That is possible by abolishing *zamindari* and permanent settlement but still allowing the *zamindar* to receive a certain portion of the income of that property. I think that if after deducting ten per cent. for administrative costs the balance was distributed in equal proportions between the landlord and the Government by way of revenues and other taxes that are payable by *zamindar*, and the remaining 30 per cent. is set apart for benefit of the tenants, it should meet for the present the desire of the Government to have land reforms, because the intermediary *zamindar* will have been eliminated. The *zamindar* also cannot say that no sympathy has been shown to him or that he has been left completely without any resource. The Government will continue to get their revenues and the tenant will have the benefit of a very big sum of money available for land improvement works. If it is proposed that the *zamindar's* interest should be abolished completely, then this can be easily

done if these two items of 30 per cent. each, that is, one receivable by the Government and the other receivable for purposes of benefit to the tenants is set apart and allowed to accumulate for payment of compensation. In the course of eight or nine years the Government will thus have at their disposal a sum equal to about twenty times the share of the income that the *zamindar* is to get in this arrangement. As I have pointed out the 60 per cent. will be allowed to accumulate and in eight or nine years' time the Government will be in a position to pay almost 20 times of the *zamindar's* share of the income, that is, 30 per cent. which he will be receiving within this period of eight or nine years and this does not involve any long delay either. The Government will get complete control even before the acquisition of the share of the landlord by this arrangement. In the meantime the landlord will be getting his 30 per cent. and thus we will be preventing a large section of the population of this country from becoming indigent and resourceless. I submit, that if we proceed on the lines we are proceeding now we shall be creating a vast army of unemployed people, people who had lived a particular way of life and then it may be difficult to foresee and visualise what will be the reaction of such a large mass of people.

Analysing the different amendments to the Constitution, we find that there are other difficulties also. It is proposed for example in this amending Bill that laws which might have been declared *ultra vires* by judicial pronouncements will all be validated. This again is not the correct procedure to adopt in the matter of legislation and particularly constitutional legislation. The right procedure should have been to amend the articles which are directly concerned and then to leave the appellate court to reconsider the point and then give a judgment that the particular law is *intra vires* in view of the amendments made to the law concerned. In fact, I do not think I am far wrong when I say that there is hardly one Member in the House who has read all the eleven Bills which we propose to validate under this amending Bill which is a serious responsibility that the House is taking upon itself. The best course and the course which has been followed in the past is that if a certain law has been declared as *ultra vires* on the basis of interpretation of certain sections, then that section is amended and then the matter is to be left to the appellate authority to decide that the impugned Act has become fully legalised. The proce-

ture adopted in the Constitution (Amendment) Bill, in my opinion, proceeds on a dangerous principle and the House will do well to consider carefully whether we should accept this principle of validating a whole Act or not, by means of an amending Bill.

As I said with regard to the compensation clause, we stand by every word of what the Prime Minister has said, not only in the Constituent Assembly when the article was under discussion, but also by what he said yesterday. He said, "Yes; you must be paid adequate and fair compensation, but not too much." I concede that; we only want adequate and fair compensation, and not too much. What I will plead with him and with this House is to see whether the Bihar Act gives adequate and fair compensation. I explained in the morning by exemplifying two cases where nothing will have to be paid as compensation at all, leaving aside fair or adequate compensation. I submit that this legislation concerns a vast section of the people of this country and the Government and this House would be well advised to give the matter careful consideration. You are closing all judicial avenues to a vast section of the people where they could seek their remedy. If even this House is not willing to give a patient consideration, and is not prepared to give time for the full consideration of the problems which are facing a vast number of people, then it will indeed be apparently unfair. This House may want that these matters should not go to the law courts at all. Of course this House has the power to stop that in certain circumstances and they may also have full justification for doing so—but, there could be no justification for this House itself not going into the question fully and there can be no justification for the Government which is sponsoring this Bill, for not going into the whole question in detail along with those who are affected and arriving at a solution which may be acceptable to all.

If we analyse the different provisions of this Bill, we will find,—at least I have the apprehension—that even after passing these amendments, perhaps the object which the Government has in view may not be fully met. I voiced this apprehension when clause (4) of draft article 24, now article 31, was being discussed in the Constituent Assembly. I voice that apprehension today also. Look at the very first amendment of article 15. The judgment of the Supreme Court relates to clause (2) of article 29, we leave clause (2) of article 29 as it

is, but amend article 15. I do not know how far the purpose of the Government will be fulfilled. I know it is difficult to amend clause (2) of article 29. I feel similarly in the matter of zamindari abolition. Article 14 is the article which is really concerned; but we deal with article 31. That being so, I find that ultimately these amendments may not serve the desired objective. In the meantime, they are creating a feeling which, to say the least, is not very much liked namely hustling through the amendments and trying to create a situation which in the present conditions is not warranted. I will therefore again appeal to the House that this is a matter of serious importance and the least that they could do is to secure public opinion. If they are not able to do that, the House itself should give the time necessary for going through all the Acts which are going to be validated and all other matters connected therewith for to act in haste is to repent at leisure.

Shri Deshbandhu Gupta (Delhi): I have listened with great respect and attention to the speech of the hon. Prime Minister yesterday and also to the speeches of the hon. Members who have preceded me. It is a matter of no small satisfaction to me and to the Press of India that almost all the speakers who have so far participated in this debate have expressed their disapproval of the idea of amending article 19 dealing with the freedom of the Press.

The Prime Minister, in his elucidation of the various clauses of this momentous Bill has brought an objective approach and I appreciate that. I must admit also that what he has said about the various clauses has caused considerable embarrassment to some of us who do not see eye to eye with him on certain amendments. My first embarrassment is that the Bill has taken the form of good in parts like Curate's egg. While I am one of those who believe that a certain amount of sanctity should be attached to a Constitution drawn up through the prolonged labours of some of the best brains of the country, I realise that our Republic is still very young and our Constitution has still to stand the test of time and the strain of crises. I am therefore not opposed to the idea of amending the Constitution. I concede that there may be occasions when it may be necessary in the national interests or to achieve the objects that the framers of the Constitution had in view that some slight amendments may be necessary.

Dr. Deshmukh: The same brains are changing it.

Shri Deshbandhu Gupta: But, Sir,

Shri D. D. Pant (Uttar Pradesh): The speech may be taken as read.

Mr. Speaker: Order, order.

Shri Deshbandhu Gupta: I am not reading.

But, the question is whether it is sought to be done in the larger national interests or whether it is done to make the task of the executive easier. After all, there is a certain amount of sanctity which attaches to the Constitution. And I am glad that the Prime Minister himself has recognised that fact when he said that he had not taken this decision lightly, and that he had consulted many of his colleagues, Members of this Parliament, State Governments and others before taking recourse to it.

With regard to the amendments which relate to clauses other than clause 19 I do not wish to take much time of the House. I would only say that on principle, the right thing to do would be that before this Parliament is asked to amend the Constitution, the Government should go to the highest court in the land and get its verdict on the various points that may arise from the judgments of the High Courts which may prompt Government to take recourse to the extreme step of amending the Constitution.

I wish to confine my remarks mainly to article 19. This article in my opinion stands on a different footing. It cannot be said that the amendment which is sought to be made is in the larger national interests. In spite of the very long arguments which the hon. Prime Minister has given, the House remains unconvinced, at any rate, the speakers who have preceded me remain unconvinced as to the necessity and justification for amending this article. It is a curb on the freedom of expression which implies also the freedom of the Press and which is one of the important tests whereby the freedom enjoyed by the citizens of a country is measured. The Prime Minister himself has been in the forefront of our fight for the freedom of the Press and therefore it cannot be said that he does not realise the importance of that freedom, especially for the successful working of the democratic constitution. Where men cannot freely convey their thoughts to one another, no freedom is secure. An American statesman has said:

"If people are to govern themselves, their only hope of doing so

clearly lies in the collective wisdom derived from the fullest possible information and in the fair presentation of differing opinions. And it is also necessary to permit each man to find his way to the religious and political beliefs which suit his private needs".

The hon. Prime Minister, in the course of his speech took legitimate pride in the fact that the Press in India enjoyed greater freedom than the Press in any other country today. By implication he also meant that even though our Republic is still an infant, the citizens of India are freer than the citizens of any other country. While he was keen to preserve and even permit this freedom, he explained to the House some of the difficulties of his Government. The Prime Minister pointed out that while a very large section of the Indian Press had made use of this freedom with restraint and responsibility and had contributed to the building up of healthy public opinion, a small section of the irresponsible news-sheets and periodicals had indulged in writings repugnant to the moral conscience of society. According to this statement, the problem becomes a very limited one. It is admitted that the responsible section of the Press or even any big section of the Press has not been abusing the liberty of the Press which has been guaranteed by our Constitution. The Prime Minister has posed to us in this House, and I have no doubt to leaders of the Press outside, the important question as to what Government should do, to stop the vulgar and debasing activities of the irresponsible section of the Press. I would like to point out to the Prime Minister that if freedom of expression has any meaning, it implies obviously the ability of every citizen to express himself or herself freely whether by word of mouth or through any other medium. It must necessarily follow, therefore, that some people, according to their training, ability and upbringing, will express themselves with restraint and a sense of responsibility, while there may be others who are unable to rise to appropriate standards of moral decency. The question which arises, therefore, is, whether this section of the press which, according to him, is not behaving, is exceptional to our country, or whether it is in existence in other countries also. He has drawn a comparison between the liberty enjoyed by the Press in this country and the liberty enjoyed by the Press in other democratic countries like the United States of America and the United Kingdom. I am glad that he has made a reference to that.

Now, it has already been pointed out by more than one Member that so far as the United States of America is concerned, the first amendment to their Constitution was undertaken to widen the scope of the liberty of the Press, while the United Kingdom has not got a written constitution and the question of amending the constitution could not arise. But the United Kingdom is perhaps the one country where there are very few Press laws, if any. The United Kingdom has been governed by a conservative Government for many years. There have been other political parties in power there. But no party has felt itself competent to interfere with the liberty of the Press. That is a fact which cannot be denied. Why then is it necessary for us in this country, after trying the experiment hardly for an year or so, to seek to abridge the freedom of the Press which was guaranteed by our Constitution? I have been reading the passages or writings of that section of the Press to which the Prime Minister had made reference. That is one of the duties imposed on me by the A.I.N.E.C.—and I admit I do not feel happy about them and I do keep a watch over the writings which appear in the Press from time to time and which are objectionable. But what I would like to point out is that the yellow Press exists not only in this country but much more so in other countries and in the United States of America. It was despite the existence of the yellow Press there, that in 1791, they decided to extend the scope of the liberty so far as the Constitution of the United States is concerned.

The fact is that while the responsible newspapers in India observe as great, if not greater, restraint and fair-mindedness as the responsible section of the American Press, some of the sections of the yellow Press in the United States of America have hardly a parallel even among the news-sheets to which the hon. Prime Minister has made reference. I do not have the time now to cite instances of what types of writings generally appear in the yellow Press of the United States of America. I had an occasion to be in the United States in 1947 on the eve of their elections and at that time particularly, I saw writings which I am sure, bear no comparison even with our news-sheets to which strong exception has been taken. As I have said, this particular disease, abominable though it may seem to be, is not only in India but exists also in other free countries, just as good people and bad people continue to exist in any free society. But that does not mean that we

should amend our Constitution and curb the freedom of the entire Press.

In this connection I would like to draw the attention of the House to a speech which the hon. Prime Minister himself delivered a few months back addressing the last session of the A.I.N.E.C. at which I had the honour to preside. He was referring to the existence of this disease and this was the main theme of that historic utterance of his. After referring to this irresponsible, though very small section of the Press in India, he said as follows. I would like to invite the particular attention of the hon. Prime Minister to what he said in that memorable utterance a few months ago. He said:

"I think I can say that whatever our other failings might be (he was referring to his Government), at the present moment the amount of freedom of expression that is allowed or indulged in by the Press can hardly be exceeded in any country in the world. I shall be quite frank with you (he said) much that appears because of that freedom seems to be exceedingly dangerous from many points of view. Nevertheless, I have no doubt in my mind that the freedom of the Press from the larger point of view, not as a slogan, is an essential attribute of the democratic process and that from any point of view—even the narrowest point of view, shall I say, of Government disliking these things or considering them dangerous, even from that point of view, it is bad to interfere with that freedom. Because ultimately you do not cure them. You merely suppress the public manifestation of it and that idea and that thought spreads. Therefore, (he continued) I would rather have a completely free Press with all the dangers involved in the wrong use of that freedom than a suppressed or regulated Press".

These are the words of the hon. Prime Minister which he uttered in a memorable speech only a few months back addressing the editors of all the Press of India. We are proud of our Prime Minister for having uttered these words which place him among the class of freedom-loving statesmen like Jefferson and Abraham Lincoln. Naturally, after having heard these words only a few months ago, some of us are in the embarrassing position of not knowing whether to place our faith in the author of these remarks or the sponsor of the Bill that is before us. I have no doubt that

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at the time when the Prime Minister gave this assurance and made this memorable speech, the problems that have prompted him to bring forward this Bill were very much present to his mind. And it cannot be said that the problems that have necessitated the bringing of this Bill have cropped up during the last four or five months. If that is so, the question arises as to what has happened during the last few months to justify the bringing forward of this measure which seeks to curb the freedom of the Press which was guaranteed by this article to such an extent. If the Prime Minister had pointed out some new disease or had shown some fresh reasons for bringing forward this amendment, the Press would have certainly given weighty consideration to his words but the evil to which he referred yesterday, is neither new nor unprecedented and was fairly apparent to the hon. Prime Minister when he made the historic remarks I have quoted. At the time he made his memorable speech, he himself compared the past with the present and further said:

"In the old days it was or at least it was thought to be the function of Government to stop such newspapers as the Government thought had an evil tendency".

He further remarked:

"You cannot cure that evil by trying in a governmental way to suppress it. What then are we to do?"

Dr. Deshmukh: He said the same thing here.

Shri Deshbandhu Gupta: I would like to draw the attention of the House to this passage in which he himself prescribed the remedy. He said:

"For some time the evil may grow and may become dangerous to public welfare. Well, obviously the right way is for an organization like the A.-I.N.E.C. to interest itself in it directly—not of course in the sense of punishing people—there is no question of punishing—but of forming such a strong large body of public opinion among those who are responsible for newspapers that any back-slider can be pulled up, or anyhow the public made to know that he is a back-slider and he is not acting right".

Shri Sidhva: Has that advice been carried out?

Shri Deshbandhu Gupta: I am coming to that. That exactly is my case. He further remarked:

"Anyhow it seems to me that the only right approach to it is for newspapers and the organization to tackle the problem and it is not for an external agency, even though that might be Government. They should raise their standard not again by punishment because they are not an executive branch of Government but by making it perfectly clear to their erring brethren that what they do is bad".

Now, my friend Mr. Sidhva has asked me a question whether we have tried to fulfil the expectations which were entertained by the Prime Minister. I may point out that my fellow editors in the country were only too eager to respond to this appeal and soon after this speech was made, the Standing Committee of the A.-I.N.E.C. met and passed a resolution condemning objectionable writings of a paper which from the moral standpoint were taken exception to. Not only that, the A.-I.N.E.C. went further and adopted a positive code of conduct for the Press and directed its various advisory bodies to see that these codes are adhered to by the Press. It is true that the A.-I.N.E.C. has not the power to punish lapses. It is equally true that through the process of moral persuasion lapses have become less and less and the general tone of the Press has considerably improved. Not only have the A.-I.N.E.C. adopted codes of conduct for domestic purposes alone but have also employed its good offices for creating a joint code for the guidance of newspapers in India and Pakistan with the help and co-operation of the Pakistan Editors' Conference. The Prime Minister himself paid a very high tribute in this House to the efforts of the A.-I.N.E.C. in this direction. It will therefore be seen that not only the Press of India has generally shown a high sense of responsibility and restraint but it has also cordially co-operated in all efforts to build a better standard of journalism in the country and in pulling up back-sliders in its fold. In this connection I must point out that before such a Bill was drafted, we had expected that a body like the A.-I.N.E.C. would be consulted, particularly in view of the memorable utterance to which I have referred. But although the Prime Minister assured the House that it has taken him a long time to take a decision in the matter and that he has had conferences and consultations with many people it is to be regretted that this body of the editors which is the only representative organisation was

neither consulted nor taken into confidence. Not only that. Strangely enough, I find that even on the Select Committee which has been proposed by the hon. Mover, not one Member of this House who has anything to do with the Press has been invited to serve. I do not know whether it is through inadvertence or by design.

Shri Hussain Imam: By design.

Shri Deshbandhu Gupta: I cannot say that but it does look strange that although there are more than half a dozen hon. Members of this House who are connected with the big newspapers in India, not one of them has been invited to serve on the Select Committee. I also find that persons who had a hand in the shaping of the Constitution and who took a prominent part in the debate when this clause was discussed in the Constituent Assembly—friends like Mr. T. T. Krishnamachari and Pandit Thakur Das Bhargava who also served as chairman of the non-official committee which recently went into this question—have been left out. I do not know what was the purpose behind it.

The A.-I.N.E.C. has been co-operating with the Government not only by pulling up the offending papers from time to time through its various advisory bodies but that soon after the murder of Mahatmaji, it was at the initiative of the Central Press Advisory Committee of the A.-I.N.E.C. that the Government called a high power conference and on its advice went to the extent of suppressing some newspapers whose writings were calculated to promote violence. We did not at that time falter or hesitate to take the odium of our own people. Later also when there was an exodus of refugees from East Bengal and a tense situation had been created in the country, the A.-I.N.E.C. at its own initiative called a conference of Indo-Pakistan editors in Delhi which appealed to the Press of both countries to cry halt and help to stem the tide of hatred which was fast developing into an inter-dominion crisis. Members of this organisation went to Dacca and then to Calcutta to study the situation on spot and bring moral pressure on Bengal papers to act with restraint. This has been recognised by the Government. Again the predecessor of the present Home Minister, late Sardar Patel, more than once recognised in this House that the Central Press Advisory Committee set up by the A.-I.N.E.C. has generally concurred with the executive in the action taken against certain offending papers when occasion arose. In the light of all this I ask, is it fair to the Press of India

to spring a surprise by bringing forward an amending Bill of this kind which seeks to abridge the freedom of expression guaranteed by the Constitution?

The history of Press laws in India is as old as the Press itself. During the last 150 years the Press in India has been fighting for the removal or repeal of the various laws which sought to restrain the freedom of the Press. A relentless war has been fought and the contribution of the Prime Minister himself to that has by no means been small. We were therefore hoping that at least after the country had attained freedom we would have a free Press.

When this question came up before the Constituent Assembly I and my colleagues who belong to the Press fought hard that there should be a specific clause guaranteeing the freedom of the Press just as there is in the Constitution of the U.S.A. But we could not persuade the framers of the Constitution at that time to make such an express provision. But they made it clear that the freedom of expression included the freedom of the Press also. You can therefore imagine the extent of our disappointment today when we find that such a Bill which seeks to curb that freedom has been brought forward in a lighthearted manner. My own feeling is that there is no occasion or justification for such a measure. The malady is not so severe and of such magnitude as to call for an amendment of the Constitution. Today we can raise our head with pride and say that our country, which had the unhappy distinction in the past of having the largest number of repressive Press laws on its statute, according to the Prime Minister himself, has guaranteed complete freedom to its Press. Let this distinction be maintained. The Prime Minister has tried to make out a case for the amendment of the Constitution by saying that all that we are doing is that we are clothing this House with certain powers. He went to the extent of saying:

“This is not going to make any difference. . . . The particular amendment is not, let me remind this House, a law curbing or restraining anybody. These amendments are enabling measures, merely clarifying the power of Parliament, which might be challenged or has been challenged in regard to some matters. Things remain, so far as the law is concerned, exactly as they were, so long as this Parliament or a future Parliament does not take some action after deliberate thought”.

[Shri Deshbandhu Gupta]

I would like to join issue with the Prime Minister on this. I would ask him whether the effect of this amendment will not be that all the repressive Press laws which exist today will be revived? After all even today the Press (Emergency Powers) Act, Public Safety Acts and so many other repressive laws which had been in existence in the days of the foreign rulers are there. They are still on the statute book of the land. The law of sedition is there. Section 153A is there and the all-powerful section 144, which has been abused day in and day out is also there. I want to know, whether after enlarging the scope of clause (2) of article 19, all these laws will be revived or not without there being the necessity of bringing them before the House or any State legislature. He wants us to trust the Government, but let me point out to him what is happening even today. The House probably is not aware of it. Only the other day I received a complaint from the Ajmer Press Advisory Committee. I referred that complaint to the hon. Home Minister also.

[SHRIMATI DURGABAI *in the Chair*]

The complaint was you will be surprised to learn that the district magistrate of Ajmer, which is a Centrally-administered area, recently issued an order under the Punjab Public Safety Act calling upon a daily paper published in Sindhi to submit, on the previous day by noon an English translation of all matters relating to law and order, whether they were items of news or editorial and also matters referring to displaced persons. It is a daily paper and this district magistrate in Ajmer sought to impose these conditions on a daily paper requiring it to submit on the previous day for censorship all matter which is to appear the next day, duly translated into English. This is what is happening today when the freedom of expression and speech is guaranteed by the Constitution and the Prime Minister wants us to believe that there is not going to be any curtailment of the rights of the Press after this amendment. In the light of this may I know what guarantee is there that all these laws will not be resorted to after they have been revived?

In another place the Prime Minister has said, "I do not believe that morality is improved by coercionary processes, whether in the individual or in the group". The Prime Minister wants us to have faith in Parliament. I appeal to him most humbly that instead of asking the Members of this

House or the members of the Press to have faith in Parliament, let him have faith in the good sense of the people whom he represents, in the good sense of the Press which has stood by the country and which has fought the battle of freedom so valiantly during all these years. I am sorry to say that this Bill, so far as the amendment of this particular clause is concerned, betrays a lack of faith on his part in the good sense of the people. It also betrays, I am sorry to say, a sense of fear and fright. He is perhaps the boldest man in the country and, if I may say so, the one thing which the Father of the Nation hated most was fear and fright; in choosing him to be his heir perhaps the Father of the Nation was attracted by this one great virtue which he shared so abundantly with him. He, the Prime Minister, has led so many struggles, he has fought so valiantly for the freedom of the nation, he has inspired people, young and old, women and children, to sacrifice their all even their lives in the cause of the freedom of the country. I want to know: why is he losing faith in his people today? Why is he taking fright and listening to the counsels of despair that may have been given to him? It really does not go well with him. I would like to appeal to him not to give way to despair. I would recall his own words and say that the remedy lies not in coercion. It lies in utilising the agencies which can have moral pressure, the remedy lies in appealing to the good sense of the people and making them feel that it is their patriotic duty not to make the task of the Government difficult. Today I have no doubt that if he appeals to the Press, even that section which has not been behaving would listen to him. Have they not improved since he made his last statement in this House? Did not the A-I.N.E.C. call a special meeting of the Standing Committee and appeal to that section of the Press and condemn its objectionable writings? Has there not been a definite improvement in their tone?

I do not propose to take any more time of the House. But I would like to appeal to the Prime Minister once again and say: Let not our Constitution, which guarantees today the important fundamental right of the freedom of speech and expression, be sullied by this amendment. Let it enjoy this distinction which it enjoys today. Let us not be frightened into action of the type that he proposes to take. If he feels, and as the burden of his speech is, that there is no immediate fear of this House passing any repressive legislation after passing:

this amendment to the Constitution, and the Press will continue to enjoy the same freedom as it does today, if that is so where is the hurry for passing this amendment? If he cannot give it up altogether, I suggest, let him delete this amendment from the present Bill and bring forward a separate Bill if necessary, circulate it for eliciting public opinion, and when the House meets again in August it can consider it. My friend, Mr. Syamandan Sahaya has rightly pointed out that although no opportunity was given to the people to come forward with their views, so many bar associations, several leading public men and politicians, have expressed themselves against this amendment. If I were to read extracts from the leading articles of the Press during the last one week, it will show how that very section of the Press which had received compliments from the Prime Minister, not once but on many occasions, has with one voice taken strong exception to this amendment. That should certainly weigh with the Prime Minister and his Government who have thought it fit to bring a measure of this kind before this Parliament.

I hope my appeal would be heeded and this part of the Bill which seeks to curtail the freedom of the Press will be dropped or at least postponed for the time being.

Shri Kala Venkatarao (Madras): I rise to support all the clauses of the Bill as have been introduced by the hon. Prime Minister, but I am very much interested in only one of the clauses, namely amendment to article 31 of the Constitution. That ought to have been the only one article which ought to have received the unanimous support of this House, but as you see, there are dissentient voices in the House even on that clause. That clause refers to the abolition of *zamindaris*. (*Interruption*). My friend reminds me that no objection has been raised regarding the principle of abolition. I say one would really be a fool, if not anything else, who would stand up in any legislature of India today and question the fundamentals of the abolition of the *zamindari* system. Abolition is in a very advanced stage of legislation. Practically every legislature in India has gone to a very large extent in implementing one of the great pledges that the Congress has given to the people of this country.

5 P.M.

Babu Ramnarayan Singh: Nobody raises any objection to the abolition of *zamindari*.

Shri Kala Venkatarao: I have already said that there is hardly any objection to the principle of abolition, but the objection is mainly in regard to the question of compensation, which has led to litigation. Therefore, I would confine myself to that particular aspect.

First, let me ask: Is there any 'property' in what is called *zamindari*? I maintain that *zamindari* has no 'property' worth mentioning in it. The *zamindars* of today are mainly those who were farmers of revenue in the latter part and the early part of the 18th and 19th centuries respectively and today if we have to compensate for their property, it must be on a different basis than the one which we normally adopt when we compensate for 'real property'.

I may mention to the House a simile that was once given by Rajaji regarding *zamindari* property. 'A' had a house in a village. He was leaving the village and was going to a town to practise law. When going he called 'B' and said: "You take charge of my house and pay me a rent of Rs. eight per month". While getting into the *bandy* (cart) while leaving the village, he met 'C' and told him: "You please collect the house rent at Rs. eight per month and send me Rs. six; for the trouble taken you take Rs. two as your commission". After a time 'A' returned to his village and found his house dilapidated and then he questioned the lessee. He said: "Well, Sir, how can I repair the house; you are taking so much rent from me." 'A' wondered how. He was told that from the time he went away the rent was increased from rupees eight to rupees ten, to 12, to 14, to 16 and then to Rs. 24. This increase of Rs. 16 between rupees eight and Rs. 24 which was being collected from him was going into the pockets of this 'C' who was neither the owner nor the lessee. The *zamindar's* position is similar to that and, therefore, today if he claims compensation for something which has not been his by ownership or which has not been his by 'lesseeship', I think the nature of such a property is not real at all.

After all, all the legislation now on the anvil, or all the legislation that has already become law, does not seek to expropriate these *zamindars*. As a matter of fact, we are compensating them. I can state that the *sanad milkiat istamirar* is not treated as a mere scrap of paper. It is being treated as a scrip. Of course, its value is being fixed with reference to its social utility, history and equity. More consideration than this, the *zamindars*

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cannot expect from any popular legislature in this country or anywhere else.

I would like to put one question to those gentlemen who are claiming a big compensation. I would like to ask them: "Who compensated the poor ryot when feudalism became the law of the country and when free farming was replaced? Who paid compensation to those free farmers of this country when this system of permanent settlement was introduced at the end of the 18th century and the beginning of the 19th century?" Therefore, the plea that they should get the market value for the property is a myth. They say that the Land Acquisition Act provides for a particular way of calculating this compensation. But please remember that the Land Acquisition Act is after all a municipal law, a law that can be changed by the Legislature itself at its will and pleasure. Therefore, the Land Acquisition Act by itself should not be the only way of fixing the compensation when we seek to abolish these *zamindaris*.

Then, speaking about the market value, we have to note that the market value represents the capitalisation of the income which the *zamindar* was getting upon his estate. I would also like to state in this connection that the market value as demanded by the *zamindar* is not 'just compensation' for the unreal property that he holds as his estate. The value of a property depends upon the nature of the interest in the property, the extent of the right and the quantum of income. It has been held by the Privy Council and many High Courts in this country that the Legislature has the right to reduce the rent which is being collected by the *zamindars*. Therefore, if the legislature simply passes a Rent Reduction Bill, the value of that property becomes very much less and therefore the market value becomes variable. The present rate of compensation paid to the *zamindar* in relation to the present value of his rent collected is a real value and not an illusory payment as is alleged.

I would like to bring to your kind notice that many Abolition Bills and Acts have not only provided for compensation but also liberal interim payments and even for rehabilitation grants for the smaller *zamindars* as is done in Uttar Pradesh. Now all this good work that has been done in many of the provinces has been questioned before the courts of law. Four years are now over from the time we won our freedom and from that time onwards attempts were started in this

country to abolish the estates and even now on account of organised opposition of vested interests, we have not been able to make the desired progress. Bills were passed by the Legislative Assemblies and received the assent of the President, but they have been dragged to the courts of law. At any rate we are glad that two of the highest courts of law in this country, particularly the ones at Allahabad and Nagpur, have held that the Legislatures are competent to legislate about abolition of estates and fix compensation. But it fell to the lot of the Patna High Court to declare the Bihar Abolition of Zamindari Act as *ultra vires* of the Bihar Legislature. The main ground for such a declaration, apart from other things, is the provision for a sliding scale of compensation. Every Bill has provided that if the basic annual sum or the net assets of any particular estate is fixed at a particular amount according to the provisions in the Bill, the compensation payable varied according to a sliding scale on which that basic sum was multiplied. If the basic net value is Rs. 100 the compensation paid will be 30 times; if it is Rs. 1,000 it may be 20 times; if it is Rs. 10,000 it may be ten times; if it is ten lakhs it may be three times. That is the sliding scale provided for.

Article 14 of the Constitution has been brought into support and the court held that the provision for a sliding scale for the payment of compensation will result in treating individuals differentially; therefore the Act is *ultra vires*. The decision is incorrect. The Legislature could have passed a separate Act for the abolition of each *zamindari* and could have fixed the quantum of compensation as it liked for each estate so abolished. But instead of doing that, for the sake of convenience, they have adopted the system of the sliding scale in the Bills. If this system is questioned the principle of progressive taxation itself goes.

Anyhow, after all this effort at litigation obstructs progress. I do not see any reason why Parliament should not rise to the occasion and protect the legislation that has been passed in almost all the Provinces with the unmistakable support of the people. A question has been raised that this Parliament is not fully representative of popular opinion. I would only like to ask those friends, are not those Legislatures which passed this *zamindari* abolition legislation popular Legislatures? Were they not directly elected by millions of voters in the country? They have passed these Bills and now we are only lending legal

support to them so that those laws can be protected and those laws can be given effect to.

Shri Bharati (Madras): It is those representatives who have elected us and therefore we fully represent public opinion in the country.

Shri Kala Venkatarao: My friend reminds me that those gentlemen have elected us and therefore we also represent public opinion.

Shrimati Renuka Ray: What about other forms of property?

Shri Kala Venkatarao: Here the question is not one of the other properties. At present we are concerned only with the *zamindari* property.

Babu Ramnarayan Singh: Why not other property?

Shri Kala Venkatarao: As regards other landed property also I have no objection to deal with and I can invite the attention of my hon. friend to page 12 of the report of the Economic Programme adopted by the Congress of which he has been an honoured member—I do not know about his future—that all intermediaries between the tiller and the State should be eliminated and that all middlemen should be replaced by non-profit-making agencies such as co-operatives. The abolition of *zamindaris* is only a first step towards that end and as we progress I am sure that the Congress will redeem its pledges regarding other landed property also wherever such property has accumulated at the expense of the common man and where its utility does not go to the help of the common man as such.

Then I have to answer one more question, namely that the Legislature has no right to fix the quantum of compensation as it likes. I can quote many decisions from the laws of other countries to show that it is within the competence of the Legislature to fix the quantum of compensation. It has been held by many legal writers that this is a fundamental right of a Parliament as such and I would invite attention to what Mr. Wynes said in his book *Legislative and Executive Powers in Australia*. He said:

“It is submitted that the view that a Commonwealth Act authorising acquisition of property and fixing a nominal sum for compensation would be a valid enactment is correct. No measure of justice is laid down in the Constitution and it is not conceivable that the Court would question the judgment of Parliament on this matter”.

I am very glad that even in India many of the Courts did not question this right of Parliament. But the Bihar Act was adjudged *ultra vires* on the ground which I have mentioned and which I feel is not a correct decision.

I need not take the time of this House for long. I would only like to quote Laski and say that “it is possible to admire the architect of a great fortune; it is not possible to admire those who live by his achievement. Even if such owners are imbued with a high sense of social obligation, the virtues of a few do not compensate for the social inertia of the many”. That is good description of our present *zamindar*. He has not improved the land. He has not improved the estate, and the estate has become a burden upon society. Therefore it is our duty that we should abolish this institution log, stock and barrel. The Abolition Acts that have been passed by the various Legislatures are just, equitable and legal. In order to see that all such Acts are not delayed by litigation this amendment is sponsored. I am very sorry that my hon. friend Mr. Syammandan Sahaya said that none of our friends in this House has read the Acts mentioned in the Ninth Schedule. At least I claim exception to that. I have read all these Acts and I feel that what has been legislated upon, as I have said already, is just, equitable and legal. Therefore I think that the present amendment seeking to protect certain Acts which are enumerated in the Ninth Schedule, is a correct course and that the amendments as drafted and as proposed in the Bill sponsored by the hon. the Prime Minister should receive the unanimous support of this House.

Shri Hussain Imam: My work has been considerably lightened by the previous speakers who have thrown light and expressed opinions which I wished to express. Further I intend to follow your advice and concentrate on one particular feature of this Bill. I refer to the clause pertaining to article 31, which is clause 4 of this Bill. It is an inopportune and unnecessary amendment to the Constitution and it is altogether so anti-democratic that it will be difficult to find in the annals of history a measure of this nature to have been introduced in any democracy of the world.

Shri Bharati: Are there *zamindaris* in other parts of the world also?

Shri Hussain Imam: I am referring to a thing which I hope to prove to the hilt, to the satisfaction of every unbiassed person. I am saying that

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the measure is undemocratic, that it is unnecessary and it is inopportune.

I will first begin with the inopportune aspect. We were in the midst of the Representation of the people Bill on Monday. On Saturday this Bill was introduced and no indication was given whether it would be taken up immediately or after some time. Up till Monday when we were discussing the Representation of the People Bill there was no indication, and as a matter of fact the Law Minister had made arrangements to consider clauses 7 and 9 of that Bill on Wednesday—when we have had to take this Bill. An intimation came to us on Monday late in the evening. Many of the Members who are wide awake, did not know that this measure was coming, when they came to the House on Tuesday morning.

Shri Satya Narayan Sinha: The information was given on Monday that it would be taken up on Wednesday. So the hon. Member is not correct in his statement.

Shri Hussain Imam: The intimation came late in the night because our post had to contain other things.

Mr. Chairman: May I suggest to the hon. Member that he may usefully employ his time on the merits of the Bill?

Shri Hussain Imam: I shall not go further into the inopportune aspect. It was unnecessary and that has been admitted by the hon. the Prime Minister himself.

Shri Jawaharlal Nehru: The hon. Member's powers of hearing are very remarkable. He hears things that I never said. As regards the point raised by him, may I say that it was the hon. Speaker's desire that we introduce it on that particular day?

Shri Hussain Imam: I had a feeling that it was unnecessary because it is not going to be used by the present Government. It was unnecessary because the Acts which are going to be legalised have not been pronounced by highest tribunal to be *ultra vires* of the Legislature. No such pronouncement has been made on any of the eleven Acts. Then where does the necessity arise? Even the High Courts have not adjudicated on that point, let alone the Supreme Court. The Supreme Court has not adjudicated on any one of the Acts. Then how do we come to an understanding that these Acts will be found to be *ultra vires* of the Legislature and that we

must amend the Constitution? We are trying to cure a situation which has not arisen.

Pandit Krishna Chandra Sharm: May I ask my hon. friend, what will happen if the *zamindars* go to the law courts and keep in abeyance the laws for four years? Would it not result in an upheaval? Where will he go?

Shri Hussain Imam: Why are you talking on this presumption? The Congress Government came into power in the States in 1946 and the U.P. Act was assented to on the 24th January 1951.

Shri M. P. Mishra (Bihar): The Bihar Act was passed in 1948.

Shri Hussain Imam: And it was abrogated by the Bihar Government itself. It was repealed by the Government itself. Things are dirty enough—the way in which the States have been playing with this thing. As was pointed out by Shri Mishra, the Act was passed in 1948. When it came to the High Court and it was to be adjudicated upon, the Government took steps to get the Act repealed so that the High Court may not adjudicate on that.

An Hon. Member: Adjust to the Constitution.

Shri Hussain Imam: I may be excused for saying, but it was to take undue advantage.

I said I will confine myself to this one clause. What is the condition of this House? We are gagged, blindfolded, put in a strait-jacket and told that we are free to speak our mind, see the things as they are, and do whatever we like. I say that the Government did not take the ordinary care which it should have taken and make available the eleven Acts in sufficiently large number for the Members to study, and I had to ask the Speaker on Tuesday evening at the meeting of the Rules Committee and he passed it on to Government and the Government had only made available one copy each of these eleven Acts, which are going to be given perpetual life by being included in the Constitution. I regret that Dr. Ambedkar is not here or I would have asked him to cite the example of any Constitution which has the ignominy of including legislations in constitution and making them out of purview of the Fundamental Rights. Because the very fact that you bring it and give it a protection shows that there is something which is not in accordance with the spirit of the Constitution that is in force.

What is our position and why are we getting this treatment? The opposition Members are almost negligible. The Governing party is not free to express its opinion. It is whipped up to vote in a particular manner. At least on this occasion, I appeal to the Prime Minister and his sense of democracy, and hope that he will leave the party free to decide and to vote as they please on this Bill.

Mr. Chairman: What is the hon. Member's information about this particular matter?

Shri Hussain Imam: We have seen Dr. Mookerjee reading out yesterday that the motion was to be passed and no member of the party was to say anything in opposition to this measure. I am appealing to the Congress, to Shri Jawaharlal Nehru as a democrat to give this freedom of thought to the party members on this subject.

Shri Jawaharlal Nehru: The hon. Member is repeatedly referring to this. I should give him an adequate reply when the time comes. He seems to be entirely going beyond the scope of the debate and referring to private and other matters. May I inform him that if there are no whips in this party, he will be astonished with the things passed here, much to his discomfiture?

Shri Hussain Imam: I was referring to the fact because it was referred openly in the speech of Dr. Mookerjee that a whip was issued. We find also that certain important members of the party even in the panel of Chairmen have been excluded from the Select Committee, because they have known views on the subject which was an impediment in their way.

An Hon. Member: Other Members are not important perhaps.

Shri Hussain Imam: The whole trouble arises from one concept. Here we started to frame a Constitution under the aegis of the British and immediately after the removal of the British suzerainty. We were obsessed by the British model which had no written Constitution and where the supremacy of Parliament was undisputed. In all the written Constitutions, the Parliament is not a fully sovereign body; it is subject to the limits laid down by the Constitution. As far as the Constitution is concerned, it is regarded as superior. In other Constitutions, notably that of the USA, you have got stringent measures by means of which it is not only that an absolute majority of the two Houses, the House of Representatives and the Senate must vote—a

two-thirds majority—but two-thirds of the States also must ratify the amendment. It is only when the 36th State ratifies the amendment that the amendment takes place. We have not got that provision. The reason is plain and simple. In other countries, notably USA and Ireland, the revolutionary fervour was there. People had attained independence through revolution and they were eager to preserve the rights and interests of the people. A Constituent Assembly had never functioned as a legislature also. By combining them and giving the dual function to the Constituent Assembly, we made the task of the Constituent Assembly well nigh impossible. It could not preserve the rights of the people and at the same time give power to the Government. It had therefore to devise ways and means through which it could give something to the one and at the same time give power to the other. An hon. colleague of mine, Mr. Anthony, aptly described this Chapter as a Chapter of denial of Fundamental Rights, because the Fundamental Rights that have been given in this Chapter have been hedged in by so many safeguards. Notably in articles 19 and 31; the safeguards far exceed the positive rights that are given. The question which arises, and which I wish to put plainly and squarely before the Government is whether a justiciable right could be made non-justiciable. This is exactly what we are doing. Article 31 is included in the list of justiciable rights; by means of this amendment, what are we doing? We are excluding all the jurisdiction of the courts? Is this correct? Is this democracy? Is this constitutionalism? My hon. colleague Mr. Kala Venkatarao referred to the fact that he had read the Bihar Act. I am glad that he has done so. I should invite the attention of the House to the fact that here are the two Acts of the two adjacent provinces, the U.P. Act and the Bihar Act. The U.P. Act contains 343 sections and six schedules in this size of a book. Here is the Bihar Act which contains only 43 sections.

Dr. Deshmukh: Short and sweet.

Shri M. P. Mishra: It could have been done in five pages.

Shri Kala Venkatarao: The Madras Act has about 60 sections and the zamindaris have already been notified and may have been taken over.

Shri Hussain Imam: Let me proceed. The Bihar Act is called the Land Reform Act; it does not mention a word about the abolition of zamindari because the Government was advised by its legal advisers that by bringing in those words, it will have

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to undergo certain fundamental checks. Therefore they have called it the Land Reform Act, and left out the words 'abolition of zamindari'. But, it contains not a single section about the reform of the land laws. If Mr. Kala Venkatarao will show me a single section on the subject I shall be grateful.

Shri M. P. Mishra: There is provision for the Land Commission. Have you seen it?

Shri Hussain Imam: Yes. What is that Commission to do? Is there any task given to it? Is the Government bound to follow the recommendations of that Commission? It is stated that the Commission will be created which will advise. When will it be created? What will be its constitution and terms of reference? Nothing is stated here.

Shri M. P. Mishra: Let the zamindari go first.

Shri Hussain Imam: In the U.P. Act, out of 343 sections, more than 200 sections deal purely with land reforms. Yet, they were not ashamed of calling their Act "The U.P. Zamindari Abolition and Land Reforms Act".

Shri B. R. Bhagat (Bihar): Why go by the name; go by the spirit?

Shri Hussain Imam: I was comparing the Acts to find out whether there is one Central Government or two, and whether we were citizens of one country or two countries.

Pandit Krishna Chandra Sharma: You are a citizen of two States.

Shri Hussain Imam: The Prime Minister, when he was introducing his amendment in the Constituent Assembly laid stress on the fact that the measure was to be brought to the President. According to his own words:

" Previous to this, it has already been said that the matter has to go to the President. That is, if you like, a kind of check to see that in a hurry, the legislature has not done something which it should not have done".

I ask as a citizen of India, why the zamindar of Bihar should be treated differently from the Uttar Pradesh zamindar? Pandit Govind Ballabh Pant on the 12th of September 1949 said in the Constituent Assembly that he was going to pay as compensation to about 95 per cent. of the zamindars as much as twenty eight times their net income. It is on page 1288, Volume LX No. 32 dated the 19th of September,

1949. Is it the same President who sanctioned this much for Uttar Pradesh and so little for the zamindar of Bihar?

Shri Kala Venkatarao: It depends on the basic annual income or net assets.

Shri Hussain Imam: It depends on nothing except the failure of the Central Government to advise the President correctly. The reason why it has been laid down in the Constitution that the President's sanction has to be obtained is that there should be uniformity. I will cite another instance of differentiation between the two States.

Shri Santhanam: Are we going into the merits of these Bills or the President's action, or are we dealing with the rights of Parliament and the Legislatures to deal with these matters?

Shri Hussain Imam: I am referring to the fact that what is being proposed by this measure is unnecessary and undemocratic. In order to show that it is undemocratic, I am trying to convince the House that there is this differentiation. And one thing more. Even in the Constituent Assembly, the Bihar Ministry remained mum over the matter even though they had passed a measure already. During the whole of the debate in the Constituent Assembly no one spoke on behalf of the Government of Bihar.

Shri M. P. Mishra: They did speak.

Shri Hussain Imam: I am referring to the Government of Bihar. Hon. Members may presume that they are the Government, but they are not. I am referring to facts as they exist and not as they are presumed or assumed to be by some.

Well, in section 4 of the Uttar Pradesh Act, Government has the power to apply the provisions either to the whole or to a part, that is, a particular area, which means that there will be a geographical basis. But according to the Bihar Act, the marvellous Act, it is provided that it will apply only to the named persons. If this is not discrimination, what can be called discrimination, I would like to know? No area has been fixed. It is this kind of things which has lead the High Court to declare this Act *ultra vires*.

Shri M. P. Mishra: There has been discrimination made between big sharks and small ones.

Shri Hussain Imam: Are big sharks the preserve of Bihar? I am surprised to hear that from an hon. Member coming from Bihar.

I will refer to another factor. My hon. friend Pandit Thakurdas Bhargava, the champion of Hindu joint family is here. The two States have dealt with the joint family in different ways. Uttar Pradesh has said that as long as the father is there, his lenial descendants will be regarded as one unit along with the father in the assessment of the share of the particular person. They have gone so far that even if partition has taken place after the 8th August 1946, that partition will be disregarded. Whereas in Bihar even without any partition, everyone of the co-parceners (including lenial descendant) is regarded as a unit himself. Where is the unity and where is the similarity? I am referring to these facts to show that there has been no Central co-ordination. The pledge given to us in the Constituent Assembly that the President will see to it that there is uniformity, equality and justice, has been given a complete go-by.

As regards the cost of management, it has been uniformly fixed in U.P. at 15 per cent. and this includes unrealizable arrears of rent. In Bihar they have provided for cost of management and work of benefit to ryots, which are nowhere mentioned in this beautiful Act—not a word has been said as to what will be the work of benefit to the ryots which the Government will undertake. This item has been provided at a variable rate from nine per cent. to 32½ per cent. I ask you, was this Act such that any court of law sitting in judgment could allow the Act to be *intra vires* of the legislature, which goes counter to all canons of equality before the law of man to man?

I come to another item. The compensation rate under section 54 of the Uttar Pradesh Act was eight times the roll. In Bihar it varies from 3 to 20 times. Under Section 98 of the Uttar Pradesh Act, rehabilitation grant is to be given from one to 20 times in addition to the compensation. There is no provision like this in Bihar Act.

Pandit Munishwar Datt Upadhyay (Uttar Pradesh): Government in Uttar Pradesh tried to collect 170 crores for *zamindars* but they opposed that scheme and only 30 crores were collected.

Mr. Chairman: May I say that these interruptions will only make his speech longer.

Shri Hussain Imam: I was saying that the fundamental question before the House is whether it is just and equitable that we should give sanctity and deny the justiciable right to

a part of the citizens and give it to others. Here you are on the broad question. Bengal, because it has not passed an Act, if it passes an Act afterwards, will not have this recognition of article 31B. Punjab has not passed this Act and therefore it will not have the sanctity of article 31B. You are differentiating and what is worse is that the *zamindars* of Bihar are to be created into Harijans to whom every right of having redress is to be denied. By abolishing untouchability you are creating a vacuum and we *zamindars* are to fill that. (*Interruption*). Then do not oppose the Madras G.O.

Shri Kala Venkatarao: I never opposed it: I was one of the parties to it when I was a Minister there.

Mr. Chairman: I would request the hon. Member to come to matters which are more relevant to our present purpose and enable other Members to have their chance to speak.

Shri Hussain Imam: I am going to confine myself to articles 31A and 31B. As regards the other articles I will simply mention that I entirely agree with the views of such and such colleague and I will not take up the time of the House.

I was referring to the fact that it creates discrimination not only between the citizens of two adjacent States but what is worse in the State itself. The original article 31 (2) reads:

"No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of. . . ."

Zamindari formed part of the general plan for acquisition of property. But what is being done today is that the *zamindars* are being deprived of the general right. Their civil rights are being taken away and they are denied this right. The denial of this right is put in the list of justiciable rights. We are denied the justiciability of our rights. This is something obnoxious to all sense of propriety and democracy that such discrimination should be made. For what purpose? As I said out of eleven laws which you are going to sanctify two have been declared *intra vires* of the Legislature, namely the two major Acts of U.P. and Madhya Pradesh.

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Seven Acts are under various stages of consideration by the High Courts. Only one Act has been declared *ultra vires*—the Bihar Act; and it is for that reason that this amendment is brought forward. It is a solitary *ultra vires* Act. I am not going to make the claim made by Mr. Syyamnandan Sahaya but I am going to ask you a very simple thing. Do not deny us those facilities which U.P. has given. If you do not give me those rights, the U.P. zamindars should not receive anything more than us.

Paradit Munishwar Datt Upadhyay: Then you approve of the U.P. law?

Shri Hussain Imam: I entirely approve of it.

Mr. Chairman: May I request hon. Members not to interrupt him.

Shri Hussain Imam: The Leader of the House pointed out that liberty is different from licence. But what are we doing today? We are denying the liberty of the people and giving full licence to the Government to do whatever they like. Under the party Government we have today, it is undeniable that the party leaders exercise an amount of control over the generality of the party. If the leaders wish to do anything there are numerous reasons which compel the party to follow the directive; such condition exists in almost every party in the world. I am not referring to the Congress Party alone. It is for that reason that the Fundamental Rights have been provided so that the claimant may not be the judge. Here the claimant is the judge. The legislature which passes the law is given the absolute power and the Fundamental Rights on which we had laid stress so much are completely buried. But we are not burying the Fundamental Rights of the property-holders alone. I appeal to you, and say that Government are burying democracy today, you are setting light to the funeral pyre of democracy if you pass an Act of this nature, an Act to invalidate the decisions of the highest courts of the country, and to give immunity to offending Acts for all time. What will be the result, I ask you? Will this immunity apply to all the amendments subsequently made by those Legislatures? Because the name of the Act will continue to be the same, I want this legal conundrum to be considered coolly. A State Legislature has complete power to modify its enactment as and when it likes. By giving immunity to these Acts we are not only depriving the

private citizen of his right of redress from the Act as it is today; but I say that it is denying to him for all time the right to go to the court of law for adjudication. What is the principle to which the Congress Party is pledged and to which we all subscribe: There is no one today in Bihar who denies the right of and the necessity for the abolition of zamindari, and therefore where is the quarrel? The quarrel is only about one particular matter: what should be the fair and adequate compensation? Government had full rights and opportunity to act when the matter came up to the Centre for the President's assent to the Bihar Bill, when it was kept over for three months. In those days the lamented Sardar was alive. I know, he exerted his influence to bring about moderation, but he was in failing health and his voice was not heard. We, the Bihar zamindars, made no claim except of equality of treatment. The law must not differentiate. Whatever the law you may pass, it must be not for zamindari alone but for all kinds of property. Property must not be sacrosanct when it is held by black-marketers and industrialists, and taken without fair compensation when held by simple zamindars of villages.

Even in ordinary things there are the rules of the game. Should there be no rules of the game for the abolition of the zamindari and abolition of property? We are at the parting of the ways and it is necessary that we should come to some conclusion, a conclusion which should be right and proper. It is undeniable that Parliament is suzerain to adopt the Constitution as it likes. But should it not exercise an amount of restraint? It is not enough in democracy that you should be convinced that you are doing the just thing—it is necessary that people should be convinced, the sovereign people should be convinced that you are doing justice and you are treating them all equally, fairly and without malice and prejudice. This measure has been conceived in an atmosphere of distrust. My complaint which I have often voiced is that this Government is always in a hurry. It wants to do too many things. Life is too short and the things are too many and everything must be completed! In the economic field we have seen the result. Many a scheme has been embarked upon and has ended in failure. In the legislative field we have seen that Acts were passed in one session and in the next session big amendments have come forward. This is our Constitution. I appeal to the House to accept our amendments which have been moved. The Bill must not

be hustled through this session. The Select Committee should be given ample time and circulation should be made, so that you can have the opinion of the world. Otherwise the historians of the future will regard that today was laid the foundation of a dictatorial, authoritarian State and democracy was buried.

Mr. Chairman: Before I call upon other hon. Members to speak, may I inform hon. Members that this debate will conclude tomorrow by 12-15 P.M. and the hon. the Prime Minister will reply after that. Therefore, I would like to know the opinion of hon. Members as to whether we can go on for another hour, or an hour and a half, because I find that a number of Members want to speak. At the same time, I should point out that no purpose would be served if each hon. Member goes on taking an hour or an hour and a half. For instance, only three Members were able to speak till now this afternoon. I would, therefore, request hon. Members to make their submissions within fifteen minutes.

I hope hon. Members will agree to this course and continue to sit till seven o'clock.

Shri Naziruddin Ahmad: I want a clarification. There are some Members who have tabled amendments, which have not been actually moved. What will be the position of those unfortunate people? Will they be allowed to speak?

Shri R. K. Chaudhuri (Assam): I am one of those persons who have sent notice of circulation. I am the only exception who has not been allowed to speak.

Mr. Chairman: All these amendments are before me. It is not necessary that every mover of the amendment should speak, especially Members of the Select Committee.

Shri Naziruddin Ahmad: In that case I may be relieved of the necessity of working on the Select Committee. Please withdraw my name so that I may speak. (Interruption).

Mr. Chairman: Is there any decorum in this House? Two hon. Members are beginning to speak at the same time.

श्री एम० पी० मिश्र : मैं बड़े ध्यान से बिल से इस सदन में इस बिल पर जो बहस हो रही है, उस को सुनता रहा हूँ और दो

हैरानियों के बीच में पड़ा रहा हूँ। एक तो यह है कि विधान में एक दूसरी धारा जोड़ी गई थी, तो उस समय विधान परिषद् ने माज से सिर्फ पौने दो साल पहले लगभग २२ महीने पहले विधान परिषद् के सामने २४वीं धारा को पेश करने हुए, वही धारा जो आज ३१वीं धारा इस बिल की है, हमारे पण्डित जवाहरलाल नेहरू ने जो भाषण दिया था, और भाषण ही नहीं ३१वीं धारा जो आज वर्तमान बिल की है, उस की साफ मंशा और उसका साफ इरादा है कि ज़मींदारी उन्मूलन के सम्बन्ध में जो कानून होगा उस कानून को हेरफेर करने, उस पर विचार करने का किसी भी कोर्ट या न्यायाधीश को अधिकार न होगा और इसी हेतु ३१वीं धारा में चौथी और छठी उपधारा जोड़ी गई है और तब जो स्थिति थी और हमारी मंशा थी, वही आज भी है। तब भी पण्डित जवाहरलाल हमारे प्रधान मन्त्री थे, और आज भी हैं, और जो उस समय विधान परिषद् थी, वही आज पार्लियामेंट के रूप में वर्तमान है। आज यह तो नहीं हो गया है कि आज कोई बिल्कुल दूसरी पार्लियामेंट हो, अगर ऐसा होता तो समझा जाता कि उन की ओर विधान परिषद् की राय अलग अलग थी, मुह्तलिफ़ थी। और मेरा तो कहना यह है कि अपनी पुरानी मन्शा और इरादे के अनुसार आज उस समय की २४वीं धारा की जगह पर ३१वीं धारा को पेश किया गया है। उस से यह बात साफ़ है कि हमारे विधान बनाने वालों की यह मन्शा थी और यह इरादा था कि ज़मींदारी उठाने के सम्बन्ध में जो कानून हम बना रहे हैं, या जो हमारे राज्यों की सरकारें बना रही हैं, या जो बनाने वाली हैं, उन के कानून को कोई कोर्ट न बदलना देख न सके और उस के बाद ज़मींदारी उठाने के सम्बन्ध में जो सब से विवादास्पद

[श्री एम० पी० मिश्र]

धीर असली बात है वह मुआविजे की बात है। इस मुल्क में कुछ लोग हैं जो असल में ज़मींदारी उठाना नहीं चाहते और वह लोग आज इस बिल का विरोध कर रहे हैं मुआविजे का प्रश्न ले कर, सीधे साधे यह तो कोई आज के युग में कहने का साहस नहीं कर सकता कि ज़मींदारी बनी रहनी चाहिये और खत्म न की जानी चाहिये, क्योंकि (Shri Hussain Imam : I take strong objection to this.) जनमत की अवहेलना करना उनके बस की बात नहीं है। और डाक्टर श्यामा प्रसाद मुखर्जी जैसे व्यक्ति की भी हिम्मत नहीं होती कि वह कहें कि हम ज़मींदारी उठाना नहीं चाहते, और वह भी यही नारा लगाते हैं कि हम ज़मींदारी उठाने के पक्ष में हैं, हालांकि हम जानते हैं कि अगर कहीं उन का राज्य हो गया, ऐसा होगा नहीं, लेकिन अगर किसी दिन ऐसा हो गया तो हम जानते हैं कि वह ज़मींदारियां रखेंगे और वह श्री अमचन्द्र से लेकर पृथ्वीराज तक के वंशजों को बूढ़ कर निकालेंगे और उन को राजा बनायेंगे और हिन्दू राज यहां पर कायम करेंगे। लेकिन आज ऐसे लोगों की हिम्मत नहीं होती कि वह जनता के सामने आयें और कहें कि हम ज़मींदारियां कायम रखना चाहते हैं और वह मुआविजे का प्रश्न उठा कर बड़े झगड़े उठाते हैं, उन के पास पैसा है और वह अदालतों में बड़ी दूर तक इस प्रश्न को ले जा सकते हैं और ऐसा झगड़ा डाल कर कम से कम वह ऐसा ज़रूर करेंगे कि ज़मींदारी उठाने की और भूमि व्यवस्था को सुधारने की जो सरकार की योजना है, सरकार का जो इरादा है, वह उसको फिलहाल रोक देंगे और उस को आगे नहीं बढ़ने देंगे। और मैं आपको इस सम्बन्ध में पण्डित जवाहरलाल नेहरू का भाषण जो

उस समय उन्होंने दिया था उस का कुछ हिस्सा आपको सुनाना चाहता हूं। मैं यह कहे बिना नहीं रह सकता कि यह बड़े दुर्भाग्य की बात है कि विधान सभा जिस ने ३१वीं धारा में वह ४ और ६ उपधारा जोड़ी, विधान को जिस ने पैदा किया, पार्लियामेंट और सुप्रीम कोर्ट (Supreme Court) को उस ने पैदा किया और उस की इस मामले में स्पष्ट राय थी कि ज़मींदारी और मुआविजे की बात को हम कोर्ट के सामने नहीं ले जाने देंगे, उस के मामले में किसी कोर्ट को, किसी अदालत को अधिकार नहीं होगा कि वह उस पर फैसला दे या अपना निर्णय दे। पण्डित जी ने यह कहा था :

"But more and more today the community has to deal with large schemes of social reform, social engineering, etc., which can hardly be considered from the point of view of that individual acquisition of a small bit of land or structure. Difficulties arise—apart from every other difficulty, the question of time. Here is a piece of legislation that the community, as presented in its chosen representatives, considers quite essential for the progress and the safety of the State and it is a piece of legislation which affects millions of people. Obviously you cannot leave that piece of legislation to long, widespread and continuous litigation in the courts of law. Otherwise the future of millions of people may be affected; otherwise the whole structure of the State may be shaken to its foundations: so that we have to keep these things in view."

तो मैं बड़ी हैरत में पड़ गया कि यह विधान की धारा जिस में साफ एलान कर दिया है कि हम अदालतों को न्यायाधीशों पर इस मामले पर फैसला देने के लिये नहीं बैठने देंगे। उस के २२ महीने बाद पण्डित जवाहरलाल नेहरू को विधानों में फिर ऐसा संशोधन करने की आवश्यकता आ पड़ी जिसमें फिर वही बातें दुहरानी बड़ीं जो आज से २२ महीने पहले उन्होंने

और विधान सभा के मेम्बरों ने दुहराई थीं। मैं तो यह देख कर बड़ी हैरत में पड़ गया। पण्डित जवाहरलाल नेहरू कांग्रेस पार्टी के नेता हैं, प्रधान मन्त्री हैं और यदि देश की आकांक्षा, इच्छा और देश के इरादों का अगर कोई प्रतिनिधित्व कर सकता है, तो वह यह व्यक्ति हैं। और उस समय उन्होंने साफ कहा था कि हम ला कोर्ट्स (Law Courts) को इस मामले पर दखल नहीं देने देंगे, लेकिन क्या हुआ, २२ महीने उस को कहे गुज़र गये और कई जगह हाई कोर्टों ने ज़मींदारी अबोलिशन एक्ट (Zamindari Abolition Act) गैर-क़ानूनी घोषित किया और बिहार प्रान्त में ज़मींदारी क़ानून गैरक़ानूनी घोषित कर दिया। मैं समझता हूँ कि दो बातें इस में हुई हैं, या तो पण्डित जवाहरलाल नेहरू के जो सलाहकार थे और जो विधान बनाने का काम करते थे, उन्होंने विधान का ड्राफ्ट (Draft) बनाते वक़्त उस के अर्थ को सही सही नहीं रखा या फिर हमारे देश की अदालतें, हमारे देश के जज और हमारे देश के न्यायाधीश अपने रास्ते से बाहर चले गये हैं और उन्होंने अपने रास्ते से बाहर जा कर अपने हक़ से बाहर निकल कर इन विषयों पर फैसला देने का निश्चय किया है। और उन्होंने अपने रास्ते से बाहर जा कर, अपने मार्ग से हट कर इन विषयों पर फैसला देने का निश्चय किया। मैं आप से कहता हूँ कि ३१वीं धारा की जो चौथी उपधारा है उसमें यह बात साफ़ है कि इस पर अदालत फैसला नहीं दे सकती। लेकिन बिहार के क़ानून के बारे में कहा गया कि १४वीं आर्टिकल के मुताबिक़ उस को गैरक़ानूनी करार दिया गया है धारा ३१ की चौथी उपधारा में साफ़ लिखा है:

"If any Bill pending at the commencement of this Constitu-

tion in the Legislature of a State has, after it has been passed by such Legislature, been reserved for the consideration of the President and has received his assent, then, notwithstanding anything in this Constitution..."

यह बात साफ़ है कि इस तरह के विषयों का कोई अदालत फैसला नहीं कर सकती। चाहे जो कुछ भी इस कांस्टीट्यूशन में लिखा हो उस के बावजूद भी किसी अदालत को उस पर फैसला देने का अधिकार नहीं है। उसमें लिखा है :

".....the law so assented to shall not be called in question in any court on the ground that it contravenes the provisions of clause (2)"

इस के वाद भी मेरे ह्याल से हमारे देश के न्यायाधीश और खास तौर से मेरे सूबे के न्यायाधीश अपने रास्ते से बाहर गये हैं कि उन्होंने इस पर विचार किया और फैसला दिया।

Shri Syamnandan Sahaya: It is said "Notwithstanding anything in the Constitution,....."

श्री एस० पी० मिश्र: That is compensation. उस पर फैसला करने का अधिकार किसी को नहीं है।

इस के बाद मैं दूसरी परेशानी में और हूँ। मेरे कई ज़मींदार दोस्त उठ कर खड़े हुए और उन्होंने उस प्रस्ताव का समर्थन किया जो कि पण्डित जवाहरलाल नेहरू ने विधान में संशोधन के लिये उपस्थित किया है परन्तु उन्होंने कहा कि इस पर जनमत लेना चाहिये। मुझे हैरत होती है कि अब भी कुछ लोग यह चाहते हैं कि आज सन् १९५१ में इस प्रश्न पर जनमत लिया जाय कि ज़मींदारी हटाई जाय या न हटाई जाय या कम्पेंसेशन दिया जाय या न दिया जाय। क्या उन को मालूम नहीं है कि हमारे राष्ट्र-

[श्री ऐम० पी० मिश्र]

पति ने क्यों तिलिगाना के बारह किसानों के फांसी के दण्ड को आजन्म कारावास में बदला है? यह वह प्रदेश है जहाँ के किसान ज़मींदारों के जुल्मों से पागल हो गये हैं और जहाँ उन को शान्त करने के लिये आज कल श्री विनोबा भावे घूम रहे हैं। यह वहाँ इस लिये ही हुआ कि वहाँ के ज़मींदारों ने किसानों की हड्डियों तक को चूस लिया और जिस लड़ाई की वजह से बारह किसानों को फांसी का दण्ड दिया गया था। इस के बाद भी आप जनमत चाहते हैं। हमारे सूबे के १० हजार किसानों ने सन् १९३६-३७ में जुल्म सहे थे और वह जेल गये थे। आज जो गांव गांव में इस ज़मींदारी प्रथा के खिलाफ़ आग भड़क रही है क्या उस को संसद् के सदस्य नहीं जानते, और अगर वह नहीं जानते तो यह देश का और इस संसद् का दुर्भाग्य है। हमारे सूबे के बारे में कहा जाता है कि वहाँ ज़मींदारों को इतना थोड़ा कम्पेंसेशन दिया जाता है। मुझे तो उस जज पर तरस आता है जिस ने ज़मींदार की बात को मान लिया कि उस को इतना भी मुआवज़ा नहीं मिलेगा जितनी कि उस की आमदनी है। महाराजाधिराज दरभंगा को बिहार कानून के मातहत १५ लाख मुआवज़ा दिया जाना तय हुआ है। ज़मींदार की तरफ से जो हिसाब दिखाया गया है वह ग़लत था। दरभंगा के महाराजाधिराज का वकील कहता है कि उन का पिछले साल का बकाया ३० लाख है और मुआवज़ा १५ लाख ही दिया जा रहा है। मैं समझता हूँ कि जिस जज ने इस बात को मान लिया उस को ज़मींदारी का कुछ भी ज्ञान नहीं था कि पिछले साल का आधा भी बकाया वसूल नहीं होता है। उस से भी बहुत कम वसूल होता है। मैं तो कहता हूँ कि बिहार सरकार ने ज़मींदारों के साथ बहुत

रियायत की है कि उन को इतना मुआवज़ा दिया जा रहा है।

Shri Hussain Imam: But in the U.P. Act it is said.....

श्री ऐम० पी० मिश्र : I am not giving way. The hon. Member had had his say.

जो कुछ ज़मींदार का वकील कहता है उसको जज मान लेते हैं और लिखते हैं कि सचमुच ज़मींदार को मुआवज़ा नहीं मिलेगा। मैं तो सरकार से कहूंगा कि दरभंगा के ज़मींदार को तो नौ लाख ही मिलना चाहिये और ज्यादा नहीं मिलना चाहिये। मैं तो कहता हूँ कि नौ लाख भी क्यों मिले। आज जो मुआवज़ा मिल रहा है उस के लिये उन को कांग्रेस को और महात्मा गांधी के चेलों को धन्यवाद देना चाहिये नहीं तो अब सन् १९५१ के बाद कोई ऐसी सरकार आने वाली नहीं है जो कि ज़मींदारों को मुआवज़ा दे। इन ज़मींदारों ने क्या किया है यह किसी से छिपा नहीं है। उन के कारनामों की एक कहानी सुन लीजिये। सन् १९५० में एक किसान से बेगार पर काम करने को कहा गया, पर वह बीमार था इस लिये नहीं जा सका। इस पर ज़मींदार ने अपना अमला भेजा। अमले वाले उस के मकान पर आये, पर वहाँ से सब आदमी भाग गये थे। सिर्फ़ एक सत्तर बरस का आदमी और उसकी १६ बरस की पतोहू मिली। दरभंगा के ज़मींदार के अमले के आदमी उन को पकड़ ले गये और जेठ की दुपहरी में उन को बांध दिया और उन पर गरम पानी डाला। यह बरताव किया है ज़मींदारों ने किसानों के साथ और फिर कहा जाता है कि ज़मींदारों को मुआवज़ा मिलना चाहिये। वुड हैड (Woodhead) कमीशन की

रिपोर्ट में कहा गया है कि बंगाल में जो भुखमरी हुई उसका कारण ज़मींदार ही थे ।

हमारे राष्ट्रपति श्री राजेन्द्र बाबू ने सन् ३४ में एक किसान इन्क्वायरी कमेटी (Peasant Inquiry Committee) बनाई थी जिसके वह खुद चेयरमैन (chairman) थे । वह कमेटी गांव गांव घूमती थी और उस ने यह बयान दरभंगा की ज़मींदारी में जा कर लिया था ।

वुडहेड कमीशन (Woodhead Commission) ने कहा था कि बंगाल की जो भुखमरी हुई उस का कारण ज़मींदार ही थे । उस के बाद आज यह कहा जाता है कि यह जुत्तम किया गया कि सरकार ने इस तरह का फैसला किया । अब ज़मींदार जानते हैं कि ज़मींदारी बच नहीं सकती फिर भी वह इतनी बड़ी ग़दारी देश के साथ कर रहे हैं कि पितनी कोई कर नहीं सकता । आज हमारे मुंशी साहब नहीं हैं । वह यह कहते कहते नहीं थकते कि देश की पैदावार कम होती जा रही है । मैं कहना चाहता हूँ कि इस की भी ज़िम्मेदारी ज़मींदारों पर है । मैं आप से कहना चाहता हूँ कि बिहार के ज़मींदारों को जो यह दो साल का मौक़ा मिल गया है उस में उन्होंने सूबे का बहुत बड़ा नुक़सान कर दिया है । उन्होंने जंगल के जंगल कटवा दिये हैं जिसके कारण पिछले साल पानी नहीं बरसा और आज जनता को इतना कष्ट हो रहा है । वहां के जो जंगल कटवाये गये इस की कुछ ज़िम्मेदारी तो अंग्रेज़ सरकार पर है कि उस ने लड़ाई के ज़माने में बहुत जंगल कटवा दिये और बचे हुए जंगलों को यह ज़मींदार कटवा रहे हैं ।

बाबू रामनारायण सिंह: बिहार सरकार ने भी जंगल कटवाये हैं ।

श्री एम० पी० मिश्र : यह शलत बात है । यह जो आब लोग भूखों मर रहे हैं इस की

ज़िम्मेदारी इस ज़मींदार प्रथा पर ही है ।

हमारे यहां तीन जिले हैं—सहरसा, भागलपुर, और पुरनिया ; इन तीन जिलों में बिहार सरकार को स्पेशल पुलिस (special police) रखनी पड़ रही है इस लिये कि वहां के किसान पिछले एक साल में इतने तबाह हो गये हैं कि वह समय समय पर जा कर ज़मींदारों के खलियान लूट लेते हैं । वहां इतनी बदअमनी फैली हुई है कि अगर वहां यह स्पेशल पुलिस न रखी जाये तो वहां के ज़मींदार बच नहीं सकते हैं । एक आदमी के खिलाफ़ तो वारंट है मगर वह पकड़ा नहीं जाता है क्योंकि वहां के लोग उस को जगह देते हैं । मैं कहना चाहता हूँ कि राज हिन्दुस्तान में प्रान्तीय सरकारें पुलिस पर करीब २४० करोड़ या करीब ढाई अरब रुपया खर्च कर रही हैं जब कि भारत सरकार सारी सेना पर केवल १७० करोड़ ही खर्च कर रही है । और यह पुलिस किस के लिये है ? ज़मींदार रक्षा चाहते हैं और यह पुलिस उन की हिफ़ाज़त करने के लिये है । आप कहते हैं कि हम जनता की मरजी जानना चाहते हैं । हां, तो आप को मैं बता दूँ कि जनता तो आप को एक दिन के लिये महलों में सुख से नहीं रहने देगी । आप को वह खत्म कर डालेगी । लेकिन आप पुलिस के खर्च पर, सरकार की रक्षा, सरकार की कृपा पर जो रहे हो । उस के बाद अब आप मुआवज़ा मांगते हो । मुआवज़ा ही नहीं मांगते हो, आप सरकार को धमकी भी देते हो । हमारे सूबे में ज़मींदारों की क्या हालत है ? एक ज़मींदार का हाल मैं जानता हूँ । वह कम्युनिस्टों को, जो फ़रार हुए हैं, अपने घर में छिपाता है, उन को रक्षा देता है । बड़े ताज्जुब की बात है कि ज़मींदार मुआवज़ा चाहते हैं तो हम तो उन को मुआवज़ा देते हैं तथा भले आदमियों की तरह समाज में रहने को जगह देते हैं, लेकिन वह कांग्रेस

[श्री एम० पी० मिश्र]

को खत्म करना चाहते हैं। जिन लोगों को आप आज अपने घरों में जगह देते हो वह लोग आवेंगे तो वह आपको बिल्कुल ही खत्म कर देंगे। अब आप राय देते हैं और कहते हैं कि इस को जनमत के लिये भेज दो। क्या जमींदारी उठाने पर जनमत जाना जायगा? आधी दुनिया लाल हो चुकी है और बाकी हिस्से में भी वह हवा तेजी से चल रही है। अब दुनिया में नयी कीमतें आई हैं, नये माने चल पड़े हैं और हमारे कान्स्टीट्यूशन में भी वह बातें लिखी हुई हैं। हमारे देश की बदकिस्मती है कि हमारे न्यायाधीश, हमारे वकील, जो पुरानी पीढ़ियों से सम्पत्ति पर चलते आये हैं वह समझते नहीं हैं कि इस कान्स्टीट्यूशन में दूसरी बातें क्या लिखी हुई हैं। इस में लिखा हुआ है कि किसी को शोषण करने का अधिकार नहीं है। मैं पूछना चाहता हूँ कि क्या जमींदारों का यह सब रुपया कमाया हुआ है। यह सारे का सारा रुपया अनअर्न्ड इनकम (unearned income) है। अब उस के बाद आप कहते हैं कि हम विधान की सुरक्षा चाहते हैं। कल हमारे एक जमींदार साहब ने पार्लियामेंट से अपील की कि जनतन्त्र की रक्षा कीजिये। मैं आप से कहना चाहता हूँ कि जमींदारी और जनतन्त्र साथ साथ नहीं चल सकते। पूजाशाही और जनतन्त्र भी साथ साथ नहीं चल सकते। आपका फर्ज था कि आप समय को देखते। हमारे यहां अभी श्री श्यामनंदन सहाय ने कहा कि उन्होंने एक स्कीम (scheme) बनाई है। उन्होंने कहा कि उन्होंने सन् १९३७ में भी बिहार के जमींदारों के साथ एक स्कीम बनाई थी। मैं पूछना चाहता हूँ कि सन् १९४७ में आपने क्यों नहीं बिहार सरकार के साथ बातचीत की, क्यों नहीं उस वक्त आप ने इस तरह की स्कीम पर बातचीत की? उस समय आप दिल्ली आते थे तथा

और जगह जाते थे और समझते थे कि इस तरह से आप अपने को बचा लेंगे। इस लिये बिहार सरकार के साथ बातचीत करने के बजाय उस के खिलाफ युद्ध का ऐलान कर दिया। बिहार सरकार के खिलाफ जो भाव 'इण्डियन नेशन' (Indian Nation) अखबार ने दिये हैं वह और किसी अखबार ने नहीं दिये। बिहार सरकार के खिलाफ झूठी सच्ची सब तरह की बातें इस अखबार ने लिखीं। पण्डित नेहरू ने जब कल अपने भाषण में अखबारों के विषय में चर्चा की तो उन के ध्यान में बम्बई के अखबार थे। हम कहते हैं कि पटना के 'इण्डियन नेशन' को ही देखिये। वह भी इतनी झूठ, बदलील और गन्दी बातें लिखता है। तो जमींदारों ने बिहार सरकार के खिलाफ युद्ध छेड़ दिया और वह इस लिये कि वह समझते थे कि दिल्ली उन्हें बचा लेगी और दिल्ली जमींदारी रख लेगी। मैं आप को कहना चाहता हूँ कि दिल्ली तो क्या, दुनिया की तमाम राजधानियां भी आपको नहीं बचा सकतीं, दुनिया के तमाम शासक आप को नहीं बचा सकते। आप को कोई बचा रहा है तो कांग्रेस ही बचा रही है, आप को कांग्रेस राज्य बचा रहा है, जो भले आदमियों की तरह आपको समाज में रहने का मौका दे रहा है।

आप मआवज की बात कहते हैं। मैं आप से पूछता हूँ कि क्या नौ लाख का मुआवजा कोई थोड़ी चीज है? एक आदमी को, जिस के बाल बच्चे भी नहीं हैं, यदि नौ लाख रुपये मिलें तो क्या यह थोड़ी बात है? उस के बाद भी आप इस सब को भूठ जाते हैं। फिर हमारे यहां बिहार में एक चीज और है और वह यह है कि वकील जमींदारों के पास जमीनें रहेंगी, सिर्फ दरभंगा के जमींदार पर दस हजार एकड़ जमीन रहेंगी। यह चीज आप के पास रहेगी। यह आन को कांग्रेसी राज्य

न तो दिया है, दूसरे लोग जो आवेंगे वह इस सब को खत्म कर देंगे। आप के वह दोस्त जिन्हें आप अपने घरों में छिपा रहे हैं वह खत्म कर दग, या आप की खुद अक्ल इस को खत्म कर देगी। और आज इतना बड़ा मुआवजा आप को और कौन दे सकता है? हमारी तो शिकायत बिहार सरकार से यह है कि जिन लोगों ने जब अंग्रेजी राज्य था तो अंग्रेजों के गीत गाये, जिन्होंने देश के आन्दोलन के खिलाफ और कांग्रेस के खिलाफ काम किया आज उन्हीं जमींदारों को छोड़ दिया जाता है। अभी जब हुसैन इमाम साहब अपनी स्पीच में कह रहे थे कि बिहार में डिस्क्रिमिनेशन (discrimination) हुआ है तो मैं ने कहा था कि बिग शार्क (big shark) और स्माल शार्क (small shark)। तो बिहार में छोटे जमींदारों को हम मुआवजा देना चाहते हैं, देश की आजादी की लड़ाई में उन्हींने सब से ज्यादा गोलियां खाईं, जेल गये और तबाह हुए। लेकिन बड़े जमींदारों का क्या रिकार्ड (record) है? अंग्रेज रहे तो सब दिन वह अंग्रेजों के तलुवे सहलाते रहे, कांग्रेस आन्दोलन हुआ तो देश में उस आन्दोलन के खिलाफ उन्हींने काम किया। और आज जब कांग्रेसी राज्य आया है तो कांग्रेसी राज्य के खिलाफ वह किस तरह का काम कर रहे हैं, कांग्रेसी हुकूमत के खिलाफ वह क्या काम कर रहे हैं? मैं ने अभी कहा आज एक जमींदार कम्युनिस्टों को, फरार कम्युनिस्टों को, मुजफ्फरपुर में अपने घर में भगाये हुए हैं, उन को अपने घर में छिपाये हुए हैं। इस के बाद जब कम्युनिस्ट राज्य आयेगा तब आप को पता चलेगा कि आप की क्या इज्जत रहेगी, आप की क्या आबरू रहेगी? उन का राज्य आयेगा तो न आप की इज्जत रहेगी, और न आबरू ही रहेगी।

मिस्टर चैयरमैन : मैं क्या आनरेबल मेम्बर से पूछ सकती हूँ कि क्या वह
125 P. S. D.

और सूब वालों को भी चान्स (chance) देंगे ?

श्री एम० पी० मिश्र : जरूर, जरूर। इस लिये हम आप से कहना चाहते हैं कि इस बिल (Bill) पर जनमत लेने की कोई जरूरत नहीं है। इस पर जनमत तो इतना ज्यादा है, जितने कि इस भवन में बैठे हुए सदस्य जाहिर कर सकते हैं। जनमत उस के आगे नहीं जा सकता।

अब इस के बाद मुझे इस पर कोई लम्बी बहस करने की जरूरत नहीं है। मेरा तो कहना है कि आर्टिकल (article) 14 भी अमेंड (amend) कर दिया जाये जिसका सहारा लेकर पटना के कोर्ट ने इस कानून को गैर कानूनी करार दिया है। हमारे डाक्टर श्यामा प्रसाद मुखर्जी ने कहा कि आप को सुप्रीम कोर्ट (Supreme Court) का फैसला करा लेना चाहिये था, और इतनी देर तो सब करते। मैं आप को बताना चाहता हूँ कि हमारे पटना के जज ने यह कहा था कि वह नहीं समझते कि 14वीं दफा इस कान्स्टीट्यूशन में क्यों लाई गयी। वह कहते हैं कि मैं नहीं समझता वह क्यों लाई गयी। और 14वीं दफा के जो मानी सुप्रीम कोर्ट ने लगा दिये हैं उस के बाद मैं मजबूर हूँ कि इस कानून को गैर कानूनी करार दूँ। नहीं तो उन्हींने लिखा है कि तमाम प्रान्तीय धारा सभाओं को हक है कि वह जमींदारी को उड़ा दें और वह जो भी चाहें कम्पनसेशन (compensation) दें और जितना चाहें उतना कम्पनसेशन दें। मैं सिर्फ उस को पढ़ कर सुनाता हूँ।

"I must confess that I have found it difficult to understand, and have been unable to discover why article 14 was inserted in the Constitution. So far as I am aware there was in 1950 no class of persons anywhere in India who were subjected to such discrimi-

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nation before the law as in 1867 the victorious Northern States apprehended the Negro population of the Southern States might be subjected to. Article 14 occurs at the beginning of a series of five articles which appear under the heading 'Right to Equality' and having regard to the succeeding articles, I should have been disposed myself to think that what the makers of the Constitution had in mind were potential evils of the kind which the American people aimed at when they adopted the fourteenth amendment. There are a number of articles in the Constitution which rather express the ideals of the makers than aim at existing evils or evils which are likely to arise. The Supreme Court has however given to the article the extended interpretation which has been put on the fourteenth amendment in modern times in America. I am bound by that decision and am constrained to hold that the impugned Act is unconstitutional as it transgresses article 14."

इसके बाद भी क्या सुप्रीम कोर्ट में जाने की ज़रूरत रह जाती है ? इस के ऊपर जब विधान परिषद् ने साफ़ अपनी राय जाहिर कर दी थी कि हम इस जमींदारी के मामले को कोर्ट में नहीं जाने देंगे, जब उस ने इस तरह का फ़ैसला दे दिया था तो कोई ज़रूरत नहीं है कि हम आज इस पर सुप्रीम कोर्ट को फ़ैसला करने दें। सुप्रीम कोर्ट अलग अलग सज़बों के क़ानूनों पर क्या फ़ैसला करेगी हम को नहीं मालूम और उसका क्या असर होगा हम नहीं कह सकते। इस का एक नतीजा यह भी होगा कि हम को बहुत दिनों तक इन्तज़ार करना होगा।

इस के अलावा एक बात और है। यह हाउस (House) और जितनी प्रान्तीय धारा सभायें हैं वे जनता के प्रतिनिधि हैं, वे जनता की राय प्रकट करती हैं। क्या आप चाहते हैं कि सुप्रीम कोर्ट के दस जज या दो चार जज, जो कितने ही बड़े विवेकशाली क्यों न हों, उस राय पर बैठें और फ़ैसला दें ? इस के बारे में पण्डित नेहरू की राय स्पष्ट

है। मैं उस को पढ़ कर सुना देना चाहता हूँ। यह भी उन्होंने पिछले ही साल कहा था जब वह इस क़ानून को पेश कर रहे थे :

"It has been not today's policy, but the old policy of the National Congress laid down years ago that the zamindari institution in India, that is the big estate system must be abolished. So far as we are concerned, we, who are connected with the Congress, shall give effect to that pledge naturally completely, one hundred per cent. and no legal subtlety and no change is going to come in our way. That is quite clear. We will honour our pledges. Within limits no Judge and no Supreme Court can make itself a third chamber. No Supreme Court and no judiciary can stand in judgment over the sovereign will of Parliament representing the will of the entire community."

यह बात सीधी सी है। एक जज, एक ज्युडीशियरी (Judiciary), आखिर किस का क्रियेशन (creation) है ? अमेरिका में प्रैसिडेंट रूजवेल्ट ने, आप ने पढ़ा होगा, अच्छे अच्छे जजों को हटा कर अपनी मरज़ी के जज नियुक्त कर दिये। वह तरीका अमेरिका में रूजवेल्ट ने अस्तियार किया। हम यह तरीका अस्तियार नहीं करना चाहते थे। इसी वास्ते हम इस विधान का संशोधन करना चाहते हैं। तो यह तरीका बहुत स्वाभाविक है और यह वही तरीका है जो विधान परिषद् ने अस्तियार किया था।

(English translation of the above speech)

Shri M. P. Mishra: I have since yesterday been listening very carefully to the debate on this Bill and I find myself puzzled for two reasons. In the first instance, I am reminded of the time, about 22 months back, when Article 24 (of the Draft Constitution), which is now Article 31 was moved before the Constituent Assembly and the speech that was then delivered by Pandit Jawaharlal Nehru. Even irrespective of that speech it is a clear intention of the present Article 31 that

no court or judge shall be competent to adjudicate upon or modify any law relating to the abolition of *Zamindari*. With the same end in view Clauses (4) and (6) were added to Article 31. The position today is the same as it was then and the same thing may be said of our intentions. Pandit Jawaharlal Nehru who is our Prime Minister today was also our Prime Minister then and what was then the Constituent Assembly is now here in the form of the Parliament. It is not an entirely new House that has supplanted the old Constituent Assembly. Had that been the case one might have said the view of the former Constituent Assembly was different from that of the present Parliament. I should say it is in accordance with our old intention and purpose that the present clause is being introduced in place of the old Article. It is clear from this that it was the intention of the framers of our Constitution that no court should be in a position to go into any law relating to the abolition of *Zamindari* that either we or any of our State governments are enacting or are about to enact. Now, the most controversial subject in connection with the abolition of *Zamindari* is the subject of compensation. There are people in this country who are, in fact, not in favour of the abolition of *Zamindari* but are today opposing this Bill on the question of compensation. In the present times, nobody dare say openly that *Zamindari* should continue and should not be abolished for they cannot flout public opinion. (Shri Hussain Imam: I take strong objection to this). Even a man like Dr. Syama Prasad Mookerjee does not have the courage to say that he is not in favour of the abolition of *Zamindari*. Even he has taken up the slogan that he is in favour of its abolition, although we know that if ever he and his party come into power and form the Government, of course, this is not going to happen, but, all the same, if ever it does they would retain *Zamindaris*. They would search and bring out the descendants of the old rulers from Shri Rama Chandra down to Prithvi Raj, appoint them as the Rajas and establish Hindu Raj here. But today such people do not possess the courage to come forward before the public and declare that they are in favour of the retention of *Zamindaris*. However, they raise the question of compensation and kick up a row over that. They have money and can pursue the matter at length in the courts. By means of these disputes they can do at least one thing, that is, they can, for the time being at least, hold up the Government's plans and intentions

with regard to the abolition of *Zamindari* and the land reform. In this connection, I wish to read out to you a portion of the speech of Pandit Jawaharlal Nehru which he delivered at that time. I cannot help saying that the position is very unfortunate. It was the Constituent Assembly which had added Clauses (4) and (6) to Article 31, which had framed the Constitution itself, which had created the Parliament and the Supreme Court and it was clearly of the view that the question of *Zamindari* and compensation would not be allowed to be taken before a court and that no court would have the authority to adjudicate upon or decide any matter connected therewith. Panditji had said:

"But more and more today the community has to deal with large schemes of social reform, social engineering, etc., which can hardly be considered from the point of view of that individual acquisition of a small bit of land or structure. Difficulties arise—apart from every other difficulty, the question of time. Here is a piece of legislation that the community, as presented in its chosen representatives, considers quite essential for the progress and the safety of the State and it is a piece of legislation which affects millions of people. Obviously you cannot leave that piece of legislation so long, widespread and continuous litigation in the courts of law. Otherwise the future of millions of people may be affected; otherwise the whole structure of the State may be shaken to its foundations: so that we have to keep these things in view."

Thus, I was puzzled to find that just 22 months after this clear declaration in the Constitution that courts and judges would not be allowed to sit in judgment on this matter Pandit Jawaharlal Nehru has been driven to the necessity of introducing such an amendment to the Constitution wherein a repetition has to be made of all those things that had been said already by him and other Members of the Constituent Assembly. This has greatly puzzled me. Pandit Jawaharlal Nehru is the leader of the Congress Party, he is the Prime Minister and if any one man can stand as a symbol of the country's ambitions, desires and intentions he is that man. It was he who had especially stated that we would not permit law courts to interfere with this thing and yet, what do we find? Just after a lapse of 22 months High Courts in several places have declared *Zamin-*

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dari Abolition Acts as *ultra vires*. In Bihar State the *Zamindari* law has been declared *ultra vires*. I think that one of the two things has happened. Either those who were the advisers of Pandit Jawaharlal Nehru and were entrusted with the drafting of the Constitution failed to convey the meaning correctly or that our country's courts and our country's judges have strayed beyond their jurisdiction and have come to adjudicate on these matters by acting in excess of their authority. I submit that Article 31, Clause (4) is clear on the point that the courts are barred from adjudicating on that matter. But in regard to the Bihar law it is said that it has been declared *ultra vires* in accordance with Article 14. Article 31(4) reads:

"If any Bill pending at the commencement of this Constitution in the Legislature of a State has, after it has been passed by such Legislature, been reserved for the consideration of the President and has received his assent, then, notwithstanding anything in this Constitution"

6 P.M.

It is clear that matters like this cannot be adjudicated upon by law courts and that they are barred from doing so in spite of anything to the contrary provided for in the Constitution. It says further:

" the law so assented to shall not be called in question in any court on the ground that it contravenes the provisions of clause (2)."

If, in the face of all this, the judges of this country, especially those of my State, have adjudicated upon and decided these matters they have evidently acted beyond their jurisdiction.

Shri Syamnandan Sahaya: It is said "Notwithstanding anything in the Constitution,"

Shri M. P. Mishra: That is compensation. Nobody is authorised to adjudicate upon that.

Then there is the second circumstance which is puzzling me. A number of my *zamindar* friends stood up and supported the resolution moved by Pandit Jawaharlal Nehru for the amendment of the Constitution but they added that there should be a referendum on the point. I am surprised to find that even at this time,

in the year of grace 1951, there are people who want a referendum on the question as to whether *Zamindari* should or should not be abolished, whether compensation should or should not be paid. Do they not know why the death sentences passed against the twelve *kisans* of Telangana have been commuted by our President to imprisonment for life? It is that part of the country where the *kisans* have been driven to desperation by the atrocities committed by the *zamindars* and where Shri Vinoba Bhave is touring these days in order to pacify them. This episode occurred because the *zamindars* of that area had sucked away the very life blood of the *kisans*. This led to rioting which in its turn resulted in the twelve *kisans* being sentenced to death. Even after all that would you insist on a referendum? Ten thousand *kisans* in our State suffered atrocities and courted imprisonment in the year 1936-37. Are the Members of this Parliament not aware of the fires of resentment that are raging against this *Zamindari* system in each and every village? If they are not aware of that, it is the bad luck of the country and of this Parliament. In regard to our State it is said that so little compensation is being paid there to the *zamindars*. I am inclined to pity the judge who accepted the plea put forth by the *zamindar* that he was not getting even as much compensation as was his income. The compensation to be paid to the Maharaja of Darbhanga under the Bihar law has been assessed at rupees fifteen lakhs. The accounts produced on behalf of the *zamindar* were wrong. The counsel for the Maharaja of Darbhanga stated that even the arrears of rent due to him for the previous year amounted to thirty lakhs of rupees whereas he was going to be awarded only fifteen lakhs by way of compensation. I think the judge who accepted that statement knew pretty little about the *Zamindari*. Not even one-half of the last year's arrears are capable of realization. Much less than that even is realized. I would say Bihar Government is being over-indulgent to the *zamindars* inasmuch as they are being paid compensation on such a lavish scale.

Shri Hussain Imam: But in the U.P. Act it is said.

Shri M. P. Mishra: I am not giving way. The hon. Member has had his say.

The judge accepts whatever allegation the *zamindar's* counsel makes and

he writes that in fact the *zamindar* would not be getting sufficient compensation. I would suggest to the Government that the Maharaja of Darbhanga should not get anything more than nine lakhs—or why should he get even nine lakhs? For whatever compensation they are getting today they ought to thank the Congress and the disciples of Mahatma Gandhi for now, after the year 1951, there is no more likelihood of such a Government coming into office as might award compensation to the *zamindars*. The things these *zamindars* have been doing are not unknown to anybody. Let me recount to you just one story to give you an idea of the things they have been doing. In 1950 a *kisan* was asked to do some job by way of *begar* but he could not attend the call as he was ill. Thereupon the *zamindar* sent forth his *amla* (party of officials). The men of the *amla* went to his house but the people there had already fled in panic. They found only an old man of seventy and his sixteen year old daughter-in-law. The men of the *zamindar's amla* marched them off. In the blazing midday of the month of *Jeth* (May-June) they tied them up in the open and poured hot water on them. This is the kind of treatment meted out to the *kisans* by the *zamindars* and yet it is urged they should be awarded compensation. The Woodhead Commission had expressed the view that the Bengal famine was only due to the *zamindars*.

Our President, Dr. Rajendra Babu, had appointed a Peasant Inquiry Committee in 1934 of which he himself was the Chairman. The Committee had toured from village to village and this statement was recorded by it in the *zamindari* of Darbhanga. The Woodhead Commission had expressed the view that Bengal famine was only due to the *zamindars*. Despite all these facts the Government's decision to this effect is described as arbitrary. Although, the *zamindars* are fully convinced that now it is not possible to retain their *zamindaris* any longer, yet they are simply betraying the country. Today hon. Shri Munshi is not present here. He has been constantly warning that the food production in country is tending to decrease. I would like to say that the responsibility of this also lies on the *zamindars*. I wish to submit that during the two years that the *zamindars* of Bihar gained they have done a good deal of harm to the State. They denuded forests after forests which amounted to lack of rains last year and untold miseries to the public at present. This responsibility also lies partly on the old British Government, which had

denuded many forests during war-time, and partly on the *zamindars* who are now denuding the remaining ones.

Babu Ramnarayan Singh: The Bihar Government has also denuded the forests.

Shri M. P. Mishra: It is incorrect. The cause of the present starvation condition is this *Zamindari* system. Saharsa, Bhagalpur and Purnea are the three districts in Bihar. The State Government has been compelled to post special police in these three districts because for the last one year the cultivators have been totally ruined, so much so, that they often loot the *zamindars'* grain stores. The disorder has spread there to such an extent that the local *zamindars* cannot be protected should no special police be posted there. A warrant has been issued against a particular person but he could not be arrested so far because the local inhabitants provide him with shelter. While the Government of India's total expenditure on defence comes to only 170 crores of rupees, the State Governments of India are spending something about 240 crores on police forces. For whom is this police meant? The *zamindars* require protection and for this the police has to be kept. They plead for public opinion being elicited. May I tell them that the people are not going to allow them to live happily in their palatial buildings. They will ruin them. It is only on account of the expenditure incurred by the police and the protection by and the humane treatment of the Government that the *zamindars* are able today to keep their body and soul together. Still they demand compensation. Not only do they demand compensation but they also threaten the Government. What are the conditions prevailing in the *zamindaris* in my State? I am aware of the activities of a particular *zamindar*. He gives shelter to communist absconders and hides them in his house. Really it is a pity that while the Congress is even ready to pay compensation to them and also provide them with a respectable place among the society, they should try to exterminate it. Should the people whom the *zamindars* provide with shelter return to power, it will be seen that those very people will uproot them. Now they suggest this Bill should be circulated for eliciting public opinion. Will the public opinion be ascertained after the abolition of *zamindaris*? Nearly half of the world has already been affected by communism which is fast going to spread over the remaining parts also. Now new valuations and new interpretations have come in vogue.

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It is very unfortunate for the country that our judges and lawyers, who have been believing in the existence of property for generations, could not quite follow what the Constitution laid down among other things. The Constitution provides that none is entitled to indulge in exploitation. May I ask whether it is the earned money that the *zamindars* possess? The entire income is unearned one. Still they advocate for the safeguard of the Constitution. One of my *zamindar* friends yesterday made an appeal in this House that the democracy should be preserved. I wish to make it very clear that the institution of *zamindari* and democracy are the two things that cannot go side by side. Such is the case also with the capitalism and the democracy. It is high time they should rise to the occasion. Shri Syamnandan Sahaya told the House—a little while ago, that he had formulated a scheme. He further disclosed that in 1937 too he had formulated another scheme in collaboration with the *zamindars* of Bihar. May I ask him why did he not enter into a similar negotiation with the Bihar Government in 1947 also? At that time he used to visit Delhi and various other places in the hope that thus they would be saved. But now instead of negotiating with the State Government, he has launched a war against it. Whatever view has been expressed by the paper, "Indian Nation" in regard to the Bihar Government has so far not been put by any other newspaper. This particular paper has written all sorts of baseless facts in regard to the Bihar Government. Pandit Nehru had in mind the papers of Bombay when he dealt with the newspapers the other day. Take the case of "Indian Nation" of Patna. This paper, too, gives the same type of trash and nonsense. So we see the *zamindars* have launched a war against the Bihar Government in the hope that they would be saved by Delhi and thus their *zamindaris* would be retained. Let alone Delhi, all the capitals of the world or all their rulers combined together cannot save them. Only the Congress and the Congress Government, which are providing them with an opportunity to live a respectable and honourable life, are saving them.

They talk of compensation. Is a compensation of nine lacs of rupees an ordinary thing? If a man, who has no children even, gets nine lacs of rupees as compensation, it is certainly not an ordinary thing. Still they forget all these things. In Bihar there is also a provision that

the *zamindars* will retain some land. The *zamindar* of Darbhanga alone will hold ten thousand acres of land. It is only the Congress Government which has done this favour; in case any other Government comes in, they will not allow even this provision to continue. Their so-called friends, whom they are providing with shelter in their houses, or their own wisdom will rob them of whatever little privilege they are enjoying at present. Who else can give them so huge a compensation? I for one would go so far as to complain to the Bihar Government that they have left some *zamindaris* of those who used to dance to the tunes of Britishers during the British regime and used to oppose the Congress movements tooth and nail are left with their own *zamindaris*. A short while ago, when Shri Hussain Imam said in his speech that in Bihar the *zamindars* were discriminated against, I had remarked that there were big sharks and also small sharks. We propose to pay compensation to the small *zamindars* in Bihar because it is only they who most of all faced bullets, went to jails and got ruined during the great struggle for freedom. But is there any record of big *zamindars*' making any achievement? When the Britishers were here these *zamindars* used to lick their shoes and during the Congress movements they always confined their activities to oppose the country's stand. Now that the Congress Government has taken over, they are again opposing it. As I have just said, a *zamindar* in Muzaffarpur has given asylum to communist absconders. What will be the state of their self-respect and honour, should a communist Government be set up in the country? Under communist rule they will have neither self-respect nor honour as such.

Mr. Chairman: May I ask the hon. Member whether he would also give way to those belonging to other States?

Shri M. P. Mishra: By all means. I want to submit, therefore, that there is no necessity of circulating this Bill for eliciting public opinion. No public opinion can be more weighty than the will of all these Members of this Parliament which represents the entire community.

Having said so much I need not indulge in a long controversy. I for one would like to say that Article 14, in accordance with which the Patna High Court declared this Act void, be also amended. The hon. Shri Syama Prasad Mookerjee suggested this Bill

should have been delayed pending the Supreme Court's decision, I may tell you what the hon. Judge of the Patna High Court had remarked in this regard. He said he did not quite understand why Article 14 was incorporated in the Constitution. Now that the Supreme Court has interpreted Article 14 in that way, he added, that he was compelled to declare that measure void. Besides, he has also written that all the State legislatures are empowered to abolish *zamindari* and pay as much compensation as they like. I just read it out:

"I must confess that I have found it difficult to understand, and have been unable to discover why article 14 was inserted in the Constitution. So far as I am aware there was in 1950 no class of persons anywhere in India who were subjected to such discrimination before the law as in 1867 the victorious Northern States apprehended the Negro population of the Southern States might be subjected to. Article 14 occurs at the beginning of a series of five articles which appear under the heading 'Right to Equality' and having regard to the succeeding articles, I should have been disposed myself to think that what the makers of the Constitution had in mind were potential evils of the kind which the American people aimed at when they adopted the fourteenth amendment. There are a number of articles in the Constitution which rather express the ideals of the makers than aim at existing evils or evils which are likely to arise. The Supreme Court has however given to the article the extended interpretation which has been put on the fourteenth amendment in modern times in America. I am bound by that decision and am constrained to hold that the impugned Act is unconstitutional as it transgresses article 14".

Still is it necessary to wait for the Supreme Court's decision? Moreover, in view of the fact that the Constituent Assembly had clearly expressed its view that this issue of *zamindars* would not be allowed to be referred to the Supreme Court, there appears to be no reason why we should allow the Supreme Court to deliver its judgment on this issue. I do not understand how the Supreme Court will decide the issues relating to the various States and what will be the ultimate effects of its judgment. It will also make us wait for a considerably long period.

Apart from this, there is one more consideration. This House as well as other State Legislative Assemblies are the representative bodies of the people and represent the public opinion. Do we want ten, or say any number of judges, howsoever wise they may be, to stand in judgment over this sovereign will? Pandit Nehru's views in this regard are quite clear. While moving this measure last year, he had remarked:

"It has been not today's policy, but the old policy of the National Congress laid down years ago that the *Zamindari* institution in India, that is the big estate system must be abolished. So far as we are concerned, we, who are connected with the Congress, shall give effect to that pledge naturally completely, one hundred per cent. and no legal subtlety and no change is going to come in our way. That is quite clear. We will honour our pledges. Within limits no Judge and no Supreme Court can make itself a third chamber. No Supreme Court and no judiciary can stand in judgment over the sovereign will of Parliament representing the will of the entire community".

It is a clear fact. After all who has created a judge or a judiciary? In America, you might have read, President Roosevelt had removed many able judges and appointed in their places those chosen by himself. We do not want to do likewise and that is why we seek to amend the Constitution. This method is very natural and is the same that was adopted by the Constituent Assembly.

Pandit Krishna Chandra Sharma: This is a very important Bill which deals with amending the Fundamental Rights. I want to disabuse the mind of the hon. Member who made so much of the Fundamental Rights. It is one thing to have formal recognition of the Fundamental Rights either in the Constitution or in any set of laws but it is quite another thing to have them effectively recognised in the day to day life of people. No Constitution nor law can give any rights if public opinion is not willing and ready to uphold them. The law of a country can only come into force in accordance with the social, economic and political conditions of the community, the intellectual capacity of its people and their moral receptivity. Do you think that a degraded and down-trodden people will ever be willing to uphold the *zamindari* system? I am sorry my hon. friend is not here.

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He talked of the sand's heat being greater than the heat of the sun. The sun has been reduced to sand. For hundreds of years you have been reaping where you had not sown. You have degraded the people, you have trampled upon them, the people who laboured for you and still you say that you want light from the sun. Where is that damned sun? Where does it exist? You want the man who labours for you to remain silent for ever. That is an impossibility. I want to disabuse the mind of hon. Members of the impression that because certain rights are given in the Constitution or any set of laws therefore they are sacrosanct and therefore you can effectively count upon them. That is not the way of the world. The people are greater than any set of laws or anything in the Constitution.

I now come to the freedom of speech and the freedom of the Press. My friend Mr. Deshbandhu Gupta made much of it but I make bold to say that I am ashamed of the Press. Thousands of people have been murdered on account of the false reports published in the Press regarding Hindu-Muslim riots. What do their Press do? I know of an instance in the Hindu-Muslim riot days of 1947 when not a single man died but one Delhi daily published that 50 Hindus were killed and the following day a village was attacked and 30 Muslims were killed. Who is responsible for these 30 lives? What are their correspondents doing? What do they pay to their correspondents? They remain in the city and concoct news and things are published which affect the lives and liberty of the people. My friend Mr. Deshbandhu Gupta had the cheek to say that the Press is good. I say that there is no Press at all. The blackmarketer deals in goods which affect the convenience and comforts of the people. The Press today deals with the very lives of the people and with the very liberties of the people not knowing what they are doing. It is easy to refer to the freedom of the Press, but I am constrained to say, and it is my painful task, that Press has not done the job.

Mr. Chairman: May I know whether the hon. Member is making a generalisation in this regard?

Pandit Krishna Chandra Sharma: There are noble exceptions; I am coming to the freedom of the Press.

So much about the much-applauded ways of the good Press in India. But may I say that even in U.S.A., which is said to be the heaven of liberty and freedom of the Press, about which so much is being said that it is a land of the free, may I say even in that country the freedom of the Press is not unrestricted? There are two kinds of restraints: the freedom of the Press is restricted to a very great extent in time of emergency; but even normally it is restricted in so far as it involves slander, indecency, incitement to insurrection and similar offences against public welfare. And there have been in the last decade several attempts to restrict the power of the Press and the freedom of speech. Many Acts have been passed which curtail the liberty of the Press and freedom of speech. They are: the Sedition Act of 1798, the Espionage Act of 1917, the Aliens Registration Act of 1940, and the sections of emergency legislation, 1941. Then again, the freedom of the Press and freedom of speech are subject to police powers. What are these police powers? They are the inherent power of every State to prescribe regulations to promote the health, peace, morals, education and good order of the people. All these police powers are above the fundamental rights, and what the State says comes under police powers, the court will not adjudge a law as invalid because it infringes some Fundamental Rights. These are the restrictions observed even in U.S.A. with regard to the freedom of speech and freedom of the Press.

Let me come to the case of Switzerland. Freedom of speech in that country is guaranteed under article 55 of their Constitution. The right of freedom of speech is limited by the good of the people as a whole. So, there too it is not unrestricted and absolute right. It is said that Switzerland is the happiest democracy in the world, but that happiest democracy of the world does not give unlimited and unrestricted right of speech or freedom of the Press.

With regard to Germany, article 118 of the Weimar Constitution limits the freedom of speech by the general laws and therefore there is no absolute right. The right of expression and the freedom of the Press in Germany is to be enjoyed within the limitations of the general laws of the land, which means the laws passed and enacted by the legislature of the land.

Section 46 of the Irish Constitution says:

"The State guarantees liberty of the exercise of the following

rights, subject to public order and morality; the right of the citizen to express freely their conviction and opinions”.

But that is subject to public order and morality and subject to general laws.

So, I submit that there is nowhere in the world, as my hon. friend supposes, such a thing as absolute right to the freedom of speech to say what one likes or absolute right to the Press to print anything it likes.

The amendment, as the Prime Minister said, deals with three things: friendly relations with foreign countries; public order and incitement to an offence. So far as friendly relations with foreign countries are concerned, we have got article 51 on Directive Principles. Article 51 says:

“The State shall endeavour to—

(a) promote international peace and security;

(b) maintain just and honourable relations between nations;”.

These Directive Principles are like the general instructions formerly issued by the Governor-General and were meant to guide the policy of Government. They are not justiciable rights. But it is difficult to hold that any State will try to act in contravention to these rights.

Shri T. T. Krishnamachari (Madras): There seems to be no member of Government listening to the hon. Member.

Mr. Chairman: There is the hon. Mr. Thirumala Rao.

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): I have given one of my ears to my hon. friend's speech.

Pandit Krishna Chandra Sharma: Then Dr. Syama Prasad Mookerji said that he has a right to say that partition should be annulled. He should have known the course of events in Korea. How could any citizen of India stand up and say he wants to wage a war against a neighbouring country? No law can permit it; no Government can permit it. It is to open a chapter of terrorism, of miseries, of grievances of wrongs towards people. It is easy to claim the right to make propaganda for the annulment of partition of the country. I beg to submit, when you accept the Constitution, you accept the partition of the country. It is not now given to you to undo something on which the

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Constitution is based. The Constitution is based on the old India being partitioned. So to rise in revolt against Pakistan is to rise in revolt against the Constitution itself. Canada is different from the United States. Can any citizen in the U.S.A. stand up and say I want to run over the land of Canada and annex it to the U.S.A.? Such a thing is impossible. So, friendly relations with foreign powers are necessary to safeguard the directive even in article 51. Similar provisions regarding public order are contained in the Constitutions of U.S.A. and other countries and nothing new is contained in this amendment. Incitement to offence—here the offence means against the Constitution itself—if it is in accordance with the Fundamental Right or permissible under the Constitution, the act does not become an offence. It becomes an exercise of a right and not an offence. Therefore, it becomes an offence because it is an act in contravention of the Constitution. It is therefore not a novel thing to claim power to punish an offence, for it is a contravention of the Constitution itself.

Now I come, Madam, to property.

Mr. Chairman: May I suggest that some time is lost when the hon. Members address the Chair as ‘Sir’ and then correct it into ‘Madam’? I am perfectly willing to be called ‘Sir’ so that no time need be lost.

Pandit Krishna Chandra Sharma: I will take care to call ‘Madam’. Well, Madam, I beg to submit with regard to the property question that there is a misconception about this property business. My friend Mr. Hussain Imam thinks that it is such a sacred thing that it is not to be lightly dealt with. But I would respectfully submit that there are two different things—acquisition of property and the distribution of wealth. When you create wealth you are limited by circumstances, that is, it is limited by your personal capacity to work, mental equipment, the situation as it is and so on. But when once property is created it becomes a matter for social institution. Once it is there you can distribute it as you like. Therefore, property having been created it comes in the hands of the society to be treated as the society likes. That is the fundamental thing. (Interruption). You cannot say ‘No’ to it. Therefore there is nothing so sacred about it that it cannot be touched.

Regarding land I would like to inform my friend that ever since the time of Plato to Karl Marx this question has been taxing the brains of

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the great thinkers and most of them have come to the conclusion that the sooner land is taken out of the private ownership the better it would be for the people.

Shri Hussain Imam: All lands; all rights of property.

Pandit Krishna Chandra Sharma: The other property a man creates. Land you have not created. And you have no right to reap where you have not sown. It is a simple proposition. Who is a thief? A thief takes away a thing which he has not laboured to create. You reap where you have not sown. How are you better than a thief?

Shri Hussain Imam: What about the Government which wants to expropriate it?

Pandit Krishna Chandra Sharma: You have not created it but you want the benefit from it. Also, from the latter half of the Nineteenth century from John Stuart Mill to Gassen and Walras and many other thinkers there have been devices to make the proprietary rights in land unprofitable. The Henry George problem is a single tax, that is, a tax should be levied on land alone, that the ownership of the land or possession of the land should become unprofitable. Therefore there have been devices and all through the history of economic thought there have been attempts that this problem of land should be solved. The meaning of the expression that this problem of land should be solved is that the land from private ownership must pass to social ownership. Having come so far, it does not lie in my hon. friend's mouth to say: We are deprived of the sacred right. . .

Shri Hussain Imam: I never said that.

Pandit Krishna Chandra Sharma: What is the sanctity in a right which the people do not want you to possess? You must understand your very life, your property, your social existence depends upon the will of the people. If the people do not like you to exist, you cannot exist. No military, no police would allow you the full lease of life if the people are not willing to give you that. Do you want the people should run into desperation? They would make your life impossible.

Having said about the land reform, I come to amendments to article 31.

Mr. Chairman: I thought we have agreed to the time-limit of 15 minutes and I expected from the hon. Member a great spirit of accommodation with regard to the other hon. Members.

Pandit Krishna Chandra Sharma: With regard to article 31A I beg to submit that there is nothing novel in this. Even in the U.S.A. the position is that the land property will not be taken for public purposes without just compensation. But nowhere in the long history of the Supreme Court judgments it has been decided what is 'just compensation', and what is public purpose. Both these expressions are vague and ambiguous. They have devised a method by which when the land is taken by the U.S.A. Government the parties and the Government representatives agree with regard to the amount of compensation and if they do not agree the question comes to the departmental tribunal but it seldom goes to a law court. So the position remains that the departmental tribunal is the final authority to decide with regard to public purpose and just compensation. In other countries all rights to property are subject to general laws, that is, the general good of the people and they in turn mean the laws passed by the legislature of the country. So far as article 31A is concerned, there is nothing new; there is nothing strange. It has always been in existence in other countries and the provisions have been working well. Therefore my hon. friend cannot say that he is being unjustly treated when all the world and all the people outside this country have been so treated and they think that they have been well treated.

So far as article 31B is concerned, I agree with my hon. friend, Pandit Thakur Das Bhargava that copies of the Bills should be supplied to Members so that they may carefully study them and be able to offer sound views on them.

Mr. Chairman: I would like to call upon such a Member who can finish his speech precisely at 7 P.M.

Shri Hussain Imam: May I say that I never advocated against the abolition. I only wanted the U.P. plan to apply to Bihar.

Ch. Ranbir Singh (Punjab): Conditions may be different.

Shri Hussain Imam: Or I want the Bihar plan for U.P. Let us have a uniform plan.

Shri Kala Venkatarao: You have left out Madras.

Shri Shankaraiya (Mysore): I rise to congratulate the Leader for the bold step he has taken in sponsoring this Bill against such severe attacks. He has taken a bold step indeed in order to eradicate the social evils and inequalities that are existing and which have been causing so much of disturbance in this country for a very long time. It is really a bold step. The vested interests are doing their level best to see that these measures are not pushed through and that their interests are perpetuated and safeguarded and they are allowed to run in their own manner as long as possible. I am in agreement with the other amendments proposed in the Bill and support it. Within the limited time at my disposal, I would like to confine myself to the amendment to article 15(3).

The Prime Minister in his speech has given an account of the conditions prevailing in the country, particularly in South India and he has been fully aware of the serious consequences that would arise if things are not settled in proper time. Being aware of those consequences, he has proposed this amendment to article 15(3), by providing that equal opportunities be given to the minority communities, especially the backward communities or the backward classes, so to say, for economic and educational advancement. But, the only point that I wish to bring to the notice of the House is that this amendment will not serve the purpose we have in view, if it is not specifically laid down. In view of the decision of the Supreme Court on the communal G.O. of the Madras Government, under article 29 (2), no restrictions could be placed with regard to admission to colleges on grounds of community, caste or religion. This has led to a good deal of upheaval and a sort of agitation in the minds not only of the elderly people, but even of the younger generation, particularly the student community. In order to prevent this, I would request the hon. Prime Minister to seriously consider this matter and see that the proposals that are laid down are fully effective. Even if the proposed amendments are carried, the purpose will not be served. It is a legal question. I would like to explain it. The proposed amendment is of a general nature. It runs like this:

“for the educational, economic or social advancement of any backward class of citizens”.

This is a general clause. No doubt, it gives facilities to them. But, this general clause will be qualified to the extent that a article 29(2) stands there. So long as the general provision is there, it will be interpreted subsequently that any State Government or the Central Government may provide all facilities for their advancement in the educational and economic field; but it will be qualified to the extent that article 29(2) is not altered or modified. When a specific article is there, like article 29(2), it will have precedence and it must be enforced. Even though there is a general clause, that general provision is subject to article 29(2). So long as article 29(2) is there, no Government can try to act or pass any order or devise any means whereby the difficulty that has now arisen on account of the decision of the Supreme Court could be obviated. The purpose, in view in the Bill, will not be achieved if article 29(2) were to remain operative and it will be very difficult for the backward classes to get educational facilities. If they are deprived of these facilities and if they do not get admission into the colleges, what will be the consequence? I would like to bring this to the notice of the House. If they do not succeed in getting admission into these institutions, especially the technical colleges and institutions, then the very purpose of giving them these facilities would be defeated. Also article 16(4) which provides for equal opportunity for appointments will also be a dead letter. At the time of appointment there will be a dearth of candidates from among the backward classes and hardly anyone among them can be appointed. So I submit equal opportunities should be given to the backward classes to get into the colleges and this can be effected by inserting a provision even in the present Bill to the following effect, namely that notwithstanding any other article in the Constitution and notwithstanding article 29(2), equal opportunities should be given. If the present measure is qualified in some such manner as I have just suggested, that will serve the purpose and enable the backward class students to get access into these institutions. Otherwise it will be open to the High Court to again say that so long as article 29(2) is there, this general clause 15(3) will not help in the matter. This will not solve the problem, and as I said, article 16(4) will remain a dead letter.

Another effect will be this. We are now in the country which has yet to make advance in the economic and industrial fields. Progress of the country in these fields will depend to a very great extent on the extent of

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training we give to our people in technical fields and on the extent of their technical knowledge. If the people of backward classes are denied access to the technical colleges and are deprived of the opportunity of getting this technical knowledge, the backward communities will be entirely dependent on others and will be at their mercy. So greater opportunities should be given to them.

I would like to bring to the notice of the hon. Prime Minister that the matter is not so simple as it may appear and that it is deeply agitating the minds of the people, especially in the southern part of the country. Even though the Congress may not carry on any communal propaganda, there are people who try to take advantage of the present situation and who want to exploit it. Therefore it is highly desirable that this question should be tackled properly and the country is not driven into communal feelings and rancour, if I may say so. This possible danger should be guarded against.

I would like to bring to the notice of the hon. Prime Minister that these communal feelings have already entered the portals of the universities, not only among the students, but even among the professors, teachers and others. It is high time that we do something to prevent this sort of thing. Because if the mind of the younger generation is poisoned on account of this, the country will be lost and the potential danger to the country will be far greater. It is not only the Madras Government that is concerned with this but the whole of South India—the States of Mysore, Travancore-Cochin and even Bombay are all affected by this. I will not be wrong if I say that this feeling is being spread and propaganda is being carried on in Northern India too. So I would request, that this enabling provision should be included in the Bill if any relief is to be given, and that it shall be duly effective. I would request the Select Committee to bear this in mind, the serious consequences that will follow and hence bestow their best attention to the matter.

With regard to the conditions, I do not want to beg the question again as it would lead to all sorts

of undesirable results. Therefore it is for the good of the country that such things are being tackled. I would like to dispel a feeling that has been prevalent and that is this: it is not a communal question but it is a question of distinction or inequality that has been existing in the different classes in South India. It is only those who are interested in it that are giving it a communal colour in order to retain their vested interests and rights. Whatever may be the circumstances that have led to the present position, I would request that we should not allow it to be exploited by anybody in the country but it should be prevented and the larger interests of the country should be looked into and fuller opportunities should be given to all classes and communities. There is a question as to who are the backward classes. With regard to that there is article 340 and the President has got power to appoint a commission and the terms of reference of that commission could include all the details. It may be immediately appointed and it can ascertain the opinion of the people, find out the social conditions and report. This commission's report need not be final for all times. It can be reviewed periodically and these backward communities could be reclassified off and on, as and when, circumstances require by taking into consideration the progress and the development they have made and I would request that this article can be easily availed of. This is not of very serious consequence but it would lead to the greatest harmony in the country. Therefore, I would request the Prime Minister to consider this matter and see that article 29(2) is not exploited again and the present amendment even though introduced will not be carried to the Supreme Court for interpreting again. If at all we are legislating, let us be definite on the point and see that all reliefs are given. With this request, I support this Bill.

Mr. Chairman: Before I adjourn the House, I would like to inform the hon. Members that the debate on this motion will conclude by 12-15 p.m. tomorrow and the hon. Prime Minister will reply at 12-15 p.m.

The House then adjourned till Half Past Eight of the Clock on Friday, the 18th May, 1951.