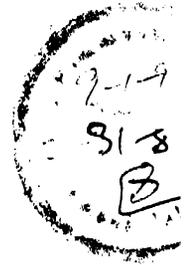
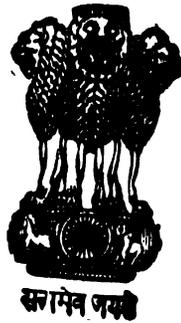


Friday, 18th May, 1951



# PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

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VOLUME VII, 1951

(2nd April to 16th May, 1951)

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Third Session (Second Part)

of the

PARLIAMENT OF INDIA

1951

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

4875

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**PARLIAMENT OF INDIA**

*Friday, 18th May, 1951*

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

[MR. SPEAKER in the Chair]

**ORAL ANSWERS TO QUESTIONS**

**TELEPHONE LOAN SCHEME**

**\*4254. Shri S. N. Das:** Will the Minister of Communications be pleased to state:

(a) the total amount received so far as loan under Telephone Loan Scheme; and

(b) the total expenditure incurred by Government to fulfil the undertakings under the said Scheme?

**The Minister of Communications (Shri Kidwai):** (a) Rs. 1,30,000.

(b) Rs. 1,26,350 exclusive of overhead charges. (Rs. 48,880 already spent, Rs. 77,470 yet to be incurred).

**Shri S. N. Das:** What are the names of the commercial bodies which have contributed to this scheme?

**Shri Kidwai:** It is commercial bodies which have deposited the amount and the places are Budaun, Malagaon and Kapadwaganj.

**Shri S. N. Das:** What are the advantages offered under the scheme?

**Shri Kidwai:** No advantage is offered except that the town for which money is deposited gets a telephone exchange.

**Shri Shiv Charan Lal:** Is this loan system proving hard on the general public who want to have telephones?

**Shri Kidwai:** The general public have nothing to do with the loan system.

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**Shri Shiv Charan Lal:** What about those who want to have telephones?

**Shri Kidwai:** Those who want get the telephone.

**Shri Chattopadhyay:** In how many different places is the scheme in operation?

**Shri Kidwai:** All over the country.

**Shri Chattopadhyay:** Has it proved successful?

**Mr. Speaker:** That is a matter of opinion.

**GOODS HANDLING CONTRACT**

**\*4257. Shri Jagannath Das:** Will the Minister of Railways be pleased to state:

(a) whether it is a fact that the Goods Handling Contract at Shalimar Goods Depot was offered by the Bengal Nagpur Railway on tender basis in the year 1948 and the tender accepted was 95 per cent. over the standard Schedule of Rates enclosed to the tender;

(b) whether it is a fact that the increase of 25 per cent. was sanctioned over the accepted tender rates without inviting tenders in the year 1948-49 and if not, what percentage increase was actually given and why;

(c) whether it is a fact that the existing contractor at Shalimar is not paying a "Fair Wage" to the labour employed;

(d) whether it is a fact that there is no stipulation in the existing Agreement for payment of "Fair Wages" to the labour and if so, why; and

(e) whether Government propose to have fresh tenders invited specifying payment of "Fair Wages" to the labour employed at Shalimar Goods Depot before further increase in rates is granted to the existing contractors and if not, why not?

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

(b) A 20 per cent. increase was sanctioned from 1st January, 1949 to compensate for a drop in the volume of traffic dealt with due to circumstances not foreseen at the time the contract was given.

(c) The labourers are paid wages by the contractors at rates agreed to by the Labourers' Union and approved by the Regional Labour Commissioner of the Central Government.

(d) There is no such specific stipulation. The question of inserting a "fair wage" clause in the form of agreement for handling contracts is, however, already under consideration.

(e) There is no proposal at present for enhancement of the existing rates. Tenders will be invited if and when it is found necessary.

#### HONEY PRODUCTION

\*4258. **Pandit Munishwar Datt Upadhyay:** (a) Will the Minister of Food and Agriculture be pleased to state whether the All-India Bee-keepers' Association has submitted any scheme to augment the production of honey so as to add something to our food resources in the country?

(b) Is there any scheme for the insemination of queen bee and domestication of India's giant and ferocious bees for bee-keeping industry?

**The Deputy Minister of Food and Agriculture (Shri Thirumala Rao):** (a) No.

(b) Yes. The technical programme of the two regional Bee Research Stations under the Indian Council of Agricultural Research—one at Katrain (Punjab) and the other at Coimbatore (Madras)—includes work on these items.

**Pandit Munishwar Datt Upadhyay:** What is the total production of honey in the country? Is there any account of it?

**Shri Thirumala Rao:** I want notice.

#### SOIL STUDY IN MIDNAPUR

\*4259. **Shri S. C. Samanta:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether any soil study was made in 1949 near Contai in the district of Midnapur in West Bengal;

(b) the reason for the same; and

(c) whether Government propose to place on the Table of the House the full report of this soil study?

**The Deputy Minister of Food and Agriculture (Shri Thirumala Rao):** (a) to (c). The question lies within the purview of the State Government who have already been addressed in the matter. Their reply when received will be placed on the Table of the House.

#### TELEPHONE EXCHANGES

\*4264. **Shri P. Basi Reddi:** Will the Minister of Communications be pleased to state:

(a) whether Government have any proposal to instal new small Telephone Exchanges during the current year; and

(b) if so, the places at which they will be installed?

**The Minister of Communications (Shri Kidwai):** (a) Yes.

(b) It is proposed to instal small exchanges at 36 places. A list is placed on the Table of the House. [See Appendix XXV, annexure No. 35.]

Government will be prepared to open exchanges at those places also where there are persons interested who would make an advance of Rs. 50,000 at 2½ per cent. interest or there are at least 25 persons prepared to become subscribers under the "Own Your Telephone" Scheme.

**Shri P. Basi Reddi:** Is there any district headquarters town in the Madras State which has no telephone exchange?

**Shri Kidwai:** There must be some. I have placed on the Table a list, where this year we propose to open exchanges at Government expense. If there are any towns where there is no telephone exchange and they are prepared to make their contribution they will get it.

**Shri Dwivedi:** What is the minimum expenditure on the installation of a telephone exchange?

**Shri Kidwai:** It depends upon the number of telephones required. But we have estimated it at Rs. 50,000.

**Pandit Munishwar Datt Upadhyay:** May I know whether Government propose to start these exchange offices in small towns where there is no electricity?

**Shri Kidwai:** Yes. Our system has nothing to do with the local electric supply.

**Shri Kesava Rao:** May I know whether Government is able to give new lines from the old exchanges?

**Shri Kidwai:** There are several expansion schemes. Wherever expansion is possible new lines are being given.

**Pandit Munishwar Datt Upadhyay:** What are conditions on fulfilling which these exchange offices are opened in small towns?

**Shri Kidwai:** The requirement of the town for such exchanges.

**Shri Dwivedi:** What is the expenditure involved in the construction of a new telephone exchange in Delhi and what area will it cover?

**Shri Kidwai:** Delhi has got its own telephone system.

**Pandit Munishwar Datt Upadhyay:** What is the minimum number of subscribers necessary for opening such exchanges?

**Shri Kidwai:** There is no minimum fixed but we open an exchange if there are 20 or 25 subscribers.

**Shri A. C. Guha:** Sir, can I ask my question No. 4260?

**Mr. Speaker:** Not now. He will have his chance, if there is time for a second round.

#### TELEPHONES IN PATNA

\*4265. **Dr. Ram Subhag Singh:** (a) Will the Minister of Communications be pleased to state the number of telephones in Patna (Bihar)?

(b) How many telephones were installed in the year 1950-51?

(c) Is there any Telephone Advisory Body in that city?

**The Minister of Communications (Shri Kidwai):** (a) 1,051 (934 direct and 117 extensions).

(b) 118 (92 direct and 26 extensions).

(c) Yes.

**Dr. Ram Subhag Singh:** What are the chief functions of the Patna Telephone Advisory Committee? May I know whether public grievances in regard to the delay in getting exchange numbers are also placed before that advisory committee?

**Shri Kidwai:** There were complaints that the department shows favouritism in the allotment of telephones and do not consider priority in the date of application. It was to check this that the advisory body has been formed. If there is any special reason to allot telephone out of turn, on the recommendation of this committee, priority is given.

**Dr. Ram Subhag Singh:** Is it a fact that one has to wait generally for about ten minutes or more for getting the exchange connection in Patna?

**Shri Kidwai:** That does not arise from this question. If the hon. Member has got such an experience it must be true and I will look into it.

**Dr. Ram Subhag Singh:** May I know whether there is any proposal before Government to introduce automatic telephone system in Patna?

**Shri Kidwai:** Not immediately.

**Shri Hussain Imam:** May I know whether this advisory body at Patna works only for Patna City or for the whole of Bihar?

**Shri Kidwai:** It is for Patna City alone.

#### GOODS TRAINS BOUND FOR PAKISTAN

\*4267. **Shri Sidhva:** Will the Minister of Railways be pleased to state:

(a) whether at present Indian goods trains to and from Pakistan terminate at the border of India and Pakistan at Amritsar or the trains proceed to stations in West Pakistan; and

(b) if it is the latter, whether Indian wagons are returned promptly or delayed?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) The wagons are interchanged at fixed border points and are hauled by each country within its boundaries, except that between Amritsar and Lahore engines of the E.P. Railway, manned by the Pakistani crew, haul the wagons for N.W. Railway.

(b) The wagons are being returned promptly by N.W. Railway.

#### RECOVERING OF PRIVY PURSES FROM REVENUE

\*4268. **Shri A. C. Guha:** Will the Minister of States be pleased to state:

(a) whether there is any scheme of recovering the amount given as Privy Purse, etc., to rulers of former Indian States from the revenue of the States;

(b) if so, whether the full amount has been recovered during the financial years 1949-50 and 1950-51; and

(c) if the full amount has not been recovered how Government propose to recover the remaining amount?

**The Minister of States, Transport and Railways (Shri Gopalaswami):** (a) to (c). Presumably the hon. Member has in mind the provisions of Article 291(2) of the Constitution. I would

invite his attention to the reply given by the hon. the Finance Minister on the 5th May 1951 to Starred Question No. 3846 put by Shri Lakshmanan.

**Shri A. C. Guha:** In the last year's supplementary Budget there was a demand of some lakhs of rupees because these pensions had not been recovered from some of the States.

**Mr. Speaker:** What does he want to know?

**Shri A. C. Guha:** Sir, some of the pensions drawn by the princes of some of those States were not recovered and there was, therefore, a supplementary demand last year.

**Shri Gopaldaswami:** The hon. Finance Minister had said that no contribution is at present being recovered as the amount has not been determined.

**Shri Dwivedi:** A number of Rulers in certain States had drawn privy purses in advance for several years. I want to know whether such advances had been recovered or are being recovered and how long will it be before they are recovered.

**Shri Gopaldaswami:** I am perfectly ignorant of the premises of the hon. Member.

#### POSTAL TRAINING CENTRES

\*4269. **Shri S. C. Samanta:** (a) Will the Minister of Communications be pleased to state how many Postal Training Centres have been opened up till now?

(b) How many are under training and from which category of staff have they been taken?

(c) How many Centres will be opened in the near future and in which places?

**The Minister of Communications (Shri Kidwai):** (a) One.

(b) 176, of whom 132 are from among those recruited for the cadre of Postal clerks and 44 are from among those recruited for the cadre of R.M.S. sorters in the Punjab and U.P. Circles.

(c) The Centre which has been opened is on an experimental basis. If the experiment succeeds, two more Centres will be opened one in Eastern India and the other in Southern India. It cannot be stated with certainty when those two other centres will be opened.

**Shri S. C. Samanta:** May I know when the proposals to open Postal Training Centres were approved by the Standing Advisory Committee and the Standing Finance Committee?

**Shri Kidwai:** I am not able to give the dates, but both these Committees have approved the scheme.

**Shri S. C. Samanta:** May I know the cause for the delay in opening the Centre?

**Shri Kidwai:** Availability of a building and also of finance.

**Shri S. C. Samanta:** Who is in charge of the Training Centre at present?

**Shri Kidwai:** One of the officers of the Department.

**Shri S. C. Samanta:** Are trainees from different parts of India admitted into the Centre?

**Shri Kidwai:** I have already stated that the trainees are from U.P. and the Punjab.

**Shri S. C. Samanta:** May I know how many will be trained each year from each Centre?

**Shri Kidwai:** I have given the figure for this year. After some experience we will fix the number that can be trained in one Centre each year.

**Shri S. C. Samanta:** May I know who bears the expenses of feeding and lodging these trainees?

**Shri Kidwai:** They are employees of the Department and they get their pay and dearness allowance.

#### MOTOR VEHICLES TAXATION INQUIRY COMMITTEE (RECOMMENDATIONS)

\*4271. **Shri S. N. Das:** Will the Minister of Transport be pleased to state:

(a) which of the recommendations of the Motor Vehicles Taxation Inquiry Committee have been accepted by Government; and

(b) whether it is a fact that the Government of India have circulated a draft Bill to State Governments regarding the uniform system of taxation of motor vehicles?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) The recommendations of the Motor Vehicle Taxation Enquiry Committee were considered by the Transport Advisory Council recently and the views of the Transport Advisory Council are under consideration of the Government of India.

(b) Yes, rough drafts of two Bills prepared by the Committee were circulated to the State Governments, for consideration at the recent Transport Advisory Council meeting.

**Shri S. N. Das:** May I know whether the Bill will be introduced during the present session of Parliament?

**Shri Santhanam:** No, Sir. The draft Bills are under consideration.

### मध्य प्रदेश के संघिलीन राज्यों के राष्ट्रीय राजपथ

\*४२७२. श्री जंगड़े : (ए) क्या वाता-  
यात मंत्री यह बतलाने की कृपा करेंगे कि  
क्या भारत सरकार ने उन राज्यों की सीमाओं  
में जो मध्य प्रदेश में संघिलीन हो चुके हैं कोई  
राष्ट्रीय राजपथ, सड़कें, पुल आदि बनाये  
हैं ?

(बी) यदि उक्त भाग (क) का उत्तर  
नहीं में हो तो उसके कारण ?

### NATIONAL HIGHWAY IN MERGED STATES OF MADHYA PRADESH

[\*4272. **Shri Jangde:** (a) Will the Minister of Transport be pleased to state whether the Government of India have constructed any national highway, roads and bridges etc. within the boundaries of the states that were merged in Madhya Pradesh?

(b) If the answer to part (a) above be in the negative, what are the reasons for the same?]

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) About 181 miles of the National Highways lie in these States and are being maintained at the cost of the Central Government. Such improvements as are necessary will be taken up as funds become available.

(b) Does not arise.

### CENSUS OF LIVE-STOCK

\*4273. **Shri Amolakh Chand:** (a) Will the Minister of Food and Agriculture be pleased to state whether Government have directed all the States to make a comprehensive and scientific census of live-stock in their areas and if so, when is it likely to be completed?

(b) Do Government intend to have a complete survey of agricultural implements, electric pumps, tractors, crushing and other machineries in the rural areas?

**The Deputy Minister of Food and Agriculture (Shri Thirumala Rao):**

(a) Yes. A circular was issued to the States in April 1950 asking them

to conduct the usual quinquennial Livestock Census in May 1951. The Census is already in progress in many of the States and is likely to be completed by 31st May, 1951.

(b) During the quinquennial Live-stock Census now in progress, information will as usual be collected regarding ploughs, carts, sugarcane-crushers, *ghanis*, oil engines, electric pumps and tractors. In addition the States have been asked in April, 1951 to conduct a special Tractor Census concurrently with the Livestock Census, in order to obtain detailed information about the types of tractors operating in the country.

**Shri Amolakh Chand:** Is it a fact that half of our cattle wealth is unproductive and uneconomic and, if so, may I know what steps Government are taking to make it more productive and economic?

**Shri Thirumala Rao:** The hon. Member is aware of my introducing a Bill here recently, entitled *Gosavardhan Bill*. Provision is made in that Bill, as a preliminary step, to organise measures in Part C' States directly under the supervision of the Central Government.

**Shri Amolakh Chand:** Was any cattle census made previously?

**Shri Thirumala Rao:** It was made in 1945.

**Shri Barman:** What is the agency employed by Government in taking this census and what is the method employed?

**Shri Thirumala Rao:** The main agency is the State Government who have a number of officers in their Agricultural Department who do the work.

**Shri Barman:** Is it a fact that the I.C.A.R. is trying to find out a scientific method which will be more accurate than the one employed at present and, if so, may I know how far their investigations have proceeded?

**Shri Thirumala Rao:** These investigations are being conducted all over the world under the aegis of the F.A.O., and that is why the date was shifted from 1950 to 1951. They have suggested certain methods for taking the census and those methods are being followed.

**Shri Amolakh Chand:** May I know what kinds of cattle are to be included in the census?

**Shri Thirumala Rao:** All—cows, mules, horses—every variety of the quadrupeds.

**DISRUPTION OF TELEGRAPH LINES IN ASSAM**

\*4274. **Pandit Munishwar Datt Upadhyay:** Will the Minister of Communications be pleased to state:

(a) whether the telegraph lines in upper Assam were disrupted in the third week of April 1951 owing to cyclone;

(b) what was the cost of damage done to the means of communication;

(c) whether such disruption is quite frequent in Assam; and

(d) whether Government have evolved any scheme to prevent the repetition of such damages?

**The Minister of Communications (Shri Kidwai):** (a) Yes.

(b) About Rs. 4,000.

(c) No.

(d) The maintenance procedure prescribed in the P. and T. Department includes measures for prevention, so far as possible, of interruptions. Among other measures they include cutting of trees in close proximity of the line and lopping off of branches which are likely to fall on the line.

**Pandit Munishwar Datt Upadhyay:** What period did it take to repair the lines?

**Shri Kidwai:** A few days.

**INSTALLATION OF TELEPHONES IN MYSORE**

\*4275. **Shri Rudrappa:** (a) Will the Minister of Communications be pleased to state how many applications have been received by the telephone department from the citizens of Mysore State for the installation of telephones?

(b) How many telephones have been installed and how many link connections given after the telephone department was taken over by the Government of India?

(c) What is the procedure followed in given telephone connections?

(d) Has any complaint been received by the Postmaster General of Madras from "The Mysore Auto and Industries Ltd." Company in Bangalore against the officers in charge of the telephone department of Mysore State?

(e) If so, what are the charges mentioned in the complaint?

**The Minister of Communications (Shri Kidwai):** (a) (i) Mysore—243 (consisting of 211 prior to 1st April 1950, the date of taking over the system by the P. and T. and 32 since then).

(ii) Bangalore City—1,107 (consisting of 904 prior to 1st April 1950, the date of taking over the system by the P. and T. and 203 up to end of April 1951).

(b) (i) Mysore—5 direct connections and 6 extensions.

(ii) Bangalore City—21 direct connections and 38 extensions.

(c) Telephone connections are given in Bangalore on the recommendations of the Telephone Advisory Committee. In Mysore where there is no Telephone Advisory Committee, telephones are given in accordance with priority on the waiting list determined by the date of the applications.

(d) Yes.

(e) The allegations relate to irregularities in providing extensions (link connections) in Bangalore City.

**Shri Rudrappa:** May I know whether the Department has drawn up any programme for giving additional telephone connections?

**Shri Kidwai:** A new exchange is being opened at Bangalore. The building is under construction and the machinery has been received.

**Shri Rudrappa:** Will any telephones be installed this year (1951-52)?

**Shri Thimmappa Gowda:** When will the Telephone Advisory Committee be constituted in Mysore?

**Shri Kidwai:** When it is felt necessary.

**MANUFACTURE OF GLIDERS**

\*4276. **Shri Sidhva:** (a) Will the Minister of Communications be pleased to state whether it is a fact that Civil Aviation Training Centre, Allahabad has manufactured gliders?

(b) If so, what was the result in the test taken?

(c) How much did it cost?

(d) Can such gliders be useful for defence purposes?

(e) Have military authorities given their opinion about the suitability of this kind of gliders?

**The Minister of Communications (Shri Kidwai):** (a) Yes, two Primary proto-type gliders.

(b) Preliminary flight tests were satisfactory.

(c) The first proto-type cost about Rs. 12,000 and the second about Rs. 8,000.

(d) and (e). These are only single seater gliders and can be used only for training and not for any military purposes.

**Shri Sidhva:** May I know if any more gliders are intended to be manufactured and placed at the disposal of other training centres in India besides Allahabad?

**Shri Kidwai:** The training centre at Allahabad manufactures them. But any part of the country may use them.

**Shri Sidhva:** Was any demand made by the Centre in Poona and was it complied with?

**Shri Kidwai:** It is only in a test stage. If it is approved and if any demands come they will be supplied, if we undertake production on a commercial basis.

#### COST OF ADVERTISEMENTS

\*4277. **Prof. K. T. Shah:** (a) Will the Minister of Food and Agriculture be pleased to state what was the total cost of advertising incurred by his Ministry in the years 1948-49, 1949-50 and 1950-51, for which Government had to make payments inter-departmentally, and also state the cost of Government Gazettes, in connection with notifications of his Ministry?

(b) What was the total cost of periodical publications issued by his Ministry during the same period?

(c) What was the total of charges in the years 1948-49, 1949-50 and 1950-51, for exhibiting public notices issued by the Ministry?

**The Deputy Minister of Food and Agriculture (Shri Thirumala Rao):** (a) The total cost of advertising incurred by the Ministry of Food and Agriculture during 1948-49, 1949-50 and 1950-51 for which payments were made inter-departmentally was Rs. Nil, Rs. 6,150 and Rs. 60,701 respectively. It is not possible to state separately the cost in respect of notifications issued by the Ministry in the Government Gazettes.

(b) The information is being collected and will be placed on the Table of the House when received.

(c) An expenditure of Rs. 5,000 was incurred in 1949-50 in displaying posters issued by the Ministry at railway stations in rural areas. No other expenditure has been incurred in exhibiting public notices, by which the hon. Member presumably means posters during the years referred to.

**Prof. K. T. Shah:** May I know if any expenditure was incurred in addition to inter-departmental payments, by way of newspaper advertisements?

**Shri Thirumala Rao:** My information is that they have not incurred any expenditure on newspaper advertisements as such.

**Prof. K. T. Shah:** May I know, Sir, how the rise from Rs. 6,000 to Rs. 60,000 is explained between the last two years?

**Shri Thirumala Rao:** There are a number of bulletins and journals which are being published by the allied institutions which come to a large number. Here I have got a list of about 21 journals and bulletins that are published by the Indian Central Coconut Committee, the Council of Agricultural Research, Central Arcanot Committee, Tobacco Committee, Cotton Committee and Jute Committee. Besides that I have got samples of a number of pamphlets issued by the Department on compost making, self-sufficiency, grow-more-food, etc. All these are published in the Indian languages.

**Prof. K. T. Shah:** May I know whether any of these bulletins are supplied free or is any of them paid for, and whether there is any private advertisement printed in these bulletins for which money is received by Government.

**Shri Thirumala Rao:** Some of them are priced and some of them are for free distribution. But I do not think there is any private advertisement taken by these bulletins.

**Prof. K. T. Shah:** Are those which are priced paid for, or the price merely occurs on the cover?

**Shri Thirumala Rao:** We supply it to the State Governments for distribution and we collect the money from the State Governments.

#### PROCUREMENT PRICE OF FOOD GRAINS

\*4278. **Saikh Mohiuddin:** (a) Will the Minister of Food and Agriculture be pleased to state whether it is a fact that recently a deputation of the farmers of North Gujara' waited

upon him and urged for enhancement of the procurement price of food grains?

(b) Is it a fact that the deputationists offered to procure one million maunds of wheat from two districts of Gujerat?

**The Deputy Minister of Food and Agriculture (Shri Thirumala Rao):** (a) and (b). It is true that a deputation met the hon. Minister and offered to procure 10 lakh maunds of wheat in North Gujerat, but the price that was asked for was Rs. 25 per maund. It was not considered desirable, therefore, to accept the offer at this high price which would have adversely affected procurement not only in the current season but also in the coming season. They offered to reduce the price. On reference to hon. Minister Civil Supplies (Bombay) it was found that there was no case for any increase in the procurement price of wheat in North Gujerat. The deputationists were asked to meet the hon. Minister concerned.

**Salkh Mohiuddin:** What is the present procurement price per maund of wheat in Bombay?

**Shri Thirumala Rao:** In Gujerat it is Rs. 16/4/- per maund, which, I may inform the hon. Member, is slightly higher than the procurement price in the rest of Bombay.

**Shri Sidhva:** Is it a fact that the deputation offered to procure one million maunds of wheat from the two districts of Gujerat?

**Mr. Speaker:** He has already replied that the deputation offered to do that, but wanted a higher price. They were, therefore, referred to the Supply Minister of Bombay.

**Shri Sidhva:** May I know whether the wheat was available?

**Mr. Speaker:** We need not go into it.

**Shri Chattopadhyay:** May I know the ruling prices, as against the procurement price given by the hon. Minister?

**Shri Thirumala Rao:** I want notice of that.

**Shri Sidhva:** May I know, Sir...

**Mr. Speaker:** I am afraid the hon. Member is obviously going into a question which is principally the concern of the State Government.

**Shri Sidhva:** I want to know....

**Mr. Speaker:** He wants to know many things.

**Shri Sidhva:** Procurement is also a function of the Central Government.

**Mr. Speaker:** Order, order. It is no use going into details of provincial administration.

**Shri Sidhva:** Not details. We are supplying them grain.

**Shri Kamath:** Is it a fact that in North Gujerat as well as all over India wherever procurement is in force, the procurement price is lower than the market price, and if so, what is the usual or average proportion between the two?

**Shri Thirumala Rao:** In the first instance I must say that there is nothing like a market price. Where there is procurement, the prices are controlled. Whatever price is offered is not the accepted price in the markets.

#### KASTURIBHAI LALBHAI REPORT

\*4280. **Shri Sanjivayya:** (a) Will the Minister of States be pleased to state whether the report of Sri Kasturibhai Lalbhai regarding the State-owned and State-aided concerns in Travancore-Cochin has been received?

(b) If so, what are his recommendations?

(c) Do Government propose to take any steps to implement them?

**The Minister of States, Transport and Railways (Shri Gopalaswami):** (a) Yes.

(b) The question of publishing the main recommendations is under consideration.

(c) The implementation of the recommendations is engaging the active attention of the State Government.

#### RESIDENTIAL ACCOMMODATION IN REWA

\*4281. **Shri Dwivedi:** Will the Minister of States be pleased to state whether it is a fact that on the face of acute residential accommodation situation at Rewa, the capital of Vindhya Pradesh, certain officials who own private houses and have let them out on hire, have been allotted official residential accommodation on much cheaper rates than those charged by them for their private houses?

**The Minister of States, Transport and Railways (Shri Gopalaswami):** Only one case has come to notice; but the allotment of a Government residence to the officer concerned was made long before he constructed his own. Steps are now being taken to

cancel the Government allotment, and in the meantime to recover full standard rent from him.

**Shri Dwivedi:** In view of the fact that a large number of employees who have gone from Bundhelkhand to Rewa because of the integration of the States are living in most unhygienic conditions, do Government propose to provide them with facilities of quarters as in Delhi?

**Shri Gopaldaswami:** Government will consider the matter.

#### PROMOTION OF GUARDS

\*282. **Shri Sidhva:** (a) Will the Minister of Railways be pleased to state on how many Railways there are Selection Boards for promotion of Guards from lower to higher grades?

(b) Is it a fact that the practice exists only on the G.I.P. Railway?

(c) If so, why is this Railway singled out for this kind of promotion?

(d) Is it a fact that on other Railways, promotions are made in strict order of seniority?

(e) If so, why is an exception made in the case of G.I.P. Railway Guards?

(f) To what extent has the work of the Board affected the staff of the ex-N. W. Railway now merged in G.I.P. Railway?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) There are selection boards on three railways for promotion of guards from the lowest to the next higher grade.

(b) No.

(c) Does not arise.

(d) On some railways promotions are made on the basis of seniority-cum-suitability while on others the promotions are made on the basis of selection as stated under (a) above.

(e) The G.I.P. Railway is not the only railway where promotions are made on the basis of selection.

(f) The information is not readily available and is being collected. It will be laid on the Table of the House in due course.

**Shri Sidhva:** What are the three railways on which the hon. Minister stated that Selection Boards exist?

**Shri Santhanam:** B.N., G.I.P. and O.T. Railways.

**Shri Sidhva:** May I know why there is a restriction of selection, as

stated by him in answer to part (d) of the question? Are there any uniform rules for the Selection Boards?

**Shri Santhanam:** These rules have been evolved by the various Railway Administrations during a period of time and we are taking steps to make them uniform.

**Shri Kamath:** The hon. Minister stated that on certain railways promotion is made on the basis of seniority and suitability and on others on the basis of selection. What are the criteria for selection apart from seniority and suitability?

**Shri Santhanam:** The basis of selection is entirely merit and suitability while in the other case seniority also plays a part.

**Saikh Mohiddin:** May I know whether the scales of pay in all the railways are equal and whether the mode of selections is also the same?

**Shri Santhanam:** The scale of pay is the same but, as I have already stated, in three railways there is selection on the basis of Selection Boards and in the others on the basis of seniority and suitability.

**Shri Hussain Imam:** May I know whether Government is following the recommendation of the Central Pay Commission in this connection and, if so, what was the recommendation of the Commission?

**Shri Santhanam:** I do not think there was any recommendation of the Pay Commission on this matter, but I say this from my memory.

**Shri Sidhva:** What was the answer to part (f), Sir?

**Shri Santhanam:** The information is not readily available and is being collected. It will be laid on the Table of the House in due course.

**Shri Sidhva:** Is it a fact that the ex-N.W.F.P. Railway employees have been affected while they joined the G.I.P. Railway?

**Mr. Speaker:** If the information is being collected, as he said, how can he answer it?

रांची के एक गांव में शायद डाक घर

\*४२८३ श्री क्षोराब : क्या संचरण मंत्री यह बतलाने की कृपा करेंगे कि :

(ए) क्या सरकार को ज्ञात है कि बिहार में छोटा नागपुर डिवीजन के रांची जिला

में स्थित मिर्जी ठाकुर गनवा गांव के निवासी वहां एक शाका डाक घर खोले जाने के सम्बन्ध में गत दो वर्षों से प्रयत्न कर रहे हैं ;

(बी) क्या यह सत्य है कि उन्होंने ने इस विषय पर सरकार को पुनः एक लिखित अभ्यावेदन भेजा है तथा यद्यपि डाक अधिकारियों द्वारा इस सम्बन्ध में दिये गये आश्वासन को लगभग एक वर्ष होने वाला है फिर भी उस समय से इस सम्बन्ध में कोई सूचना प्राप्त नहीं हुई है ;

(सी) यदि यह सत्य है तो वहां पर डाक घर खोला जायगा अथवा नहीं ;

(डी) यदि खोला जायगा तो किस तिथि से, तथा

(ई) यदि नहीं खोला जायेगा तो क्यों ?

#### BRANCH POST OFFICE IN A VILLAGE IN RANCHI

[\*4283. Shri Oraon: Will the Minister of Communications be pleased to state:

(a) whether Government are aware that the public of the village Ginji Thakur Ganva situated in the district Ranchi of Chhota Nagpur Division in Bihar have been making efforts for the opening of a branch post office there for the last two years;

(b) whether it is a fact they have further made a written representation also on the subject and that, though about a year is going to pass when the postal authorities had given an assurance to that effect, yet nothing has been heard since then;

(c) if so, whether a post office will be opened there or not;

(d) in case it is to be opened, with effect from which date; and

(e) if not, why not?]

The Minister of Communications (Shri Kidwai): (a) Yes.

(b) Yes.

(c) A post office will be opened at the village.

(d) By the 1st July 1951.

(e) Does not arise.

श्री ओरांव : हिन्दो में बतला दीजिये ।

[Shri Oraon: Please explain in Hindi.]

श्री किदवाई : पहली जुलाई सन् १९५१ तक आप के गांव में पोस्ट आफिस खुल जावेगा ।

[Shri Kidwai: A post office will be opened in your village by 1st July 1951.]

Shri Chattopadhyay: What is the population of this village?

Shri Kidwai: 2,345.

Shri Chattopadhyay: How many villages are there in Bihar having a population of more than two thousand that have not got a village post office?

Shri Kidwai: I have not got the number before me, but I have assured the House that all such villages will get post offices in the current financial year.

श्री ओरांव : इस में इतनी देर क्यों हो रही है ?

[Shri Oraon: Why this delay is being made in this connection?]

श्री किदवाई : देर नहीं हो रही है, क्यों कि दो तीन महीने के अन्दर वहां एक पोस्ट आफिस खुल जायगा ।

[Shri Kidwai: No delay is being made, because a post office will be opened there within two or three months.]

#### Dak Sewak SCHEME

\*4284. Shri Kumbhar: (a) Will the Minister of Communications be pleased to state whether experiments regarding the Dak Sewak Scheme have borne any fruit?

(b) If so, when will this scheme be put into practice?

(c) What will be the number of such Dak Sewaks under this scheme and when will it be fully implemented?

The Minister of Communications (Shri Kidwai): (a) and (b). The hon. Member is referred to the reply given on the 4th May 1951 to Starred Question No. 3817.

(c) The experiment of Dak Sewak post offices is being tried in 11 localities and it will soon be tried in another locality. As the entire scheme is

in an experimental stage, it is too early to say when it will be fully implemented.

**Shri Kumbhar:** After completion of the experiment may I know whether the scheme will be put into force State-wise or whether it will be taken unit by unit?

**Shri Kidwai:** It is already being experimented in more than one State and if and when it is found that this is a better scheme than opening local post offices then it will be implemented throughout the country.

#### RAILWAY PORTERS

\*4285. **Shri Ansari:** (a) Will the Minister of Railways be pleased to state what is the policy of Government regarding the employment of porters on railway platforms whether on contract system or under the direct management of the Railways?

(b) What is the total number of porters engaged by the Railways in 1949-50 including those supplied by the contractors?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) Government policy regarding the employment of porters on railway platforms for carrying passengers' luggage is now to have such porters recruited and licensed by railways under their direct management and supervision.

(b) Approximately 25,000.

**Shri Dwivedi:** May I know if at the Jhansi railway station the porters are required to pay a few annas every day before they earn anything for the day?

**Shri Santhanam:** There is a licence fee. They are free to pay it out of their previous day's earnings.

#### POST OFFICES IN BIHAR

\*4286. **Shri Ansari:** (a) Will the Minister of Communications be pleased to state what is the total number of post offices newly opened in the State of Bihar and their number in districts of Ranchi and Monghyr?

(b) Is there any post office in the police station Narayanpur Santal-pargana, whose population is more than sixty thousand?

(c) How many post offices have been opened within the jurisdiction of Police Stations of Burmu and Sadar in the district of Ranchi?

(d) How many petitions from the villages of the above mentioned thanas

have been received by Government for opening new post offices?

**The Minister of Communications (Shri Kidwai):** (a) Bihar 382, Ranchi 6, Monghyr 10.

(b) No. The population of the village Narayanpur is, however, reported to be 851 only.

(c) None. There is already a post office at Burmu and 9 post offices in the jurisdiction of Ranchi Sadar Police Station.

(d) None.

#### वर्धामद्रास रेल पथ

\*४२८७. **श्री खापर्डे:** क्या रेल मंत्री यह बतलाने की कृपा करेंगे कि वर्धा जंक्शन तथा मद्रास के मध्य दुहरे रेल पथ की योजना को, जो कुछ पूर्व बनाई गई थी पूरा करने में कितना समय लगेगा ?

#### WARDHA-MADRAS RAILWAY LINE

[\*4287. **Shri Khaparde:** Will the Minister of Railways be pleased to state how long will it take for the plan to have a double railway line between Wardha Railway Junction and Madras, formulated some years back, to materialise?]

**The Minister of State for Transport and Railways (Shri Santhanam):** I am not aware that any such scheme was formulated at any time and no such scheme is under consideration at present.

**Shri Dwivedi:** May I know if goods wagons are being manufactured at Bangalore?

**Some Hon. Members:** It is the next question.

**Mr. Speaker:** To which question does this relate?

#### मालगाड़ियों के डब्बे

\*४२८८. **श्री खापर्डे:** (ए) क्या रेल मंत्री यह बतलाने की कृपा करेंगे कि इस समय भारत में मालगाड़ियों के उन डब्बों की संख्या कितनी है जो ठीक जवस्था में हैं तथा वह जो बेकार हो गये हैं ?

(बी) बेकार डब्बों की मरम्मत करने में कितना समय लगता है तथा उन की मरम्मत किन कारखानों में की जाती है ?

(सी) इस समय कितने डब्बे कोयला ढोने के काम में लाये जा रहे हैं तथा कितने झाड़ानों को ढोने के काम में ?

(डी) मालगाड़ी का डब्बा कितने समय तक ठीक चालू पक्षा में रहता है तथा कितने समय के पश्चात् उस की मरम्मत करने की आवश्यकता पड़ती है ?

#### GOODS TRAIN WAGONS

[\*4288, Shri Khaparde: (a) Will the Minister of Railways be pleased to state the number of wagons of goods trains in India that are at present in good working order and also the number of such wagons as are out of order and unserviceable?

(b) What time does it take for the unserviceable wagons to be re-conditioned and in which workshops are they repaired?

(c) How many wagons are at present being used for the transport of coal and how many for the transport of foodgrains?

(d) How long does a wagon of a goods train remain in proper working order and after how many years has it got to be repaired?]

The Minister of State for Transport and Railways (Shri Santhanam): (a) Average number of wagons in good working order daily on 31st March 1951—

B.G. 1,35,098  
M.G. 47,101

Average number of wagons under or awaiting repairs in mechanical workshops and sick-lines as on 31st March 1951—

B.G. 10,542  
M.G. 4,868

(b) Normally it takes about 4 to 5 days to repair a wagon. Every Railway has its own workshop to repair its wagons except E.P. and Assam Railways. Their wagons are repaired in workshops of other railways.

(c) Wagons are not exclusively set apart for the loading of coal, or food-grains. Having regard to the general availability of wagons and the demands for them, they are allotted for loading different traffics from different areas. During the month of March, 1951, 93,126 B.G. and 17,875 M.G. wagons were loaded with coal and coke and 28,072 B.G. and 18,462 M.G. wagons with food-grains and pulses on Class I Railways.

(d) Normally wagons will not require repairs in workshops until they complete about 3 year service since the last periodical overhaul.

श्री खापर्डे : क्या यह माल ढोने वाले गाड़ी के डब्बों का आयात किसी विदेशों से होता है अथवा यह हमारे देश में ही किसी कारखाने में बनाये जाते हैं ?

[Shri Khaparde: Whether these wagons of goods train are imported from any foreign countries or are they manufactured in some workshops of our own country?]

Shri Santhanam: They are mostly manufactured in this country.

Shri Jangde: May I know if all these wagons are manufactured to meet India's demand?

Shri Santhanam: That is exactly what I said.

Shri Jangde: What is the total number of wagons?

Mr. Speaker: He has put the same question which was answered.

Dr. V. Subramaniam: What is the number of wagons with the Pakistan Railways and how many of these wagons are being returned?

Shri Santhanam: There are two aspects. There were some old wagons. I gave particulars in reply to other questions, but I have not got the details here. All the wagons which are going with current goods are being returned promptly.

Saikh Mohiuddin: May I know how many damaged wagons have been repaired during the year 1950-51?

Shri Santhanam: I have given an average which is about 8 per cent. which goes continuously to the repair shops and comes back.

Shri Dwivedi: What passenger wagons are being manufactured at the Hindustan Aircraft Factory, Bangalore? I want to know whether the goods wagons are also manufactured there.

Shri Santhanam: I do not know whether there are any passenger wagons.....

Mr. Speaker: Order, order. I am going to the next question.

**ANTI-SOCIAL ACTIVITIES IN MANIPUR AND TRIPURA**

\*4260. **Shri A. C. Guha:** Will the Minister of States be pleased to state:

(a) whether there has been any alteration in the position in Manipur and Tripura as far as the anti-social and disruptive activities of certain political groups are concerned;

(b) what have been the total casualties amongst the public, the Government forces and the armed anti-social gang;

(c) the persons so far kidnapped, recovered from them and ransom, if any, paid; and

(d) the property looted and destroyed?

**The Minister of States, Transport and Railways (Shri Gopaldaswami):**

(a) to (d). I presume the hon. Member is referring to the violent activities of the communists in these States. I regret the detailed information relating to Tripura is not available. As regards Manipur, the position has remained more or less stationary during the last 4 months. During the communist operations in Manipur 5 persons including a *chaukidar* were killed and one *chaukidar* and another person were severely injured. One soldier of the Assam Rifles was killed and three Police Constables were injured during encounters with the communists while 4 communists lost their lives. Four constables and two others were kidnapped but subsequently managed to escape. The communists have committed about 30 dacoities and looted property worth Rs. 19,909/10/-. The information relating to Tripura will be laid on the Table of the House as soon as it is received.

**Shri A. C. Guha:** The hon. Minister has said that the information is not available from Tripura but this thing has been going on for some time. Are we to understand that the Tripura Government has not been keeping this Government informed of the situation?

**Shri Gopaldaswami:** The hon. Member's question is a comprehensive one. That has been called for, but has not yet been received.

**Shri A. C. Guha:** May I know if the Government has received any report about the 12th of May this month that there was some raid on the Khawal Sub-division of the Tripura State and there were some widespread activities of the Communists in that area?

**Shri Gopaldaswami:** There has been some recrudescence of activity there, the magnitude of which I am not in a position to say until I receive the report.

**Shri A. C. Guha:** Is there any report that a certain portion of that Sub-division is practically outside the control of the Government?

**Shri Gopaldaswami:** I must say that I cannot plead guilty to that charge. The Government is in control.

**Shri A. C. Guha:** Have there been any looting and murder in that area on the 10th or 12th of May?

**Shri Gopaldaswami:** I must ask the hon. Member to wait till I get the information.

**Shri R. Velayudhan:** May I know whether there is any accurate information that the Government have received whether these dacoities were committed by Communists or other bandits because the report from Tripura has not reached Government?

**Shri Gopaldaswami:** The reports that we have are that most of these were committed by Communists.

**Shri Kamath:** Is it a fact that some months ago there used to be considerable infiltration of Communist or non-Indian elements from across the Indo-Burmese border into Manipur, and if so, has it been completely halted or checked?

**Shri Gopaldaswami:** There was some infiltration. I am afraid I cannot characterize it as 'considerable infiltration'.

**Shri J. N. Hazarika:** Is it not a fact that certain Government officers including some P.W.D. officers employed in the construction of the Tripura road have been kidnapped by the Communists?

**Mr. Speaker:** He said so.

**Shri A. C. Guha:** Is it true that some of the disbanded soldiers of the Tripura State Army have joined the Communists?

**Shri Gopaldaswami:** I believe a few have done so.

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

**SUPPLY OF WAGONS**

\*4255. **Shri B. K. Pani:** (a) Will the Minister of Railways be pleased to state whether it is a fact that now the mine-owners in different stations

of B. N. Railway are not getting wagons for months together?

(b) Is it a fact that in the stations where there is no provision of Weigh Bridge Section, the mine-owners are refused to be supplied with wagons to load mineral ores?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) Presumably, the reference is to movement of iron and manganese ore traffic. Requirements of movement of these ores to Steel Works are being met currently. For the traffic for export of these ores, 5 trains per week are run from Bara Jamda area to Calcutta Docks, and 2 trains daily of manganese ore from stations in Madhya Pradesh to Vizagapatam Port.

(b) The movement of this traffic up to the maximum feasible capacity which includes weighment facilities is already taking place. There is no question of any inadequate supply of wagons.

**Shri B. K. Pani:** May I know what was the average supply of wagons for export of Manganese during the year 1949-50 and also in the first quarter of 1951?

**Shri Santhanam:** I have already said that on an average 5 trains per week are run from Bara Jamda area to Calcutta Docks and two daily trains are run from stations in Madhya Pradesh to Vizagapatam Port. I would however require notice for further particulars.

**Shri Kamath:** Is it a fact that the scarcity of wagons is partly due to the fact that since 15th August 1947 Pakistan has held up a number of our wagons in Pakistan and not returned them to India?

**Shri Santhanam:** I have not admitted any paucity of wagons for this purpose.

**Shri Massey:** What is the daily average percentage of loaded wagons to the total number on the lines?

**Shri Santhanam:** I gave some figures in reply to the question just now, but if the hon. Member wants more details, he may put a separate question.

**Shri Sidhva:** May I know the number of wagons that are held in the Pakistan territory?

**Mr. Speaker:** He puts the question differently now.

**Shri Santhanam:** I will require notice for it.

**Shri Sondhi:** Out of the 200 and odd wagons that have gone to Moghulpura near Lahore before the partition, is it true that they are still remaining there for being repaired for the last 3½ years?

**Shri Santhanam:** I do not think this question has anything to do with wagons in Pakistan. Any way, I would require notice for such questions.

#### DISPOSAL OF UNCONSUMED COAL

**\*4256. Shri B. K. Pani:** Will the Minister of Railways be pleased to state:

(a) the total quantity of unconsumed coal lying in the Railway brick fields in B. N. Railway till the end of 1950, supplied to the contractors against priorities;

(b) at what rate the Railway have charged for this coal supplied during 1947, 1948 and 1949 and what was the then prevailing controlled rate;

(c) whether these contractors are still executing their contract works or due to financial stringency the contracts have been stopped or quantity has been reduced;

(d) if any contractor has ceased working, how the unconsumed coal has been disposed of;

(e) if coal is still lying unconsumed, under whose custody it is; and

(f) how Government propose to dispose of this coal?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) About 260 tons at Kolaghat Brickfields belong to the contractors who made their own arrangements for the supply. Railway helped in procuring priority orders only.

(b) Prior to July, 1948, coal was supplied by the Railway at controlled rates ex-coillery plus Railway freight and incidental charges plus supervision charges of 12½ per cent.

After July, 1948 the contractors made their own arrangements for the supply of coal.

As the controlled rates for coal ex collieries varied from time to time and according to locality of colliery actual figures are not readily available.

(c) No contractor is executing any brick supply contract at present. No running brick supply contract was stopped or the quantity thereof reduced due to financial stringency.

(d) Only 70 tons of coal at Gokulpur Brickfields belong to the Railway and its disposal is being arranged.

(e) Unconsumed coal lying at Kola-ghat still belongs to the contractors and is therefore treated as lying in their custody.

(f) It is for the contractors to dispose of the unconsumed coal with the permission of the Coal Commissioner. The Railways have, however, offered to help them in obtaining permits etc. if requested by them.

**Shri Kesava Rao:** May I ask Question No. 4278? The hon. Member who has sent the question is absent.

**Mr. Speaker:** Yes.

#### FAMINE CONDITION IN MADRAS AND BIHAR

\*4278. **Shri Kesava Rao** (on behalf of **Dr. M. V. Gangadhara Siva**): (a) Will the Minister of Food and Agriculture be pleased to make a statement on the famine condition in Madras and Bihar particularly referring to (i) the adequacy and actual availability of supplies of foodstuff in each district during December 1950 and January 1951, (ii) the effectiveness of price control measures and the actual level of prices of food grains in each district during the above two months, (iii) the nature and extent of gratuitous relief provided by Government in each district so far?

(b) Were any complaints brought to the notice of the hon. Minister or his Deputy Minister, during their visits to certain places in Madras and Bihar in December 1950 regarding procurement, supply, price control and quality of food grains?

(c) If so, the nature of those complaints and what action has been taken to remove them?

**The Deputy Minister of Food and Agriculture (Shri Thirumala Rao):**

(a) In the northern districts of Bihar and in some districts of Madras, scarcity conditions are prevailing, following the crop failure. Government have taken and are taking necessary steps to meet the situation by bringing the affected population under Government supply and by affording all possible relief.

In Bihar, the State Government have been progressively increasing the number of fair price shops. On 1st May 1951, the number of such shops was 4,039 as against 1,960 on the 31st January 1951. Now they have gone over 5,000. On the 31st of December 1950 they had only a stock of 23,000 tons. During the period 1st January to 14th May, 2,50,000 tons have been despatched. The monthly allotments to Bihar have also been progressively increased. The January

quota was 36,000 tons; February 37,000 tons; March 49,000 tons; April 80,000 tons; and May 1,12,000 tons. The market prices are still high and compared to the average price in December of about Rs. 30 per maund of rice, the present average rate is about Rs. 35 per maund. But, this information is somewhat old. Our latest information is that the prices are coming down. Therefore, it is not proper for me to hazard any figures and to stick to the figures contained in the written answer. Wheat prices have come down slightly. The average rate for December 1950 was Rs. 32 per maund. The present rate is less than Rs. 30 per maund. In order to maximise relief measures in the scarcity affected areas, the Bihar Government have deputed 118 officers to the distressed *thanas*. They are responsible for all relief measures in other areas. The State Government have provided 11½ crores of rupees for relief in various forms. Out of this a sum of Rs. 56 lakhs has been provided for gratuitous relief and Rs. 40 lakhs for relief works involving light manual labour. Medical and public health arrangements are expected to cost nearly 27 lakhs. About three crores of rupees will be spent under loans and a crore and a half on purely relief works. The remaining amount is being spent on developmental projects of lasting value, in the execution of which attention is focussed on the distressed areas and on providing employment to the people through these works.

In Madras, in the middle of January 1951, rural rationing was abolished except in Malabar and Nilgiris Districts. It was envisaged at that time that the Government might have to open a large number of fair price shops from which supplies could be made available to the population, especially the non-producers, during the lean months of the year when market arrivals would be poor and prices high. In pursuance of this, Government have opened a large number of fair price shops. At the end of March 1,700 fair price shops were functioning in the de-rationed areas. The number of shops is being progressively increased. On the 31st December 1950, the stocks of food-grains with Madras Government amounted to 91,000 tons. On 1st May 1951, they had a total stock of 3,35,000 tons. The monthly allotments to Madras as in the case of Bihar, are being progressively increased, 1,84,000 tons have been allotted to Madras for the months of January to May.

As regards gratuitous relief, cash doles were sanctioned by the Madras

Government to indigent weavers in the following districts to relieve distress caused by unemployment due to lack of yarn:

The total money allotted is Rs. 1,93,663 distributed over eight districts.

	Rs.
Srikakulam	18,240
West Godavari	232
Krishna	30,275
Guntur	25,156
Chittoor	20,000
Salem	73,165
Ramanathapuram	4,915
Mathurai	21,680
<b>Total</b>	<b>1,93,663</b>

(b) and (c). Do not arise as neither myself nor the Minister visited Madras and Bihar in the month of December 1950, but during our visits at other times to these States, demand for supply of more foodgrains was made and supplies have been increased within the availabilities of the Centre.

**Shri Kesava Rao:** May I know whether the Government have received any report about starvation deaths in any of these two States?

**Shri Thirumala Rao:** We have not received any.

**Saikh Mohiuddin:** May I know whether the affected areas are increasing in North Bihar?

**Shri Thirumala Rao:** No; the situation is still under control as I said some time ago, and that statement is being confirmed by the Bihar Government.

**Saikh Mohiuddin:** Is it a fact that there was no rain in March and April and therefore the future condition may deteriorate more?

**Shri Thirumala Rao:** The Government of Bihar are fully aware of the condition at present and the future and the Central Government is in constant touch with them.

**Dr. V Subramaniam:** May I know whether the Government are aware that the purchasing power of the people is very low and what are the arrangements made by the Government in this respect?

**Shri Thirumala Rao:** With regard to Madras where the scarcity is acute, the Government have made an allotment of Rs. 2 lakhs for doles. That is the information I have got.

**Shri Symannandan Sahaya:** Has the Government noticed the news in this morning's papers that in Madras the price of rice is going up?

**Shri Thirumala Rao:** In certain areas, the price of rice has gone up.

**Shri Hussain Imam:** What is the price?

**Shri Thirumala Rao:** I want notice. May be about Rs. 35 or 40 per maund.

**Shri P. Basi Reddi:** Is the increase in price due to the abolition of rural rationing in Madras?

**Shri Rudrappa:** I want to know what methods Government have taken to keep up the health of the people besides supply of foodgrains.

**Shri Thirumala Rao:** I think the Health Department is looking to it.

**Shri Hussain Imam:** May I know....

**Mr. Speaker:** Let him not put the question before I call him. Mr. Bhagat.

**Shri B. R. Bhagat:** May I know whether this fact has been brought to the notice of the Government of India that despite the relief measures taken by the Government, there is acute shortage of purchasing power in North Bihar to the extent that 50 per cent. of the grain in the Government fair price shops is not being disposed of? What steps do the Government of India propose to take in this regard?

**Shri Thirumala Rao:** The Government of India are aware of the lack of purchasing power in certain areas of Bihar. I have got here the figures of the amounts allotted to the various districts. The amount sanctioned for 1951-52 for relief work in respect of all natural calamities is as follows: Patna Rs. 3,55,000; Gaya Rs. 3,55,000; Shahabad Rs. 3,52,000; Mazaffarpur Rs. 14,60,000; Saran Rs. 8,10,000. I have got figures for all the districts. The total is about 11½ crores. Dharbhanga Rs. 17,20,000; Purnea Rs. 11,15,000; Monghyr Rs. 10,10,000; Saharsa Rs. 9,15,000; Hazaribagh Rs. 3,02,500; there are several other districts.

**Shri Hussain Imam:** Now, there are two questions. I shall put one first and then the second.

**Mr. Speaker:** One will be allowed; about the second, I cannot say.

**Shri Hussain Imam:** May I ask whether the Madras Government opposed the abolition and it was the Centre which wanted it?

**Shri Thirumala Rao:** Which abolition?

**Shri Hussain Imam:** Abolition of rural rationing.

**Shri Thirumala Rao:** It was at the persistent request of the Madras Government that the Centre had to yield to it.

**Shri R. Velayudhan:** May I know the number of people under uniform statutory rationing in Madras and Bihar?

**Shri Thirumala Rao:** In Bihar it was about 70 lakhs rural and about 25 lakhs urban. In Madras, I cannot exactly say; I want notice.

**Shri S. N. Das:** What is the total number of persons who have been employed in these relief works in Bihar?

**Shri Thirumala Rao:** I should like to have notice.

**Shri Syamnandan Sahaya:** How much out of this 1½ crores is going to be contributed by the Centre and how much by the State?

**Shri Thirumala Rao:** I should like to have notice. That is a matter of detail and I cannot give information offhand.

**Mr. Speaker:** The Question-hour is over.

## WRITTEN ANSWERS TO QUESTIONS

### CARRIAGE OF MAIL

\*4261. **Shri M. Nalk:** (a) Will the Minister of Communications be pleased to state the volume and value of letters carried by air-mail services for the year 1950-51 as compared to 1949-50?

(b) What is the percentage of such mails to the total volume and value of letters carried by surface routes during the same period?

(c) What is the estimated loss of income, if any, involved in the abolition of air surcharge on the air-borne letters?

**The Minister of Communications (Shri Kidwai):** (a) 210.6 million letters of the value of Rs. 2.63 crores are estimated to have been carried by air in 1949-50 while the corresponding figures for 1950-51 are 214.1 millions and Rs. 2.68 crores.

(b) Volume and value of letters carried by air have been estimated to

be 27.5 per cent. of the volume and value of all letters carried both by surface and air in 1949-50 while the corresponding percentage in 1950-51 is estimated at 28.5.

(c) Approximately Rs. 17 lakhs per annum.

### POST OFFICES IN CHHOTANAGPUR

\*4262. **Shri Kshudiram Mahata:** Will the Minister of Communications be pleased to state:

(a) the number of post offices opened till now in Chhotanagpur in accordance with the programme for having post offices in all villages with a population of 2,000 and above; and

(b) in how many such villages post offices are still to be opened?

**The Minister of Communications (Shri Kidwai):** (a) 71.

(b) 66.

### FANS IN THIRD CLASS COACHES

\*4263. **Shri Kshudiram Mahata:** Will the Minister of Railways be pleased to state:

(a) the number of third class coaches at present in all the Railways;

(b) the number of third class coaches already fitted with fans; and

(c) the number of third class coaches to be fitted with fans during this financial year?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) to (c). There are 9293 coaches having third class accommodation in all the Railways, of these 1847 have already been fitted with fans and 1028 more are expected to be fitted during the financial year 1951-52.

### PADDY SEEDS

\*4266. **Shri Sivan Pillay:** (a) Will the Minister of Food and Agriculture be pleased to state how many new varieties of paddy seeds have been evolved by the Agricultural Research Institute?

(b) Is there any scheme for distributing these new varieties to agriculturists in the various States?

**The Deputy Minister of Food and Agriculture (Shri Thirumala Rao):** (a) A statement is laid on the Table.

(b) There is no regular scheme. Indents received from Government or private agencies are complied with to the extent of availability of seeds, preference being given to the former

## STATEMENT

The varieties of paddy seeds evolved at the Indian Agricultural Research Institute.

Variety	Quality	Average yield per acre.
		Mds.
N. P. 9	Medium deep-water.	20
N. P. 18	Do. (early maturing suitable for canal irrigation).	20
N. P. 24	Fine	25
N. P. 31	Medium . . . .	25
N. P. 52	Do. . . . .	25

MUZAFFARPUR AND DARBHANGA  
AERODROMES

303. Shri S. N. Das: Will the Minister of Communications be pleased to state: (a) whether Darbhanga aerodrome is being provided with certain essen-

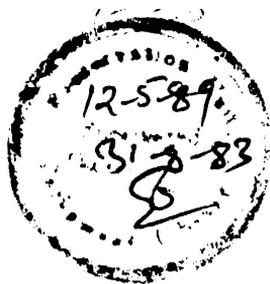
tial aeronautical communication, air traffic control and navigational facilities required for the operation of scheduled air transport services; and

(b) whether any Air Transport Company has applied to the Air Transport Licensing Board for a route passing through Muzaffarpur and Darbhanga aerodromes?

The Minister of Communications (Shri Kidwai): (a) No, Sir. The aerodrome at Darbhanga is not owned by Government; it is a private Aerodrome licensed in the name of the Maharaja-dhiraja of Darbhanga.

(b) Yes. Messrs. Nalanda Airways Ltd. had applied to the Air Transport Licensing Board for the operation of a scheduled air service on Patna-Muzaffarpur-Darbhangha route; but have made no efforts to satisfy the Board that they have the requisite organisation for operating the service.

Friday, 18th May, 1951



# PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

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Third Session  
of the  
PARLIAMENT OF INDIA

1950-51

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## PARLIAMENT OF INDIA

Friday, 18th May, 1951

The House met at Half Past Eight  
of the Clock.

[MR. SPEAKER in the Chair]

## QUESTIONS AND ANSWERS

(See Part I)

9-30 A.M.

**Shri S. C. Samanta** (West Bengal):  
Sir, I want to ask something.

**Mr. Speaker:** But the Question Hour is over, I said. He cannot put any question now, unless it be some point that he wants to raise.

**Shri S. C. Samanta:** Sir, I have a complaint regarding my question No. 4259. This question has been taken up by the hon. Minister of Food and Agriculture. But when I submitted this question, it was actually addressed to the hon. Minister in charge of Natural Resources and Scientific Research and it was to have been answered on the 12th of this month. I was informed that it would be answered on the 18th. But to-day to my surprise I find that it is not answered by the Minister in charge of Natural Resources and Scientific Research but by the Minister of Food and Agriculture, who has said that the information is being collected or something to that effect. If the question had been left with the Minister of Natural Resources and Scientific Research, I probably would have got an answer by this time.

**Mr. Speaker:** I shall, of course, enquire into this matter. I may, however, say that the Minister to whom a question is addressed may not necessarily be the Minister in charge of the Department which has the information on a particular matter. Anyway, as I said, I will enquire into this matter.

155 PSD

## PAPER LAID ON THE TABLE

REPORT ON THE FIFTH SESSION OF  
TRANSPORT AND COMMUNICATIONS  
COMMISSION

**The Minister of States, Transport and Railways** (Shri Gopalaswami): I beg to lay on the Table a copy of the Report by the India's representative on the Fifth Session of the Transport and Communication Commission held at New York in March, 1951. [Placed in Library. See No. P-170/51].

SEA CUSTOMS AND THE CENTRAL  
EXCISES AND SALT (AMENDMENT)  
BILL.

**The Minister of State for Finance** (Shri Tyagi): I beg to move for leave to introduce a Bill further to amend the Sea Customs Act, 1878 and the Central Excises and Salt Act, 1944.

**Mr. Speaker:** The question is:

"That leave be granted to introduce a Bill further to amend the Sea Customs Act, 1878 and the Central Excises and Salt Act, 1944."

The motion was adopted.

**Shri Tyagi:** I introduce the Bill.

CONSTITUTION (FIRST AMENDMENT) BILL—*contd.*

**Mr. Speaker:** The House will now proceed with the further consideration of the motion to refer the Constitution (First Amendment) Bill to a Select Committee.

I understand that the House has agreed to a time-table arrangement and the usual time-limit of.....

**Shri Sarangdhar Das** (Orissa): No, not all Sir.

**Mr. Speaker:** The sense of the House was taken, probably the hon. Member might have been absent.

**Shri Sarangdhar Das:** I was not absent, Sir. I protested and it is on record.

**Mr. Speaker:** Well then, it shows that he was present and had protested. The sense of the House has been taken. It is not possible to allow each hon. Member to have the fullest length for his speech, unless we are prepared to sit all through the year.

**Shri Sarangdhar Das:** But I have not even had a chance to speak.

**Mr. Speaker:** Of course, he will get his chance.

Well, as I was saying, time-limits have to be put in two directions. One is the time-limit of 15 minutes for each speech, except, of course, for the hon. Ministers concerned. That is limit number one. The second is that I propose to call upon the hon. the Leader of the House at 12-15 P.M. to reply to the debate. It is just to refresh the memory of hon. Members that I am announcing this.

**Shri Kamath (Madhya Pradesh):** Cannot the Prime Minister's reply be put off till to-morrow?

**Mr. Speaker:** I do not think we should go on like that.

**Shri Sidhva (Madhya Pradesh):** The Leader of the House stated that the remaining Delimitation of Constituencies Orders will be placed on the table of the House to-day. But I do not find them as an item on to-day's agenda. When are they likely to be placed on the table of the House?

**Mr. Speaker:** He said, if it is possible, they will be placed. After all, he is equally anxious to place them before the House as the hon. Member, and nobody wants to sit longer than is absolutely necessary.

**Shri Sidhva:** But he stated that.....

**Mr. Speaker:** Maybe, he said so in anticipation. We need not waste any more time in making such enquiries.

**The Minister of Law (Dr. Ambedkar):** In the course of the debate yesterday, my friend Pandit Hirday Nath Kunzru said that Government had done great injustice to the House by not explaining the necessity and the purposes of the various clauses in this Bill, and that some one on the side of Government—and he referred particularly to me—should have got up to discharge that duty to the House. I do not know that any Member of the House will believe that a person of the intelligence of my hon. friend

Pandit Hirday Nath Kunzru is one who requires an explanation of this Bill. My friend Dr. Syama Prasad Mookerjee evidently did not require any explanation of the Bill. As soon as the Prime Minister finished, he stood up and opened his fire. And do not think that my friend Pandit Kunzru is less intelligent than my friend Dr. Mookerjee. However, as Pandit Kunzru expressed the wish of many Members of this House, I thought it incumbent on my part to intervene in this debate and to clarify the position so as to dispel the two arguments which had been used in the course of the debate, that there was no necessity for the amendment of the Constitution; and secondly, that Government could wait and give the country and the public larger and longer time and should not rush through this measure. In the observations that I propose to make, I will take the Bill clause by clause, and try to explain the necessity for making the changes which the Bill proposes to make.

I will begin with clause 2 of the Bill. Clause 2 of the Bill proposes to amend article 15. The necessity for the amendment of article 15 has arisen on account of the judgments recently delivered by the Supreme Court in two cases which came up before them from the Madras State. One case was *Madras vs. Shrimati Champakam Dorairajan*, and the other was *Venkataraman vs. the State of Madras*. In the case of Venkataraman the article involved was article 16, clause (4) and in the case of *Shrimati Champakam* the article involved was article 29, clause (2). In the one case the question involved was the reservation for backward classes in public services and in the other case, the question involved was the reservation for backward classes in educational institutions. The question turned upon what is known in the Madras Presidency and elsewhere as the Communal G.O. The argument on which the Communal G.O. of the Madras Government was declared to be void and invalid was this. It was said by the Supreme Court that article 29, clause (2), did not have a saving clause like clause (4) attached to article 16. As the House will remember under clause (4) of article 16, a special provisor is made that article 16 shall stand in the way of the Government making a suitable provision for the representation of backward classes in the services. Such a provision of course is not to be found in article 29. With regard to article 16, clause (4), the Supreme Court came to the conclusion that it involved discrimination

on the ground of caste and therefore, it was invalid. I have carefully studied both these judgments of the Supreme Court and with all respect to the judges of the Supreme Court, I cannot help saying that I find this judgement to be utterly unsatisfactory.

**Shri Naziruddin Ahmad** (West Bengal): Sir, on a point of order. Is it in order for any Member to express disrespect to the highest judiciary in the land? It is the custom in Parliament not to speak disparagingly about the courts.

**Dr. Ambedkar:** There is no disparagement of the learned Judges at all.

**Mr. Speaker:** I myself felt that the word should not have been used but I think what the hon. Law Minister meant was that the judgement was unsatisfactory from the point of view of what the Government proposed to do.

**Dr. Ambedkar:** The judgment does not appear to be in consonance with the articles of the Constitution. That is my point.

**Mr. Speaker:** I am afraid the hon. Minister will not be in order to pass any such strictures on any judgment expressed by the Supreme Court.

**Dr. Ambedkar:** I am very sorry.

**Mr. Speaker:** I was thinking whether what he expressed was not capable of a different interpretation *viz.* that the judgment was unsatisfactory from the point of view of what the Government proposed to do.

**The Minister of Home Affairs (Shri Rajagopalachari):** Will the hon. Speaker forgive my intervention? I think really what the hon. Law Minister meant is that a doubt has arisen on account of the judgment.

**Mr. Speaker:** Let us now proceed.

**Dr. Ambedkar:** My view is that in article 29, clause (2), the most important word is 'only'. No distinction shall be made on the ground only of race, religion or sex. The word 'only' is very important. It does not exclude any distinction being made on grounds other than those mentioned in this article and I respectfully submit that the word 'only' did not receive the same consideration which it ought to have received.

Then with regard to article 16, clause (4), my sub-mission is this that it is really impossible to make any

reservation which would not result in excluding somebody who has a caste. I think it has to be borne in mind and it is one of the fundamental principles which I believe is stated in Mulla's last edition on the very first page that there is no Hindu who has not a caste. Every Hindu has a caste—he is either a Brahmin or a Mahratta or a Kumbhar or a Kumbhar or a carpenter. There is no Hindu—that is the fundamental proposition—who has not a caste. Consequently, if you make a reservation in favour of what are called backward classes which are nothing else but a collection of certain castes, those who are excluded are persons who belong to certain castes. Therefore, in the circumstances of this country, it is impossible to avoid reservation without excluding some people who have got a caste. On these points I do not think personally that the judgment is a very satisfactory judgment. In this connection I would like to state, notwithstanding what the House and some Members are saying, that I have often in the course of my practice told the presiding judge in very emphatic terms that I am bound to obey his judgment but I am not bound to respect it. That is the liberty which every lawyer enjoys in telling the judge that his judgment is wrong and I am not prepared to give up that liberty. I have always told the judges before whom I practised that that is my view of the matter. Now the point has to be borne in mind that in article 46 of the Directive Principles an obligation has been laid upon the Government to do everything possible in order to promote the welfare and the interest of what are called the weaker sections of the public by which I understand to mean the backward classes or such other classes who are for the moment not able to stand on their legs—the scheduled castes and the scheduled tribes. It is therefore incumbent not merely on the Government but upon this Parliament to do everything in its hands to see that article 46 is fulfilled and if that fulfilment is to come. I cannot see how one can escape an amendment so as to prevent article 29, clause (2), and article 16, clause (4) being interpreted in the way in which it has been interpreted and being made to block the advancement of the people who are spoken of as the weaker class. That is the necessity for amending article 15.

I now come to the provisions of article 19, an article which gave rise to great excitement among the Members of the House. I first propose to take clause (3) (1) (a) of the Bill which amends the original clause (2) of ar-

[Dr. Ambedkar]

Article 19. As Members will see this sub-clause proposes to add three new heads:

1. Relations with foreign States,
2. Public Order,
3. Incitement to offence.

A question was asked as to what was the necessity for introducing three new heads. The necessity has arisen out of certain judgments which have been delivered by the Supreme Court as well as by the Provincial High Courts. I would like to refer in this connection to the judgments of the Supreme Court in Ramesh Thapar's case and in Brij Bushan's case. These are the two judgments of the Supreme Court. Then I come to the judgments of the State High Courts.

The following judgements of the Punjab High Court may be taken into consideration:

1. Master Tara Singh's case.
2. Amarnath Bali *versus* the State of Punjab.

There are two judgments of the Patna and Madras High Courts:

1. Shilabala Devi *versus* the Chief Secretary of Bihar.
2. Bynes *versus* the State of Madras.

In Ramesh Thappar's case what was involved was the validity of the Madras Maintenance of Public Order, 1949. Brij Bhushan's case involved the validity of the East Punjab Public Safety Act, 1949. Master Tara Singh's case involved the validity of sections 124A and 153A of the Indian Penal Code. Amarnath Bali's case involved the validity of section 4 of the Indian Press (Emergency Powers) Act of 1931. Shilabala Devi's case also involved the validity of section 4 of the Press Act and the same was involved in the case of Bynes *versus* Madras State.

All these cases have resulted in the decision that they are void laws, that is to say, in view of the provisions contained in clause (2) of article 19, the courts have held that all these Acts, however valid they might have been before the Constitution came into existence, are bad laws now, because they are inconsistent with the Fundamental Rights

What I want to ask the House to consider is, what is the effect of these decisions of the Supreme Court and

the various High Courts in the States? In order to give the House a very clear idea I can read many of the sections of the Acts which have been declared to be null and void but in view of the shortness of time I would content myself by reference to the Press Act, section 4, which has been called in question. This is what section 4 of the Press Act says:

"Whenever it appears to the Provincial Government that any Printing press, in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which"—I want the House to mark these clauses carefully—

"(a) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognisable offence involving violence, or

(b) directly or indirectly express approval or admiration of any such offence or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence,

or which tend directly or indirectly,

(c) to seduce any officer, soldier, etc....."

The important point to which I wish to draw the attention of the House is (a) "incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognisable offence involving violence." It means that under the decisions of the Provincial High Courts to which I had referred it is now open to anybody to incite, encourage, tend to incite or encourage the commission of any offence of murder or any cognisable offence involving violence.

The one question that I would like the House to consider is this. Is it a satisfactory position that any person should now be free to incite or encourage the commission of offences of murder or any cognisable offence involving violence? I want the House to consider this matter dispassionately. Is it a desirable state of affairs (Several Hon. Members: No, no.) that our Constitution should leave us in this desperate position that we could not control the right of free speech which has been granted by clause (1)

of article 19 and it should be so unlimited that any person should be free to preach murder or the commission of any cognisable offence. I have tried to put the matter in a nutshell. That is the position.

The same thing has now occurred with regard to the public safety laws or the laws made by the various States for the maintenance of public order, because they also have been held by the Supreme Court to be not open to any limitation by virtue of the Constitution. The Supreme Court has made a distinction between the security of the State and the maintenance of public order. They say that it may be open for Parliament to make a law for the security of the State but it is not open to Parliament to make a law for the maintenance of public order. There again I wish the House to consider the matter seriously. Is the House prepared to allow the right of freedom of speech and expression to be so untrammelled, to be so unfettered, that any man can say anything and go scot-free, although such speech creates public disorder? If the judgments of the Supreme Court and the High Courts stand as they are, then the only consequence that follows is that we shall never be able to make a law, which would restrict the freedom of speech in the interests of public order and that we shall never be able to make a law which would put a restraint upon incitement to violence. I want my friend Dr. Mookerjee who—as coming events cast their shadow—played the part of a Leader of the Opposition, whose business undoubtedly, from a party point of view, is to oppose every thing, to consider whether the void created in our legislation by the decisions of the Supreme Court and the Provincial High Courts should be allowed to remain in the name of freedom of speech. That is the simple question. I am sure in my mind that if my friend Dr. Mookerjee were to study the different decisions of the Supreme Court and the Provincial High Courts in the light of the observations I have made he will beyond question come to the conclusion that this is a situation which must be remedied and cannot be allowed to go on.

**Pandit Thakur Das Bhargava (Punjab):** He wants detention laws to be used for the purpose.

**Dr. Ambedkar:** Detention laws are something quite different. That is in a nutshell (*Shri Kamath:* What a poor nut!) the case for amending article 19 of the Constitution.

It is next important to consider why the Supreme Court and the various State High Courts have come to this conclusion. Why is it that they say that Parliament has no right to make a law in the interests of public order or in the interests of preventing incitement to offences? That is a very very important question and it is a question about which I am personally considerably disturbed. For this purpose I must refer briefly to the rules of construction which have been adopted by the Supreme Court as well as by the various State High Courts, but before I go to that I would like to refer very briefly to the rules of construction which have been adopted by the Supreme Court of the United States—and I think it is very relevant because the House will remember that if there is any Constitution in the world of a country of any importance which contains Fundamental Rights, it is the Constitution of the United States, and those of us who were entrusted with the task of framing our own Constitution had incessantly to refer to the Constitution of the United States in framing our own Fundamental Rights. There are many Members, I know, who are familiar with the Constitution of the United States. How does the Constitution of the United States read? I think hon. Members will realise that apparently there is one difference between the Constitution of India and the Constitution of the United States so far as the Fundamental Rights are concerned. The Fundamental Rights in the Constitution of the United States are stated in an absolute form; the Constitution does not lay down any limitation on the Fundamental Rights set out in the Constitution. Our Constitution, on the other hand, not only lays down the Fundamental Rights but it also enumerates the limitations on the Fundamental Rights, and yet what is the result? It is an important question to consider. The result is this, that the Fundamental Rights in the United States, although in the text of the Constitution they appear as absolute, so far as judicial interpretations are concerned they are riddled with limitations of one sort or another. Nobody can in the United States claim that his Fundamental Rights are absolute and that the Congress has no power to limit them or to regulate them. In our country I find that we are in the midst of a paradox: we have Fundamental Rights, we have limitations imposed upon them, and yet the Supreme Court and the High Courts say, "You shall not have any further limitations upon the Fundamental Rights."

[Dr. Ambedkar]

Now comes the question: how does this result come to be? And here I come to the canons of interpretation which have been adopted in the United States and by the Supreme Court and High Courts in our country. As hon. Members who are familiar with the growth of the Constitution of the United States will know, although the Constitution of the United States is a bundle of bare bones, the United States Supreme Court has clothed it with flesh and muscle so that it has got the firmness of body and agility which a human being requires. How has this happened? This has happened because the U.S. Supreme Court, although it was the first Court in the world which was called upon to reconcile the Fundamental Rights of the citizen with the interests of the State, after a great deal of pioneering work came upon two fixed principles of the Constitution. One is that every State possesses what is called in the United States "police power", a doctrine which means that the State has a right to protect itself whether the Constitution gives such a right expressly or not. The "police power" is an inherent thing just as our Courts have inherent powers, in certain circumstances, to do justice. It is as a result of this doctrine of "police power" that the United States Supreme Court has been able to evolve certain limitations upon the Fundamental Rights of the United States citizens. The second doctrine which the United States Supreme Court developed and which it applied for purposes of interpreting the Constitution, is known as the doctrine of "implied powers". According to the decisions of the Supreme Court, if any particular authority has been given a certain power, then it must be presumed that it has got other powers to fulfil that power and if those powers are not given expressly then the Supreme Court of the United States is prepared to presume that they are implied in the Constitution.

Now, what is the attitude which the Supreme Court has taken in this country in interpreting our Constitution? The Supreme Court has said that they will not recognise the doctrine of the "police power" which is prevalent in the United States. I do not wish to take the time of the House in reading the judgments of the Supreme Court, but those who are interested in it may find this matter dealt with in the case known as *Chiranjit Lal Chowdhuri versus the Union of India* otherwise known as the *Sholapur Mills case*. You find the judgment of Mr Justice Mukherjee expressly

rejecting this doctrine which, in the text of the judgment which I have, occurs on page 15. They say they will not apply this doctrine. The reason why the Judges of the Supreme Court do not propose to adopt the doctrine of "police power" is this, so far as I am able to understand, that the Constitution has enumerated specifically the heads in clause (2) under which Parliament can lay restrictions on the Fundamental Right as to the freedom of speech and expression, and that as Parliament has expressly laid down the heads under which these limitations should exist, they themselves now will not add to any of the heads which are mentioned in clause (2). That is, in sum and substance, the construction that you will find in the case of *Thapar's judgment* which was delivered by Mr. Justice Patanjali Sastri. He has said that they will not enlarge it and therefore, as the Constitution itself does not authorise Parliament to make a law for purposes of public order, according to them Parliament has no capacity to do it and they will not invest Parliament with any such authority. In the case of the Press Emergency Laws also they have said the same thing—that in clause (2) there is no head permitting Parliament to make any limitations in the interests of preventing incitement to an offence. Since section 4 of the Press (Emergency Powers) Act provides for punishment for incitement to the commitment of any offence, Parliament has no authority to do it. That is the general line of argument which the Supreme Court Judges have adopted in interpreting the Constitution.

With regard to the doctrine of implied powers, they have also more or less taken the same view. Personally myself, I take the view that there is ample scope for recognising the doctrine of implied powers, and I think our Directive Principles are nothing else than a series of provisions which contain implicitly in them the doctrine of implied powers. I find that these Directive Principles are made a matter of fun both by judges and by lawyers appearing before them. Article 37 of the Directive Principles has been made a butt of ridicule. Article 37 says that these Directives are not justiciable, that no one would be entitled to file a suit against the Government for the purpose of what we call specific performance. I admit that is so. But I respectfully submit that that is not the way of disposing of the Directive Principles. What are the Directive Principles? The Directive Principles are nothing but obligations in-

posed by the Constitution upon the various Governments in this country—that they shall do certain things, although it says that if they fail to do them, no one will have the right to call for specific performance. But the fact that there are obligations of the Government, I think, stands unimpaired. My submission is this: that if these are the obligations of the State, how can the State discharge these obligations unless it undertakes legislation to give effect to them? And if the statement of obligations necessitates the imposition and enactment of laws, it is obvious that all these fundamental principles of Directive Policy imply that the State with regard to the matters mentioned in these Directive Principles has the implied power to make a law. Therefore, my contention is this, that so far as the doctrine of implied powers is concerned, there is ample authority in the Constitution itself to permit Parliament to make legislation, although it will not be specifically covered by the provisions contained in the Part on Fundamental Rights.

**Dr. S. P. Mookerjee (West Bengal):** Even though they may become inconsistent with the provisions of the Constitution?

**Dr. Ambedkar:** That is a different matter.

**Shri Kamath:** That is a vital matter.

**Dr. Ambedkar:** What I am saying is this that the various provisos attached to the various fundamental articles need not be interpreted as though they were matters of strait-jacket as if nothing else is permissible.

**Shri Kamath:** You yourself made it.

**Dr. Ambedkar:** The point that I was trying to make to the House is that on account of the declaration by the Supreme Court that this Parliament has no capacity to make a law in certain heads, the question before the House is this: can we allow the situation to remain as it is, as created by the judgments, or we must endow Parliament with the authority to make a law?

(At this stage I do want to make a distinction and I do so for the special reason that Dr. Mookerjee came and said that we were taking away the freedom which people enjoyed.) I think it is necessary to make a distinction between the capacity to make a law and the enactment of a particular law. All these matters as to whether a particular law encroaches upon the freedom of the people is a

matter which can be discussed when the law is being made. Today we are not dealing with a law; we are only dealing with the capacity of Parliament to make a law.

[SHRIMATI DURGADEBI in the Chair]

**Dr. S. P. Mookerjee:** May I ask one question with regard to this point that you are only asking Parliament to endow you with power to make a law? But according to the changes which have been proposed all the laws which were invalidated will become valid retrospectively.

**Dr. Ambedkar:** I know that is a point on which my friend Pandit Bhargava laid great stress and it would be very wrong on my part to leave it unexplained.

**Dr. S. P. Mookerjee:** And the much-hated emergency laws will become good laws.

**Dr. Ambedkar:** It is not quite so.

**Shri Kamath:** Almost:

**Dr. Ambedkar:** So far I have dealt with two heads, namely, public order and the incitement to an offence. There remains the third category, namely friendly relations. We have at present on our statute book a law enacted in 1932 dealing with friendly relations with the foreign States. It is true that that law has not come for any adjudication before High Courts or the Supreme Court and it has so far not been declared to be *ultra vires*. But the fact remains that in view of rules of interpretation adopted by the Supreme Court that nothing is within the capacity of Parliament unless that particular head of legislation is mentioned in clause (2) and as "friendly relations with foreign States" is not mentioned in clause (2) I do not think it requires an astrologer to predict that when that question comes before the judiciary they will follow the same line of interpretation.

**Shri Kamath:** Dr. Ambedkar is quite enough for the purpose.

**Dr. Ambedkar:** And it is for that reason that we have thought it necessary to include in the new heads this head of friendly relations with foreign states.

My friend Dr. Mookerjee asked whether there was any country where such a law prevailed. Well I have searched for a precedent and I can tell him that I find no country which has not such a law. In the case of England it is a rule of Common Law. No statutory law is necessary. The

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Common Law is operative not only in England but in all the Dominions. Therefore that same rule prevails there. In fact, the Common Law rule has been amended and made more stringent by a statutory provision in Canada.

**Pandit Kunzru (Uttar Pradesh):** Will my hon. friend explain a little more the position in England?

**Dr. Ambedkar:** Yes, I will. I do not know—I must leave some time for the Prime Minister.

**Hon. Members:** Take your own time.

**Dr. Ambedkar:** There is some confusion, I think, in the minds of the people.....

**Dr. S. P. Mookerjee:** And the framers of the Bill.

**Dr. Ambedkar:** No, I do not think so. You will presently see that we have no such confusion. At any rate my mind is very clear about it.

**Shri Kamath:** Government as a whole, not you.

**Dr. Ambedkar:** What does maintenance of friendly relations imply? Most Members are under the impression that if this category was added they would not be in a position to criticise the foreign policy of the Government. I like to say that that is a complete misunderstanding and a misconception.

**Shri Kamath:** That is your opinion.

**Dr. Ambedkar:** The underlying principle of this category, namely maintenance of friendly relations with a State, is nothing more than an extension of the principle of libel and defamation, that you shall do nothing, you shall say nothing, you shall circulate no rumour which will involve a foreign State in any kind of ignominy. Beyond that there is nothing in this category. Even the English Common Law is based upon this, namely that it is a part of the law of defamation—that you shall not defame a foreign State which has a friendly relation with this country. Now, I want to know from Dr. Syama Prasad Mookerjee whether he thinks that even asking him or others that they shall not defame a friendly nation is such a serious inroad upon the liberty of speech that it should be condemned.

**Dr. S. P. Mookerjee:** Why not specify it?

**Dr. Ambedkar:** It is understood that this is so. I know my friend is a great reader, but if he were to read the debates that took place in this Assembly in 1932 when this law was enacted, if he will read the Statement of Objects and Reasons—which I have read—and also the Report of the Select Committee on that Bill he will find that in this particular law there is nothing more than what I have stated.

**Shri Kamath:** Is not the expression "running dog" used by the Peking Government libellous or slanderous?

**Dr. Ambedkar:** There the Peking Government ought to make a law.

**Shri Kamath:** If someone retaliates here?

**Dr. Ambedkar:** This policy of tit for tat is not good for the State.

**Shri Kamath:** What about reciprocity?

**Dr. Ambedkar:** It may involve us in great deal of trouble. If we are responsible to our friendly neighbours that our citizens shall not defame them, in the same way the Chinese Government is responsible that the Chinese citizens shall not defame India, and the remedy must be left for each Government to adopt in accordance with its own executive authority.

**Prof. Ranga (Madras):** And sense of honour.

**Dr. Ambedkar:** Yes, and sense of honour.

**Shri Naziruddin Ahmad:** But the present law of defamation will protect foreign States also.

**Dr. Ambedkar:** My friend has provoked me to do something more which I did not want to do! Now, let me read to him—this is very important—the law in the United States. Incidentally I would like to remind my friend Dr. Syama Prasad Mookerjee who so vehemently asked 'Is there any country which has such a law?', well, I point to the United States of America. I have got this big volume with me *Foreign Relations and Intercourse*.

**Shri Frank Anthony (Madhya Pradesh):** Is it part of the Bill of Rights

**Dr. Ambedkar:** It says—this is an important point—"Notwithstanding the fact that the United States does not permit the Congress to make a law on this particular subject, the Supreme

Court on the basis that every State has a police power to protect itself has permitted such a legislation to be on the statute book."

**Shri R. K. Chaudhuri (Assam):** But not on the Constitution.

**Dr. Ambedkar:** "What is the law?"—my hon. friend Mr. Naziruddin who asked the question may read it. It goes much beyond our Indian law. The first clause says that "anybody willfully and knowingly making any untrue statement, either orally or in writing, about any person shall be punished by imprisonment for not more than ten years and may, in the discretion of the court, be fined not more than five thousand dollars". I want him to compare the punishing clause of our law with the punishing clause of this law.

**Shri Naziruddin Ahmad:** I raised a different question.

**Dr. Ambedkar:** Let me read it again.

**Mr. Chairman:** Order, order: I do not think that too many interruptions help the debate.

**Dr. Ambedkar:** I do not mind replying if I can understand what they ask.

**Shri Naziruddin Ahmad:** I raised a different question altogether. My question was whether our law of defamation does not protect foreign States also.

**Dr. Ambedkar:** It does not.

**Shri Naziruddin Ahmad:** I think it does.

**Dr. Ambedkar:** No, it applies only when one person defames another. That is the point. Then the second clause in that law is about "wrongful assumption of character of a diplomatic or consular officer". That also is made punishable under the law relating to foreign relations. One more important clause is about "conspiracy to injure property of a foreign Government". There again the punishment is imprisonment of not more than three years or fine of not more than five thousand dollars or both. Therefore, our law is a very mild one.

**Shri Kamath:** If all untrue statements are tabooed it will put an end to all diplomacy.

**Dr. Ambedkar:** We are talking of citizens doing harm to the Government of the foreign State.

**Shri Kamath:** Not Government-to-Government.

**Dr. Ambedkar:** With the explanation that I have given so far Members of the House, I think, will agree that there is a necessity for amending article 19 in the way in which sub-clause (1) of clause 3 of the Bill makes provision for it.

**Some hon. Members:** No.

**Dr. S. P. Mookerjee:** If it is only for protection against defamation, why are you having it separately?

**Dr. Ambedkar:** Sometimes it is better to separate a certain category.

**Shri Kamath:** Expediency.

**Dr. S. P. Mookerjee:** Which is the Constitution in the rest of the world where such a separate provision is made? You contradicted me.

**Dr. Ambedkar:** The whole point is that the British Constitution is an unwritten Constitution and therefore nothing is necessary; Parliament is supreme.

**Dr. S. P. Mookerjee:** What about the American Constitution?

**Dr. Ambedkar:** There are no Fundamental Rights in the United Kingdom. That is the difficulty.

**Dr. S. P. Mookerjee:** In any written Constitution does a similar provision exist?

**Dr. Ambedkar:** It does not, but in the United States of America according to the canons of interpretation adopted by the Supreme Court such a law is possible.

**Dr. S. P. Mookerjee:** That is a different matter.

**Dr. Ambedkar:** It is not different at all.

Now I come to clause 3, sub-clause (1) (b). This clause seeks to amend clause (6) of article 19 which deals with trade, profession, etc.

**Shri Deshbandhu Gupta (Delhi):** Before the hon. Minister goes to clause 3(1) (b), may I ask him one question? The words are "defamation or incitement to an offence" and all laws existing today will become...

**Dr. Ambedkar:** I have not come to that.

**Shri Deshbandhu Gupta:** I want you to answer that.

**Dr. Ambedkar:** I will not answer it now. I will answer it at my own time. I have noted it and I think it is a question to which some answer

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should be given. There is no ground for running away from it. It may be that the House may not accept my explanation, but that I have no explanation to offer is not the presumption that should be made.

With regard to this clause it will be noticed that the latter part of clause (6) has been separated into two parts, one dealing with the qualifications for practising any profession, and the second part dealing with the actual carrying on of any trade etc. The important part of that second part lies in this that it permits the State to make a different classification between private members carrying on the trade and the State carrying on the same trade. This clause and the necessity for its introduction has arisen on account of the judgment of the Allahabad High Court reported in 1951 A.I.R. (Allahabad) 257, Full Bench, known as Motilal *versus* the Government of Uttar Pradesh. As hon. Members will remember, U.P. Government have introduced a scheme of nationalisation of motor transport. They were proceeding with their scheme piecemeal, territory by territory; certain territory they had said would be subject to their monopoly and that no private individual would be entitled to run their buses within that territory; certain territory which they thought in the beginning they could not cope with they left to private bus owners. In doing so, they said that it would not be necessary for the State to obtain a licence for the running of their buses within the territory that they had ear-marked for themselves, but required the private owners to obtain licences from the State. This question was raised before the Allahabad High Court on the ground that this involved discrimination. It seems to me that if nationalisation is a desirable thing and in the best interests of the country, then it must also be admitted that it may not be possible for the State to undertake nationalisation all throughout the country at one and the same time. It involves administrative problems; it involves many other problems and consequently, in order to fully carry out the scheme and to consolidate it, it may be necessary for the State to define a territory and to leave others to carry on for the time being. Such a process should not be hampered by the doctrine of non-discrimination. It is to get rid of this doctrine of non-discrimination in the matter of nationalisation, that this particular amendment has been introduced, and I do not think that the House will

very seriously object to this kind of thing.

[An Hon. Member: The same thing from the High Court.]

[Dr. Ambedkar: Now I come to clause 3, sub-clause (2) about which...]

[Dr. S. P. Mookerjee: Why have you omitted the word 'reasonable' from the existing clause?]

[Dr. Ambedkar: The word 'reasonable' was not there. That is a matter which may be discussed. (An Hon. Member: In the Select Committee.) It may be discussed in the Select Committee, in the House everywhere.]

Now I come to clause 3, sub-clause (2). In order to understand what this amendment precisely does, I think it is necessary to go back to article 13. It is only in the light of article 13 that one can have a clear idea of this particular sub-clause. As hon. members know, article 13 declares that if any law is inconsistent with the Fundamental Rights, that law shall be declared to be void and inoperative. As I have shown in the course of my observations, certain provisions of laws, such as sections 153A, and 124A of the Indian Penal Code, certain provisions of the Press (Emergency Powers) Act and the Public Safety Acts have now been declared to be void by the Supreme Court and by the various High Courts. In view of this, what are we to do? It seems to me that there are three alternatives which we could pursue. The first alternative is to refuse to amend the Constitution and to let the void provision remain as it is. I do not think that any Member of this House would like this alternative. [An Hon. Member: It would be disastrous.] The second alternative is to amend the Constitution, and then, under this, there are two courses open. The first course open to us is to re-enact this law in consonance with the amended article. That is one way. Parliament and the various State Legislatures should call in their sessions and tackle with these laws once again. The second course is to revive these laws and to say that the revival of these laws shall be subject to the provisions contained in the amended Constitution. I cannot see what else one can do. The Bill adopts the second course. The Bill says: let the laws which have been declared by the Supreme Court and the High Courts to be null and void be deemed to be alive, but subject to one proviso, and that proviso is that they shall not be alive in their original body and

fresh but they shall be alive only in such degree and in such manner as may be consistent with the amended article 19. That is the position. Now, I would like to ask the House whether they will seriously contemplate the possibility of either this Parliament or the various Legislative Assemblies in the Provinces to again sit and re-enact these laws.

(Dr. S. P. Mookerjee: Why not?)

(Dr. Ambedkar: Is there time for it?)

(Dr. S. P. Mookerjee: What is happening?)

Dr. Ambedkar: I do not know what time it might take. But I am sure about that if my hon. friend Dr. Mookerjee were to be a member of the Bengal Legislative Assembly, he will prevent such a law being passed there for at least six months. His argument, his eloquence, all that would stand as a formidable Chinese Wall against any re-enactment of these laws. Therefore, it seems to me not to be a very unnatural presumption that in the present circumstances in which this Parliament is situated or the local Legislative Assemblies are situated, you cannot presume that there would be immediately the time available for the re-enactment of these laws. I cannot think of it myself. We have so much legislation here.

(Shri Sarangdhar Das: Why not the new Parliament?)

(Dr. Ambedkar: If it is the new Parliament, it means that for six, seven or eight months or a year, there will be no law for public order; there will be no law for incitement to an offence and no law for friendly relations with foreign States. If Members of Parliament can contemplate such a contingency, they are welcome to it.)

Ch. Ranbir Singh (Punjab): The new Parliament can repeal these laws if they so want.

Dr. Ambedkar: I have dealt with article 19.

Dr. S. P. Mookerjee: Why are you giving retrospective effect?

Dr. Ambedkar: Unless you give retrospective effect, these laws cannot be revived.

Shri Shiv Charan Lal (Uttar Pradesh): Is that legal?

Dr. Ambedkar: Why not? If these laws are to be in operation, they must

be in operation on the date when this law comes into existence. You can give it a new beginning if you can re-enact; but I do not see how you can re-enact.

Shri Deshbandhu Gupta: Because the hon. Law Minister is going to another article, may I ask a question with regard to this article? The power sought to be conferred refers to incitement to an offence. Section 4 of the Press (Emergency Powers) Act, to which the hon. Law Minister has referred, involves incitement to murder or to an offence involving violence. I want to know...

Dr. Ambedkar: Do you want to advocate it?

Shri Deshbandhu Gupta: No. I want to know whether under the wide powers that are sought to be taken, it is not possible to advocate even non-violent disobedience to any order which may be against the liberties of the people, and which will constitute an offence under other enactments. I want an explanation. For instance, section 144 prevents the holding of a meeting for unlawful purposes. Some district magistrate issues an order. A newspaper, tomorrow, advises the people that this order is absolutely obnoxious and it may be disobeyed. Will it or will it not constitute an offence although it is neither an incitement to violence nor incitement to murder?

Shri Rajagopalachari: May I submit that such extensively detailed discussion may be reserved for the Select Committee. The principles have been explained. Otherwise, we will have no time.

Shri Deshbandhu Gupta: If the hon. Minister gives an assurance that it will be modified, it is enough.

Mr. Chairman: Whatever it may be, the hon. Members who are frequently interrupting, I think, have had their say already, and their points of view have been taken note of. Now, let the hon. Law Minister, who is now speaking, have his say.

Shri Kamath: Does it mean that those who have not had their say can interrupt?

Mr. Chairman: No; that does not mean that. Most hon. Members will do well to take note of this.

Shri Shiv Charan Lal: Only one question. Will it be legal to give retrospective effect?

Dr. Ambedkar: Oh yes; undoubtedly.

**Pandit Thakur Das Bhargava:** May I ask one direct question? Is the hon. Law Minister satisfied with the terms of article 19(2) as he seeks to amend it?

**Dr. Ambedkar:** I have explained the principle. If, as I said, the language requires to be modified to give effect to the principle, there can be no objection. But, the principle is that they shall be revived.

**Shri Deshbandhu Gupta:** The hon. Minister has not thrown any light on the removal of the word 'reasonable'.

**Dr. Ambedkar:** It is not removed; it was not there.

**Pandit Thakur Das Bhargava:** But the other things were there. You have taken away all those safeguards.

**Dr. Ambedkar:** That is a different matter. That will be considered by the Select Committee.

Now, I come to clause 4 of the Bill. This clause introduces a new article 31A. Let us understand, first of all, what this article does. What this article does is to permit a State to acquire what are called estates. Secondly, it says that when any legislation is undertaken to acquire estates, nothing in the Fundamental Rights shall affect such a legislation. The merits of this article, I think, have to be judged in the light of one question, and it is this. Is there anything revolutionary in this article?

**Shri Frank Anthony:** It is reactionary.

**Dr. Ambedkar:** Is there anything in this article which is not to be found in article 31? It is from this point of view that I want the House to consider this question. The House would remember that the later clauses of article 31 provided that certain laws which were then on the anvil and had not been passed, shall not be questioned on the ground of compensation if a certificate was issued by the President. That is the gist of those clauses of article 31. The new amendment to article 31 not only removes the operation of the provision relating to compensation, but also removes the operation of the article relating to discrimination. In this amendment, I am emphasising the word 'estate'. The new article is a very limited one. It does not apply to the acquisition of land. It applies to the acquisition of estate in land which is a very different thing. What is an estate has been defined in this particular article namely, the right of

a proprietor, sub-proprietor, tenure-holder, or other intermediary. Of course, the terminology is different in different provinces. It does not refer to the acquisition of land. That is a point to be borne in mind. Therefore, all that article 31A does is this. When any law is undertaken with regard to the acquisition of property, two questions can properly arise. One is the amount of compensation; the second is discrimination as between the various proprietors as regards the amount of compensation. These are the only two questions that can possibly arise and give rise to litigation. With regard to one part of it, dealing with compensation, we have already excluded the acquisition of proprietary and zamindari interests by the original article 31. By this article, we are excluding the operation of the discriminatory provision. That is all what we are doing by this article.

It seems to me that we really cannot adopt the said two articles of the Fundamental Rights relating to compensation and discrimination with regard to this land question. I have paid considerable attention to this subject. I may say that I have studied with great care the situation in Ireland, a country which resembles very closely our own. In Ireland, the peasantry is hungering for land. Land in Ireland has been unevenly distributed. Some have very large estates; some have very small. There are many who are landless. What has the Irish Constitution done? I want the Members who are representing the landed interests to consider this case in a comparative manner. Now, so far as the Irish Constitution is concerned, property in land particularly is not a Fundamental Right. Article 43 of the Irish Constitution, clause (2), states that the exercise of the right mentioned, that is, the right on land, should be regulated by the principles of social justice. It does not say that land shall not be taken except on the basis of full compensation or without any discrimination as between landlords. What the Irish law does is this. They have appointed what is called the "Congested Board", as they call it, or Congested Areas Board. It is a separate organisation created by law and this board has been given the power to acquire land, to break up holdings, to equalise land, to make uneconomic holdings economic ones by taking land from a neighbouring owner; and the right of assigning compensation has been given to this board of congested areas. There is no judicial authority to interpret the action of this board.

**An Hon. Member:** And no appeal?

**Dr. Ambedkar:** And no appeal at all. Some people have, of course, taken appeals to the courts, but the courts have held that no appeals lie with any court.

Now, I can, speaking for myself, say without any hesitation that I am not at all an admirer of the new schemes that have been drafted by these States who have acquired land. It is, in my judgment, not a very good thing to create peasant proprietors in this country. Our difficulty in this country has arisen by reason of the fact that we have small landlords holding half an acre of land or an acre or two acres, with no money, no manure, no bulls, no bullocks, no implements, no seeds and no arrangement for water. And yet they are the landlords and the holders of the land. Looking at the future, I feel very aghast as to what is going to happen to this country and its national production of food, if this kind of agricultural system continues. I would have very much liked if the State had acquired all these properties and kept the land as State land and given it on permanent tenancy to cultivators so that the State would have had the right to create collective farming and cooperative farming on the basis of supplying the materials and so on and so forth. But now we have a large number of landless labourers in this country, and I think their number will exceed even five crores. But when you make these laws, making the tiller of the soil the owner of it, what provision can you make for the welfare of these landless labourers? They will remain where they are—high and dry—notwithstanding the abolition of the *zamindars*. I am, therefore, not very happy at what is being done. But that is a different question altogether. The question we are considering now is whether the intermediaries should be allowed to continue. That is the point, and on that point, I think there can be no dispute that the intermediaries should be liquidated, without any kind of interference from the Fundamental Rights either on the ground that there is no adequate compensation or that a discrimination has been made. I have got with me a very interesting paper which I secured from the Government of West Bengal. Hon. Members will remember that there was a Commission called the Floud Commission, appointed for the purpose of liquidating the *zamindars* in Bengal. After that Commission had reported, the Government of Bengal

appointed a special officer in order to find out how effect could be given to the recommendations of the Floud Commission and that officer has made a very interesting report. I have got a copy, but as I said, I have not got the time now to go through the whole of it. But that officer himself recommended that equality of compensation would be wrong. It would be neither just nor equitable, though it may be administratively smooth. He has worked out a scheme of compensation which is very interesting, and the scheme is one of graded compensation. In the case of profits up to Rs. 2,000 the compensation should be fifteen times the net profit. From Rs. 2,000 up to Rs. 5,000 it should be twelve times but not less than the maximum amount given under the previous item. From Rs. 5,000 up to Rs. 10,000, the compensation should be ten times but not less than the maximum under the Rs. 2,000,—Rs. 5,000 category and for profits above Rs. 10,000 it should be eight times but not less than the maximum under the last-mentioned category. It is all a graded thing. And I am afraid that we should not get mixed up with this question of compensation which is a very ticklish problem. If you want the betterment of agriculture, I am convinced that these intermediaries must be liquidated. The original article exempted compensation for the acquisition of *zamindari* rights. We are now dealing with exemption from discrimination. I do not see why article 31 should now continue to operate, when there is a law for the purpose of acquiring these estates.

**Shri Shiv Charan Lal:** What about article 14 about discrimination?

**Dr. Ambedkar:** The whole chapter is excluded from operation.

**Shrimati Renuka Ray (West Bengal):** When the hon. Minister is prepared to go far, why does he not go further?

**Dr. Ambedkar:** I am not revolutionary enough.

**Shrimati Renuka Ray:** But you yourself suggested that the State should acquire the land?

**Dr. Ambedkar:** Yes, but I am a progressive radical.

Now, I come to article 31 B. This article enumerates in the Ninth Schedule certain laws which have been passed. Great objection has been taken that this is a very unusual procedure. *Prima facie*, it is

[Dr. Ambedkar.]

an unusual procedure. But let us look at it from another point of view. What are these laws? What are the principles on which these laws are made which are being saved by the Ninth Schedule. All the laws that have been saved by this Schedule are laws which fall under article 31A. That is to say, they are laws which are intended to acquire estates. And when we say by article 31A that whenever a law is made for the acquisition of an estate, neither the principle of compensation nor the principle of discrimination shall stand in the way of the validity of it, I admit that sentimentally there may be objection. But from the practical point of view, I do not understand why we should not declare them valid pieces of legislation.

[Shri Naziruddin Ahmad: They are bad laws and so they have to be declared valid!]

[Shri Syamnandan Sahaya (Bihar): May I enquire whether these laws that are now sought to be validated will cover only land reforms or whether there will be interference with other laws like the Transfer of Property Act and other Acts? Has this aspect of the matter been investigated by the Government?]

11 A.M.

Dr. Ambedkar: I shall be quite frank about it. The only other method to adopt would be to give power to the President to revise these laws and to reconstruct them and to bring them strictly in conformity with the provisions of article 31.

Pandit Thakur Das Bhargava: Under article 31 we decided that if President certifies certain laws, they will be valid. Now that safeguard has been taken away.

Dr. Ambedkar: The reason why that has not been done is this. Just imagine the amount of burden that would be cast upon myself, on the Law Ministry, the Food and Agriculture Ministry and other Ministries involved if we were to sit here and examine every section of each one of these Acts to find out whether they deviate. I think that is impossible.

Shri Kamath: Appoint a Committee for the purpose.

Dr. Ambedkar: That will mean postponement of this Bill.

Now I come to clause 6 which seeks to amend article 85. In article 85

the word used is 'summon'. This word has given rise to some difficulty. The word 'summon' has a technical meaning, viz., sitting of Parliament after a prorogation or dissolution. It does not cover the case of the sitting of Parliament after adjournment. The result is that although Parliament may sit for the whole year adjourning from time to time, it is still capable of being said that Parliament has been summoned only once and not twice. There must be prorogation in order that there may be a new session. It is felt that this difficulty should be removed and consequently the first part of it has been deleted. The provision that whenever there is a prorogation of Parliament, the new session shall be called within six months is retained. That is the difference between the old article and the new, viz., the summoning has been dispensed with. Parliament may be summoned once and it may continue to go on after short adjournments from time to time.

Another difficulty with regard to clause (2) is—it was contended by some that according to the letter of this article it is necessary that both Houses should be prorogued simultaneously and not at different times. That certainly was not the intention of the Constitution. The Constitution intended that one House may be summoned at one time, another may be summoned at another time, one may be prorogued at one time and another may be prorogued at another time. It is to make this possible that clause (2) has been amended.

With regard to article 87, which is sought to be amended by clause 7, the position is this. Under the old article the provision was that whenever Parliament was summoned, there was to be an address by President. Now as Parliament will be summoned only once and it will continue either by prorogation or by adjournment, it is not necessary to retain this provision. Similarly...

Shri Kamath: How can it continue after prorogation?

Dr. Ambedkar: If it is prorogued, then it will be summoned. If there are two summonings, the address by President will be only once. With regard to precedence for debate, that also has been deleted—not that there will be no time given but for the simple reason that there may be some urgent business which may require to be disposed of earlier...

**Shri Syamnandan Sahaya:** Supposing the President wants to address the House, this will be a limitation imposed on him.

**Dr. Ambedkar:** Now I come to articles 341 and 342. As the House knows, to-day the power of issuing scheduled castes and the scheduled tribes order so far as Part A and Part B States are concerned is given only to the President while the power to issue such orders with regard to Part C States is given to Parliament. That position is now being altered and the power is given to President even to make an order with regard to scheduled castes and scheduled tribes in respect of Part C States also.

Then article 372 invests the President with the power to make adaptation in existing laws in order to bring them in conformity with the provisions of the Constitution and that power is given only for two years. This House will remember on account of the pressure of other business it has not been possible for Government to examine all the existing laws in order to find out how many of them are inconsistent with the provisions of the Constitution. It is therefore felt that the President's power to make such adaptation in the existing laws in order to bring them in conformity with the Constitution be extended by one more year so that means may be adopted in order to find out which laws are inconsistent and a consolidated order may be issued thereafter.

**Shri Kamath:** The article also provides that once Parliament is elected under the new Constitution, the President shall not exercise this power.

**Dr. Ambedkar:** If this article gives the power, then that of course overrides.

**Shri Kamath:** How can that be?

**Dr. Ambedkar:** Then I come to article 376, clause 13. A good deal of objection was taken to this particular clause. It deals with the appointment of persons who are not citizens of India to the posts of Chief Justice and Judge of any High Court. The position is this. Article 217, clause (2) says that a Judge of the High Court must be a citizen of India. Article 376 provides that existing Judges including Judges who were not citizens on the date when the Constitution came into operation shall continue as Judges if they so choose. Now it so happens that we have in our country some four High Court Judges who were on the date of the Constitution Judges of Certain High Courts, but were not citizens of India.

They chose to remain at their posts and did not retire. We were therefore bound to carry them over under the provisions of article 376. A question has arisen and it is this. Can such a person be appointed as a Chief Justice either in the Court in which he is serving or in some other Court? Another question that has arisen is this. Can such a Judge be transferred to another High Court, the point being whether the appointment of a Chief Justice or the transfer of a Judge from one High Court to another High Court is a new appointment? If it is a new appointment, obviously the provisions of article 217 (2) would apply. This was felt as a great difficulty, because it could not be presumed that Parliament intended merely to continue them but their prospects should be blocked. Such evidently was not the intention. Consequently the President under the powers vested in him under article 392, clause (1) for the purpose of removing difficulties, issued an order regularising the position. That order in some quarters has been questioned as being outside the power of the President, there being no difficulty whatsoever. In order to remove these doubts it is thought better to make a provision in the Constitution itself and that is why clause 13 is included in this Bill.

**Mr. Chairman:** Will the hon. Minister explain why was not originally the transfer contemplated? Is it not a new situation created by this clause?

**Dr. Ambedkar:** That is what I interpret to be the intention of article 376 viz., that once they were carried over, they were carried over for all purposes, either transfer or promotion.

But some people have found this difficulty...

**Pandit Thakur Das Bhargava:** The idea was that the Chief Justice shall not be a non-national. What is the reason now?

**Dr. Ambedkar:** The reason is obvious. When you accept a man as a Judge you certainly accept him for your own convenience and you should be in a position to transfer him to some other court. For the benefit of and in fairness to that individual he should not be debarred from promotion.

**Pandit Thakur Das Bhargava:** Would you like the Prime Minister of India to be a non-national?

**Dr. Ambedkar:** We are dealing with these four exceptional cases (Interruption). The provision is very

clear and I do not think anybody can quarrel with it.

I believe I have exhausted all the points raised in the course of the debate. If anything remains I shall be prepared to deal with it when the Bill is taken up clause by clause.

**Dr. Deshmukh** (Madhya Pradesh): Would it not be necessary to amend article 29 to give effect to this?

**Mr. Chairman:** There are only 60 minutes more before the Prime Minister replies.....

**Shri Kamath:** If he is agreeable he may reply tomorrow. (*Interruptions*).

**Mr. Chairman:** If too many Members speak at the same time it is impossible for people to understand what they are saying.

**The Prime Minister and Minister of External Affairs** (Shri Jawaharlal Nehru): I thought it has been decided yesterday.

**Mr. Chairman:** Yes, it has already been decided yesterday and announced to the House that the Prime Minister would speak at 12-15 P.M. today.

**Dr. S. P. Mookerjee:** Can we not meet for two hours this afternoon? The Prime Minister may at least agree to that. There are a number of Members who have given notice of amendments but have not yet been able to speak. The debate can be concluded tomorrow morning or this afternoon at least.

**Mr. Chairman:** Some hon. Members who have given notice of amendments are in the Select Committee. When the Bill comes back from the Select Committee there will be plenty of opportunities for them to speak. So we have now 60 minutes and if hon. Members are agreeable to confining their speeches to ten minutes six Members can speak.

**Shri Sarangdhar Das:** Ten minutes will not do. I am speaking, but under protest. As I have said yesterday and several times previously, in a debate on a Bill the time limit is not fixed at the beginning but after the debate goes on for a couple of days then the times is limited to 15 or ten minutes. Although I protest against this procedure and I have done so before, I will make speech as short as possible.

I wish to say first of all that I have moved my amendment for circulation. After hearing Dr. Ambedkar I admire his erudition and his exposition of legal precedents in other countries but I do not respect his judgment. I do not respect his judgment for this

reason, that in delving into law he has forgotten the democratic principles.

It was rumoured over a month ago that this Bill was coming and consequently all sorts of organisations and jurists have expressed their opinions and protested that this is not the time for bringing forward a Bill like this, particularly trampling, as it does, the Fundamental Rights under the foot. During the discussion even a great number of Congress party members have pointed out and from their speeches I understood that they were surprised that a Bill like this has come without their knowledge. The Prime Minister said that they had worked on it for months. With whom did they work then? Their own party members did not know about it. I understand that there was a committee of four or five, which had gone into the matter and then it went to the Chief Ministers of States. As far as my information goes other Ministers in the States have not known anything about it.....

**Mr. Chairman:** I think the statement of the hon. Member is not correct at all. I do not know which member of the Congress party made this statement. I do not think the hon. Member's statement that the Bill came up without the knowledge of party members is correct.

**Shri Sarangdhar Das:** Pandit Bhargava said.....

**Mr. Chairman:** I may further say that a sub-committee was appointed in the party and they went into the amendments very carefully and they have brought their report.

**Shri Sarangdhar Das:** And if the Congress party knew all about it, there are many non-Congress people in this House and outside who have not been consulted nor informed that such a Bill was coming. That is why I lodge my protest that an important proposition of this nature, where the Constitution is being amended, is being hustled and the Select Committee has to report within a few days. This shows that there is a purpose behind this amendment to the Constitution, which has come in the form of this Bill.

I wish to make a few points which others have not touched upon. I believe the Members of the House know that all over the world, in every country, there is a battle between two ideologies going on between Communism and what is called democracy, although it may be capitalistic democracy or socialistic democracy. In U.S.A. the Government is faced

with such a problem, where the Communists are disrupting their social life. But what has the Government done there? Has it rushed immediately to amend the Constitution to curb the activities of the Communists? President Truman has formed a non-partisan committee not only of his Democratic party but also of the Republican party and others under the chairmanship of Fleet Admiral Nimitz. They are investigating as to how to protect the Fundamental Rights of the people and yet curb subversive activities of anti-social elements like the Communists who are infiltrating into every sphere of American life and disturbing the peace of the country. Here is America by which we—our Constitution-makers and our Prime Minister—swear; America is taken to be the model in many things, and yet here is a country where there is graver danger from the Communists than exists in India, and they form a commission composed of persons of other parties along with the Democratic party that is ruling, to go into the question. And that commission is working even now.

**Dr. Deshmukh:** There is not much fodder for Communists in America.

**Shri Sarangdhar Das:** That brings me to the question of public order. I think the whole House will agree with me that there is more peace in this country at the present time—actually, the peace of the dead. There is no disturbance of any kind; excepting for a little pocket in Telengana and a few districts of Madras and some area around Calcutta, in the rest of the country there is no disturbance of any kind. As a matter of fact, I deplore that there is no disturbance when there is no food, no clothing, no shelter. Because, many years ago when I lived in America I have seen that when people have no food they go and break open the shop windows in the main streets of the city and then food does come from the well-to-do people.

**Shri R. K. Chaudhuri:** Do you advise that here?

**Shri Sarangdhar Das:** I do, but our people are not built that way, they do not have the propensity to make trouble. If they had the propensity then thirty lakhs of people would not have died around Calcutta in 1943 when the godowns were full with thousands of bags of rice. And they are doing so now in various parts of the country. It is due to the lack of food, lack of cloth and lack of shelter—and in all these three matters

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the Government, both at the Centre and in the States, have bungled during the last four years and instead of making any progress they have taken the country backwards. Under these circumstances, I do not see any necessity for safeguarding public order and bringing an amendment of this nature to the Constitution.

Then there is the question of friendly relations with foreign Powers. Foreign powers are certainly our friends, we want to be friends with every country, but I ask the Prime Minister: if his Government is trying to negotiate a treaty with Soviet Russia and there are many people, or even a few, who believe that it will do no good to India, then what happens? My friends may be frightened if I say only Russia—let it be the U.S. or any other country with whom Government wants to enter into a treaty. There may be people who may not like such a treaty or who may not think that it will do any good to our country. Such people may criticise the Government in the Press or on the platform. Is there any guilt in it? Unless every section of the public expresses its opinion how is democracy going to work? And if it is not done, will the Government of the day, whatever party it may belong to, walk into the straight, narrow path? I wish to remind the House of an incident in which the Prime Minister took to task some forty Members who had cabled to the American Congress about food. I was puzzled then as to why there should be so much of criticism of those forty Members. I was not one among them—I did not know of the cable having been sent till the Prime Minister mentioned it in the House. Since that time I have met some American citizens who were surprised as to why the Members of Parliament or any other people in India should be forbidden...

**Pandit Thakur Das Bhargava:** We do not understand the relevancy of all this so far as this Bill is concerned. I do not know what the Prime Minister's criticism about sending that cable has to do with the Bill before us.

**Shri Sarangdhar Das:** You will know it if you wait till the end of my speech just as I did till the end of yours. I do not consider this reference as irrelevant. Government may have one idea of relations with foreign powers while in the public mind there may be some other idea. Expression of that idea should not embarrass Government. Recently I read a very funny report of what an American Senator told Sardar J. J. Singh. He

[Shri Sarangdhar Das]

is reported to have said that the Prime Minister of India has a son who is a Communist and that he has been in Soviet Russia for many years. There are people in America who do not take these things for gospel truth; there may be some ignoramuses who believe in such things, but not all the people do that. The Prime Minister referred to the two-page news-sheets. Fortunately for me I must say that during my whole life I have not been in the habit of reading sensational newspapers. But I have seen some in our country occasionally; I have never paid for them but somebody had it somewhere and I have looked at it. (An Hon. Member: You did not pay for it?) Paying means I am interested in it—I am not interested in it. I call such news-sheets scurrilous; there are plenty of people who do not care to look at them. But the younger generation of readers finds that the Prime Minister is being abused in it or somebody else is being abused, and it appeals to those readers. But, in order to stop that appeal you have to tackle these problems of food, cloth and shelter, satisfy the people, bring contentment to them. By coercion and police power you will never accomplish anything. What has Government done to satisfy the people's bare animal needs? About food we had the other day the Cooch-Bihar firing. Then in connection with the compulsory food levy in Rajasthan, there were one or two firings which were not judicially enquired into.

Shri Jawaharlal Nehru: May I know if the hon Member is under a misunderstanding? It is not a Budget debate—its scope is rather limited.

Shri Sarangdhar Das: That is an election slogan. By abolition of zamindari, Government becomes a super-zamindar. What do the people gain? Take the land, distribute it to the tillers who will cultivate and improve the land and then it will be a real agrarian reform.

Therefore, I would appeal to the whole House at least to send this Bill for circulation in order to elicit opinion from people who are interested in the various clauses of the Bill in one way or another and then it can be considered in the next session and if the House agrees to all the amendments, we may pass it.

Mr. Chairman: I would like to inform hon. Members that the hon. Prime Minister has agreed to accommodate more hon. Members to express their views on the subject to his reply in the afternoon, this debate will conclude

by 1 P.M. precisely. But I would suggest to hon. Members to show a spirit of accommodation by making their speeches short and to finish within ten minutes.

At 4.30 P.M. the hon. the Prime Minister will reply.

Shri Ethirajulu Naidu (Mysore): Within the short time that has been allotted to me, I may be pardoned if I am rather abrupt on some matters and cryptic on some others. Enough has been said with regard to the freedom of speech and property. I would like to make a brief reference to the amendments dealing with property before I pass on to deal with the amendment to article 15(3).✓

The two provisions that have been incorporated in this amending Bill with regard to property are the new clause (6) of article 19 and new article 31A. Now, article 31A deals only with zamindari rights and as was pointed out by the hon. the Law Minister it deals with property in a very limited manner. The other article relates to nationalisation of any particular industry in part or in whole.

The concept of property is in a state of flux in the whole world and I for one do not believe that this concept should be changed only by bloody revolution and not by parliamentary majorities. When we deal with zamindari, national opinion has crystallised itself for so long that it is unnecessary again to create a bloody revolution on that matter. This may very well be decided on a majority vote of the future Parliaments instead of having to expect the whole country to adopt that view by two-thirds majority of both Houses. I for one believe that Parliament may be authorised to decide these matters as and when they arise by a majority vote only. I would only appeal to the zamindars and those who support them that they may look into history and shape their attitude in such a way as to enable future Parliaments to decide these matters in a peaceful and constitutional manner.

✓ I now propose to deal with article 15(3) which is sought to be amended. May I say that we are very much indebted to the hon. Prime Minister for raising this very human and national problem into a higher plane and lifting it from the morass of communal and caste politics which has gathered round it; for, lifting it out of this sphere and putting it on that psychological plane, enables us to look at this problem in its real perspective without the prejudices and other dis-

turbing factors that may otherwise gather round it. I do not want to tread on anybody's corns. But I would say this: for historical or other reasons a situation has arisen in most States where one or two sections have intellectually advanced far beyond the rest of the community. Out of that other consequences flow—their predominance in the services, in the educational institutions, their ability to secure seats in technical colleges and professional colleges, etc. This creates a vicious circle. Just as rivers flow into the ocean, the forward classes get more and more forward and the backward classes recede further backward. Therefore, a conscious effort is necessary if the backward classes are to be pulled up. It may be partly due to their lethargy, and partly due to circumstances over which they have no control. The Prime Minister has often said that the future lies in the hands of engineers and technicians and that the days of the lawyers are over. But I am more concerned with the first part of his statement that the future lies in the hands of engineers, technicians, doctors and scientists. And unfortunately it so happens that it is in these institutions that accommodation is limited. In regard to this I can do no better than quote the words of the Prime Minister himself, uttered when he moved the motion. In his own way he said that there was a static state of things and if we are to move forward, as we propose to do, a certain amount of dynamic effort is necessary. And then he continued:

"But sometimes in this intervening period difficulties arose, because we have not got enough provision, let us say, for giving a certain type of education, technical or other. The question arose whether we should give some reasonable encouragement and opportunity for that education to be given to members of the backward classes, which otherwise, without that encouragement and opportunity, they may not get at all, so that they remain where they are and we cannot pull them up. Therefore the object of this amendment is to lay stress on this."

Now, that being so, how is that purpose to be achieved? It is sought to be achieved by amending article 15(3). I would bring it to the notice of the members of the Select Committee that that does not serve the purpose. The judgment of the Supreme Court was based on an interpretation of clause (2) of article 29, and they went further and said that in that light it was unnecessary to consider the provisions

of articles 14 and 15. I have got a copy of that judgment, and that is what they say. When they base their decision on an article of the Constitution and we find that the intention of the Constituent Assembly was something different, the appropriate thing to do would be to amend that article on which the judgment is based. I would therefore suggest—it may not be too late—I would suggest it to the Select Committee and I would press it on the Prime Minister as well as the Government that article 29(2) itself may be amended so that there may be no doubt left as to the intention that is sought to be achieved. Or, alternatively, I would suggest that article 15(3) may be amended in such a way as to override the effect of articles 14 and 15 and clause (2) of article 29. That view has been expressed by my hon. friend Mr. Kamath, Mr. Symnandan Sahaya and Mr. Shankaraiya and other hon. friends who have spoken before me. There is a conflict in amending article 15(3) without amending article 29(2). It may again be a case of our meaning one thing and not expressing it clearly, and again the matter may be taken to the courts. I am further heartened in this matter because the Prime Minister while speaking about this amendment more than once expressed himself that he would welcome an addition to these words or a change so that the intention may be made clear.

Before I conclude I would express one sentiment. It is not a matter of putting the wording of a clause in a particular way or amending an article in a particular way. The primary purpose is to adjust these human relationships which unfortunately are now in conflict on account of these factors. Constitutions and laws must change to meet this supreme need. We who claim to represent the masses cannot remain indifferent to their aspirations, indifferent to their progress, and allow them to remain in their backward condition and at the same time claim to represent them or to demand their support.

**Shri Ramalingam Chettiar (Madras):** Madam, I thank you for giving me a chance to place the view which I with a large section of the population of the south entertain with reference to some of the provisions in this Bill.

I agree with several of the Members who said that it would have been better if more time had been allowed to consider the several provisions that have been made in this Bill. We have not had time to consider the effect of several of the provisions on the matters to which they relate. It may be that the principles may be unexceptionable.

[Shri Ramalingam Chettiar.]

But whether the wording of the clauses as they appear in the Bill carry out the principles or whether they are adequate to meet the situations that have arisen, is a matter which will have to be considered well.

I will first say a few words about the amendment relating to the question of the Communal G.O. as it is called in the Madras State. I was never an admirer of the Communal G.O. I may say at once. But at the same time the principle underlying that Communal G.O. is a matter which will have to be considered very deeply, and I am very glad to say that the Constitution as framed embodies the principle that underlines the Communal G.O. The first provision that it has made is for social justice. There ought to be justice among all the communities. You cannot prefer or give an advantage to one community as against the other. The second principle that is enunciated is that the weaker sections of the community should be helped to come up. That again is an unexceptionable provision which will have to be borne in mind in making provisions for the advancement of the several sections of the community. And thirdly, it has also been recognised in article 16 of the Constitution that the unrepresented communities in the services should be given preference so that they may have their due share in the administration of the country. These are all principles which are unexceptionable. But unless they are given effect to in the spirit in which they have been framed, there will be no sort of social justice in the country. The question is whether the provisions that are made in the other clauses carry out the principles that are enunciated.

This question of discrimination mentioned in clause 15 is put very widely and whether or not it really contravenes the other clauses in the Bill and what it really means are all matters that have to be considered carefully. The matter has gone up to the Supreme Court and the Supreme Court has stated that this applies both to giving some preference to the education of the backward classes and also for giving some special representation to unrepresented classes in the services. As I said in the beginning, I am not a supporter of the Communal G.O. as framed. The chief difficulty of the Communal G.O. is that it specifies the proportion of appointments or the proportion of admissions that will have to be made. If, on the other hand, the provision that is made relates to some preference being given to those classes which are backward, I think

that principle cannot be attacked in view of the principles already contained in the Constitution itself. The question now is the Government has found it necessary to amend article 15 to meet the difficulties that have been raised by the Supreme Court.

The question is whether the amendment that is proposed is adequate to meet the difficulties that have been felt. The two difficulties that have been met with are (1) admission to educational institutions and (2) the representation of the unrepresented classes in the services. These are the two matters about which the Supreme Court has expressed itself and this present amendment is intended, as was explained, to meet those difficulties. I should think that the amendment as proposed will not meet the difficulties. It is not framed in such a way as to meet the difficulties at all. In the first place the amendment says: "or for educational, economic or social advancement of any backward class". What do you mean by the "backward class"? It is not defined anywhere. The Governments also in the States have got their lists of backward communities for different purposes. They sometimes are satisfactory and sometimes they are not. What is contemplated in the Constitution itself is not a question of merely 'backward classes' in the sense that there are lists of backward communities in the several States and they will have to be helped. What is provided for in the Constitution is, as I said, those communities which are not represented in the services are mentioned in article 16. Whether they are backward communities or they are forward communities is a question that will always be in doubt. For instance, a person belonging to the Vaisya caste who may be rich, but whose caste will be educationally very backward and probably none of whose members will be represented in the State services, will that person be considered as a backward person or not? If you are going to do social justice, it cannot be done merely by saying that if he is rich in one matter, he need not have any share in the Government of the country. That is not a position which will be either good for the country or safe in the interests of the general advancement of the country.

What is meant by this discrimination and all these differences and things like that? When we are talking about this, we are talking merely in terms of the marks obtained in the examinations. Is that the proper standard? When there is a question raised, for instance, in Madras, that Brahmins are

discriminated against, all that is said is that some Brahmin boys who got more marks in an examination have not been admitted and that some boys belonging to other communities who got less marks have been admitted. Is that the proper test? There are technical colleges all over the country. What has been the result of the training that we have been giving in these technical colleges? I can speak for Madras. Take for instance, the agricultural college. There have been so many thousands of boys who have been turned out of the college. How many of them have taken to agriculture? Are these degrees in the agricultural colleges considered merely as a passport for service in the civil departments? For purposes of manufacturing merely clerks, are we going to give preference to persons who have got more marks, for instance, in mathematics or in some other subject, for admission to the agricultural college and thereby deflect all the money that you are spending for enabling these boys to get jobs in the civil departments? Should you not discriminate in favour of those boys who are likely to make use of the special technical knowledge they are given by taking to agriculture? Similarly with reference to the engineering college. For instance, most of the boys who pass from the engineering college only find employment in the civil services of the State. Those who are acquiring the technical knowledge during their education are not using that special knowledge for the purpose of advancing the interests of the country or entering into the particular professions for which they are being trained.

So, it seems to me that the tests that we are applying are not the proper tests. It ought to be a test with reference to the use to which the knowledge they gained in the technical colleges is likely to be utilised. That ought to be the test and if that is going to be the test, the mere test of marks in an examination—very often it has nothing to do with the technical college to which admission is sought—will not be the proper way of dealing with the thing. So, it seems to me what ought to be done is a matter of liberalising these admissions, not with reference to the marks obtained in the Intermediate or the B.A. or the School Final but with reference to the possibility of the students who are seeking admission utilising the knowledge they gained for the purposes for which they are going to be trained. If there is going to be a liberalisation in that way,

probably it will meet at least half of the difficulty that is met with at the present moment.

So it seems to me that the present amendment that is proposed will not meet the difficulties of the situation. It will have to be considered seriously whether the amendment to article 15 alone will solve the difficulties that we are meeting with and whether we ought not to amend the other articles, for instance, the article relating to admission to educational institutions and to appointments in such a way that the difficulties we are experiencing will be met properly and not have the effect of a sort of white wash like the amendment that is being proposed. I hope the Select Committee will seriously consider the problems they have to meet and they will frame the amendments in such a way that the problems are met and not merely bring a sort of a white-washing amendment and just as a salve to the conscience of the people who are dealing with it.

12 NOON.

Shri J. P. Srivastava (Uttar Pradesh): At the outset, I would say that my feeling is that these amendments to the Constitution, at this stage, are ill-advised, and ill-timed. I would not go into the merits of the amendments themselves. But, is this the time to bring forward such far-reaching amendments? I listened with rapt attention and with the respect which he deserves and commends, to the speech of the hon. Law Minister. I have known him at work at close quarters and I know he can argue a case, no matter how bad it is. He was in this case arguing against his own former brief. When he pleaded for the incorporation of Fundamental Rights he brought forward all kinds of arguments justifying them. He had no manner of doubt at that time that these benefits which have been conferred on the citizens of future India will not work; he was absolutely certain. The Constitution of India was founded on those Fundamental Rights. They became our charter of liberty. Now, in 15 months' time, it is proposed to abrogate them, a word which was used by my hon. friend Pandit Kunzru. At all events, it is now intended to seriously restrict the Fundamental Rights which were conferred by the Constitution.

Our Constitution, I remember,—I was abroad at that time—was praised.

[Shri J. P. Srivastava]

by all the nations of the world because of these Fundamental Rights. They thought that India had made a great advance and the Constitution that it had framed would be an object-lesson to the rest of the world. I ask you, Madam, what would be the impression created in the minds of these foreign nations? They would say that we are never consistent and that there is no stability in this country. I ask you whether it is worthwhile creating that impression at this stage. What is the benefit which it is going to bring?

I will not enter into the rights or wrongs of the many things which these amendments seek to remedy. Supposing zamindari is not abolished for six months or one year more, will the heavens come down? Will the skies fall to the earth? I do not believe that. Zamindari has gone on all these years. I do not believe that it is such an essential measure of agrarian reform. It may be necessary; but there are many more things which could be done today without altering the Constitution.

**Shrimati Renuka Ray:** You are lucky to have been untouched yourselves.

**Dr. Deshmukh:** Bank balances?

**Shrimati Renuka Ray:** I mean the capitalists.

**Shri J. P. Srivastava:** I know the charming lady. I listened to her speech with great respect and I hope she will extend the same respect to me.

The point is whether when we have so many problems on our hands, this is the right time to raise this controversy. It is argued that this Parliament is competent to pass the amendments. Of course, it is so. But, is it proper for this Parliament which has only about six months to run and which consists of 90 per cent. of Members who are under a party whip, to make these fundamental changes? The Fundamental Rights were guaranteed not only to the Members of the Congress party. They were guaranteed to everybody who lives in this country. To take away the rights of those people who have no majority here, who have no say, is that right for this kind of Parliament?

**An Hon. Member:** Guaranteed by whom?

**Dr. Deshmukh:** Guaranteed behind their back.

**Shri J. P. Srivastava:** Guaranteed by you. But, you cannot say that since you have given away a thing, you can also take it back. You have given away a thing in your generosity; you should not take it away. From the very start you could have said that there shall be no equality of rights to a non-Congressman. That would have been understandable. You could have said that property shall be taken away without compensation from such and such classes of people. That would have been understandable.

**Shri Sidhva:** Congressmen also have property.

**Shri J. P. Srivastava:** Make an exception in their favour in the Constitution. That would have been understandable. But, once having guaranteed, I appeal to you, will you not keep to your word, word of honour, solemn word? It will only be stultifying yourselves if you do not.

My friend Dr. Ambedkar argued that this Bill was only an enabling Bill, that is to say, dealt with the capacity to enact. That is exactly where the mischief is. The Constitution is meant to restrict the steam-roller of democracy from crushing the minorities. If you invest Parliament with that power, so long as it consists of a certain party, that party can take away all the rights of property of those who do not command a majority here. I take it that that is not democracy. Democracy means that you must have the same regard and the same respect for the life, property and everything, freedom of speech, etc., of those who belong to your party and those who do not. It is this aspect of the matter that I would like to press. If you invest the Legislatures with such vast powers, they may not be abused so long as we have a Prime Minister like Pandit Jawaharlal Nehru. He stands for everybody and he is not swayed by party considerations. But, that is no reason why these vast powers should be conferred on this Legislature. We do not know what changes may take place tomorrow. I think it is dangerous for Parliament to have these powers.

My friend, Dr. Ambedkar, spoke with the voice of a former colleague of his, Sir Reginald Maxwell. The arguments which he advanced for suppressing the liberty of speech and liberty of the Press were exactly those which Sir Reginald Maxwell at one time advanced. But, the time has changed.

**An Hon. Member:** You have not changed.

**Shri Sondhi (Punjab):** He is a die-hard.

**Shri Bhatt (Bombay):** He has also changed.

**Shri J. P. Srivastava:** I will just touch upon another aspect of the matter and end in one minute. Are we sure that these things are now final and that there is no need for any more changes? As we go on, will there not be more changes necessitated? Are we to meet tomorrow or the day after and again amend our Constitution? If this process goes on, if we meet every day with ninety per cent. of the House having to vote in a particular manner under the party whip, where will our Constitution be?

And to give retrospective effect to these laws is extremely reprehensible. The High Courts have already given their judgments. And what we now do is to invalidate those judicial pronouncements, and I do not know how far that is correct from the legal point of view. I am not a lawyer, but there are many lawyers here who will understand the legal aspect of the matter. I am however, sure that the courts will regard this as a challenge and that is unfortunate. We all feel that the Government in this country should rest on law and on judicial pronouncements in the last resort.

I will not take any more of the time of the House, but would only appeal to Government, knowing as I do that my appeal will carry no weight, that they should hasten slowly with this Bill. Let the country take time to think over it. If you pass this Bill like this, I assure you, Madam, this will be the first nail in the coffin of democracy in this country.

**Prof. K. K. Bhattacharya (Uttar Pradesh):** The oracles of Delphi and of Dodona have spoken. The Prime Minister has advocated this Bill and Dr. Syama Prasad Mookerjee and some other speakers have opposed it. The whole point is this. Has Parliament the power to amend this Constitution? In my judgment, Parliament has clearly this right to amend the Constitution. And if it is contended that this Parliament cannot amend our Constitution, then I must say that that contention is not tenable.

This is quite a simple matter. Parliament has this right and clauses 4 to 13, there is no doubt at all, are quite necessary. About these amendments, I have no doubt in my mind. But as regards the amendment dealing with the freedom of expression, I feel strong-

ly that the freedom of the Press should not be curtailed at all and the Press of this land should continue to enjoy the same rights and liberties that it has been doing till now. It has been said of the English Constitution, that the law of England is the law of liberty. We want the same thing here. Let it not be said that the law here entails the curtailment of the liberties and rights of the Press. We cannot forget the splendid services rendered by our Press in the cause of Indian freedom, right from the days of British domination especially from 1921 till 1947—through all these long years of trials and tribulations. The Press held aloft our banner of liberty through all these years, in spite of hardships, in spite of suppression and in spite of so many difficulties. These things never made them swerve from the path of duty they had set before themselves for the emancipation of our motherland from foreign domination and for the attainment of our freedom. Of course there may be irresponsible sections of the Press—the two sheets papers and the rest. But the wholesome section will certainly exercise its power and influence over that irresponsible section, and curtailment of the rights and liberties of the Press cannot be tolerated by any section of responsible men, and they cannot tolerate it for the simple reason that freedom of expression is a Fundamental Right. Our Prime Minister, as the President of the Civil Liberties Union of Allahabad of which I myself was an ordinary member, had said as much, that freedom of expression was of the utmost importance and was a Fundamental Right. Today he is the Prime Minister and I am a humble Member of this House; but I say there should not be the slightest deflection even by an inch from the stand that he took then, on this matter of freedom of expression.

I am not happy about this matter of foreign sections being brought in this connection. If we do, then everything we say about policy or any action of a foreign power will be restricted. Take for instance the case of South Africa and the policy that country has adopted with regard to Indians there. As we know Indians there are fast becoming helots and mere drawers of water and hewers of wood. Should we swallow down into our stomachs all that is being said and done there? Cannot we say anything about this matter? If this restriction is put, then I submit we will simply be gagged and tied down. We cannot say anything. And then there are

[Prof. K. K. Bhattacharya]

those in other countries who say that we are towing the line of the Russians or of the Americans. Should we keep quiet? Cannot we criticise them? There should, surely be freedom of expression and I would ask the hon. Prime Minister to elicit public opinion on this matter.

I must humbly say that I was pained to hear the hon. Law Minister show scant respect to the Judges of the Supreme Court. If Judges err, it is no reason why they should be shown scant respect. After all, to err is human. We should always remember that wherever democracy is valued, the judiciary is held in high esteem and where democracy sinks there the judiciary too sinks low. The ordinary man should feel that there is the judiciary to safeguard his rights and liberties. He should feel that in the courts he has a palladium to which he can go to safeguard his rights and liberties. That should be the position that we must give to our judiciary.

As regards zamindari abolition, I may say at once that I feel that it should be abolished. But as we all know there have been judgments of different High Courts on this question. There was the judgment of the Patna High Court and there were also the judgments of the Allahabad High Court and the Nagpur High Court. These have come to the Supreme Court and I feel that we should await the decision of the Supreme Court in this matter and no hasty action should be taken now.

The Constitution of a country is a sacred thing and amending the Constitution is no ordinary affair. It is a very important matter and therefore, I say the members of the Select Committee should exercise the greatest circumspection and see that when the Bill emerges from the Select Committee, it is fully competent or sufficient to meet the exigencies of the situation.

I would ask for more time to be given for eliciting public opinion which is of paramount importance. It is wrong to say that notwithstanding all the mistakes, we cannot alter the Constitution. We can do it. The Act of 1935 was criticised because it was cast-iron. A Constitution is a living organism and it must be capable of being changed according to the necessity of the times. You cannot tie down the Constitution. It is not sacrosanct and it must move with the times.

Now the Bill is being referred to the Select Committee. I would ask the hon. Prime Minister who, I know, is an

ardent lover of democracy, to consider even at this stage allowing some more time for eliciting public opinion so that the opinions of people of the eminence of Shri Jayakar and the Attorney-General of India and others may be available to us.

चौधरी रनबीर सिंह : मैं वकील नहीं हूँ लेकिन जो बातें मैं ने सुनी हैं उन से मैं कह सकता हूँ कि यह प्रश्न जो है वह नटशेल (nut shell) के अन्दर एक तरफ तो शोषकों और शोषितों का सवाल है। या दूसरे लफ्जों में यह कहा जा सकता है कि आने वाले चुनावों में जो लोग मेम्बर (Members) बन के आयेंगे, उन के ऊपर विश्वास या अविश्वास का सवाल है। या यह कहा जा सकता है कि यह सवाल अगे बढ़ी हुई जातियों का और पिछड़ी हुई जातियों का है। कुछ दोस्तों ने कहा है कि यह एक राजनीतिक सवाल है। मैं कहता हूँ कि यह राजनीतिक सवाल नहीं है बल्कि इकानामिक (economic) सवाल है। मैं ने जो अभी हाउस में निवेदन किया है मैं उस की वज्राहत करना चाहता हूँ।

कई दोस्तों ने कहा है कि पब्लिक की राय लेनी चाहिये। मैं उन से पूछना चाहता हूँ कि उन का राय से क्या अर्थ है। अगर वह अवाम की राय जानना चाहते हैं तो वह राय तो लोगों ने उसी वक्त बता दी थी जब कि कांग्रेस को राय दी थी। कांग्रेस ने जब चुनाव लड़ा था उस में दो बड़ी बड़ी बातें थी। एक यह कि हम हिन्दुस्तान को आजाद करायेंगे और दूसरी यह कि भूमि को जोतने वाले और सरकार के बीच में जो इंटरमीडियरी (intermediary) या शोषक है उस को खत्म करेंगे। इन प्रश्नों पर लोगों ने कांग्रेस को राय दी थी और अगर कोई आदमी अब भी लोगों की राय

जानना चाहता है तो यह बात मेरी समझ में नहीं आती है।

दूसरा जो प्रश्न है वह पिछड़े हुए लोगों को रियायत देने का है। इस मुद्दे के अन्दर बहुत बड़ी तादाद, ८० और ८५ फीसदी तादाद, पिछड़े हुए लोगों की है। अगर लोगों की राय जानना चाहते हैं तो लोगों की राय तो बिल्कुल साफ़ है। अगर आप का अर्थ राय से उस राय से है जो कि शोषक वर्ग की है तो वह भी बिल्कुल साफ़ है। वह इस अमेंडमेंट (amendment) के हक में नहीं है। देश के अन्दर आज यह हालत है कि एक्सप्लायटर (exploiter) बहुत छोटी माइनारिटी (minority) में है और जो एक्सप्लायटेड (exploited) है उस की एक बहुत बड़ी तादाद है। तो जहाँ तक सही लोगों की राय का ताल्लुक है वह राय तो हमारे माननीय नेता पंडित जनेवाहरलाल नेहरू ने हाउस के सामने रख दी है। शोषक वर्ग की जो राय का सवाल है उस को इस हाउस का हर एक मेम्बर जानता है।

दूसरा जो सवाल है वह बोलने की आजादी और लिखने की आजादी का सवाल है। मैं कहता हूँ कि यह आजादी भी एक क्वालीफ़ाइड टर्म (qualified term) है। यह एबसोल्यूट टर्म (absolute term) नहीं है। जो एक शोषक के लिए आजादी है वह एक शोषित के लिए गुलामी है। और आज जो भाई यह कहते हैं कि लिखने को और बोलने की आजादी हो, वह एक खास वर्ग की यानी शोषक वर्ग की आजादी है। इस बारे में भी अगर वह

शोषितों से पूछना चाहते हैं तो उन की राय साफ़ है और अगर शोषकों से पूछना चाहते हैं तो उन की भी राय साफ़ है।

एक और बात कही गई है। हमारे डाक्टर अम्बेडकर साहब माने हुए वकील हैं उन्होंने ने इस बात को कुछ दूसरे ढंग से कहा है। यानी हमारे दूसरे देशों के ताल्लुक के सम्बन्ध में है। आप इंग्लैंड का इतिहास ले लीजिये। वहाँ घरेलू मामलात में चाहे जो भी मतभेद रहा हो, पर जहाँ तक दूसरे देशों के सम्बन्ध का ताल्लुक है उस में चाहे वह लेबर पार्टी (Labour Party) हो या कंसर्वेटिव पार्टी (Conservative Party) हो वह हमेशा एक रहे हैं। लेकिन अगर दुनिया में कोई ऐसा देश है कि जहाँ पंचायती राज्य हो और जहाँ पर विदेशी मामलात में भी मतभेद पाया जाता है तो वह हमारा ही देश है, वरना और देशों में चाहे किसी भी पार्टी को गवर्नमेंट हो विदेशी मामलात में एक रहे हैं। इसलिये मेरी समझ में यह आता है कि यह जो बहुत बड़ा सवाल है यह किमी हद तक दुस्त नहीं है।

एक चीज की मुझे बाबू ठाकुर दास जी से गिला है। यह हमारे इलाके के माने हुए बड़े होशियार वकील हैं। जैसा हमारे माननीय नेता पंडित जवाहरलाल नेहरू जी ने बतलाया और कुछ दूसरे मेम्बरों ने भी कहा है कि यह कांस्टीट्यूशन (Constitution) वकीलों के लिए स्वर्ग बन गया है। हमारे बाबू ठाकुर दास भी अब भी इस कोशिश में हैं कि वह एक सबूद से वकीलों के लिए स्वर्ग पैदा कर दें। वह चाहते हैं कि रेस्ट्रिक्शन (restrictio-

[ चौधरी रनबीर सिंह ]

tion) के पहले रीजनेबल (reasonable) या एप्रोप्रिएट (appropriate) शब्द लगा दिया जाय। वह समझते हैं कि अगर यह शब्द न लगाये गये तो पुराने जितने सिडीशन ऐक्ट (Seditious Acts) हैं वह जिन्दा हो जायेंगे।

जिस वक्त वह बोलते थे उस वक्त भी मैं ने कहा था और डाक्टर अम्बेडकर साहब बोलते थे उस वक्त भी मैं ने कहा था। लोगों के नुमाइन्दे यह नहीं चाहते कि इस तरह के क्रायदे और कानून कानूनी ढंग पर अदालतों में खींचे जायें। इसलिये मुझे डर है कि इस के पहले अगर "रीजनेबल" या "एप्रोप्रिएट" शब्द लगा दिया गया तो बहुत खींचातानी होगी। अब यह डर क्यों है? देखिये कि हम आज क्यों ज़रूरत महसूस कर रहे हैं कि कांस्टीट्यूशन की, विधान को, तबदील किया जाये। वह इसलिये कि विधान का जो इंटरप्रिटेशन (interpretation) जजों ने मुस्तलिफ़ ढंग से किया वह विधान सभा का आशय नहीं था। और अगर यह रीजनेबल और एप्रोप्रिएट शब्द आ गये तो फिर वही झगड़ा हो जायेगा। गो यह बहुत मामूली शब्द है और कई सदस्य यह भी कहते हैं कि यह बिल्कुल मासूम शब्द है। लेकिन मैं यह समझता हूँ कि यह मासूम नहीं है, इस के असली तह का पता लगाईये। इस शब्द से वह फिर दोबारा बैक डोर (back door) से अदालतों को लाना चाहते हैं। वह इस हाउस के और देश के जो नुमाइन्दे हैं, उन की जो स्वाहिशात हैं उन स्वाहिशात पर जजों को और सुप्रीम कोर्ट (Supreme Court) को थोपना चाहते हैं। इसलिये जेरा हाउस से यह निबेदन है कि हर

एक सदस्य इस पर अच्छी तरह विचार करे, जैसे कि प्रोफ़ेसर रंगा ने किया। प्रोफ़ेसर रंगा, गो वह अपना इरादा कांग्रेस पार्टी से जुदा होने का जाहिर कर चुके या वह जुदा हो जावेंगे और एक तरह से आज उन्हें अपोजीशन पार्टी (Opposition Party) का मेम्बर कहा जा सकता है, लेकिन चूँकि वह शोषित वर्ग से आते हैं इसलिये वह शोषित वर्ग और शोषित लोगों की भलाई के लिये मोचने हैं। इसलिये पार्टी से अलग होने के वावजूद भी उन्होंने इस से इतिफ़ाक़ किया।

मेरे लायक़ दोस्त सारंगधर दासजी ने इस तरह की बात कही कि न मैं इस की मुख़ालिफ़त करता हूँ और न मैं इस के हक़ में हूँ, बल्कि एक बीच की सी बात उन्होंने कही। और जैसा हमारे माननीय नेता ने कहा जैसे कि बजट पर जिस ढंग से तक्ररार करते हैं वैसी तक्ररार उन्होंने की। लेकिन उन के दिल से अगर पूछा जाय तो मैं समझता हूँ कि वह कभी इस की मुख़ालिफ़त नहीं कर सकते और जो लोग आज लूटे जा रहे हैं उन की भलाई जो कोई आगे रखते हैं वह कभी इस की मुख़ालिफ़त नहीं कर सकते।

(English translation of the above speech).

Ch. Ranbir Singh: I am no lawyer, but from whatever I have heard I can say that the point under discussion in a nutshell is the issue of the exploiters versus the exploited or in other words it is an issue of confidence or no confidence of the people in the persons who will be returned as Members in the coming elections. In yet another way it is an issue concerning the progressive sections of the society and the backward classes. Some hon. friends have characterised it even as a political question. I disagree with them; I am of the view that it is more of an economic issue than a political one. I will like to explain what I have said just now.

Several hon. friends have suggested about eliciting public opinion on this point. I will like to know what is their meaning of the word opinion. If they mean thereby the opinion of the masses at large, then it was made known at the time they had cast their votes in favour of the Congress. The Congress had contested the elections on two main issues; one was the issue of independence while the other was a clear assurance to put an end to all exploitation of the intermediaries existing between the Government and the tiller of the land. These were the issues which had won for the Congress a popular vote. If despite that they want to know the public opinion, then I simply fail to appreciate the logic of their argument.

The other issue concerns the granting of concessions to the backward classes. In this country the backward classes constitute from 80 to 85 per cent. of the total population. The public opinion, should you desire to know it, is very clear on this point. If, however, you mean to elicit the exploiters' opinion, then that too is quite clear. They are not in favour of this amendment. As things stand, the exploiters form a very small minority while the exploited constitute a large majority in this country. So far as an accurate viewpoint is concerned, it has been placed before the House by our respected leader hon. Shri Jawaharlal Nehru and as far the opinion of the exploiting section is concerned, every hon. Member of the House is quite aware of that.

The other issue is that of the liberty of speech and writing. I hold that this sort of liberty is only a 'qualified term' and cannot be an 'absolute term'. Freedom or liberty of the exploiters means bondage and slavery for the exploited. Those who plead for the liberty of speech and writing today, in fact, want full liberty for the exploiters. So on this issue too, the views of the exploiters and the exploited are quite manifest.

Another point has been raised. The hon. Dr. Ambedkar is a constitutionalist of renown. He has stated this point in a different form. To him it is an issue that concerns our relations with foreign countries. Just look at the History of England. They may have had differences on the domestic issues, but as far their relations with other nations are concerned, throughout they have been a compact block irrespective of the consideration whether they belonged to the Labour Party or owed allegiance to the Conservative Party. Ours is on the

only country in the world which though having a *panchayati* (democratic) set-up, yet has differences of opinion on matters relating to foreign countries, otherwise, in all other countries, whatever the party may be running the Government, they are all combined so far as the foreign issues are concerned. I, therefore, feel that our approach to this major issue is to some extent not a correct one.

I have one complaint against Pandit Thakur Das. He is a lawyer of professed ability and renown of our area. As stated by our respected leader hon. Shri Nehru and some other hon. Members, this Constitution has become a paradise for the lawyers. Even now he (Pandit Bhargava) is making efforts to create a paradise for the lawyers by making some small verbal changes here or there. He wants that the words 'reasonable' and 'appropriate' should be added before the word 'restriction'. He is of the view that if these words are not added the old Sedition Acts will be revived. On both the occasions when he and hon. Dr. Ambedkar were speaking, I had intervened to say that such rules and regulations should not be made a subject for the law courts. I am, therefore, afraid that too much legal tussle will follow if these words 'reasonable' and 'appropriate' are to be added. What is the justification for such fears? Just consider the reasons which have impelled us to feel the necessity of making certain modifications in the Constitution. It is because of the different interpretations which the judges have given of some articles of the Constitution—interpretations which are contrary to the intentions of the Constituent Assembly. A similar controversy will follow if the words 'reasonable' and 'appropriate' are actually added. Apparently they are very ordinary words and some hon. Members have characterised them even as quite harmless. I, however, do not regard them as ordinary and harmless. Just probe deep into their implications. By including these words, he is seeking to bring the courts in the picture through the backdoor. He wants to thrust the judges and the Supreme Court up on the will of the people as expressed through their representatives in this House. I, therefore, request every hon. Member in the House to give a close scrutiny to this issue as has been done by Prof. Ranga. Although he has expressed his desire to sever connection with the Congress and he may actually do so in the near future and, as such, in a way today he may be regarded as a member of the Opposition

[Ch. Ranbir Singh]

Party, yet the fact remains that he belongs to the exploited sections of the society and their well-being is his primary concern. That is why, despite cutting connections with the Congress Party, he has agreed with it in this matter.

My hon. friend Shri Sarangdhar Das has stated that he is neither against nor in favour of this amendment. He has suggested a middle course. He has delivered, as described by our respected leader, a speech worthy of the occasion of a debate on Budget proposals. But I am sure that if asked to express his honest opinion, he too will not be able to oppose it nor can those who hold the well-being of people above all things—of people who are the target of exploitation at present.

**Shri Himatsingka (West Bengal):** The provisions of the Bill as introduced by the Prime Minister have been clearly explained by the Law Minister today and he has been able to remove quite a number of doubts which were felt by a large number of Members in the House. He has clearly explained the necessity for amending article 19(2), because the recent decisions of the various High Courts and the Supreme Court have created a void in the existing laws of the land. At the present moment the situation is such that no law could be passed to prevent incitement to violence or the commission of other offences. Therefore it was absolutely necessary that Parliament should have the right to enact the necessary legislation for the purpose of keeping public order and the other purposes mentioned in sub-clause (2).

The only Question to be considered in that connection is whether we should validate all the existing laws in the form in which they are or some reasonable restrictions as suggested by some Members should be put in those articles. That of course will be for the Select Committee to consider and to make such provisions as may be necessary.

The present amending Bill seeks to validate a number of laws which have been declared to be void by the judiciary. The Bill not only enables Parliament to enact laws but it also seeks to validate certain legislative enactments which have been declared void. It is more a validating measure than a mere enabling one.

I would now like to invite the attention of the Mover to some of the provisions of the Bill which, to me, appear to go much beyond the necessity of the occasion. There was a decision of

the Allahabad High Court which declared that the State had no right to refuse giving licences to persons who are running buses. That was the only decision so far as clause (6) of article 19 is concerned, but the amendment that is proposed in the present Bill goes much beyond that necessity. At present article 19(1)(g) gives the right to all citizens to practise any profession or to carry on any occupation or trade or business. The amendment proposed seeks to give powers to make any law relating to:

“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.”

There cannot be any objection to the State or a corporation owned or controlled by the State carrying on a business, industry, trade or service as may be thought necessary by the State, but to allow the State to carry on any trade, business, industry, etc. to the exclusion of citizens does not appear to be fair or necessary. It may be that if this right were restricted to services that are generally known as public utility services like electricity concerns, transport services or such-like services which work for the benefit of the people there would be some justification to empower to take away the right of citizens to carry on such businesses. But the amendment as proposed seems to me to go far beyond the necessity of the occasion. Therefore, it will be for the Select Committee to consider whether or not this wide form in which clause 3(1)(b) of this amending Bill has been framed needs attention and modification.

So far as the other clauses are concerned I think amendments were necessary in order to remove a number of doubts or difficulties which are likely to arise on account of the present form in which the articles stand. Only as regards clause 3(1)(b) of the Bill seeking to amend article 19 I suggest it should be considered from the point of view of whether or not it should be restricted to what are known as public utility services which generally are started by the State in order that full facilities may be available to every citizen irrespective of his position and that such services may be run in a manner to give the best advantage to all the citizens.

As regards article 31, no one will question the right of the States to acquire zamindaris because that is the present position and I think it will be futile for anyone to question the right

of any State to introduce land reforms. The question that is to be considered is whether by mere abolition of zamindari we will be able to effect any improvement. At the present moment the tenants in Bihar, Bengal and other places where there is permanent settlement have definitely settled rights in the lands and unless you take certain further rights to make changes in their rights also, you cannot introduce any improvement. Therefore, you will be merely substituting the State in place of the zamindars by abolishing the zamindaris. So far as proposed article 31B is concerned, it seems to me to be rather unusual to name a number of statutes passed by different State Legislatures to be validated by being inserted in the Constitution. If some other method could be found, without their names being mentioned in the Constitution to keep them outside the scope of the judiciary, perhaps that would be much better, because it does not look nice that a number of statutes, which we have not had time or occasion to consider should be validated in this fashion.

श्री घुले : मैं इस बिल के बारे में जो बहुत सी बातें कही जा चुकी हैं, उन का दुहराना नहीं चाहता। केवल एक बात जो कि मेरे प्रान्त से सम्बन्ध रखती है, उस के बारे में मैं जिक्र करना चाहता हूँ और वह यह है कि इस अमेन्डिंग बिल (amending Bill) में जो ३१ वीं सेक्शन इन्सर्ट (insert) किया गया है और जो शेड्यूल (Schedule) दिया गया है, उस शेड्यूल में मैं यह चाहता हूँ कि जो मुस्तलिफ़ ११ क़वानीन रक्खे गये हैं, उन क़वानीन में एक क़ानून जो अभी मध्य भारत धारा सभा की ओर से पेश किया गया है ज़मींदारी अबोलीशन बिल (Zamindari Abolition Bill), उस बिल का भी समावेश प्रेसीडेंट साहब की सम्मति ले कर कर लिया जाय, यह मैं अर्ज करना चाहता हूँ। मध्य भारत धारा सभा ने ज़मींदारी अबोलीशन बिल तारीख ६ अप्रैल को पास कर लिया है और जिस को एक महीने में ज्यादा अर्मा गुजर

चुका है और वह बिल अपने देश के प्रेसीडेंट साहब के पास स्वीकृति के लिये आया हुआ है जैसे कि इस प्रकार का कोई भी बिल उन की स्वीकृति के लिए जाना आवश्यक है। और प्रेसीडेंट साहब की स्वीकृति यानी यहाँ केन्द्र के कैबिनेट (Cabinet) की स्वीकृति होती है तो इसलिए मैं इस बिल के मूवर (mover) प्रोडम मिनिस्टर साहब से अर्ज करना चाहता हूँ कि वह ग्यारह क़ानून जहाँ जायज करार दे रहे हैं, वहीं मध्य भारत का ज़मींदारी अबोलीशन बिल भी उस में समावेश कर लें और उस को भी उस में दाखिल कर लें, क्योंकि जो हालत मद्रास में, बम्बई में, मध्य प्रदेश या और प्रान्त हैं जिन के सम्बन्ध में क़ानून जायज करार दिया गया है, और ज़मींदारी प्रथा के तहत वहाँ पर काश्तकारों और किसानों की जो तकलीफ़ और मुर्मावतों से भरी हुई हालत है, वैसे ही मध्य भारत में भी उन की हालत है यह मुझे कहने की आवश्यकता नहीं है कि मध्य भारत के लोग इस ज़मींदारी प्रथा को खत्म करने के लिये वर्षों से कोशिश करते चले आ रहे हैं और यह जो मौजूदा बिल है, यह बिल विधान रायज होने के पश्तर हमारे यहाँ के मिनिस्टरों ने केन्द्र के मिनिस्टरों की काफ़ी खुशामद कर के इंट्रीड्यूस किया था ताकि सेक्शन ३१ की जो चौथी और छठी जिम्न है उस पर लामू हो सके, और इसे इंट्रीड्यूस करा कर पेंडिंग बिल (pending Bill) में दाखिल करा लें। लेकिन जैसे कि बहुत से क़ानून हाईकोर्टों द्वारा नाजायज करार दे दिये गये हैं, उसी प्रकार इस बिल के नाजायज करार दिये जाने का भी अंदेशा है। नाजायज न भी करार दिया जाय पर उस में क़ानूनी कार्यवाही होने

[Shri Ghule]

के कारण उस में डिलाय जाने का अंदेशा है इस तरह उस में दो, तीन, चार हफ्ते गुजर सकते हैं। किसान तो इस कानून को अमल में देखने के लिये एक एक दिन के लिये बेचैन हो रहे हैं, इसलिये इस में ३१ बी सेक्शन इनसर्ट किया गया है। तो मैं अर्ज करूंगा प्राइम मिनिस्टर साहब से कि वह इस बात पर ध्यान दें और बल्द अज बल्द सेलेक्ट कमेटी (Select Committee) द्वारा इस पर विचार होने के पश्चात् ही इस के ऊपर विचार कर लें। यह बिल जो हमारे यहाँ से पास हुआ है, वह कोई बड़ा बिल नहीं है, केवल ५५, ६० सेक्शन का बिल है और इस को हमारे लॉ मिनिस्ट्री (Law Ministry) के एक्सपर्ट्स (experts) एक, दो दिन में स्क्यूटीनाइज (Scrutinize) कर सकते हैं और प्रेसीडेंट साहब को दिखला कर के उस को दाखिल करा सकते हैं।

(English translation of the above speech)

Shri Ghule (Madhya Bharat): I do not want to repeat all those things that have been said here regarding this Bill. I want to make a mention of only one thing which relates to my own province. I want to submit that the Zamindari Abolition Bill which has been referred by the Madhya Bharat Legislative Assembly, should, with the sanction of the President, be also included in the Schedule already containing some eleven different Laws and which relates to Section 31-B that has been inserted in this amending Bill. The Madhya Bharat Legislative Assembly passed the Zamindari Abolition Bill on the 6th April, 1951, more than one month ago, and it has, like all other Bills, been submitted to the President for according the necessary sanction. The sanction of the President means the sanction of the Cabinet. I therefore, like to submit to the hon. Prime Minister, the Mover of this Bill, that he should add this Bill to the list of those other eleven Bills, which are being validated by him, because on

account of the Zamindari system the condition of the cultivators of Madhya Bharat is nearly the same as is that of the cultivators of Madras, Bombay, Madhya Pradesh or any other States in respect of which you are going to validate this Bill. I need not mention that the Madhya Bharat people have been making efforts since long for abolition of the Zamindari system and the present Bill was introduced by our Ministers, after obtaining the goodwill of the Ministers at the Centre before the Constitution actually came into force, so that items Nos. 4 and 6 of the section 31 may be applicable to it and after its introduction it may be deemed to be a pending Bill. As the various enactments have been declared *ultra vires* by the various High Courts, similarly there is an apprehension lest this enactment also may have the same fate. Even if it is not declared *ultra vires* still there can be caused a great deal of laxity on account of legal proceedings taken against it. In this way it can be delayed by several weeks. The cultivators are very anxious to see this law enforced and that is why section 31-B has been inserted. Therefore I would like to request the hon. Prime Minister to take this point into consideration and make up his mind as soon as possible before it is discussed in the Select Committee. The Bill passed by our Legislative Assembly is not a big one. It contains only some 55 or 60 sections and our experts of the Law Ministry can scrutinize it within a day or two and after bringing it to the notice of the President can get it included in the Schedule.

Mr. Chairman: Mr. Rohini Kumar Chaudhuri. I think he is not to be found in his seat. Therefore.....

Shri Syammandan Sahaya: He is available. He has come.

Mr. Chairman: The hon. Member may come to his seat. Hon. Members are expected to be in their seats when they desire to speak.

Shri R. K. Chaudhuri: Madam, I am thankful to you for giving me this opportunity of saying something on this Bill. I am sure, Madam, you will appreciate if I proceed businesslike and straightway suggest what the Select Committee should do.

My first suggestion is that the Select Committee should expunge the Ninth Schedule altogether and amend the clause relating to article 31 in such a way that it may be possible for the zamindars to get adequate and proper compensation and that this amendment may not empower the Government to pass any legislation which will enable them to deprive the zamindars of their

due compensation. If the Select Committee does not do that, we shall understand that they are not obeying the wishes of our Prime Minister. The Prime Minister said in clear terms that he is in favour of giving adequate and proper compensation, and therefore I would suggest that the Select Committee should amend this clause in such a manner that it may not be possible for any authority to deprive the zamindars of their just and adequate compensation. (Some Hon. Members: What is 'adequate'?) I would submit that those hon. Members who had expected to get good wishes in support of this amendment of the Constitution must have been sadly disappointed by the speech which was delivered by my hon. friend Dr. Ambedkar. To him I would put a straight question whether in his opinion the Constitution which he framed about fifteen months ago is defective or not. If it is defective according to him, I can understand the justification for bringing this Bill. If it is not defective, then I would say that there is absolutely, on the face of it, no justification for such an amendment. So far as I could understand, Dr. Ambedkar said that the judgment that was delivered by some of the courts of the realm was unsatisfactory, that is to say, that they had gone against the clear meaning of the Constitution. If that is the position, no amount of amendment will help us at all.

Because if the Judges give a perverse decision, are you going to amend after every decision given by a Judge? If a Judge gives an erroneous judgment, are you going every day to amend the Constitution? That is the question which I am asking and whether he seriously means that his Constitution is perfect and the decision of the Judges is not correct. In that case, I would humbly submit for the consideration of this House as well as of the Prime Minister whether it will be worthwhile to amend the Constitution or not. You amend the Constitution now in order to satisfy a particular judiciary, a judiciary which is now functioning. What guarantee is there that in spite of your amendment, the next Judge sitting on judgment on such questions will not pronounce that the Acts passed under this amendment are also *ultra vires*? Will you come back again and ask for an amendment of the Constitution in a particular way? Will Parliament only abide by the wishes of a particular Judge or a particular judiciary? Is that the position to which we are drifting?

If on the ground that your Constitution was defective, it is sought to be

amended today, I would submit that more time should be given to think about it, more time, not merely to the Members of Parliament, but also to the law officers of our Government. Something is wrong somewhere. I think Government does not possess lawyers of first class acumen, lawyers who can guide them properly in drafting their law. Otherwise it would not have been possible for the Judges to find loopholes so frequently and often. Taking the view that the Constitution is defective and therefore the amendments are necessary, even then the present amendments are not necessary, so long as you do not adopt other methods. The other methods are firstly, to remove the judiciary which is clearly and palpably acting against the plain meaning of the Constitution, acting as an obstruction to the wishes of the people, and secondly to provide in the law not to allow any kind of appeal from the decision of the magistrate. These are the two remedies that may sound very undemocratic, but there is no remedy for it. (An Hon. Member: Right of the Judges.) I am not going to that extent. What I am suggesting is not unknown. There have been laws where it has been provided that the decision should be given by a tribunal and there would be no appeal against the decision of that tribunal. This method should be adopted.

So far as I am concerned, of course, I do not seek any reason to support this amendment of the Constitution. I give my support whether there is any reason or whether there is no reason. At any rate, I must make it perfectly clear that the reasons which have been adduced by Dr. Ambedkar are most unsatisfactory. To me the question is quite plain. We the Members of the Congress party have been responsible for the administration of this country for the last three or four years. (An Hon. Member: Not all). The Members have been responsible in the sense that we are sent here as the chosen representatives to be responsible for the administration and that administration has functioned fairly well. There has been no chaos in this country. The railway trains are running; aeroplanes are moving and officers are getting their salaries; the military is carrying out the wishes of the civilian Government and everything is going in a perfect order. We have been responsible for the administration. The responsibility has been discharged to the satisfaction not of a few but of the majority of the people, in spite of the fact that there was some sort of an opposition by no less a person than Dr. Mookerjee. There has been a very

[Shri R. K. Chaudhuri]

feeble support of the opposition. My point of view is this: If we want to administer this country as we have been doing and if we give the responsibility to some people, we must abide by the wishes of those persons who are responsible and if they want a particular legislation to be carried out for the good government of this country, it is not for us to stand in the way. If there is another party which can replace that party, if that party can come and say that they shall take the responsibility of the administration of this country, let them come forward and take charge of this country. Then we shall see how they can carry on. So far, we have found that it is very easy to criticise. But, there is not one person who is ready to take up the administration of the country in these difficult times. I mention particularly Dr. Mookerjee. Would he agree to take up the responsibility of the administration of this country in these difficult times? Instead of being responsible for the administration and government of the country at this very difficult time, he has given up the reins of the office. (*An Hon. Member: Why?*) I honestly believe and think that the Pact could not be worked successfully and I am entirely at one with him. I suggested to him—I may say, if I am not breaking any confidence—that the best way for him would be to be in the administration and prove by his own action whether this Pact is good or bad. I say this even now to him. Will he be ready to take up the administration? With a view to the better administration of the country, this Government has come forward with these changes in the Constitution. If he thinks that these amendments are not necessary, let him come out openly and say that he can administer the country properly without resort to these powers. I doubt whether he will take up that responsibility. It is very easy to criticise; but it is very difficult to carry on the administration particularly during such times as we are in, today. Of course, as I have said, I have given my frank opinion. I had heard the speech of my hon. friend Dr. Mookerjee the other day and I felt that I was between two fires; you may say two blazes instead of two fires.

**Dr. S. P. Mookerjee:** But, you always sit on the fence; that is the difficulty.

**Shri R. K. Chaudhuri:** Nobody helps me to cross the fence; that is my difficulty. On the one hand, there is my deep-seated loyalty, as most hon. Members of this House have, for my leader and the unbounded faith that we have in his leadership, a leadership

which has been responsible for keeping the peace in this country. On the other hand, I have my great regard for Dr. Mookerjee, his sound and cool reasoning and his appeal to national honour. There is no difficulty in coming to the conclusion and the conclusion is this: If you want to carry on the Government properly, and peacefully, you must give to our executive and the leaders the powers which they need. If after hearing the other side of the picture in the Select Committee, the Select Committee comes to the conclusion that some amendment is necessary, that amendment will be forthcoming. That is all.

**Mr. Chairman:** Before I adjourn the House, I should like to inform hon. Members that I have received information that the remaining Delimitation of Constituencies Orders, which the President is expected to make during the course of today, will be laid on the Table in the afternoon sitting, by the hon. Minister of Law.

1 P.M.

I would also make another announcement that the debate on this motion is now concluded and the House will meet at 4.30 P.M. only for the reply of the hon. Prime Minister.

*The House then adjourned till Half Past Four of the Clock.*

*The House re-assembled at Half Past Four of the Clock.*

[MR. SPEAKER in the Chair]

#### PAPERS LAID ON THE TABLE

##### DELIMITATION OF PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDERS

**The Minister of Law (Dr. Ambedkar):** Under sub-section (3) of section 13 of the Representation of the People Act, 1950, I beg to lay on the Table the following Orders made by the President on the 18th May, 1951:

(1) The Delimitation of Parliamentary and Assembly Constituencies (Bombay) Order, 1951.

(2) The Delimitation of Parliamentary and Assembly Constituencies (Madhya Pradesh) Order, 1951.

(3) The Delimitation of Parliamentary and Assembly Constituencies (Madras) Order, 1951.

(4) The Delimitation of Parliamentary and Assembly Constituencies (Punjab) Order, 1951.

(5) The Delimitation of Parliamentary and Assembly Constituencies (Uttar Pradesh) Order, 1951.

(6) The Delimitation of Parliamentary and Assembly Constituencies (Mysore) Order, 1951.

[Placed in Library. See No. P-169/51].

**Mr. Speaker:** That exhausts all the Orders, I believe?

**Dr. Ambedkar:** Yes.

**Mr. Speaker:** I have to inform hon. Members that copies of certain Orders made by the President regarding Delimitation of Constituencies, which have just now been laid on the Table, will be placed in the Parliamentary Notice Office as soon as they are received from the Press. Hon. Members may obtain a copy each of these Orders on request.

**Dr. Deshmukh (Madhya Pradesh):** Sir, may I know the procedure that you are going to lay down or the dates that are to be prescribed for the modification or passing of these delimitation proposals?

**Mr. Speaker:** Well, provisions have already been made, I believe, by section 13 of the Representation of the People Act, 1950, and within the period of that limitation, it is competent for any Member of the House to make a motion suggesting the modification he may want. That motion will be considered by Parliament and whatever Parliament decides will be the modification in the Order, if any decision is taken in favour of the modification; otherwise it will be the Order as it is.

**Dr. Deshmukh:** Will it be in the nature of a resolution?

**Mr. Speaker:** It will be a motion.

**श्री भट्ट:** माननीय अध्यक्ष महोदय, चुनाव क्षेत्रों के निर्माण के सम्बन्ध में जो राष्ट्रपति के हुक्म निकले हैं उन में कई चीजें नहीं हैं, जैसे कि आबादी कितनी है, मतदाता कितने हैं, गांव कितने हैं, उस के नक्शे कहाँ हैं। तो मैं जानना चाहता हूँ कि इन चीजों को प्राप्त करने के लिये क्या करना चाहिये। क्या यहाँ टेबल पर कुछ रखी गयी है, या लायब्रेरी में रखी गयी है या वायन्दा रखी जायेगी?

**अध्यक्ष महोदय:** मैं समझता हूँ कि लायब्रेरी में रखे गये हैं। सेंसस फिगर्स (census figures) भी रखे गये हैं, ऐसा मैं समझता हूँ।

**Shri Sondhi (Punjab):** Sir, we want the voters' list.

**श्री भट्ट:** वोटर्स कितने हैं, आबादी कितनी है, उन का नक्शा है या नहीं, गांव कितने हैं, इन सब चीजों को देखने के लिये हमें सामग्री कहाँ मिलेगी, यह मैं जानना चाहता हूँ।

**अध्यक्ष महोदय:** मैं समझता हूँ सब इलेक्शन कमिश्नर (Election Commissioner) के दफ्तर में मिलेंगी।

**श्री जवाहरलाल नेहरू:** यह ज़रा मुश्किल है कि सारा दफ्तर यहाँ ला कर सामने रख दिया जाय।

**अध्यक्ष महोदय:** यह सब इनफार्मेशन (information) इलेक्शन आफिस से मिल सकती है। और जो कोई मेम्बर वहाँ जानना चाहते हैं वह वहाँ जा कर सब मैटिरियल जो कुछ चाहें देख सकते हैं।

**श्री भट्ट:** वह दफ्तर कहाँ है? वह पार्लियामेंट हाउस में पार्लियामेंट लायब्रेरी में है या कहीं और जगह जाना पड़ेगा?

**अध्यक्ष महोदय:** यहाँ पार्लियामेंट हाउस में इलेक्शन आफिस का दूसरा कमरा है, वहाँ जाना पड़ेगा।

[**Shri Bhatt (Bombay):** Sir, the Orders relating to the delimitation of the constituencies issued by the President do not contain such information as to what is the total population, what is the number of voters, what is the number of villages and the maps which would be available from where, etc.

[Shri Bhatt]

So I would like to know what we should do in order to get all this information. Has this information been placed on the Table of the House or put in the Library or will it be placed there in future?

**Mr. Speaker:** I think this information has been placed in the Library. I think the census figures have also been put there.

**Shri Sondhi (Punjab):** Sir, we want the voter's list.

**Shri Bhatt:** I would like to know from where we can get information regarding the number of voters, the total population, the number of villages and the maps thereof? I want to have this information only.

**Mr. Speaker:** I suppose all this information will be available in the Election Commissioner's Office.

**The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru):** It is rather somewhat difficult to bring all the records and place them here before you.

**Mr. Speaker:** All this information can be had from the Election Office. Hon. Members who want to get information may go there and see the material needed by them.

**Shri Bhatt:** Where is that office located? Is it located in the Parliament Library of the Parliament House or will we have to go to any other place?

**Mr. Speaker:** Here in the Parliament House there is a separate room of the Election Office. You will have to go there.]

**Shri Sondhi:** Sir, may I point out that the Election Commission's Office is not in Parliament House but in "P" Block.

**Mr. Speaker:** Yes, it is not in Parliament House.

**The Minister of State for Transport and Railways (Shri Santhanam):** Would it not be better if a motion is tabled for approval of these Orders and all the motions are brought in as amendments? Then we can have a regular method of consideration. Otherwise each of the 300 Members will table an amendment and it will come up as an ad hoc motion and we shall have to find the time for considering it, and the whole procedure will become impossible.

**Mr. Speaker:** The hon. Member will see that the matter is not in my hands now. It is regulated by section 13 of the Representation of the People Act, 1950, and there it is said that the Order, excepting in so far as it is modified, will stand. So it does not require, to my mind, any resolution of approval of this House.

**Shri Santhanam:** But, Sir, the procedure for modification is in your hands, and it is for you to lay down the time and the manner in which the motion can be tabled and the way in which it can be taken up for discussion.

**Mr. Speaker:** We will settle it later, if there be any difficulty.

**Shri Sarwate (Madhya Bharat):** May I know whether you are going to fix a date for discussing the motions?

**Mr. Speaker:** I need not fix a date for bringing in or tabling motions. Hon. Members may as well table motions as they like and within reasonable time we shall keep up the motions for discussion and carry them on as long as we dispose of them. It is not possible to fix up any date just now.

#### CONSTITUTION (FIRST AMENDMENT) BILL—contd.

[**The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru):** We have had a considerable debate on the motion that I placed before the House. I listened with due respect to the speeches made and I tried to profit by them. I confess that at the end of this debate I had a lurking suspicion that somehow some Members of this House perhaps, had not quite understood the import of this Bill or had perhaps attached certain inferences, certain ideas to it for which there was no warrant. Certain things that were said had absolutely no bearing, so far as I could see, to this Bill. I do not merely refer to the hon. Member who spoke this morning and told us what we should do in regard to food and clothing and housing which are very important subjects but, if I may venture to say so, are totally irrelevant to the issue before the House. But apart from that, hon. Members of this House—some of them spoke in terms of heat and passion about the way we are putting curbs and restraints on the Press, about the way we were stabbing liberty and freedom, in fact about the way the executive was arming itself with all kinds of powers; and not only hon. Members, but some newspapers, even abroad in foreign countries, have talked about this Bill introducing all kinds of restraints on the Press and

freedom of the individuals. One hon. Member described this Bill as treating the Constitution as a scrap of paper. Another hon. Member talked about the sweeping restrictions on the Press. Another said that this measure was more undemocratic than anything that has happened in the world. Now I ask you, Sir, what exactly does all this mean? Is this sense—leave out good sense—to talk in this way of this measure—to say that it puts restrictions on the Press, to say that this sweeps away the rights of the people, or to say that this is stabbing the Constitution and freedom in the back or to say that this measure gives the executive all kinds of power? I say it has nothing to do with all those things that have been said. Either the hon. Members have not taken the trouble to understand or that the hon. Members have deliberately tried to misunderstand what it contains. I speak in no terms of apology. I brought forward the measure with full conviction and I intend proceeding with it and I see no reason to apologize to this House or to anybody because some individual whether he is a Member here or an outsider, says something which is not really relevant to the facts of the case.

What is this measure about which so much has been said? Sometimes in listening to the speeches I had a sense of play-acting. An hon. Member the other day said—I forget what he was referring to—he referred to some village plays, where the same person comes as Duryodhan and later shaves his moustaches and appears as Draupadi. It seems to me that some hon. Member is also playing a number of rolls even in the course of the same speech and I could not understand whether there was any sequence or continuity about the line of thought he was pursuing.

I beg this House to understand the measure as it is and not to import other considerations. There are many things in this wide world and this great country that are happening about which opinions may differ and they do differ but there is no reason why we should mix them up. The hon. Dr. Mookerjee cannot refrain, whatever the subject—whether it relates to the stars or this earth—from bringing in Pakistan and the partition. What relation the partition or Pakistan has to this measure passes my comprehension. Many other things have also been said.

I want this House coolly and dispassionately to consider this measure and I do affirm with full faith that far from changing this Constitution these amendments give full effect to the

Constitution as we wanted it to be. I say that with full faith. It was implicit in the Constitution when we discussed it again and again in the Constituent Assembly, and indeed it is implicit in every such Constitution and has to be implicit, if the State is to endure.

Remember also that this measure has nothing to do with making any fresh law. That is for Parliament to do, this Parliament or some other that may succeed it. So to talk about the executive grabbing powers is completely outside the mark. It may be, of course, that Parliament decides this or that at some future date. Whatever it may decide it will have to decide naturally in terms of the Constitution.

Take some of the principal amendments. The second amendment is amendment of article 19(2). What exactly is it? It refers to friendly relations with foreign powers: it refers to the security of the State and public order and then to incitement to an offence. May I say that when I spoke on the last occasion I did not go deeply into the wording of this clause. I rather dealt with the principle underlying it, with the difficulties we had to face and how we had attempted to get over those difficulties. I did not deal with the wording, partly because I hoped that we were going to appoint a Select Committee which would consider those words and I have no doubt that if there is a better wording to suggest they will recommend it. So far as we are concerned we had given a great deal of thought to this matter before we put it before the House. Nevertheless, if fresh wisdom dawns upon us, naturally we shall keep our minds open in regard to the wording. I laid then stress on the principles underlying this, not on the wording.

Then again when it comes to the wording, if I may say so with all respect, one enters into the legalistic sphere, which is important, because in Constitutions we have to be careful about the wording. Nevertheless one does enter that legalistic sphere. I suppose I am enough of a lawyer to have to say something about it, if necessary. But I felt that there were better lawyers here who could deal with it more effectively. Indeed this morning we had a very able, a very exhaustive and illuminating address from my hon. colleague, the Law Minister. I would rather put before the House the particular approach to this question and I do submit that in this particular approach what we have sought to do in these amendments is partly implicit in the Constitution.

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partly also explicit and it is partly implicit in any Constitution.

Take article 19(2). Article 19(2) itself is some restriction on the bald statement in article 19(1)(a). It is a restriction; there is no such thing as one hundred per cent. freedom for the individual to act as he likes in any social group. This idea of individual freedom arose in the days of autocracy in every country where an autocratic ruler or a group of rulers suppressed individual freedom; therefore the idea of individual freedom arose. In a democratic society there is also that idea of individual freedom but always it has to be balanced with social freedom and the relations of the individual with the social group as well as other matters, as well as the individual not infringing on other individuals' freedom. Therefore, you have to define these balances although the basic concept of individual freedom remains. Now in this Constitution the basic concept is given in that article 19(1)(a):

"All citizens shall have the right to freedom of speech and expression".

That is the basic concept. Going to clause (2) of article 19, it says:

"Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, libel, slander, defamation, contempt of court of any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State."

That is to say, this clause (2) is a restriction of that bald statement on freedom. That restriction does not mean that it is the only possible restriction—it is an indication of what restrictions there may be. Other restrictions may legitimately arise. I will give you a rather ridiculous example. Suppose I choose, as a right of individual freedom, to take the conveyance I am in on the right of the road and not the left of the road. I exercise my right of individual freedom to walk on the wrong side of the road. Well, the policeman will arrest me or I will be run over by a car and that will be the end of me. There are hundred and one restrictions if you live in society, restricting your right of individual freedom if you are a social being, so that this clause (2) is a

restricting clause in regard to libel, slander, morality, decency, and the security of the State. That is not an exhaustive list of those restrictions. Others are understood, are implied. And, normally speaking, it might not have not been necessary to say very much about it, but because some doubt was cast about these other matters, other implied and necessary and inevitable restrictions, therefore it would become necessary to make that clear. It is nothing new. Every State must have the right of what Dr. Ambedkar called the "police power" of the State. Every State has to defend itself against an external enemy or an internal enemy, and freedom is limited for that purpose. I am not for a moment going into basic things, as to why external or internal enemies arise. That depends on policy, depends on many things, but it has to defend itself and no Constitution can possibly take away that right from the State, it does not intend taking it away. It takes away the undue exercise of that right, the unfair exercise, an exercise which is partial and so on and so forth.

Therefore, clause (2) by itself cannot possibly be an exhaustive clause. Other things are implied. Normally speaking, in Constitutions, that is where there are no written Constitutions, where there are no Fundamental Rights, they naturally grow up by the Common Law or sometimes by enactment of Parliaments and the like. Where there are written Constitutions, they have grown up by judicial interpretations. Take this great Constitution of the United States of America. In its beginning what was it? It was only an adaptation of the colonial Constitution. Naturally, because they had been functioning under a colonial Constitution framed by the British power in America. It was an adaptation of it; it was based on it, as ours has been based on the Government of India Act, 1935. In spite of our freedom and independence, the extent to which the provisions of the 1935 Act have come into our Constitution is extraordinary. So the United States Constitution was based on the colonial Constitution. It is not that later a new Constitution was made by the United States. Possibly, probably, it would have been rather different. However, they did the other thing, and that is they stuck to that Constitution, but by process of judicial interpretation, they brought in what was implied in the existence of the Constitution. They had many tussles about it. But in the course of the last one-hundred and fifty years or more, gradually they built up those conventions and inter-

pretations and those things which were implicit were made explicit.

Our difficulty here has been, frankly speaking, that something that we considered as absolutely implicit in the Constitution, something that was obvious, if looked at from the strictly narrow legalistic, literal meaning of the words is not implicit. Though obviously a thing is implicit, legalistically it may not be there—if you look at it in a legalistic way, as sometimes Judges tend to, unless they take the broader view, then immediately you narrow the scope of Constitution, you limit the very ideas that the framers of the Constitution had.

After all nearly all the Members who are present here in this House were framers of this Constitution and they will remember the long debates we had about various matters. We spent many months over this. That does not mean, of course, that everything that we did was perfect. No doubt we shall learn by experience and try to remedy. But the fact remains that we have good, general broad idea of what we intended. So, my first point, if I may make it, is this: that in the principal amendments that we seek to put forward, there is not an attempt at real change of the Constitution. We have only sought to bring out what is implicit and what we knew should be there and what everybody, I think, if he considers it carefully and dispassionately must recognise should be there. In regard to article 19(2) that applies very much so.

Again there are in article 19(2) the words "friendly relations with foreign States". Reference was made in the course of the debate to some Act of 1932. Well, I looked it up. It was an Act to provide against publication of statements likely to prejudice the maintenance of friendly relations. This Act was originally passed in regard to the Indian States and to rulers of States outside, but adjoining India. In other words, it was meant to apply to Afghanistan and Nepal plus the States in India. The purport of the Act is this: that before any act in a court of law against a ruler can be taken up, someone in the Government of India should authorise that man to take it up. There is also something about the power of the State to stop some publications, etc. in regard to these matters. Now, the whole thing was framed in a different context; it does not apply today at all. The Indian States have ceased to be. Of our two neighbouring countries, one of them has ceased to be so; with the other country we are in very friendly terms.

So far as I know, there is no other Act, so that unless Parliament in the future pass any legislation in regard to these friendly relations with foreign powers, there is no Act governing or restricting anything. But whether there is an Act or not, as I think Dr. Ambedkar pointed out, somethings are implicit. Obviously, however much freedom you may give to a person, if an individual does something which might result in war, it is a very serious matter. No State, in the name of freedom, can submit to actions which may result in wholesale war and destruction. It is the implied power of the State to stop any such thing happening. It may be that the State sometimes may act wrongly or rightly. But you cannot take away the power of a State to prevent a great catastrophe happening which may involve us in some great war or other.

**Shri Kamath (Madhya Pradesh):** If the State itself does something which leads to war?

**Shri Jawaharlal Nehru:** Obviously, then the State is wrong, and Parliament in so far as it represents the State should pull the executive up or change it. If Parliament itself goes wrong, then what should be done? Then Parliament should be replaced by another Parliament. If the people go wrong, then there is no help for it.

Anyway, I am not aware of any State, democratic, semi-democratic or other in the world today which will not pull up a person or a group which does something which is dangerous to its security or safety, from an outside power or internally. Therefore to say that Parliament should have the right to frame laws in regard to relationship with foreign powers is an inherent right of Parliament to do so. It just does not matter if it is not incorporated there. Because I do maintain with all respect that Parliament has the right and nothing in the Fundamental Rights takes it away or can take it away, because it is the basic right of the State to do that in relation to foreign powers. At any time that will be so, more specially at this time when the world is faced with great difficulties, great tensions, great dangers, possibly with grave disasters; at that time for us to ignore all this and think in terms of some academic exercise of the eighteenth century, forgetting that we are in the middle of the twentieth century, is, I submit, very far from being realistic, very far from anything that is happening in this world. So I submit that putting in some provision about friendly relations with foreign powers does not change the Constitu-

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tion, does not extend it, does not limit individual freedom in the slightest degree. It is obvious. You may put it or not, but it is there. It has to be admitted.

Again, in regard to foreign powers, so far as our policy goes, which this House has approved of on many occasions, it is a policy of friendship with other nations. Now, because it is a policy of friendship with other nations it becomes all the more necessary that we should not encourage activities which lead to injury in regard to our relations with other powers. Some hon. Members pointed out what had been said in China or what might have been said in Russia or what is sometimes said even now in other countries, bitter criticism of individuals here or of the Government. Perfectly true. I think that our newspapers and people here have also sometimes used strong language. We do not wish to come in the way of that. There is no question of stopping criticism or even strong language. But times may arise when it overshoots the mark and there is danger of disruption or a break or danger to international interests or to our relations with those powers. And so we shall have to come in there. In what way we come in or in what measure we come in will be a matter for Parliament to determine because there is no law at the present moment to stop these things.

5 P.M.

Let us take the other matter, namely, public order. As I have said so far as the actual wording is concerned, it may perhaps be improved. This is the best that we could put forward; it can be considered in the Select Committee but the fact remains that 'public order' is as much a part of the security of the State as anything. It is perfectly true that a Government or a judicial officer may interpret these words widely or narrowly; he may use it when it should not be used; that is perfectly true. Now if you are formulating an Act, it is desirable that you use words precisely and definitely so that, as far as possible, they cannot be misused; but when you are enabling Parliament to function, then again the question of narrowing and curtailing Parliament's powers does not arise. Only when Parliament passes an Act you have to observe carefully that you do not go too far and do not allow a magistrate or a judge or somebody else to exercise more powers than you want them to exercise. That I can understand, but you are merely enacting the power of Parliament, merely defining and removing doubts about them and this question of putting in a narrowing word

does not arise. I am afraid we are mixing up these two ideas. We are considering as if it was an enactment giving certain powers to the executive. It is nothing of the kind. It is only an enactment which brings out the essential and inherent power of the State in regard to these matters affecting the stability of the State, the security of the State, affecting public order in the widest sense of the word and this inherent power of the State is merely mentioned there. Why is this amendment brought? It is because some doubts were cast on it and I am quite sure that at the time of the making of this Constitution, if most of us had been asked about it, there would not have been any doubt in our minds but in recent months some courts in the land have cast doubts and because they differed I think it was the Bihar High Court which said something to the effect that preaching of murder is allowed under this clause.

Hon. Members: Punjab.

Shri Jawaharlal Nehru: I think it was Bihar. I am sorry, I may be wrong and some other Judge also agreed with that somewhere. I think that Allahabad and Nagpur disagreed with that view; it may be they have differed but the point is I have no doubt it may be that I am wrong about the names of the High Courts—anyhow there has been some disagreement and it is quite possible, as I said, that ultimately in course of time, conventions and judicial interpretation will be established by the Supreme Court and other courts which would remove these doubts from the public mind, but at the present moment, the doubts persist and the present moment is a difficult moment.....

Pandit Kunzru (Uttar Pradesh): Has any reference been made on the matter to the Supreme Court?

Shri Jawaharlal Nehru: By whom?

Pandit Kunzru: By Government.

Shri Jawaharlal Nehru: No.

Pandit Kunzru: By the President?

Shri Jawaharlal Nehru: No, because Government does not refer to the Supreme Court any matters of policy. It is for Parliament and the Government to decide the policy and not the Supreme Court. I am surprised at the hon. Member's question.

Pandit Kunzru: May I ask the Prime Minister to clarify this point. What he said was that in view of the different views of the High Courts on so important a matter as punishment for

incitement to murder, it was necessary to change the Constitution. Unless the Supreme Court upholds this view, it cannot be said that it has become a matter of policy. We have yet to find out what the existing law is.

**Pandit Thakur Das Bhargava** (Punjab): The High Court itself propounded this view in accordance with the ruling given by the Supreme Court. They just followed the observation of the Supreme Court and held that this was the law.

**Shri Hussain Imam** (Bihar): Will the hon. Law Minister enlighten the House on the subject?

**Shri Jawaharlal Nehru**: The Law Minister will not enlighten the House while I am speaking. May I confess a feeling of great surprise at the questions that my hon. friend Pandit Kunzru has put? When I give the example of a certain High Court expressing a certain opinion, or giving a decision, or whatever it was, that even preaching murder was justified, that, by itself is an extreme example. That does not cover the whole field. Although my hon. friend has pointed out that the decision of the High Court, according to them, flowed from a previous ruling of the Supreme Court—may be so—I say, suppose this matter went up to the Supreme Court and the Supreme Court decided, "No, that is a wrong view; to preach murder is not allowed under the Constitution", that particular thing will have been decided. It will not have decided any general principle. Suppose a man preaches cutting off the hand of a person or removing his feet. Only preaching murder is not allowed. Naturally, courts do not lay down broad policies. They function on the facts before them and they give a certain opinion which we must accept and respect. Therefore, when questions of broader policies are concerned, you do not go to the courts. Parliament decides or the Government functioning under Parliament decides. Where it is the interpretation of a particular legal issue, we go to the Supreme Court or some other court. Now, doubts have arisen. High Courts are deciding differently. Where even the Supreme Court brings about a certain measure of uniformity, that uniformity is confined to that particular issue. We shall have to wait for 50 or 100 rulings on various issues to develop into a consistent policy. That is why I referred to the American judicial interpretations which have, gradually in the course of 100 or 150 years, brought about that uniformity. How are we to bring that about in the course of a few months or years, when daily dangers face us, and daily we

have to meet particular situations? Therefore, because doubts have arisen, because delays occur, because litigation goes on, because hundreds and, perhaps, I am not sure, I believe, thousands of applications are made before the Supreme Court burdening the hon. Judges with this work, because of all this, we feel that it is desirable in the public interest, in the interests of public policy as well as in the interests of individual freedom, to define this power clearly also, which was implicit in the Constitution. It has ceased to be implicit because of these doubts and interpretations and therefore it has to be made implicit. Again, if I may say so, all that it means is that Parliament gets that power; the executive does not. It is for this Parliament or the future Parliament to exercise, presumably the next Parliament, because it is very doubtful whether this Parliament will have the time or the leisure to consider this matter. ✓

Then again the words "incitement to an offence": I confess that taking the words as they are, they cover a wide field; may be any offence, a minor offence or a major offence. That is true. Again, I would say that you are not for the moment dealing with an enactment giving a punishment. You are dealing with the broad powers of Parliament. That is a difficult thing and that is the difficulty that we had in thinking about it. Are we going to make a long list of the offences here in the Constitution? You cannot do it. It is very difficult and it will make it more and more rigid, with schedules of offences attached to it. You have to do that sort of thing when you have to deal with a specific law. But here we are merely indicating what was supposed to be implicit. We are making a broad generalisation and the broad generalisation may cover rather trivial offences. But obviously one must take it for granted that when use is made of this authority or power, Parliament and hon. Members will see to it that there is no wrong application or misuse of it. —

Then, with regard to the other article 31B, may I remind the House.....

**Dr. S. P. Mookerjee** (West Bengal): What about the validity of the laws?

**Mr. Speaker**: He is going to refer to that.

**Shri Jawaharlal Nehru**: I am coming to that. With regard to article 31B.....

**Dr. S. P. Mookerjee**: I am referring to article 19(2) under which the existing law will be revalidated and given retrospective effect.

**Shri Jawaharlal Nehru:** Oh, I understand. All the existing laws will not be validated just automatically, just as all the existing laws were not made invalid either, by the Court's judgment, if the judgment was in that way—I speak subject to correction. But as I understand the position, it is this. Some judgment of the superior court might either invalidate some particular law or some part of the law, and to that extent, if this Bill is passed, it would remove that invalidity. To what extent that particular law is valid or not would depend even now, if necessary, on an interpretation, whether in terms of the Constitution as amended, it is valid or not. Such a thing would not automatically follow. May I beg the House to consider this question from a practical point of view? No doubt, there are these laws—plenty of them. There are the laws of sedition and the others. Let us take the law of sedition. Now, I cannot conceive that that is going to function or will be allowed to function or can function in future, unless it comes under the other clause of endangering the security of the State etc. etc. As the House knows, we have been functioning for the last three and a half years as an independent country—more than that—three years and ten months, I think. And these judicial pronouncements have come only in the course of the last seven or eight months—I do not know the exact dates. Now, how far in the course of these three years, quite apart from these judicial pronouncements, had we recourse to these laws? That is for the House to consider. I cannot give an answer straightway. If my memory is right, we have hardly ever used them. Most of them have not been used, and they cannot be used in the circumstances easily. Maybe there were one or two odd cases here and there. But, the fact is they have no value left and Parliament can put an end to them or have them revised as it chooses. What I mean to say is that from the practical point of view, there is no danger. First of all the validity of the Act will be judged in accordance with the Constitution, as amended. It does not automatically become valid. If it does come within the scope of the amended Constitution, it will be considered as valid; but it will have to be considered and judged. But from the strictly practical point of view, those Acts are not alive. If not wholly dead, they are half dead, though one or two might not be. But generally speaking, there is no fear of any misuse of them arising. Take any Press law.....

**Dr. S. P. Mookerjee:** What about the Emergency Press Law?

**Mr. Speaker:** It will be better if these questions are thrashed out in the Select Committee.

**Shri Jawaharlal Nehru:** Yes, Sir. Really the position is this House can take up these laws, put an end to them, modify them or do what it likes with them. There might be an interval, possibly of a few months, but there is no fear that during these few months, some misuse might occur. It is because of that that I ventured to remind the House that during the last three years I do not think it can be said that there has been any marked misuse of these laws. The fact of the matter is the Press in India functions quite differently from what it used to. The Press is not an external force. It is a powerful force outside, but it is something internal. In previous times it had to influence an alien Government and the alien Government could suppress it or do injury to it. But to-day it is much more powerful, for a variety of reasons. But apart from the influence it exercises on the outside world, though it is not of the Government, it is part of Parliament, if I may say so. It can make a great noise if anything wrong happens to it. So, practically speaking, there is no danger during the intervening period and when you revise these things, put an end to them or put them in the right shape as Parliament considers proper.

**Shri Deshbandhu Gupta (Delhi):** May I know whether the Government will at least accept the recommendations made by the Press Laws Enquiry Committee which were not accepted in view of the provision in the Constitution and thereby relieve the anxiety of the Press to that extent for the interim period?

**Shri Jawaharlal Nehru:** I regret to say that I have not seen those recommendations of the Press Laws Enquiry Committee and hence I have no knowledge of the same but the hon. Member will see that this question can only arise if this law is passed.

**Shri Deshbandhu Gupta:** That is the assurance I am asking.

**The Minister of Home Affairs (Shri Rajagopalachari):** I might inform the hon. Member that that was the very thing that made it difficult to accept the recommendations. The judgments already pronounced under the constitutional provision made these recommendations totally unnecessary and the interpretation given by the courts took liberty much beyond any possible recommendations that could be got out of the Committee. So it was unnecessary. But now if these amendments of the Constitution are passed

and if a certain amount of restriction became possible, Parliament can then sit tight over the amount of restriction to be imposed by law.

**Shri Jawaharlal Nehru:** Reference has been made to newspapers in this country and to the freedom of the Press. I venture to say that so far as I am concerned and so far as our Government is concerned, they believe entirely in the freedom of the Press. Mr. Deshbandhu Gupta was good enough to read out some extracts from the speech I delivered sometime back. I completely accept what I said then and I am prepared to repeat it but in repeating it I may say that in that very speech I also drew the attention of the Press to various things that were happening in connection with the Press in India and appealed to them to put an end to them. But there is another matter which I may mention in this connection and that is this. We talk of the freedom of the Press. What exactly does it mean, I ask? So much freedom of the Press we have got today. But the freedom only means suppression or lack of suppression by Governmental authority. When huge Press chains spring up preventing the individual freedom of the Press, when practically the Press in India is controlled by three or four groups of individuals, what is that Press?

**Dr. Deshmukh (Madhya Pradesh):** The remedy is to dissolve the Press chains.

**Mr. Speaker:** The hon. Prime Minister may confine himself to the general observations.

**Shri Jawaharlal Nehru:** Yes Sir.

Now I come to articles 31, 31A and 31B. May I remind the House or such Members of the House as were also Members of the Constituent Assembly of the long debates that we had on this issue. Now the whole object of these articles in the Constitution was to take away and I say so deliberately, to take away the question of zamindari and land reform from the purview of the courts. That is the whole object of the Constitution and we put in some proviso etc. in regard to article 31. It was deliberately excluded from the jurisdiction of the courts. Now how does it come in under their jurisdiction? Here the Bihar High Court comes in. The Bihar High Court brings in article 14 of all articles to apply it to a question on land reform. (Article 14 says:)

The State shall not deny to any person equality before the law or the equal protection of the laws

within the territory of India."

I am reminded, if I may say so, that one has to respect the majesty of the law. The majesty of the law is such that it looks with an even eye on the millionaire and the beggar and whether a millionaire steals a loaf of bread or a beggar steals the sentence given is alike. It is all very well to talk about the equality of the law for the millionaire and the beggar but the millionaire has not much incentive to steal a loaf of bread, while the starving beggar has, perhaps, and this business of the equality of the law may very well mean, as it has come to mean often enough, making rigid the existing inequalities before the law. That is a dangerous thing and it is dangerous in a changing society and it is completely opposed to the whole structure and method of this Constitution and what is laid down in the Directive Principles.

What are we to do about it? What is the Government to do? If a Government has not even the power to legislate to bring about gradually that equality, the Government fails to do what is has been commanded to do by this Constitution. That is why I said that the amendments I have placed before the House are meant to give effect to this Constitution. I am not changing the Constitution by an iota: I am merely making it stronger. I am merely giving effect to the real intentions of the framers of the Constitution and to the wording of the Constitution, unless it is interpreted in a very narrow and legalistic way. Here is a definite intention in the Constitution. This question of land reform is under article 31(2) and this clause tries to take it away from the purview of the courts and somehow article 14 is brought in. That kind of thing is not surely the intention of the framers of the Constitution. Here again I may say that the Bihar High Court held that view but the Allahabad and Nagpur High Courts held a contrary view. That is true. There is confusion and doubt. Are we to wait for this confusion and doubt gradually to resolve itself, while powerful agrarian movements grow up? May I remind the House that this question of land reform is most intimately connected with food production. We talk about food production and grow-more-food and if there is agrarian trouble and insecurity of land tenure nobody knows what is to happen. Neither the zamindar nor the tenant can devote his energies to food production because there is instability. Therefore these long arguments and these repeated appeals to

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courts are dangerous to the State, from the security point of view, from the food production point of view and from the individual point of view, whether it is that of the zamindar or the tenant or any intermediary.

I am not for the moment, as I said, saying much about the exact wording. It has been dealt with thoroughly and the Select Committee will no doubt deal with it.

May I now go back to article 15? I tried to make clear on the last occasion when I spoke that in what we were trying to add there was really not the slightest attempt at changing the Constitution or amending it in any real sense. It was to lay a certain emphasis on something which had been adequately emphasised in other parts of the Constitution, but again because some doubts had arisen; it is perfectly true that those doubts had arisen in another connection. Although there is a connection, nevertheless it is another matter. Looking at that narrow issue that arose in Madras, for my part this amendment, I should like to say, is not intended to be a communal amendment, or to help in any way a communal approach to this problem. We must distinguish between the communal approach and the approach of helping one of our weaker, backward brothers and sisters. And, if I may say so, although it is my amendment, thinking about it I do not particularly like the words "backward class of citizens" and I hope the Select Committee may find a better wording. What I mean is this: it is the backward individual citizen that we should help. Why should we brand groups and classes into backward and forward?

Several Hon. Members: That is the point.

Shri Jawaharlal Nehru: However, it is a fact that certain groups or classes are backward, but I do not wish to brand them as such or treat them as such.

Shri Sidhva (Madhya Pradesh): The order itself says, "communal".

Shri Jawaharlal Nehru: In this connection, may I say that perhaps a group or class which deserves greater sympathy from this House are tribal folk, whether in the North-East Frontier tract or in Central India or elsewhere. We have many of our colleagues in this House representing the scheduled castes and they help us not only in our work but keep us up to the mark in regard to the necessities of the scheduled castes, but we have

very few persons in this House to speak for the scheduled tribes. (Therefore,) it should be the peculiar concern and care of this House to look after the interests of the scheduled tribes and their advancement in every way, and when we add these words to article 15, or maybe any other words in addition to them, we certainly include the scheduled tribes.

Some doubts again arose because of the judgment of the Allahabad High Court in regard to the nationalisation of public transport services. Now, we have been following a policy which is normally called a "mixed" economy. We encourage private enterprise and at the same time we extend the activities of the State in regard to these matters; that is, more and more, there is nationalisation, socialisation of services, etc. It is essential, therefore, that the State should have power to do that. Again, we thought this was implicit, that nobody could challenge it, but as it has been challenged it should be clarified. And may I say this in this matter, that this is a process going on all over the world? Even in a country like the United States of America which is more committed to the individualistic and capitalistic form of State than any other country you will find that this progressive socialisation is going on of public utilities and the like. The progress made in this matter has been very considerable there. But in this country and in countries situated like India where private enterprise, howsoever you may encourage it, is limited in scope and resources, inevitably the State has to come in and the State must have the power to nationalise completely or partly anything that it takes up, and therefore this elucidation has been put in.

We have heard a great deal about democracy, about freedom and the like in the course of this debate. In some criticisms made outside this House, in newspapers outside this country even, some of us, and especially I, have been criticised as forgetting the stand we made, or what we stood for in the past days. Well, it is very difficult to judge oneself and it may be that unconsciously some of us may have slipped—I am not aware of that fact. So far as we are concerned, we still try to act up to those ideals of democracy and freedom. But it was rather a mixed pleasure to me to hear praise of democracy and freedom coming from some hon. Members of this House who were not remarkably associated with these concepts in the past—in fact, who opposed them! Anyhow this is a welcome change and we hope it will

lead to a better understanding between us in the future.

{ One thing rather surprised me. I think it was Pandit Kunzru who asked: "Why do you make these changes when you have got the Preventive Detention Act?" First of all,—again I may repeat—these changes do not give any power to do anything; but apart from that Pandit Kunzru and this House will not like the use of the Preventive Detention Act all the time, or at any time, for the matter of that, unless one is compelled by some circumstances to do it for a short while. So, to take that as a stand-by is a dangerous thing. We want to put an end to it—to use it as far as possible.

I hope, therefore, that this House will agree to refer this Bill to a Select Committee. May I say that I should have liked to have as much cooperation of the House as possible in this Select Committee, but one cannot have an indefinite number of Members. We selected twenty-one, I believe. In addition, I would gladly have added a few more but at this moment I have to confine to that figure. If one goes on adding, I do not quite know where it will stop. We have invited a number of other Members to be good enough to come and assist us and I hope they will come and do so.

**Shri Kamath:** What about the date?

**Shri Jawaharlal Nehru:** In the motion which I moved, I think the date is 21st. I would like to make it, Wednesday, the 23rd.

**Mr. Speaker:** Now, we have before us the motion—I do not think I need read the motion again with all the names. It is now going to be placed before the House, with a small change, namely that instead of 21st May, the words 23rd May will be substituted.

I will now take up the amendments. Five of these refer to circulation of the Bill by different dates. I propose to put all these, not in the order in which they are given in the Order Paper, but in the order of the dates, which means that the one giving the longest date will be put first by me. If I were to place the shortest date first and it is rejected all other amendments will be barred. Therefore, I propose adopting this course.

**Dr. Pattabhi (Madras):** If the shortest is rejected, everything else is rejected.

**Mr. Speaker:** I felt that rather unfair as a matter of procedure. But if hon. Members are agreed, I have no objection to putting the shortest date amendment. (Some Hon. Members: No, no). Then I shall first put the amendment of Sardar Hukam Singh which mentions the 31st July, 1951—the longest date.

The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st day of July, 1951."

The motion was negatived.

**Mr. Speaker:** Should I put the other amendments to the House?

**Hon. Members:** It is not necessary now.

**Mr. Speaker:** I shall enquire one by one. Mr. Naziruddin Ahmad?

**Shri Naziruddin Ahmad (West Bengal):** No, Sir; but I have not been allowed to put in my arguments.

**Mr. Speaker:** Order, order. I was told he was not very anxious to place them. (Interruption) Order, order. Whatever it may be. Mr. Sarangdhar Das?

**Shri Sarangdhar Das (Orissa):** No.

**Mr. Speaker:** Shri Syamnandan Sahaya?

**Shri Syamnandan Sahaya (Bihar):** No.

**Mr. Speaker:** Dr. Mookerjee has already said that. Mr. Kamath?

**Shri Kamath:** As the date has already been changed by the Prime Minister I do not press my amendment.

**Shri Sondhi (Punjab):** A loyal subject now!

**Shri Kamath:** A fair compromise!

**Mr. Speaker:** Order, order. I may now put the motion to the House. But before that I wish to mention one thing. One notice of amendment has been received very late and unless it is an agreed one I cannot allow it. That is with reference to the addition of three names. I understood that it has not been circulated. So I shall put the original motion.

**Shri. Kamath:** May I ask whether Members who are desirous of attending the Select Committee meetings may attend them without being invited, just as you were pleased to do with regard to the Select Committee on the Representation of the People Bill?

**Mr. Speaker:** Really speaking, I did that after obtaining the consent of the Chairman. In all these matters, the matter rests really with the Chairman and not with the Speaker here. I shall put the motion now.

The question is:

"That the Bill to amend the Constitution of India be referred to a Select Committee consisting of Prof. K. T. Shah, Sardar Hukam Singh, Pandit Hirday Nath Kunzru, Dr. Syama Prasad Mookerjee, Shri Naziruddin Ahmad, Shri C. Rajagopalachari, Shri L. Krishna-swami Bharati, Shri Awadheshwar

Prasad Sinha, Shri T. R. Deogirikar, Dr. B. R. Ambedkar, Shri V. S. Sarwate, Shri Mohanlal Gautam, Shri R. K. Sidhva, Shri Khandubhai K. Desai, Shri K. Hanumanthaiya, Shri Raj Bahadur, Shrimati G. Durgabai, Shri Manilal Chaturbhai Shah, Shri Dev Kanta Borooab, Shri Satya Narayan Sinha, and the Mover with instructions to report on Wednesday, the 23rd 1951."

The motion was adopted.

**Mr. Speaker:** There is one more announcement before we adjourn, namely that the Select Committee on the Bill will meet tomorrow at 5-30 P.M. in the old Council of State Chamber and again on Sunday. That finishes the business. The House is now adjourned.

*The House then adjourned till Half Past Eight of the Clock on Saturday, the 19th May, 1951.*