

Wednesday, 24th November, 1948

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**CONSTITUENT ASSEMBLY
DEBATES
OFFICIAL REPORT**

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CONSTITUENT ASSEMBLY OF INDIA

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CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 24th November, 1948

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. Vice-President (Dr. H. C. Mookherjee), in the Chair.

CONDOLENCE ON THE DEATH OF SHRI KANYALAL MANANA

Mr. Vice-President (Dr. H. C. Mookherjee): I understand that Shri Kanyalal Manana who was elected to the Constituent Assembly from Madhya Bharat died sometime ago. This was announced in newspapers and then the news had to be verified. It has been verified now. May I request the Members to stand up for a minute in order to pay respect to his memory?

(All the Members stood up in their seats.)

Mr. Vice-President : I wish that the House should authorise me to send the usual message of condolence to the members of his family.

Honourable Members : Yes.

DRAFT CONSTITUTION—*contd.*

Article 38—(*contd.*)

Mr. Vice-President : We shall commence today's proceedings with the consideration of the particular article with which we are concerned today in the draft Constitution. The introduction of the Bill will be taken up after a little while.

Prof. Shibban Lal Saksena (United Provinces: General): I am tabling an amendment which is an amendment of Mr. Mahavir Tyagi's. I hope it will be acceptable to him, because in his amendment, he has not included the words 'except for medicinal purposes'. I think that if the amendment of Mr. Mahavir Tyagi is accepted as amended by my amendment, it would become much better. I wish Dr. Ambedkar to accept my amendment which is mentioned in No. 86 of list IV.

Sir, I beg to move:

"That at the end of article 38, the following be substituted:—

'and shall endeavour to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to health except for medicinal purposes'."

This exception in the last four words was not made in the original amendment but I think it is important. I think it was an omission and therefore my amendment should be accepted. Sir, I pointed out the other day while discussing the amendment of Syed Karimuddin that this is a fundamental subject on which opinion in our country is almost unanimous. Probably people do not generally realise the far-reaching consequences of the drink evil. In fact, if we add up the revenues of the various provinces from prohibition, we will find that the figure is of a very high order. I have complete figures for 1940-1941 and in that year the total revenue from prohibition was Rs. 12,52,00,000 from all the provinces. Out of this one crore was from foreign liquors and two crores from opium and only Rs. 25 lakhs of this sum was derived from sales of medicinal and intoxicating drugs. Actually now it has become almost double or even more, in the last six or seven years. So the real magnitude of the

[Prof. Shibban Lal Saksena]

sacrifice involved in accepting this amendment will be clear from the fact that if we can achieve prohibition, we shall be voluntarily foregoing about 25 crores of rupees in revenue. But the revenue is only a fourth or fifth part of the price of liquor and if the revenue lost is Rs. 25 crores, the amount saved to the people is at least Rs. 100 crores which are wasted by the people in the country on intoxicants. Now this 100 crores will be saved to the families of drunkards and especially to labour and Harijan families where this vice is most prevalent. I wish to call the attention of Dr. Ambedkar to the fact that the Harijan and the labour population which earns this money by hard labour spends a large portion of it in the toddy shops and the drink shops which are generally situated in the vicinity of mills and labour and Harijan quarters. I hope that this directive principle will not remain merely a pious wish; but like Madras, all the provinces will enforce it and soon we shall have our country dry and thus we shall set an example to the whole world in this matter.

At present the expenditure on enforcing these excise duties is about a crore and a half of rupees, but I know that if we enforce prohibition, the expenses will increase, so that we are not only sacrificing a revenue of Rs. 25 crores, we shall also spend a few crores on the enforcement of prohibition; it is a big sacrifice, but I think for the great ideal which our leader has bequeathed to us, we must not grudge this sacrifice, because ultimately it will result in a very happy population and a contented country. In fact the advantage in the shape of Rs. 100 crores saved to the Harijan, labour and other drunkard families together with far more valuable moral advantages which far outweigh even the material advantages, which will follow complete prohibition are worth all this great sacrifice. Only the other day the Premier of my province, the Honourable Pandit Govind Ballabh Pant, was telling me that prohibition in Cawnpore has been very beneficial and the labour population in Cawnpore is now very much better off and their families thank the Government for what they have done. I hope very soon the whole country will be dry and we will then have achieved our great ideal of prohibition. I commend the motion to the House.

Shri Mahavir Tyagi (United Provinces: General): Sir, I accept the amendment.

Shri B. H. Khardekar (Kolhapur): Mr. Vice-President, Sir, at the outset I must say I am extremely nervous. This is the first speech that I am making not only in this Assembly, but in any Assembly. I may further add that I have not so far taken part in any college or school debate. I should like, therefore, Sir, to have your indulgence, almost your generosity, particularly when I am making bold to speak something against prohibition. I do want you to give me the necessary hearing.

I have been listening, Sir, very carefully to the number of arguments brought forth in favour of prohibition. I will just mention them and because I think they are very flimsy, I will say what I have to say about them. One of the arguments put forth was that the American Constitution makes such a provision. Sir, are we not going to learn anything from the mistake of others? Is it going to be said of us that history teaches us nothing? The Americans had it in their Constitution; the Americans provided for it in the legislature; ultimately, in the light of experience, they had to give it up completely.

Then, Sir, the second argument put forth has been that the Congress is pledged to it. Sir, it has been repeatedly admitted that in this House there is neither a Government nor any party. The Congress is no longer a mass organisation; it is one, perhaps the most important political party. This is only a technical objection. Let me go a little further. The Congress has done such a tremendous work in the past and innumerable sacrifices and so on for the attainment of freedom. The Congress is pledged to a number of good things. My

request to the members of the Congress is, you must try to see which pledges should come first. You have to see first of all how you are going to make the lot of the teeming millions of India economically and in several other respects better.

The third argument put forth has been the success of prohibition in Madras. How, Sir, is this success measured I want to know. Is it measured in terms merely because there is prohibition? You have a number of people who go on still indulging in drinks and go on filling the innumerable jails. Have you also measured as a result of the squandering of several crores of Rupees, what you have failed to do? Have you tried to measure the success of prohibition in Madras from that point of view?

The next argument put forth was that all communities want it. Parsis and Christians also were included in that list. Sir, I happen to know Parsis and Christians a little bit and I think, Sir, definitely they are not in favour of prohibition.

Then, the last and perhaps the most difficult argument for me to answer is that Gandhiji has been always for prohibition. Let me make it very clear to this House that I am second to none in my admiration, respect and veneration for Gandhiji. Gandhiji is the father of the Nation; he is the father of all of us. But, Sir, I want to say something. It was stated here, might be perhaps a little frivolously, that where liquor is, Gandhiji is not; where Gandhiji is, liquor is not. In other words, Gandhiji shuns sinners, presuming that liquor drinking is a sin. Gandhiji read, studied, I dare say, loved the Gita, and as a student of the Gita, he had, what I may say, attained *Sama Drishti*. He did not make any distinction between a sinner and a saint. Gandhiji was a saint first, a politician afterwards. I want you to consider, Sir, I make bold myself to ask you, what do you think is the essence of Gandhism? The essence of Gandhism is love, toleration; its essence is non-violence, search for truth and all these important things. The externals of Gandhism or the outward trappings of Gandhism are Khaddar and prohibition. Unfortunately, the followers of Gandhiji, some of them have been giving more importance to the outward trappings of Gandhism than to the essence of it. Gandhiji's conception of truth was that though truth is one, every individual is to have his own approach to truth, and every individual had to see it for himself. Therefore, this is what Gandhiji said, what Gandhiji wanted. If we merely follow blindly, the good father that he is, he will really be sorry, though he has departed,—he has left even this House full of lispng babes, who merely do discredit to the Father,—for not having taught them to think individually and rationally. Then, Sir, are we going to say: merely because it is the father's word, as the saying goes, *Baba Vakyam Pramanam*, is that going to be the philosophy of life? We are living in an age, when, in spite of the fact that there are several defects in it, there is one very important thing about the twentieth Century. This is an age of interrogation. The young men of today want to throw a challenge and find out the truth for themselves. As Flaker has said, "Even if God were to burn with hell and fire, I would still ask Him till He answers me why;" I would not follow blindly even if God were to tell me to do so. We are not to be dumb driven cattle; We are to be heroes in this strife. Sir, George Bernard Shaw has said much the same thing, 'examine, test and then accept'. If you are fond of Sanskrit literature, Kalidasa says more or less the same thing:

सन्तः परीक्ष्यान्त तरत् मजन्ते मूढः पर प्रत्ययनेय बुद्धिः।

From answering arguments, let me go to the positive side of my speech. On the practical side, I say prohibition should be made to wait, and wait for long in this unfortunate land of ours which has become fortunate only the other day. On the practical side, Sir, I may quote one great thinker who says that there are

[Shri B. H. Khardekar]

two important fronts in life, first there is the war front, and then there is the front of education. When we will have war, God alone knows; we may have a major war at any time and we must be prepared for that. There is some trouble in Kashmir; there was some in Hyderabad. We have got to be prepared. It must also be remembered that we are a very poor country and we must gather up all the resources that we have, so that we can attend to first things first. In a country where democracy has to flourish, where democracy is in its infancy, the front of education is the most important one. You know the appalling condition of the people so far as education concerned. About sixty to seventy years ago, in several countries free and compulsory primary education was introduced. As a result of freedom, that should be our first business. Only yesterday, we discussed the necessity of having such a clause in the Draft Constitution. In a country like ours, even free compulsory primary education would not be enough, because the poor boy, who goes to plough, forget seven to put his signature after a few years, and so, in proportion, even secondary education for the backward communities, rather I may say for the poor would have to be provided. Sir, we are an infant democracy and if we are going to have really a democratic Government, we must have education. You know the great saying "Democracy without education is hypocrisy without limitation" and we do not want to have such a Government where only a few who know will govern ultimately and we will have a Fascist Government; and if we are going to insist too much today on prohibition, we are going to deprive a number of our good children from receiving proper education and the result would be whereas we aim at establishing a secular democratic State, we are really going to have a religious fascist Government and nothing short of it. I am giving you, Sir, a warning.

Then apart from education, there is a thing like medical health and public health. Most of you are very honest and sincere workers and you have been to villages. Even during my occasional visits I find that the poor villager has absolutely no medical help. There are thousands of lepers who require medical help and if all that tremendous help is to be given, from where is the money to come forth? Therefore, we must have first things first and our great enemy is poverty and unless we pool our resources and put first things first, unless we develop a sense of values, I think we will be in a mess.

Now curiously enough I want to talk to you, Sir, a little about the moral side of prohibition or against it. I recommend to you very strongly a remarkable Chapter in Harold Laski's 'Liberty in the Modern State' which he has devoted against prohibition. I could not get the book, so I cannot quote from it but his main point is that prohibition goes against the very grain of personal liberty. In a free India, Sir, the development of personality to its fullest extent is our aim and by frustrations, prohibition, inhibitions, suppressions we are going to have a stunted growth in the young men. It does not mean that we should encourage them to drink but they will find their mistakes and ultimately liberty—I don't mean by liberty license—would be of considerable use. Then Sir, consider—I am not going to be frivolous here—but consider the shock given to social life,—club life will come to an end—and I may tell you just compare the two things—some friends having discussion may be in the evening or night quite seriously over a glass of butter-milk and as against that an innocent but intellectual discussion over a glass of wine or even beer. The Greeks had it. True philosophers know how to enjoy both the worlds and the foundations of philosophy and science were laid by the Great Greeks. They did not have taboos and suppressions and inhibitions. The real development of personality comes through that. If you were to compare the life in a city like Bombay on dry days and wet days, Sir, on dry days you will find life really dry and dull. I ask

you to see that. You might think this is all for the rich. Everybody that goes to club is not rich but what about the poor? Think of the millions of mill hands working very hard all day. In the evening they like to have a glass or two of toddy which is really nothing but fermented neera and if along with the vitamins he gets a little mirth or joy, why should you deprive him of that? Sir, I would request you to consider the solace and the little comfort that he gets. There are some among us—men like Dr. Ambedkar getting great solace in reading. There are others who like to read novels and enjoy them. There are those who like to play the piano and there are some who would like to have a glass of wine or beer. Now I may draw some distinction here because most of you, I beg to say, would not be knowing how many people after all do drink. I would request the economists and the statisticians to find it but I dare say the figure is not more than 10 per cent and most of you are ignorant of a very important fact that you do not know the essential difference between drinkers and drunkards. Of the 10 per cent that drink not 9 per cent are drunkards. They just drink a glass or two with friends and the 1 per cent that consists of drunkards are hopeless people due to very bad circumstances—there might be innumerable reasons—if you deprive them of drink by law, they will resort to illicit distillation. If even that is not allowed, if your machinery is perfect—but I dare say our machinery is inclined towards bribery and corruption and this will be one more handle for them—but apart from that even if you deprive them of that, they will indulge in drinking poisonous stuff and meet their end even earlier. So, for this 1 per cent of the human population are you going to throw so much of valuable wealth, tons and tons of rupees into the Arabian Sea merely because there is a sort of religious inkling behind. You may have that religious idea that it is impious to drink. Well, Gods were supposed or they are supposed to indulge in Sura. The human beings may indulge in Madira. What harm is there? Then, I may point out that after all if one really does not have bad effects from it, why should we deprive them? Let us consider what India really requires. Now, having prohibition and being very pious are very good and these are very highly developed qualities which even the civilised nations have not been able to bring into practice. We, Sir, lack even common decency and honesty. The Prime Minister of India Pandit Jawaharlal Nehru, the most beloved and most respected, loses a pair of shoes. In European countries the least respected leader would not lose a pair of shoes, if he attends a function. So there is this difference that essential qualities, basic qualities like honesty etc. we must have first. You are a party in majority and you can decide what you like. I don't mean you should stop bringing prohibition but wait for some time—and I may quote the Editor of the Times of India and say that there are things other than liquor that go to the head and power is one. Let not the majority party suffer from it.

Shri Jaipal Singh (Bihar: General): Mr. President, Sir, I do not know whether I shall be in order in suggesting to you that this amendment be postponed until such time as we come to the consideration of the recommendations that the Advisory Committee has made particularly in regard to the Tribal Areas. Now the recommendations of the Advisory Committee as well as the Sub-Committees have not been given a chance for full discussion on the floor of this House. Therefore, I do not at this stage, want to go into details but I am bound to oppose the Resolution and amendments of this sort. We have heard such a lot of pious language about a democratic State, of a secular State, of our being voluntarily opposed to the establishment of theocracy in India. Here, Sir, I submit, by the back door we are trying to interfere with the religious rights of the most ancient people of this country. You may laugh. Excess in every thing is wrong. If you eat too much rice, it is bad for you. There are so many other things that you take in excess. But, if you take anything in its right quantity, it is good for you. Drink certainly is one of the things taken in excess which does no one good, but, let us remember that we should

[Shri Jaipal Singh]

not be hasty in putting into the Constitution anything which is going to work for more bitterness than there is already. During our discussions in the Advisory Committee, Maulana Abul Kalam Azad was pleased to put a direct question to me and it was this—"Kya yah mazhabi chij hai". Is it really a religious right? On that occasion, the Chairman of the Advisory Committee, the Honourable Sardar Patel gave me an opportunity to explain what the position was. Now, as far as the Adibasis are concerned, no religious function can be performed without the use of rice beer. The word here used—the phrase used is 'intoxicating drinks'. Sir, that is a very vague way of describing the thing, and, also 'injurious to health'. My friend Prof. Shibban Lal has tried to put forward the argument of economic efficiency. He thinks that if prohibition were installed in this country, the economic efficiency of the workers would be enhanced. I dare say it would be. But what I want to tell him is that it is not merely the industrial workers whom he has particularly in mind, that are affected. I would like to point out to him the position of the very poor people, the Adibasis, and, members who come from West Bengal and other places will bear me out in what I say about the Adibasis who are in such large numbers in West Bengal, Southern Bihar, Orissa and other places. In West Bengal, for instance, it would be impossible for paddy to be transplanted if the Santhal does not get his rice beer. These ill clad men, without even their barest wants satisfied, have to work knee-deep in water throughout the day, in drenching rain and in mud. What is it in the rice beer that keeps them alive? I wish the medical authorities in this country would carry out research in their laboratories to find out what it is that the rice beer contains, of which the Adibasis need so much and which keeps them against all manner of diseases.

Well, Sir, I am not opposing this amendment because I want drink to increase in this country. I am all for seeing to it, and, seeing vigorously to it, that the Adibasis do not injure themselves by this drink habit. But that is quite apart from the religious needs and religious privileges; we shall educate them to lead a life of temperance. I am all for that. But this amendment is a vicious one. It seeks to interfere with my religious right. Whether you put it in the Constitution or not, I am not prepared to give up my religious privileges. (*Hear, hear.*)

Mr. Vice-President : Order, order.

Shri Jaipal Singh : Sir, if you will forgive me, I would rather explain all this when we come to the recommendations which the Advisory Committee has made in regard to the Scheduled Tribes and others. This is not the proper time for me to talk *in extenso*. Here I would only point out to the honourable Members here that it is better not to be hasty, and, I would request you that this amendment be deferred until such time as we come to the recommendations of the Advisory Committee in regard to the Scheduled Tribes and Scheduled Areas; because, if we decide the thing at this stage, we shall be doing ourselves wrong. We shall be unfair to a very important and, at the present moment, politically helpless minority. There are hardly a dozen of them who can speak on behalf of them here, though they are thirty millions. This is a decision which must rest with the wishes of the people themselves. We are going through difficult times. Let us not make matters any more difficult. Sir, I need say nothing more than that I am opposed to this amendment, and my humble request to you would be that the further consideration of this amendment be taken up after we have come to a decision with regard to the Scheduled Tribes and Scheduled Areas.

Shri V. I. Muniswamy Pillai (Madras: General): Mr. Vice-President, Sir, I was strangely surprised today to see two members of the sovereign Body come up here and say that prohibition must be postponed. Let me take my

honourable Friend Mr. Jaipal Singh. He claims to represent the Adibasis—the Hill-tribes and the aborigines. A humble member like myself, coming from the region of the aborigines and Hill-tribes may tell him that there is no such thing as require liquor, toddy, brandy or any such thing, at the time of the ceremonies of the aborigines. I do not know, Sir, whether my friend has ever seen a Toda — a member of the pastoral community, living in the Nilgris. They live there under the worst conditions of the monsoon. In their life they had never seen what alcohol is. Sir, when the Britishers came, they brought in the whisky bottle and when they disappeared, from the administration of this land, we must take it that wine also has disappeared. But it is strange that today my friend Mr. Jaipal Singh had to plead for these unfortunate communities. I may say there are several communities like the Kotahs Irulas, Paniyas, Kurumbas, Badagas, and others who all come under the category of Adibasis in the Province of Madras. But there none of these communities has ever come forward to protest against the authorities that drink must be given back to them. It is strange that my friend who is so sympathetic to the aborigines should plead for drink for them. I may tell him that in actual practice, all these communities have greatly benefited in the province of Madras after the introduction of prohibition. The other friend from Kolhapur has been praising Mahatma Gandhi as the Father of the Nation and all that. But unfortunately he fails to follow what Mahatma Gandhi told us. Of the four constructive programmes, Mahatma Gandhi placed prohibition at the head of all the four. Why? Because he found that the country was going to rack and ruin, and the poor were spending all their earnings on drink and leaving their children and families in utter poverty and want. I am sorry my friend has taken up this attitude and opposed this amendment, so wholesomely brought before this Sovereign Body. The Province of Madras has lost yearly nearly seventeen crores of rupees. But the people of Madras stood up as one man and said, “Never mind about these seventeen crores of rupees. We want the citizens, we want the poor people to be healthy and peaceful.” Sir, Prohibition has brought peace and plenty to the province of Madras. It has produced a marked improvement in the physique of the people and also in their economic position. I may tell you that Harijans, the unfortunate communities were driven by the Caste-Hindus and the Mirasdars to lowly occupations and were given their wages not in cash, but chits to liquor vendors that they may go and get drunk. But these things have now disappeared and as the Minister incharge of the portfolio, I can dare say that prohibition has brought peace and plenty to my province. So I support the amendment brought by Prof. Saksena and oppose those friends who are talking about postponing prohibition.

The Honourable Shri B. G. Kher (Bombay: General): Sir, it is rather unfortunate that the very first appearance of our new arrival from Kolhapur should have been made an occasion for attacking what is a very vital directive principle in the shaping of our constitution. Prof. Shibban Lal Saksena has suggested that at the end of Article 38 the following clause may be inserted:

“The State shall endeavour to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to health.”

Shri Mahavir Tyagi : That amendment is my copyright and not Prof. Shibban Lal Saksena's.

The Honourable Shri B. G. Kher : I do not propose to infringe the copyright of the Honourable Mr. Mahavir Tyagi or any other Member who wishes to take the credit of it. I am perfectly willing to give it.

The amendment further says “except for medicinal purposes”. From the fact that these gentlemen propose to object to this amendment it is evident that they wish that the State should allow the consumption of intoxicating drinks and drugs which are injurious to health.

[The Honourable Shri B. G. Kher]

I do not wish to speak at length on prohibition because after very deliberate consideration and prolonged discussion most of the provincial governments and most of those who are interested in the progress of this country have accepted the necessity of protecting our people from going to their ruin by the use of intoxicating drugs and liquor. They believe that humanity will not progress on proper lines unless along with intellectual and material progress they give sufficient importance to moral progress and it is too late in the day now to argue that the use of intoxicating drugs and liquor do not affect the moral sense of a person who uses them. The very lamp which shows to you the distinction between right and wrong is extinguished and it is therefore, not a matter of individual liberty, which was one of the arguments which the honourable representative from Kolhapur used. There cannot be individual liberty to commit suicide. Society is interested in every individual's prolonged life therefore I was surprised to find such an amount of ignorance in what today is being done, thought and experienced as a result of the administration of prohibition in the provinces. Instead of getting a large excise revenue and spending it on education, the best education is to teach people to abstain from drink and drugs.

For every single rupee that the State gets by way of revenue from excise society loses three times that money by the increase of crime, by the increase of disease and the loss of efficiency. This has been admitted by economists. The honourable gentleman who championed the cause of Adibasis told us that there ought to be further medical research. Medical research has been made to a considerable extent and people have come to the conclusion that the consumption of spirituous liquors and injurious drugs (the description which has been used in this clause) is admittedly injurious to health. One Honourable Member mentioned Nira. The Bombay Government is opening Nira centres by the hundreds, because Nira before it ferments and becomes toddy is a health-giving drink and therefore we are allowing people to drink Nira. But we are now speaking about intoxicating drinks and drugs which are injurious to health. Is it the contention of those honourable members that the State shall not strive to prohibit the use of drugs and drinks which are injurious to the health of the people? Those who use such hackneyed arguments as that of further medical research, individual liberty or medicinal benefit, I am afraid these people are living in an isolated world of their own, because whichever province (Madras and Bombay for instance) has introduced prohibition, has come to the conclusion that the very people who indulged in the use of these liquors are today benefited so considerably that not a day passes when we do not get letters of gratitude from the members of the family of the labourers and other people who used to drink themselves to death. To say that only 10 percent of society indulge in this and that therefore society need not worry itself about this does not need any further criticism.

I was surprised to hear an Honourable Member who represents the Adibasis attack this amendment as vicious. I am afraid that this is the way in which men's minds are perverted. The very object of introducing this amendment, which I am very happy to find has been accepted by the honourable Dr. Ambedkar who is in charge of the Bill, is to prevent the furtherance of vice. Is it argued that the use of intoxicating liquors and injurious drugs leads to the practice of virtue? I am not quoting Mahatma Gandhi in support of my argument but he has said that he would not attach any importance to any other social reform so long as this question of the prevention of consumption of intoxicating liquors and drugs was not taken up by the State. The very first reform that he enjoined upon all the provinces was the stopping of this vicious thing. In this country almost every section of society, whether it is the Hindus, the Muslims or even Christians, have always looked upon the use of intoxicating liquor and drugs as a vice.....

Shri L. Krishnaswami Bharathi (Madras: General): As a sin.

The Honourable Shri. B. G. Kher: I mean sin. The drinking of liquor is one of the five deadly sins which the *Smritis* have laid down and that was not a matter of bigotry or prejudice but the result of vast experience. Today go to America. I met a number of people who genuinely regretted that they were not able to make prohibition a success. Why were they not able to make a success of it? Simply for the reason that they have gone on too long imbibing the poison and it is too late now for them to go back. But the section of the people who have the good of the community and of their country at heart still desire that it were possible to stop the deterioration of the human race, which is sure to be brought about by the use and by making the use of intoxicating drinks respectable in society. So, though a sin both for the Hindus as also for the Muslim, after the advent of the British the use of intoxicating liquors became a sign of being fashionable, a sign of progress and culture. It is quite true that it is perhaps impossible to eradicate from the face of the earth for good and for ever these three vices—the use of liquor in one shape or other by some few people, the evil of gambling and the evil of prostitution: but it shall be the endeavour of every civilised government to prevent all these three cankers of human society, if it is their object that society should be healthy and happy and moral.

I do not propose to take much time of the House.

Sir, it is entirely due to the fact that our friends from Europe were used to look at liquor in a different way that people in this country began to look upon the use of liquor as respectable. Before the evil becomes so deep—rooted that we also come to the same conclusion as those in Europe and America that it is impossible to prevent our people from drinking, it is time that the State should take up this reform which is not only in the interest of this country but also of the world and of the human race in general.

I was considerably surprised at the argument of the honourable Member representing the Adibasis. Here is Mr. Thakkar who has devoted his whole life to the service of the Adibasis and I am sure he wholeheartedly agrees with the principle of this amendment. I quite agree that these people are accustomed to drink and they will have to be gradually educated but that is what this amendment proposed to do, that is, prohibiting the consumption of intoxicating drinks and drugs which are injurious to health. I do hope the honourable Members do not wish to encourage the use of drinks and drugs which are injurious to the health of the people.

I strongly support the amendment.

Mr. Vice-President : Does the Honourable Member, Dr. Ambedkar, accept the amendment?

The Honourable Dr. B. R. Ambedkar: Yes.

Mr. Vice-President : I ask the indulgence of the House as I have overlooked another amendment. That is No. 81 in list No. 3 — by Sardar Bhopinder Singh Man. Does he propose to move it?

Sardar Bhopinder Singh Man (East Punjab: Sikh): Yes. *[Mr. Vice-President I would like that where these words, namely, “Drinks and drugs” occur, the word “tobacco” also be added between them. Mr. Vice-President, I am aware that in moving this amendment. I would be incurring the displeasure of the influential members of this House and I also feel that I am going against the temper of the majority. In reminding Mr. Tyagi regarding this omission I am submitting it after judging it according to the test laid down by him. He has made out two points, namely, to prohibit those intoxicants that are bad and dangerous for health. Judging by this test we should

* [] Translation of Hindustani speech.

[Sardar Bhopinder Singh Man]

see whether it can be classified as an intoxicant or not, or whether it is harmful to health. I have no doubt that tobacco is an intoxicant and is more harmful to health than liquor. This is the considered opinion of the medical men that tobacco has nicotine—a poison—most harmful to health. Take the villagers; they get liquor only off-and-on, but they smoke tobacco day and night, and due to their indolence they let suffer even their important tasks. As far as the economic aspect is concerned, I can assure you that much greater loss is incurred on account of tobacco than by liquor. Not only lakhs but crores of rupees annually flow out of the country on this account. When it is realised that tobacco is in fact a dangerous intoxicant, then I do not see why Mr. Tyagi has left out tobacco while mentioning liquor and other drugs. It is probably because it is consumed by the majority but that is no reason. It is said that cigarette or bidi, if consumed in small quantity, would not be harmful to health. But this leads to another controversy of 'too-much or too less'. Even if a useful thing is consumed in excess, it might prove harmful. My point is that when you are dead against an innocent thing like liquor then why don't you prohibit tobacco also?]

Shri A. V. Thakkar (United State of Kathiawar: Saurashtra): Sir, after the case had been put by my friend Shri Bal Gangadhar Kher I did not want to speak. But I want to speak on two small matters, but those are very important matters. One is this. Mr. Jaipal Singh has said, "Let the Regional Committees or the Advisory Committees of the Adibasis come into existence; ask their opinion and then this amendment should be passed; or this should be postponed till then." That is not a correct attitude for any legislator to take.

Shri Jaipal Singh: What I said was let the Schedule dealing with the Scheduled Tribes and Scheduled Areas come up for discussion here; there was no question of consulting the Regional Council.

Shri A. V. Thakkar: The Advisory Committees are still to come into existence. We do not know whether they will approve of this prohibition or disapprove of it. It should not be taken for granted that they will disapprove of it because Mr. Jaipal Singh disapproves of it.

There is another matter. All Adibasis do not want to drink: they want prohibition. I am talking of the Bhils in Gujrat, in Maharashtra, in West Khandesh and in the Central Provinces. I am talking of the Gonds also of the Central Provinces. I have asked hundreds and thousands of them whether they want drink or whether they want prohibition. Their decided answer to me has been: "Thakkar, you are talking of prohibition; you are talking of doing away with drinks. You are placing these enticements in our path and you are still asking for our opinion. For God's sake have the liquor shops closed and then ask us. We are enticed to go to drink; otherwise we will not." To give you a concrete fact about the Bhils of Panchmahals, amongst whom I have worked for 27 years, even the shops set up by the government of the day had to be closed because of the voluntary abstention of the Bhils from drinking. The shops went dry of their own accord. Nobody would visit the shops, because the Bhils had taken vows not to drink and not to become victims to the liquor shops. The shops had to be auctioned out and nobody would buy them. Therefore, it is too much to say that all Adibasis want this, or want this even as a religious right. Even in the matter of it being a religious right with the Bhils, that was the talk twenty years ago. Now they have stopped talking about it. It is not a religious right with them now.

Mr. Vice-President : May I ask the permission of the House to suspend discussion of this item so that the honourable Sardar Vallabhbhai Patel may have an opportunity of moving the motion which stands against his name?

Honourable Members : Yes.

GOVERNMENT OF INDIA ACT, 1935 (AMENDMENT BILL)

The Honourable Sardar Vallabhbhai J. Patel (Bombay : General): Sir, I beg to move for leave to introduce a Bill to amend the Government of India Act, 1935.

Mr. Vice-President: The question is:

“That leave be granted to introduce a Bill to amend the Government of India Act, 1935.”

Maulana Hasrat Mohani (United Provinces : Muslim): I beg to oppose this.

Mr. Vice-President : On what ground?

Maulana Hasrat Mohani : I will make out the reason if you please allow me to have my say. I say that he should not be allowed to introduce the Bill.

Mr. Vice-President : I shall put the matter to vote. The question is:

“That leave be granted to introduce a Bill to amend the Government of India Act, 1935.”

The motion was adopted.

Maulana Hasrat Mohani : I strongly protest against this procedure. It is a well-known fact that this House is a packed House.

The Honourable Sardar Vallabhbhai J. Patel : With your leave I now introduce the Bill to amend the Government of India Act, 1935.

Mr. Vice-President : The Bill has been introduced. Now may I ask Sardar Vallabhbhai Patel to give the House some idea of the time when he proposes to move for taking the Bill into consideration? This is required only for the convenience of Honourable Members.

The Honourable Sardar Vallabhbhai J. Patel : It will be after a week.

Mr. Vice-President : Thank you. The House will now resume discussion of article 38 of the Draft Constitution. I now call upon Shri L. N. Sahu to speak.

Article 38 (contd.)

Seth Govind Das (C. P. & Berar : General): I move that the question be now put as far as the clause relating to prohibition is concerned.

Mr. Vice-President : I have already called upon Mr. L.N. Sahu to speak.

Shri Lakshminarayan Sahu (Orissa : General): *[Mr. Vice-President, the subject which we are discussing here today is very important. It is correct that Adibasis are addicted to the habit of drinking as has been stated by Shri Jaipal Singh, but as remarked by Shri Thakkar Baba it is also a fact that they (Adibasis) want to do away with it.

First of all, I would like to point out that the liquor used by Adibasis is of a different kind. It is prepared out of a tree and is named as “Salab Drink”. It relaxes them a little but does not produce intoxication. In the words of Keshab Chandra Sen the two great gifts of the Britishers to India are on the one hand, the Bible and on the other hand the bottle. The country lost its all. Shri Keshab Chandra Sen said that Bible was really such a great book that had not the Britishers brought the bottle with them, this country as a whole would have put faith in the Bible. I speak from my experience when I say that wine produce very harmful consequences in our country. Formerly in the town where I have been living for the last 32 years, no one was given to the drink habit. But since the Government started liquor shops all persons began to

* [] Translation of Hindustani speech.

[Shri Lakshminarayan Sahu]

drink. My grand-children talk now of other people drinking and I am afraid that they may also take to drinking. As there is now a new order of things as we have attained independence and as it was the wish of Mahatma Gandhi that the word Prohibition should be inscribed in every public place, therefore, I desire Prohibition to be enforced. Is it now wise on Sri Jaipal Singh's part to talk of religious freedom in this context? We had the religious freedom of Sati in our country. Where is it now? Most of such other religious freedoms were abolished according to the conditions of the age. Human sacrifice was permissible amongst the aboriginals, but today that evil custom disappeared under the stress of changed circumstances. Now the Government does not permit human sacrifice. I am talking of aboriginal area. I toured along with Shri Thakkar Baba for about three or four months. In Orissa I toured alone. I found a new feeling amongst the aboriginals of that area. They have got a feeling that one who teaches should not take to drinking and one who goes to school should not also drink. Reading and drinking should never be combined. One who reads does not drink.

Aboriginals have such a nice feeling and the greater the facilities provided to them to cherish this feeling the better it would be for them. It is not fair to talk of drinking as a matter of our religious rights; and that we should fight to preserve it is quite unfair.]

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President. I accept the amendment of Prof. Shibban Lal Saksena subject to a further amendment, namely, that after the word 'and' at the beginning of his amendment (86 of List IV) the words "in particular" be added.

Shri Mahavir Tyagi : I really cannot understand how that amendment can be accepted by the Honourable Dr. Ambedkar. The amendment under discussion is mine.

The Honourable Dr. B. R. Ambedkar : Sir, I accept the amendment of Mr. Tyagi as amended by the amendment of Prof. Shibban Lal Saksena (Laughter.)

Mr. Vice-President : Mr. Tyagi is a great stickler for rights.

The Honourable Dr. B. R. Ambedkar : Sir, if I may say so, the right really belongs to me, because it is I who drafted the amendment he moved. (Renewed laughter.)

Mr. Vice-President : That puts the matter in a new light.

The Honourable Dr. B. R. Ambedkar : I do not think the House would have found any difficulty in accepting this amendment. Two points have been raised against it. One is by Prof. Khandekar who represents Kolhapur in this Assembly. I am sure that Mr. Khandekar has not sufficiently appreciated the fact that this clause is one of the clauses of an Article which enumerates what are called Directive Principles of Policy. There is therefore no compulsion on the State to act on this principle. Whether to act on this principle and when to do so are left to the State and to public opinion. Therefore, if the State thinks that the time has not come for introducing prohibition or that it might be introduced gradually or partially, under these Directive Principles it has full liberty to act. I therefore do not think that we need have any compunction in this matter.

But Sir, I was quite surprised at the speech delivered by my friend Mr. Jaipal Singh. He said that this matter ought not to be discussed at this stage, but should be postponed till we take up for consideration the report of the Advisory Committee on Tribal Areas. If he had read the Draft Constitution, particularly the Sixth Schedule, paragraph 12, he would have found that ample

provision is made for safeguarding the position of the Tribal people with regard to the question of prohibition. The scheme with regard to the tribal areas is that the law made by the State, whether by a province or by the Centre, does not automatically apply to that particular area. First of all, the law has to be made. Secondly, the District Councils or the Regional Councils which are established under this Constitution for the purposes of the administration of the affairs of these areas are given the power to say whether a particular law made by a province or by the Centre should be applied to that particular region inhabited by the tribal people or not, and particular mention is made with regard to the law relating to prohibition. I shall just read out sub-paragraph (a) of paragraph 12 which occurs on page 184 of the Draft Constitution. It says:

“Notwithstanding anything contained in this Constitution—

- (a) no Act of the legislature of the State in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region unless in either case the District Council for such district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall in its application to such district or region or any part thereof have effect subject to such exceptions or modifications as it thinks fit;”

Now, I do not know what more my friend, Mr. Jaipal Singh, wants than the provision in paragraph 12 of the Sixth Schedule. My fear is that he has not read the Sixth Schedule: if he had read it, he would have realised that even though the State may apply its law regarding prohibition in any part of the country, it has no right to make it applicable to the tribal areas without the consent of the District Councils or the Regional Councils.

Mr. Vice-President : There are three amendments. One is by Mr. Mahavir Tyagi. That is No. 71 in List II. If I read the situation a right, that has been practically withdrawn. Am I right, Mr. Tyagi?

Shri Mahavir Tyagi : I have not withdrawn my amendment. I have only accepted the words which Prof. Shibban Lal Saksena intends to add to my amendment.

Mr. Vice-President : I want to know whether you want that your amendment should be put separately to the vote.

Shri Mahavir Tyagi : Yes, Sir, of course. As I have said, I want to abolish liquor altogether. He wants to add the words “except for medical purposes” Therefore my amendment is the original amendment.

Mr. Vice-President : I understand the situation. I shall now put to the vote the amendment of Mr. Mahavir Tyagi as modified by Professor Shibban Lal Saksena and further modified by Dr. Ambedkar.

Shri Mahavir Tyagi : On a point of order, Dr. Ambedkar has added the word “particular” but he has not taken my permission.

Mr. Vice-President : I take your permission on behalf of Dr. Ambedkar.

Shri Mahavir Tyagi : I accept his amendment also, Sir.

Mr. Vice-President : This particular amendment as amended is now put to the vote.
The amendment was adopted.

Mr. Vice-President : Then, there is another amendment which is No. 81 in List III moved by Sardar Bhopinder Singh Man to insert the word ‘tobacco’ between the words ‘drinks’ and ‘drugs’. I now put it to the vote.

The amendment was negatived.

Mr. Vice-President : I now put to the vote article 38, as amended.

The motion was adopted.

Article 38, as amended, was added to the Constitution.

Mr. Vice-President : We now come to new article 38-A—amendment No. 1002 standing in the names of Pandit Thakur Dass Bhargava and Seth Govind Das.

Article 38-A

Seth Govind Das : Sir, I have an amendment to the amendment of Pandit Thakur Dass Bhargava which I will move after Pandit Thakur Dass Bhargava has moved his amendment.

Pandit Thakur Dass Bhargava (East Punjab : General): *[Mr. President, the words of the amendment No. 72 which I am moving in place of amendment No. 1002, are as follows:—

“That for amendment No. 1002 of the lists of amendments to 38-A the following be substituted:—

‘38-A. The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall in particular take steps for preserving and improving the breeds of cattle and prohibit the slaughter of cow and other useful cattle, specially milch and draught cattle and their young stock.’”

At the very outset I would like to submit that this amendment.....]

Shri S. Nagappa (Madras : General): Sir, on a point of order, my honourable Friend, who can speak freely in English, is deliberately talking in Urdu or Hindustani which a large number of South Indians cannot follow.

Mr. Vice-President : The honourable Member is perfectly entitled to speak in any language he likes but I would request him to speak in English though he is not bound to speak in English.

Pandit Thakur Dass Bhargava : I wanted to speak in Hindi which is my own language about the cow and I would request you not to order me to speak in English. As the subject is a very important one, I would like to express myself in the way in which I can express myself with greater ease and facility. I would therefore request you kindly to allow me to speak in Hindi.

*[Mr. Vice-President, with regard to this amendment I would like to submit before the House that in fact this amendment like the other amendment, about which Dr. Ambedkar has stated, is his manufacture. Substantially there is no difference between the two amendments. In a way this is an agreed amendment. While moving this amendment, I have no hesitation in stating that for people like me and those that do not agree with the point of view of Dr. Ambedkar and others, this entails, in a way, a sort of sacrifice. Seth Govind Das had sent one such amendment to be included in the Fundamental Rights and other members also had sent similar amendments. To my mind it would have been much better if this could have been incorporated in the Fundamental Rights, but some of my Assembly friends differed and it is the desire of Dr. Ambedkar that this matter, instead of being included in Fundamental Rights should be incorporated in the Directive Principles. As a matter of fact, it is the agreed opinion of the Assembly that this problem should be solved in such a manner that the objective is gained without using any sort of coercion. I have purposely adopted this course, as to my mind, the amendment fulfils our object and is midway between the Directive Principles and the Fundamental Rights.

I do not want that due to its inclusion in the Fundamental Rights, non-Hindus should complain that they have been forced to accept a certain thing against their will. So far as the practical question is concerned, in my opinion, there will be absolutely no difference if the spirit of the amendment is worked out faithfully, wheresoever this amendment is placed. With regard to Article 38 which the House has just passed, I would like to state that Article 38 is like a body without a soul. If you fail to pass Article 38-A which is the proposed

* [] Translation of Hindustani speech.

amendment, then Article 38 will be meaningless. How can you improve your health and food position, if you do not produce full quota of cereals and milk?

This amendment is divided into three parts. Firstly, the agriculture should be improved on scientific and modern lines. Secondly, the cattle breed should be improved; and thirdly, the cow and other cattle should be protected from slaughter. To grow more food and to improve agriculture and the cattle breed are all inter-dependent and are two sides of the same coin. Today, we have to hang our head in shame, when we find that we have to import cereals from outside. I think our country is importing 46 million tons of cereals from outside. If we calculate the average of the last twelve years, namely, from 1935 to 1947, then it would be found that this country has produced 45 million tons of cereals every year. Therefore, it is certain that we are not only self-sufficient but can also export cereals from our country. If we utilize water properly, construct dams, and have proper change in the courses of rivers, use machines and tractors, make use of cropping and manuring, then surely the production will increase considerably. Besides all these, the best way of increasing the production is to improve the health of human beings and breed of cattle, whose milk and manure and labour are most essential for growing food. Thus the whole agricultural and food problem of this country is nothing but the problem of the improvement of cow and her breed. And therefore I would like to explain to you by quoting some figures, how far cattle-wealth has progressed and what is the position today.

In 1940, there were 11,56,00,960 oxen in India and in 1945 only 11,19,00,000 were left. That is to say, during these five years, there was a decrease of 37 lacs in the number of oxen. Similarly the number of buffaloes in 1940, was 3,28,91,300 and in 1945, this figure was reduced to 3,25,44,400. According to these figures, during these five years, their number was reduced by four lacs. Thus during these five years there was decrease of 41 lacs in the sum total of both the above figures taken together.

Besides this, if we see the figures of the slaughtered cattle in India we find that in 1944, 60,91,828 oxen were slaughtered, while in 1945 sixty five lacs were slaughtered *i.e.*, four lakhs more. In the same year 7,27: 189 buffaloes were slaughtered. I do not want to take much of your time. If you wish to see latest figures then I have got them upto 1945. You can see them. I have got figures for Bombay and Madras. A look at these figures will show that there has been no decrease in their slaughter, rather it is on the increase. Therefore, I want to submit before you that the slaughter of cattle should be banned here. Ours is an agricultural country and the cow is '*Kam-Dhenu*' to us—fulfiller of all our wants. From both points of view, of agriculture and food, protection of the cow becomes necessary. Our ancient sages and Rishis, realising her importance, regarded her as very sacred. Here, Lord Krishna was born, who served cows so devotedly that to this day, in affection he is known as "Makhan Chor". I would not relate to you the story of Dalip, how that Raja staked his own life for his cow. But I would like to tell you that even during the Muslim rule, Babar, Humayun, Akbar, Jahangir and even in the reign of Aurangzeb, cow slaughter was not practised in India; not because Muslims regarded it to be bad but because, from the economic point of view, it was unprofitable.

Similarly in every country, in China, cow-slaughter is a crime. It is banned in Afghanistan as well. A year ago, a similar law was passed in Burma, before that, under a certain law cattle only above fourteen years of age could be slaughtered. But eventually, the Burma Government realised that this partial ban on slaughter was not effective. On the pretext of useless cattle many useful cattle are slaughtered. I have read in newspapers that the Pakistan Government has decided to stop the export of cattle from Western Pakistan, and they too have enforced a partial ban on slaughter of animals. In the present conditions in our country, cow-breeding is necessary, not for milk supply alone, but

[Pandit Thakur Dass Bhargava]

also for the purposes of draught and transport. It is no wonder that people worship cow in this land. But I do not appeal to you in the name of religion; I ask you to consider it in the light of economic requirements of the country. In this connection I would like to tell you the opinion of the greatest leader of our country—the Father of the Nation — on the subject. You know the ideas of revered Mahatmaji on this topic. He never wanted to put any compulsion on Muslims or non-Hindus. He said, “I hold that the question of cow-slaughter is of great moment—in certain respects of even greater moment—than that of Swaraj. Cow-slaughter and man-slaughter are, in my opinion, two sides of the same coin.”

Leaving it aside, I want to draw your attention to the speech of our President, Dr. Rajendra Prasad. After this the Government of India, appointed a committee—an expert representative committee—to find out whether for the benefit of the country the number of cattle can be increased, and whether their slaughter can be stopped. The Committee has unanimously decided in its favour. Seth Govind Das was also a member of the Committee. The committee unanimously decided that cattle slaughter should be banned. Great minds were associated with the said committee. They examined the question from the economic view-point; they gave thought to the unproductive and unserviceable cattle also. After viewing the problem from all angles they came to the unanimous decision that slaughter of cattle should be stopped. That resolution relates not to cows alone. Slaughtering of buffaloes, which yield 50 per cent of our milk supply, and of the goats which yield 3 per cent of our milk supply, and also bring a profit of several crores, is as sinful as that of cows. In my district of Hariana, a goat yields 3 to 4 seers of milk. Perhaps a cow does not yield that much in other areas. Therefore I submit that we should consider it from an economic point of view. I also want to state that many of the cattle, which are generally regarded as useless, are not really so. Experts have made an estimate of that, and they came to the conclusion that the cattle which are regarded as useless are not really so, because we are in great need of manure. A cow, whether it be a milch-cow or not, is a moving manure factory and so, as far as cow is concerned, there can be no question of its being useless or useful. It can never be useless. In the case of cow there can be no dispute on the point.] (*Hearing the bell being rung.*) Am I to stop?

Mr. Vice President : Yes, I am asking you to stop.

Pandit Thakur Dass Bhargava : Could you give me two minutes more?

Mr. Vice-President : You have already had 25 minutes.

Pandit Thakur Dass Bhargava : * [As the Vice-President has ordered me to finish off, I shall not go into the details; otherwise I can prove by figures that the value of the refuse and urine of a cow is greater than the cost of her maintenance. In the end, I would wind up by saying that there might be people, who regard the question of banning cow-slaughter as unimportant, but I would like to remind them that the average age in our country is 23 years, and that many children die under one year of age! The real cause of all this is shortage of milk and deficiency in diet. Its remedy lies in improving the breed of the cow, and by stopping its slaughter. I attach very great importance to this amendment, so much so that if on one side of the scale you were to put this amendment and on the other all these 315 clauses of the draft, I would prefer the former. If this is accepted, the whole country would be, in a way, electrified. Therefore, I request you to accept this amendment unanimously with acclamation.]

* [] Translation of Hindustani speech.

Seth Govind Das : *[Mr. President, the amendment moved by Pandit Thakur Dass Bhargava appears to be rather inadequate as a directive in its present form. I therefore move my amendment to his amendment. My amendment runs thus:

“That in amendment No. 1002 of the list of Amendments in article 38-A the words ‘and other useful cattle, specially milch cattle and of child bearing age, young stocks and draught cattle’ be deleted and the following be added at the end:

‘The word “cow” includes bulls, bullocks, young stock of genus cow.’”

The object of the amendment is, I hope, quite clear from its words. The amendment moved by Pandit Bhargava prohibits the slaughter of cow and other useful cattle but according to it unfit or useless cows may be slaughtered. But the object of my amendment is, as far as cows are concerned, to prohibit the slaughter of any cow, be it useful or useless and in my amendment word ‘cow’ includes bulls, bullocks and calves all that are born of cows. As Pandit Thakur Dass told you, I had submitted this earlier to be included in Fundamental Rights but I regret that it could not be so included. The reason given is that Fundamental Rights deal only with human beings and not animals. I had then stated that just as the practice of untouchability was going to be declared an offence so also we should declare the slaughter of cows to be an offence. But it was said that while untouchability directly affected human beings the slaughter of cows affected the life of animals only—and that as the Fundamental Rights were for human beings this provision could not be included therein. Well, I did not protest against that view and thought it proper to include this provision in the Directive Principles. It will not be improper, Sir, if I mention here, that it is not for the first time that I am raising the question of cow protection. I have been a member of the Central Legislature for the last twenty-five years and I have always raised this question in the Assembly and in the Council of State. The protection of cow is a question of long standing in this country. Great importance has been attached to this question from the time of Lord Krishna. I belong to a family which worships Lord Krishna as “*Ishtadev*”. I consider myself a religious minded person, and have no respect for those people of the present day society whose attitude towards religion and religious minded people is one of contempt. It is my firm belief that *Dharma* had never been uprooted from the world and nor can it be uprooted. There had been unbelievers like *Charvaka* in our country also but the creed of *Charvaka* could never flourish in this country. Now-a-days the Communist leaders of the West also and I may name among them Karl Marx, Lenin, Stalin, declare religion “the opium of the People”. Russia recognised neither religion nor God but we have seen that in the last war the Russian people offered prayers to God in Churches to grant them victory. Thus it is plain from the history of ancient times as also from that of God-denying Russia that religion could not be uprooted.

Moreover, cow protection is not only a matter of religion with us; it is also a cultural and economic question. Culture is a gift of History. India is an ancient country; consequently no new culture can be imposed on it. Whosoever attempts to do so is bound to fail; he can never succeed. Ours is a culture that has gradually developed with our long history. Swaraj will have no meaning for our people in the absence of a culture. Great important cultural issues—for instance the question of the name of the country, question of National Language, question of National Script, question of the National Anthem and question of the prohibition of cow slaughter—are before this Assembly and unless the Constituent Assembly decides these questions according to the wishes of the people of the country, Swarajya will have no meaning to the common people of our country. I would like to submit, Sir, that a referendum be taken on these issues and the opinion of the people be ascertained. Again, cow protection is

* [] Translation of Hindustani speech.

[Seth Govind Das]

also a matter of great economic importance for us. Pandit Thakur Dass Bhargava has shown to you by quoting statistics how the cattle wealth of the country is diminishing. This country is predominantly agricultural in character. I would give some figures here regarding the position of our cattle wealth. In 1935 there were one hundred nineteen million and four hundred ninety one thousand (11,94,91,000) heads of cattle. In 1940 their number came down to one hundred fifteen million and six hundred ten thousand, and in 1945 it further came down to one hundred eleven million and 9 hundred thousand. While on one side our population is increasing our cattle wealth is decreasing. Our Government is carrying on a Grow More Food Campaign. Millions of rupees are being spent on this campaign. This campaign cannot succeed so long as we do not preserve the cows. Pandit Thakur Dass has given us some figures to show the number of cows slaughtered in our country. I would like to quote here some figures from the Hide and Skin Report of the Government of India. Fifty two lakhs of cows and thirteen lakhs of buffaloes are slaughtered every year in this country. It shows in what amazing numbers cattle are slaughtered here. Thirty six crores acres of land are under cultivation here. These figures also include the land under cultivation in Pakistan. I have to give these figures because we have no figure of the land under cultivation in India since the secession of Pakistan from our country. We have six crores bullocks for the cultivation of the land. A scientific estimate would show that we need another one and a half crore of bullocks to keep this land under proper cultivation.

So far as the question of milk supply is concerned I would like to place before you figures of milk supply of other countries as compared to that of our country.

In New Zealand milk supply *per capita* is 56 ounces, in Denmark 40, in Finland 63, in Sweden 61, in Australia 45, in Canada 35, in Switzerland 49, in Netherland 35, in Norway 43, in U.S.A. 35, in Czechoslovakia 36, in Belgium 35, in Australia 30, in Germany 35, in France 30, in Poland 22, in Great Britain 39 and in India it is only 7 ounces. Just think what will be the state of health of the people of a country where they get only seven ounces of milk per head. There is a huge infantile mortality in this country. Children are dying like dogs and cats. How can they be saved without milk?

Thus even if we look at this problem from the economic point of view, we come to the conclusion that for the supply of milk and agriculture also, the protection of the cow is necessary.

I would like to place before the House one thing more. It has been proved by experience that whatever laws we may frame for the prevention of the slaughter of useful cattle, their object is not achieved. In every province there are such laws. There people slaughter cattle and pay some amount towards fines and sometimes escape even that. Thus our cattle wealth is declining day by day.

Sometime back there was a law like that in Burma but when they saw that cattle could not be saved under it, they banned cow slaughter altogether.

I would like to emphasise one point to my Muslim friends also. I would like to see my country culturally unified even though we may follow different religions. Just as a Hindu and a Sikh or a Hindu and a Jain can live in the same family, in the same way a Hindu and a Muslim can also live in the same family. The Muslims should come forward to make it clear that their religion does not compulsorily enjoin on them the slaughter of the cow. I have studied a little all the religions. I have read the life of Prophet Mohammad Sahib. The Prophet never took beef in his life. This is a historic fact.

Pandit Thakur Das Bhargava pointed out just now that from the time of Akbar to that of Aurangzeb, there was a ban on cow slaughter. I want to tell you what Babar, the first Moghul Emperor told Humayun. He said: "Refrain from cow slaughter to win the hearts of the people of Hindustan."

Pandit Thakur Dass Bhargava just now referred to the Committee constituted by the Government of India for this purpose. It recommended that cow slaughter should be totally banned. I admit that the Government will require money for the purpose. I want to assure you that there will be no lack of money for this purpose. If the allowance given to cattle-pounds and Goshalas is realised from the people by law, all the money needed would be realised. Even if the Government want to impose a new tax for this purpose every citizen of this country will be too glad to pay it. Therefore our Government should not raise before us the financial bogey so often raised by the British Government. I have travelled a little in this country and I am acquainted with the views of the people.]

Sir, I wish to say a few words in English to my South Indian friends.

Mr. Vice-President : I am afraid that if I give you that permission, other speakers will not have sufficient time to speak. You asked for ten minutes and I have given you fifteen minutes plus four. If you insist on more time I am prepared to give it but you could have addressed them in English.

Prof. Shibban Lal Saksena—Amendment No. 87 of List 4.

Shri R. V. Dhulekar (United Provinces: General): Sir, I have sent a little request for permission to speak.

Mr. Vice-President : If honourable members will kindly take their seats, I shall be able to say something. We have adopted a certain procedure. The amendments have to be move done after another.

Mr. Shibban Lal Saksena.

Prof. Shibban Lal Saksena : Sir, I had given notice of an amendment in which I desired that cow slaughter should be banned completely. But after the agreement arrived at about Pt. Thakur Dass Bhargava's amendment, I waive my right to move my amendment.

An Honourable Member : But what is the amendment?

Prof. Shibban Lal Saksena : It is No. 87 in list IV, but I am not moving it.

Mr. Vice-President : In that case you cannot speak.

Prof. Shibban Lal Saksena : But there is no other amendment. I may speak on the clause now.

Pandit Balkrishna Sharma (United Provinces: General): Sir, may we know where we stand? Is the Honourable Member moving his amendment or is he taking part in the general discussion of the clause?

Prof. Shibban Lal Saksena : I am speaking generally on the clause.

Mr. Vice-President : In that case, you must wait till Shri Ram Sahai moves his amendment also No. 88, list IV.

Shri Algu Rai Shastry (United Provinces: General): On a point of order. Professor Saksena has copied out the whole of Pt. Thakur Dass' amendment and added only one or two words. In such cases only those new words should be taken as his amendment, and the whole of the amendment should not be owned by him.

Mr. Vice-President : But he has said he will be taking part in the general discussion only.

Now, Shri Ram Sahai.

Shri Ram Sahai (United State of Gwalior-Indore-Malwa: Madhya Bharat):
*[Mr. Vice-President. In regard to this matter I have already tabled an amendment seeking to add these words in article 9 of Part III "The State shall

*[] Translation of Hindustani speech.

[Shri Ram Sahai]

ban the slaughter of cows by law". But for the very reasons that led Mr. Bhargava not to move his amendment, I have also now decided not to move mine. Still there is another amendment in my name in Part IV of the Draft Constitution.

My only object in tabling this amendment was to secure complete prohibition of the slaughter of cows. But I find here that a section of the House does not like this. I also do not like, on my part, to make any proposal that may not receive the unanimous acceptance of the House nor a proposal which may lead to the curtailment of the freedom of the provinces in this matter. Under the Directive Principles of State Policy, Provinces will have the power to stop cow slaughter totally or partially. Though there is a ban in one form or another on the slaughter of cows, in almost all countries of the world, yet I would not emphasise that fact before you.

I hope Honourable Dr. Ambedkar will appreciate and accept the amendment moved by Mr. Bhargava because it is on the basis of the assurance to this effect given by him that the amendment has been moved as a compromise.

In view of that assurance I am not moving my amendment.]

Mr. Vice-President : There is another amendment which I had overlooked. It is No. 1005, standing in the name of Shri Ranbir Singh Chaudhari.

Chaudhari Ranbir Singh (East Punjab: General): Sir, I do not propose to move that amendment. But I would like to speak on the general clause.

Mr. Vice-President : All right. Professor Saksena.

Prof. Shibban Lal Saksena : Sir, there are two aspects to this question. One is the religious aspect and the other is the economic aspect. I shall first deal with the religious aspect. I am not one of those men who think that merely because a thing has a religious aspect, it should not be enacted as law. I personally feel that cow protection, if it has become a part of the religion of the Hindus, it is because of its economic and other aspects, I believe that the Hindu religion is based mostly on the principles which have been found useful to the people of this country in the course of centuries. Therefore, if thirty crores of our population feel that this thing should be incorporated in the laws of the country, I do not think that we as an Assembly representing 35 crores should leave it out merely because it has a religious aspect. I agree with Seth Govind Das that we should not think that because a thing has a religious significance, so it is bad. I say, religion itself sanctifies what is economically good. I wish to show how important cattle preservation is for us. Mahatma Gandhi in fact, has written in so many of his articles about his belief that cow protection was most essential for our country. From the scientific point of view, I wish to point out that Dr. Wright who is an expert on the subject in his report on our National Income says that out of 22 crores of national income per annum, about eleven crores are derived from the cattle wealth of India, representing the wealth of most of our people who live in the villages.

Sometimes it is supposed that we have too many cattle and that most of them are useless, and therefore, they must be slaughtered. This is a wrong impression. If you compare the figures, you will find that in India there are only 50 cattle per 100 of the population, whereas in Denmark it is 74, in U.S.A. 71, in Canada 80, in Cape Colony 120 and in New Zealand 150. So in New Zealand, there are about three times the number of cattle per head of population than we have here. So, to say that we have too many cattle is not right. As for useless cattle, scientists say that their excreta has value as manure and its cost is more than the expenditure on the upkeep of such cattle.

*[] Translation of Hindustani speech.

Then again, our agriculture depends mostly on cattle, as it is mostly of small holdings where the cultivators can not make use of tractors and other implements. They depend on bullocks, and if you compare the figure of bullocks, you will find that although we have got an area of 33½ million acres of land to cultivate, we have only six crores of bullocks which works at about 16 bullocks per 100 acres of land which is quite insufficient. Therefore, even from the point of view of our agricultural economy, we need a very large number of bullocks. It has been estimated that to meet our requirements, we would require about eleven crores more bullocks.

Then, coming to our requirements of milk and other products, if we compare our milk consumption with that of other countries, we find that it is only 5 oz. per head, and that is very little, compared to the figures of other countries. Therefore I think that we must have this amendment incorporated in our Constitution.

The other important evils in our country are infant mortality and tuberculosis which have their origin in deficient milk diet. These evils can be remedied only if we preserve our cattle and improve their breed, which is the purposes of this amendment. I therefore think that this amendment should be accepted.

Then there is the use of Vanaspati ghee, which has become an economic necessity, because there is no pure ghee available anywhere. If we are able to give effect to this amendment we can improve the breed of cattle and then we will be able to do away with the use of Vanaspati, which is so injurious to the health of the nation.

Also from the point of view of the requirements of our climate this amendment is very necessary. I think the amendment is very well worded. It says that we shall try to “organise agriculture and animal husbandry on modern and scientific lines and in particular take steps to preserve, protect, and improve the useful breeds of cattle and ban the slaughter of cow and other useful cattle, especially milch cattle and of child-bearing age, young stocks and draught cattle”. I think the amendment of Seth Govind Das is included in it. I am sure, representatives of people elected on adult suffrage will surely incorporate in their State laws legislation which will give effect to this amendment and we shall then have in our land no cow slaughter. I therefore support this amendment wholeheartedly.

Dr. Raghu Vira (C.P. and Berar: General): Sir, I think it my most bounden duty in this House to express the feelings, feelings which no words can really convey, that not a single cow shall be slaughtered in this land.

गौर अहन्या भवति। न हिंसितव्या। न हिंसितव्या।
यः कश्चिद् गां हिनस्ति महापातकी भवति।

These sentiments which were expressed thousands of years ago still ring in the hearts of tens of millions of this land. My friends tell me that it is an economic question, that Muslim kings have supported the preservation of cows and banned the killing of the cows. That is all right. But when we attain freedom, freedom to express ourselves in every form and manner—our Preamble says ‘There shall be liberty of expression’—is that merely expression of thought or is that the expression of our whole being? This country evolved a civilization and in that civilization we gave prominent place to what we call *Ahimsa* or non-killing and non-injury, not merely of human beings but also of the animal kingdom. The entire universe was treated as one and the cow is the symbol of that oneness of life and are we not going to maintain it? *Brahma hatya* and *go-hatya*—the killing of the learned man, the scientist, the philosopher or the sage and the killing of a cow are on a par. If we do not allow the killing of

[Dr. Raghu Vira]

a scientist or a sage in this land it shall certainly be ordained by this House that no cow shall be killed. I know in my childhood we were not allowed to drink until the cow has had its drink and we were not allowed to eat till the cow has had its meal. The cow takes precedence over the children of the family, because she is the mother of the individual, she is the mother of the nation. Ladies and gentlemen in this House, I appeal to you to look back with serenity and to search your souls. We are representatives of millions of our people.....

Mr. Vice-President : The Honourable Member must address the Chair. This is not a public platform.

Dr. Raghu Vira : Through you, Sir, I wish to convey the feeling of this House and other people of this country that the cow shall be saved in the interests of the country and in the interests of our culture. And with these words, Sir, I take your leave.

Shri R. V. Dhulekar : Sir, I always believed from my childhood that India had a mission and because India had a mission therefore I wanted the independence of this country. Many millions of the people, who died for this country, also like me had believed that India had a mission, and what was that mission? The mission was that we should go about the world and carry the message of peace, love, freedom and *Abhaya* (freedom from fear) to every body in the world. When independence was achieved I was happy to believe that I shall carry out my mission, that I shall carry to the world this message, *viz.*, that India has got no grudge against any country in the world, it has no expansionist ideas but that it is going to save the whole world from the danger of internecine war, bloodshed and many other ills that humanity is suffering from. In the same way and for the same purpose I appeal to the House to discuss this subject from a dispassionate point of view. It is not the crumbs, the loaves and fishes that we are fighting for. Loaves and fishes were left behind by some people thirty years back and by some others fifty years back. We did not want to achieve this independence for loaves and fishes. Those who want them are welcome but men like us who have a mission or a message for the world cannot love loaves and fishes. We do not want ambassadorship, premier ships, ministerships or wealth. We want that India should declare today that the whole human world as well as the whole animal world is free today and will be protected. The cow is a representative of the animal kingdom, the *peepal* tree is the representative of the vegetable kingdom, the touchstone or the *shaligram* is the representative of the mineral world. We want to save and give peace and protection to all those four worlds and therefore it is that the Hindus of India have put these four things as representatives of this world—the human being, the cow, the *peepal* and the *shaligram*. All these were worshipped because we wanted to protect whole humanity. Our *Upanishad* says:

ईशावास्यमिदम् सर्वम् यात्किञ्चित् जगत्यां जगत।
तेन त्यक्तेन भुञ्जीथाः मागृधः कस्य स्वित् धनम्॥

We do not want this property, we do not want this food; we do not want this raiment—not because we cannot take it; not because we are cowards; not because we cannot carry Imperialism to the four corners of the world; but we may not have it because we see the whole world identical with our own soul. So our humanity which resides in this *Bharatvarsha* for several thousand years has marched forward and has taken the cow within the fold of human society. Some people here talked to me and said “You say that you want to protect the cow and want it to be included in the Fundamental Rights. Is the protection of the cow a fundamental right of a human being? Or is it the fundamental right of the cow?” I replied to them and tell them suppose it is a question of saving your mother or protecting your mother. Whose fundamental right is

it? Is it the fundamental right of the mother? No. It is my fundamental right to protect my mother, to protect my wife, my children and my country. In the Fundamental Rights you have said that you will give justice, equity and all these things. Why? Because you say "it is your fundamental right to have justice". What does that justice mean? It means that we shall be protected, our families shall be protected. And our Hindu society, or our Indian society, has included the cow in our fold. It is just like our mother. In fact it is more than our mother. I can declare from this platform that there are thousands of persons who will not run at a man to kill that man for their mother or wife or children, but they will run at a man if that man does not want to protect the cow or wants to kill her.

With these few words, I wish to say that these two amendments which have been put forward by Mr. Bhargava and Seth Govind Das should be dealt with dispassionately. I shall appeal to you that only that amendment should be passed which is very clear. If Mr. Bhargava's amendment is doubtful, then certainly Seth Govind Das's amendment should be passed.

Mr. Vice-President : Following my usual practice I must give an opportunity to people who hold different views from the majority view and I am therefore calling upon Mr. Lari to speak.

Mr. Z. H. Lari (United Provinces : Muslim): Mr. Vice-President, I appreciate the sentiments of those who want protection of the cow—may be on religious grounds or may be in the interests of agriculture in this country. I have come here not to oppose or support any of the amendments but to request the House to make the position quite clear and not to leave the matter in any ambiguity or doubt. The House, at the same time, must appreciate that Mussalmans of India have been, and are, under the impression that they can, without violence to the principles which govern the State, sacrifice cows and other animals on the occasion of *Bakrid*. It is for the majority to decide one way or the other. We are not here to obstruct the attitude that the majority community is going to adopt. But let there not linger an idea in the mind of the Muslim public that they can do one thing, though in fact they are not expected to do that. The result has been, as I know in my own Province on the occasion of the last *Bakrid*, so many orders under Section 144 in various places, districts and cities. The consequence has been the arrests of many, molestation of even more, and imprisonment of some. Therefore, if the House is of the opinion that slaughter of cows should be prohibited, let it be prohibited in clear, definite and unambiguous words. I do not want that there should be a show that you could have this thing although the intention may be otherwise. My own submission to this House is that it is better to come forward and incorporate a clause in Fundamental Rights that cow slaughter is henceforth prohibited, rather than it being left vague in the Directive Principles, leaving it open to Provincial Governments to adopt it one way or the other, and even without adopting definite legislation to resort to emergency powers under the Criminal Procedure. In the interests of good-will in the country and of cordial relations between the different communities I submit that this is the proper occasion when the majority should express itself clearly and definitely.

I for one can say that this is a matter on which we will not stand in the way of the majority if the majority wants to proceed in a certain way, whatever may be our inclinations. We feel—we know that our religion does not necessarily say that you must sacrifice cow; it permits it. The question is whether, considering the sentiments that you have, considering the regard which the majority have for certain classes of animals, do they or do they not permit the minority—not a right—but a privilege or a permission which it at present has? I cannot put it higher. I won't class it as interference with my religion. But I do not want that my liberty should be taken away, and especially the peaceful celebration of any festival should be marred by the promulgation of

[Mr. Z. H. Lari]

orders under Section 144. I have come only to plead that. Therefore, let the leaders of the majority community here and now make it clear and not leave it to the back-benchers to come forward and deliver sermons one way or the other. Let those who guide the destinies of the country, make or mar them, say definitely "this is our view", and we will submit to it. We are not going to violate it. This is the only thing I have come to say. I hope you will not misunderstand me when I say this. It is not due to anger, malice or resentment but it is out of regard for cordial relations between the communities, and what is more, due to the necessity of having a clear mind that I say this. Henceforward the Muslim minority must know where they stand so that they may act accordingly, and there be no occasion for any misunderstanding between the majority and the Muslims on this point.

In view of what I have said, I would not oppose nor support any of the amendments, but I would invite a very clear and definite rule instead of the vague phraseology of the clauses which have been put forward. It proceeds to say that we should have modern and scientific agriculture. Modern and scientific agriculture will mean mechanisation and so many other things. The preceding portion of the clause speaking about modern and scientific agriculture and the subsequent portion banning slaughter of cattle do not fit in with each other. I appreciate the sentiments of another member who said "this is our sentiment, and it is out of that sentiment that we want this article". Let that article be there, but for God's sake, postpone the discussion of the article and bring it in clear, definite and unambiguous terms so that we may know where we stand and thereafter there should be no occasion for any misunderstanding between the two communities on this issue which does not affect religion but affects practices which obtain in the country.

Syed Muhammad Saiadulla (Assam : Muslim): Mr. Vice-President, Sir, the subject of debate before the House now has two fronts, the religious front and the economic front. Some who want to have a section in our Constitution that cow killing should be stopped for all time probably base it on the religious front. I have every sympathy and appreciation for their feelings; for, I am student of comparative religions. I know that the vast majority of the Hindu nation revere the cow as their goddess and therefore they cannot brook the idea of seeing it slaughtered. I am a Muslim as everyone knows. In my religious book, the Holy Qoran, there is an injunction to the Muslims saying—

"La Ikraba fid Din", or

or, there ought to be no compulsion in the name of religion. I therefore do not like to use my veto when my Hindu brethren want to place this matter in our Constitution from the religious point of view. I do not also want to obstruct the framers of our Constitution, I mean the Constituent Assembly if they come out in the open and say directly: "This is part of our religion. The cow should be protected from slaughter and therefore we want its provision either in the Fundamental Rights or in the Directive Principles."

But, those who put it on the economic front, as the honourable Member who spoke before me said, do create a suspicion in the minds of many that the ingrained Hindu feeling against cow slaughter is being satisfied by the backdoor. If you put it on the economic front, I will place before you certain facts and figures which will show that the slaughter of cows is not as bad as it is sought to be made out from the economic point of view. I have very vast and varied experience of the province of Assam and therefore I will quote you figures from Assam only. In the year 1931, under the orders of the then Central Government a census of the cattle wealth of the province was undertaken. We found that in 1931, Assam had 70 lakhs of cattle as against a human population of 90 lakhs. It will stagger my friends from the other parts

of India when I place before them the fact that the average yield of an Assam cow is but a quarter seer of milk daily and that it is so puny in stature that its draught power is practically nil. Assam is dependent for her draught cattle on the province of Bihar. During the last war, when there was tremendous difficulty as regards transport, we could not get any cattle from Bihar, with the result that we were compelled to use our own small cattle for the purpose of ploughing. In order to conserve this cattle, the Government of Assam passed a law prohibiting the slaughter of cattle in milch or cattle which could be used for the purpose of draught. But, wonder of wonders, I personally found that droves of cattle were being taken to the military depots for being slaughtered not by Muslims, but by Hindus who had big "*sikhas*" on their heads. When I saw this during my tours I asked those persons why, in spite of their religion and in spite of Government orders, they were taking the cattle to be slaughtered. They said: "Sir, these are all unserviceable cattle. They are all dead-weight on our economy. We want to get ready cash in exchange for them".

My friend Seth Govind Das mentioned the case of cattle that were killed. I questioned him privately. The figures in the Hides and Skins Report are from the hides. I know there is a community amongst Hindus themselves who go by the name of 'Rishis' in our part of the country whose sole occupation in life is to take away the skin from dead cattle. They have got absolutely no objection even to flay the skin of slaughtered cattle. The figures given by Seth Govind Das include the numbers of both the dead and slaughtered cattle. Similarly the figures given by Pandit Bhargava are not the figures of cattle slaughtered during normal times. They were, as Honourable Members know, war years and, on account of the fact that the Japanese had invaded India through Assam, Assam alone had to accommodate about 5 lakhs of fighting men and an equal number of camp followers. Cattle from all parts of India were then taken to Assam to feed these ten lakhs of people from America and elsewhere, whites as well as blacks. Even the Chinese soldiers were there in Assam, not to speak of soldiers from every part of India. Therefore, those were abnormal years and you can not base your arguments on the figures of the years 1945 and 1946.

Pandit Thakur Dass Bhargava: But, during those years, there was a ban on the slaughter of cattle imposed by the Government of India. They had issued orders banning the slaughter of cattle. It is in spite of that that the figures of slaughter have been so high.

Syed Muhammad Saiadulla: I do not want to be side-tracked. The point is that there are cattle and cattle. We were trying to get cattle from West Punjab just before Partition. The cattle there on an average give half a maund of milk. The Assam Government have been trying to improve the milk yield of their cattle by introducing cattle from England, Australia and the Punjab. We have yet touched only the fringe of the problem with our Government cattle farms and we have succeeded only in Shillong. The milk yield there has increased but in the plains the milk yield is only quarter seer daily.

The motion of Pandit Bhargava is that, in order to improve the economic condition of the people, we should try scientific measures. That presupposes that the useless cattle should be done away with and better breeds introduced.

Now, I ask you what is to be done with these seventy lakhs of cattle that we have got in Assam? Therefore, Sir, if you place it on the economic front, you are met with this proposition that we have got such a big number of uneconomic cattle that must be done away with before you can supplant them with a better breed. Another point is.....

Pandit Thakur Dass Bhargava : Does not the honourable Member know that many useless cattle have been turned into good cattle by goshalas and other organisations and at least 90 per cent can be salvaged by proper feeding and treatment.

Syed Muhammad Saiadulla : Sir, I do not know of goshalas in other parts and I do not want to reply to Pandit Bhargava as I have only ten minutes to speak. I was telling the House that there is a lurking suspicion in the minds of many that it is the Muslim people who are responsible for this slaughter of cows. That is absolutely wrong.

Pandit Thakur Dass Bhargava : Quite wrong.

Syed Muhammad Saiadulla : I am glad that the Mover of this amendment says that it is quite wrong. There are lakhs of Muslims who do not eat cow's flesh. I am not speaking in any sense of braggadocio when I say that I myself do not take it. Before the partition the Muslims were only one-fourth of the total population. They did not raise sufficient cattle to kill. It is the majority people who sold their cattle to the Muslims to be killed. Now the Muslims form only one-tenth of the population of the Dominion of India. Do you think that the Mussalmans can raise sufficient cattle to slaughter them? Muslims are poorer than our Hindu brethren. The Muslims are as much agriculturists as the Hindus and the cattle in their farms form their capital asset, the natural source of their power to till the land and produce the food which will maintain them for the entire year. Therefore it is wrong to say that the Muslims kill the cows either to offend my Hindu friends or for any other purpose. Fortunately or unfortunately the Muslims are a meat-eating people. The price of mutton is so high that many poor people cannot buy it. Therefore on rare occasions they have to use the flesh of the cow. From my own knowledge, it is only the barren cows that go to the butcher. Speaking for Assam, it is the hill people who are the worst culprits in this respect. In the town of Shillong, there is only one Muslim butcher against seventy from the hill people, who deal in beef. Sir, in these circumstances, in the name of the economic front, I cannot lend my support to the motion moved by Pandit Bhargava. I am sorry that for the reasons given already, I am compelled to oppose the amendment of Seth Govind Das.

The Honourable Dr. B. R. Ambedkar : I accept the amendment of Pandit Thakur Dass Bhargava.

Mr. Vice-President : I shall now put the amendments one by one to the vote. The amendment of Pandit Thakur Dass Bhargava. That is No. 72 in List II.

Seth Govind Das : What about my amendment which has been moved as an amendment to Pandit Bhargava's amendment? That should be put to the vote first.

Mr. Vice-President : You moved your amendment as an amendment to No. 1002 which was not moved.

Pandit Thakur Dass Bhargava : I substituted No. 72 for No. 1002.

Seth Govind Das : My amendment is an amendment to the amendment which Pandit Bhargava just moved.

Mr. Vice-President : All right. I am willing to put your amendment to the vote. Now, the amendment of Seth Govind Das, *i.e.*, 73 in List No. II, is now put to the vote.

The question is:

“That in amendment No. 1002 of the List of Amendments, in article 38-A, the words ‘and other useful cattle, specially milch cattle and of child bearing age, young stocks and draught cattle’ be deleted and the following be added at the end:—

The word ‘Cow’ includes bulls, bullocks, young stock of genus cow.’ ”

The amendment was negatived.

Mr. Vice-President : Now amendment No. 72 in List II by Pandit Thakur Dass Bhargava is put to the vote.

The question is:

“That in amendment No. 1002 of the List of Amendments, for article 38-A, the following be substituted:—

‘38-A. The State shall endeavour to organise agriculture and animal husbandry in modern and scientific lines and shall in particular take steps for preserving and improving the breeds of cattle and prohibit the slaughter of cow and other useful cattle specially milch and draught cattle and their young stocks.’ ”

The motion was adopted.

Mr. Vice-President : Article 38-A will consist of the amendment of Pandit Thakur Dass Bhargava. The question before the House is:

“That article 38-A in the form just mentioned form part of the Constitution.”

The motion was adopted.

Article 38-A, as amended, was added to the Constitution.

Article 39

Mr. Vice-President : Shall we now go on to the next item in the agenda? No. 1003 has been covered by one of the previous amendments. No. 1004 has also been disposed of. Then No. 1005. The first part of it cannot be moved, but the second part can be moved. (Not moved.)

Then the motion before the House is that article 39 forms part of the Constitution. There are several amendments to this.

(Nos. 1006, 1007 and 1008 were not moved.) No. 1009 by Dr. Ambedkar and his colleagues.

The Honourable Dr. B. R. Ambedkar : Sir, I move:

“That in article 39, after the words ‘from spoliation’ the word ‘disfigurement’ be inserted,

Prof. Shibban Lal Saksena : Mr. Vice-President, Sir, I beg to move:

“That in article 39, after the words ‘from spoliation’ the word ‘disfigurement’ be inserted, and all the words after the words ‘may be’ to the end of the article be deleted.”

The Honourable Dr. B. R. Ambedkar : Why do you want to make a speech when I am going to accept it?

Prof. Shibban Lal Saksena : I am glad that Dr. Ambedkar is going to accept it. Because this article is to be a directive principle, it should not mention about laws of Parliament and so we must omit the words “to preserve and maintain according to law made by Parliament all such monuments or places or objects.”

The Honourable Dr. B. R. Ambedkar : Sir, I accept the amendment.

Mr. Vice-President : There is another amendment in the name of Shri Ram Sahai, which is identical in words. I shall put this to vote.

Shri Ram Sahai : *[Mr. Vice-President, Sir, there are two amendments in my name, and one of them is covered by the amendment just moved by Mr. Shibban Lal Saksena. As Mr. Saksena’s amendment has been accepted by Dr. Ambedkar, I need not move mine. Now I move my other amendment that seeks to replace the words “It shall be the obligation of the State” in Article 39 by the words “The State shall”. My object in moving the amendment is that the words “The State shall” should be in Article 39 just as they have been put in the preceding article and the words “It shall be the obligation of the State” should not be put in here. I have moved this amendment to bring all these Articles into conformity. I hope Dr. Ambedkar will accept it and so will the House.]

Mr. Vice President : I am now putting the amendments one by one.

The question is:

“That in article 39, after the words ‘from spoliation’ the word ‘disfigurement’ be inserted.”

The motion was adopted.

Mr. Vice-President : There is the amendment of Prof. Shibban Lal Saksena.

* [] Translation of Hindustani speech.

Begum Aizaz Rasul (United Provinces : Muslim): May I know if Dr. Ambedkar has accepted Prof. Shibban Lal Saksena's amendment? If not, I wish to oppose the second part.

Mr. Vice-President : There is no second part so far as I am aware. It only refers to deletion of certain words. The first part is the same.

Begum Aizaz Rasul : I wish to oppose that motion.

Mr. Vice-President : I am afraid it is too late now. The question is:

"That in article 39, after the words 'from spoliation', the word 'disfigurement' be inserted, and all the words after the words 'may be' to the end of the article be deleted."

The motion was adopted.

Mr. Vice-President : The question is:

"That in article 39, for the words 'It shall be the obligation of the State to', the words 'The State shall' be substituted."

The motion was negatived.

Shri Ram Sahai : I want to point out that Dr. Ambedkar has accepted my amendment. I would request you kindly to again call for voting.

Mr. Vice-President : I put the matter before the House and the House has rejected it, and whatever the reasons might be, it is not for me to reopen the matter.

I will put that clause in the form in which it now stands before the House.

Shri Ram Sahai : *[My submission is, Sir, that Dr. Ambedkar has already accepted my amendment. I demand division on this question.]

Mr. Vice-President : It is too late now. Why don't you stand up in proper time and demand a division? The matter is now closed. The question is:

"That article 39, as amended, do stand part of the Constitution."

The motion was adopted.

Article 39, as amended, was added to the Constitution.

Article 39-A

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I move:

"That after article 39, the following new article be inserted:

'39-A. That State shall take steps to secure that, within a period of three years from the commencement of this Constitution, there is separation of the judiciary from the executive in the public services of the State.' "

I do not think it is necessary for me to make any very lengthy statement in support of the amendment which I have moved. It has been the desire of this country from long past that there should be separation of the judiciary from the executive and the demand has been continued right from the time when the Congress was founded. Unfortunately, the British Government did not give effect to the resolutions of the Congress demanding this particular principle being introduced into the administration of the country. We think that the time has come when this reform should be carried out. It is, of course, realised that there may be certain difficulties in the carrying out of this reform; consequently this amendment has taken into consideration two particular matters which may be found to be matters of difficulty. One is this: that we deliberately did not make it a matter of fundamental principle, because if we had made it a matter of fundamental principle it would have become absolutely obligatory instantaneously on the passing of the Constitution to bring about the separation of the judiciary and the executive. We have therefore deliberately put this matter in the chapter dealing with directive principles and there too we have provided that this reform shall be carried out within three years, so that there is no room left for what might be called procrastination in a matter of this kind. Sir, I move.

Shri T. T. Krishnamachari (Madras : General): Mr. Vice-President, Sir, this is an after-thought of Dr. Ambedkar or, shall I say, of the rump of the

* [] Translation of Hindustani speech.

Drafting Committee. I do not know why they did not think of it at the time they drafted this particular Part of the Draft Constitution. Probably, he felt that in view of the fact that quite a number of new items have crept into this Part which might be called a veritable dust-bin of sentiment, he might also find a place in it for this particular amendment of his, I see no objection actually to this or any other amendment coming in because this dust-bin seems to be sufficiently resilient as to permit any individual of this House to ride his hobby-horse into it. But, I cannot understand Dr. Ambedkar's explanation when he said that he did not want to put this in the Fundamental Rights. He only wanted to make it permissive; but then he insists on a three-year limit within which this has to be carried out! As a matter of fact, when he himself realises it is not mandatory, what is the object of putting a three-year limit? The mere expression of the wishes of the framers of this Constitution that there should be separation of the judiciary from the executive is quite enough. It ought to be put into practice by the various Provincial Governments as early as possible. Where is the merit of the three-year limit in this particular matter? I personally would have favoured the amendment proposed by my friend Pandit Lakshmi Kanta Maitra, amendment No. 960.

The learned Doctor said that this has been practically one of the basic demands of the Congress ever since it was founded. I believe it is so; I do not want to deny it. I also remember that an eminent Congressman, who was Prime Minister of one of the major provinces in this country, once said that ideas about the separation of the judiciary from the executive have changed, and that because a foreign Government was no longer in power, separation need not be effected. This does not seem to be such a cardinal principle as politicians chose to believe it to be in the days when the British were in power.

The learned Doctor must have known that some provinces have already taken some steps in the matter of separating the judicial and executive functions. I think three major provinces have moved in the matter. Actually they have not made much progress, probably for various reasons, either other preoccupations or finance, or whatever it may be. I do not see why we should ask them to do this within three years when probably it could be done in six or seven years. What I really feel about this amendment is that there is no rhyme or reason in Dr. Ambedkar seeking to tie the hands of provincial Governments by saying that this should be done in three years, though actually, he cannot tie the hands of the provincial Governments by this directive as the provincial Governments can ignore this provision. We are merely voicing a pious wish and tying it up with a period within which we know that it may not be carried into effect.

In this connection, I would like to strike a note of warning. There are several amendments tabled in regard to this question of judiciary which are to be moved by the rump of the Drafting Committee, which are in the nature of an after-thought. For a Professor, it is all very good to envisage a complete separation of the judiciary and the executive. But in actual practice, it might work out in a different way altogether. It might also be that in trying to give the judiciary an enormous amount of power,—a judiciary which may not be controlled by any legislature in any manner except perhaps by the means of ultimate removal—we may perhaps be creating a Frankenstein which would nullify the intentions of the framers of this Constitution. I have in mind the difficulties that were experienced in another country where they have a rigid Constitution, the United States of America, not merely during the time of the New Deal of President Franklin Roosevelt, but also at the time of President Theodore Roosevelt when the Progressive Party felt that the judiciary was interfering unduly with the liberalising of the administration. My feeling is that while I have the greatest respect for Dr. Ambedkar's views on this matter, to put the Constitution of the country in a straight jacket by giving undue power

[Shri T. T. Krishnamachari]

to the judiciary at a time when we know that in the matter of recruitment to the judiciary, we are not able to get A Class men at all, is unwise. I see instances of judicial officers, Judges of the High Courts becoming administrators, and coming back to the judiciary, because, I suppose, the Government is not able to find sufficient material from the Bar to fill vacancies in the judiciary. It seems in every province the type of people that come up to the top so far as judicial officers are concerned is not about the best that we could possibly get. In these circumstances, this trend of empowering the judiciary beyond all reason and making it a regular administration by itself, will perhaps lead to a greater danger than we can now contemplate. I do not know if at this stage I can appeal to the mover of this amendment to remove the three-year limit, which is superfluous and meaningless and which may not be carried into effect, and which would then be a matter of inducing the provincial Governments to flout the Constitution, and allow the view to be expressed as a mere sentiment as other Articles in this Part happen to be. I do not know if Dr. Ambedkar will ever be persuaded, particularly in view of the fact, I think, that the Congress party has approved of the Draft in this particular form; but I think there is no harm in pointing out the obvious difficulty in the wording of this particular amendment, which perhaps is otherwise quite unexceptionable.

Shri B. Das (Orissa: General): Mr. Vice-President, Sir, I suggest to the House to postpone consideration of this amendment of Dr. Ambedkar to a later date. The Congress is meeting very shortly at Jaipur. When the people were harassed by the former British Government, we thought we had no justice from the British Government and we wanted separation of the judiciary from the executive. That suspicion does not exist now. We have to examine whether separation today is necessary.

Unfortunately, I find India is lawyer-ridden. In this House, more than fifty per cent. of the members are lawyers. The Municipalities have more lawyers than are necessary. The Ministry has got a large number of lawyers: I am speaking of our own Government here. Though it is a pious wish of this House that in three years the judiciary must be separated from the executive, because it is not included in the Fundamental Rights, we have to consider, and I think this House will allow the Congress at Jaipur to consider, whether the huge expenses that would be incurred, the country can afford to bear.

There had been Pay Committees of Government of India and the Provinces who have not thought of lowering the salary level of the Executive or Judicial Officers. This House had accepted Village Panchayats. Dr. Ambedkar was generous to refer to the Congress principles. Is it practicable to-day? I support my friend Mr. Krishnamachari that it is not possible in three years. It will take ten or twenty years to give effect. Otherwise most of the provincial Governments will go bankrupt if they pay the salaries that the Judicial Officers are getting. Incidentally I will allude to one fact. I find even the Government of India recently increased the number of Federal Court Judges from three to five. We go on generously providing high judicial appointments and now we want to provide separate judiciary from the executive, provide more lawyers and munsifs and district judges to allow more lawyers to argue the case on both sides. Where will the poor man be! I would respectfully suggest to this House to allow this amendment to stand over and let us see what the Jaipur Congress thinks on the subject after one year of freedom. Remember the Congress has not met since we won our freedom or so-called freedom from the British. If we have won our independence, let us try to think it out in our era of independence.

Mr. Vice-President : The House stands adjourned till 10 A.M. tomorrow.

The Assembly then adjourned till Ten of the Clock on Thursday, the 25th November 1948.