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EMINENT PARLIAMENTARIANS MONOGRAPH SERIES

PANAMPILLI GOVINDA MENON

LOK SABHA SECRETARIAT
NEW DELHI
1990

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LSS(PRIS-POL)/(EPM)/5

October, 1990

Price: Rs. 50.00

Published under rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Seventh Edition) and printed by the Manager, Photo-Litho Wing, Government of India Press, Minto Road, New Delhi.

FOREWORD

It is only appropriate that the Indian Parliamentary Group decided to celebrate the birth anniversaries of eminent parliamentarians with a view to recalling and placing on record the contributions made by them to the country's parliamentary life and polity. As a part of this activity, a monograph series—known as the 'Eminent Parliamentarians Monograph Series' was started in March 1990 with a Monograph on Dr. Ram Manohar Lohia. This was followed by similar Monographs being brought out on Dr. Lanka Sundaram, Dr. Syama Prasad Mookerjee, and Pandit Nilakantha Das, in connection with their birth anniversaries.

The present Monograph—the fifth in the series—is a modest attempt to recapitulate the services rendered to the society by Shri Panampilli Govinda Menon who distinguished himself not only as an administrator, gifted orator and eminent lawyer but also as a reputed parliamentarian.

The volume consists of two parts. Part one contains a brief profile of Shri Govinda Menon. Part II of the Monograph contains excerpts from some of the selected speeches Shri Menon delivered in the Lok Sabha and the Rajya Sabha.

On the occasion of his birth anniversary, we pay our respectful tributes to the memory of Shri Panampilli Govinda Menon and hope that this monograph would be read with interest and found useful.

New Delhi,
December, 1990.

RABI RAY
Speaker, Lok Sabha
and
President, Indian Parliamentary Group

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PART ONE

PANAMPILLI GOVINDA MENON: A PROFILE

1

Shri Panampilli Govinda Menon: A Profile

A distinguished Parliamentarian, able administrator, spell-binding orator and eminent lawyer, Shri Panampilli Govinda Menon was born at Kakkadu, a village near Chalakudy in Trichur District on 1 October, 1908. He had his school education at Chennamamgalam High School in Trichur District and Maharaja's High School at Ernakulam. Besides his college education at St. Thomas College, Trichur he took his Honours Degree in Physics from St. Joseph's College, Trichi and Law Degree from the Law College, Madras. He started practice as an Advocate at Irinjalakuda in 1932 and later in 1939 he shifted his practice to the High Court of Kerala, Ernakulam.

Even while Shri Panampilli was a student, he was interested in politics. He had actively participated in the Vaikom Satyagraha and other political activities. Naturally, it was impossible for him to keep away from politics in later life and he became an active worker of the Prajamandalam and later he joined the Indian National Congress. He served as member of Kerala Pradesh Congress Committee and All India Congress Committee. When the Congress Party split in 1969, he sided with Smt. Indira Gandhi. He remained a Congressman till his death on 23 May, 1970.

The eventful political career of Shri Menon began with his participation in the Temperance Movement and in the campaign for the boycott of foreign cloth. He was one of the pioneers of Cochin State Prajamandal, an organisation formed with the object of achieving a Responsible Government and continued as one of the chief activists of the organisation. In 1935 he was elected to the Cochin State Legislature and was re-elected in

1938. He resigned membership of the Legislature in 1942 in protest against the repressive policy of the then Cochin Government. In the same year he was arrested and detained under the defence rules in the Viyyoor Central Jail for ten months. He again returned to the Cochin Legislative Assembly from Ernakulam Constituency as a Prajamandal candidate in 1945. He became Food Minister of Cochin in September 1946.

With the advent of independence, Shri Menon became Chief Minister of the then State of Cochin in August, 1947. However, because of a police lathi charge on 17 October, 1947 he resigned from the Chiefministership. Meanwhile Shri Menon had already been elected to the Constituent Assembly of India and he served with distinction in many of its Committees. He was elected once again to the Cochin Legislative Assembly in 1948 and became a member in the ministry headed by Shri Ikkanda Warrier. He also served as a member of the Buch Committee on the integration of Cochin and Travancore States.

With the formation of Travancore-Cochin State in 1949 he became a member of the cabinet headed by Shri T.K. Narayana Pillai. After the first general elections on the basis of adult suffrage in 1952, he became Finance Minister in Shri A.J. John's Ministry. After the general elections of 1954, he became the leader of the Congress Party in the Assembly and in 1955 he became the Chief Minister of Travancore-Cochin State. His Ministry, however, resigned in March 1956. In the first general elections to the Kerala Legislative Assembly in 1957 after the re-organisation of the State, he was defeated. Shri Menon was elected to the Lok Sabha in 1962 from the Mukundapuram Constituency in Kerala. On 24 January, 1966 he was appointed the Minister of State in charge of Food, Agriculture, Community Development and Cooperation in the Central Cabinet headed by Smt. Indira Gandhi. In the general elections to the Lok Sabha in 1967, Shri Menon had the distinction of being the only Congress candidate to have been returned from Kerala. He was appointed Law Minister on 13 March, 1967 and on 22 August, 1967 he was given the charge of the Ministry of Law and Social Welfare. He also held the portfolio of the Ministry of Railways

during 4 November, 1969 to 18 February, 1970. He held all these offices with diligence, sincerity and great sense of devotion.

Even before his election to Lok Sabha in 1962, Shri Govinda Menon had made his valuable contribution to the national politics by serving as a member of the Constituent Assembly representing the State of Cochin in 1946. He was also a member of the provisional Parliament. Later he served as a member of the Third Finance Commission. Shri Menon was also one of the leaders of the library movement in Kerala. He was a voracious reader and a noted orator.

Shri Menon was always considered the champion of the cause of the labour and the under-privileged. Himself a trade unionist, he was responsible for bringing in many a labour legislation in his home State when he was the Labour Minister. As an Education Minister he tried to improve the status of the language teachers in the State.

Shri Menon was the deputy leader of the Indian delegation to the International Labour Organisation (ILO) Conference of 1953. He was also the leader of the Indian delegation to the Inter Parliamentary Conference held in Belgrade in 1963. In 1964, he was nominated the Chairman of the Parliamentary Committee on Public Undertakings. Shri Menon led the Indian team to the 1966 Seoul meeting of the Food and Agriculture Organisation as well as to the World Conference of Social Welfare Ministers held in New York in 1968*.

A Constitutional and Parliamentary Expert

Shri Menon had his background as a lawyer. At the national level he had, as mentioned earlier, served in the Constituent Assembly, the provisional Parliament and the Third and Fourth Lok Sabhas. His expertise in parliamentary procedure and constitutional matters was deep and he could give lucid explanations to even vexed problems like keeping of special

*Based on information received from the Secretariat of the Kerala Legislative Assembly.

provisions relating to Jammu and Kashmir in the Constitution. Intervening in a debate on the extension of certain labour laws to the State of Jammu & Kashmir he said*:

> When the Constitution was enacted by the Constituent Assembly, there were only two articles of the Constitution, namely article 1 and article 370 which would apply to Jammu and Kashmir. With respect to the other princely States, the entire Constitution extended to those States. The object of the Constituent Assembly in enacting article 370 was to emphasise the fact that there was an instrument of accession by which Jammu and Kashmir became part of India.
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> *** *** ***
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> With respect to all other States the instrument of accession got obrogated on the 25th November, 1949 on account of those States accepting the entire Constitution-....But in the case of Jammu and Kashmir alone, the covenant provided that only those provisions of the Constitution which referred to Kashmir would apply to that State.
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> *** *** ***

Shri Menon emphasised that a perusal of the texts of the Proclamations issued by the rulers of Kashmir and Mysore would show the differences in the two situations. He added:

> On the 25th November, 1949, the Constitution was adopted by the sovereign authority of Kashmir, namely the Ruler thereof only to the extent that Constitution applied to Jammu and Kashmir...At the time the Constitution was enacted and these instruments were perfected, there were certain reasons why India and the Constituent Assembly of India and the Government of India had to emphasise on the Instrument of Accession between the Ruler of Jammu and Kashmir and India. That is why article 370 has been framed in the manner in which it has been framed. It is the

*Lok Sabha Debates 2, August 1969, cc. 433-439.

attempt of Government to see that this special position of Jammu and Kashmir is eroded little by little and by patient statesmanship in the course of a few years so that the entire position will be eroded and Jammu and Kashmir will become like any other State in India.

Similarly Shri Menon had given a very convincing explanation in regard to the need for having a special majority at all stages of parliamentary voting with respect to constitution amendment bills, in reply to a matter raised under Rule 377 (raising a matter which is not a point of order) of the Rules of Procedure and conduct of Business in Lok Sabha by Shri Madhu Limaye contending to the contrary. Shri Menon Said*:

Shri Madhu Limaye's contention in effect amounts to saying that the rules in Chapter XI of our rules, Rule 155, etc. are *ultra vires* because they are against the provisions. Article 100 of the Constitution, and the Rules are framed under Article 118. My submission is this Article 100 provides for general matters. It refers not only to Bills, but to Resolutions, to Motions, to everything. The process of amending the Constitution is referred to in Article 368 and when we are considering a Bill under Article 368 the Parliament is legislating in its constituent power. And, on other occasions it is legislating within its normal legislative power. Article 368 is a code by itself so far as amendment is concerned. It says that the Bill shall be passed by a special majority, only if there is a special majority and in certain cases, only after getting the concurrence of more than half the number of States in India.

*** *** ***

When the Parliament is using its constituent power, under article 368, it should be deemed to contain in itself the complete goal. Therefore, when the rules were framed as in rule 155 and other rules, article 100 has not been violated nor has any other article of the Constitution been

*Lok Sabha Debates, 8 May, 1970, cc. 218—223.

violated. These rules which have been in force for the last several years are fully valid, and I do not think that there is any doubt about it.

Defender of political morality

In spite of being in the thick of politics, Shri Menon wanted that the game of politics should be played only within certain rules. He did not approve of defections from political parties, the worst bane of the politics of the late sixties. Long before the adoption of the anti-defection bill, Shri Menon felt the need for curbing the tendency of elected members of Parliament and the State Assemblies to switch their allegiance from one party to another. Finding that the lure of ministerial berths was the prime reason for defections he opined that there should be a limit on the size of ministries. Intervening in a debate in the Lok Sabha he said*:

> Bloated Cabinets are occasioned on account of the phenomenon of defections, sometimes to avoid defections and sometimes because defections took place. Where a ministry is toppled as a result of defections, those who have defected have been expecting something in return and if that something was not available, they would have re-defected, if that word could be used. Therefore, we see that in many places Cabinets out of size have come into existence....The people would not like it and democracy would come to be ridiculed if we have too large or too big Cabinets either in the States or in the Centre....Whatever be the law which we enact and whatever be the amendments which we effected in the Constitution, it would be much better if we could have a common moral code which would be adhered to by different political parties. But I say this also that we need not be ashamed to limit statutorily the size of the Cabinets in our country because, I find this has been done in other countries also.

One of the most notable legislations piloted by Shri Menon

*Lok Sabha Debates, 26 July, 1968; cc. 2061-62.

and which had a great impact was the banking companies nationalisation bill. The nationalisation of 14 commercial banks in July 1969 was a turning point in the history of the Indian economy. The prolonged legal wrangles which followed the nationalisation and the acrimonious debates in Parliament on the subject had indeed sapped the energies of Shri Menon who as the Union Law Minister had to bear the brunt of the burden. In spite of his ill-health he worked hard and to the very last. Shri Menon expired at New Delhi on 23 May, 1970 in harness and with a sense of fulfilment, a distinction which many would perhaps like to share.

Though Shri Menon is no longer with us, a grateful notion will always remember his lasting contributions to our Parliament and polity.

PART TWO

His Ideas

EXCERPTS FROM SOME SELECT SPEECHES OF
SHRI MENON IN LOK SABHA/RAJYA SABHA

2
Constitutional, Parliamentary and Legislative Matters

I

Convening of a new Constituent Assembly*

A Constituent Assembly is called when an established Government collapses and when a new Government is going to be born. That is the meaning of the words 'Constituent Assembly'. When there is an established Government and an established Constitution, it is meaningless to say that a Constituent Assembly should be convened. It is just like saying that somebody should convene a revolution. These two Houses of Parliament and this Government in the country all these can be immobilised and made not to work if there is a successful revolution here. And when a successful revolution takes place, one of the things which the people leading the revolution do is to convene a Constituent Assembly to decide as to how the country should be governed after that period. Such Constituent Assemblies have come into being only where there have been revolutions. In fact in that twilight period between day and night or night and day, there is a situation in which people meet together and evolve a Constitution which is accepted by the country. In other words, a Constituent Assembly is one of the organs of a revolution. Everywhere in the world it has been so and it is an

*Intervening in the discussion on the Resolution [text quoted at the end of the Speech] in the Rajya Sabha moved on 1 May, 1970, by Shri N. R. Muniswamy regarding convening of a new Constituent Assembly; Rajya Sabha Debates 1 May 1970, C. 146 Rajya Sabha Debate, 15 May, 1970, cc.156—164.

extra-legal and extra-constitutional, not unconstitutional device, the coming into being of a Constituent Assembly.

Sir, you know how towards the end of the 18th century, a few weeks or a few days before the French Revolution, the members of the National Assembly of France wanted to meet for a Constitution. But the King of France or rather the queen would not allow that to happen and the gates of the Assembly Chamber were locked up and these people could not enter. Then these members assembled in a tennis court and took an oath that before enacting a Constitution or drawing up a Constitution for France, they would not disperse. That is known as the Tennis Court Oath. Take the case of the American Constitution. There were 13 colonies under the British Government. They revolted, they constituted armies which fought the British Army, they became independent and then a constitutional convention was called.

I heard some friends say that the Constituent Assembly which our country had and which provided this Constitution was a body established or constituted by the British Government. Now, partially that statement is true. But the greatness of the Indian Constituent Assembly was that once it met, it broke away all the chains and fetters under which the Cabinet Mission, in its statement, had placed it.

In December 1946 when the Indian Constituent Assembly was about to start, there was some talk that the then Viceroy or the Governor General, Lord Wavell, might not allow the Constituent Assembly to meet because on the day it was called to meet, the 9th December, 1946, the Muslim League said that it would not enter the Constituent Assembly. And the leaders of India, other than those in the Muslim League said, whether the Muslim League entered or not, they would function as a Constituent Assembly. And Pandit Jawaharlal Nehru was so clear about it that the reference to the Tennis Court Oath and all those things were current in Delhi in those days.

Now, Sir, please hear for a few minutes about the nature of the working, of the Constituent Assembly which the British

Cabinet Mission gave out. They said that from British India, the State Assemblies or the Provincial Assemblies should elect and from the Princely States in India, the Maharajahs should nominate members, 93 in number. It was said that the representatives of the Indian States should come to the Constituent Assembly when the final Constitution was being made, that is, when the federal provisions were being made. The Constituent Assembly met on the 9th December. The Members took the oath and the first thing which the Constituent Assembly did was to discuss and pass what is known as the 'Objectives Resolution' of the Constituent Assembly. I think it was introduced on the 13th December. Many Members spoke about the objectives and if you go through the Objectives Resolution of Constituent Assembly and the speeches made when that Resolution was being discussed, you will see that the Members of the Indian Constituent Assembly forgot or rather rejected the ideas which were there. The Indian States' representatives came and all that happened.

Now, somebody asked the question : If it is my theory that a Constituent Assembly can come in only in a revolution, how is it that in India this Constituent Assembly was formed? Sir, looking back and studying the conditions in Inda, I have felt that from 1942 to 1950 when the Constitution was promulgated, there was a revolutionary period in India. After the Second World War when Mr. Attlee became the Prime Minister, he made a speech in the British Parliament which I even now remember. He said there in reply to the Tories that it had become impossible to carry on the Government of India by the British people.

I remember that passage even now because he had to answer the question: "Why liquidate the Empire?" And Attlee said. "It is impossible to carry on the administration of India by the British people". It is in that revolutionary situation that this Constituent Assembly met and enacted our Constitution. I do not, for a moment, feel that there are not imperfections in the Constitution, there is no need for amendment of the Constitution, etc. But that can be done because our Constitution has invested Parliament with constituent powers. The power given

to the Indian Parliament in article 368 is a constituent power. The powers given in articles 245, 246, 247 and 248, etc. are legislative powers. So constituent power had been given to the Indian Parliament. Until February, 1967 when the Golaknath judgement came, Parliament had asserted that it had the power to amend every portion of the Constitution, including the Chapter on Fundamental Rights. But in the Golaknath case, by a majority of 6 to 5, they said that part III of the Constitution containing fundamental rights cannot be amended. I agree with my friend that that cannot be taken to be the final word on that matter because twice before the Supreme Court has said that the Fundamental Rights Chapter also could be amended.'

Therefore, Sir, since we have a Constitution which vests constituent power in Parliament, there is no need to covene a Constituent Assembly—I am using the word used here in the Resolution. I want to ask: "Who should convene?" Whenever we appoint committees in our associations we appoint some man as the convener who will send letters and call all these people. Today when there is an established government, established Parliament, established Legislatures throughout India, who should convene this Constituent Assembly? If the Prime Minister convenes an assembly of 400 to 500 people from all parts of India, would it be a Constituent Assembly? If we by a Resolution do it, will it be a Constituent Assembly? Or if we follow the imperfect and tenuous suggestion made by the Chief Justice, Mr. Subba Rao, in his decision of the Golaknath case that under the residuary powers Parliament should decide and elect a Constituent Assembly, that body alone can amend the fundamental rights. The consensus among the jurists is that that direction or that suggestion by the Chief Justice is not sound, is not practicable, is not logical. The reason is this. If the Indian Parliament today passes a law to convene a Constituent Assembly, then will that Constituent Assembly have powers more than the Parliament has? That is what is called a constituted body.... And if Parliament cannot amend the Chapter on Fundamental Rights, can a creature of Parliament pass a law under which it can be done? There has been a good deal

of confused thinking on this matter and, therefore, I took some time to explain this.

The idea that a Constituent Assembly should be convened is not a sound idea, and I would request my friend who moved the motion to reflect over the matter and withdraw the resolution.

Some reasons have been given why there should be a change today. And the most important is that there should be reorientation of the Central-State relationship with particular reference to legislature, judiciary and executive. I want to speak about it for a few minutes. Sir, this is something which we have been hearing for several years. I myself have been a Finance Minister and later a Chief Minister in my State. Every State Government in India has this complaint that the resources available to the States are comparatively more slender compared to the resources available to the Central Government. And when there is a demand that the Centre-State relationship should be amended or straightened, etc., the demand, Sir, is mostly for more grant from the Central Government. It is attached to the resources which are available to the State Governments. I have been publicly speaking about this matter. Although there has been a demand for the Centre-State relationship to be improved, nobody has yet told me as to how and in what manner the Centre-State relations should be changed. The complaint which we nowadays hear in India from the States and the State Governments is heard in all the other federations of the world, even in the United States of America, in Canada, in Australia. In all these federal countries, there is a continuing complaint that the Central Government, the Federal Government is having more and more power and the State Governments are starved. The only Federation where there is no complaint is the Russian Federation, if it is conceded to be a Federation. But I would draw your attention to one of the articles of the Russian Constitution which says that the Budget for the Federal Government and for all the State Governments or the provincial Governments is a single document. It is the authorities in Moscow running the entire Russian Union who draw the Budget both for the Federation and the units. There

can be no trouble there. But that is possible only because of the monolithic character of the Russian political apparatus. Sir, if we can have that way in India, then these troubles will cease. But that is not possible.

I want those who speak about this Centre-State relations to announce or indicate which particular Entry in List No. I of the Seventh Schedule should be transferred to List No. II of the Seventh Schedule. Nobody has yet said that. Even now I will ask every friend in this House to say which particular Entry in the First Schedule of the Constitution he would like to be transferred to List No. II. Will you and the other Members of this House, Sir, agree that the Defence should become a State subject? Will they agree that the External Affairs should become a State subject?

They may say, we do not want that, but let us have income-tax as a State subject. Yet nobody has said that. If income-tax becomes a State subject, as it is in Switzerland which is a developed country, will you for a moment just consider what the result would be? Sir, I was a member of the Third Finance Commission which was constituted in 1961 and there I found that about 80 per cent of the income-tax collections in India comes from the cities of Bombay and Calcutta. And the Finance Commission constituted under article 280 of the Constitution has invariably stated that a portion of this income-tax collected from throughout India—now it is 75 or 80 per cent should be distributed to the various States on a population basis. That is a sort of socialistic idea *vis-a-vis* the States. And it has been consistently opposed before every Finance Commission by the Governments of West Bengal and Maharashtra. They said that it should be given according to the origin of collection. Now if income-tax would become a State subject a major portion of the revenue would go to the West Bengal and the Maharashtra Governments. My own State, Kerala, will get a big zero. That will probably be the case with respect to your State also. * * * * What is done today is that in the best interests of the country, the income-tax collected is pooled together and is distributed to the States on the basis of population. Except two or three

States in India, all the other States are benefited by this arrangement. This arrangement was suggested to our Constituent Assembly on account of a certain formula which was evolved and worked in 1936 when the 1935 Act was in force. When there was a controversy between the different provinces as to how the grants should be given by the Centre from Income-tax collection, an economist by name Neimayer gave an award and it is based on that the Finance Commissions have been worked.

Sir, it is said that the Centre has got flexible resources. The most important item of revenue for the Central Government is from excise. Now the excise duty is collected by the Government of India from the factories where goods are manufactured. Before those goods come out, the excise duty is collected by the Central Government. Huge amounts are received, comparatively speaking. Will any State representative like to have excise transferred from the Centre to the States? Then also the result would be the same. Therefore, if there are subjects which a few statemen can sit together and tell us should be transferred from List I to List II, where is the difficulty to do it? Under articel 368, an amendment of the Constitution can be had by which it can be done.

Then what is Centre-State relations? What more power should be transferred from List I to List II? I have not been able to hear anything. Now if it is to effect some changes between these three Lists, no Constituent Assembly is neccessary. I undertake to draft an amendment of the Constitution by which it can be effected in about an hour. It is such an easy matter.

Then, Sir, the multiplicity of parties and allied matters were referred to. I do not know whether the mover of the Resolution has noted that in the Indian Constitution, or for that matter in any Constitution where a parliamentary Government of the type we are having is exisiting, there is no use of the word "party". I particulary looked up the matter yesterday. There is no single article in the Indian Constitution where the word "party" is used, where the word "Opposition" is used, because I understand that in this House yesterday there were some demands

regarding facilities for the Opposition. All these ideas about party, about opposition, about rights of parties and rights of Opposition, no-confidence motion against Government, etc., etc., have no reference in the Constitution. All these arise from article 75(3) of the Constitution.

"The Council of Ministers shall be collectively responsible to the House of the people."

It is this idea, apparently a small idea contained in article 75(3) which has led to political parties coming up, Opposition parties coming up, no-confidence motions being provided, etc. etc., In fact, the pattern of our political functioning has been the result of this provision that the Council of Ministers shall be collectively responsible to the Lok Sabha. And if a new Constitution is enacted, we cannot make any reference to parties there, and suppose new parties come up after that Constitution is drafted, in order to accommodate that also we will have to draft a new Constitution.

The powers of the President and the Governor *vis-a-vis* the Prime Minister and the Chief Minister are referred to. There has not been to my knowledge any conflict, any trouble, during the last 20 years with respect to the powers of the President and the Prime Minister. Conventions have developed during the last 20 years that those things should be done in a certain manner. There has been after the 1967 elections, some controversy regarding the dismissal of Ministries or the constitution of Ministries, etc. by the Governors in the States. Sir, this type of responsible Government for the provinces started in 1937 under the Government of India Act, 1935. Thereafter in 1937, 1946, 1952, 1957, 1962 and in the mini-general election in 1969, probably on a 1,001 occasions Ministries were constituted by the Governor in all the various provinces. This has not created any difficulty. Take the Rajasthan example of 1967 where the Governor Mr. Sampurnanand called the leader of the single ıajor party, the Congress Party to form the Government. Then was said that the combined Opposition had a few members ore than, the party whose leader was invited to form the vernment. Because of the strange manner in which the

combined Opposition worked on that occasion President's Rule came. If what the Governor did was wrong in calling the leader of the Congress Party to form the Government then this particular article in the Constitution which I read—that the Council of Ministers shall be collectively responsible to the legislature—would have given a way for them to fight it; no parading of strength was necessary. On the day the House met if the combined Opposition had a majority in the House, and had moved a simple motion of no-confidence against the Chief Minister it would have worked. Instead of that we had physical parade of the number of members on this side and that side and all these things. I don't think any difficulty can arise if the conventions of the Constitution are properly understood and worked. For all these reasons, Sir, I would suggest that this Resolution does not contain in it any sound constitutional idea and I would request my hon. friend, the mover, to withdraw it.

TEXT OF THE RESOLUTION *RE.* CONVENING OF A NEW CONSTITUENT ASSEMBLY

"This House is of opinion that in the present context of the unprecedented social, political and economic changes that have come about in the country during the last two decades and more, a new Constituent Assembly be convened before the next General Elections to effect suitable amendments to the various articles of the Constitution of India with a view to strengthen and preserve the country's integrity, sovereignty, unity and neutrality, and to achieve the desired results of progress in socialism and democracy, by securing to all citizens of India justice, liberty, equality and fraternity; and this House further recommends that in making such amendments, the Constituent Assembly shall keep in view in particular:

(1) fundamental rights, keeping law and order intact;

(2) re-orientation of the Centre/State relationship with particular reference to legislature, judiciary and executive;

(3) the powers of the President and the Governor *vis-a-vis* the Prime Minister and the Chief Minister;

(4) the official language of India and its script; and

(5) the multiplicity of parties and allied matters.".

II

Amendability of the Constitution*

This is certainly a very important Bill and that is why from large sections of the House demands have been made that the time for the Bill be extended. It is because of the importance of the Bill that although it is not an official Bill, on behalf of Government, I have moved a motion that it be referred to a Joint Committee of both Houses consisting of 45 Members.

The subject matter of the Bill, although it is one-clause Bill, takes in the entire subject of the power and right of the Parliament of India to amend to Constitution. In other words, the subject-matter of the Bill, although it is covered by a single clause is the power of amendment or the principles regarding the amendment of the Constitution.

It is whether Parliament should have the power, whether Parliament has the power, whether Parliament has not the power and all those things.

Article 368 has been referred to, because until the 27th February this year, it was thought not only by Parliament, not only by the other legislatures in India but by all the High Courts and by the Supreme Court that article 368 contained the power to amend the Constitution.

This is a constitutional matter which should be discussed and considered in a very cool atmosphere because it pertains to the rights and powers of Parliament under our Constitution.

There is an impression, and that impression has been

*Intervening in the Constitution (Amendment) Bill moved by Shri Nath Pai seeking to amend Article 368 in Lok Sabha; Lok Sabha Debates, July 21, 1967, cc. 13779—13794.

assiduously propagated that this Parliament has been misusing the powers of amendment. Times out of number; in fact, on 21 occasions our Constitution has been amended; it is only a partial truth to say that power of amendment has been misused because there have been 21 amendments to the Constitution. Except three, all the other amendments were with respect to non-controversial matters. Our Constitution is one with 395 articles and 8 schedules, a very voluminous Constitution providing for all sorts of things, important and unimportant. It was necessary that we should have done so. It became necessary, therefore, from time to time to amend the Constitution. Take, for example, the latest one, the 21st amendment which was passed in this House unanimously to provide that the Sindhi language be included in the 8th Schedule. That also is referred to and reckoned as one of the many amendments to the Constitution which this House has passed. Except the 1st, the 4th and 17th amendments, all the other amendments were with respect to matters on which the House, the country, the people, all were agreed should have been passed. These three amendments touched principally one and only one of the fundamental rights provided in the Constitution, that is article 31. During the last 16 or 17 years, on three occasions Parliament had to consider the question of amendment of the Constitution with respect to certain matters concerning the right to property. One of the learned Judges who constituted the majority in the Golak Nath case—I am referring to Hidayatullah J. — thought that this right to property should not have found a place in Part III.

On no occasion has this House touched the other fundamental rights, except in small particulars, and wherever those fundamental rights were touched, again Mr. Justice Hidayatullah said that they were legitimate. Those amendments were good according to the learned judge. On one or two occasions, article 15 was amended. The Judge says that it is not an offensive amendment, that it is consistent with article 13, that it is a good amendment—he upholds it. Article 16 was amended, article 19 also was amended to provide that the freedom given under that article should be consistent with the security of the State and all

those things. There again, Mr. Justice Hidayatullah, in his very learned judgement, has said that that is an amendment which was legitimate.

This first amendment to the Constitution was brought in 1951, and I wish to refer to the Statement of Objects and Reasons of that Bill which was the first amendment of the Constitution. That is very important. It was introduced in this House and piloted by the then Prime Minister himself. We were not tinkering with the Constitution.

I referred to the Statement of Objects and Reasons because a few months after the Constitution was enacted it was found that certain provisions required amendment, particularly in view of the other provisions relating to the Directive Principles. With respect to these Directive Principles, I shall draw the attention of the House to one—and one alone—provision in article 37:

> "The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws."

Often we concentrate our attention only on the first part which says that these are not justiciable. What is meant by the statement? It is not open to a citizen to approach the Supreme Court or any High Courts to seek a writ of *imandamus* against the Government or a legislature to take up legislation to implement one or other of the provisions given in the chapter. Otherwise, it is stated that they are fundamental in the governance of the country. It shall be the duty of the State to apply these principles in making laws. Therefore, article 37 and other articles in this chapter lay down the fundamental duties of this Parliament. The earlier chapter deals with the fundamental rights of the citizens, this lays down fundamental duties of the Governments and Parliament, fundamental duties in administration. It is the fundamental duty of the Lok Sabha and the Legislatures in this country to see that effect is given in enacting laws on the Directive Principles laid down in the

Constitution. When you attempt to implement the Directive Principles, as was stated in the Statement of Objects and Reasons often it becomes necessary to have amendments of the Constitution. Only thrice, on the occasion of the first, fourth and 17th amendments, did we feel it necessary. I think most of the political parties in the country believe that there should be agrarian reforms, that the right to property should be limited and restricted in the interest of the general public, that the tenants should have certain very important rights, that ceilings should be provided with respect to holdings of property, etc. I need not dilate upon that. I think most of us contribute to the theory that there should be an egalitarian society developed in our country. These are the principles laid down in this chapter. It is our fundamental duty to see that laws are enacted in order to further the objectives laid down thereunder. And when that is attempted often we feel that some amendment here and there may become necessary. The first amendment was passed by this House, and after the first amendment was passed, it was tested; the vires of that amendment was tested in the Supreme Court and in that case, the much discussed case of *Sankari Prasad v. the State,* the question was raised whether Parliament has the power to restrict the rights laid down under article 31. The question was raised whether a constitutional amendment is law under article 13 or whether it is something more. The question was raised whether, when Parliament is acting under article 368, it is not excercising constituent powers or it was exercising merely legislative powers. The Supreme Court held unanimously—a Bench of five Judges—that the amendment was a good amendment. Then came the fourth amendment wherein also with respect to many of these amendments, it was stated by Mr. Justice Hidayatullah in his judgement that they were necessary amendments. Referring to the amendment of article 19, the learned judge said that the amendment was necessary. The Amendment was necessary because in *Romesh Thaper v. the State of Madras,* it was held that disturbance of public tranquillity did not come within the expression "undermine the security of the State". In the first amendment Act there was an amendment to article 19 also. All that I contend

for is that the Lok Sabha and the Rajya Sabha—this Parliament—has not attempted to whittle down to any extent the transcendental fundamental rights. I am using the words which are often used by many people, the transcendental fundamental rights—laid down in the chapter on Fundamental Rights.

All that was done was to do something with respect to article 31 and it is with respect to that article that Mr. Justice Hidaytullah said that "Our Constitution accepted the therory that the right to property is a fundamental right. In my opinion it was an error to place it in that category". That is what he said.

Here, we are now on the question of the amendment of the Constitution, and if we want to amend the Constitution, if we want to take article 31 from that chapter wherein it finds its place today, this Parliament should have the power to do so.

I was speaking of the 21 amendments we have had during the last 17 years. Under the English Constitution, it is open to the British Parliament to pass any legislation. There are no restrictions or limitations on the legislative power of the British Parliament.

There is absolutely no basis for the idea which has been propagated that the Constitution has been amended several times to whittle down the rights of the people. The Constitution has been amended several times to clarify the several provisions in the Constitution; and on three occasions to enable the State Governments to have the necessary agrarian and other reforms.

Regarding Mr. Nath Pai's Bill, I would for a moment request my friends to forget the provisions about the amendment of fundamental rights. Do we or do we not believe that our Constitution should have provisions contained therein to amend the Constitution? Or, do we want a Constitution of such rigidity that it would not be possible to amend it? If there should be a right to amend the Constitution, would it be correct to say that that right should be spelt out of what is called the residuary powers of legislation, vested in Parliament? Amendment of the Constitution is not such an unimportant matter that it should be

searched for in the residuary powers which have been provided. There is a provision in the Constitution, which is not sufficiently clear. Mr. Nath Pai thinks, by his Bill, he can make it clear, I believe there are several other aspects to be considered. In the Joint Committee, we can consider all these aspects and produce before Parliament legislation based upon the Bill of Mr. Nath Pai, which will guarantee the rights of amendment in appropriate cases and also safeguards wherever necessary.

The judgements delivered by this bench of 11 judges have to be considered and we have to consider what steps we have to take. There are very many interesting aspects, as Shri Viswanatham the other day pointed out. All the eleven Judges agreed in non-suiting the petitioners. The petitioners did not succeed in the case. Five of them said that the right to amend the Constitution is contained in article 368 of the Constitution. Five of them enunciated the theory of prospective over-ruling. One of them Mr. Justice Hidayatullah, who joined those five in declaring that right of amendment is not contained in article 368 of the Constitution, upholds in his judgement that Section (2) of the Seventeenth Amendment to the Constitution is good.

Now, as it is, the position, is extremely confused I would draw your attention to a certain portion of this judgement. There is a general impression that the majority of the Judges said that a Constituent Assembly should be convoked in order to amend the Constitution. I want to point out that it is one among the eleven Judges who alone said that that is possible. It was Mr Justice Hidayatullah.

I do not find any of the other Judges clearly subscribing to this doctrine. I would like to add, a Bill which is passed under article 368 of Constitution will still be the law, if the majority decision prevails. And how can that law bring about an amendment of the Constitution, which directly Parliament cannot do? All these difficulties are there.

The question is whether Parliament has got constituent powers. I want to remind hon. Members of this House that the

Constituent Assembly itself, when it sat in the Central Hall with Babu Rajendra Prasad as its President, was exercising constituent powers and when the same Members came and sat in this hall with Shri Mavalankar in the Chair, it was exercising legislative powers.

I attach great value to what Mr. Justice Mulla said the other day, namely, that acting in a certain manner we may exercise constituent powers and acting in a certain other manner we exercise legislative powers. It is my contention that article 368 provides and lays down procedure acting under which we exercise constituent power. It contains, therefore, not only the procedure but also the power vested in Parliament to amend the Constitution if Parliament acts in the manner provided for in that article of the Constitution. What Shri Nath Pai's Bill seeks to do is to clarify that position. If there are other clarifications necessary, for example something may have to be stated in article 13, let us in the cool and unbiased atmosphere of the Joint Committee, where Members from all the parties will be there, discuss the matter and produce a report which can be considered at the later stage.

III

Power of President to nominate Members to Rajya Sabha and State Vidhan Parishads*

Looking at the matter philosophically, all nominations smack of patronage. Even if all the twelve persons nominated belong strictly and indubitably to the categories mentioned in article 80, still there would be an element of patronage whoever be the authority who is nominating. If you are leaving it completely to the President to do it in his discretion even so where there may be hundred important members competent in literature, arts, etc., only one or two will be nominated. So wherever there is nomination there will be patronage.

* * * *

At the time when we were having discussion in the Constituent Assembly, the Constituent Assembly wanted to do away with separate electorates and give guarantees to minorities and it is on the recommendation of the Committee on Minorities that this nomination to the State Assemblies and to the Lok Sabha was provided for in the Constitution. There may have been a stray act of misuse of the power vested in the Governors.

Now, with respect to Rajya Sabha, we modelled our provision for nominations to Rajya Sabha on what is obtaining in the Republic of Ireland. The late Sir B. N. Rau, who was advising the Constituent Assembly on this matter, did as a matter of fact go to Ireland and other countries and wanted to copy certain matters contained in the Irish Constitution in our Constitution. The Directive Principles were taken from that Constitution and

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*Intervening in the discussion on the Constitution Amendment Bill, moved by Shri C.C Desai on the subject; *Lok Sabha Debates*, February 21, 1969, cc. 332-38.

the provision for nomination of a bare 12 people, in a House of 250, which comes to something between 4 and 5 percent, was also provided. When you look at the question, you will see that, by and large, the persons who have been nominated hitherto were persons who were respected, competent people in the lines to which they belong. Provided you want persons of that type in the Upper House, provided it would be welcome to have people of that type in the Upper House, I think this provision is a healthy provision.

Now if you look into the matter very closely, you would see that the entire Rajya Sabha is the result of patronage. The members are elected by an electoral college consisting of the elected members of the Legislative Assembly and each Political party looks into its strength in the Legislative Assembly and gives patronage to certain persons, they are elected and they come to the Rajya Sabha. I do not want to mention names but there is in the Rajya Sabha today a member who comes from Kerala who had to enter into a pact, at the instance of the United Front there, that he would retire after three years to give place to another member belonging to another party. I am not finding fault with that. The Congress may also do it. What I say is that even in the case of the so-called elected members of the Rajya Sabha, they are all there because of patronage which the political parties give.

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Now, with respect to members of the Rajya Sabha, elected by the Legislative Assemblies, the hon. Member is also sharing to a very large extent the patronage for sending members to the Rajya Sabha.

* * * *

Therefore wherever there are nominations and elections which are tantamount to nominations, there will be these cases

of patronage. After all, it is the upper House and certain members of eminence present there add to the dignity of the House. It is a revising body. Some of the members there have often made very good contribution to the debate in the House. To mention only one name—I do not want to give many names—Shri Kaul, who was the Secretary of the Lok-Sabha till recently, often intervenes in debates and makes excellent contribution to the debates there on account of his long experience of the science of legislation. He represents a very important interest.

Then, there are men of letters, poets. Somebody referred to the late Maithili Sharan Gupta. It may be that a poet of that type may not recite poems in the Rajya Sabha, but that is a method of honouring a distinguished man of letters, literature, science, etc.

* * * *

I do not deny that in human institutions there may not be lapses. If one man is nominated, the question may arise why he and not the other. The answer would be a well-known *nyaya* in Sanskrit known as *Ashokavanikanyaya.* Valmiki has described Sita as having sat under the Ashoka tree in a certain corner of the garden belonging to Ravana in Lanka. The question was: Why did Valmiki say that Sita sat under that particular tree? The answer was that if Valmiki had described that she sat under another tree, then also the question can be put as to why he said that she was sitting under that tree. This is known in Sanskrit, among the various *Nyayas,* as *Ashokavanikanyaya.*

Similarly, among competent men of letters if you nominate A, the question is, "oh! you patronised him." But if you nominate B then also that question can be raised.

IV
Judiciary and Parliamentary Privileges*

I would request you to allow me to explain what happened with respect to this matter. (On the day 3.4.1970) on which it was discussed in this House this was not in the list of business so that I could know what the matter was. Hon. Members, particularly Mr. Limaye, raised the issue and said that he had received this notice and that under Article 105 there was absolute immunity so that the Court could not decide anything on this matter. When the matter came as from the High Court I submitted that what I should do was to request the Attorney General to appear in the High Court and point out to the Court the import of Article 195. In order to enable the Attorney General to do so in the High Court what was done was to implead the Union of India also for which a petition was filed by the Government advocate. That is how the Union of India became a party to the proceedings in the High Court. The High Court decided that they were aware of it that under Article 105 there was absolute immunity for members of Parliament with respect to what they said in the House. That contention was upheld by the High Court. Now the plaintiff in that case wanted to file an appeal to the Supreme Court and for that a certificate from the High Court was necessary. The certificate simply states that his case involves a question which in money value would be more than Rs. 20,000; otherwise no certificate is necessary. Because the Union of India was a party in the High

*Participating in a discussion on a motion under Rule 377 of the Rules of Procedur and Conduct of Business in Lok Sabha regarding certain remarks made by the Chief Justice of the Supreme Court about notices served on some members of Parliament and the reported failure on the part of the Law Minister in clarifying the position to the House that a notice of lodgement in appeal is not a summons to the court; *Lok Sabha Debates*, April 22, 1970, cc. 238-58.

Court, in the Supreme Court also the Union of India became a party. On that day what I had suggested in substance was that you should not give any ruling or take any decision on this matter because in the Supreme Court also I would request the Attorney General to appear and point out this matter to the Supreme Court. Accordingly, yesterday the Attorney General,—I am informed—addressed the Court on this matter and the case has been posted for the 29th April for final disposal.

There has been some confusion regarding summons and notice of lodgement. I have not a copy of the notice with me. Whether it is called notice or summons, it is the same thing. Summons which issue from the courts also say that the case is posted on such and such date; if you want to appear, you may appear; if you do not appear the matter will be decided *ex parte.* That is exactly the notice which was read out by Mr. Madhu Limaye. I had a dual role on the occasion when I spoke in this House. As a Member of Parliament it is my duty to see that the privileges of member of Parliament are preserved; as a Member of the Government it is my duty to see that no confrontation arises between Judiciary and Parliament.

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I was referring to the fact that I would request the Attorney-General to appear in court and point out the provisions of the Constitution so that the privileges of this House will not be in any way affected. There was no question of calling the Attorney-General to Parliament; nobody wanted it; nobody raised it.

He has the right, (to come on his own to the House) and when the occasion arises he will come. Therefore, today, there is no difference of opinion between me, on behalf of the Government, and the Members of the House and Mr. Venkatasubbaiah and you, Sir, that so far as Article 105 goes, it gives an unlimited, absolute immunity to Members of Parliament. I said that. I suppose there is a consensus in the House on that matter. I further said that this matter would be brought to the notice of the Supreme Court, and accordingly the

Attorney General yesterday did that, and the case has been posted as the first case to be heard on the 29th April.

Now, the question has been raised by Mr. Kundu and others as to whether the Supreme Court itself should not have looked into the matter and refused to issue notice or summons. A notice which issues from the Supreme Court may be either after a judicial decision or a routine, procedural matter. Now, as soon as the appeal memo is filed in the Registrar's office and the proper court-fee, etc., has been paid, as a matter of routine the notice goes out, and on that occasion also.... On that oecasion, I had said: "I do not know whether the summons which issued is a judicial order or a ministerial order." I did say that. If a ministerial order is issued from the Supreme Court, I do not think there is any scope for any complaint on the part of Members of Parliament. A judicial order comes this way. There are certain matters which have to be decided by the judges where a notice should go or not. I do not know that; I have no copies. In the morning's newspapers I find that this was a notice of lodgement of the appeal. But even so, what I said was relevant: whether it is a judicial order or a ministerial order, I said that our immunity is absolute with respect to Article 105. In the High Court, the Attorney-General made that representation and he did it again yesterday in the Supreme Court.

He had to make it clear as to whom he was appearing for, and he said, "I am appearing for the Union of India."

Because a notice has gone to him and the Union of India has been made a party. It was done by the High Court. If that were not there, the Attorney-General will be able to appear in the Supreme Court only if you authorise him to do so.

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I am not defending the Attorney-General*. I said, no question of Attorney-General appearing in Parliament was raised the other day or today. I raised the point that I would request the

*Replying to certain comments on the Attorney-General by Shri Madhu Limaye and others.

Attorney-General to appear in the Supreme Court and show to the Supreme Court the provisions of Article 105. When a ministerial order is issued as was done in this case, I do not think any of our rights have been invaded. At least to dismiss this suit and to proclaim that the immunity of Article 105 is unlimited, the court has to look into this matter. We should not take any exception to that. We want a decision that there is no right for any citizen to file a suit against any one of us for what we say in Parliament. That can be done only by a judicial order. Therefore, accordingly the matter is being placed before the Supreme Court. Neither any of us nor the Speaker committed any mistake on the previous day. You, Sir, accepted my suggestion that the matter may be explained to the Supreme Court by the Attorny-General. The House also agreed with that suggestion.

* * *

If an appeal is filed our privileges under Article 105 arise. But our privileges will get breached only if a decision is made against us. Even to declare that under article 105 Members of Parliament have absolute privilege and absolute immunity, even for that the question has to be considered.

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What happened yesterday in the Supreme Court was that the Chief Justice enquired as to how the Union of India was a party to the suit, in view of the fact that the suit was for defamation between the appellant and the other respondents. The Attorny-General pointed out that the Union of India was added as a party to the suit before the High Court; so, in the appeal also it will be there. The Chief Justice pointed out that he remembered the matter and felt that the Speaker was not to blame; if he had been informed of the correct position, the whole difficulty would not have arisen particularly in view of the fact that what the Supreme Court had done was that it issued merely a notice of the filing of the petition on appeal. When it was stated that the Law Minister should have pointed out the position to the House, the Attorney-General pointed out to the Court the observation

made by the hon. Law Minister which showed that the act of issuing the notice was an administrative matter and not a judicial one.

This is what happened yesterday in the Supreme Court. While I contended and continue to contend that any action against any Member of Parliament for speaking anything in the House would be a breach of privilege on account of article 105, I would say that if a suit is filed in the Supreme Court or any other court—it was given a number in the office and summons were issued or notice was issued; both are the same—that will not, according to me, be a breach of privilege. There are thousands of cases, writ petitions, appeal petitions, filed in the High Courts and the Supreme Court from day to day. It will be too much to expect that all these things will be read by the judges and then notices will issue.

What I am trying to do is to request the Attorney-General to point out to the court that this particular appeal which is in the Supreme Court contains an allegation with respect to what some Members said in Parliament. It is not bringing article 105 to the judicial notice of the judges. What is brought to their notice is, what is contained in the case is something which is covered by article 105. That has to be pointed out and it is for that purpose that the Attorney-General is attempting to place the case under article 105 on the 29th of this month. This is exactly what we did in the High Court. Any question of breach of privilege will arise only when any action is taken in respect of any member of the House.

V

The Indian Registration (Amendment) Bill, 1968*

(Moving the bill for consideration in the Rajya Sabha)

This is a simple amendment. Under section 30(2) of the Indian Registration Act, the District Registrars of Bombay, Calcutta and Madras have got the powers to register documents with respect to immovable property situate in any part of India. As soon as registration is effected, section 67 provides that the documents should be transmitted to the office of the Sub-Registrar in whose jurisdiction the property is situate. This sort of a process of derivative registration exists only with respect to the District Registrars of these three Presidency towns. It has been felt that equally with these three Presidency towns, if not more than them, Delhi has become so important commercially, industrially and from all points of view that it would be desirable to invest this power with the District Registrar of Delhi also. You are aware that people from all parts of India, from all the States of India will be in Delhi for official and other purposes. They may like to enter into transactions with respect to properties in their own area and it would be desirable that this facility is given to them by vesting this power in the District Registrar of Delhi. That is the main object of this amendment.

I have also taken the opportunity to get the word "Indian" deleted from the title of the Act. It is because legislative practice of Parliament after independence is not to use the word "Indian" with respect to Acts passed by Parliament. For example, in 1963 we passed the Limitation Act. Previously it was known as the Indian Limitation Act. Now, the Act of 1963 is

*R.S. *Debates,* August 14, 1968, cc. 3341-42, 3356-63, 3365-66.

known as the Limitation Act. The reason is this. During the days of British authority in India, the British Parliament also had the power to legislate with respect to India and in order to distinguish legislations of Indian Parliament from the very few British legislations, which were in force in India, we used to call our Acts, Indian Acts, *e.g.*, the Indian Registration Act, the Indian Companies Act, Indian Income-Tax Act, etc. After independence we have changed this practice. Therefore, whenever an opportunity arises, the Ministry of Law is getting this word "Indian" deleted, so that we conform to legislative practice.

I hope that this simple piece of legislation will have the unanimous support of all the Members of this House.*

There have been two lines of attack,** one by Shri Lokanath Misra, supported by Shri Rajnarain and another by Shri Yadav and Shri Chaudhri. I shall first of all take up the attack against the Bill made by Shri Lokanath Misra and Shri Rajnarain on the basis that they have genuine apprehensions in this matter. I must take them at their word that they have apprehensions in this matter and I will convince them that there is absolutely no scope for any apprehension. Sir, when a registration is effected in Bombay, Calcutta or Madras or in Delhi after this amendment, it is not as if you can do it secretly. The same result would follow if the registration had been effected in the office of the Sub-Registrar within whose jurisdiction the property is situate. If there could be fraud and over-reaching with respect to registrations in Calcutta and Delhi, there could be such attempts if there are registrations in the village, where the property is situate also. A reference to the Registration Act will show that with respect to transactions regarding immovable

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*At this point some amendments were proposed.
**While replying to points raised by Members.

property, the facts are entered in a book called Book Number One kept by the Sub-Registrar. All transactions, be they mortgages, hypothecations, partitions or outright sales with respect to immovable properties or gifts, should be entered in a book kept by the Sub-Registrar known as Book Number One and when this entry is made in Book Number One, then the transactions are presumed to have come to public notice. It is so defined in the Transfer of Property Act. Registration is notice. If a person wants to enquire regarding the transactions of a certain other person with respect to his properties, the rule is that he should make a search in the office of the Sub-Registrar within whose jurisdiction the properties are situate. For example, if a creditor of mine—I have no creditors but assuming there is a creditor of mine—is anxious that I am transferring properties in order to defeat him, what he would normally do is to search the office of the Sub-Registrar within whose jurisdiction such properties as I have are situate. Now, suppose this amending Bill is passed and I am enabled to effect a registration in this court of the District Registrar of Delhi, then what would follow is that the fact of registration and the details with respect to them are immediately transmitted to the office of the Sub-Registrar in whose jurisdiction the property is situate. That is provided in sections 66 and 67 of the Registration Act.

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What I submit, is that if registration is effected in Bombay, Calcutta, Madras or Delhi, then under the provisions of section 67, immediately the fact of registration will be transmitted to the office where the property is situated. This process is referred to by a Privy Council Judge as "Derivative Registration" and registration will take effect after these details reach the other office and are entered in the books of the other office.

Now, my friend, Mr. Misra referred to certain persons, who effected registrations in Calcutta and other places. Thereby they will not be able to cheat or defraud anybody because the same result follows as if the registrations were effected in the

village in which their property is situate. Therefore, there need be no anxiety over this matter.

Mr. Rajnarain spoke about fictitious registrations. I believe what he refers to is "sham transaction". A "sham transaction" is one which has no effect—*benami* deals, etc., etc.

* * * *

That can be effected whether it is in New Delhi or Lucknow or Bombay or in a village. Without intention to transfer property, I may execute a deed of transfer in favour of my wife, in favour of my son, or in favour of a close friend of mine. These are deals which are not intended to take effect and courts refer to them as "sham transactions" or "fictitious transactions". If sham or fictitious transactions can take place in these presidency towns, they can also take place in any other place.

Now why is it that Delhi was selected? The reason is this. Calcutta, Bombay and Madras were selected before independence because they were the three important centres in India where persons from the different States used to reside for different purposes. And the question was whether in order to effect a transfer they should go to the village and spend money for that purpose. Now it is all the more reason why that benefit should be available, not to Delhi people—please remember that—but to people who come from the other parts of India, from Mysore, from Orissa, from U.P., from Kerala, etc. Somebody who comes from a distant State may like to make a gift of his property to his wife or to a near relative of his. The property may be worth Rs. 500. Is it worthwhile that he should go to the village and spend several hundreds of rupees for that purpose? Moreover, Sir, now there are several financial institutions organised by the Government of India and other authorities and often people may have to execute mortgages or give securities over properties to these bodies in order to raise funds for developmental purposes, etc. It would be easier if this arrangement is available in Delhi also. That is the object with which this Bill has been brought. As I said, Delhi has been selected more than any other place because it is the one place

where you can find people from all parts of India staying permanently for different purposes.

Now, my hon. friends, Mr. Yadav and Mr. Chaudhri raised two objections. One was regarding the omission of the word "Indian". I do not want to repeat my arguments. I do not become less an Indian because in an Act which is passed in the Indian Parliament, I do not want to use the word "Indian". This is the legislative practice which has developed in India after independence. In England for example if they pass an Act in the British Parliament, they do not say "An English Act"; it is an Act of the British Parliament. So also this is an Act of the Parliament of India and it is presumed that it will have validity throughout India. I referred to several examples. A question was asked why this is not done with respect to all the Acts. Now it is possible for me to bring forward a single Bill to take away the word 'Indian' from all the existing Acts but I thought it was not worth while to do so. After all this is not such an important thing. In fact I would not have brought this amendment to remove the word 'Indian' from the Indian Registration Act were it not necessary for me to bring the amendment with respect to section 30. I would also like to add, Sir, that this amendment of section 30(2) is being brought on the recommendation of a very high-powered body, the Law Commission of India, who in their 31st Report, para 4, have said as follows:

> "In our opinion, the following points justify the suggested change:
>
> First, Delhi is a cosmopolitan place with a population representing inhabitants of numerous States of India as well as of foreign countries. Transactions involving immovable property situated elsewhere but entered into between parties resident in Delhi are increasing, and are likely to increase further. Secondly, Delhi is fast developing as an important centre of business, and for that reason also, transactions (like mortgages) between residents of Delhi, though affecting property outside it, are not rare. Thirdly, legal talent and draftsmanship of a fairly high order

is available in Delhi, so that description of the situation of the property may be expected to have been done with care and precision. Fourthly, Delhi is the seat of the Central Government, and the Central Government is entering into several transactions affecting immovable properties situated all over India. Instead of the parties being required to go to the Sub-Registrar within whose jurisdiction the property is situated, (as at present), it would certainly be advantageous if the Registrar of Delhi is also empowered to register any document relating to any property wherever situate in India.''

* * * *

With respect to it, suggestion that this right should be given not only to Delhi but to all cities where the population is more than four lakhs. Let we tell sir, that we are not extending this to cities; we are extending this power to District Registrars. Now this Registration Act is a legislation with respect to a subject in the Concurrent List. If we are extending this power to every Registrar in India, it would, according to me, be a very welcome measure, it will be effecting unification of India in this sense that we can go to any District Registrar in any part of India and get transactions with respect to properties anywhere else in India registered there and under the relevant provisions they will be transmitted to other parts of India. But the difficulty is that the administrative power with respect to the registration act is with the State Governments. Before this Parliament invests a District Registrar, say, in Allahabad with the power under section 30(2) of the Registration Act, the State Government of Uttar Pradesh will have to be consulted, because they will have to make arrangements for transmission of registration details. etc.; it will require more staff and other arrangements.

With respect to the suggestion (that) a Registrar in one State may be invested with power to register documents with respect to immovable property in another district in the same State, there is no objection. But that is a matter with which the State Government should concern itself. Being a legislation in the Concurrent List, it is open to the State Government to effect an

amendment of the Registration Act in that direction, and I can here and now say that if a State Government wants to have that reform with respect to the law of registration in that State, Central Government and the President of India will be prepared to give to it the sanction to do so. But there is the larger question whether the District Registrar in one State should not be empowered to register transactions with respect to immovable properties anywhere in India, similar to the power which is now sought to be given to the District Registrar of Delhi. That is a matter which has been recommended in the Law Commission's Sixth Report. But there have been objections from various quarter and those objections are being considered now. In the 31st Report they have said:

> "This suggestion was received after the submission of the Law Commission's Report on the comments received on the Sixth Report (Registration Act). The suggestion is not by way of comment on the Sixth Report, but is an independent one. The point raised also seemed to deserve urgent consideration. It has, therefore, been taken up separately. Any other changes that may appear to us to be desirable in section 30(2) will be dealt with later, when we give our Report on the comments received on the Sixth Report."

* * * *

If you want an amendment under which a Registrar in one State, say, Andhra Pradesh, will be empowered to register documents with respect to properties situated in other States like Mysore, then parliamentary legislation will be necessary and the Law Commission says that it is looking into that matter and another report will be forthcoming. Therefore in these circumstances, I would request the House to give its unanimous support to the amending Bill before the House.

* * * *

When I introduced the Bill in Lok Sabha Shri Randhir Singh said, "Let us pass the Bill" and I thought that would be the inclination of every Member of the House. But there has been a

rather good discussion and, I stand to benefit by that discussion.

Let us take the points one by one. Mr. Lobo Prabhu said that he is proud of the word India and Indian. So am I. Therefore, it does not follow that the word "Indian" should be attached, or the Bill should be called the Indian Registration Act. Half an hour back we passed the Oaths Bill; the word "Indian" was not there. The 1873 Act was known as the Indian Oaths Act. Now we have removed it and substituted this Oaths Act. This practice of using the word "Indian" with respect to every Indian legislation dates back to the days of colonial rule in India.

* * * *

The word "Indian" is not there in all legislations passed by Parliament after independence. The difficulty raised by Mr. Lobo Prabhu that we have to distinguish our Acts from the State Acts also will not arise. Take registration itself. It is a concurrent subject and it is open to any State, say, Mysore to amend the central Act to suit the convenience of the persons in that State. Then it will be called the Mysore Registration Act. I therefore humbly submit that there is nothing wrong in omitting the word "India". We have discarded the practice followed by the Central Government in India during the colonial days.

There was another reason also. There were so many Indian States at that time and in order that there should be no confusion between the legislations of the Government of India, the word "Indian" was used.

* * * *

Then, Shri Prabhu and other said that it should be extended to other cities as well. Delhi stands apart from the other cities of India. It is the federal capital of India. It is a place to which persons from all States come and it is more important from this point of view than even Calcutta, Bombay and Madras. It is open to the State legislatures to make it applicable to their State capitals. For example, it is open for the UP Legislature to pass a law by which either in Lucknow or in Allahabad, whichever city they treat as the capital for this purpose,

registration of documents with respect to property in every part of the State should be effected. Will not Members of this House agree that this is legislation which will be welcomed by all of us who have congregated to Delhi for different purposes from all parts of the country? This situation does not apply to any other city however important it may be in India.

Regarding the other criticism, may I say that this is a simple amendment to section 30(2) of the Registration Act. Shri Randhir Singh made very many statements with respect to section 17 which is probably the most important section in the Registration Act so far as the law of property is concerned, namely, which are the documents which are compulsorily registrable and which are not etc. Then, corruption was referred to...

This is a matter which is to be attended to by the State Governments. As you know, in every State there is a manual regarding registration. Under section 78 of the Indian Registration Act it is open to the State Governments also to enact rules regarding fees, this and that. I have come across Registration Manuals in other States. So far as Parliament is concerned, its duty ends with passing the legislation because the executive power is with the State Governments regarding a concurrent piece of legislation. Therefore I am not in a position to say anything regarding the statements with respect to corruption and all that.

Some hon. Member raised a very important point regarding agriculturists being enabled to get their documents registered quickly. Shri Prabhu spoke about the difficulties of registration etc. Since he admitted—there is nothing to justify the word, admitted—he stated that he is a landlord, he should have had a good deal to do with the registry officers. I have not had many occasions when I had to go to the registry office not being a landlord. These things which have to be attended to by the State Governments and I am sure, Shri Lobo Prabhu and others will agree if the Law Minister, or for that matter any Minister at the Centre, can do much with respect to corruption if it exists in the registration offices.

This is all I have to submit by way of a reply to the general criticism.

3
Service Matters

I
Right to strike*

The question raised being a question of law, of Constitutional law, which is rather difficult, I would request the House to bear with me if I explain the matter slowly. The question is whether there is a Fundamental Right to go on strike...

* * *

The Supreme Court has said as follows:

> 'It is only necessary to add that the rule, in so far as it prohibits a strike, cannot be struck down since there is no fundamental right to resort to strike.'

This is laid down by the constitution bench of the Supreme Court. This appears in AIR 1962, Supreme Court, page 1172, Column 2, para 20. If there is a fundamental right, it has to be enumerated as such in Part III of the Constitution. Nothing which is not enumerated in Part III of the Constitution can be a fundamental right. You cannot invoke fundamental right in a case where there is a written constitution apart from what is contained therein. Often this is referred to and my hon. friend Mr. Dange referred to Article 23 and I am sure you won't think there is anything

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*Intervening in the debate on Indian Railways (Amendment) Bill, 1967; *Lok Sabha Debates*, November 27, 1967, cc. 210-214.

in it. Now, what is it that has been sought to be enacted? In Clause 2 of this Bill there are two provisions, 100A and 100B which is sought to be enacted. 100A reads:

> 'If a railway servant, when on duty, is entrusted with any responsibility connected with the running of a train, rail-car or any other rolling-stock from one station or place to another station or place, and he abandons his duty before reaching such station or place...'

That is 100A. I do not want to read the whole thing. 100B says:

> 'If a railway servant, when on duty or otherwise, or any other person obstructs or causes to be obstructed or attempts to obstruct any train, rail-car or other rolling-stock upon a railway, by squatting, picketing, keeping without authority...' etc. etc.

Now, the question is, if this sovereign Parliament of this country wants to enact a provision preventing a railway servant from leaving hundreds of people riding in a train mid-way between two stations, is there anything wrong inherent in this law?

They should be able to point out some provisions in Part III of the Constitution, that is, the chapter on Fundamental Rights which prohibits it. The position is this that this Parliament can legislate, can enact any law on any subject entered in List I of the 7th schedule provided there is no bar created by one or the other Articles in Part III. The legislative power of this Parliament is supreme with respect to subjects contained in List I of the 7th schedule provided there is no bar created by one or the other of the Articles in Part III. Article 14 refers to equality, it embodies rule of equality. Now, it is well known that Article 14 enables legislature to classify. It is not as if one rule will apply to all sorts of people. The rule of equality will apply to persons within a certain class. It is open to this House to classify servants into certain categories and categorise railway servants as those who are in the position referred to in 100A or 100B.

This is well-known rule of classification. Therefore, article 14 will not apply.

* * *

If a question relating to legal or legislative competency is raised, you will sometimes allow a discussion on the point. But the Chair will not decide the question. Where is the room for anxiety? If sections 100A and 100B are unconstitutional, you just go to the Supreme Court. The next day it will be struck down.

Government here do not bring forward laws in a lighthearted spirit.

The right to strike is not taken away. What is taken away is what is prohibited in these two sections.

II

Essential Services Maintenance Bill, 1968*

In connection with the Essential Services Maintenance Ordinance almost all the points raised here by friends on the opposite side were raised before the Supreme Court and before the high courts.*** What I consider the most important argument raised is this. Article 19 concedes, guarantees, certain fundamental rights. And those are enumerated in article 19 which is a very long article. The most important among them which is relevant for the present purpose is the right to form unions and the right of the freedom of speech, etc. The argument raised by many learned friends on the other side amounted to this: when these rights have been conceded or guaranteed by article 19, does it not follow that a concomitant right, if I may use that word, in order to establish the rights guaranteed under article 19, would also be implied?

* * *

I could come across at least four cases of the Supreme Court in which this matter was discussed and conclusions reached. The Supreme Court having pronounced upon the matter, it is not perhaps necessary for us to go into first principles and argue the point. I would, therefore, draw your attention to what the Constitution Bench of the Supreme Court said about the right to strike as following from the guaranteed rights under article 19.

I am referring to AIR 1962 Supreme Court at page 171 and this is what the Constitution Bench lays down.

*Replying to the objections raised to the introduction of the Bill, *Lok Sabha Debates*, December 5, 1968, cc. 294—301.

It says:

"Applying what has been stated earlier to the case of a labour union, the position would be this. While the right to form unions is guaranteed by sub-clause (c), the right of the members of the association to meet would be guaranteed by sub-clause (b), their right to move from place to place within, India by sub-clause (d), their right to discuss their problems and to propagate their views by sub-clause (a), their right to hold property would be that guaranteed by sub-clause (f) and so on each of these freedoms being subject to such restrictions as might properly be imposed by clauses 2 to 6 of article 19, as might be appropriate in the context; it is one thing to interpret each of the freedoms guaranteed by the several articles in Part III in a fair and liberal sense;

It is quite another to read each guaranteed right as involving or including a concomitant right necessary to achieve the object which might be supposed to underline the grant of each of those rights. The right to form unions, guaranteed by sub-clause (c) of clause (1) of article 19 thus, does not carry with it the fundamental right in the unions so formed to achieve every object for which it was formed. Even a very liberal interpretation of sub-clause (c) of clause (1) of article 19 cannot lead to the conclusion that the trade unions have a guaranteed right—i.e. a fundamental right—to effective collective bargaining or to strike either as part of collective bargaining or otherwise. The right to strike or right to declare a lock-out may be controlled or restricted by appropriate industrial legislation—not by the Constitution—and the validity of such legislation would have been tested not with reference to the criteria laid down in article 19, but by totally different considerations."

I refer to this decision because it is a direct answer to the points raised by my learned friends on the opposite side that the right to collective bargaining, the right to form associations, the right of freedom of speech, etc. being guaranteed rights under article 19, it logically follows that there is a concomitant

right to go on strike as a fundamental right? That was the question raised in the above case and was negatived by the Supreme Court.

With respect to the ordinance issued in 1960, regarding the right to strike by Government Servants, etc. there is a direct decision by the Supreme Court in the case Radhe Shyam *versus* the Union of India, reported in 1965, Supreme Court at page 311. That also was decided not because of the emergency but based on the article of the Constitution. During the emergency, article 19 is not there. The Supreme Court said in that case:

> "The constitutionality of these sections—prohibiting strike, etc.—is attacked on the ground that they violate the fundamental right guaranteed by clauses (a) and (b) of article 19 (1). Under clause (1) (a), all citizens have the fundamental right of freedom of speech and expression, under clause 1 (b), to assemble peaceably and without arms. Reasonable restriction on these fundamental rights can be placed under the conditions provided in clauses (2) and (3) of article 19. We are of opinion that there is no force in the contention that these provisions of the ordinance violate the fundamental rights enshrined in sub-clauses (a) and (b) of article 19(1). A perusal of article 19(1) shows that there is no fundamental right to strike and all that this ordinance provide is with respect to an illegal strike, as provided by the ordinance".

I do not want to take up your time by referring to other decisions.

A reference was also made to article 23. I was a bit surprised that there has been reference to that article. The article has not been properly read. But fortunately for me and for you too, that question also came up for consideration in the High Court of Bombay with respect to the 1960 ordinance.

This is a constitutional question. I will read the decision also. Traffic in human beings and *Begar* and other similar forced labour are well known to all of us. What is prohibited in

Article 23 is traffic in human beings and *Begar* and other similar forms of forced labour.

Now, after having prohibited *Begar,* the Constituent Assembly thought that it may be that there are other forms of forced labour also and they wanted to provide against that. In sub-article (2) you find this:

> "Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race caste or class or any of them.

So, even in the sub-article it is stated that the State is not prevented for public reasons from saying that there shall be forced labour, but it shall not belong to the category of *Bagar* and other forms of such forced labour. The only constitutional restriction is that there shall be no distinction between caste etc., and the argument against overtime would have been valid if there was an attempt to say that Mohammedans shall do overtime, Hindus shall not do, etc.,

* * * *

I also want to draw your attention to the fact that the Home Minister has brought forward this Bill in order to replace an Ordinance. We are not doing anything new. The Ordinance itself has been questioned in the Supreme Court and in two High Courts. In one of the High Courts the writ petition has been dismissed. The Ordinance is there.

* * * *

Liberal social philosophers, like many of us in this House including you, might consider that it may be bad to take away the right to strike, but the question under rule 72 is whether it is beyond the legislative competence of the House.

There is nothing like illegality for this Parliament. This Parliament can legislate on any matter provided there is no legislative incompetence. Legislative incompetence will arise if the matter is in the State List or is prohibited by the Fundamental Rights. What you raise is a matter about which

the Home Minister will say something at the appropriate stage. This House will have to consider such details at the time of consideration of the Bill. Today the question is whether there is legislative competence.

I heard Shri Madhu Limaye read from the famous textbook of Cooley. What is it that Cooley has said? I have read that passage before. It says that before the Congress in the United States proceeds to legislate on a matter, Congress should consider whether it is within the legislative competence of Congress under the Constitution of the United States. Here rule 72 has been enacted so that the Home Minister, who is the Mover of the Bill, myself who is the Law Minister, and other members in the Cabinet and other may be put on their guard whether it is valid under the Constitution or not. If the arguments made here make us doubt in that matter, rule 72 has been enacted to afford an opportunity to the Mover to withdraw the Bill. But we have no doubt in this matter because of the ruling of the Supreme Court. Therefore all that is needed is to improve the Bill at the time of consideration of the Bill keeping in view what you have stated. All that we have to decide now is whether there is legislative competence.

Other minor questions were raised...;during clause-by-clause consideration we can consider them. My submission is that rule 72 has been enacted, in the manner in which it has been enacted, so that while Parliament should be put on its guard regarding constitutionality of a Bill. Parliament will not decide that matter and it will be left to the courts.

* * * *

But in the face of the Supreme Court decision delivered by four Constitution Benches of the Supreme Court and having considered this matter, I personally, as the Law Adviser to the Government of India, have absolutely no doubt in my mind that legislative competence is there. It may be that you may differ on this thing or that thing. For example, somebody said, whether a police officer should be allowed to arrest without

warrant, that is to say in legal language, whether an offence under this should be made a cognizable offence or not. These are matters of detail which should be discussed at the consideration stage.

4
Welfare of Scheduled Castes and Scheduled Tribes*

I

Committee on the Welfare of Scheduled Castes and Scheduled Tribes

As you know, Madam, in the Constitution we have given some special importance and special safeguards to the Scheduled Castes and the Scheduled Tribes. For example, there is article 335 of the Constitution which provides that the State Governments and the Central Government should give appointments to the members of these communities, consistent with their efficiency, etc. Then article 338 provides for the appointment of a Special Officer called the Commissioner for the Scheduled castes and the Scheduled Tribes who every year presents a Report regarding the activities of the Government in this respect. Now, it is necessary—and that is the Government's feeling—that Parliament should be in a position to examine the activities of the Government in furtherance of the safeguards provided in the Constitution for the Scheduled Castes and the Scheduled Tribes, and that is the reason why we thought that a Committee of this type should be constituted. So Parliament is enabled thereby to sit continuously in judgment over the activities of the Government

*Moving the Motion regarding setting up the Committee on Welfare of Scheduled Castes and Scheduled Tribes in Rajya Sabha; Rajya Sabha Debates, 21 November, 1968, c. 825; 25 November, 1968, c.c. 1271—1280.

with respect to the Scheduled Castes and the Scheduled Tribes.

* * *

I am extremely happy to have got this opportunity of moving this particular motion before this House. I feel all the more happy—and it may be a coincidence— that this step is being taken by Government in the centenary year of Gandhiji's birthday. All of us know that the one individual who exerted himself most in India for the uplift of the Scheduled Castes and Scheduled Tribes was Mahatma Gandhi. Now, when the Constitution was framed by the Constituent Assembly—I was one of the members of the Constituent Assembly— it was very particular to see that provisions were incorporated in the Constitution for safeguarding the interests of Scheduled Castes and Scheduled Tribes and for uplifting them. It was thought that this would be a light task. When the Constitution was framed it was provided that for period of ten years there would be reservation of seats in the House of People and in the Assemblies for the Scheduled Castes and Tribes. It was found that the period had to be extended and so the period was extended. There are three or four positive provisions in the Constitution calculated to protect the interests of Scheduled Castes and Scheduled Tribes. There is, for example, article 17 in which it is provided that "untouchability is abolished and its practice in any form is forbidden."

There is then article 335, which says:—

> "The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State."

Sir, there is, again, article 46 which comes under the Directive Principles and so far as the Government is concerned and Parliament is concerned, the provisions of the Directive Principles constitute fundamental duties. If Part III of the Constitution gives us articles which give Fundamental Rights to individuals, according to me, Part IV of the Constitution, *i.e.,* the Directive Principle of State Policy, lay down the fundamental duties of the administration and of Parliament.

Is so laid down in article 37.

Article 46 reads:

> "The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation."

These provisions and others also like reservation of seats were incorporated in the Constitution mainly because the large majority of the Members of the Constituent Assembly, although it did not contain many members of the Scheduled Castes and Scheduled Tribes, were very particular to see that this standing curse in the Indian Community should be eradicated. This is something which existed for years, for centuries, for thousands of years, that is to say, the segregation of our people into different castes and different communities and some of them untouchables, Panchamas, etc. etc. The evil is so deep-rooted that we find that even after conversion of some of these people to the Christian religion or to the Sikh or Islam religions which do not recognise caste, there are still relics and marks of the caste to which they belonged before the conversion. For example, I have come across Christians in Mangalore who pride themselves as Brahmins. I have come across Christians in my own State of Kerala who say that they are Pulaya Christians—Pulaya means a Scheduled Caste man. I do not find fault with them the evil is so deep-rooted, it has been here for thousands of

year, that even with the greatest efforts the Governments at the Centre and in the States have not found it possible to eradicate the evil completely.

Let me at this stage just remind the House that most of the things with respect to the Scheduled Castes and Scheduled Tribes, are things which are within the executive power of the State Governments. The Central Government comes in only with respect to appointments in the Union Services and in the Territories under the Union. I listened with very great interest the concern of all sections of the House with respect to the welfare of the Scheduled Castes and Scheduled Tribes. I shall not utilise this occasion to find fault with any particular political party or to claim that any political party represented in this House has superior claims in this regard. The Congress Party to which I belong has great interest in the matter of the uplift of Scheduled Castes and Scheduled Tribes. As a matter of fact in the constituent Assembly more than 90 per cent of the Members belonged to the Congress Party. Mr. Kesavan, my friend from Kerala, who belongs now to to the Marxist Communist Party and who was a colleague of mine till recently in the Congress Party, mentioned about two gentlemen who belong to a Backward community, Mr. C. Kesavan and Mr. R. Sankar, who became Chief Minister of Kerala. I refer to that matter because many Members here do not know about it. They were made Chief Ministers of Kerala by the Congress Party which was in majority at that time, I say this because the Congress Party is second to none in this respect and perhaps because of its past it wants to see that these communities are advanced. There are the other parties here. The Jan Sangh, Sir, to which I understand you belong,—so far as I know it is the interest of that party also to see that the conditions of the Scheduled Castes and Scheduled Tribes are improved. Then there is the Swatantra Party. I know of a case where in the last general election in Kerala the Swatantra Party put up a Scheduled Caste candidate in a general Constituency. I will not impute any aspersion against any of these parties, the Communist, the P.S.P., etc., all these parties alike, are interested to

see that the conditions of the Scheduled Castes and Scheduled Tribes are improved. Why should then we during this discussion attribute motives to each other? Again Mr. Kesavan said: why is it that the Congress Party does not have a Harijan as the Prime Minister of India? I put a counter question to him. His party is in the administration in Kerala. Why is it that they thought that a Nomboodiri, who is at the pinnacle of the caste ladder, should be the Chief Minister and not a Harijan?

* * *

What I am trying to say is this. Throughout India in every community, be it Caste Hindu or depressed classes or backward classes, belonging to Kerala or Maharashtra or Bengal or Uttar Pradesh, there are people who are animated with the high principle of seeing to it that the caste system is put an end to and that untouchability is eradicated.

That is the real position and all the political parties also share in that endeavour. That is my humble submission.

Now, I referred to the provision in the Constitution intended to benefit the Scheduled Castes and the Scheduled Tribes. To what extent have we succeeded? In order to investigate that matter, the Department of Social Welfare which today has constituted itself as a sort of protector of the Scheduled Castes and the Scheduled Tribes appointed a Committee called the Elayaperumal Committee. They have been going about, taking evidence. We want to see to what extent, in respect of article 17 and in respect of legislations as contemplated under article 17, untouchability has been removed. It is not my intention to enter issue with those Members who said that there were patches and places in India where there is untouchability still. We want to see to what extent it is there. That is why the Elayaperumal Committee has been appointed. I do not want to enter issue with any Member in this House who referred to various acts of atrocities and cruelties towards Harijans in certain parts of the country. Now, I am not here to defend those who did those things. All of us alike are ashamed at what happend in our country even after 18 years of the Constitution and even in this year of the Centenary Celebrations of

Mahatma Gandhi. Now, there have been cases that even in spite of articles 335, the number of persons belonging to the Scheduled Caste and Scheduled Tribes who have been appointed in the Union services and the States' services has not been adequate. On the ground of incompetence or inefficiency, etc. many are not recruited. I hold the view, Sir, that competence is not the monopoly of any particular community. I have come across Brahmins who are brilliant; I have come across Brahimins who are idiots. I have come across Christians who are brilliant and others who are not so brilliant. I have come across Harijans who are very brilliant and Harijans who are also not so brilliant. Therefore, this is a distribution of the competent and the incompetent among the different communities. So, we have decided that this matter should be looked into—to what extent has this directive in article 335 been implemented? We are very particular about it. I believe—and I am sure everyone here will agree with me—that one of the best methods by which we can remove the Scheduled Castes and the Scheduled Tribes from the difficulties they are in and raise them, will be to give them education. There is nothing like education which will elevate them and which will create a sense of consciousness in them regarding the injustices to which they are subjected.

So, one of the steps taken by the Governments both at the Centre and in the States is to see that education is given to as large a number of Scheduled Caste and Scheduled Tribe boys and girls as is possible. ..... In the year 1964-65, the enrolment at the pre-matric stage of Scheduled Castes and Scheduled Tribes together came to 95,72,105 and the enrolment at the post matric stage came to 4,82,733 and the total enrolment both post-matric and pre-matric came to 1,00,54,868. That constitutes 15.3 per cent of the student population.

This has been achieved by liberal arrangements for scholarships; fees are not levied, so far as I know, in any State in India from members of the Scheduled Castes and the Scheduled Tribes. Over and above that, the Governments give scholarships in a very liberal manner. And I can assert here—and I

may assure the House—that the Government of India will not hesitate to provide as much money as is necessary to give encouraging scholarships to students belonging to the Scheduled Castes and the Scheduled Tribes.

Now, pre-matric scholarships in the year 1964-65 went to 6,16,866 members belonging to the Scheduled Castes and the Scheduled Tribes, and post-matric scholarships to 1,08,024 of them. If you say or if anyone says that this is not enough, all right, I am prepared to accept that and will provide more funds for giving them more by way of scholarships.

Sir, in the year 1967-68, 50 Scheduled Caste boys have been given overseas scholarships. I will at once say that the number is insufficient, we must improve it. And 43 Scheduled Tribe boys have been given overseas scholarships. In regard to hostel accommodation, the number of inmates in the year 1966-67 is 2.50 lakhs. Land and housing is mainly a matter which comes under the State Government but we encourage the State Governments. The Scheduled Castes in 1965 got 3,12,225 acres and the Scheduled Tribes 1,32,884 acres.

Then regarding employment in the IAS and IPS, the number of reserved vacancies actually filled in by the Scheduled Castes is 172. I put it that way because all the seats reserved for them or all the places reserved for them, have not been filled up. And for the Scheduled Tribes the number is 59. Then in the other categories also, Class I, Class II, Class III and Class IV, also there are large numbers who have been appointed.

We are now considering what could be done to see that the number actually reserved for them is made available to them.

Now, this is what we are doing. The Social Welfare Department which is now administered by me and my colleagues here, wishes to constitute itself as the guardian of the Scheduled Castes and the Scheduled Tribes in our country, and this Committee which we seek to establish now is intended to help, by criticism and otherwise, the activities of the Social Welfare Department.

I did not read out in my opening speech the functions of the

Committee. A reference to the functions of the Committee will show that Government is very particular to see that Parliament should be invested with plenary powers to criticise, guide and control the Government of India in the matter of the Scheduled Castes and the Scheduled Tribes.

The functions are——

1. To consider the Reports submitted by the Commissioner for the Scheduled Castes and Scheduled Tribes. That would be the function of this Committee.

2. To report to both the Houses on the action taken by the Union Government and the administrations of the Union territories on the measures proposed by the Committee.

I put it in this way because this is a Committee of Parliament. This Committee cannot report upon actions taken by the State Governments. I hope and trust that the States also will in their Assemblies appoint Committees of this type so that those committees would be able to report to their Governments, regarding the steps taken. I hope the Members of this House will exert such influence as they have in this matter of appointment of similar committees by the State Governments.

3. To examine the measures taken by the Union Government to secure due representation of the Scheduled Castes and Scheduled Tribes in services and posts under its control including appointments in the public sector undertakings, statutory and semi-Government bodies and in the Union territories having regard to the provisions of article 335.

4. To report to both the Houses on the working of the welfare programme for the Scheduled Castes and the Scheduled Tribes in the Union territories.

5. To consider generally and to report to both the Houses on all matters concerning the welfare of the Scheduled Castes and the Scheduled Tribes which fall within the purview of the Union Government including administrations in the Union territories.

6. To examine such matters as may seem fit or are specifically referred to by the House or the Speaker.

I claim, Sir, that in drafting these functions for the Committee we have tried to see that maximum power is invested with these Committees and they are not intended to be *nam ke vaste,* just to please somebody. They will be as powerful in respect to the transactions of the Government as the Public Accounts Committee or the Estimates Committee because they can criticise and comment upon Government activities. I was, therefore, pained to hear that this occasion, when we have come with this Resolution before the House, should have been utilised to speak about all kinds of things which I am not in a position to answer..... The conscience of the Indian Community, particularly the Hindu community has to be awakened. It is our conscience which has become dull and the most important thing which Mahatmaji did was to awaken our conscience and of our feelings. I shall be very happy, Sir, and I shall feel gratified if this debate would have enabled us to have our conscience awakened once again in this year, the Centenary year of Mahatmaji's birthday with respect to the condition of the Scheduled Castes and the Scheduled Tribes. I hope, Sir, the Resolution will be passed unanimously.

II

Extension of the Period of Reservation of Seats in Lok Sabha and State Legislative Assemblies for Scheduled Castes and Scheduled Tribes and Anglo-Indians.*

The object of this amendment is to extend the period of reservation for Scheduled Castes and Scheduled Tribes and Anglo-Indians for a period of another ten years. The House might remember that when this reservation was introduced in our Constitution originally, it was thought that the period of reservation should be for ten years; that is to say, the period should expire on the 26th of January, 1960. But in 1959 we thought that the reservation for a period of ten years was not sufficient and that the Constitution should be amended by substituting the word "twenty" for "ten", thus extending the period of reservation till 26th January, 1970. Now the Government's view, and I hope the view of the House also, is that the stage has not been reached in our country when we could do away with reservation for Scheduled Castes and Scheduled Tribes. Our attempts to ameliorate the condition of the Scheduled Castes and Scheduled Tribes, our attempts to bring them up to a level which is equal to the rest of the population of the country have not fully succeeded. So far as I am concerned, I do not believe that the depression which was effected by the Hindu society on the Scheduled Castes could be rectified in two or three decades. The system under which a

*Moving the Constitution (23rd Amendment) Bill in Lok Sabha; *Lok Sabha Debates*, 8 December, 1969, cc. 280-290.

section of our community was treated as untouchable, a system under which a section of our community was treated to use a word which we do not use now-a-days as *panchamas,* a system which kept segregated a section of the Hindu community, existed for thousands of years and we have not yet found it possible to say that we have created a feeling of equality between them.

We have come across statements in this House on several occasions when members complain that untouchability is being practised in several parts of the country, that particularly in the villages that they are still kept apart. And whenever a question regarding Scheduled Castes comes up for discussion here, there have been complaints in our House that enough has not been done. It is not that enough has not been done; may be, we should have done more. But even with all that we have done, even with the proclamation in the Constitution in the Fundamental Rights chapter that untouchability is abolished, even after the enactment of the law making the practice of untouchability an offence, untouchability still lurks here and there in various parts of the country. It may be that in big cities like Delhi we do not see it. It may be that most of us, particularly all of us in Parliament, do not practise untouchability. But that is a different matter. They continue to be a separate community, still suffering from the consequences of untouchability.

So far as the economic condition of the Scheduled classes—formerly known as depressed classes—is concerned, there also the difficulty is there.

The complaint is often received that the scholarships provided for education are not sufficient or that the opportunities to be represented in the public services are not enough.

Recently, in a committee appointed by the Home Ministry, presided over by the Home Minister, we had occasion to look into the percentage of reservation for Scheduled Castes and Scheduled Tribes in the Government services. We are still lagging far behind the targets fixed. In all classes of Govern-

ment services the percentage which has gone to members of the Scheduled Castes is much lower than the percentage which they have in the community. This is a stark fact.

In the competitive examinations, on account of the fact that the Scheduled Castes have not been able to have a good standard of life, it is found that they do not come up to the same level with others. In the matter of examinations, studies, etc., a certain level of economic standard is necessary to enable the candidate to come up. If the surroundings in the home are not congenial, may be a student belonging to the Brahmin community itself may not be able to cope with the rest of the students in the schools and colleges. All these are well known.

Coming to elections—and, after all, reservations are very important in the matter of elections—I do not think that in any State in India the situation has developed in which a member of the Scheduled Castes would get returned, normally speaking, from a general constituency. This is the test.

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When this matter was discussed in a committee informally the question was asked whether the political parties could not meet and decide that they would put up Scheduled Castes in the general constituencies. I am sure, it would be possible for the leadership of the different political parties to do so.

At the time of election, unfortunately, the caste of the candidate is looked into. Our society is tradition—bound and caste ridden and even if in a general constituency, where the Congress or the Communist Party or the Jana Sangh is very popular, a candidate belonging to the Scheduled Castes or Scheduled Tribes is put up, an independent belonging to a high class community will stand and get elected in spite of all the efforts which the political parties may do.

This is the weakness of all parties. After all, what is the membership of a political party? In Assembly or Parliamentary constituency consisting of lakhs of people, the member-

ship of political parties will be limited. You can give a whip to every member but you are not sure whether the people will do so.

All that I say about the Scheduled Castes applies to the Scheduled Tribes also. I should think that the House will agree unanimously that we should give one more chance to the Indian community to see that the members of the Scheduled Castes and the Scheduled Tribes are raised to a level in which they would feel that they are equal to the rest of the community and the rest of the community will embrace the members of the Scheduled Castes and the Scheduled Tribes as their own brethren. To put it most simply that is the object of this amendment of the Constitution.

Then, there is the case of the Anglo-Indians. When the Constituent Assembly was discussing the provisions of the Constitution the Minorities Committee of the Constituent Assembly consisting of many respected leaders of the country came to the conclusion that the Anglo-Indians occupy a special position in the Indian community and that unless we give them nomination in the Parliament and in the State Assemblies, it may not be possible for the members of the community to make their contribution to parliamentry life in India. So, it was provided that two Members should be nominated by the President to the Lok Sabha and, so far as the State Assemblies are concerned, that it should be at the discretion of the Governor whether he would nominate any and, if so, how many. That provision also would expire on the 26th January, 1970. It is now proposed that the nomination of the Ango-Indians also should be extended by another period of ten years with the reservation that the nomination of the Anglo-Indians by the Governor to the State Assembly should not be at the discretion of the Governor and that the number there should be only one Member in any State Assembly. Now, as it is, it may go to any number. I understand, there are certain State Assemblies where there are three or four Anglo-Indians. This is the object of this amendment.

Our Constitution has made provision that nomination of Anglo-Indians should be to the Lower House. But when I am just trying to continue what has been obtaining with respect to Anglo-Indian nominations for the last 20 years, now to say that hereafter it will be to the Upper House*, will make the case very weak. We have done it in the Lower House and I am sure the nominations we have made to the Lok Sabha from among the Anglo-Indian community have been successful.

Anglo-Indians have now become a part of the Indian community. Though technically known as Anglo-Indians, all of them may not be Anglo-Indians. Some of them may be Eurasians. Therefore, it is a description of a certain group of people who have got a certain type of culture. Our Indian community is a community of various descriptions. There are Hindus. There are various castes and communities among the Hindus. We have got the Scheduled Castes. We have got the Scheduled Tribes. Then we have got the Muslims and various schools among them. Then we have got the Christians. There are umpteen classes to which they belong. There are Catholics. There are Protestants and among the Catholics there are the Latin Catholics, the Syrian Catholics and all that. In this variety we have got a unity which is the unity of Indianism, and the Anglo-Indian community was recognized for good reasons at that time of framing the Constitution.

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Article 330 refers to reservation of seats for scheduled castes / scheduled tribes. There are other people. Now this comes under the Chapter—Special provisions relating to certain classes. All of them are put together—the scheduled caste and scheduled tribe people are there, the Anglo-Indians also are there; because it relates to special classes namely, Anglo-Indians, scheduled tribes and scheduled castes.

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Just as scheduled caste candidates cannot get elected from

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*Shri Bal Raj Madhok had asked why nomination of Anglo-Indians could not be confined to the Upper House.

general constituencies, the same thing applies to the Anglo-Indians also. There may be exceptional cases; but I don't think Members here will dispute my proposition.

* * * *

The Constituent Assembly discussed this matter in the Minorities Committee. The same conditions which prevailed in 1950 when the Constitution was proclaimed—that the Anglo-Indians should have separate representation by nomination, that Scheduled Castes / Tribes should have reserved constituencies from which they would be elected, etc.—continue even today.

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These being the facts, I move the motion.

5
Promotion of Hindi Language*

It is one of the duties of the Union as enjoined by the Constitution to spread the Hindi language throughout India. It is so stated in article 351 of the Constitution. This duty of the Union was being and is being effectively carried out to a very large extent in the southern States by the Dakshina Bharat Hindi Prachar Sabha. It is therefore in the fitness of things that the Union Government should come forward with a legislation for granting the status of an institution of national importance to this hoary institution. I therefore whole-heartedly support this Bill.

But then, after all these years, after independence, Hindi has not yet become truly the national language of India. Still controversies are going on; still there are large numbers of people in the southern States who do not know the language. Even the Members of Parliament who come from the South do not understand that language properly, and it is time enough for the Central Government to reflect over the situation and consider why this happens to be so. Sir, I do not think that the Union has been serious all these years in the matter of spread of the Hindi language. If they were so, the situation would not have been what it is.

Now, Sir, those who come from the southern States are at a handicap, particularly in this House because they cannot speak in Hindi. I myself am one of the seven million students who have gone under the tutelage of the Hindi Prachar Sabha. I studied my rudiments of Hindi and passed two or three

*Intervening in the debate on Dakshina Bharat Hindi Prachar Sabha Bill moved by Shri M.C. Chagla; Lok Sabha Debates, 29 April, 1964, cc. 13454-58.

examinations conducted by the Sabha, but still it is difficult for us to speak in Hindi because of certain handicaps....

These handicaps apart, look at the handicap of the Governments of the southern States in the matter of spread of the Hindi language. In the State of Kerala for the last ten or twelve years Hindi has been a compulsory subject in the schools, in all the educational institutions. So, in Kerala all these years Hindi teachers had been teaching in all the institutions. And if the Constitution says that it is the duty of the Union to spread the Hindi language I put it to you, Sir, is it not the duty of the Union Government to see that every pie by way of remuneration paid to these Hindi teachers should be met by the Centre? I therefore take this occasion to demand that persons appointed as Hindi teachers in the primary and secondary schools of the southern States, and persons appointed as professors and lecturers in the colleges in the southern States should become truly the servants of the Union Government, or at least they should be paid in full by the Union Government. Otherwise the Union Government would not be discharging the duties enjoined upon that Government by the Constitution. This, Sir, is the opening clause in article 351, and I want to draw the particular attention of the Education Minister to that matter:

> "It shall be the duty of the Union to promote the spread of the Hindi language".

And that duty has not been discharged by the Union Government all these years. I, therefore, take this occasion to bring that matter to the notice of the Ministry.

Secondly, *ad nauseam* we are hearing claims made by Members in this House and outside, hailing from the Hindi speaking States, that the transactions of this House should be in the Hindi language, that Hindi should spread, etc. etc. I have been reflecting over this matter. Now, why should we spread Hindi? Why is it that Mahatma Gandhi and later on the Constituent Assembly stated that Hindi should spread throughout India? Is it for improving the Hindi language? Is it for enabling those people who come from the Hindi States to have

a feeling of pride that the language of their State is being spread throughout India? It is not so. It is the duty of the Union, the Parliament, and those particularly who hail from the Hindi States to make others feel that it is the duty of the entire population of India to see that Hindi spreads throughout India.

And in this connection I heard the esteemed Member Dr. Govind Das, Speak about Hindi. He misses no occasion to speak about the need to spread Hindi. I am not finding fault with him. In doing so he will be discharging a duty enjoined upon the union, which includes the Union Parliament, to spread the Hindi language—as enjoined by article 351. But I would request him in this connection, and others here, to read the subsequent clauses in article 351. Has anybody bestowed any attention on that matter? It says:

> "It shall be the duty of the Union to promote the spread of the Hindi language,"—

again—

> "to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India".

So the Constitution enjoins us, asks us, dictates to us, directs us to enrich the Hindi language by assimilating the styles of expression in the other languages of India.

Now, some of the Hindi scholars, some of the Members hailing from the Hindi States appear to forget this direction in the Constitution. Sometimes when we speak in English, sometimes when a Minister who does not know Hindi speaks in English, we hear an uproar in the House "Speak in Hindi". Now, that uproar is made, I presume, because of this direction in the Constitution in article 351. But I ask this question: does any one of them know anything about the usages of Tamil? That is also provided in the Constitution, that is, enrich the Hindi language by assimilating the styles, etc., of the other languages?

After all, Sir, when some of us from the southern States say that we support that Hindi should spread throughout India, it is not because the other languages are poor. It is not because Malayalam, Tamil, Canarese or Telugu or Bengali, not because any of these languages, is poorer in literary content than the Hindi language. It is because Hindi happens to be the language of very large sections of the people of India that we support that proposition. Probably, there is no area in the world where so many people contiguously living speak the same language as in the case of Hindi. That is an advantage in India... That is the reason why we support the idea that Hindi should become the national language. But at the same time, what I have pointed out is also necessary. But some of our friends appear to forget that, and it is that forgetfulness on their part, that feeling that Hindi should spread, Hindi should spread, Hindi should spread without understanding the reason why it should spread, which creates some difficulties.

Therefore, I take this opportunity to remind the hon. Deputy Minister who, I understand, is a great scholar in Hindi, and all the other Members of this House hailing from the Hindi speaking areas, that we should create an atmosphere of cordiality and friendship in which all the cultures and languages of India and the styles of expression will be assimilated into the Hindi language in order to make it acceptable to all sections of the people in India.

6
Famine conditions and starvation deaths in Orissa*

It is a fact that scarcity conditions prevail in certain parts of Orissa. A Central Team under the leadership of an Adviser of the Planning Commission visited Orissa in February, 1966 and reported amongst other things that the real problem was to set up relief works which would increase the purchasing power of the villagers so that they could buy the foodgrains which were available at reasonable prices in the fair price shops. The State Government has already set up 6,744 relief works and according to the latest figures available, about 3,80,000 persons are working on these works. The position is that even in this difficult year, the availability of foodgrains within the State is such as to provide food to the people at a reasonable level....

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The stock available with the State Government out of internal procurement was more than 1 lakh tonnes by the middle of April. Out of this 15,000 tonnes have been rushed by special trains to the affected areas.

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There is no necessity, therefore, for supply of any rice from the Centre, and there has been no demand from Orissa for the supply of rice. The Centre has been allotting wheat to Orissa and the allotment of wheat has been increased substantially this year. Against a total quantity of 67,300 tonnes supplied in 1965, allotments so far up to the end of

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*Replying to the Calling Attention motion by Shri Madhu Limaye on April 29, 1966; *Lok Sabha Debate*,
cc. 13998—14000, 14018, 14020-21, 14023-28.

April 1966 have been 53,700 tonnes. The allotment for May has been increased to 22,200 tonnes.

In addition to the normal allotment of wheat the Central Government has allotted 2,000 tonnes of wheat to the Orissa Government for free distribution amongst the old, infirm and others who are unable to work. A further quantity of 3,000 tonnes is also being allotted for this purpose. In addition, the State Government has also allotted 10 quintals of rice to each Block Headquarters for free distribution to old and infirm people and to young children, who cannot earn wages by working at these scarcity relief works. Orissa has also been allotted 3,600 tonnes of milk powder for the vulnerable population—that is expectant and nursing mothers and children in the age group of 0-14. A further quantity of milk powder may be allotted to Orissa when more milk powder becomes available. 1,000 tonnes has already been despatched from the ports. 175 tonnes of biscuits and a quantity of about a million multi-vitamin tablets have also been allotted.

Regarding financial assistance for scarcity relief a sum of Rs. 45 lakhs was sanctioned for the year 1965-66. For the year 1966-67 a ways and means advance of Rs. 1 crore has been made to the State Government for procurement of foodgrains. Another sum of Rs. 1 crore has been sanctioned as a loan to enable the State Government to set up more relief works.

A team of officers led by the Adviser, Planning Commission, will be visiting the affected areas in the State early in May to make a fresh assessment of the conditions prevailing in that area to determine what further Central assistance would be needed and to suggest what further steps are to be taken.

Regarding the statement attributed to the Governor of Orissa that he had seen two children abandoned by their parents and had received reports about parents selling their children, enquiries made of the Orissa Government indicate that no such statement was made by the Governor to the Press. The Governor, in the course of his tour, visited the orphanage at village Bhela in Kalahandi District, where the inmates consisted

of two orphans and 68 other children left there by their parents temporarily, who had gone to work either on relief works or to obtain gratuitous relief.

Orissa Government were requested for a report regarding the allegations regarding starvation deaths. Orissa Government have reported that specific allegations about death due to starvation were received in respect of 19 persons in the districts of Kalahandi, Bolongir, Dhankanal, Sambalpur and Cuttack. All these cases were enquired into by the Orissa Government and the reports were found to be incorrect.

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As soon as the allegations* were received a reference was made to the State Government to ascertain the true facts. What the facts are which were transmitted to this Government. I gave them in my statement. I also said that a high-level team of officers is being sent in the next day or two. The Food Minister also said the previous day that he would also be making a visit to the famine-stricken areas.

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I also said that all attempts are being made to provide funds to the Orissa Government for proper famine relief work. The hon. Member, Shri Dwivedy, said that rice is being taken away from Orissa. That is not correct....

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There is ample rice there; the problem is one of money to purchase rice. It is for that purpose that relief works are being organised. Even in the Governor's statement, which was referred to, the Governor says that aid is being sought from the Central Government. We have not yet received anything, but even before that, as I said, Rs. 2 crores have been made available to the Orissa Government for the purpose. Ample quantity of wheat is being sent to Orissa. If more has to be sent, the Government will be prepared to do it. I wish to submit that there is absolutely no conflict regarding the situation in Orissa between hon. Members and the Government. The

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*Allegations by Shri Hem Barua about parents being forced to sell their children because of poverty.

Government is equally anxious to see that famine conditions are relieved...

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Aid by way of foodgrains, that is, wheat as also money has been given*. So far as I know, there is no request pending with the Central Government from the Orissa Government. But on account of what the Central Government itself has come to know about the situation in Orissa, this team is being sent in a day or two to enable the Government to come to a decision as to what more has to be done. I can assure the House that everything necessary will be done.

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I have not got with me now facts with respect to other States.** Regarding the conditions in Orissa, all information available with the Government has been given in the statement made by me. I do not want to controvert anything said by the hon. Members on the floor of the House. But, this Government has to receive reports from the State Government also. We will make enquiries as to what the real conditions are in these famine stricken districts, and all that is humanly possible will be done to relieve the situation.

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A team is going within the next day or two and it will be open, particularly to hon. Members coming from Orissa, to place before the team the real facts and, if the facts warrant further steps to be taken by the Central Government, those steps will be taken.

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The official group is going and I would request the hon. Members of this House who have any direct information about conditions in Orissa to place that before it..... It is not under contemplation of Government to send a Parliamentary Committee to that area now.

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*Replying to query as to whether any aid has been asked for by the State and if so any aid has been given by the Centre.

**In reply to a statement by Shri Omkar Lal Barua that femine conditions are prevalent in Bihar, Madhya Pradesh and Rajasthan also.

CORRIGENDA

Page	Para	Line	For	Read
4	2	2	obrogated	abrogated
7	1	1	notion	nation
22	4	4	imandamus	mandamus
48	1	6	within,	within
50	2	4	race	race,
55	1	7	lay	lays
55	2	1	Is so laid down	It is also laid down
73	1	14	has	have