363 Jute Mill Cos. (Reg. & CHAITRA 2, 1901 (SAKA) Const. (Amdent.) Bill 364 Trans.) Amdt. Bill

MR. DEPUTY-SPEAKER: The question is:

That leave be granted to introduce a Bill further to amend the Constitution of India."

The motion was adopted.

SHRI K LAKKAPPA: I introduce the Bill.

15 31 hrs.

MONOPOLIES AND RESTRICTIVE TRADE PRACTICES (AMENDMENT) BILL*

Amendment of Sections 21, 22 etc.

SHRI SOUGATA ROY (Barrackpore): I beg to move for leave to introduce a Bill further to amend the Monopolies and Restrictive Trade Practices Act, 1969

MR DEPUTY-SPEAKER: The question 18:

"That leave be granted to introduce a Bill further to amend the Monopolies and Restrictive Trade Practices Act, 1969."

The motion was adopted.

SHRI SOUGATA ROY: I introduce the Bill.

15.32 hrs.

JUTE MILL COMPANIES (ACQUI-SITION AND TRANSFER OF UNDERTAKINGS) BILL*

SHRI SOUGATA ROY (Barrackpore): I beg to move for leave to introduce a Bill to provide for the acquisition and transfer of undertakings of the Jute mill companies. MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for the acquisition and transfer of undertakings of the jute mill companies."

The motion was adopted.

SHRI SAUGATA ROY: I introduce[†] the Bill.

15.33 hrs.

CONSTITUTION (AMENDMENT) BILL-contd.

(Omission of article 310. etc.) by Shri Bhagat Ram

MR DEPUTY-SPEAKER. We continue with the further consideration of the Constitution (Amendment) Bill moved by Shri Bhagat Ram He was on his legs.

श्री मगत राम (फिल्लोंग) · मिस्टर डिंग्टी म्पीकर सर, पिछले 9 सार्च को मैने बोलने हुए कहा था कि हमारे काम्टीट्युशन की जो धाराए 310 और 311 हैं, उनके द्वारा हमारे सेन्टर के 30 लाख और स्टेटस के 40 लाख एम्प्लाईज के डेमोत्रेटिक राइटस को छीना गया है। यही नही, बल्कि मैं तो यह भी कहुंगा कि ये जो हमारे कांस्टीट्युज्ञन की घाराए है, ये बिल्कूस एन्टी डेमोत्रेटिक है मौर ये प्राकृतिक न्याय की भी विरोधी है। डिप्टी स्पीकर माहब, आपको मालूम ही है कि चाहे चोर हो, चाहे डाकू हो, चाहे स्मगलर हो, चाहे कोई कातिल हो, सब को झपने डिफेंस का राइट है। परन्तु इन धारामों के डारा, जिन एम्प्लाईज पर ये धाराएँ लागू की जाती हैं, उनको प्राकृतिक न्याय भी नहीं मिलना है जब कि कोई चौरी करे, डाका डाले, स्मगलिंग करे, करल करे, उसको प्राकृतिक न्याय मिलता है। उनको अपना पक्ष पेश करने का हक है। लेकिन जिन लोगों पर ये धाराएं लागू होती हैं, उनको अपना डिफेंस करने का कोई हक लागू नहीं होता है । ये घाराएं जहां बेहवा है, एस्टी बेमोकटिक हैं वहां ये घाराएं प्राइतिक न्याय की भी विरोधी हैं। इन धाराझों को हमारे संविधान से खारिज करने के लिए केन्द्रीय भीर प्रान्तीय सरकारों में जो एम्प्लाईज की यूनियनें हैं, फेडरेबंस हैं, वे दसियों सालों से संघर्ष करती चली झा रही हैं और यह मांग करती चली था रही हैं कि इनको हमारे संविधान से खत्म किया जाए ।

*Published in Gazette of India Extraordinary Part II, Section 2, dated 23-3-1979.

†Introduced with the recommendation of the President.

पिष्ठले साल म्राल इंडिया स्टेट एम्प्लाइज फैड्रेशन की पटना में एक कनवेंशन हुई थी जिस में उन्होंने इन म्रुन्च्छेदों को लोप करते के प्रस्ताव पास किए, फिर म्राल इंडिया रेलवेमैंज फैड्रेशन ने इसी म्रानरेवल हाउस में एक पैटीशन पेश की ग्रौर उस में भी यही मांग की कि एम्प्लायीज को राजनीतिक ग्रौर डमोकेटिक राइट्स मिलने चाहियें । सैंट्रेल गवर्नमेंट एम्प्लाइज कनफैड्रेशन जो केन्द्रीय कर्मचारियों की नुमाइंदगी करती है उन्होंने भी कई बार यह मांग को है । सभी यूनियनें या एसोसिएशनें जो सरकार की दलाल नहीं हैं ग्रौर सही मानों में सरकारी कर्मचारियों की नुमाइंदगी करती हैं, जो सरकार की चमचागीरी नहीं करती हैं, जो ग्रपने सार्था मुलाजिम हैं उन में विश्वास रखती है, सभी ने मांग की है कि ये बेहूदा ग्रनुच्छेद हैं इनको जितनी जल्दी हो सके संविधान से खारिज किया जाए ।

जनता पार्टी ने भी ग्रपने चुनाव घोषणापत्न में | सरकारी कर्मचारियों के साथ यह वादा किया था कि हम उनको डेमोकेटिक राइट्स देंगे । इसको मैं कोट करना चाहता हूं । पेज 16 पर 19वें पैरे में इन्होंने | लिखा है ।

> ऐसा प्रबन्ध करेंगे कि सरकारी कर्मचारियें का उत्पीड़न न किया ना सके, उन पर कोई राजनीतिक दबाव न पड़ने पाए श्रौर उनको गैर कानूनी ग्रादेश मानने के लिए तथा गैर कानूनी काम करने के लिए बाध्य न किया जा सके । न्यायालयों का ग्राश्वय लेने का उनका श्रीधकार उन्हें वापिस मिलेगा ।

इस तरह से सरकारी कर्मचारियों को डेमोकेटिक राइट्स देने का जनता पार्टी ने भी वादा किया हुया हैं। मुझे खुशी है कि जनता पार्टी ने पावर में ग्रा कर लोगों की भावनाग्रों को समझते हुए एमरजेंसी के जमाने में बनाए गए काले कानूनों को खत्म किया। इस में सभी डेमोकेटिक पाटियों ने उसको स्पोर्ट किया है। इस बारते में ग्रपील करता हूं कि उसने ग्रपने चुनाव घोषणा-पत्र में जो वादा किया है इसको भी वह पूरा करे।

1857 के स्वतंत्रता संग्राम के बाद महारानी **विक्**टोरिया ने एक एलाननामा जारी किया था और उसके बाद 1935 का गवर्नमेंट ग्राफ इंडिया एक्ट बना था, उनमें ये जो धारायें थीं इन धाराम्रों को हमारे संविधान को बनाने वालों ने ज्यों का त्यों ले लिया था। জৰ हमारा देश विदेशी शासकों के अधीन था सब उनको इस तरह के कानुनों को जरूरत थी, इस तरह की धाराग्रों की जरूरते थी ताकि वे हिन्दूस्तान पर श्रासानी से राज्य करते रह सकें ग्रौर ऐसे ग्राटोंकेटिक कानूनों को भारतीयों पर लाग कर सकें ग्रौर उनका इस्तेमाल कर के लोगों की दबाएँ रख सकें । ग्रपने राज्य को चाल रखने के लिए उनके लिए यह जरूरी था। लेकिन जब देत्र ग्राजाद हग्रा तब भी इस तरह के कानूनों को जो विरासत में लिया गया है उनको संविधान में ज्यों का स्यों रख दिया गया । विदेशी शासकों की ब्युरोकेसी यहां के एम्प्लायीज की देश भक्ति की थोड़ी बहुत भावना कों भी संहन नहीं कर सकती थी ौर उन्होंने इस तर ु के कानन बना रखे थे। हमें ग्राजाद होने के बाद यही व्यरोकेंसी विरासत में मिली । इसके ग्राचार विचार में स्वभाव में कोई फर्क नहीं ग्राया । इसको भी कर्मचारियों से उसी प्रकार का भय बना रहता था जिस प्रकार का भय विदेशी शासन के समय ये महसूस करती थी। स्वतंत्रता के बाद जब हमारे देश की बागढोर यहां के शोषक वर्ग के हाथ में ग्राई ग्रीर उनका भी इसी में इन्टरेस्ट था कि ऐसे प्रावधान हमारे संविधान में हों जिनके द्वारा वे शोषत वर्गतर संदियों तक अपना राज्य जारी रख सकें । इसलिये ब्रिटिश समय से यहां चली ग्रा रही जो ब्युरोकेसी थी ग्रौर जो शोषक शासक वर्ग था उन्होंने इस सब के लिये कोलेबोरेशन किया ग्रौर ऐसी कई धाराग्रों बनाये रखी जो ऋग्रल हैं. जिनको हमारी पार्टी जनता पार्टी ग्रौर डेमोकेटिक पार्टियां कहती हैं कि कुग्रल हैं, फिर भी उनको विधान में ज्यों का त्यों बनाये रखा । विदेशी समय की कई धारायें ज्यों की त्यों लगी हई हैं ग्रौर बिना सोचे समझे कर्म-चारियों पर उनका इस्तेमाल किया जाता है। क्योंकि न तो राष्ट्रपति और न गवर्नर सीर तौर पर कर्मचारी को व्यक्तिगत रूप से जानता है, उनको पता भी नहीं होता कि कौन कहां पर काम करता है, लेकिन जब उनके डिसमिसल का ग्रादेश होता है तो उन पर यह धारा लाग होती है और उस डिसमिसल ग्रार्डर पर या तो गवर्नर या राष्ट्रपति के दस्तखत होते हैं। होता क्या है कि जो ऐमप्लाईज ईमानदारी से काम करना चाहते हैं ग्रौर ग्रपने बौस के करप्शन को सहन नहीं करते हैं. उस पर एतराज करते हैं तो कुछ भ्रब्ट ग्रधिकारी लोग ऐसे ईमानदार कर्मचारियों से जलते हैं ग्रौर उन पर ग्रत्याचार करते हैं, जो करेक्टर रौल की प्रथा हमारे देश में ब्रिटिश समय से चली ग्रा रही है उसको खराब कर देते हैं ग्रौर धीरे धीरे यह धारा लगा देते हैं ताकि उनका करप्शन जारी रहे । हमारे राष्ट्रपति ग्रौर गवर्नर बिना सोच विचार किये उस पर दस्तखत कर देते हैं।

दसरे यह कि अपना पोलिटिकल मोटिव सर्व करते के लिये जो शोषक शासक वर्ग होता है वह अपने शासन को ग्रागे बढ़ाने के लिये और टेड यनियन तथा डेमोकेसी को करल करने के लिये इसका इसतेमाल करता है। क्योंकि जो ट्रेड युनियन के नमाइन्दे होते हैं, जो सरकारी कर्मचारियों की नुमाइन्दगी करते हैं वे लोग अपनी मांगों के लिये जत्थावन्दी करते हैं, संघर्ष करते हैं, तो सरकार उसको सहन नहीं करती है। तो कर्मचारियों को ग्रपने लीडर से ग्रलग करते के लिये, उनके मवमेंट को लीडरलैस करने के लिये इस धारा का इस्तेमाल करते हैं। ग्रौर यही कारण है कि पिछले समय बंगाल में 13 स्टेट ऐम्प्लाईज जो कोग्राडिनेशन कमेटी के लीडर थे ग्रौर जो बड़े पौपूलर थे, जिनको हर तरह से कर्म-चारियों की सपोर्ट थीं, उनको श्री सिद्धार्थ रे को मिनिस्टी के समय बिना कोई कारण बताये इसी धारा को लगा कर के नौकरी से निकाला गया था । ग्रौर उसी समय बंगाल में ही कोसीपूर और ईशापूर ग्राडिनेंस फैक्ट्रीयां जो वंगाल में हैं वहां के 32 कर्तचारियों को भी यही धारा लगा कर निकाला गया। इसके ग्रलावा जम्मू कश्मीर तथा ग्रौर भी कई राज्यों में जो कर्मचारियों की नुमाइन्दगी करते थे उनको इस धारा का शिकार होना पड़ा। यह बेहदा धारा है जिसको इमरजेंसी के दौ**रा**न बड़ी

[की भगत राम]

बेरहमी के साथ इस्तेमाल किया गया । म्रापका मालूम है कि इमरजेसी लगा कर श्रीमती इन्दिरा गाधी को सरकार ने हमारे देश के लोगो के मारे नागरिक म्रधि-कारो को छीन लिया था म्रीर इमरजेसी प्रीवीजन्म को ले कर देश की बकिना क्लाम पर म्रीर ऐम्प्लार्टन पर म्राय्यापार किये गये । यह बाल हिन्दुस्तान के मारे लोग ही नही बल्कि सारी इनिया के लोग जातने है ।

भापको मालूम है कि इसर्जेमां के दौरान एस्पलाई ब के कड़तट रूल्ज का चेज किया गया, नाकि उनपर नसबदी कराने के लिये दबाव डाला जा मकें। उनके बाम के बोझ को बढा दिया गया। सी० डी० एस० खत्म होने बाला था, मगर उनका और भ्रागे बढा दिया गया। इस के ग्रलावा मरकारी कमेचारियो का हाफ गरसेट डी० ए० वाट दिया गया। इस मरकार के लिए यह बडे शर्म की बान है कि उस ने झर्मा तह डमर्जेन्सो में काटे गये हाफ परसेट डी० ए.0 का भी बहाल नहीं विया हे। सरकारी कर्मचारियो पर भी र मी बडे ग्रन्याचार किये गये।

सरकारी कर्मचारिया का डर था कि ग्रगर तम ग्रपनी मागा व. लिग धरना दगे, मग्रजाहरा वरगे या णाल्निपूर्ण ढग में एजीटेशन करने, ता म्राटिकल 310 मीर 311 (2) (मां) वा इस्तेमाा कर का कही हम नौररी से निकाल न दिया जाये । इमर्जेन्मी के दौरान मरकारी कर्मचारिया की ट्रेड यनियन मुवमेंट सारी की सारी ठप्प कर दी गई। लेकिन पिर भी मरवार का नसल्ली नहीं हई झौर इन झाटिवरून का इस्तेमाल कर के सैकडों सरकारी कर्मचारिया का नौबरी से निकाल दिया गया । जा गरीफ ग्रीर ईमानदार कर्मचारी थे. जो ईमानदारी से भ्रपना काम करने थे, सगर भ्रपने कुछ छन्ट वामित्र की दुरभावनाम्रा की कंद्र नहीं करने थे. उन्हें भी निकाला गया ग्रीर जो कर्मचारियों की नमाइदगी करने थे या ट्रेड युनियन के लीडर थे, उन्हे भी निकाला गया। बगाल में सररारी कर्मचारियो के 15 लीडरों का इस अप्रार्टिकल का इम्लेमाल कर के निकाला गया । सैटल गवर्नमेट घोर स्टेट गवर्नमेटम के सैकडो मरकारी कर्मचारिया को इस आटिकल के तहन निकाला गया। कम्पलसरी रिटायरमेट की गई। इमर्जेन्सी में यह सब कछ हखा, लेकिन सरकारी कर्मचारी इस माटिकल के डर की वजह से काई प्राटेस्ट न कर मके ।

आपको पता है कि इमर्जेन्सी के दौरान यहा पर कोई प्रोटेस्ट नहीं हो सकना था, सब अधिकार छीन लिये गये थे। इस लिए सीटू-सेटर आफ ट्रेड यूनियन्ब--ने इन्टरनैशनन लेवर आर्गनाइजेशन यानी धाई० एल० भो० से शिकायत की कि हिन्दुस्तान में ट्रेड यूनियन घौर डेमोकेटिक राइट्स का करल किया गया है प्रोन सरकारी कर्मबारियो पर तरह तरह के प्रत्याबार किय गये है। सी० प्राई० टी० यू० का सैटर वहा नक नही पहुंच सका, क्योंकि मिनिस्ट्री भाफ कम्युनिकेशन्ज में गघर्जेसी महारानी इन्दिरा जी के खान हुइनम्ब ने उग सैटर को रान लिया धौर बहा तक नहीं पहुबन दिया। तब सीट ने किसी दूसरे देस से माई० एल० घो० को लटर भिजवाया, भौर वह लटर उनको मिला। उन्होने उस पर विचार किया धौर उनको 172वी रिपोर्ट में कमेटी धान फीडम म्राफ एसीसियेसन घाफ दि माई0 एल0 ग्रो0 ने इस बारे मे जो माबजवेंगन्ज दी, मैं उन्हे कोट करना चाहना हू.---

The CITU had referred to the situation of employees of the state government stating that in West Bengal, the Government had arrested and dismissed 15 union leaders, including the Secretary of the State Coordination Committee of the West Bengal Government Employees' Associations.

आ गे मैं और थोडा काट करना चाहना ह।

. and Unions under article 311(2)(c) of the Indian constitution, this committee, which had already been the victim of earlier measures was, nevertheless, according to the complainants, not a political organisation but was pursuing legitimate trade union activities The CITU had also mentioned the cases of senior union leaders who had been dismissed or arrested in Tripura, Jammu and Kashmir. The complainants had also referred to dismissals of many workers in the States of Uttar Pradesh, Orissa, Haryana, Rajasthan and Madhya Pradesh.

मागे और मावजवेंगन है :

"In a letter of 9 September 1976 the CITU had enclosed a list of 25 union leaders in West Bengal. in the service of the central or state governments, who had been detained without trial under the Maintenance of Internal Security Act and served with dismissal notice. According to the CITU, 16 of them had been released on 8 November 1975 but they had not been reinstated in their employment. The remaining nine were still in detention under lamentable conditions and were being treated as criminals, their health

had deteriorated in the course of their prolonged detention."

यह सब शिकायत थी। उस पर जो एमर्जेंसी की महारानी इंदिरा थीं, जब उन से पूछा गया कि यह सब हिन्दुस्तान में क्या हो रहा है, इस के बारे में ग्राप का क्या विचार है तो उन की सरकार से उन को यह जवाब मिना:

"To these allegations the Government had responded that any dismissals which took place under article 311(2)(c) of the Indian constitution again had nothing to do with the trade union activities of the persons concerned. According to the Government any such action was taken on the merits of each individual case and was not limit to any particular trade union or political denomination."

यह ग्राइ एल ग्रो की ग्राबजर्वेशन है कि किस किस ढंग से 310 ग्रीर 311 धाराग्रों का इस्तेमाल हमारे देश की जो एम्पलाइज मूवमेंट थी, उस को क्रज करने के लिए, उस को लीडरलेस करने के लिए ग्रौर ग्रपने पोलिटिकल मोटिव को सर्व करने के लिए भिन्न भिन्न सरकारों ने किया । लेकिन यह खुशी की ब।त है कि यह जो मौजुदा सरकार है इस सरकार ने एमजेंसी के दौरान इस धारा के ग्रन्तर्गत जो नौकरियों से निकाले हुए एम्पलाईज थे, लीडर थे उन को बहाल कर लिया है और वैस्ट बंगाल तथा तिपूरा की गवर्नमेंट ने भी ग्रपने एम्पलाईज को बहाल कर लिया है। उम के बाद जो उन का काम है खास तौर से जो फ्लड़स ग्राई हैं उन फ्लडस में उन लीडर्स ने ग्रपनी यूनियन को इस ढंग से होल हाटेंडली जो फ्लड ग्रफोक्टेड थे उन की सेवा के लिए लगाया है कि सब लोग देख कर हैरान रह गए कि कैसे, पिछली गवर्नमेंट इन को क्रिमिनल समझती रही है ग्रौर में लोग कैंसे फ्लड ग्रफेक्टेड लोगों की सेवा कर रहे हैं । इसलिये मैं यह बताना चाहता हूं कि यह जो ग्राटिकल है यह ग्रगर कोई देश होही है तो उस पर आज तक इस्तेमाल नहीं हुई, बल्कि जो देश भक्त हैं जो प्रसली माने में ट्रेड यूनियन्स के द्वारा देश की सेवा करना चाहते है उन पर ये धाराऐं इस्तेमाल की गई हैं। लेकिन अफसोस की बात है कि हमारी जनता पार्टी जो डेमोकेटिक वैल्यज को रेस्टोर करने का वादा कर के ताकत में स्राई है उसने एमर्जेन्सी के जो विकिटम हैं उन की तो बहाल कर दिया है लेकिन पिछले समय में पिछली सरकार ने इसी धारा के तहत जिन एम्पलाइज को डिसमिस किया था वे ज्यों के र्षो हैं---ग्रभी तक उनको बहाल नहीं किया गया है। रेलवे और दूसरे इस्टेबिलिंशमेंट्स के एम्पलाईज ग्रमी भी नौकरीं से बाहर हैं। जरूरत इस बात

की थी कि उनको भीं री-इंस्टेट किया जाता जैसे पश्चिमी बंगाल की सरकार ने किया लेकिन सरकार उनको री-इंस्टेट करने में पूरी तरह **से** फेल हुई है। इसीलिए मैंने कहा है कि यह जरूरी नहीं हैं कि सिर्फ पिछली सरकार ही इसका दुरुपयोग करती रही है, यह सरकार उसका दुरुपयोग नहीं करेगी । इस बात पर इसलिये यकीन नहीं ग्रा रहा है क्योंकि पिछली सरकार और कई इमर्जेन्सी के विक्टिम्स को ग्रभी तक न्याय नहीं मिला है । जब तक उन लोगों को न्याय नहीं मिलता तब तक इस बात परयकीन. नहीं किया जा सकता कि यह सरकार इसका दुरुपयोग नहीं करेगी जो इण्डस्टियल रिलेंशन्स बिल आया था उसका समुची मजदूर जमात ने डट कर विरोध किया है ग्रौर जनता पार्टी के ग्रनेक सदस्यों ने भी उसका विरोध किया है ग्रभी किसी सरकारी इदारे में कोई छोटा मोटा संघर्ष होता है या किन्हीं मांगों को लेकर मजदूरों की कोई हड़ेताल होती है तो हमारे देश के प्रधान मंत्री जी यह शर्त रखते हैं कि जब तक वे ग्रपना संघर्ष नहीं छोड़ते तब तक कोई बात नहीं की जा सकती । जब तक यह सरकार इस तरह की बातें करती है तब तक इस बात पर यकीन नहीं किया जा सकता कि ग्राने वाले समय में इसका कोई दुरुपयोग नहीं किया जायेगा । मुझे फख्र है कि सरकारी कर्मचारियों को भावनाम्रों की तरजुमानी करते हुए इस माननीय सदन के सामने मैंने इस धारा को खारिज करने का बिल पेश किया है ।

ग्राई एल ग्रो के 64वें सेशन में, जोकि 1978 में हुग्रा था, इस सवाल पर विवार किया गया था । मैं कोट करना चाहता हु :

Employees' organisations enjoy complete freedom from public authorities. Employees' organisations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration.

ग्राटिकल 310, 311(2)(सी), अन्तर्राष्ट्रीय स्तर पर फ्रीडम ग्राफ एसोसियेशन के कांसेप्ट के विरुद्ध है । सरकारी कर्मचारियों को इस बात का कानूनी अधिकार होना चाहिए । ग्रगर सरकार गुलाम ग्रौर मालिक के रिलेशन्स रखकर सरकारी कामों में एफिक्टीविटी एण्ड एफिसिएन्सी लाने को बात सोचती है तो वह उसकी गल्ती है । यह तभी ठीक चल सकता है, जब सरकारी सविसेज में डेमोकेटिक वैल्यूज की कदर की जायेगी ग्रौर उन को बहाल किया जायगा ।

इस सरकार में बहुत से ऐसे लोग बैठे हुए हैं जिन्होंने एमर्जेन्सी के दौरान बड़ी जेलें काटी हैं, महारानी इन्दिरा का बड़ा तशद्दद सहन किया है । इन में बहत से लोग ऐसे हैं जो पिछले समय

[श्री भगत राम]

में इम ग्रनच्छेद को खारिज करने के लिये लगानार बोलने रहे है. लेकिन झाज मझे हैरानी है, हमारे मित्र सर्वश्री जार्ज फर्लान्डीज मध् डण्डवते मोहन धारिया और झनेक ऐसे ट्रेड युनियनिस्टम जिन्होंने हमेणा इस के खिलाफ झावाज बुलन्द की है, चप क्या बैठे है, इन दो आर्टीकल्ज को खराजि कॅराने के लिये जोर क्यो नही लगा रहे है ^२ में ग्राज जनना संग्कार से, जनना पार्टी के मेम्बरान से श्रीर जितनी दूसरी पार्टिया यहां पर है उन के मेम्बर साहबान से अर्पाल करूंगा कि इस जिन को, जिसे मैने पेश किया है, जो 70 लाख में ज्यादा केल्रीय झीर राज्यों वे सरकारी वर्मचारियां की भावनाओं की तर्जमानी करना है. इस पर सम्भीरता से विचार किया जाये और इसे पास किया जाये ताकि हिन्दुस्तान के संविधान में जो बेहदा दो ग्राटिकरुज है उन को नियाला जा मये, ।

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill further to amond the Constitution of India be taken into consideration."

SHRI VIJAYKUMAR N. PATIL (Dhulia): Mr. Deputy-Speaker, Sir, I rice to oppose this Bill. Even in democracy, for smooth running of the Government, certain restrictions must be there on Government machinery. My hon, friend has cited certain examples of removal of some people during emergency, but as we know now. because of the constitutional amendments, emergency will not be applied in the country except in remote circumstances. Therefore, to argue that in such contingencies these Articles are likely to be misused and that is why these should be remove is not correct. Secondly, the trade unions, industries, their employees and employers relations-all these should not be mixed up with the Government and the Government employees.

My hon. friend has tried to say that the Governor or the President does not have the direct knowledge of the person who is to be removed from service under these Articles. But we must not forget that the clever Government servants continue to remain in

service on account of the mistakes committed by their superiors in removing them and taking advantage of the delay in the judicial processes. Despite the fact that they are not fit to remain in service, because of these reasons, they still remain in service. Even after an enquiry is held, there are three or four types of punishments like removal, dismissal, termination from service etc. All these terms come into play when the suit is instituted in a court of law, and a number of em-Several persons ployees come back. came with representations that they were removed during emergency because they did not obey the orders of the then so-called authoritarian Government but this Government has come to realise that most of these representations were not correct. These persons were removed because of their misbehaviour or someother crimes. It was also because of their corruption and other things. So, just taking the example of Emergency and asking for the removal of Articles 310 and 311(2)(c) will not be proper. Article 311 (2)(c) says:

"Where the President or the Governor, as the case may be, is satisfied that in the interest of security of the State, it is not expedient to hold such enguiry...."

We find that in many cases, the man needs to be removed instantly. He commits such crimes that a prima facie case exists for his dismissal on the spot. But if these Articles are removed. Government will not have any machinery whereby it can control the miscreants. We have seen that though Government servants are not expected to take part in politics, on many occasions they do take an active part in it. We see the Government servants in cooperative movements, and standing for elections therein, without taking the permission of the higher authorities. So many things are done; and if a person is suspended, after 2 or 3 years, in 95 per cent of the cases he comes back+ and is reinstated. Often it is said that suspension is a compulsory rest. in other processes of

removal from service of miscreants, even though a man may be guilty, the machinery or the process is very defective. With that point in view, I would say that the Articles which were introduced in the Constitution, viz. 310 and 311(2)(c) are appropriate. It is not just good to say that they have come to us from the days of Victoria, and we are continuing them. Many people have observed the pros and cons of these Articles, during the 30 years after our independence. The Emergency is now over. So, just introducing the Bill for removal of these Articles at this stage is not proper. We have seen that in autonomous bodies like universities and others which are sponsored by Government, sometimes the unions gherao the Vice Chancellors and others. It happens in the factories also. We are thinking of introducing an Industrial Relations Bill applicable to factories also. A poor manager is gheraoed by many employees. His life is threatened. There also, we are trying to introduce some restrictions. through the Industrial Relations Bill, so that punishment can be accorded to the man who gheraos.

Here, in Government, these powers which are vested under Articles 310 and 311(2)(c) are very seldom used. So. 1 oppose the Bill.

SHRI VINODHBHAI B. SHETH (Jamnagar): Mr. Deputy Speaker, Sir, The Bill is a very important one and the statement of objects and reasons look very laudable. in the first instance, just to protect them from any

arbitary or undue harassment from the highest We have authority. learnt something from our past particularly experience, during the emergency. In any part of the democratic world, opportunities must be given to the aggrieved person. I would like to add that the officers should not feel that they do not get protection from the Government. And the Government machinery should run in such a way that due justice should be given to the aggrieved party. Here the aggrieved party may come from the village. He may be an uneducated citizen. He may be an officer or he may be a Member of Parliament. Unfortunately, 1 had spoken in this House that even a Member of Parlianient's voice is not heard in the lobby. I am sorry, being a member of my own party, to express such a view. But, some-how or the other, the machinery of the Government has been running. right from the very beginning when the British raj was here in this country, in the same pattern. The same red tapism is there. So, I would like to give one more suggestion that we can give protection to the bureaucrats, but they should behave in such a way that they are responsible to the public through the Members of Parliament.

If the Supreme Court or the High Court has passed a strict remark against some of the decisions arrived at by the officers, then an enquiry should be instituted even against the officers why they misguided the Minister One of the yesterday's leading bureaucrats has become a lord of this country

SHRI SOMNATH CHATTERJEE: Class III and Class IV employees are affected.

VINODBHAI SHRI B. SHETH: They cannot express their will. One very senior national leader has said that our Ministers have become simply singning machine. They sign a papers without reading them . They do not apply their mind and hence the bureaucrats have got an upper hand in this country I can cite many examples. In Gujarat, one Headmaster had burnt the education officer alive. He was complaining for many years about some of the poblems over which Government machinery did not pay attention. Therefore, he took this decision of burning the education officer alive. This shows that the voice of the common man, a small person should be channelised through the elected representatives to the Government machinery; and the Governmment machinery should be responsible, should be vigilant should be quick and efficient in meeting the needs of the people.

[Shri Vinodbhai B Sheth] 16.13 hrs.

[SHRI N. K. SHEJWALKAR in the Chair]

Thirdly, the entire machinery of the Government needs some changes. Now the old machinery of the Government has to give way to the new orientation, because everybody feels-wherever we go, either we travel by railway or plane-that nobody is happy with the administration which we are having, which is a legacy of the British raj. Let us thing airesh, let us go ahead and see that the popular will of the neople is respected. They have elected us. We are not here to just say. 'Aves' and 'Noes' in respect of a particular Bill. We have been elected here in this House by the people to give vent to their feelings and protection should be given to everybody I can quote so many examples here in this respect. As an elected representative. I can say that no justice has been done to these people. We wrote so many letters to the Ministers and the Minister say, "You are right", but the officers do not agree with these views of the Ministers But I am sorry to say that our Government officers should not go against the views of the Minister. They should apply their mind. If we are right, they should tell us that we are right; if we are wrong, they should also tell us that we are wrong.

1 would like to make one more suggestion. There should be a permanent complaints cell to receive complaints and then to forward them to various Ministries to come to an amicable In the states and the settlement. centre, complaints cell has now bocome necessary. Otherwise there are so many copies of letters addessed to the Prime Minister and Ministers and others; it is all an unnecessary exercise. I request the Ministers concerned through you to pay proper attention to the letters received from Members of Parliament and other elected representatives of any association and to apply their mind and give weightage to them because the janata, people

who elected us, want us to be efficient in administration, quick and honest. We want not only honest administrations but efficient and honest administrators. A man in the remote village could see his wish fulfilled through the officers if they are honest and efficient; the government machinery and the officers can get direction through this august House.

DHIRENDRANATH SHRI BASU (Katwa): I am speaking in support of the Bill. I am surprised that some of my friends were opposing the Bill, To oppose a Bill like this is to support the same process as the Emergency. In this Bill it will be seen that some of the fundamental rights have been taken away. The statutes provide that a government employce is in service at the pleasure of the Governor or other authority and can be dismissed from service without assigning any reason whatsoever as soon as the pleasure of the governor or the pleasure of the authority goes. Now the governors do not E KERCISC their powers as the powers are being exercised by the bureaucracy. officers. who are often times junior IAS officers, SDOs and others. So, the service of these servants depends upon the pleasure of those people. If those officers choose they can dismiss him without assigning any reason whatsoever. So this article 310 should be deleted; amendment to article 311 is also necessary. Under article 311, no person who is a member of the civil service of the union or all India service or the civil service of a state shall be dismised or removed by an authority subordinate to that by which he was appointed. In a democratic set up trade union activities must be retained. If there are no trade union activities how can we say that we are a democratic country. So our Constitution should be framed in such a manner that the present democratic set up, as envisaged two years back, should be retained under all circumstances to serve the interest of the people. Clauses are here in this particular Article. It will be seen that the employees will have no right to

exercise their union activities. In all democratic countries of the world union activities are always welcomed. It is rather easier to tackle the leaders of the union than to tackle the individuals. So unions and the trade union activities are always encouraged in all democratic countries of the world. Now in a Socialist Democratic Republic like ours in India I wonder how the Minister could retain such Articles in the Constitution.

SHRI SOMNATH CHATTERJEE: How can the Minister oppose this Bill?

SHRI DHIRENDRANATH BASU: It will be in the fitness of things that the Government should accept the Bill. The Government should come forward. So, I request through you that the hon. Minister may accept this Bill. It is a democratic step. It is for the welfare of the employees. It is for the benefit of the people. This Bill should be accepted as it is.

SHRIMATI PARVATHI KRISHNAN (Coimbatore): I rise not only to support this Bill whole heartedly, but also with a sense of what shall I say confidence that the smiling Minister who sits there should accept this This is the confidence that I have because he also participated in the movement for freedom When we partcipated in the movement for freedom, we wished to throw away all the shackles and vestiges of the imperialists. Here is the last shackle that is there in the Constitution.

SHRI SOMNATH CHATTERJEE: There are other shackles also.

SHRIMATI PARVATHI KRISH-NAN: Yes, many other shackles are there. For instance Railways Act. etc. are there. Any way, this is an important one. I can hear the Minister saying—it is not directed towards trade union activity. This is for misconduct. Where you find that the employees are anti-national, anti-Government or guilty of serious misdemeanour, this is the way that it is

covered up. But if you look at its history the power has been used precisely against government employeesclauses 3 and 4 at the time of strike or during any trade union activity are used. If you look back when the Central Government employees strike 1963, when Railway took place in strike took place in 1974, this was freely used. And what happened. After the union moved, they were taken back. Then how are they antinational? The point I wish to make is that this is a totally undemocratic clause in the Constitution,

Even during the emergency when the 42nd Constitution Amendment Bill was being discussed, we fought for removal of this. Again when we had the Constitutional Amendment Bill set right misdemeanour and wrong actions of the emergency period and when the Constitution Amendment Bill was being discussed, we demanded that this should be removed from the Constitution. Why did we do it. It is very simple. All that we demand is that Government employees irrespective of their misdemeanour should have the right of appeal and cannot be just summarily thrown out on the streets because of the mere whims and fancies of some suprior officers who may well be paying off their old scores. Wherover we have been strong enough to move and to point out that this was nothing but paying off some old scores or because of anti-trade union activity, when we have been able to secure reinstatement. This itself is the most telling fact flow many have been reinstated is the most telling fact.

This is something that really should not remain there. After all, there are enough measures in both private sector and public sector undertakings to deal with difficult employees. In public sector undertakings if there is any employee who really is anti-national, who is really acting against the interest of the particular enterprise. there is enough in labour legislation to guarantee that action can be taken

[Smt. Parvathi Krishnan]

against him while at the same time giving him every opportunity to defend himself. That is all that we are asking for. The Central Government employees are at your mercy.

I know many cases where a Central Government employee is called upon by his higher officer to do something which does not fall within the purview of his assignment or what he is supposed to do, he is often threatened by the officer saying, "Remember, I can always see that you are out on the streets!" This is the kind of Draconian power that is there with the higher officers. It is not the President who exercises it. It is under the President's order no doubt and therefore, there is not even the right of appeal that a condemned prisoner can have.

A prisoner who is condemned to death can send an appeal to the President asking for communication of the sentence. But here a Government employee who is thrown out on the streets a under this article has no right of appeal anywhere He is out once and for all See how absolutely antihuman the who'e thing is. It is only Victorian England that could think of a thing like that Here we. are in 1979, 32 years after freedom, clinging to these Victorian ideas and descending-I hope he is not going to descend-to the Victorian concept of hire and fire at the whim and fancy of the employer.

Throughout the world employers and industrial workers have fought and achieved these trade union rights. We have done it in our country also. Here comes my friend, Shrimati Renuka Barkataki She is very concerned with the rights of women workers particularly rural women workers and righly so She is concerned with trade union rights of employees and she says, "why don't you train women to take on responsibility?" May I tell her that when we are willing to train them to take on further responsibilities, they hold back. They are not sure. Their mothers-in-law threaten them. People at home threaten them saying, "don't go. You will lose your job. Articles 310 and 311 are there, which can be used against you." Similarly we have heard complaints from women employees in Central Government who have told us how senior officers try to take undue advantage of the fact that they are women and they are also threatened in the same way. There are a million ways in which this is misused. It is the fundamental right of any human being in India in 1979 to have the right to appeal always against a decision which goes against him or her which he or she knows is unfair and get proper redress. That is why I whole-heattedly support this Bill.

Those who are sitting in the treasury benches today came to power, having stood in 1977 elections, on one slogen: Restoration of democratic principles in this country. The previous Prime Minister came to power in 1971 on one slogan: Garibi hutao. Since she did not hatao garibi, she was hataoed You came to power on the slogan of restoration of democracy. Yet in the case of loco running staff who have been demanding that their grievances which have been pending for years and years should be discussed, article 311 has been used against some members of their association in the N.E. Railway, S.E. Railway and Southern Railway.

What has happened to the ticket checking staff who have also taken up their demands? Against them also, the same rule has been used. We go to the Railway Minister, who is a great champion of democracy, and what does he say? He says: "If I get reports about any single worker that he is working against the interest of the Railways, I will see that he is out." This is what he said in personal talks with us when he represented particularly this thing to him.

All right, if you think that the Railway workers' concerned have been, in a way, indisciplined or their

work has been affected, the usual discipline and appeal rules are there. Many other procedures are there. The unions are there to pull them up because we, trade unionists, are responsible people. While we fight for the workers' rights, we also tell the workers what their responsibility is towards their job. But how can the wooden-headed bureaucrats get you to understand that because they have neither the responsibility towards their job nor they fight for the down--trodden and Class III and Class IV employees. Otherwise, we would not have 1.8 lakh casual workers still continuing on the Railways; we would not have come here again and again and asked for protection for the extradepartmental staff of the postal services and we certainly would not have a position where our telephone operators are not even given proper conditions while they are on right duty or given transport to go home or given **c**ieche facilities. These woodenheaded bureauctats whom the Minister will be defending shortly as appears from the smile that he has on his face, do not know what are democratic rights, what are democratic principles and what is real democracy.

It is in the name of real democracy that I demand from the Minister that he should accept the Bill that has been brought forward by my young friend. Shri Bhagat Ram He was himself a teacher. He knows very well how his power can be misused, is misused and is always directed only against the Class III and Class IV employees and invariably when trade union activities are involved. Therefore. when you claim that you are reponsible for restoring democratic rights, remember, your job is not over. Otherwise, as the lady of 'Garibi Hatao' was hataoed, be careful, you also will be hataoed.

भी रायवभी (विदिशा) : सभापति जी, श्री भगतराम जी ने जो संविधान गंगोधन विधेयक यहा पर पेण किया है उसका सूमर्थन करना सम्भव प्रतीत नहीं होता है। उन्होंने कहा है कि संविधान की धारा 310 का दुरूपयोग हो रहा है तो मैं यह जरूर कहंगा कि धारा 310

का दूरूपयांग पूर्व में इन्हा है झौर झागे भी हो सकना है । ग्रापातकाल में इमका जो दूरूपयोग हभा वह सदन के माननीय सदस्यों से छिपा नही 🗧 । लेकिन मगर धारा 310 हटा दी जाये ता अग्ट ग्राधकारी ग्रीर कर्मचारी इसका दूरूपयोग कर सकते है । एक नरह में यह एक दुधारी तलवार ह । ग्रगर किसी ग्रच्छे ग्रीर सज्जन व्यवित के हाथ में है, जिसकी भावना ग्रच्छी है तो वह मुरक्षा की भावना पैदा कर सकना है सारे ममाज मे ग्रीर ग्रगर वही तलवार किसी गण्डे या डाक के हाथ में है तो वह उसमे एक ग्रानक का भाष पैदा कर सकता है। इसलिए प्रक्रन यह है कि इसका उपयोग किम प्रकार मे किया जाता ह, मारी बात इसी पर निर्भर करती है । इमर्जर्म्सा के दिनों में जो इमका दुरूपयोंग किया गया उस समय सारी सत्ता श्रीमती इन्दिरा गाधी के हाथ म थी ग्रीर जानत्र स कर उस समय इसका दृष्पणग किया गाया । परम्परा यह है कि इस प्रतार के मधिकारों का उपयोग बहन कम अवसरा पर होना चाहिए । जहा बहन आवश्यक हो बहा पर इसका प्रयोग होना चाहिए। यही इग धारा की भावना है कि क्योंकि धारा 310 क बाद धारा 311 दी गई है स्रीर इस धारा 311 में कमचारियों के संधिकारा की रक्षा की गई ह। तम धारा में इस बात का उल्लेख है कि किसी भी कमंचारी को भव तक नहीं हटाया जायेगा, जब तक उस का चात्रणीट नहीं दिया जायेगा. जब तक उस पर जा दोप लगाये गये हैं उन की जाच नहीं है। जाये गी, जब तक वे दोप सिंड नहीं हो जायेंगे तब तक उस का नहीं हटाया जायेगा । ग्रगर धारा . । । ० का तटा दिया जाये ता वर्मचारी क्रौर अधिवारी दोना उस का दुरुपयोग कर सकते है और उस समय बड़ी बठिन परिस्थिति पैदा हा जायेगी ।

हिन्दूग्नान में बहुत सी ऐसी सेवाये है, यदि उन के कर्मचारिया पर नियश्रण नहीं रखा जाये तो तमाम देश बग्बाई। ये राम्ने पर जा गफना दे. जैसे सेना की रोवाये है गॉलग की सेवाये है. बिफली विभाग में काम करने वाले कमचारी हे मल-विभाग में काम करने वाले कर्मचारी ?। ये ऐमी सेवाये हैं जिन से जन-जीवन प्रभावित हा मनता है, जिन स देश की मुरक्षा प्रभावित हो मक्ती है, समाज की णाल्ति प्रभावित हो सकती है। ऐसी मेदाग्रा का सचालन करना जिन के हाथ में हे, यदि वे ऐमा गमज ले थि हम का काई नहीं हटा सकता, भ्रीर वे हडनाल पर चले जाये तो इम से ममाज को जब मान हागा. समाज प्रभावित हागा. उस का परेजान किया जा मवता ह। हम ने ममय मसय पर इस प्रवार हटनाले देर्खा है – जब पूरी यातायान व्यवस्था ध्वस्त कर दी गई, जन-जीवन अम्यव्यन्त कर दिया गया, यहा तक कि जो बीमार थे, उन को ग्रम्णनाल तक नहा पर्हचाया जा सका। अगर बिजली कर्मचारी हड्ताल कर देते है तो हजारों नहीं, लाखा लोगा वा जीवन नरक के समान हो जाता है, चारो तरफ सन्धकार छा जाता है। यदि पानी कर्मचारी हडताल कर देते है तो समाज का पानी नही मिल पाना ह। यदि उन की मागो की तरफ ध्यान दिया जाय, तो ऐसा मालम पड़ता हे कि उस के पीछे चन्द सोगो का हाथ है, वे ऐसी इडताले करा कर अपनी गोटी बैटाना रहते है, जन-जीवन के साथ खिलवाड़

[श्री झाववजी]

कर के उम शक्ति का दुरुपयोग करना चाहने है। इसी तरह से यदि देशदाही कर्मचारी भी टुरुपयाग करना चाहे तो देश की रक्षा करना बहुन कांठन हो। जाता है ।

में मानता हू वि इस में राष्ट्रपति स्रोर राज्यपाल को ग्रधिकार दिये गये है-- राष्ट्रपति या राज्यपाल के प्लेजर का प्रावीजन हे, लेकिन इस के साथ माथ यदि यहा पर काई सफ-गाई रखना है कि राष्ट्र विन किन परिस्थितिया में इस का उपयाग कर सरना है-ता भै इस बात का स्वीकार कर मक्ता ह। मै मानता ह कि इस का दुरुपयाग भी बहुन जगहो परे मुझा हे न्यायों प्रय कर्मचारिया को बहत सग किया गया है, मनाया गया है। मै ऐसे दा चार उदाहरण झाप के सामने रखना चाहना ह-क्योषि यह बात भी सामने भानी चाहिये कि किम प्रकार स अधिकारी नीचे के लागो का सनाते है। उनको तग करते है, उन का ठीव से न्याय नहीं देने हैं. ऐसे लोगो के खिलाफ धारा 310 का प्रयोग हाना चाहिये। सौभाग्य से हमारी राज्य शिक्षा मली जी यहा पर बैठी हुई है--मैं यिशेष रूप से उन को बनलाना चाहता ह कि मेंचरा में एक हरिजन झध्यापक ने झपने ऊपर तेज छिडक कर आत्म-हत्यां कर ली। उस के पीछे कारण यह था कि वहतीन वर्धं से लगातार ग्रपनी सेवाग्रा के बार मे प्रिन्मिपल को लिखता रहा. लेकिन उम की ममस्याद्या का निरावरण नहीं किया गया। उस ने बार बार लिखा. भनेक बार स्वय मिला, लेकिन प्रिन्मिपल ने उम की बातो की नरफ व्यान देने के बजाय. उस का दनकाग. उसका प्रतारणा दी ग्रीर प्रन्त में उस ने परेशान हो वर ग्रान्महत्या कर जी ग्रीर यह प्रिमिपन वह आ वित था जिस के खिलाफ सी 0 बी 0 झाई 0 की एन्क्वायरी चल रही थी, जो हाल ही में ट्रान्सफर हा कर मथ्रा माया था। इस की जाच हानी चाहिये। ध्रात्र उस गरीब हरिजन मध्यापक का परिवार तडप रहा है।

इसी तरह से नेगा नगर मे पब्लिव अण्डरट[क्या है। वहा वा प्रिल्मिपल भी ठीव इमी प्रवार सं अपने अधीनस्य अध्यापको का तग कर रहा है। वहा जा महिला अध्यापक है उन का रात को 9 और 10 वजे नक राके रखना है। और उन का नरह नरह में तया उरना है, स्यूमिलियेट करना हा। उन के साथ अगमानजनव और अल्लीन बात करता है। वहा का एक प्रध्यापक और है जिसका इनना तग विया गया जित आजक अस्पनाल मे नर्सी है और उसकी बभी भी मोन हा सकनी है। इस तरह से अध्यापका के साथ वहा ध्यवहार किया जा रहा हा।

मै एक ग्रोर उदाहरण वंता चाल्रता ह। ग्रारवेलाजि-कल मवे आफ इडिया के एक कर्मचार्रा थी पाटनकर जो कि भोपाल में नियुक्त थे, उन के परिवार वाला ग्रोर जिलाधीश के रिक्तेदारां के बीच किसी झगडे के कारण श्री पाटनकर के खिलाफ एक झठा केस बनाया गया और उनको मीसा के भ्रन्दर बन्द किया गया। उनको 13 महीने तक जेल में रखा गया, उन का नौकरी से हटा दिया था। यह स्थिति यहा तक फ्रा गयी कि जब इप मर्जेन्सी खमारत हुई तो रस्तोगी घायोग के सामने

उनके बयान हुए तो अधिकारियों का यह बात पसद नहीं प्रायी । उन का सस्पेशन तो पहले ही खत्म हो चुका था लेकिन उनके बयान के बाद उन्हें भोपाल से पटना टॉसफर कर दिया गया। भाषाल में उनकी पत्नी काम करती है लेकिन उनका टान्मफर पटना कर दिया गया। सभापति महोदय झाप जानते है कि इम प्रकार शासकीय धादेश है कि जहा पर कसी कर्मचारी की पत्नी काम करनी हो ता उसी स्थान पर कमचारी को रखन की व्यवस्था हो। लेकिन एमजेन्सी हटने के बाद ग्रीर जनता सरकार के भाने के बाद उनका भागाल से पटना टासफर कर दिया गया। उन पर भोपाल में केस चल रहा है और उनको हर दसरे महीने भाषाल ग्राना पडना है भीर तीन सौ रपया अपनी जब से भाषाल आने जाने म खर्च बरना पडता है। लेकिन जा ब्योरेकेट लोग है वे इस बान को नहीं देख रहे है। विभागीय अधिवारी यह समझते है कि वे उनकी कमजोरियों का सचना मगद सदम्या को देते है, इसलिए उनका यह मजा दी जाए। ऐसे उदाहरणा की कमी नही है। मैं चाहना ह कि ऐसे घधिकारियों के खिताफ मविधान की धारा 310 का अवस्यक प्रयोग किया जाए स्रोग उसके अर्धान ऐसे अधिवारियों को दण्डित किया जाए । ऐस अधिवारिया वो दण्डिन करने में यह धारा 310 वन्दान सिद्ध हो सकती है। ऐसे प्रधिवारिया वे खिलाफ टम को वरदान स्वरूप मानना चाहिए और इम ना उपयाग किया जाना चाहिये इमलिये यह धारा सविधान में बहन ग्रा क्ण्यक है ।

मभापति जी. मै एक दा बाते झौर कठना चहना ह। हमारे हिन्दुस्तान के मन्दर जितन भी जामकीय विभोग है. चाहे व केन्द्रीय सरकार के हो, चाहे वे राज्य मरकारा के हो, चाहे सार्वजनिक प्रतिष्ठान हो, चाहे ऐसी सस्याए हो जिनका सरकार से अनुदान मिलता है, इन गमी मे लाखो कमाारी टम्पारेरी बर्कर्स के रूप ये कार्य कर रहे है। इन मभी सम्याम्ना में कर्मचारिय, को दो वयों की टम्पोरेरी सवा के बाद परमानेट बिया जाना चाहिए । मैं ऐसे भी उदाहरण दे सकता हू कि कमचार्ग रिटायर होने वाल है, लेकिन टम्पारेरी ही चल रह है, उन को परमानेट नही किया गया है। मैं चाहना ह कि हर कमचारी को उन के दो माल के प्रच्छे रिवाड का देख कर उनकी दो-माल की सेवा झण्छी देख कर परमानेट कर दिया जाना चाहिये । टम्पारेरी रमचारियां के खिलाफ मधिकारी लाग मनमानी करते है। एमे कमजारी हिन्दस्तान के एक ग्राधन विभाग में नहीं है बल्कि लगभग सभी विभागामें है झौर उन की सख्या लाखा में है। मैं कहना चाहता है कि इस के बारे में निण्चित रूप से नियम बनाय जाने चाहये कि ग्रगर किमी ने माल भर काम कर लिया है भीर उस के खिलाफ काई बात नहीं पाई गई है और उस को किसी बान के बारे में कुछ नही कहा गया है ता उस का परमानेन्ट कर लिया जाना चाहिये। ग्रगर इम प्रकार के नियम नही बनायंगे तो तोस तीस साल से टम्परेरी रूप में कार्यकर रहे है 'उनका भला नहीं हो सकेगा । इस बारे में ठोम नियम बनाये जाने चाहिये ।

सभापति 4 होदय, हिन्दुस्नान भर में कैजुझल वर्क्स काम कर रहे हैं डेली बेजिज पर काम कर रहे हैं ? उन को भी प्रोटक्शन मिलना चाहिये। उनको कैषुम्रस वर्कर के रूप में चखा जाना कय तक चलेगा ? उन को 11 महीने काम पर रखने के बाद 1 महीने के लिए हुदा दिया जाता है फिर उन्हें रख लिया जाता है । उन को भी सुरक्षा प्रदान की जानी चाहिये । केजुमल बकतें, बेली वर्कतं, टम्परेरी वर्कतं से जितने है उन का सविधान मे जरूर कुछ न कुछ नुरक्षा प्रदान की जानी चाहिये। यह मब होने के बाद कर्मचारियों को ठीक रक्षा हो सकती है। जहा तक घारा 310 का सम्बन्ध है इस का उपयोग किम रूप मे होना चाहिये यह विशेष महत्व की बात है। इस का इस्तेमाल कर्मचारियों की भलाई के लिये भी हो सकता है घोर बुराई के लिये भी हो सकता है। जेकिन रस धारा का वासन के पास बने रहना बहुन जावश्यक है। अगर इस का सदपयांन किया काय तो यह धारा टंग के लिए वरदान सिद्ध हा सकती है।

इन शब्दा के साथ में इस सशाकन विधेयक का विराध करना ह।

SHRI р SHIV SHANKAR (Secunderabad), Mr. Chairman, Sil the Bill deals with two Articles. Firstly it deals with the deletion of Article 310 and secondly with the deletion of Article 311(2)(c). So far as the second clause of the Bill is concerned, that relates to the deletion of Article 310 and Clause 2 Part (c) of Article 311 is dealt with in Clause 3 of this Bill. As far as I am concerned, I am only soiry, I am not able to agree with the mover of the Bill so far as Clause 2 is concerned, but I entirely agree with him so far as Clause 3 is concerned and to that extent, I am supporting the Bill. That portion of the article should be deleted. The founding fathers of the Constitution thought it fit, to give the constitutional status to the services of the Government servants. Once they have been so kind to the Government servants to place them in such a hiatus, the question that arises with reference to this Bill is, what is wrong with Article 310. I am not able to understand the grievance because I personally felt that there is something wrong with the drafting part of the Bill, may be that Mr. Somnath Chatterjee's legal advice was not available to my friend, who has moved the Bill.

If you kindly consider Article 310, it deals with the pleasure doctrine. A person who holds a civil post, 4652 LE-13.

woul hold that post during the pleasure of the Governor or the President as the case may be. But what is to be seen is that Article 310 commences with the words "Except as expressly provided by this Constitution". These are the relevant expressions. When once there is something which is provided by this Constitution, the absolute pleasure doctrine that one would conceive is totally negatived. Therefore, if you kindly see Article 311, in case of dismissal, removal or reduction in rank, it is only the appointing authority who has got the power, and this action cannot be resorted unless a reasonable opportunity is afforded to the aggrieved person. This is simply, I must submit, the incorporation or bodily lifting of what one would call the principles of natural justice. When we look to Article 310, as I submitted, it starts with the words "Except as expressly provided by this Constitution". Now Article 311 provides that a reasonable opportunity should be given to a Government servant if he is to be dismissed, removed or redu-

ced in rank. Therefore, I am not able to appreciate as to why the deletion of Article 310 has been sought in the Bill. The pleasure doctrine is not that absolute as to say that it is not hedged by any other consideration. I should submit that this pleasure doctrine which has been engrafted in article 310 is subject to article Therefore, if a particular per-311 son has to be removed or dismissed or reduced in rank, you cannot do that because article 311 itself says, firstly, the appointing authority has got the power and, secondly such a person has to be given a reasonable opportunity.

I would rather submit, as to why this pleasure doctrine has been engrafted with reference to the President and the Governor alone. We are well aware that the entire executive action of the Government which is exercised under article 162 of the Constitution has got to be expressed in the name of the Governor, if it is a State and, in the name of the

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President, if it is the Central Government. That apart it is the Governor or the President in the respective spheies who make the rules under article 163 of the Constitution for the purpose of discharging functions and better administration of the Government. Well constitutionally it is supposed that the Governor or the President 1s the sole repository and the head of the services in asmuch as every action of the State Government or the Central Government is expressed in the name of either the Governor or the President as the case may be. Therefore, under a ticle 310, the pleasure doctrine has been en.hrined and this expression has been used "as to the pleasure of the Governor or the pleasure of the Presidnt except as expressly provided" so as to make the things effectively clear.

I submit that this is clearly a point of the constitutional scheme. I have not been able to appreciate as to why article 310 is sought to be deleted. I, am only sorry, that I am not able to appreciate so far as this part of the Bill is concerned.

In fact, I was sometimes back going through the debates of the Constituent Assembly about the discussion on clause 282A which is synoymous to article 310. Questions were raised with reference to pleasure doctrine and it was clarified that this pleasure doctrine could not be isolated and that it has to be read in conjunction with the other provisions. I would not like to dilate on this aspect because I am not very sure whether the mover of the Bill himself has carefully considered this aspect.

SHRI VAYALAR RAVI: The point is, what is the effect of this clause and later how it will be implemented.

SHRI P. SHANKER: I would rather say, left to myself, the matter of services need not have been put in the apparatus of the Constitution. The matters pertaining to services could be totally relegated to the law of the legislature as it is clearly enunciated in article 309 itself. 1 would not like to go into that. For the present, I am more concerned with the amendment of the Constitution that has been brought by my hon. triend and I would rather say that if he would like to delete article 310, the whole scheme of the Constitution gets affected and, therefore, 1 am opposed to that extent.

Now, I go to article 311 (2)(c). I am only sorry, perhaps the legal advice of Mr. Somnath Chatterjee was not made available. I should say, so far as the mover of the Bill is concerned, it he is finding fault with arti-311(2)(c), there is something cle equally wrong with article 311(2) (b) and also article 311(3) and if they have to go they must go lock, stock and barrel. I must say that this provision had been a highly con-If I correctly retroversial one. call, the Supreme Court had to consider this in Sardarilal's case, in 1971. The Supreme Court while considering this said that Once the State takes action under article 311(2) (c). it was not open for the court to further investigate into the matter.

No doubt at a later stage, they slightly diluted it-I quite oncede that the expression 'security of State' is undoubtedly very dear to the heart. but this expression can certainly be exploited. Why I say this is. No doubt, the theory of jurisprudence, in the administrative law is that there is nothing wrong in reposing the discretionary power in responsible authorities and, it is expected of that authority whether to exercise that power or not in a given situation. It is obvious that the more powerful a person is or more highly-placed, when it comes to the question of exercising the power, he must be more restrained and careful. Why I am supporting this part of the amendment is because there is a likelihood of misuse. Here it is said:

"...where the President or the Governor as the case may be, is satisfied that in the interest of the security of the State it is not expedient to hold such inquiry."

It is purely a subjective satisfaction of the Government, and that subjective satisfaction is that, in the interest of the security of the State, it is not expedient to hold inquiry. Well, what I am submitting is that. The expression 'security of State', may be very much dear to the heart, but it can also be very much exploited. What is 'security of State' is a very nubulous expression; In fact, it is not possible to define it Suppose on a subjective satisfaction the Government or the President comes to the conclusion about an innocent man. 'Here is a person whom I dismiss or remove, but nonetheless 1 will say that, in the interest of the security of the State, it is not expedient to hold an inquiry', then it is obvious that an injustice is extended to such a person. After ull, what we thought or believed in our Constitutional goal? We want to usher in, what is called a Socialist, Democratic, Secular Republic. The principles of liberty, the principles of democracy, the principles of social, justice and equality are enshrined in our Constitution. The question is this. What is wrong, if you give a chance to the person, who is dismissed on the ground which falls under article 311 (2) (c), telling him: 'Look, these are the charges on which I would like to take disciplinary action against you and, therefore, you explain'. To say that merely because a particular authority thinks that security of the State is involved, it is not expedient to hold such an inquiry, is too unjust an approach. I would not be able to give a political tinge to the argument as my predecessors have done because I am a novice to politics. My approach is purely legalistic. I am arguing as a lawyer, as a common man, as a citizen of this country. When it comes to the question of taking action under article 311 (2) (c)., I am only sorry, that it is fraught with dangerous consequences, and I submit, there is

nothing wrong in giving a chance to the person concerned. I get reminded of one judgment of the Supreme Court. The Supreme Court, as far back as 1967, in Roshan Lal's case observed that, so far as Government service is concerned, once an offer is made and the person concerned has accepted, it is no more a question of a contract, and the service is a matter of status governed by the statutory rules, once this is the approach, and you are taking the position other than that of a contract you are pitching the employee to a position or claim as to status then he cannot be dealt with otherwise. Then the statutory rules framed within the meaning of the proviso to Art 309 or the law that the legislature had framed under the main part of Art 309. Then my submission is: what is wrong in giving a chance to that person within the meaning of the Conduct Rules or within the meaning of the disciplinary rules to give a chance to him apprising. 'Look. Your activities are contrary to the security of the State. Therefore, I would like to take disciplinary action and meet out the punishment proposed.' You can specify those matters to him so that that man may have a reasonable opportunity to express himself and on that basis the authority could come to his own conclusion. Therefore, what I am submitting is: why to deny such a person even the basic right of being heard which is most important. Now it is accepted that whether you have a rule or you do not have a rule, whether you have a law or you do not have a law so far as the principles of natural justice are concerned, the principle as to audi alteram partem could not be denied before acting to the prejudice of a person. This is the principle which is applicable to all types of actions which the authority resorts to, either under the administrative jurisprudence or otherwise.

Here I get reminded of the declaration Magna Carta in England where they said that nobody should be condemned without being heard. There-

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fore, what I am trying to say is that this particular clause is really abnoxi-There is a likelihood of some ous. mischief if some one acts even with a little negligence and because of that likelihood. I am in favour of this part of the Bill. Though it might be used sparingly and for very good causes, but the fact remains that it is liable to be misused-and it is from that point of view I am supporting clause 3 of the Bill. I am however only sorry that the mover of the Bill has not taken into consideration sub-clause (b) of clause 2 of Art 311 as also clause (3) thereof because they go togather. I regret that we have come to a state of affairs in the Bill where something has been left. I would rather say supposing this particular Bill is passed, with reference to subclause (c) of Article 311(2), the authority can have recourse to clause 311 (2) (b) read with (3) and then create difficulty. I am finding myself in a very anomalous situation so far

as this clause is concerned...

SHRI SOMNATH CHATTERJEE: Although whatever is proposed you support.

SHRI P. SHIVA SHANKER: In fact I would rather request Mr. Bhagat Ram—in which case I would certainly support him—to come forth with the other amendment to delete sub-clause (b) as also clause (3) so that his intention becomes completely clear and the democratic process so far as the services are concerned, may have a complete sway.

SHRI SOMNATH CHATTERJEE (Jadavpur): I must congratulate our young friend, Shri Bhagat Ram for bringing this Bill before the House and by which a very important point or problem is being highlighted before this august House.

Two Articles are sought to be amended. One is Art 310 and the other is Art 31(2)(c). Sir, if we go through the debates in the Constituent Assembly and even the judicial

expositions on these Articles in the Constitution of India, you will find that these are nothing but a replica of the Government of India Act of 1935 which was framed on the basis of the constitutional provisions or conventions in England where the theory is-it is a monarchy-that every government employee is a servant of the Queen or the King and as the King and Queen can do no wrong and there cannot be a contract of employment between the King and the Queen and the employee therefore, the employment must be at the pleasure of the Queen. That is the basis of a royal prerogative where there is no written Constitution although they follow the rule of law. There judicial determinations have tried to come to the aid of the government employees. But, here, we have a written Constitution Unfortunately, the concept of royal prerogative has crept into our Constitution The misfortune further is that we now sit on the Treasury Benches, as King himself or the Queen

herself, His Majesty, Mi. S D. Patil, to-day is still continuing to bear the notion that the Government employees are the servants in the sense that their services can be dispensed with at the pleasure or the power that be Therefore. Sir, the time has come when this august body must repudiate once for all this concept of mediaeval feudal, royal or the barbaric concept that the Government employees in this country can be made to go on the streets and lose their jobs at the sweet will of the powers that are at the helm of affairs.

Sir, I know that Art. 311 was incorporated in the Constitution to put a check on that royal prerogative, the Crown's prerogative or the theory, at the pleasure of the Crown or at the pleasure of the Government. Under Art. 311, persons holding civil posts etc. that are mentioned here cannot be dismissed or removed from sarvice or they cannot be reduced is rank without an enquiry being gone through in which they have to be given an opportunity, reasonable opportunity,

of defending themselves. As per the draconian Forty-second Amendment Act, the second opportunity should be given to the government employees against the socalled penalty proposal They had two opportunities-one to show that they were not guilt or if they had been found guilty they had been given an opportunity make then to representations on the quantum of punishment that may he imposed on them

Now, the Forty-second Amendment did away with the second opportunity The proviso to Art 311 of the Constitution. 311(2) of the Constitution lays down three cases where by not even an opportunity has to be given to show cause or with regard to the punishment /proposed There 970 three cases - one is where the climinall court has found an employee guilty of certain offences. Let us take thy case of misbehaviour drunken. noss or activities which are known as unbecoming of a government servant There no criminal enquiry will be held because the rational behind it is the competent criminal court where the government employee is an accused, he is given a full opportunity to establish his innocence or distrove his guilt. He need not be given an opportunity again to establish the same thing which the competent Court of law has done once I can understand that a repetition to disprove the guilt may not be necessary

The Supreme Court in 1974 has delivered a judgement which is an eyeopener for anybody. I do not know whether Mr Patil has been informed of this judgement in Chellappan's case where the Supreme Court has said that even when there is a recourse to proviso (a) to Art 311(2) (C) it is not necessary to establish the guilt But he must be given an op-ortunity on the quantum of punishment imposed on him.

Therefore, although the enquiry is dispensed with, he must be given an opportunity to show that he should not be given the extreme punishment. Therefore, the principle of natural justice has been invoked to make it a civilised provision of the Constitution But, Sir. (b) and (c) provides where the administration thinks it is not reasonably placticable to give an opportunity n_0 opportunity need be given at all.

Su, the failway strike has shown how grossly misused this provision of the Constitution can be Rule 14(2) of the Railwaymen Disciplinary and Appeal Rule is the exact replica of 311 (2)(b) of the Constitution Sixteen thousand employess. Sir. I had the honour to fight cases for them in Calcutta, Assam, Allahabad and Patna High Courts, we found except in once or two cases the government could not justify that it was reasonably not practicable to hold an inquiry Notices were sent and notices came back with an emdorsement that he is not available for some time A'though addresses are there in the offices and he could be easily served but on the plea that no service of a show-cause notice can be affected so dismissal orders were issued without an enquiry

Mr Chairman, Sir, this is an uncivilised provision in the Constitution of India According to me Articles 310 and 311 (2) and its proviso are nothme but blots on our Constitution such as, preventive detention provision; provision for imposition of emergency and provision for the imposition of President's rule without any guidelines, check and control The muhiots mont the yr are removed we become a more civilised nation and can raise our heads high with the feeling that our Constitution maintains within itself the sends of But these are the providemocracy sions which make a mockery of the Constitution and mockery of the democratic rights Article 311(2) (b) is a pinnacle of unreasonableness in this I am challenging this govcounti v eroment and any government to show one instance where Article 311 (2) (b) has been bonafide used I can challenge this government cannot show a single instance. Previously, the misfortune was by judicial inter-

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pretation it was held that exercise of power under Article 311 (2)(c) was not amenable to judicial intervention. It was held that this was not a matter which could be gone into by the court beyond the pail of judicial intervention. That was the position. Prior to 1971 it was being said: Why do you bother. Here the authority has been given to the highest functionaries of the State, namely, the President and the Governor. Therefore, these highest functionaries are expected to exercise their power bonafide and not malafide. It is not a petty bureaucrat who will exercise this power. On that basis Justice Grover in 1971 held that it is the President personally who has to go personally into the matter and decide the matter on his without own the help of the Minister or the help of the bureaucrats. That was the decision in 1971-Sardari Lal's case. That judgement has been over-ruled by a larger bench of the Supreme Court. Supreme Court has held in Shamsher Singh's case that it is not the President personally who has to take the decision or the Governor personally who has to take the decision The decision will have to be taken by the Ministerpolitical master—who either have not got the time or have not got the capacity to appreciate.

They are guided by the files unless they are themselves personally having some malafide intentions to put some Government employees in difficulties and so on. In that case it is wellestablished that it is the Government which has to take a decision, not the President or the Governor personally. First it was thought that the power to be exercised by the President or the Governor would be exercised on the application of their own mind uninfluenced by the decision of their political masters in this country or the bureaucracy. But that principle no longer holds good and the principle is well-established now in view of the Shamsher Singh's case of the Supreme Court. But here what does the order say? It says: 'In the interest of the security of the State, it is not desir-

able to have you; you are therefore dismissed with immediate effect.' I have seen so many of these orders. In 1969-70 the Second United Front Government came in West Bengal was dismissed, or it came to an end and then there were a spate of dismissals under Art. 311(2)(a) of the Constitution. There was then an obliging Governor and he was prepared to sign on the dotted line, whether there was a report or no report. They obliged the Delhi authorities and Delhi was ruled by the then Prime Minister whose love for democracy is wellestablished and well-known. And in 1972 when the Siddhartha Shankar Ministry followed, there was again similar dismissal of State Government employees. I hoped that that would be the last such instance but then i. 1975 when the emergency came what happened? Leaders of Governemnt employees organisations were picked and chosen for being served with orders of dismissals. Actualy 14 State Government employees were chosen for being dismissed. All of them were leaders and members of the employees' organisations. Mr. Chairman, you will be surprised to know this as a lawyer. I hope now even the Home Minister Mr. Patel retains some conscience. I would bring to your notice the incident where an employee of the Calcutta High Court was dismissed by the Governor under Art. 311(2)(c) of the Constitution. The Supreme Court held that the Governor had no such power to dismiss a High Court emand that it is only the ploye_e Chief Justice who can do it. There are rules with regarl to the High Court employees' service conditions and so on. And when, as President of the High Court Employes' Union. I met the Chief Justice there, he said, 'what can I do, the Governor has passed this order, I can only endorse it.' But this employee lost his job. Sir, I had the honour to represent the Calcutta High Court Employees Union there and I filed a writ petition in the Calcutta High Court. The High Court held that the Governor had no power of dismissal of a High Court employee under Art. 311(2)(c) of the Constitution. This person was the Secretary of the High Court Employees Union. But the Governor arrogated to himself the power to dismiss this High Court Employee. And, Sir, I had the privilege of representing various other cases in the Calcutta High Court and in all these cases the Government could not produce a shred of evidence to justify that any security of State was involved. And in this connection I would like to mention one case of Mrinal Kanti Das Barman. Let the hon. Minister see for himself what was held in that case. The Calcutta High Court held there that the security of the State has to be given a meaning, anything and everything cannot be described as the security of the State, when the court calls upon the Government to show what was the security of the State involved. Supposing a Government employee beats his wife, they can write on the file that because the security of the State is involved, he is dismissed Sourebody beats his wife; that is not good, but what I am saying is that even on a fabricated charge that he is not behaving well with his or her spouse, a Government employee can lose his or her job on the plea of the security of the State Luckily, the attitude of the Court has now changed The court is now saying that it is a matter of judicial intervention; they are entitled to see what was security of the State involved, before the Government takes recourse to that. But it is not easy. You will appreciate, Sir, as a lawyer and other hon. Members will also appreciate that it is not easy to establish malafide as such in a court proceedings. It is not easy because no body writes down on the file that he is malafide doing this. Therefore, it is necessary that draconian provisions like this which have only be misused should be removed.

We know what happened during emergency, how the Central and other Government employees were dismisesd. In Calcutts, the leaders of the employees were first detained under MISA. As they were detained under MISA, they were suspended. And because they were suspended on account of detention under MISA, they were finally dismissed from service, because it related to the security of the State. How authoritarian it was? Was this civilised or the law of jungle that prevailed? I am appealing to the hon. Minister and all other friends of the Janata Party and others that this is a provision which is not necessary for a civilised administration anywhere or a bonafide administration anywhere.

It is said, sometimes there may be certain instances of misconduct where really the security of the State has to be protected, so unmediate dismissal is necessary. There are ample methods of protecting the integrity and security of the country; suspend him immediately. If you think that he is acting against the integrity of the country, security of the country, even he can be arrested and a case can be started against him. But it should not be done without any proof, without ary charge-sheet and without his having the satisfaction that he had some say in the matter that he was not guilty. At least give him that civilised opportunity to say that he was not guilty Now, without an opportunity being afforded to him to say that he was not guilty, he is made to lose his job. Let an enquiry be made as quickly as possible to find out whether he is guilty or not

Sir, this is a provision with in-built characterists of high handedness and arbitrariness. It cannot be used for any bona fide object and it has not so far been used on a single occasion for a bona fide object. I would give a list of cases to the hon. Minister and particulars of the employees who were The Calcutta High Court dismissed had set aside a number of such orders during the emergency on the even ground that these were malafide. But, as I said, even High Court employees were not spared. Some people isk why this Article 310 is there, and why we are asking for its omission. We are asking for the omission of Article 310 because a very large section of Government emplo-

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yees have no protection under Article 311 of the Constitution. Those are in Defence Services-even civilians in Defence Services. We have seen that employees in Ordnance factories, civilian clerks, ordinary motor drivers, persons who have nothing to do with the actual fighting in a front, have been 310 of the dismissed under Article Constitution by this simple process, viz. by saying "You are in service under the pleasure of the Government. That pleasure is being withdrawn; and you are dismissed with immediate effect". It has held by the Supreme Court that because Article 311 does not apply, he is under the of the Government, So, pleasure once the pleasure is withdrawn. Article 310 comes in, and since Article 311 does not apply to them, so the pleasure doctrine applies. So, he is liable to be dismissed without any opportunity being given to him, without any enquiry and without any possibility of his proving his innocence.

I am appealing to my friends here, and to the Government. Is it the intention of the Government to have such provisions in our law, especially in the organic law of the country, vir the Constitution, provisions which can be done away with easily, without any difficulty or problem for the State? Secondly, do we or do we not believe in the basic concept of democracy; and do we or do we not believe in a civilized system of Administration?

The basic postulate behind Article 311 is that the civil servants in the Administration, even the lowest rung of bureaucracy, should not be at the sweet mercy of the temporary political masters. That is the principle behind it. The principle is that the former are supposed, and expected to render service to the country, and to the Government irrespective of the colour of the Government that may be there. So that protection has been enshrined in the Constitution of India, viz. that a temporary political master cannot tinker with their rights and impose on them arbitrary penalties, and cannot interfere with the discharge of their duties—which should be done in a neutral manner.

The provisions under reference are those which strike at the root of this concept. I appeal to Government and everybody else here to realize that these are draconian provisions in the Constitution. Unfortunately, our Constitution contains many such provisions. You will recall that many of the provisions of the Constitution were sought to be amended by the Constitution, (45th Amendment) Bill. All of them could not get support in the Rajya Sabha. So, they could not be deleted from the Constitution.

There are many Articles of the Constitution which require much more than a second look. The opportunity has now come. My friend has at least succeeded in the ballot and in having his Bill taken up for discussion. So, when this opportunity is there. I appeal to my friends and to the Government and all my friends kindly to take away this cancer from the organic law of the country. It is nothing but cancer. I am requesting the hon. Minister here to cite a single instance to the satisfaction of this House, when this has been properly used, at any point of time.

Apart from this, the trade union movement in this country which is basked on democratic rights, cannot be stifled by having provisions like these in our Constitution. This is the time when Government should rise to the occasion. I hope they will issue a whip that this Bill should be passed and supported by their people unanimously, without any opposition. Thank you.

MR. CHAIRMAN: Before I call the other hon. Members, may I just tell the House that the time fixed for this Bill is over? If the House agrees, the time can be extended further.

थम तथा संसदीच कार्य मंत्रालय में राज्य मेंबी | (श्री लारंग साथ) : घगर प्राप चाहते हैं तो हमें की क्व घापत्ति नहीं है कोई घवजक्तन नहीं र । MR. CHAIRMAN: How much time do you want?

श्री लारंग साय : ग्रंगर माननीय सदस्य दो घंटा चाहते है तो समय बढा दिया जाय, हमे कोई ग्रापत्ति नही है ।

MR. CHAIRMAN: I have only four speakers at the moment. Then the hon. Minister has to intervene in relation to that. So, is it the pleasure of the House to extend the time of the discussion by two hours more?

SEVERAL HON. MEMBERS: Yes.

MR. CHAIRMAN: Mr. Vayalar Ravi.

SHRI VAYALAR RAVI (Chirayinkil): Mr. Chairman, Sir, I support this Bill after hearing the eloquence of Mr. Somnath Chatterjee as well as our new friends from the Congress (I) side. Mr. Somnath Chatterjee. who is privileged to argue many cases. has put forward his jurisprudence and the legal morality behind the arguments which I do not want to go into detail. Of course, he has made a reference about cancer because this provision gives protection to all the legislations that you have made and are making in the name of the service security as well as discipline. This is a major provision which is always a dagger against the employment security of the entire State as well Governments' services. as Central This is the main point. Here, I can illustrate with examples how it has been used as well as threatening to use against the employees and still they are afraid to anything to protect their rights.

I go one step further and say that these two provisions of the Indian Constitution. Arts. 310 and 311 are to protect, as I usually say, modern slavery of this modern country. Naturally he is doing it. Mr. Patel is a good Minister and a good_Home Minister also. I do not know whether he has any occasion to look into the service conditions and the pitiable position of the central industrial security force. It is coming under which department. I do not know. I do not know whether they come under reference or the other section, but they have been treated on par with the Defence services. You must be surprised to know that the persons who have been recruited for the last 10 years are still temporary. They have not been made permanent so far; and they have to put in 8 hours service. Please listen to me because this is very important and I will tell you how this provision is used against them. They have been guarding the public sector. Then they have to go for PT inspection and all sort of military training. What is their pay? It is mere Rs. 344. And what instructions you have issued? You have issued instructions that they should not have a mess bill for more than Rs. 60. Our D.A. is Rs. 51/- per day. You are using this force even against the working class. You have made a restriction that they cannot have a mess bill for more than Rs. 60/-. Please check your files. They are living like slaves at the mercy of the officers. How do the officers live? They live with big paraphernalia, say, 3-4 cars in the public sector companies and then these people as their servants in their quarters. I can prove it. I have seen it with my own eyes. I asked them. "Why can you not revolt?" They said, 'We will lose the job. I said "How". They said. "Under Art. 310." They can be dismissed immediately. That is why. I say you are making it as a dagger against their interest. This force came into being by an enactment. This provision has been protected by this clause. I do not want to go into detail what is But happening in all these posts. with your permission, I make this observation that 14 per cent of the people, by law, are provided with accommodation for family, but not a single one of them has been given any accommodation.

You take the case of CRP. What is their condition? These come under

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Defence forces. I had to put a lot of questions during and before the emergency to say that their conditions should be improved Mr. Chairman, you will be surprised to know that during the emergency, one Commander put a chain round the neck of the CRP constable and carried him in the streets of Palaghat in Kerala. I whent to the flome Minister and asked him, "What is going on. Are they slaves?" In the CRP, slavery is more. This is only an example of the service conditions of personnel of para military service. They are all covered by this kind of provisions against which they cannot revolt or malie representation. I appeal to the Minister; he must have a look at it, instead of going through the report of the I.G. sitting in the Secretariat or so called commandant who is hving in such an affluent way, using three or four jawans as his seivant. You should not use this clause against them. But so far as this clause is there, it will be used against them. You can say that you need that weapon to control them and to maintain discipline; but it is actually enabling them to maintain slavery; that is my objection.

Shrimati Parvathi Krishnan mentioned about the P & T employees. Out of five lakhs, about 2.3 lakhs are extra-departmental employees. T would call them slaves. They are the lowest paid people in the country today. In the new set up introduced by the janata government, he has to carry Dak, sort out letters, should work as stamp vendor and do many other things. Although he works more than 8 hours, is he getting the minimum salary? He is not getting the minimum salary; although he works in the villages for more than 8 hours. They are called extra departmental people and are treated in the most humiliating manrier; they are af the mercy of the postal inspec- . tors in every taluk. In this Parliament. from this side and that side

there is glamour that some benefit should be given to these people. Nothing has Lben done. Can they revolt? Immediately comes 310 or 311 either directly or through other legislation in which they had been incorporated. I, therefore appeal to the hon. Ministor: please examine this problem. There are temporary employees in the state and in the central services, who remain unconfirmed even after five years of service. There are lakhs of such employees. What protection have you given to them? Provious government did the same thing; you are doing the same thing. This has become the system in the country. The officers in the north block and the south block think that you and I come and go but they are permanent people there, why bother about these things. .. (An Hon, Member: Your party was there). I am also equally to blame. Now those officers know that that party has gone and the janata party has come but the janata party also will go; they do not bother. Unfortunately the bureaucrats think that ministers depend upon them. Let us change that attitude. They want to keep people temporary and take away all the rights. Becaule of these two provisions in the Constitution, whether they are government servants or defence service men or other employees, they are unable to do anything. Take the audit department. There is one case in Kerala; the secretary of a union has been dismissed. He was opposed to my union: I know that. But if the dismissal has been done for political reasons, this provision is a political weapon, it is a weapon in the hands of the administration. That is why Shri Somnath Chatterjee argued that you should see whether this political weapon can be allowed to be used. It has been used once upon a time. again by our party now you are using it against other people.

SHRI SOMNATH CHATTERJEE: The victims are the same. STRI VAYALAR RAVI: The employer of this weapon has changed This should be put an end to. A reply will come, I know, from the Minister that to maintain discipline and order in the services this has to be continued

SHRI SOMNATH CHATERJEE: Why is it not made applicable to Ministers also?

SHRI VAYALAR RAVI. No other legalistic jurispiudence you can make So, I do not want to take much of your timle I am grateful that you allowed me to speak. Arguments have been put forward-legalistic arguments, and cases have been cited-Supreme Court case as well as Calcutta High Court case I hope the Minister will go into the details and the provisions and also the experience that we have of different forces-Inter Security Force, CRP, BRP, Railways Lakhs and lakhs of temporary workers remain with the Central Government as well as the State Government Please have a look at their problem from humanitarian angle and try to see and behave like a civilian Government and civilized Government to protest their interests

With these words I support the Bill.

श्री उग्रसेव (देवरिया) चेयरमैन साहब, जो विधेयक माननीय भगतराम जी ने यहा पर पेश किया है, मै तो बहुत दिनो से, सविधान मे जो खामियां घी उन के खिलफ लडता था रहा हू । थव सह मै कैसे कहू कि लडते लडते तवाह हो गया हू, मै तो ममाजवादी हूं, मैं कभी निराषावादी नहो हो मकता । इस के उद्देश्य मे ठीक लिलबा है कि विकटीरिया काल के जमाने से, 1935 के एक्ट मे यह था गया थ्रोर फिर मच्छिका स्थाने मच्छिका लगता चला गया । फिर किसी ने भी इस पर कघी ध्यान नही दिया । श्रो वयालार रवी भौंग में ते सावक दोस्त श्री सीमनाथ चटर्जी ने कानून की बात कही । मैं तो कानून पढ़ा नही हू । लेकिन घाई पी सी म इतने चालान पिछले चालीस वर्षों मे हो चुके है कि मुझे भी कानून का कामत सेन्स था गया है,मै जानता हू कि कैसे दरखनास्त दी जाती है ।

मैं प्रपनी सरकार का किस्सा बनलाना चाहता हूं। प्रपनी बार्ते भी हमे खुल कर कहनी चाहियें, उत्तर प्रदेश मे 12 हजार चपरासी और कृषि विभाग के भमीन निकाल दिए गए । मोहितरिमा के जमाने में निकाले गए थे। जब हमारी सरकार झाई तो माननीय राजेन्द्र मिंह के पास हम गए और कहा कि 12 हजार में 19 वर्ष की सविस बाले लोग भी है, इन को भ्राप कैसे निकाल सकते है तो उन्हों ने कहा कि हमारे यहा जगह नही है। हम ट्राइब्युनल में दरख्वास्त देने गए तो कहा गया कि नही हो सकता है। हाई कार्ट में गये तो कहा गया कि 310 और 311 में सरकार का पूरा अधिकार है वह निकाल सकती है भौर उस की काई सुनवाई नहीं होगी। गरीबा की युनियन के लोग ग्राज भी ग्रनवन कर रहे हैं। हम ने बहुत कांशिण की लेकिन दर्द बढता गया. ज्यो ज्यो हमने दवाकी । मैं चाहता था कि जब हमारा सविधान बदला जा रहा है तो। उस में इस की जगह पर भी कोई ग्रच्छी चीज लिख दी आये. ग्रगर राज्य सभा में विरोधी दल के लोग उस को रोकते तो पाप उन के मत्थे चढेगा, हमारे मन्थे नही ।

एक केस में और रेफर करना चाहना ह जिस मे मैखद इवाल्व्ड था। उत्तर प्रदेश की विधान सभा का एक बडा सुन्दर केस हा गया है, केशवसिंह का केस, जिस को तमाम दुनिया की ला कार्टस में कोट किया जाता है। सदन की झबमानना के लिए केशवसिंह को सान दिन की जेल हो गई। पाच दिन बें जेल में रहें। मैं यहा भ्राया तो डा॰ लाहिया जी ने कहा कि सात दिन का सेन्टेन्म सर्व हो जायगा. तुम किसी तरह से रात को उन का छडवा लो । हम जॉस्टम बेग के यहा गए ग्रौर दरखाम्न दी। उन्होने प्राविजनल बेल दे दी. कुछ पूछा ही नहीं । उस के बाद विधान सभा में प्रश्न उपस्थितहा गया, हमारे जज माहब पर, हमारे वकील पर और केशव सिंह पर उन्टें मुकदमा चल गया। हम हाई कोर्टचले गए। हाई कोर्टके जजा ने स्पीकर माहब पर वाग्ट काट दिया। मैं ने कहा स्पीकर माहब आप बैठे रहिएगा, झाप का वारन्ट लकर हम आयेंगे । इधर जज साहब का वारन्ट विधान मभा ने काट दिया. जस्टिस बेग का जो कि बाद में चीफ चस्टिम हो गए। रात को जस्टिस मुल्ला मेरे पास ग्राय ग्रीर कहा कि अस्टिम बेग बहुत एजिटटेड है। रात को 11 बजे जब में पहुचा तो पूछा कि झाप क्या परेशान है, आप ता झान रेबिल जस्टिम है हाईकार्ट बैच के उन्हों ने कहा. यह उन के शब्द है

Am I immune tiom law?

मैंने कहा——मैं कानून से तो छुटकारा नही दिला सकता, लेकिन फिलहाल दरागा जी गिरफ्तार करने नही प्रायेगे, इम की गारन्टी मैं देता हू। इम केशव सिंह केस पर बहुत हल्ला हुमा। बाद म राप्ट्रपति जी ने इस केस को गजेन्द्र गडकर साहब को रेफर कर दिया। इम को बाद में 'कैशवर्सिह रेफेल्म केस' कहा गया। उन्होने इस में क्या होल्ड किया ? उन्होंने होल्ड किया कि मान-रेबिल कोर्ट को मधिकार है कि बिना सफाई लिये प्रोवीजनल जमानत दे मकते है। बिना चर्ज गीट दिए, बिना जवाद लिए किसी भी घादमी को बन्दी मेही किया जा मकता है। ट्म लोग उम में जीत गये म्राज दुनिया में यह केस साइट होता है। [श्रो उन्न सेन]

310 के झाखिर में लिखा हुझा है कि सरकार उस में चाहे तो कुछ कर मकती हैं, लेकिन उस तरफ कौन देखता है । मालिकान क्या करते हैं, सिर्फ अपने फायदे की चीज को देखते है। भानरेबिल हाई कोर्ट या सुप्रीम कार्ट किसी मामले में कोई फैसला करते है मगर जब एत्रशन का मवाल झाता है तो वहा कोई सूनवाई नहीं होती है। राज्य सरकारों ने सपने यहां कर्मचारियो के लिये एडमिनिस्ट्रेटिव ट्रिब्युनल बनायें है, यह सब धोखाधडी है फाड है, ये कमेचारियो का सत्यानाश करनी है। ट्रिब्यूनल के कायदे क्या है ? ये फैसला कर दे कि अमुक आदमी का बहाल कर दिया जाय, लेकिन माथ ही उस के अन्दर यह बान भी लिखी है कि यह जरूरी नही है कि सरकार उस को जाने। तब इन के फैसले के क्या मायने है ? रोड-बेज डाइवर्म या कण्डक्टर्म के बारे में यह फैमला होता है कि यें बिल्कूल दाय मुक्त है, इन के ऊपर काई दोष नही है, ता भी मरकार उम को नहीं मानती है, लेकिन यदि टिब्यनल लिखना है कि इन को बिल्कूल डिसमिस कर दिया जाय, ता मरकार फौरन उस को मान लेती है। इसीलिये कर्मचारियो के जितने सथ है, जिननी युनियन है, हम जा उन में काम करते है, हम सब की यह मार्ग है कि भारतीय मविधान में से झाटिकल 310 झीर 311 का बिल्कुल उडा दिया जाय झौर पाटिल साहब मै भाप स दम्नबस्ता यह माग करना हू-हम गरीबो पर दया कीजिये, अगर में हक मागने की बात कहगा तो आप लड जायेंगे । हम लाग नारा लगाते थे-अपनी माग लड कर लेगे। लेकिन भव हमारी ही पार्टी सत्ता मे बैठी है । इस लिये हम सावने हैं कि भव नारे से काम नही चलेगा, भव कुछ मुहब्बत से काम किया जाय । मैंने बाईबिल भो जेल में पढा धौर कुरान भी जेल मे पढा। मभापति महोदय, मेरा कोई खुदा या भगवान नही है। मैने इन सब का डिस्मिस कर दिया है। मै जब विद्यार्थी था, तब से ही मब को डिस्मिस कर दिया था। उन्हाने बहुन य गिल की, लेकिन मैने मजुर नही किया ।

समापति महोदय ' ग्रापने उन को कारण बतनाया ? उन का काई मा-कात्र नोटिम दिया था या नही ?

श्री उग्नसेन वे 6 महीने तक माधी तनख्वाह पाने रहे, मैने उन का पूरा मौका दिया।

समापति महोदय ग्राप की चार्जशीट का जवाब दिया ?

श्री उग्रा सेन जी हा, उन्हाने दिया, लेकिन उम में कुछ नहीं था। जैने राइवेज वाले लिखते है-तुम्हारी ग्रपील में काई फोर्स नहीं है, उसी तरह से हमने लिख दिया कि तुम्हारी प्रपील में कोई फोर्स नहीं है।

लेकिन, मभापनि महोदय, मैं उन को बातो को मानना ह । मैंने कुरान पड़ा, उम के मेलिएन्ट फीचर्स पर मैंने भाषण भी दिया । बाइबिल में लिखा है--भगर तुम किसी के लिये गढ्ढा खादने जाघो, तो कहीं ऐसा न हो कि तुम्हारे लिथे ममुद्र या खाई खुद जाय । इस का मनलब क्या है ? स्टेट जो शाषण की मशीनरी का आपरेटर है, धारा 310 घीर 311 के घन्तिम पैरे के मन्तर्गत जा सोषण किया जाता है, करले-आग किया जाना है, उस की सुनवाई कही नहीं है । भगतराम जो, स्राप का दिमाग इधर कैसे गया ? हम तो स्राप को बहुत सीधा-सादा समझते थे, लेकिन स्राप तो,

सतसैया के दोहरे ज्यो नाविक के तीर देखन में छोटे लगें घाव करे गम्भीर ।

प्राप ने यह बात करके दिखला दी है। हम बाकई में आप को बहुन सीधा-सादा, हामंलैम - कीवर समझते मे, लेकिन प्राप ने इस बिल को ला कर जा चोट की है, सही मायनो मे हमारे पटेल साहब को, जो मेरे बहुत बढे दास्त है, मै उन का बहुन प्रादर करता हू, उन को इस बान का मान लेना चाहिये। प्राप संविधान में दूसरे सथोधन लाने वाले हैं, माथ मे इन दोनो धाराभो को निकालने वाला सशाधन भी भ्रा जाय तो कोई हर्ज नही है। मोहतरिमा ने तो हजारो सथोधन कर डाले, यहा तक सथाधन कर डाला कि उन के ऊपर, उन के लड़के ऊपर, उन के पाते के ऊपर काई मुकदमा नहीं चला सकता भ्रीन इन नामने बैठने वालो ने भौर पालियामेट की इन्ही दीवारो के बोच वह सब मजुर हो गया।

म्राज जब मै बोल रहा हू तो भाज डा0 लोहिया का जन्म दिवस है। यह वहीं असेम्बजी है जहा भगन सिह ने बम मारा था। जब उन्होने बम मारा था तो उन को डर के मारे काई पकड नहीं रहा था। वे डर के मारे पकडे नही जा रहे थे। जब झदालत के सामने उन का केम सनाजा रहा था नो उन्होने कहा था कि मेरा बम मारने बाला बम नही था, मै तो बाहरी दुनिया को सुनाना चाहता था । माज के दिन उन भगत सिंह की भी मझे याद मा गयी है। ये दाना महान नेता थे जो मरे नही थे मारे गये थे, डा० लोहिया भी मरे नही थे झौर भगत सिंह भी मरे नही थे। उन्हें फासी पर चढ़ाया गया था झौर डा० लाहिया को गलत नस्तर लगा दिया गया था। उस के कारण उन की मौत हुई थी। मैं उस समय कान्तिकारी पार्टी में था। अगर उस ममय के काग्रेस के नेतागण ने थाडा सा भी भगत सिंह का साथ दिया होता तो उन को फासी पर न चढाया गया होता । अगर डा0 लाहिया का गलन नस्तर न लगाया गया होता तो में भी नही मरते । इसलिए मैं कहना चाहता हु कि तलवार का कोई दाय नही है। प्रगर तलवार माप के हाय में है तो भाप मेरी गरदन उबा मकते है भौर मेरे हाथ में हो तो में आप की गर्दन उड़ा सकता ह । वोष तो उम की मुट्ठी का है जिमे कि पकडा जाता है। भग्रेजो ने क्या किया, विक्टोरिया से ले कर उस के बेटे-योते तक करते झाये। झभी श्री व्यालार रांब साहब बोल रते थे। इन्होने भी यही किया जिन को कि सम्रेजो के बाव शासन करने को मिला । प्रब हम दो साल से हैं। कहा जाता है कि "धर अपना जल गया अपने चिराग से ।" हम बडे खुझ है। झाप मुलाहिजा फरमाइये कि यह काम तो होने का नहीं है।

मैं कहना चाहना हू कि राज्यपाल के लिए लिख वेते है कि उन के प्लेजर से, वे बायद प्लेजर की स्पेलिंग नहीं जानते होंगे, लेकिन प्लेजर का इस्तेमाल करते हैं। उन की इन्प्रसे, महान इत्पा से लोगों को नौकरी से निकाल दिया जाता है। मैं ने तो कभी नौकरी की नहीं। बम्बई में बड़ी गरीवी थी। हम विना बिग्री के वहां मास्टर हो गेबे। पता चक्षा कि हमारे पास डिग्री-डिप्नीमा नहीं है तो निकाल दिये गये । अगर कुछ करते तो डी० आई० ग्रार० में पकड जाते । मैं ग्राप को कहना चाहता हं कि हम तो उस पार्टी से आते हैं जिस ने यह तय किया था कि कलेक्टर और राज्यपालों के पद बिल्कूल समाप्त कर दिये जाने चाहियें। मैं ने कलकत्ता में झाप का राज-भवन देखा है। वहां मैं अपने मित्र, जिगर के टकडे, ग्रपने मख्य मंत्री से मिलने गया था। मैं तो उस भवन को देखताँ ही रह गया। ऐसा भवन जिस को देख कर गंगल की मणालें जल जाएं। उस बंगाल की जिन के सोगों ने बम ग्रीर पिस्तौलों से काम लिया. जहां के ष्ठोटे छोटे बच्चे ग्रड गये। उन में कितनी हिम्मत थी? ग्राप जानते हैं कि ये बडे बडे भवन क्यों बनाये जाते थे ? इसलिये बनाये जाते थे कि गरीब जनता उन को देख कर डर जाये ग्रौर यह समझें कि उन में शेर रहते होंगे, बेशक वहां गीदड ही रहते हों । गांधी जी और डा० सोहिया कहा करते थे कि इन भवनों को संग्रहालयों, कलों और अस्पतालों में बदल डालो और मामली मकानों में रहो । वे ऐसे साधारण मकानों में रहने को कहते थे जैसे कि मैंने केरल में देखे। केरल में गांव नहीं है। सादे से, ऊपर से पत्तों सैं बिछाये हए घर हैं। मुझे वै घर बहत पसन्द आये । हमारे उत्तर प्रदेश में तो बड़े बड़े घर हैं, छतें ग्रासमान से बात कर रही हैं, गई सोने के लिये जमीन नहीं है। तो मैं कह रहा था कि इन राज्यपालों का पद ही डाउटफ़ुल है। हमारे **ग्**टर्जी बाब् बेरिस्टर हैं । ग्रगर कोई मुकदमा दाखिल कर दें कि राज्यपालों का कोई स्रौचित्य नहीं है स्रौर र्रोवधान को पढ़ कर सुना दें तो मुझ्किल हों जाय । कहा गता है कि "दि किंग आफ इंगलैंड कैन ंडुनो रोंग" । केन आ ईड ए राइट थिंग ? इसलिये मैं कहता हं कि राज्यपाल तो भाग्य विधाता हैं। ग्राप ट्रिब्यूनल को ग्हले निकालिये । ये फर्जी ट्रिब्यूनल बने हैं । इन का ट्रायल होता है। ऐसा ट्रायल होता है जैसा कि पाकिस्तान में भुट्रों का ट्रायल हुआ है, बंगला देश में ट्रायल हुआ है । र्य सब ट्रायल दिखाने के लिये होते हैं। अपने वकील दोनों तरफ़ रख दिये जाते हैं और फैसला हो जाता है । मुकदमा बल जाता है। ये दोनों धारायें 310 ग्रीर 311 तो बिल्लुल निकाल देनीचाहियें। मैंभीइस बात से सहमत हं कि इस में कोई व्हिप की बात नहीं है। झमें सिद्धान्त की बाल है। समाजवादी होने के नोते ग्रौर ट्रेड मुवमेंट में काम करने यनियन गेगते मैं बिल्कुल मुत्तमईन ह कि डन धारण्रों को निकाल देना चाहिये इन और धारास्रों के खते जनता के नागरिक अधिकार कतई रह नहीं सकते हैं। हमारी ग्रावाज तो बेग्रसर हो रही है ग्रीर जि़स त क्रावाज बेग्रसर होनी चाहिये वही ग्रसरदार हो रही है। मैं यहां ग्राज भी हैस्टिंग रोड, क्लाइव रोड, . मुन्रो रोड ग्रादि सड़कों के नाम लिखे देखता हं तो मझे रही तकलीफ होती है । क्या ग्राप ने इंगलैंड में विवेकानस्द रोड, जवाहरलाल नेहरू रोड, ग्रादि रोड्स के नाम कहीं रेष्टे हैं। यहां पर क्यों सड़कों के नाम इस तरह से रखे गए हैं ? यह गुलामी के दिमागों की उपज है। मैं जनता गर्टो की सरकार से विनती करता हं कि वह इस विधेयक को मान लें। शान्ति भूषण जी चले गए हैं। उन को यहां होग चाहिये था । अगली बार मैं चाहता हूं कि वह ग्राएं और हमें कानूनी बातों को बतायें और हमे बढाएं कि 310 और 311 प्रिएम्बल आफ दी कांस्टीटयशन जो संविधान का हैं, उस के तहत यह ब्राता है या नहीं श्रौर ग्रगर नहीं ब्राता है तो यह रिडंडेंट है, इस को निकाल देन: पाहिये क्योंकि सिद्धान्त दूसरे हैं, ब्रलफाज दूसरे हैं ।

टन शब्दों के साथ मैं श्री भगत जराम के संशोधन का समर्थन करता हूं श्रीर आशा करता हूं कि यह सदन भी इस का समर्थन करेगा ।

श्रो ओम प्रकाश त्यागो (वहराइच) : मैं इस विधेयक का विरोध करने के जिये खड़ा हम्रा हं । इसके उद्देश्यों ग्रीर लक्ष्यों में इन्हों ने जो जिखा है मेरा उसी से मतभेद है। यह कहते हैं कि 1897 में विक्टोरिया ने अपनी सुरक्षा के लिए कुछ कानून बनाए और दुर्भाग्य-वश उन सबको हमारे संविधान में ला कर रख दिया गया है । ऐसो बात नहीं है । हमारे संविधान निर्माताम्रों ने म्रंग्रेजों के कई कानुनों को ज्यों का त्यों ले लिया है और अमरीका के बने हुए कानूनों को भी ले लिया है। मैं नहीं समझता हूं कि इन में कोई बुरी बात है । भावना की बात को आप को देखना चाहिये। जनता पार्टी की गवर्तमेंट किस भावना से इस को बनाए रखना चाहती है ग्रौर विक्टोरिया ने किस भावना से बनाया था, दोनों ग्रलग अलग हैं। संविधान निर्माताओं ने किस भावना से इन को स्थान दिया ग्रौर विक्टारिया की क्या भावना थी इन दोनों में मतभेद है। ग्रभी श्री उग्रसेन मे कहा कि तलवार एक ही होती है । मैं कहना चाहता ह कि तलवार का प्रयोग तलवारकर्ता पर निर्भर करता हैं। डाक के हाथ में ग्रा जाए. . .

प्रो॰ पी॰ जी॰ मावलंकर (गांधीनगर) : परिणाम एक ही होता है ।

श्रो ओम प्रकाश त्यागी: चीज एक है लेकिन उसका प्रयोग करने वाले अलग अलग हैं। किसी आदमी ने अगर उस का गलत प्रयोग किया है तो इस का मतलब यह नहीं है कि उस चीज के अस्तित्व को ही समाप्त कर दिया जाए। अगर डाकू के हाथ में आ गई और उसका गलत प्रयोग हुआ तो इस का मतलब यह नहीं कि सिपाही के हाथ में तलवार न दी जाए......

MR. CHAIRMAN: The hon. Member may continue his speech the next day.

18.00 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, the 26th March, 19791Chitra 5, 1901 (Sakha).