

SHRI R. N. BARMAN (Balurghat) I rise to speak on the Railway Budget, but I apprehend that I may have to reiterate the old demand which in fact is the demand of the people whom I represent here and who are pressing this for the last two decades. I mean the Railway link between Balurghat and Malda via Gajal.

Mr. Deputy Speaker, Sir, I consider, in this Parliament, probably the assurance on my subject, which I will explain within a few minutes....

MR. DEPUTY-SPEAKER : Not few minutes, but only two minutes.

SHRI R. N. BARMAN is the only long-standing assurance of the Government which has not yet been implemented since Independence. Not to speak of only one, but all the Ministers who came to the Railway Ministry, not only assured but also committed in terms for the installation or laying of the railway link from Balurghat to Hilly from any convenient line either from old Malda via Gajal or from Kaliaganj of the N.F. Railway. Every time the people of that area question about the fate of the assurance given by Government, it is not less than a pity to inform you that the Member of Parliament from that constituency is not able to explain to the people what really the meaning of assurances or commitments is. Very recently....

MR. DEPUTY-SPEAKER : Why not hand over the speech to the hon. Minister ?

SHRI NAWAL KISHORE SHARMA : His is a maiden speech.

MR. DEPUTY-SPEAKER : But I am bound by the time allotted.

SHRI R. N. BARMAN : Recently, survey work has been taken up, but unfortunately the same record which has been playing since Independence has again been put into motion. I do not know when the survey work is going to be completed. I do not find a word about the time-limit for this project. I would be happy the Railway Minister could say a

few words about it, and I am sure the present Railway Minister will, instead of merely giving us the assurance, actually give use the railway line.

MR. DEPUTY-SPEAKER : Now, the hon. Member should conclude.

SHRI R. N. BARMAN : In conclusion I would like to inform you, Sir, that in this 25th anniversary of our Independence, possibly this is the only biggest headquarters of the district which remains without a railway link in our advanced civilisation. Mine is a backward area and most of the inhabitants are Scheduled Castes or Scheduled Tribes. To fulfil the promise of Garibi Hatao envisaged by our Prime Minister, I request the hon. Minister of Railways to give this top priority so that the down-trodden Scheduled Castes and Scheduled Tribes of this backward area could relish the fruits of freedom in the real sense..

MR. DEPUTY-SPEAKER : Now he should conclude. The hon. Minister of Railways.

THE MINISTER OF RAILWAYS (SHRI L. N. MISHRA) : Sir, I am indeed grateful....

MR. DEPUTY-SPEAKER : He may continue on Monday.

Now, Shri Jagannathrao Joshi to move for leave to withdraw the Hindu Succession (Amendment) Bill—he is absent.

CONSTITUTION (AMENDMENT) BILL —Contd.

(Amendment of articles 19, 22, etc.)
by Shri A. K. Gopalan

MR. DEPUTY-SPEAKER : We take up further consideration of the following motion moved by Shri A. K. Gopalan on the 23rd February 1973.

“That the Bill further to amend the Constitution of India, be taken into consideration”.

We have taken 1 hour and 35 minutes and 25 minutes are left. Shri Ram Gopal Reddy was last on his legs.

SHRI M. RAM GOPAL REDDY : (Nizamabad) : Shri A. K. Gopalan has proposed an amendment to our Constitution. He has sought to amend three articles.

AN HON. MEMBER : He is not here.

SHRI M. RAM GOPAL REDDY : At these amendments, no party in this House will be more happy than the Jan Sangh. The Jan Sangh first proposed or included in its election manifesto the reduction of the voting age to 18. It had also said that people should have the right to work and earn a living wage. Shri Gopalan has borrowed these ideas from the Jan Sangh. On that count, I congratulate him.

SHRI R. R. SHARMA (Banda) : I anybody has borrowed any idea from anybody else, what is wrong in it ?

SHRI M. RAM GOPAL REDDY : If am congratulating him.

Not only has he borrowed ideas from the Jan Sangh, he has borrowed ideas from the Congress also. The Congress is going to put a limitation on the property one can hold. Already we have enacted a land ceiling law. We have fixed the minimum of land one can hold and the remaining land has to be distributed. Similarly, legislation on a ceiling in regard to urban property is coming up. The Congress is doing all these things.

PROF. MADHU DANAVATE : (Rajapur) : The Congress has borrowed from the Socialist Party.

SHRI M. RAM GOPAL REDDY : Now we are all socialists.

Shri Gopalan has asked for many facilities, like free medical aid, equal pay for equal work, free education up to matriculation and all these things. Already the Congress Governments are wanting to do more of these things. If his amendments are accepted, the whole Government of India will become a social welfare department.

श्री लालजी भाई (उदयपुर): उपाध्यक्ष महोदय, मेरा व्यक्त्या का प्रश्न है। सदन में गणपूर्ति नहीं है।

MR. DEPUTY-SPEAKER : The bell is being rung— Now, there is quorum. The hon. Member may continue.

SHRI M. RAM GOPAL REDDY : Sir the amendment to the Constitution proposed by Mr. A. K. Gopalan, even if accepted in toto, will make the whole Government of India a social welfare department, and no other work can be done. I do not know what his intentions are. Moreover, he said that everybody should be provided with a rifle pistol or such other arms, I want to know for what purpose he wants all these things. You know even without these arms what has been done in Andhra and also in Tamil Nadu during 1949—52. We also know what they have done during the Naxalbari agitations. We know that there are so many patriotic people in this country, but there are anti-social and unpatriotic people also. I am afraid that these people will take advantage of this.

In this connection, Mr. Gopalan quoted the example of Sikhs saying that they are having kirpans in their possession. I want to tell him that the Kirpan is being used by the Sikhs for the last hundred of years. More over, the Sikhs are trained in self-discipline by their gurus and saints. Before giving the arms to the people, similar training has to be given by the highest souls of the country. At present it is not at all advisable to give weapons to all people. What he has stated is, some goonde elements are having arms in their possession and also ammunition. I want to point out to him that if these arms and ammunition are possessed by anti-social people, the Government is always confiscating them. There are so many examples in this connection. What Mr. Gopalan said is that land is not being given to the poor people. That is not correct. The Congress Government is wedded to the distribution of land to the poor people.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI NITIRAJ SINGH CHAUDHARY) : Mr. Deputy-Speaker, Sir, at the outset let me thank the Members who have taken part in this debate, especially Mr. Gopalan who has put forth his view of thinking over the whole matter. Some of my friends who have taken part in this debate have replied to the points raised by him, and they have thereby reduced my burden. I will, therefore, limit myself to the most important points that have been raised.

Sir, I cannot say when the Bill in question was conceived of by Mr. Gopalan, but the notice of his intention to move it was given on the 9th July, 1971, and the Bill was introduced in this House on the 5th August, 1971. Long thereafter, the Constitution 25th (Amendment) Bill came up before both the Houses of Parliament and was passed and it became law on the 20th April, 1972. Unfortunately, the mover of this Bill, while speaking, did not refer to the provisions of the Constitution (25th Amendment) Act, because if he had referred to them, his present Bill would become infructuous. Therefore, he completely omitted those provisions and hammered on the provisions that he want to get incorporated in the Constitution. By this Bill, he wants certain amendments to article 19(f) and to article 31.

While speaking on his Bill, he gave the reasons for this Bill. It was for these very reasons that the 25th Constitution Amendment Bill had been passed. He says:

"Amendment to article 19 is being proposed in clause 2 for the purpose of conferring upon the State the power to amend and prescribe the ceiling on the ownership of all classes of property and also for purpose of protecting the right of the citizens to acquire and dispose of property within the prescribed ceiling. We do not favour concentration of wealth in the hands of a few individuals. We want all means of production to be owned

by the State gradually. We want monopolies to be taken over by the State with out delay, immediate nationalisation of key industries and giant enterprises. At the same time, we want to protect the rights owners of small and medium size personal properties and also private enterprises against the encroachment by the high-handed and power-crazy bureaucracy... Clause (3) of article 31 imposes a disability on the State legislature. If a measure is otherwise within the legislative competence of the State legislature and if the subject is one which can otherwise be dealt with by the State legislatures, I do not see any reason why they should be subjected to the control of Union Council of Ministers. The assent of the President really means the assent of the Union Cabinet. Then I come to clause 6 of my Bill. It seeks to omit the first proviso to clause 1 of article 31A in which I have desired to remove a similar disability imposed on the State Legislatures."

The objective which the hon. Mover has mentioned is mostly achieved by the 25th Amendment. Broadly speaking he intends to provide in article 31(1)A something that is provided in article 19(1)(f) although he has used different words. His proposed article 31(1)(A) is almost similar to article 31(2) as it now exists as amended by the 25th Constitution Amendment Bill. The significance of the proposed amendments is now lost with the incorporation of article 31(1) Under the Constitution, a law made to give effect to the Directive Principles specified in article 39(B) and (C) cannot be challenged on the ground that they are inconsistent with or take away or abridge any of the rights conferred by articles 14, 19, and 31. Therefore the proposals contained in clauses 2, 5 and 6 are not at all necessary; they have become redundant because the same object has been achieved by the 25th Amendment.

By clause 3 of the Bill he wants to transfer the Directive Principles contained in articles 39, 41, 43 and 45 to the Chapter on

Fundamental Rights. If that is done, it would become the duty and obligation of the State to protect and secure those rights. It would also necessarily create further financial expenditure for them, of a recurring and non-recurring nature.

I shall now take each one of them. In clause 3 he wants that another article 19A should be added.

First he wants the Right to work and to a living wage after attaining the age of 16 years and in clause 19A(3) he wants to have such assistance in cases of unemployment, old age, sickness and disablement.

Persently, if you refer to Article 41 of the Constitution you will find the same things there. But the framers of the Constitution have stated—"The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want." If what the hon. Mover says is accepted and if all these things are brought under the Fundamental Rights it will be the duty of the State whether it be the Centre or the State Governments to comply with them and to do everything possible. It has to be seen whether it would be possible within the financial resources of the country.

About the Right to work and to a living wage, this matter has been discussed more than once in this House and the Labour Ministry has given particulars as to what steps the Government has taken and is taking gradually to create employment potential in the country and certain other things. Even if we enlarge the Fundamental Rights to include the Right of Employment, it will remain a mere exaltation because there can be no right without a remedy. Give us scope to exercise this right by providing for unemployment insurance and unemployment relief as well as old age pension, this is wanted by the hon. Mover. I will just now put figures before the House to show

whether this is in fact possible? According to the 1971 Census the number of persons who are above the age of 60 in this country is 3,26,92,765. If the proposal is accepted and if old age pension is provided and by taking 30% of this number, a little over a crore would be the persons entitled for old age pension and that pension if it be a rupee a day, then the payment would be a crore a day i.e. Rs. 365 crores per year. Whether in the present economic situation we are in a position to find that much money for that purpose? It is true that some States are doing it. About five or seven States have already provided and they are giving some pensions and as and when funds are available the States are going ahead with that. U. P. and other States have already begun. It is a State Subject and the amount is to be paid by the State.

Then 19A(2)—the hon. Mover wants that free education be given upto Higher Secondary standard.

PROF. MADHU DANDAVATE : Mr. Chaudhary, you have said in view of the 25th Amendment of the Constitution Mr. Gopalan's suggestions are infructuous. But practically 25th Amendment is only an enabling measure. He has tried to spell out the measures. What is infructuous about it?

SHRI NITIRAJ SINGH CHAUDHARY
I will come to it later.

About education, he desires that it should be brought into the Fundamental Rights and every person should be eligible to have free education upto Higher Secondary standard.

I have figures here according to which in Andhra in all Govt. institutions education is free upto 10th class for boys and upto 12th class for girls. In Assam in Govt. school education is free upto class 3, in Bihar upto 7th for boys and upto 8th for girls, in Gujarat upto 7th for boys and upto 10th for girls, in Haryana it is free upto 8th for boys and upto 8th for girls, in Jammu and Kashmir education is free at all stages, in Kerala upto

to the boys and girls, in Madhya Pradesh upto 8th for boys and upto 11th for girls, in Maharashtra upto 5th for boys and girls and in Mysore upto 10th for boys and girls and so on in other States.

SHRI DINEN BHATTACHARYA (Serampore) : What is the percentage of students under this scheme ?

SHRI NITIRAJ SINGH CHAUDHARY : I am coming. I am giving you that percentage.

At this moment 5,93,00,000 students are attending primary schools. There, of courses the education is completely free and Government efforts are that by 1975-76 all boys and girls upto the age of 11 i.e. in the age group of 6-11 shall get free education upto primary stage and by 1980-81 all boys and girls upto the age of 14 shall be getting free education.

It is in that direction that efforts are being made and we are gradually going ahead.

By sub-clause (3) the mover wants to have State assistance in the case of unemployment, old age and sickness. I have already referred to it and given the figures..

SHRI DINEN BHATTACHARYA : In which States are old age pensions given ? In Tamil Nadu, there is destitute pension and only Rs. 20 is given.

SHRI VIRBHADRA SINGH (Mandi) : In H. P. there is old age pension of Rs. 25. It is proposed to be increased to Rs. 50 in the near future.

SHRI NITIRAJ SINGH CHAUDHARY : Since it is a State subject, I did not want to give the details. I will give the figures to the hon. member personally. I have them here with me.

By sub-clause (4), the mover wants free medical aid. I can get away by saying that is a State subject, but I want to give some figures. At this moment, we have 2,69,400 beds in hospitals which works out to about 0.5 bed per thousand. To have 2 beds per thousand, we need over 12 lakh beds. That is the target which we want to achieve and we are working towards that.

By sub-clause (5) he wants to have equal pay for equal work. Hon. members might be aware that India has already accepted ILO Convention No. 100 concerning equal remuneration for men and women workers for work of equal value. This was adopted in 1951. Under this, the ratifying countries have to ensure the application of the principle of equal remuneration for men and women workers, without discrimination. The Convention provisions have been implemented satisfactorily. Looking to the vastness of this country, there may, however, be stray violations and whenever they are brought to our notice actions are immediately taken.

SHRI VASANT SATHE (Akola) : In the drought affected areas of Maharashtra there is no equal wages for men and women workers.

SHRI NITIRAJ SINGH CHAUDHARY : For that, you approach the State Government. We have given them the money and it is they who pay.

SHRI DINEN BHATTACHARYA : Even in municipalities among the Harijan workers, men and women get differ wages.

SHRI NITIRAJ SINGH CHAUDHARY : The main purpose of the Bill would be found in sub-clause (7) of the proposed Article 19A i.e. the right to possess arms.

I would submit that such a right can be given only when every body in the country is in a position to possess arms. If such a right is given now, persons who are rich enough and who can own them will own them while the oppressed and down-trodden would not be able to do. When this matter came before the Constituent Assembly, it discussed this matter and ultimately decided not to provide for it. I do not think any change has come about in the Situation in the country which warrants re-thinking on the decision taken by the Constituent Assembly. I think we should stick to it.

SHRI VASANT SATHE : What you are saying is dangerous. Even when we are economically well off, we should not allow this right.

SHRI NITIRAJ SINGH CHAUDHARY: We will consider it at that time. At present we are against it.

SHRI M. RAM GOPAL REDDY : Are you withdrawing arms from the undesirable elements ?

SHRI NITIRAJ SINGH CHAUDHARY : The State Government have to do it.

By clause 4 the mover seeks the deletion of the provision about preventive detention. He wants article 22 of the Constitution to be deleted so that the power of preventive detention will not be available to the government. The House would agree that there are occasions when unsocial elements create trouble and difficulty in the maintenance of law and order and sometimes become a risk even for the security of the country. For that purpose it is essential that these provisions should remain. It is true that they should not be misused. (*interruptions*). You may say that action against 'x' is misuse while I may say that it is proper use. I fully agree that it has to be used properly and discreetly against really unsocial elements only.

Therefore, for the reasons given by me it is not possible for the government to accept the amendments moved by Shri Gopalan. Unfortunately, he is not present here and we have not the privilege of listening what he has to say in reply to the debate. I have placed before the House the point of view of the government.

MR. DEPUTY-SPEAKER : The mover of the motion is not present here.

SHRI DINEN BHATTACHARYYA : Shri Gopalan is unavoidably absent. But he has authorised me to reply on his behalf.

MR. DEPUTY-SPEAKER : I have seen that letter. But the rules do not permit him to give a reply.

PROF. MADHU DANDAVATE : While the Minister was replying, I intervened and put a definite question. You can check up the records, if you desire. He said that all the amendments suggested by Shri Gopalan are

infructuous, in view of the 25th Amendment to the Constitution. Then I pointed out that while the 25th Amendment is only an enabling measure, this spells out the measures. The Minister said that he will clarify this point at the end of this his speech.

MR. DEPUTY-SPEAKER : Has he anything to say on this ?

SHRI NITIRAJ SINGH CHAUDHARY : Nothing.

MR. DEPUTY-SPEAKER : Before I put the motion to the vote of the House, this being a Constitution Amendment Bill, voting has to be by Division.

Let the Lobbies be cleared.

The question is :

“ That the Bill further to amend the Constitution of India, be taken into consideration. ”

The Lok Sabha divided :

Division No. 10] [15.31 hours.

AYES

Baladhandayutham, Shri K.
Bhagirath Bhanwar, Shri.
Bhattacharyya, Shri Dinan
Bhattacharyya, Shri S.P.
Chandrappan, Shri C.K.
Chatterjee, Shri Somnath
Dandavate, Prof. Madhu
Hazra, Shri Manoranjan
Krishnan, Shri E.R.
Lalji Bhai, Shri
Muruganatham, Shri S.A.
Roy, Dr. Saradish
Saha, Shri Ajit Kumar
Sharma, Shri R.R.
Singh, Shri D.N.

NOES

Ahirwar, Shri Nathu Ram
 Ambeah, Shri
 Arvind Netam, Shri
 Bjapai, Shri Vidya Dhar
 Barman, Shri R.N.
 Barua, Shri Bedabrata
 Barupal, Shri Panna Lal.
 Bist, Shri Narendra Singh
 Chaturvedi, Shri Roshan Lal
 Chaudhary, Shri Nitiraj Singh
 Chhotey Lal, Shri
 Daga, Shri M.C.
 Dalbir Singh, Shri
 Daschowdhury, Shri B.K.
 Dhamankar, Shri
 Dixit, Shri G. C.
 Doda, Shri Hiralal
 Dumada, Shri L.K.
 Dwivedi, Shri Nageshwar
 Gill, Shri Mohinder Singh
 Gomango, Shri Giridhar
 Hashim, Shri M.M.
 Jamilurrahman, Shri Md.
 Jha, Shri Chiranjib
 Kader, Shri S.A.
 Kakodkar, Shri Purushottam
 Kamala Prasad, Shri
 Kinder Lal, Shri
 Kotoki, Shri Liladhar
 Lakkappa, Shri K.
 Mahajan, Shri Vikram
 Mallikarjun, Shri
 Mandal, Shri Jagdish Narain
 Mishra, Shri Bibhuti
 Mohammed Tahir, Shri

Mohsin, Shri F.H.
 Negi, Shri Partap Singh
 Oraon, Shri Tuna
 Painuli, Shri Paripooman and
 Pandit, Shri S.T.
 Partap Singh, Shri
 Paswan, Shri Ram Bhagat
 Patel, Shri Natwarlal
 Patil, Shri C.A.
 Patil, Shri E.V. Vikhe
 Patil, Shri T.A.
 Peje, Shri S.L.
 Raghu Ramaiah, Shri K.
 Rana, Shri M.B.
 Rao, Shri Jagannath
 Rathi, Shri Umed Singh
 Ravi, Shri Vayalar
 Reddy, Shri M. Ram Gopal
 Roy, Shri Bishwanath
 Samanta, Shri S.C.
 Sarkar, Shri Sakti Kumar
 Sathe, Shri Vasant
 Satish Chandra, Shri
 Savant, Shri Shankarrao
 Shankar Dayal Singh, Shri
 Sharma, Shri Madhoram
 Sharma, Shri Nawal Kishore
 Sharma, Shri R.N.
 Shenoy, Shri P.R.
 Shivnath Singh, Shri
 Stephen, Shri C.M.
 Suryanarayana, Shri K.
 Thakur, Shri Krishnarao.
 Tiwary, Shri K.N.
 Unnikrishnan, Shri K.P.
 Verma, Shri Balgovind
 Virbhadra Singh, Shri

MR. DEPUTY-SPEAKER : The result* of the division is : Ayes 15; Noes 72.

The motion is not carried by the requisite majority

The motion was negatived.

15-33 hrs.

ABOLITION OF CAPITAL PUNISHMENT BILL

MR. DEPUTY -SPEAKER : We take up the next Bill by Shri N. K. Sanghi to provide for the abolition of capital punishment.

SHRI N. K. SANGHI (Jalore) : Sir I move :

“That the Bill to provide for the abolition of capital punishment be taken into consideration.”

Mr. Deputy-Speaker, Sir, I am bringing forward this Bill not out of any sentiment, religious or merciful attitude. But, I think, today, in the present context of our society, this is a vital matter agitating the minds of the people, and in India also we should go ahead and abolish capital punishment.

15-34 hrs.

[SHRI K.N. TIWARI *in the Chair*]

This matter has been agitating the minds of sociologists, psychologists, criminologists, judges, lawyers and politicians for more than 200 years. Many countries in Europe and other continents have already abolished capital punishment. This matter has also been discussed in his country for a very long time now. If I recall, in India also, this matter came up for discussion in the old Legislative Assembly in 1931 and that was raised by Shri Gaya Prasad Singh. There was the Rohtas case in Bihar prior to this matter was brought in the old Legislative Assembly. Five persons were sent to gallows and, later on, it was found out that with the connivance of the doctor and the sub-inspector of Police

these persons had been committed to the crime and sent to the gallows for no fault of theirs. This had created a great heart-burning and a feeling of remorse throughout the country. Shri Gaya Prasad Singh was prompted to bring this Bill for the abolition of capital punishment.

Thereafter also, both in the Rajya Sabha and in the Lok Sabha, this matter came up four times. In 1958, Shri Prithvi Raj Kapur moved a Resolution in the Rajya Sabha which was withdrawn after a debate. Another Resolution was moved by Shrimati Savitri Nigam in 1961 in the Rajya Sabha. That was negatived after a discussion. In 1962, Shri Raghu Nath Singh moved a Resolution in the Lok Sabha and a lot of discussion took place and, on an amendment moved by Shri Harish Chandra Mathur this matter was referred to the Law Commission.

Then, we had the Report of the Law Commission in 1967. Today, I would like to start this matter from where the Law Commission has ended . . .

SHRI SHANKERRAO SAVANT (Kolaba) : Sir, I rise on a point of order. It is not only that the Law Commission has considered it, but the matter is before the Joint Committee on the Indian Penal Code Bill. When they are considering this matter, it is not necessary to discuss it here.

Mr. CHAIRMAN : There is no point of order.

SHRI N. K. SANGHI : This is not a matter of law. I am only referring to the Report of the Law Commission. They have made out various salient points. I would like to quote what the Law Commission says. It says :

“It is difficult to rule out the validity of, or the strength behind, many of the arguments for abolition. Nor

*The following Members also recorded their votes :

Ayes : Sarvashri P. G. Mavalankar and Mahadeepak Singh Shukya ;

Noes : Shri Ram Chandra Vikal.