

came to know that about the question of DA which was referred to the Pay Commission, the Pay Commission has made a recommendation to the Government that Central Government employees getting upto Rs. 1250 be given an additional interim relief ranging from Rs. 8 to 20 per month from 1st September, 1971, on the basis of 228 points. The matter was referred to the Pay Commission by the Government, although we thought this was not necessary. Anyhow, now that the Pay Commission has given its recommendation, the Finance Minister should make a statement immediately in this House about this matter. The Commission has also suggested that three months' arrears interim relief might be deposited in the Provident Fund account and the additional interim relief be paid in cash along with the salary for December, 1971.

At the very outset, I should like to express my dissatisfaction over the meagre amount recommended by the Pay Commission for those employees who are getting a very small salary and who are facing semi-starvation condition, viz., Class III and Class IV employees. I hope the government will definitely revise this decision and give those employees more than Rs. 8, which is recommended by the Pay Commission as that is totally inadequate. If that is done, I would like to make it clear that the All India Defence Employees' Federation and the Central Government employees of this country would welcome this decision of the government at a time when they are facing almost semi-starvation conditions. If you pay the arrears in cash, it would definitely enable them to purchase winter clothing for their children in this weather. I would say that the arrears should not be deposited in the provident fund but it should be paid in cash. The Finance Minister should make a statement either today or tomorrow in the matter because government have already taken enough

time. I will end by saying that the amount for class 3 and class 4 should be raised and the amount should be paid in cash. Sir, I would request you to direct the government to make a statement.

MR. SPEAKER : It is being taken note of by the government.

12.36 hrs.

CONSTITUTION (TWENTY-FIFTH
AMENDMENT) BILL—*contd.*

MR. SPEAKER : The House will now take up further consideration of the Constitution Amendment Bill. As decided yesterday, we will have to conclude our work by 6.30 p.m. We have fixed two hours for the discussion on clauses and one hour for the last stage of the Bill. We will finish the discussion on the consideration motion by 4 p.m. I have given time to the Prime Minister to come here near about 4 p.m. for speaking.

SHRI P. K. DEO (Kalahandi) : More time should be given for the third reading.

MR. SPEAKER : We have given one hour.

SHRI P. K. DEO This is not sufficient.

MR. SPEAKER : I am very sorry. We cannot extend the time. There will be no lunch hour today. So, hon. Members need not go away thinking it is the lunch hour.

SHRI SHYAMNANDAN MISHRA (Begusarai) : Mr. Speaker, Sir, the Law Ministry, to my mind, seems to be functioning under a consortium. That has been our experience during the life of the present Parliament. In this consortium

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the Law Minister is expected to provide the law and the Minister of Steel, instead of his original red, is to provide the garnish of green and is he was skirting round Karl Marx and quoting T.H. Green. The Minister of Education and Culture.....

SHRI PILOO MODY (Godhra) : And Bangladesh.

SHRI SHYAMNANDAN MISHRA :
.....in this consortium is expected to provide the elements of the new cultural revolution which his party is undergoing in Bengal. And the evidence of it was not lacking in this city of Delhi too on the 13th when the great invasion of Jantar Mantar took place. Naturally, the Prime Minister is expected to provide the undefinable something.

SHRI PILOO MODY : Glamour.

SHRI SHYAMNANDAN MISHRA :
You may call it anything you like. So, it is not unnatural that this Bill should have undergone three births by now, and it may well be that by the time we pass this measure it will have undergone the fourth birth also.

Now, right in the beginning I would like to say that I agree with and support the two propositions underlying this measure. The first one is that the State has a right to acquire any property for public purpose, not necessarily at the market value in all cases, though the State must always try to be fair as far as possible. Secondly, the Directive Principles of State Policy, particularly in respect of the deconcentration of economic power and the distribution of material resources of the community so as to subserve the common good, must not remain sleepy or toothless animals or mere decorative pieces. Therefore, I would like to accord general support to these principles.

But I must submit that in the present form this measure is lacking in social justice. It is highly inequitable and, I may go to the length of saying, unsocialistic, in the sense that both the big and the small are to be treated alike; the elephant and the ant are being treated alike. Even the minorities and the educational institutions cannot expect to get protection. Socialism, to my mind, does mean discrimination in favour of the small, the weak and the underprivileged, and, if that is not done, I must say that this is an unsocialistic measure. Particularly when it comes to property within the ceiling, we must realise that it is not only a question of right to property that is involved but the right to the very existence of the small men. Therefore, I have characterised it as highly inequitable and unsocialistic.

Then, it would appear that in article 31C it is not democratic socialism but socialism minus democracy. That is not a far cry from what totalitarianism is. To repeat this would be socialism sans democracy. That socialism must be certified by the ruling elite and that it will have to be accepted by all of us, is a concept which is highly irritating and obnoxious. There must be a provision for constitutional protest in any case. Every socialist cannot be expected to agree with them about their conception of socialism. If 'what daddy says is right, is going to be the rule, what else is totalitarianism ?

We do not see much in this measure, nor would we like to build on it, considering the nature of the political elite which is running the country or, shall I say, which is ruining the country. There seems to be an attempt, purely in a spirit of self-delusion, to build socialist myths around this measure and to build high socialist hopes on it. We have heard ringing phrases about the restructuring of the whole fabric society so as to make it

egalitarian and just. No one would be happier than ourselves if it were so. How tantalising this all is ! But we do not find any mention of Articles 41 and 43 of the Directive Principles of State Policy in Article 31C. After all, what you have brought in through article 31C is only of a negative nature. That does not provide positive content to socialism. Where is the right to livelihood assured here ? Where is a fair wage assured here ? There is nothing of that kind.

Therefore, I would say that the impression that is sought to be created is a completely misleading impression. Socialism does not require a plethora of legislation. How long do you expect the people to go on sucking the lollipops of legislation ?

They must have the fruits of their labour assured to them and they must have at least the basic minimum necessities of life. Yesterday, we were promised by the Minister of Law that the agenda for social change is very heavy, that there are many more things to come. But it is this Government which has withdrawn from the agenda the accepted policy of the united Congress that the minimum necessities of life have to be fulfilled by 1975-76. So it seems we are turning to be mere symbol worshippers; We are not being given the substance of socialism. If these elements are lacking, this is my respectful submission, then socialism would be a distant dream. It is not what we say socialism means, what we think socialism means, but what socialism actually does. That is why, as Mr. Bevan said, it is not the noun which matters but it is the verb which matters, that is what exactly you do not seem to realise.

Now, there is nothing radically new about this measure as some of the speeches would seem to indicate or would have us to believe. The various amendments to

Article 31 in the past would confirm the view that the broad thrust of public policy has always been towards accomplishing public purposes without exorbitant social cost. Similarly, the full Bench of the Madhya Bharat High Court, as far back as 1953, had held the view that the abolition of jagirdaris was for the purpose of avoiding concentration of wealth and means of production to the common detriment as laid down in Article 39 (b) and (c).

There is also nothing frightfully revolutionary about this measure, as the Minister of Steel, Mr. Mohan Kumaramangalam, would persuade us to believe. With all his stress on "property is theft".—he would not say it himself but he has always been quoting some authorities to say so; even in the last session of Parliament he laid stress on that and, yesterday, also he brought in one great gentleman who wrote about it, about hundred years back, Mr. T. H. Green,—it is not going to send a shudder down the spine of anyone, much less the shrewd men of property who seem to be falling upon one another to join the ruling Party.

I would like to ask the hon. Members of the ruling party to consider what it is exactly which makes the men of property to join their party. Why do they consider their party to be their safe haven ? And yet they consider that they are going to bring about something very revolutionary in society. That is the nature of the political elite that they have.

The proposed amendment does not take away the constitutional safeguards and guarantees about property. The juristic base of property remains as entrenched as before. The core and content of the right of property is not affected. The right to property remains inviolate except for public purpose. That is, deprivation can only be for public purpose and not for personal and private ends. Similarly,

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the right to property cannot be disturbed save under the authority of law. That is, the deprivation cannot be brought about through executive action.

Again, any act of deprivation will have to be accompanied by a price and that price cannot be expected to be a very unfair price. That is what we witnessed only about four months back when probably this Bill had already taken its birth; a property was sought to be acquired or has, actually, been acquired in the name of perpetuating the memory of Mahatma Gandhi, at a price, a very very small price indeed, of Rs. 55 lakhs.

Now, I ask you, Mr. Speaker, to consider: are prices, therefore, going to be unfair prices? Of course, prices are going to be unfair for small men who do not see eye to eye with them but not for the big capitalists. Therefore, you find that this Government is, indeed, an honest debtor to the capitalists! They would pay back every farthing they have got from them. So, they decontrolled the price of paper. You know at what prices our children are buying their books or copy books? At so very high prices! Because they had to pay for the election expenses and it was decontrolled. What is the story of the wool-top? I don't find the hon. Minister who was concerned with forming co-operatives for wool-tops. They gave a lot of money in a city of Punjab for elections.

Thirdly, what has happened to sugar? Sugar was decontrolled only with a view to discharging their debts to these sugar magnates.

Mr. Speaker, not only this. May I say here that many of the criminal acts of capitalists are being condoned. About forty industrialists who had violated the law according to which they could not exceed the capacity in their industries without Government's permission have been condoned and the whisper goes round

that they have been condoned only for condoning the beer magnate, the Mohan Brewries, only to condone Mr. B. R. Mohan. And all this is not out of any altruistic purpose. Could anybody care to reply to this that all this excess production has not yielded any excess excise duty?

SHRI S. M. BANERJEE (Kanpur):
An officer has been suspended.

SHRI SHYAMNANDAN MISHRA :
The excise duty should have been available to the public exchequer; it had not been made available to the public exchequer.

All these show that we have got this beer socialism flourishing in this country. They are welcome to this beer socialism. They are welcome to this ultra-modern socialism. But we will remain old-fashioned, we will have nothing to do with this kind of beer socialism.

What I would like to say is that things remain as before. The more things have changed, the more they remain the same. Therefore, it is not correct to claim that this is going to bring about a revolutionary change.

Then one difference that is sought to be highlighted is that the word 'compensation' is being substituted by the word 'amount'. But even so, where is it mentioned, I ask you, that this 'amount' would be less than the market value? Is it mentioned anywhere so that it is going to be binding on the Government? It may not be even the market value. The 'amount' may be anything, suiting the convenience of the ruling party and the requirement of their election expenses.....(Interruptions)

SHRI PILOO MODY : That is the main thing.

SHRI SHYAMNANDAN MISHRA :
It would depend upon that. So it is not mentioned anywhere the amount that is

going to be less than the market value. Therefore, I would not say that this is indeed a historic measure in that sense.

MR. SPEAKER : The hon. Member's time is up.

SHRI SHYAMNANDAN MISHRA :

I would agree with the Minister that the courts would not be barred in spite of our legislative exercises to oust their jurisdiction. I have always held the view that whereas we have got unlimited authority to amend any Part of the Constitution, the courts have unlimited power to interpret the Constitution. And we shall have to bring about a synthesis between the two. However much you may shift the ground, the court's jurisdiction is not going to be ousted. They are bound to attack any measure on the basis that it is a fraud on power, it is *ultra vires*, it is *mala fide*. So, why have this exercise? I ask the hon. Minister of Law to tell us why, if the court's jurisdiction is not going to be ousted, there is this exercise in futility, and why unnecessarily he is taking the blame on himself that he is going to sweep away at one stroke all the basic freedoms that the citizens enjoy.

THE MINISTER OF LAW AND JUSTICE (SHRI H. R. GOKHALE) : I thought that the hon. Member had followed my speech.

SHRI SHYAMNANDAN MISHRA :

Now, the position arises, coming to article 31C, whether the Directive Principles could not be implemented under the amended article 31 (2), that is the new amendment. The question, therefore would be whether article 31 (2) would not cover cases of deprivation of property, with a view to implementing article 39 (b) and (c). In other words, the question is whether deconcentration of economic power and the distribution of the material resources

of the community to subserve the common good would not be construed by the court as a public purpose. That is the basic question. Are we not entitled to expect a word in explanation from the Minister of Law whether article 31 (2) in the amended form would not meet the requirements? My hope is that the courts would interpret it to be a public purpose would interpret it as a social purpose. But if by way of abundant caution, they have brought it in, I would not have much objection, because there is some legislative redundancy in many a case.

The last point which I would like to make with some amount of emphasis is that article 31-C in the form in which it is sought to be amended gives the impression that there is a basic contradiction or antagonism between democracy and socialism. The whole gamut of the basic freedoms is therefore sought to be swept away under this amendment.

Now, so far as we are concerned, we consider socialism to be an extension of democracy in the social and economic spheres. For us, democracy is the very centre and circumference of socialism. The word 'democratic' is not an epithet which can be detached at will or convenience by the ruling party. Therefore, I would submit that a believer in democratic socialism should sincerely believe that there is no basic contradiction between the Fundamental Rights and the Directive Principles of the Constitution. To recognise this, we feel, is to serve the cause of democratic socialism. If we cannot bring about this synthesis between the Fundamental Rights and the Directive Principles, we have no right to call ourselves democratic socialists. Although there might be a conflict, a kind of dialectical conflict between Fundamental Rights and Directive Principles, there is no attempt to resolve it in the form of a synthesis. So, I would say that this is against the principle of democratic socialism.

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To my mind it is necessary to provide for two-thirds majority for the passing of any legislation under this Act. I am sorry to find that although wisdom had dawned upon the Government earlier, it seems to be receding now. And for what reasons?

An amendment involved in such a legislation would mean an amendment of the Fundamental Rights. Fundamental Rights, according to our Constitution can be amended through a constituent Act, so that if we are passing any legislation under this Act, it would have to conform to the requirements of the passing of a constituent Act. What is required to be passed by two-thirds majority, according to particular procedure, cannot be passed by a simple majority in a clandestine manner. Because that involves amendment of the fundamental rights that cannot be done except through the particular processes prescribed in the Constitution.

13 hrs.

Therefore, my submission is that the Government would be unnecessarily making the legislations under this Act vulnerable to attack in this courts.

Secondly, I would ask my friends on this side are they insisting that it must not be on the basis of a two-thirds majority? If it is not on the basis of a two-thirds majority, it may well be that the vested interests would prevail upon the ruling party. If they are honest in thinking that the ruling party does consist of such element which would always try to hamper any progress in social and economic sphere they should be extra-careful in seeing that do not have the right to do it through a simple majority. I am saying this only in regard to the States. If you think that they do consist of vested interests, make them dependent upon

yourself rather than make them dependent upon themselves. Secondly, this two-thirds majority should be required also to avoid the possibility of conflicting legislations being passed by the State legislatures.

Finally, I would like to say that only some verbal assurances to small holders and minorities would not do. Apprehensions have been expressed, and we cannot shrug them away, that this will adversely affect the small man, the small holders and the minorities.

Therefore, we have thought it fit to bring forward certain amendments to protect persons within the ceiling and also the minorities, and what is most important—and this we want to assert with all the emphasis at our command.

We would not like in any way the democratic basic freedoms of the people to be whittled down.

श्री अटल बिहारी वाजपेयी (ग्वालियर) : अध्यक्ष जी, इस संविधान संशोधन विधेयक के बारे में मेरी प्रतिक्रिया मिला होती यदि इसका उद्देश्य बैंक राष्ट्रीयकरण के मामले में सर्वोच्च न्यायालय द्वारा दिये गए निर्णय से उत्पन्न कानूनी कठिनाई कार्रवाई को दूर करना मात्र होता। संविधान का अनुच्छेद 31(1)(2) जो हम 1955 में पारित कर चुके हैं उसमें इस बात की हम व्यवस्था कर चुके हैं कि यदि किसी सम्पत्ति को अनिवार्यतः लिया जायगा या अधिग्रहीत किया जाएगा तो उसे इस आधार पर चुनौती नहीं दी जा सकेगी कि कानून द्वारा दिया गया मुद्दावजा या प्रतिकर पर्याप्त नहीं है।

सर्वोच्च न्यायालय ने बैंक राष्ट्रीयकरण के मामले में इस निर्णय से पीछे जाने की कोशिश की। आवश्यकता थी कि इसको ठीक करने के लिए कदम उठाया जाय।

हम ऐसा व्यवस्था स्वीकार नहीं कर सकते हैं जिसमें ऊंची सम्पत्ति लेने पर सरकार को लो फीसदी मुआबजा देने के लिए विवश किया जाए। यदि ऐसा होगा तो फिर सम्पत्ति लेने का उद्देश्य ही विफल हो जाएगा। लेकिन हमें सम्पत्ति और सम्पत्ति में भेद करना होगा। एक करोड़ीमल और एक कोड़ीमल को एक ही तराजू में नहीं तोला जा सकता। लक्ष्मीदास और गरीब दास एक ही लकड़ी से नहीं हाँके जा सकते। देश में करोड़ों लोग ऐसे हैं जिनकी सम्पत्ति एक भोपड़ी है, जिनकी जायदाद दो बीघा जमीन है, जिनकी लक्ष्मी एक छोटी सी दुकान तक सीमित है। यदि उनकी सम्पत्ति सार्वजनिक प्रयोजन के लिए ली जाती है और ऐसी आवश्यकता पड़ सकती है कि ली जाए तो क्या उन्हें पूर्ण क्षतिपूर्ति नहीं मिलनी चाहिये ?

यदि किसी भूतपूर्व सैनिक के अपनी जीवन भर की गाढ़ी कमाई का पाँच हजार रुपया किसी कंपनी में हिस्से के रूप में लगा दिया, वही उसकी सारी सम्पत्ति है, उसी के भरोसे वह जीवन की अन्तिम घड़ियाँ काट रहा है तो क्या उस कंपनी का सरकारीकरण होने पर उसे नाममात्र की धनराशि—मुआबजा नहीं, धनराशि—देना राज्य के लिए न्यायसंगत होगा ? किसी विधवा ने यदि जीवन भर की धरोहर को बैंक में रख कर आमदनी का कोई साधन कायम कर लिया है और वही उसका एकमात्र अवलम्ब है तो उसको लेते समय क्या सरकार उदारता से काम नहीं लेगी ? क्या उसे पूरा मुआबजा नहीं दिया जाएगा ?

मेरी माँग है कि इस विधेयक में यह बात स्पष्ट कर दी जाए कि यदि सरकार सार्वजनिक हित के लिए अधिकतम सीमा से नीचे की सम्पत्ति लेगी, फिर वह सम्पत्ति

चाहे ग्रामीण क्षेत्र में हो अथवा नगर में, उसका मुआबजा बाजार भाव से दिया जाएगा।

जोत की अधिकतम सीमा के कानून सभी राज्यों में बन गए हैं। वे कार्यान्वित नहीं किए गए यह अलग बात है। मैं इस बारे में घाने कुछ कहूँगा। यदि उस उच्चतम सीमा से नीचे जमीन ली जाए तो उसका पूरा मुआबजा देना चाहिये। भाजकल शहरी सम्पत्ति की सीमा निर्धारित करने की चर्चा भी बड़े जोरों से चल रही है। राज्य सरकारें एक के बाद एक इस उत्तरदायित्व को केन्द्र के मत्बे मढ़ रही हैं। पता नहीं वे जिम्मेदारी से बचने के लिए ऐसा कर रही हैं या वे इससे सम्बन्धित कानून में एकरूपता चाहती हैं। मेरा निवेदन है कि सरकार इस विधेयक में स्पष्ट कर दे कि शहरी सम्पत्ति की अधिकतम सीमा के नीचे जो सम्पत्ति ली जाएगी फिर वह जमीन के रूप में हो या मकान के रूप में, दुकान के रूप में हो या छोटे कारखाने के रूप में, उसका पूरा मूल्य, जिसकी सम्पत्ति है, उसको दिया जाएगा।

विधि मंत्री मेरे सुझाव को यह कह कर रद्द करने की कोशिश ब करें कि अभी शहरी सम्पत्ति की सीमा निर्धारित नहीं हुई है। वह यह भी न कहें कि जब कानून बनेगा तो उसमें यह व्यवस्था कर दी जाएगी। प्रश्न ध्यारे का नहीं, सिद्धान्त का है। सत्कारुदल शहरी सम्पत्ति की सीमा निर्धारित करने के कार्यक्रम से बचनबद्ध है। मोटे तौर पर पाँच लाख की सीमा बाँधने की बात कही गई है। मेरा दल इस सीमा को घटाकर तीन लाख करने के पक्ष में है...

श्री शशि मूबल (बलिया दिल्ही) : एक लाख बढ़ा दिया है। गाजियाबाद के दिल्ही लीटने पर एक लाख बढ़ा दिया।

श्री अटल बिहारी वाजपेयी : यदि आप अलबार ठीक तरह से नहीं पढ़ते तो यह मेरा दोष नहीं है। हमने गाजियाबाद में जो कुछ कहा है उसका अर्थ यह है कि दो लाख निर्माण की लागत और जमीन का मूल्य अलग, दोनों मिलाकर तीन लाख के अधिक नहीं होते। लेकिन आप अगर हमारा सुझाव मानने के लिए तैयार नहीं हैं तो कम से कम पांच लाख की सीमा वाला अपना सुझाव इस विधेयक में अंकित कर दें और कह दें कि पांच लाख या पांच लाख से कम की धनराशि की सम्पत्ति ली जाएगी तो उसके लिए पूरा मुआवजा दिया जाएगा।

श्री पीलू मोदी : आपने तीन लाख किया तो इन्हें दो लाख तो करना ही पड़ेगा। फिर आपकी बारी आएगी और आप एक लाख कर देना।

श्री अटल बिहारी वाजपेयी : नतीजा यह होगा कि मोदी साहब के पास कोई सम्पत्ति नहीं बचेगी।

इस विधेयक का सबसे आपत्तिजनक भाग यह है जिसमें राज्य की नीति के निदेशक तत्वों को लागू करने के नाम पर नागरिकों के सभी मूलभूत अधिकारों को समाप्त करने का प्रावधान किया गया है। यदि केवल बैंक राष्ट्रीयकरण के मामले में सर्वोच्च न्यायालय के निर्णय से उत्पन्न परिस्थिति को ठीक करने का सवाल था तो 31सी को खाने की आवश्यकता नहीं थी।

संविधान के निर्माताओं का मन्तव्य था कि मूलभूत अधिकार निदेशक तत्वों से ऊपर हैं। मूलभूत अधिकारों को न्यायालय का संरक्षण प्राप्त था। उनकी रक्षा के लिए

माघरिक राज्य के विरुद्ध प्रदासत का दरवाजा खटखटा सकते थे। संविधान सभा ने प्रो० के० टी० साहू का एक संशोधन प्रस्वीकार कर दिया था, जिसमें यह भाष की गई थी कि राज्य के निदेशक तत्व न्यायालय की परिधि में लाये जायें, उनको कार्यान्वित करने की मांग अदालत में की जा सके। इसे स्वीकार नहीं किया गया। अनुच्छेद 37 के अनुसार राज्य के निदेशक तत्वों सम्बन्धी उपबन्धों को किसी न्यायालय में बाध्यता न दी जा सकेगी।

मुझे स्मरण है कि जब अनुच्छेद 48 के अन्तर्गत गायों, बच्चों तथा दुधारू और वाहक ढोरों की नस्ल के परिरक्षण और सुधार के लिए, तथा उनके वध का प्रतिषेध करने के लिए—प्राहिबिटिंग दि स्लाटर आक काउज एंड काब्ज एंड अदर मिल्क और ड्राट कंटल—कुछ राज्यों ने कानून बनाये, तो उन कानूनों को इस आधार पर रद्द कर दिया गया कि यद्यपि वे निदेशक तत्वों के अनुसार हैं, लेकिन वे कसाइयों के अपना रोजगार करने के अधिकार को छीनते हैं।

श्री कैंक एम्बनी (नामनिर्दिष्ट-भारत-भारतीय) : हमने कराया था।

श्री अटल बिहारी वाजपेयी : लेकिन अब कराना मुश्किल है।

मेरे पास सर्वोच्च न्यायालय का वह निर्णय है। श्री कैंक एम्बनी दूसरे पक्ष की ओर से.....

SHRI K. NARAYANA RAO (Bobill) : I am not sure whether Mr. Vajpayee is correct on that point.

SHRI PILOO MODY : If you are not sure, why don't you sit down ?

श्री अटल बिहारी वाजपेयी : जीस वर्ष बाद पढ़ी की सूई पूरा घूम गई है। नामरिकों के मूलभूत अधिकारों पर निदेशक तत्व हावी हो रहे हैं। मुझे इसमें आपत्ति नहीं है। किन्तु मैं यह समझने में असमर्थ हूँ कि अनुच्छेद 39 (बी) और (सी) को कार्यान्वित करने के लिए, जिनका सम्बन्ध मौलिक सम्पत्ति के स्वामित्व और नियंत्रण के बंटन तथा धन और उत्पादन-साधना के अधिकारी केंद्राकरण को रोकने से है, ऐसे मूलभूत अधिकारों पर क्यों हमला किया जा रहा है जिनका सम्बन्ध सम्पत्ति से नहीं है। बाक-स्वातन्त्र्य तथा आभवाक्त का आजादी, शान्तिपूर्वक तथा बिना हाथियों के एकत्र होने का अधिकार, सत्त्वा या सच बनाने की छूट, भारत में अबोध सचरण और भारत के किसी भाग में निवास करने और बस जाने के मूलभूत अधिकारों पर भी कुठाराघात किया जा रहा है।

कल विधि मंत्री ने विधि आयोग के सुझावों का न मानने के लिए जा तक दिये, वे बिल्कुल जबर थे। वे किसी का समाधान नहीं कर सकते। विधि आयोग के प्रमुख श्री गजेन्द्रगडकर हैं। कोई उन पर प्रात-क्रियावादी हान का आरोप नहीं लगा सकता। वह भी चाहते हैं कि समाज में धार्मिक और सामाजिक परिवर्तन हों। वह भी चाहते हैं कि परिवर्तन की दिशा तेज की जाये। विधि आयोग में एक ऐसे भी सदस्य हैं—मझे पता नहीं कि यह कहाँ तक ठीक है—जो विचारों से कम्युनिस्ट माने जाते हैं।

श्री एस० ऐन० बनर्जी : अशुभ है।

श्री अटल बिहारी वाजपेयी : लेकिन फिर भी विधि आयोग ने एक बुद्धिमत्ता का प्रकाश दिया है। उसने कहा है कि अगर आप संविधान के दो निदेशक तत्वों—अनुच्छेद

39 (बी) और (सी)—को लागू करना चाहते हैं, तो उसके लिए अनुच्छेद 19 (1) (एफ) और (जी) का समावेश करना ही काफी है; शेष मूलभूत अधिकारों पर किसी तरह की आंच नहीं आनी चाहिए। इस का क्या उत्तर है? श्री मोहन कुमारमंगलम कहेंगे कि इण्डियन एक्सप्रेंस का मामला हुआ था। वह सकाल समाचार पत्र के मामले का उल्लेख करेंगे। बीच में सर्वलाइट के मामले को लाया जायेगा। प्राइसपेज-शिड्यूल की बात कही जायेगी। क्या यह सम्भव नहीं है कि अगर यह मामला फिर से सुप्रीम कोर्ट में जाये, तो सुप्रीम कोर्ट अपनी राय बदल दे? सुप्रीम कोर्ट अपनी राय बदलती रही है। आज जा देख का हवा है, जो सच का भावना और परिवर्तन की इच्छा है, उसमें सुप्रीम कोर्ट से आशा की जा सकती है कि वह ऐसा निष्पक्ष दे, जो प्रेस की स्वाधीनता और छोटे अखबारों के अधिकारों में सतुलन कायम कर सके। लेकिन विधि आयोग कहता है कि अगर इसके बाद भी आप के मार्ग में कोई कठिनाई आती है, तो आप दूसरा संशोधन ला सकते हैं। मैं चाहूँगा कि विधि मंत्री महोदय इस बात को ठीक तरह से ग्रहण करने का प्रयत्न करें।

मैं विधि आयोग की रिपोर्ट में से उद्धृत करना चाहता हूँ :

"In our opinion, the purpose which Article 31C has in mind would be effectively achieved if, instead of referring to Article 19(1) as a whole, reference is made to Article 19(f) and (g). It is these two clauses that are likely to be contravened by legislation contemplated by Article 31C, and, if a provision is made that no law passed with a view to implementing the policy enunciated in Article 39(b) and (c) contravenes, *inter alia*, Article

[श्री भटल बिहारी बाजपेयी]

19(1) (f) and (g). that would serve the purpose in view."

उसने प्राये यह भी कहा :

"Freedom of speech and expression of opinion means not only freedom of speech and expression which is in conformity with the philosophy of the establishment, but more particularly freedom of speech and freedom of opinion which dissents from the philosophy of the establishment. This position no democrat can dispute."

लोकतंत्र में—यदि वह कम्युनिस्ट देशों जैसा जबरवादी लोकतंत्र नहीं है, तो—सरकारें बदल सकती हैं, बहुमत में परिवर्तन हो सकता है। ब्रिटेन में कल जो प्रधान मंत्री थे—श्री हेरल्ड विल्सन, वह आज विरोधी दल के नेता हैं। आज जो विरोधी दल में हैं, कल वे सत्तारूढ़ हो सकते हैं। (अध्यक्षान) मैं सिद्धांत की बात कह रहा हूँ। मगर ये लोस तो कयामत तक तहाँ रहना चाहते हैं। इसी लिए तो यह विधेयक लाया जा रहा है।

प्रश्न केवल आर्थिक और सामाजिक परिवर्तन की धारा को गति देने का नहीं है। प्रश्न अधिक गहरा है। आखिर सभी मूलभूत अधिकारों पर हमला करने का कारण क्या है ? उस का कौन सा औचित्य है, विधि मंत्री सदन को वह समझा नहीं सके और श्री मोहन कुमार मंगलम अपने सारे तर्कों के बावजूद यह विश्वास पैदा न कर सके कि सचमुच में सरकार का उद्देश्य केवल उसना अधिकार लेना है, जिसना कि आज की परिस्थिति में आवश्यक है।

सरकार का इरादा क्या है, यह प्रस्ताविक प्रश्न किस से पता लग गया है। यह

सरकार के दिमाग की एक झलक देता है। आज प्रंस उद्योग की जो स्थिति है, उस से कोई संतुष्ट नहीं है। लेकिन कम्पनी ला एडमिनिस्ट्रेशन के किसी जार्यंट सेक्रेटरी को बिलिक ट्रस्टी के नाम पर सारे अधिकार हस्तान्तरित कर देना प्रंस का चोर दरवाजे से सरकारीकरण करना है। वह भी एक रहस्य की बात है कि उस विधेयक का सस्विदा भ्रष्टचारों में कैसे निकला। पार्लियामेंट में वह विधेयक प्राया नहीं है। हमें उस विधेयक की कोई जाबकारी नहीं है। लेकिन विधेयक भ्रष्टचारों में छप रहा है और उस पर विवाद हो रहा है। अब कहा जा रहा है कि वह विधेयक नहीं है और खाली बकिन पेपर है। किंतु इससे पता लगता है कि जिन के हाथ में शासक की बागडोर है, उन का दिमाग किस दिशा में काम कर रहा है।

लोकतंत्र का आधार है विरोध को ब केवल सहन करने का धर्म, अपितु उस का समादर करने की उदारता। जहाँ असहिष्णुता है, जहाँ मतांधता है, जहाँ विरोध को महारी मानने का भाव है, वहाँ लोकतंत्र समाप्त होता है और तानाशाही का उदय होता है।

अध्यक्ष महोदय, विधि मंत्री ने दावा किया है कि इस विधेयक से देश के आर्थिक और सामाजिक ढांचे के पुर्निर्माण का मार्ग खुल जायगा। एक नये युग का शुभारंभ होगा। क्या यह मार्ग अभी तक बन्द था ? यह मार्ग किस ने बन्द किया था ? यह संविधान किस की देन है ? स्वाधीनता के पिछले 23-24 वर्षों में इस संविधान को भ्रमल में लाने की जिम्मेदारी किस के ऊपर थी ? यह कहना भी गलत है कि हर मामले में सदावत बाधा बन कर लगी रहती थी।

भूमि सुधार के मामले में संसद ने संविधान में संशोधन किया और ऐसा संशोधन जिस के अंतर्गत भूमि सुधार संबंधी कानूनों को प्रदालत में चुनौती नहीं दी जा सकती। क्या कोई सत्तारूढ़ दल का सदस्य कह सकता है कि भूमि सुधार संबंधी कानून ईमानदारी से कार्यान्वित किए गए? क्यों नहीं कार्यान्वित किए गए? भूमिहीनों को बांटने के लिए प्रतिरिक्त जमीन क्यों नहीं बची? उस जमीन को क्यों नहीं वितरित किया गया? अब कहा जा रहा है कि भूमि की सीमा कम की जायगी। कम करने के बाद भी मुझे संदेह है कि भूमिहीनों के लिए भूमि बचेगी।

प्रश्न केवल संविधान को बदलने का नहीं है। प्रश्न इन्सान को बदलने का भी है। हमें मनुष्य में परिवर्तन लाना होगा। उसे अधिक कर्मशील, कर्तव्यपरायण और सेवा भावी बनाने के लिए हमने क्या किया है? श्री गोखले ने घोषणा की है कि सरकार उद्योग में, व्यापार में अधिकाधिक हस्ताक्षेप करेगी। सरकार का अर्थ है लोकवाही जो निकम्मी है, भ्रष्ट है, हृदयहीन है और जनहित का विचार नहीं करती है, केवल अपना विचार करके चलती है।

आज सार्वजनिक उद्योगों की स्थिति क्या है? कल हिन्दुस्तान स्टील के बारे में जो रिपोर्टें आई हैं वह क्या पुकार पुकार कर कह रही हैं। सभी किसानों से गेहूँ करीबा गया, उस में कितना गोलमाल है? लाइसेंस देने में पक्षपात की कोई सीमा नहीं है। समाजहित कहाँ है। जनहित की किस-को चिन्ता है? सभी कदम इस बात को ध्यान में रख कर उठाए जाते हैं कि इस से सत्तारूढ़ घुट की स्थिति मजबूत होगी या

नहीं, इस के चुनाव में क्या मिलेगा या नहीं?

एक ताजा उदाहरण मेरे ध्यान में लाया गया है।

श्री गुजराल यहां बैठे हैं। नई दिल्ली में दस मंजिला मकान बनाने पर रोक लगी है। सरकारी मंत्रालय में दस दरखास्तें पड़ी हैं। इजाजत दी जा सकती है अगर ढाई लाख रुपये दक्षिणा के रूप में दिए जायें।.....

THE MINISTER OF STATE IN THE MINISTRY OF WORKS AND HOUSING (SHRI I. K. GUJRAL): I want to make a categorical statement that no application is pending. I must say that the opposition to bringing discipline in New Delhi's growth has come from his party, because they are mixed up with multi-millionaires.

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, नई दिल्ली में जनसंघ का बहुमत नहीं है। नई दिल्ली की म्युनिसिपैलिटी नामजद म्युनिसिपैलिटी है और मैं वह साबित करने के लिए तैयार हूँ कि टेन मल्टी स्टोरीड बिल्डिंग की इजाजत देने के लिए दरखास्तें पड़ा हुई हैं।..... व्यवधान....

SHRI I. K. GUJRAL : I challenge him. If he proves it, I will resign. Otherwise he will resign.

SHRI ATAL BIHARI VAJPAYEE : I accept the challenge.

श्री पीलू जीधी : अध्यक्ष महोदय, यह बड़ा अनफेयर फैसला है। इनको तो लोक सभा की सीट सज़नी पड़ेगी

[श्री पीयू मोदी]

और उन को तो सिर्फ राज्य सभा में नामि-
नेट होना पड़ेगा।

श्री अटल बिहारी वाजपेयी : अध्यक्ष
महोदय, मुझे आश्चर्य है... (व्यवधान)...

श्री राम सहाय पांडेय (राजनंद गांव):
अध्यक्ष महोदय, इस पर आप का क्या
निर्याय है। बड़ी भारी बात हुई है। इन्होंने
कहा कि इस्तीफा देने... (व्यवधान).....

श्री अटल बिहारी वाजपेयी : अध्यक्ष
महोदय, मैं तो यह कह रहा हूँ कि मैं
साबित करने के लिए तैयार हूँ।

श्री आई० के० गुजराल : करिए
करिए।

श्री अटल बिहारी वाजपेयी : मेरा
कहना है कि आप अपने बिभाग से पता
लगा लीजिए.....

श्री आई० के० गुजराल : जनाब,
आप ने यह एलीमेशन लगाया है कि पार्टी
के लिए चंदा लेने के लिए...

श्री अटल बिहारी वाजपेयी : नहीं,
आप ने इस बात का खण्डन किया है कि
अपनीकेशन पड़ी है.....

श्री आई० के० गुजराल : जी हां,
यह भी मैं खण्डन कर रहा हूँ।

I stick to whatever I have said. If
Shri Vajpayee cannot prove it, he will
have to pay for it.

SHRI R. S. PANDEY : Sir, I suggest
that a committee should be appointed to
go into it and place all the facts before you
so that you may come to a decision as to
who should resign.

श्री अटल बिहारी वाजपेयी : अध्यक्ष
महोदय, मुझे आश्चर्य है कि चुनाव में
सरकारी पार्टी को दो-तिहाई बहुमत प्राप्त
हुआ है, तेलंगना प्रजा समिति के सदस्य भी
कुछ दल बदल कर के सत्तारूढ़ दल में
शामिल कर लिए गए हैं, फिर भी सरकारी
पार्टी इस विधेयक के लिए कुछ विरोधी
दलों की कृपा पर निर्भर है। उन्होंने धमकी
दी तो सरकार का रुख बदल गया।
आप ने कभी इस सदन में देखा है कि सदन
के सामने एक संशोधन विधेयक मौजूद है,
उस संशोधन विधेयक में विधि मंत्री ने
संशोधनों की सूचना दी है और अब उन
संशोधनों को और भी संशोधित किया जा
रहा है? क्या विधि मंत्री महोदय ने संशो-
धनों की सूचना बिना सोच विचार के दी
थी? क्या उस के पीछे सरकार का समर्थन
नहीं था?

एक अनन्य सदस्य : श्रीपेन माइंड
है हमारा।

श्री अटल बिहारी वाजपेयी : बैंकॉट
माइंड है आप का। यह श्रीपेन माइंड का
सबूत नहीं है। कल श्री गोखले ने महात्मा
गांधी का उल्लेख किया और श्री मोहन-
कुमार मंगलम मार्क्स का हवाला देते हैं।
मैं पूछता हूँ कि क्या महात्मा गांधी और
मार्क्स का मार्ग एक ही है? क्या योगी
और कमिस्तार के बीच में कोई बिभाजक
रेखा नहीं है? क्या भारत व्यक्तिगत स्वा-
धीनता की बलि चढ़ा कर आर्थिक विध्वंसता
को मिटाना चाहता है? क्या राज्य को एक
वैतन का रूप देने का हमारी नशा है?
क्या व्यक्ति के शर्कों बन का और आर्थिक
साधनों का केन्द्रीकरण रोकने के लिए हम

सारा केन्द्रीकरण राज्य के हाथों में करना चाहते हैं ?

सत्तारूढ़ दल ने एक समाजवादी समाज के ढाँचे में अपनी आस्था प्रकट की है। वह समाजवादी ढाँचा कौन सा है—दी सोशलिस्ट पैटर्न या फ्री सोसाइटी। मैं दूसरी पंचवर्षीय योजना ईयर में से उद्धृत कर रहा हूँ :

"The socialist pattern of society is apt to be regarded as some fixed or rigid pattern. It is not rooted in any doctrine or dogma. Each country has to develop according to its own genius and tradition."

भारत की प्रतिभा क्या है ? भारत की परम्परा क्या है ? व्यक्तिगत स्वाधीनता और अधिक समता में हम को समन्वय करना होगा। व्यक्ति के अधिकार और सार्वजनिक हित में मेल बँठाना होगा। यह विवेक मेल नहीं बँठाता। यह विवेक आवश्यकता से अधिक अधिकार लाता है और जो अधिकार लिए जा रहे हैं उन के दुरुपयोग की पूरी संभावना है। मैं चाहूँगा कि बिना मंत्री महोदय हमारा संशोधन स्वीकार करें। कम सम्पत्ति वालों को इस विवेक से फलन करने की घोषणा करें। सारे मूलभूत अधिकारों पर हमला करने की आवश्यकता नहीं है। अनुच्छेद 19 (1) के अंतर्गत (ए) से (ई) तक मूलभूत अधिकार छोड़ देने चाहिये। आवश्यकता पड़ी और अनहित में हुआ तो आगे विचार किया जा सकता है। इस विवेक में उन को सपेटने की कोई आवश्यकता नहीं है। बन्धवाद।

SHRI SEZHIYAN (Kumbakonam) :

Sir, I rise to welcome the Constitution (Twenty-fifth Amendment) Bill. When I say that I welcome this Bill, I want to

make it clear that I welcome this Bill, as introduced in the House. My support does not extend to the amendments to the amendment of the Constitution brought forward by the Minister.

Even this morning we have been favoured with one more amendment, bringing it to about five amendments to the amendment of the Constitution.

Before I take that up I want to go on record here why we oppose the amendment while we support and welcome this move to amend the Constitution to give effect to the Directive Principles contained in Articles 39 (b) and (c). We want to be effectively and sincerely done. Only on that move we are very anxious that the present Bill should be put on a firm, sound and healthy base. In that respect I agree with Shri Indrajit Gupta.

Like Shri Indrajit Gupta I am also not a lawyer or a legal expert. I am not gloating over that; it is a handicap. But the people in my constituency, when they favoured me over an Opposition man, were fully aware of my handicap. In fact, in 1967 when I contested from that constituency, my opposing candidate was an eminent lawyer; not only an eminent lawyer but he was a bar-at-law, not only a bar-at-law but he was at that time the Minister of State in the Ministry of Law of the Central Government. Even though all the people were fully aware that he was a legal expert, a bar-at-law and the Minister of law, still they preferred my coming over here.

Why I say that is because we are here not because we are legal experts or legal luminaries or very well versed in all the legal Terminologies but just because the people thought that we would represent them more sincerely and effectively in this House.

It is often said that the Supreme Court is there to interpret the law. Then, I say,

[Shri Sezhiyan]

the Parliament is here to interpret the people. The will of the people should be the law of the land. That is the basic thing on which I am starting my speech on this Bill. We are here to express what the people desire and what their needs are. It is for the drafting department of Government to put them in a proper form.

They were speaking of "nexus" in regard to the introduction of the word 'adequately'. The only nexus I know of is of the teeming and hungry millions outside this House and their representatives sitting here.

From what I can see from the Bill, though I am not a legal expert, I feel that this Bill does not bring about any curtailment of the property right. It is not taking away the property right; it is only trying to curb the right to monopolise, the right to concentrate wealth and the means of production to the detriment of the public good. The question now before us is not of the property right or the violation of fundamental rights; it is of the implementation of the Directive Principles contained in the Constitution.

Shri Frank Anthony who is not here now gave a very horrid picture yesterday when he said that once this amendment was passed by this House, all the properties would be taken away and distributed. I do not have very much to fear from that consequence, because most of the Members here do not have any property worth mentioning; the millions of people outside also do not have any property worth mentioning. If at all we have to lose, we have to lose, the well-known chains of misery, poverty and suffering in this country.

Somebody mentioned about the definition of Blackston on property. I do not

know whether even in England there is a fundamental right to property. I do not think there is. Even in France there is no right to property.

Somebody said that by putting through this measure, we are going toward totalitarianism, the communist way. Even if you take the Russian Constitution where socialism has been accepted as the basis even there, the right to private property is protected. Article 10 of the Russian Constitution says :

"The personal property right of citizens in their incomes and savings from work, in their dwelling-houses and subsidiary husbandries, in articles of domestic economy and use and articles of personal use and convenience, as well as the right of citizens to inherit personal property, is protected by law."

If it is the property built by his savings, by his own work, without entailing any exploitation of other men, to that extent, the private property is allowed even in Russia. Even if you go to the extreme end of socialism, personal property is protected.

We are more concerned with the means of production and the concentration of wealth the monopoly. We are talking of property we should know how many persons are going to be affected by it. This is the twenty-fifth year of our Independence. We are bringing in the Twenty-fifth amendment of the Constitution. The hon. Minister can celebrate the Silver Jubilee of the Constitution amendment. In saying that, I am not decrying that the Constitution should not be amended. You amend it any number of times till the wants of the people are to be fulfilled. If there are objections on that score, I bow my head to the Supreme Court or any other court to interpret the law. If the law does not express what I want, what I wish, then I am at full liberty to amend

it any number of times. It may be even 50 times. I welcome it and it should be done.

Here, I would like to say that we have been taking a very long time in going to the people and attending to the miseries of the people. The poverty in India is a well-known phenomenon. It has continued for centuries. Even after 25 years of our Independence, it is still there. As per the calculations, the statistics, gathered by the National Sample Survey and the projections carried out, even in the latest one taken in 1968-69, it has been found that 40 per cent of the rural population and 50 per cent of the urban population live below the minimum necessities of life. Even if you say 50 p. is required to buy the cheapest food possible in the market to sustain 2250 calories required for minimum subsistence to live on the sacred soil of India, even that is not given to as many as 50 per cent of the urban and 40 per cent of the rural population. I am giving the figure at the beginning of the Fourth Plan. At that time, out of 533 million people in India, as many as 224 million people were below this minimum subsistence level.

What are we going to do with these 22 crores of people who cannot get even the basic requirements to sustain themselves, not to speak of clothing, not to speak of housing, not to speak of any other amenities to have a decent human life? Even for those who are already born—family planning is there to control further additions—you are not able to provide them with minimum basic requirements.

Another thing that is being said is that you should increase the production and the growth rate if you want to abolish poverty. Throughout the world, it has been proved that even if production increases, unless it gets an equitable distribution, you are not going to raise the standard of living

of the people. Here, I would like to quote one paragraph from the good work done by Mr. V. M. Dandekar "poverty in India" for those people who think that just by increasing the production, they will solve the problem of poverty. The production should of course be increased. But that alone is not a panacea to remove poverty. I quote :

"But a plan of economic development which accepts a national minimum and aims at assuring the same to all within the shortest possible time, cannot depend entirely on a high rate of economic growth."

"This is not a plea for a lower rate of growth, but a warning that a high rate of growth is not a substitute for deliberate policies to ensure equitable distribution of the gains of development. In the absence of such policies, the processes of economic development, as we have witnessed them in the past, make the rich far too rich before the poor can secure even the minimum, widen the gulf between the rich and the poor intolerably and inevitably undermine the democratic foundations of the economy."

Therefore, if you want to have democracy and a democratic foundation for which Mr. Mishra waxed so eloquent—I accept his eloquence—and also Mr. Vajpayee said that in our tradition we have democracy, I accept that also, the economy has to be put and constituted on a democratic basis. Unless the growth rate increases and the gains of development are equitably distributed, we will not have this poverty taken out of the millions of lives in our country. Unless this is done, it is going to be a very grave future for the country, not only for the country but for the very existence of democracy.

Legal experts are talking about the nexus. I am talking about the nexus of

[Shri Sezhiyan]

food to the common man. Unless you have got the equitable distribution as envisaged in Art. 39 (b) and (c), we are not going to have a control over the planned economy and over the gains that are going to come out of the economy. Our hungry millions have waited too long. In fact they have waited far too long. For centuries they have been groaning under suppression and oppression, in misery and poverty. India has become a proverbial country for its teeming millions and biting hunger. For twenty five years of independence they have waited. They have waited long in the queues for food. They have waited in the queues for employment. They have waited on the election day in a long queue to record their votes, to express their wishes, to give their command to the elected representatives. We gave some promises to them at the time of elections. You said, the elections were fought on the basis of 'Garibi Hatao'. We have given them hopes and unless we fulfil those hopes, things may go beyond the reach of this Parliament and the courts.

Sir, it is said that the French Revolution was precipitated, as one famous historian put it, by 'Talk without action, authority without power, hopes without fulfilment.' That caused the French Revolution. We have raised hopes in the minds of the people. We have been talking about 'Garibi Hatao'. If you don't follow it up with action, what will happen? All these millions of people who feel so much hungry and the children who are like so many Oliver Twists, without a morsel of rice or a loaf of bread—their stomachs are not filled—one day they will all come, they will march into this very chamber. All the Oliver Twists now under misery may turn into Oliver Cromwells. They will not mind any of the prerogatives and privileges of this House. They will just march in and say to us: "We have waited too long and you have sat here too long for any good that you might

have done. Depart, I say and let us have done with you. In the name of God, go." The Oliver Twists of to-day are the potential Oliver Cromwells of tomorrow. That is a dangerous thing for any democracy. Unless . . . (Interruptions) I support them because I feel that this is a correct, urgent and immediate step to be taken by any decent democratic government.

I for one was slightly puzzled at the stand taken by my hon. friend Mr. S. N. Mishra. I don't know whether he has supported the Bill or opposed it.

THE MINISTER OF EDUCATION AND SOCIAL WELFARE AND MINISTER OF DEPARTMENT OF CULTURE (SHRI SIDDHARTHA SHANKAR RAY) : He has never said 'Yes' or 'No'.

SHRI SEZHIYAN : It is not clear. Now Mr. Mishra has given notice to many amendments. While speaking, Mr. Mishra has expressed his apprehension that it is socialism minus democracy. He said that this is only a lollipop of legislation. He also said that authoritarian trends are being introduced into this Bill. He demanded something more to be loaded in the same Bill, such as fair wages, minimum fulfilment, substance of socialism and so on. He talked very good things. I hope that the next time the hon. Minister is going to bring forward any Constitution amendment Bill to give effect to other Directive principles, our friend Shri Shyamnandan Mishra and his party would have been prepared to support that move. But Shri Nijalingappa's criticism has been more categorical. Speaking at Bangalore on the 8th November 1971, he has warned the country that they should beware of Government's attempts to interfere with Fundamental Rights. This is the criticism of Shri Nijalingappa about the introduction of this Bill, because he thought that Fundamental Rights were being eroded into and, therefore, he did not like this.

I was astonished to read an article that appeared in the *Political and Economic Review*, official organ of the Congress (O), and which had been written by Shri Mishra...

SHRI SHYAMNANDAN MISHRA : Which Mishra? I had not written any article.

SHRI SEZHIYAN : It was not written by my hon. friend here Shri Shyamnandan Mishra, but it was written by Shri S D Mishra. I think he is still the general secretary of the Congress (O). Therein, he has given the view that the Bill seeks to emasculate articles 19 and 31 of the Constitution guaranteeing the right to acquire and dispose of property and to protect it from arbitrary seizure and confiscation. He has also expressed his impression "that these amendments, if passed by Parliament, will open the door for establishing an authoritarian regime." That means, they do not want this Bill because it will open the door to an authoritarian regime. This is what Shri S D Mishra has said. If my hon. Friend Shri Shyamnandan Mishra is going to oppose that stand I would welcome it, because it is a step forward from the stand taken by them earlier.

Yesterday, I paid very great attention to the great and big speech made by PM, not the Prime Minister, but Shri Pilloo Mody. He said that it was skull-duggery, and in fact, he used all the epithets available to him against this Bill. But I do not think that he has represented fully the Swatantra party's point of view, because lately I understand that the national chairman of the Swatantra Party, Prof. N. G. Ranga, has written letters to all the Swatantra Members of Parliament that this Bill deserves to be supported. This is the opinion expressed and the request made by the national chairman of the Swatantra Party. I do not know whether

he is going to continue as the national chairman of that party; it is for him and his party to decide. But he has expressed this opinion openly.

I understand that in the letter which he has written, he has talked about the March revolution that has taken place; he calls the last elections as the March revolution. After the March revolution, he feels that the party should reorient and reassess its policies.

Now, the trouble is this. Probably, the Cong. (O) is coming around and the Swatantra Party may also relent, but the ruling Congress is going back. Not the whole party but the leaders of the Ruling Congress Party are going back on this Bill.

13.43 Hrs.

[MR DEPUTY-SPEAKER *in the Chair*]

I want to make a very strong appeal with all the emphasis at my command to the judicial bench of the ruling party, that is, the bench comprising of Shri H. R. Gokhale, Siddhartha Shankar Ray and S. Mohan Kumaramanglam. They form the full bench for our House. I would like to ask them why they are backsliding. Whatever they had wanted from the masses has come; whatever support they had required has come from the Opposition parties also. Parties which were opposed to this or which appeared to be opposed to this are also coming around.

Why then are these leaders now going back on the earlier form?

Regarding two or three amendments which have agitated the House, I would like specially to refer to the one regarding minorities or while Shri Frank Anthony spoke very eloquently even at the introduction stage. I have very high regard for

[Shri Sezhiyan]

him and I appreciate and accept his sincerity also. As far as language is concerned, I am myself in a minority here. Everyone is in a minority in that respect. Even Shri Vajpayee is in a minority because he speaks a minority language, though it is a large minority in this country. Our fear is that taking advantage of the scope of the expression 'minorities' in this, "menied minorities" may continue then antiracial and erosion activities. The Birlas my goad West Bengal and say 'I speak a minority language. I am opening a college here for which propester are available from Rajasthan'. Therefore, you will be leaving room for the creation of innumerable trusts in the name of educational institutions and charitable causes. All the unaccounted money will be ploughed into such trusts. I do not know whether the hon. Minister have paid attention to this aspect. I strongly plead for minority rights, but whether this loophole will not be made use of is a question that should be taken into consideration. If one thing is already mentioned in the Constitution, it does not require a re-statement anywhere else.

Another point concerns the two-thirds majority. Basically I do not want this. This is not a constitutional amendment; any Bill brought under this is a constitutional amendment, whatever may be its far-reaching consequences. There are many items in the Constitution. To be clear, whatever legislation brought either at the Centre or in the States, whether it is the Bank nationalisation or the Privy Purses abolition Bill, all statutes should have been sanctioned under one or other article of the Constitution. That means that whenever you amend or bring forward a fresh Bill that should be sanctioned under one or other article; otherwise, it will be null and void. The logic that is now being brought forward is this; whenever you bring some statute under this provision of the Constitution, it will be on par with constitutional amendment Bill and so will

have to be protected in this manner. That means that all such statutes require a two-thirds majority.

There are many provisions in the Constitution under which legislation can be passed without the two-thirds majority. Take for example Art. 3 under which Parliament has got the power to alter the boundaries of a State or even efface completely from the political map of the country a State. There a simple majority would suffice. Even for such far-reaching legislation, you do not need a special majority. Here under article 31 for whatever you do, you are insisting on a two-thirds majority. I am asking whether Government are withdrawing this. This is a very dangerous thing to be put into the Bill.

Then they want that all the State legislatures should pass such legislation with a two-thirds majority. As Shri Gupta said, this is a very fantastic thing.

MR. DEPUTY-SPEAKER : This can be discussed at the time the amendment is moved.

SHRI SEZHIYAN : At that time it will be 6. p. m. and there will be no time.

Because they go against the federal working and against the smooth functioning of the Centre State relation. The States should have been consulted and taken into confidence before introducing this new procedure.

Now, so much has been talked about the law and the sanctity of law.

MR. DEPUTY-SPEAKER : You have taken almost half an hour.

SHRI SEZHIYAN : All others have taken half an hour. For us law is not a

Sealed book, law is a living document, a document that gives a living to the people. Law is not a sword of oppression; should be a shield of protection to the community and the miserable lot in this country.

There is one more thing I would like to say. So much was said about statutes being not given effect to. That may be separate thing; it may be a good statute but it may not be implemented effectively. We will take it up later. Now, the point is, a statute must be good in its construction, and in its wording. This Bill is landmark in the constitutional history of India, when the Government are taking statutory steps to implement the directive principles to curb monopoly, to curb the concentration of wealth and the means of production in the hands of a few.

Sir, I welcome this Bill.

MR. DEPUTY-SPEAKER : Shri Dharnidhar Das. It is your maiden speech, I suppose.

SHRI DHARNIDHAR DAS (Mangaldai) : Yes; Mr. Deputy-Speaker, Sir, I rise to speak on the 25th Constitution (Amendment) Bill as has been placed before the House. I am not going into the constitutional niceties or the legal and other aspects of it. They have been dealt at length by many of the speakers who have preceded me. I am going particularly to point out some of the crucial questions which are involved in this Bill. First of all, I want to clarify one point regarding the Constitution, because so much importance has been attached to it. (*Interruption*)

MR. DEPUTY-SPEAKER : Mr. Das, you are not audible at all. Please come to the front.

SHRI DHARNIDHAR DAS : Yes, I want to remind this House and through this

House the people, that this Constitution is two decades old. But the Indian Society or human society in the world has been in existence for several thousands of years. So, this Constitution or some chapters in this Constitution cannot be fundamental.

It is the fundamental laws of social change and progress according to which society is advancing from primitive society, then to feudal order and then to the capitalistic order, and now it is passing on to a socialistic society.

This Constitution has come as a sequel to the great national performed revolution propertyless by the masses of India under the leadership of Mahatma Gandhi, Jawaharlal Nehru and many other progressive and socialist revolutionaries. We are having some measures of nationalisation for taking over property from big capitalists, and that has been considered to be too revolutionary.

But we are advancing towards socialism which is an extremely revolutionary process to change radically the established society in all its aspects. That kind of social order was envisaged long before independence. Forty years ago, at Karachi, the Congress passed a resolution on fundamental rights, human rights, labour rights and nationalisation of key industries. But what is the key factor that is standing as a road block to all these social changes, to bring about nationalisation or socialisation of the means of production? It is the right to private property. Mr. Frank Anthony bemoaned that when individual property is lost, individual liberty is lost. The fundamental question according to me is : what is the concept of property? The discussion will be incomplete if we do not go into the fundamental concept of property.

14 hrs.

Before placing my arguments before the House, I want to quote a capitalist first.

[Shri Dharmindar Das]

One Mr. Deniel Hamilton, a capitalist of Great Britain had a discussion with Mahatma Gandhi in 1932. That capitalist said: "It is wrong to think that so much produce is capital; it is labour that is capital, and that living capital is inexhaustible. Many hon. Members quoted Mahatma Gandhi. Mahatma Gandhi said: "Labour is the current coin." Today we have to discuss who is the real owner of property. Those who make property or those who do not take part in production are owners of property? I repeat: Gandhiji said that labour was the current coin.

Now let me come to the other capitalist economists. Adam Smith and David Ricardo were classical capitalist economists who gave the labour theory of value. What did they say? Wealth or property or capital is the creation of labour. That very theory was developed by Karl Marx and he deduced from it the theory of surplus value, which forms the cornerstone of scientific socialism.

Mr. Mishra raised the question of socialism. What is socialism? There are hundred varieties of socialism? When Henry Ford of America said that there was a strike one day here and another day there he asked his director: why has there been a continuous strike? Then the director said: well, the capitalist system has become unpopular. Then he replied: let us find out some popular name for capitalism. Somebody said: socialism is a popular word and so let us use that word for capitalism.

The word socialism has to be pinned down to a definite meaning. Socialism can have no meaning if it does not mean socialisation of the means of production and distribution. There is some misconception about the right to property. What does it mean? Let me make it precise and say that it is really the right to private property that is in question. The point at issue is whether this right to private property is to

be retained or it is to be abolished. One who sticks to socialism must say that this right to private property must be abolished.

Some friends here criticised this Government and said that it has not been able to remove poverty or that the *garibi hatao* slogan has not been implemented. This right to property is the main hurdle or roadblock. We have to see the contradiction. This right to private property has negated the same right to 90 per cent of the population, it has robbed the private property of 90 per cent of the population. The proportion of the people benefited by this right to private property cannot be more than 0.1 per cent. On the other hand it has pauperised 90 per cent of the population. When we refer to the Directive Principles of State Policy and also speak about the failure in its implementation we can see how this right to private property has helped this 0.1 per cent to concentrate all national wealth in their hands.

In 1954 this Parliament adopted socialism as the goal of national planning or planned economic development. According to statistics, in 1961, 52 per cent of the population were below the poverty line, and in 1968, 70 per cent of the population were below the poverty level. On the other hand, the Birlas had assets of Rs. 40 crores in 1947 which increased to Rs. 515 crores in 1967-68.

PROF. MADHU DANDAVATE (Rajapur): You are building up a case against the Government.

SHRI DHARNIDHAR DAS: This concentration cannot be removed unless private ownership of the means of production and distribution is abolished without compensation, and that is socialism. Socialism can have no other meaning. According to me, and according to any socialist having a scientific analysis in his mind, this property should be of three

kinds. One is personal property that goes into the consumption of consumer goods, including a house or even a car if necessary to increase a person's efficiency to increase social production. The second is social property which includes all means of production and distribution. And the third in our agrarian economy is co-operative property. So, there cannot be any private property, and there is no clash between personal property and social property or between social property and cooperative property.

So, this Bill represents the will of the people, it reflects the demand of the times. The demand is for socialism, and to have socialism, we must abolish private ownership of the means of production and distribution. Then regarding the confusion about small and big property. By just allowing our farmers to remain small landholders, we are forcing them to become poorer and poorer. To give them the advantage of modern large scale economy, their lands must be pooled in cooperative farming. That will open up the way for an agrarian revolution on Socialist line. This Bill is just opening up the way for bringing about all revolutionary changes in our society. This is the first step and Gandhiji said, 'one step is enough.' This is the first step that will lead to other steps inculcable for Socialism.

THE MINISTER OF EDUCATION AND SOCIAL WELFARE AND MINISTER OF DEPARTMENT OF CULTURE (SHRI SIDDHARTHA SHANKAR RAY) :
Sir, no apology on our behalf is necessary nor is any being tendered for having moved this Bill, which is being considered by the House today. According to us, this Bill is constitutionally correct, economically essential, politically proper and what is most important, morally just. I shall try to satisfy the House on all these four points before I sit down.

The difficulty that has arisen is not because of any inherent defect in the

original Bill, but because of the attitude of some of the opposition parties. Mr. Vajpayee mentioned that the opposition parties must be respected and tolerated. Of course, they must be and we do respect and tolerate the opposition parties. Has not the Government consulted the opposition on every matter of national importance in the course of the last few months? Has not our Prime Minister discussed with the leaders of every opposition party matters which are vital so far as the interests of the nation are concerned?

SHRI SAMAR GUHA (Contd.) :
Without agreeing to any of our suggestions.

SHRI SIDDHARTHA SHANKAR RAY : If there is an ideological difference or a serious difference with regard to a matter of major policy, we cannot agree. Otherwise, we would not have been here sent by the people. We would have been there, rejected by the people. On broad matters of policy and on ideological matters, obviously we cannot agree to everything which the opposition says. But the opposition must be taken into confidence. Things must be discussed with the opposition and that is what we have done. The real difficulty is that some of the opposition parties I do not exclude Mr. Samar Guha from that are determined to be negative in a positive age. And, the result is clear. Everybody knows that negativism is the nurse of confusion and degeneration and leads inevitably to the political effacement of those who adopt it.

SHRI SAMAR GUHA : It is very nice to hear socialism from the new child of socialism.

SHRI SIDDHARTHA SHANKAR RAY : I know he is supporting this Bill and we are grateful to him. He believes in this ideology, but in many matters he takes up a negative attitude. Therefore, I mentioned him.

[Shri Siddhartha Shankar Ray]

What is the charge made against us ?

It was said by Mr. Mody with tremendous force and by Mr. Frank Anthony with great passion, that we are restructuring the Constitution—changing the basic character of the Constitution and as such, we stand condemned.

If by this charge it is meant that we are restructuring the Constitution, changing the basic character of the Constitution in so far as article 31 is concerned, as interpreted by a few learned judges of the Supreme Court, we are happy to tell this House and through it to the people of India that we are doing precisely that. We are changing the basic structure which some of the learned judges of the Supreme Court have imported into article 31. But if by that charge it is meant that we are altering the basic character of the Constitution, as framed by the children of our revolution, by our constitutional fathers, in so far as this particular article is concerned, our answer is a categorical 'No', although we know, as Justice Murphy had said in America once upon a time when such situation had arisen there that "constitutional fathers, fresh from a revolution, did not forge a political strait jacket for the generations to come." We do not however have to rely on this proposition. We are today trying to re-establish that which the Constituent Assembly of India "sitting here in this sacred House had wanted to lay down. This I shall be able to prove, not by resorting to superficial arguments or vituperative abuse, as indulged in by Shri Pilloo Mody, or Shri Mishra, or Shri Frank Anthony, but by the cool logic of analytical reasoning.

Look at the question deeply and in the proper perspective and your answer cannot be different from the one which we are trying to place before this House. What did the framers of our Constitution do ? What did they have in mind ? Article 31 in our present Constitution was article 24 in the draft Constitution. When this article 24 in

the draft Constitution was moved by Pandit Jawaharlal Nehru, there were various discussions and some said that compensation should be fair, compensation should be just, and others said "no, compensation would be as fixed by the legislature, and the judiciary should not be allowed to interfere in the matter at all." Therefore, Pandit Jawaharlal Nehru made it absolutely clear, when moving article 24 of the draft Constitution :

"This clause says that the law should provide for compensation for the property and should either fix the amount of compensation, or specify the principles on which or the manner in which the compensation is to be determined. The law should do it. Parliament should do it. There is no reference in this to any judiciary coming into the picture. Much thought has been given to it and there has been much debate as to where the judiciary comes in. Eminent lawyers have told us that on a proper construction of this clause, normally speaking, the judiciary should not and does not come in. Parliament fixes either the compensation itself or the principles governing the compensation, and they should not be challenged."

Then he went on to say :

"So far as we are concerned, we who are connected with the Congress shall give effect to that pledge naturally, completely, 100 per cent. and no legal subtlety and no change is going to come in our way. That is quite clear. We will honour our pledges within limits. No judge and no Supreme Court can make itself a third chamber. No Supreme Court and no judiciary can stand in judgment over the sovereign will of Parliament, representing the will of the entire community. It is obvious that no court, no system of judiciary can function in the nature of a third House,

as a kind of house of correction. So, it is important that within this limitation the judiciary should function."

It was on the basis of that speech that our Constitutional Fathers passed article 24 of the Draft Constitution which became article 31 in our Constitution. This speech was made by Pandit Jawaharlal Nehru on the 10th September, 1949.

On the 11th December, 1953, the Supreme Court in *Bela Banerjee's* case suddenly decided that they were unable to agree with the view put forward by the Government and said :

"While it is true that the Legislature is given the discretionary power of laying down the principles which should govern the determination of the amount to be given to the owner for the property appropriated, such principles must ensure that what is determined as payable must be compensation that is a just equivalent of what the owner has been deprived of."

This judgment shocked the conscience of the nation, as a result of which the government of the day hurriedly moved the Constitution (Fourth Amendment) Bill. While moving the Resolution for referring that Bill to a Joint Committee Pandit Jawaharlal Nehru said on the 14th March, 1955 :—

"If I may say so with all respect to the judiciary, they do not decide about high political, social or economic or other questions. It is for Parliament to decide. The ultimate authority to lay down what political or social or economic law we should have, is Parliament and Parliament alone. It is not the function of the judiciary to do that. Now it so happens, "as I just said, there are some people here, many Members, who themselves participated

in drawing up that Constitution in the Constituent Assembly and they naturally have their own opinions as to what was meant by the Constitution as drawn up. It was my privilege, in fact, to move this article or the corresponding one before the Constituent Assembly and I gave expression to my views as to what it meant fairly clearly then."

He says later on :—

"And, therefore, we have come to this House, to Parliament, now to change the wording to give effect to what was clearly meant then. The object of the amendments I am placing before this House is to clarify this matter, to make it in precise language perfectly clear so that the decision of this Parliament might not be challenged in regard to these matters in the court of law. Now I had thought when we passed this article in the Constituent Assembly that we had made it perfectly clear that Parliament would fix either the quantum of or the rules governing compensation and after that there would be no challenge at all. Well, instead of that, it has been challenged and, in fact, challenged effectively."

So, the Fourth Amendment Bill was brought forward for the purpose of stopping the jurisdiction of the courts from going into the question of compensation in any manner whatsoever. The matter went to the Joint Committee and on the 31st March, 1955 the Joint Committee reported in paragraph 2 of its report :—

"The Committee feel that although in all cases falling within the proposed clause (2) of article 31 compensation should be provided, the quantum of compensation "should be left to be determined by the Legislature and it should not be

[Shri Siddhartha Shankar Ray]

open to the courts to go into the question whether the compensation provided in the law is adequate or not. Accordingly, a provision that the law shall not be called in question in any court on the ground that the compensation provided by it is not adequate, has been added at the end of clause 2."

The Joint Committee was also very clear.

Thereafter, on the 11th April, 1955, the Bill with the report of the Joint Committee came up before this very House and Prime Minister Jawaharlal Nehru, moving the motion for consideration of the Bill, said :—

"Remember this that the sole major change is to make one thing clear which I submitted on the last occasion and was clear to us at the time this Constitution was framed; that is to say, according to the Constitution, as put forward before the Constituent Assembly and as it emerged from the Constituent Assembly, the quantum of compensation or the principles governing compensation would be decided by the Legislature. This was made perfectly clear."

And that was what was done by the Constitution (Fourth Amendment) Bill when it became an Act.

On that very day, on the 11th of April, 1955, another speech was made, a very eloquent speech, and I cannot help referring to it also, although in the end the speaker went against the Bill. In his speech, he said :

"I pointed out when I spoke before this Bill was remitted to the Select Committee that only a purblind reactionary would stand in the way of the end of achieving a socialist welfare

State. I made it clear that if article 31 or even if any of the judicial interpretations by the courts stood in the way of achieving a welfare State, those obstacles should be removed. I stated clearly that article 31-A should be made as wide and comprehensive as possible that it should include every element, every aspect of property which might be taken without compensation.....

—he was supporting taking property without compensation—

".....which the Government consider necessary in order to achieve the welfare State. The Government may put in the element of property into article 31A which they may take for a public purpose without the necessary compensation if the Government think it necessary."

The hon. Member who made the speech was here yesterday making a very passionate appeal to the Government. He is none other than Mr. Frank Anthony. Am I entitled to say that on the 11th April, 1955 it was Dr. Anthony who was speaking and yesterday it was Mr. Frank who was addressing us ?

I remember Bernard Shaw saying somewhere that a person having an intellect of a superior character becomes more and more liberal as he ages, but a person having an average intellect becomes more and more restricted and conservative as he gets on. I shall leave it to Mr. Frank Anthony and his conscience to decide as to which category he would like to place himself.

After the Fourth Constitution Amendment Bill was passed, the Constitution said clearly that the courts cannot go into the question of compensation. Parliament in its supreme wisdom made it clear to the courts that the Constituent Assembly had

said that you cannot go into the question of compensation and that since you had not listened to it, today, we injoin you by this amendment from going into the question of compensation in any manner or form. But in spite of that, on the 5th October, 1964, we had a Judge of the Supreme Court, Justice Subba Rao by name, who delivered a startling judgment in the case of Vajravelu in which he said :

"A scrutiny of the amended article discloses that it accepted the meaning of the expressions "compensation" and "principles" as defined by this Court in Mrs. Bela Banerjee's case.....It may be recalled that this Court in the said case defined the scope of the said expressions and then stated whether the principles laid down taken into account all the elements which make up the true value of the property appropriated and exclude matters which are to be neglected is a justiciable issue to be adjudicated by the court. Under the amended article, the law fixing the amount of compensation or laying down the principles governing the said fixation cannot be questioned in any court on the ground that the compensation provided by that law was inadequate. If the definition of "compensation" and the question of justiciability are kept distinct, much of the cloud raised will be dispelled....."

The cloud was in the mind of the Judge, not in the minds of the Members of Parliament or in the minds of the people. He thought that there has to be a distinction between compensation and justiciability. Where was the distinction in the Fourth Amendment of the Constitution? And then he went on to hold that this Act is bad, that compensation must be given in spite of what Parliament had said by passing the Fourth Amendment and that compensation must be paid at market value.

The last four lines in that part of his judgment were very important :

"If Parliament intended to enable a Legislature to make such a law without providing for compensation so defined, it would have used other expressions like 'price', 'consideration', etc."

We have taken precaution this time. We are doing just that. We are doing away with the word "compensation" altogether and putting in the word 'amount' instead so that our Judges in future will note that the intention of Parliament was absolutely clear, that is to say, that the courts will have no power whatsoever to go into the question of the amount of money which the Government chooses to pay for any acquisition or requisition.

In so far as this judgment is concerned, I shall not use any harsh words—I should not, because we respect the Supreme Court—If we have brought this Bill today, it is not in any way to insult or belittle the Supreme Court. It is to save the Supreme Court from the people and the Constitution from the Supreme Court. Sir, we don't want our Judges to be maligned in any way whatsoever. We want our Judges, particularly, the Judges of the Supreme Court, to be placed in the highest pedestal possible. Therefore, we have taken care to see that they do not have to rush into politics. Judges should be above politics and Judges should apply the law as framed and as formulated, not try to amend the law by judicial decisions, by following a particular political philosophy. That is the purport and that is the intent of this amendment.

Thereafter we had another judgment in Metal Corporation case. That was on 5th September 1966 where Mr. Justice Subba Rao said that compensation must be a just equivalent. Then we had Shantilal case on 13th January 1969 in which the Supreme Court expressly overruled the Metal Corporation case and said

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that in so far as the Vajravelu case was concerned, the observations were purely *obiter* and need not be taken into account. In this judgment, the Shantilal case, the Supreme Court Judges said that in their view such an inquiry was not open to the courts under the statutes enacted after the amendments to the Constitution. If the quantum of compensation fixed by the legislature is not liable to be canvassed before the courts on the ground that it is not a just equivalent, the principles specified for determining the compensation will also not be open to challenge on the plea that the compensation determined by the application of those principles is not a just equivalent. The Supreme Court said, 'No, we cannot go into the question of compensation' and reversed in effect the two earlier decisions. We were happy. The people of India were happy. Our Parliament therefore did not trouble itself to bring another amendment. Then came the Bank Nationalisation case,—what this case decided, I don't know. It is for my hon. friends to tell me what this case decided, because I don't think any person properly instructed in the law, while going through this judgement, will be really able to find out what were the principles laid down in this case excepting this that the Supreme Court said that compensation must be the market value. How? We do not know. The earlier judgment in Shantilal's case was not over-ruled and in fact five points emerged from the Bank Nationalisation case. Firstly, the Supreme Court did not expressly state which of the opposing views was correct. (2) The Supreme Court took into consideration the views expressed in Vajravelu's case and applied the same to the facts of the particular case. (3) The common principles sought to be extracted from both the cases are more in accordance with the views expressed in the Vajravelu case rather than in Shantilal's case. (4) The Courts should decide on the facts of each case whether the principles laid down for

determining compensation in a particular statute are relevant or appropriate principles and lastly the net effect appears to be that the immunity from challenge upheld in the Shantilal case has been removed.

We cannot, possibly I am sure, no responsible Member of Parliament would contest this proposition that I make.—We cannot, Parliament cannot, a responsible Parliament cannot allow the law to be in this state of confusion. Therefore, this Bill has made the law clear. First the word, 'compensation' is being removed and the word 'amount' put. Secondly the Directive Principles in Art 39 (b) and (c) are being implemented. Thirdly if, article 31 is satisfied, a challenge on article 19 is being prevented and prevented because that was the law previously, but the Supreme Court again reversed its own decision. Lastly, the matter has been taken beyond the purview of the courts in clear and categorical language.

In spite of all this, Shri Atal Bihari Vajpayee, the leader of the Jan Sangh, of course got up and got angry and said things against us. I am tempted to describe Shri Atal Bihari Vajpayee as a person who always loses his temper when he is called upon to act in accordance with the dictates of his reasoning. And this is because he knows that he and his party can be very easily exposed.

They have brought an amendment, and this amendment, very quietly brought, discloses the social philosophy of the Jan Sangh party. They have said :

"Provided that where any law makes any provision for the compulsory acquisition of any property of market value of less than rupees three lacs, such acquisition shall not be lawful unless the amount fixed by or determined under such law for the acquisition of such property is not less than the market value thereof."

The effect is that if any property is worth Rs. 3 lakhs or less, you must give full market value for that property. The voice supporting this amendment may be the voice of Shri Atal Bihari Vajpayee, but if I may misquote the Bible a little, the hand is the hand of the monopolist, because he is suggesting that urban ceilings should never be imposed, because for every property worth less than Rs. 3 lakhs, you have to pay market value. Suppose a person has 20 properties, let us say, in the city of Delhi or in the city of Bombay or in the city of Calcutta, each worth Rs. 2.95 lakhs, you will have to pay him the full market value compensation for each of the properties that you acquire.

SHRI ATAL BIHARI VAJPAYEE :
That is a distortion.

SHRI SIDDHARTHA SHANKAR RAY :
My hon. friend said that this is a distortion. Where is that distortion? The language of the amendment is very clear. It reads thus :

“Provided also that where any law makes any provision for the compulsory acquisition of any property of market value of less than rupees three lacs, such acquisition shall not be lawful unless the amount fixed by or determined under such law for the acquisition of such property is not less than the market value thereof.”

We all know that in so far as companies are concerned, a person owning shares worth about Rs. 2.95 lakhs market value is in effective control or is in actual control of, the company. If Government wants to acquire those shares, Government will have to pay hundred per cent compensation according to market value.

I am not mentioning any one of the unseen persons here, but suppose Mr. X, a great industrialist or Mr. Y, a great monopolist has shares all over India in various concerns.....

AN HON. MEMBER : And in various names.

SHRI SIDDHARTHA SHANKAR RAY :...and the block of shares in each corporation is less than Rs. 3 lakhs, say, it is Rs. 2.95 lakhs or Rs. 2.80 lakhs, Rs. 2.70 lakhs and so on, and it is through those shares that he carries on his monopoly and controls all those companies—Suppose the Government want to abolish monopoly and we want to take those shares, we shall have to pay full market value for each of the shares. That is what the Jan Singh stands for, and that is exactly the social philosophy which has been clearly disclosed by this amendment and which Shri Atal Bihari Vajpayee proposes to propagate.

He has to keep a front. Therefore, he has to talk about the small landowners, shopkeepers and so on and so forth. But the real persons that he wants to protect and whom he has at the back of his mind are the industrialists, the monopolists and the large capitalists.

SHRI HEMENDRA SINGH BANERA (Bhilwara): And he has been doing it all this time.

SHRI SIDDHARTHA SHANKAR RAY : Shri Shyamnandan Mishra is the leader of a party which is now nameless. I have not said 'shameless'; I have merely said 'nameless'. I am told Shri Mishra is a Shakespearean authority. Therefore, to him I shall give a piece of advice, an advice which was given to the novices in the nunnery in Measure for Measure : The Duke had gone to the nunnery and the advice that was given to the novices in the nunnery was : 'If you speak, you must not show your face or if you show your face, you must not speak'. This is the advice which, with great respect, I think Shri Mishra should follow.

[Shri Siddhartha Shankar Ray]

Shri Mishra as the leader of a nameless party has an insatiable curiosity to know everything except what is worth knowing. He knows the price of everything but the value of nothing. His opposition to this Bill is because he does not like us. I am reminded of the poem about Dr. Fell.

I do not like Dr. Fell.

The reason why, I cannot tell

But this I know and know very well

That I do not like Dr. Fell.

Shri Mishra does not like our policies because he does not like us, the reason in respect of which he can never give us. Shri Mishra is not here. He often loses his temper. If he was here, I would have made a request to him, the same sort of request that Lord Darlington made to a friend of his in Lady Windanere's Fan :

You have lost your character

You have lost your money

Now in the name of God do not lose your temper.

I would slightly alter the language. I would say :

You have lost your name

You have lost your political character

Now in the name of Shri Kamaraj do not lose your temper.

In so far as the CPI(M) was concerned, we heard a speech which we always hear, full of clichés, full of slogans, full of epithets and high-sounding phrases signifying nothing. That party is determined to show that if it has not got genius, it can at least be dull in the belief that one day dullness may be regarded as the coming of age of seriousness.

The Swatantra Party—Shri Piloo Mody has disappeared—what shall I say about

it? I have always said that the Swatantra Party had no vision—Of course, Shri Patel is here. But I had no idea whatsoever that their vision had been so impaired, for when Shri Piloo Mody and Shri Patel also, look at us, the Law Minister, the Steel Minister or me, three huge, hulking males, hulking human beings, they think that they are actually seeing mice. Shri Mody has always referred to us like that. That is the nature of his present vision. I am sorry for Shrimati Gayatri Devi because if Shri Piloo Mody proceeds in these realms of fancy, he will a moment later say that Shrimati Gayatri Devi is the farmer's wife running with a carving knife to cut off the tails of the three blind mice. But then what can you do?

I had described on an earlier occasion that the Swatantra Party was a glamorous party. It is also perhaps a civilised party. Why a civilised party?

Sir, in Wilde's *In a Woman of no importance*, Lord Illingworth was asked by Kelvil which was a better institution, the House of Lords or the House of Commons. And Lord Illingworth replied. "The House of Lords was a much better institution, of course; we in the House of Lords are never in touch with public opinion. That makes us a civilised body."

The Swatantra party is never in touch with public opinion, and therefore that perhaps, according to them, makes it a civilised body. I have talked about Mr. Mishra. He has left. When I had said that his party had no name, perhaps he would have hurled back Shakespeare at me and said, "What is in a name? A rose called by any other name smells the sweet." My answer to him would have been that you are no rose; your party, whatever its name was, or whatever its name in the future will be, was no rose, and the people of India certainly did not think that you smelt sweet.

In so far as their arguments were concerned, they were all coloured. They were not rational; they did not take the historical factors into account; they did not take into account the fact that we are trying to do today what the Constituent Assembly had in fact already done. We are trying today to make it abundantly clear whatever the children of our revolution, the constitutional fathers, had wanted to have in the constitution.

Sir, the regime of property, which I suppose some of our friends opposite want us to continue, is fraught with grave dangers, and I do not think that I can do better than seek the indulgence of the House to read a paragraph and a half from Harold Laski.

Harold Laski says :

"Production is carried on wastefully and without adequate plan. The commodities and services necessary to the life of the community are never so distributed as to relate to need or to produce a result which maximises their social utility. We build picture palaces when we need houses. We spend on battleships what is wanted for schools. The rich can spend the weekly wage of a workman on a single dinner, while the workman cannot send his children adequately fed to school. A rich debutante will spend on an evening frock more than the annual income of the workers who have made it. We have, in fact, both the wrong commodities produced, and those produced distributed without regard to social urgency. We have large class maintained in parasitic idleness, whose tastes demand the application of capital and labour to the satisfaction of wants unrelated to human need. Nor is that class set apart from the rest of the community. Because it has the power to make demand effective it stimulates the slavish imitation of those who seek to join its

ranks. To be rich becomes the measure of merit; and the reward of wealth is the ability to set the standards of those who seek to acquire wealth. But those standards are set, not by the satisfaction of moral purpose, but by the satisfaction of the desire to be rich. Men may begin to acquire property to safeguard their lives from want, but they continue to acquire it because of the distinction which comes from its possession. It satisfies their vanity and their lust for power; it enables them to attain the will of society to their own."

"The result is what might be logically expected from such an atmosphere. They produce goods and services, not for use, but to acquire property from their production. They produce not to satisfy useful demands, but demands which can be made to pay. They will ruin natural resources. They will adulterate commodities. They will flout dishonest enterprises. They will corrupt legislatures: They will pervert the sources of knowledge. They will artificially combine to increase the cost of their commodities to the public. They will exploit, sometimes with hideous cruelty, the backward races of mankind. They infect with their poison those who work for the wages they offer. They induce sabotage in its varied forms. They compel strikes which result in serious damage to the community."

"And it is the grim irony of the system that the vaster part of those engaged in its promotion have little or no hope of enduring gain from the process they support. They may destroy the quality of political life. They may possess themselves, as in America, of the educational instruments of the community. They may even pervert religious institutions to the protection of their ideas. They do not, neverthe-

[Shri Siddhartha Shankar Ray]

less, secure a well-ordered State. It remains historically obvious that a community divided into rich and poor is, when the latter are numerous, built upon foundations of sand."

If we are to survive as a stable democracy, we must see, we have to see to it that our foundations are not laid on sand. It is for this purpose that the Bill has been introduced. It is for this purpose that we are seeking the support of the House to this Bill. We certainly recognise the right to property but when public purpose and the right to property are in conflict, obviously public purpose must have way. We are more person-conscious than property-conscious. We want to raise man to the height to which he should be raised; we want to restructure our society; we want the aims and aspirations of our people to be fulfilled. To that end we are determined to persevere, and work to do every thing possible to achieve that goal. With these words, Sir, I support this Bill.

SHRI V. K. KRISHNA MENON (Trivandrum): Mr. Deputy-Speaker, I shall not try, if you allow me to say so, to push in open doors because a big majority of the House and the country are in favour of the general purposes of the Bill, that does not mean that legislation should necessarily, on account of these circumstances, be rushed through in the way it is, and should not go through the scrutiny which is possible. My friend Shri Siddhartha Shankar Ray referred to Prof. Laski's quotation. He also said at one time about the right to property that it means that a man can own a tooth brush; that does not mean that we may not nationalise tooth brush factories; we are entitled to keep our own cloth; that does not mean that we may not take under public control textile factories. All that is true.

The debate has been pitched to highlight three points. One is: attack on property, or against property. Distinguished lawyers have taken it upon themselves to deliver a tirade against judiciary. I want to say that while the judiciary is prone to all these things, every litigant who loses the case blames the judge and then goes and blames the lawyer next. I also want protection from the executive; a citizen wants protection from the executive. When the judiciary intervenes, very often it is when the legislature goes beyond the powers that it has appropriated to itself. This legislation has come here inevitably on account of certain occurrences in the Supreme Court of India where its decisions had the effect of marring social progress and progress towards egalitarianism. Also, these decisions were different from the ones that were there before. I take the support of Mr. Gokhale in this because he does not say he believed in socialism a good man; he says: I am trying to restore what was not there. That is to say, until these judgments which are so often talked about, it was generally understood that the fundamental rights were for the protection of the poor and less privileged and not for the protection of property. Somehow or the other they veered round in that way and the question of the quantity had become so relevant.

Having said so I want to come to some concrete matters. In the first part of the amendment, Government takes the power to substitute 'amount' for compensation. I leave it to the legal advisers to discover for themselves whether thereby they have escaped any troubles from the Supreme Court. If I were to ask as a layman: what is this amount given for Government cannot give money for nothing; it will be given for purpose that purpose is compensation. That is why the amount is given.

Therefore, you come back to that, but that is not my main point.

This legislation simply says "amount". All these amounts will come in regard to different items, different purposes and different legislations. I want the Government to assure the people that this would not be another piece of delegated legislation, conferring unguided power on a lot of officials, that is to say that equal properties which are taken over would not be unequally treated, that is to say there will be no attempt to open the doors of corruption on a large scale on the one hand and injustice on the other. Therefore, it should be particularly stated that this legislation does no more than make a permissive provision and that the modalities have to come hereafter, that is to say how it is to be acquired, how the ordinary citizen is protected etc., have to come hereafter.

It does not require much argument to say that the people require protection from the executive. We had the spectacle yesterday of the Home Minister making the most cynical speech I have ever heard a Minister make. When people are beaten to death in jail, he talks about prison reform. Why not a mothers' meeting instead? Therefore, we require protection from the executive in the country.

The second thing that I want to say particularly to my learned friend Shri Gokhale is that it appears to me that it is wrong to talk about a judicial review. Do the courts review legislation or interpret legislation? The effect may be that whatever you have done may be reversed and so on, but if we ourselves say that they have the right to review legislation, we are giving them more power. Their business is to interpret the law in force, and if that law is misinterpreted or if you think the interpretation should change, then it is up to Parliament to change it. That has been done before in America, in England, where it is said that what the courts do not give Parliament gives, and everywhere. Therefore, to take

the view that they have some power of a judicial review or that we are correcting it, I think, would be doing a disservice to ourselves, because we are conferring on the judiciary a power which they themselves have not claimed. There is no question of a judicial review. They can interpret legislation. That interpretation may have the effect of nullifying the whole thing, of changing it and so on. It has gone on for years in that way.

With regard to the observations made by the Law Minister, I think it was a great pity and I am sure that is not the intention of the Minister concerned, it may be the intention of others. In this large country of ours, the judiciary is not only the Supreme Court. A large number of smaller Judges are sitting everywhere, and for good reason or other, they enjoy a degree of confidence in spite of all that has happened in the country. If we go round and speak in this Parliament, if Ministers, the Prime Minister and everybody else were to say that these are people—what did Mr. Gokhale say?—who belong to three generations back or something of that kind, that only shows that even a Judge who becomes a Minister afterwards can say something which is silly. That is all it means, nothing else. In the positions we have, if we come up here and indulge in wholesale condemnation in this way, we cannot expect the ordinary person, the litigant and others, to have any respect for the judiciary.

Our judiciary is not respected in the sense of worshipping an idol. In the parliamentary system, there are different branches of polity as such, though we have no separation of power. And I suppose that even in a communist society there will be courts, even in a Jana Sangh society there will be courts, even in a Swatantra society there will be courts. And even if there is no organised society, even in Pre-human existence there is a degree of adjudication

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even among animals as such. Therefore, at some point it is done, and therefore it appears to me that in an advanced system like representative democracy, it will be a great mistake to enable people to say that the great people are saying that the judiciary is nothing, and so they will also say the same thing.

Recently we had the instance of the ruling party entering the premises which were in the possession of somebody else. Two days afterwards some body came to see me. He was occupying a house as a statutory tenant. The landlord and his family went into his room, performing whatever they perform by way of a protest, and he said that if Mrs. Gandhi could go to Jantar Mantar, why can't I go here. I am not exaggerating. These are different questions, and these people have no right. They are statutory tenants, they can live there.

Therefore, in the further stage of this, the modalities of this, each piece of legislation has to come here. When it comes here I hope Government will remove all doubts that exist in people's minds that these powers would be used for either political or individual purposes or in defiance of the requirements of good conscience equity and will be administered in that way.

15 hrs.

I do not know what amendments there are. I was not here this morning. Mr. Gokhale must have made up his mind by now. I am not concerned about it. These are all very small, compared to the main issue. This legislation is necessary. There will be more amendments to this Constitution, because this is a growing society. Whether wisely or otherwise, those who drafted the Constitution decided to put everything into it, including the salaries of judges, where you may sit and where you may not and the rest of it, with 365 or 465 articles

or whatever their number is, and a large number of Schedules. The more detailed the Constitution, the more the number of amendments that will come. Usually, people think that if you put everything into it, you would not have to put anything afterwards. But that has not been our experience. That is probably the reason why we had so many amendments in so few a number of years. There will be more amendments, which reflects the fact that there are changes, whether for good or evil in our society, which is a good thing.

There is an amendment which have been discussed and which the newspapers tell me Government is going to accept. That is in regard to minorities. I am sorry Mr. Anthony is not here. I am sure what I say will not be popular. I can understand special conditions for a school run for minorities. But I fail to understand how a school can have a special treatment because the school is run by a member of the minority community. All I have to do is to get hold of a member of a minority community—Mr. Gupta, for example—and make a trust and put it in charge of him. That is to say, this is one of the subterfuges that will be adopted. All schools in our country are more or less under a general system. They appear for the same examination one way or another and whether backward or forward, they are all poor. Therefore, the real issue is, whether there should be a special provision in regard to educational institutions. I had hoped that Mr. S. S. Ray, with this titular control over education, perhaps would have said something about it. What we are really concerned about is education. There is no reason why a comparatively harsh provision should not be taken away in the interest of education for all, because the so-called minority institutions have large properties whereas the overwhelming majority of people are people who do not belong to those minority communities. Even about reservation, this and that,

which we have illogically followed for so many years, I am not saying anything about that. These are not schools for minorities, but these are schools of minorities. If the amendment had said "schools for minorities", there may be some logic in it. But when it says "schools of minorities", it is merely creating a privileged class under this cover of minorities as such.

May be my understanding is very little, but I have not been able to understand all this fuss about directive principles. Would you have legislation saying "we are implementing the directive principle" or, would you have legislation saying "we are going to have free education"? That is to say, the legislation that comes will be something specific. Therefore, this purely political clap-trap and vote-catching. That is to say, we are now elevating the directive principles to the pedestal of fundamental rights and so on. That seems very illogical, because the general charge is, you have pulled down the fundamental rights; how can you elevate this? Therefore, all this controversy whether it should be amenable to courts or not becomes unreal in that way. Of course, if you abolish the courts, there will be no trouble from them. But so long as there are courts, things will be justiciable. The question whether a thing is justiciable or not itself will go to the court. Anybody can go there with a complaint and the judge, if he is so disposed—most of them would be—admitted. Whether the ballot papers are chemically treated or not is a case.

Any body can go and complain. Therefore, it is a futile exercise, in my opinion. But, of course, futility is part of life and, therefore, they can do so. Therefore, I support the amendment of the Constitution but I do not support the arguments advanced for it. It reminds me of what an old judge said to his junior; give your conclusions, you are bound to be right, but never

give your arguments because you are bound to be wrong. That is the position. Without lengthy speeches, and calling everybody names when your ideas come in conflict with theirs, without accusing the opposition of performing some balancing acts this would have been very much better.

It could have been said that this amendment had become necessary because of the bank nationalisation. Here may I say that we will give a large amount of money to many of the banks as compensation not because the court said so but because the government mismanaged bank nationalisation; because they mismanaged the taking over of the banks, they had to pay Rs. 40 crores more than what they should. So, the present Chief Justice, when he was a Judge, said that government could have done it in a other way. Therefore, you cannot find a stalking-horse for your own mistakes in this way. Any amendment of the Constitution, taking away a comma or full stop, that alone is not going to help you.

Sir, since you are looking at me, I am always terrified at the Speaker's eye; I do not say evil eye.

MR. DEPUTY-SPEAKER : Other hon. Members are looking at me.

SHRI V. K. KRISHNA MENON : I did not feel it because I am always looking at the Speaker; I am not looking at the other Members of Parliament.

So, to attempt to fasten it on somebody is not sufficient. May I say in conclusion that legislation has its own limitations? If legislation is so efficacious there would be no untouchability in this country because it is said that untouchability is abolished by law. The emphasis is on the word "law". It is abolished only in law, but not in practice. That is what it means.

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For 50 or 60 years we have this child marriage restraint legislation in this country. When I say this, I hope no body is offended because a great majority of the marriages in this country are child marriages. So, mere legislation will not do.

There are people who advocate legislation for price control. It will only result in black marketing. In a capitalist system it will only lead to greater corruption and nothing else. It is true that anti-social elements have to be hanged by the neck, but that is another matter. Control is necessary but that is possible only in a planned society. How can you introduce control in a state of anarchy? Of course, this is no part of the argument in relation to this Bill.

I, therefore, conclude by saying that we all, particularly the Members of Parliament owning governmental responsibilities, must be aware of the limitations of the efficacy of the legislation. Very often it leads to opposite results. Because, we tell ourselves and we tell other countries this. For example, when other countries talk about untouchability and child marriage we say "Oh yes, we have abolished them by law". Therefore, we must be sure about that.

The modalities by which these principles are to be implemented will naturally come before Parliament. I hope the Law Minister will consider this point that these modalities must be of a quasi-judicial character and not conferring naked, uncontrolled, untrammelled powers on Ministers, good, bad or indifferent, upon officials, indifferent corrupt or otherwise, and the results of their action visit upon people who cannot fight them.

SHRI SAMAR GUHA (Contai): Sir, the Socialist Party whole-heartedly support the principles of removal of the compensation clause from the statutory provisions

of the Constitution. The socialists in India for the last 35 years have ceaselessly fought for ensuring socio-economic justice to common masses. It should be remembered that in this House the eminent socialist, late lamented Nath Pai, fought valiantly for the supremacy of Parliament over the Supreme Court. It was his main objective to remove the hurdles from the statutory provisions of the Constitution which deal with the implementation of socio-economic justice.

It should also be kept on record that Shri H. V. Kamath, one of the socialist leaders, fought in the Constituent Assembly tooth and nail not to incorporate property in the categories of fundamental rights. He also fought for the supremacy of Parliament over the Supreme Court.

Now-a-days the whole concept of property right has undergone a radical change. The concept of property which is not essential for the fulfilment of human values, which is used as an instrument of accumulation of greater property, for exploitation of the toiling masses who essentially produce that wealth and property, for concentration of wealth in a few hands, and as a lever for control of social, economic and political power, is no longer appealing or sacrosanct even in a capitalist society.

Dr. Ambedkar mentioned that the Directive Principles were not a mere 'pious declaration'. Pandit Jawaharlal Nehru called these Directive Principles—a 'dynamic concept'. But, unfortunately, during the last 25 years of Congress rule over this country, that dynamic concept of Pandit Jawaharlal Nehru has remained almost completely static.

In regard to socialist objective of free India, here I want to quote a few words uttered by Netaji Subhas Chandra Bose in

1931 as the President of the Naujawan Congress Committee. He said :

"I want a Socialist Republic of India. I want political and economic freedom and complete economic emancipation. Every human being must have the right to work and a right to a living wage. There should be no drones in our society and no unearned incomes. There must be equal opportunities for all. Above all, there should be fair, just and equitable distribution of wealth. For this purpose it may be necessary for the State to take over the control of the means of production or distribution of wealth."

As President of the Hariपुरa Congress he had the courage to reiterate this principle when he said in 1939 :

"The State will adopt a comprehensive scheme for socialising our entire agricultural and industrial system in the sphere of production and distribution."

Again, he reminded the freedom fighters of our country sometime afterwards that in free India,

"That the State will work as the organ or as the servant of the masses and not as a clique or coterie of a few rich individuals. "

He tried to radicalise the Congress from within, but he failed. After that, do you know, how he characterised the organisational nature of the Congress? I again quote Netaji Subhas Chandra Bose about what he thought was the character of the Congress. He said :

"This Congress Party is based not on radicalism but on adjustment, adjustment between landlords and tenants, between the capitalists and the wage earners, between the so-called upper class and the lower class."

The character of the Congress, despite its sudden radical posture remains the same, is based on the Concept of the policy of adjustment. The Congress (R) leaders are making certain political stunts for having some form of a legal socialism. By much more they want to have that radical posture. They want to become the socialist harbingers of the country but they essentially remain as they were before.

This Bill should have been brought in the First Session of this Parliament ; if not in the First Session, it should have been brought at least in the Budget Session of this Parliament. It was overdue. Why has this Bill been brought just now? Just as the Bank Nationalisation Bill and the Bill for the Abolition of Privy Purses were brought before at elections. A doubt arises in our mind how can I help it because this Bill is also just before the next general election—that this abolition of the compensation clause is not another political stunt? In a democratic society when you are going to enact such a fundamental law, the people should have also been involved in it to clearly understand its basic implications. But the mind of the whole people is now absorbed in the events that are happening in our border areas, particularly in the liberation struggle of Bangla Deah.

Therefore, I should say, this Bill should have been brought before. But, unfortunately, as I said, it is for the political purpose, for politically Cashing in the next General Elections, that this Bill has been brought forward.

The Law Minister, Mr. Gokhale, who had schooling in an organisation of democratic socialism for the last 20 years made certain serious observation, and cast certain regrettable reflections on the Supreme Court and he also laid down a certain potentially dangerous relationship between Fundamental Rights and Directive

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Principles. Before I take up those things, I want to know from the Government one thing. Mr. Siddhartha Shankar Ray, Mr. Mohan Kumaramangalam and Mr. Gokhale himself said that this Bill is something aimed at changing the whole social structure of the country and is also aimed at having a socialist society based on democracy. If it is so, I want to know from them what is their concept of changing structure of our society. That has to be made clear in the minds of those who are connected with this Bill.

I again quote the words of Netaji Subhash Chandra Bose, who as the president of the National Congress, of the days of national struggle laid down three principles for the guidance of the development or evolution of the future destiny of India. He said :

"Freedom, democracy and socialism should be the triple principles which will guide the future destiny of free India."

He did not use the word "socialism" before "freedom" and "democracy" because, according to him, freedom and democracy are two cardinal principles of socialism.

I ask the Congress Members, the new converts to socialism, what type of socialism you want? Is it totalitarianism Marxist type of socialism you want or a socialism based on the two fundamental pillars of freedom and democracy? The way in which you are hurrying through to adopt this Constitution Amendment Bill, the observation that you are making about relationship between Fundamental Rights and Directive Principles and also certain reflections you are casting on the Supreme Court,—you should be careful about it because you are opening the gates of something else, you are opening the gates of, I should say, toward opening the gate of a totalitarianism system under the garb of so-called democratic socialism.

The Law Minister accused the Supreme Court of "blocking the social change." He accused the Supreme Court of making "political judgment on political issues." Not only so, he further used a gimmick in which he said that the Supreme Court, in doing so, had "judicial somersault." If these gimmicks were to come from the mouth of some Marxist hawks inside the Congress, who are working not for the party but for some others outside, if it were to come from the Marxists monopolists of the socialist thought, I could have understood it. But while professing democratic socialism, how the Law Minister accuses the Supreme Court? What is the meaning of such sweeping accusations? It means that the Supreme Court has acted under the compulsion of a class motivation, or under the compulsion of a political motivation.

In a Parliamentary democracy, what is the mechanism of enacting statutes in our country? As Mr. Krishna Menon said, it is the function of the legislative body to propound the laws and the function of the judiciary is to defend such laws. A legislative body is the maker of the law and the judiciary is the interpreter of the law. If the legislative body in making laws leaves certain loopholes and if the judiciary finds them out and show them to you, is the judiciary to be blamed? In the case of the Bank Nationalisation Bill or the Privy Purses Bill, I should say, you left certain loopholes in framing your laws and those loopholes were pointed out by the Supreme Court. To say that they have acted with political motivation or with class motivation—this type of accusation against the Supreme Court—I should say—before making this accusation, you should have thought hundred times. In the mechanism of political democracy, there exists a relation of a battle of wits between the judiciary and the legislative body.

The legislative bodies should have to make laws,—fruitful laws without leaving

any scope for loopholes. Now, it is the function of the judiciary to find what are left loopholes there. In this battle of wits between the Judiciary and the Legislature sometimes the legislature loses and sometimes the judiciary loses. As soon as the Supreme Court pointed out certain loopholes, we plugged it in the case of Bank Nationalisation case. We are going to do it in the case of abolition of privy purses Bill also. Therefore, this wild accusation that the Supreme Court had acted under the compulsion of class influence or under the compulsion of political motivation is a dangerous thing, which negates the fundamentals of Parliamentary democracy. I will again warn you. If you go in this line, you will be opening the floodgates to certain other totalitarian system of Right reaction or left extremism, which will be based on democracy and freedom.

The Law Minister also made another serious observation. What did he say? He said the Directive Principles should be given over the Fundamental Rights,...

SHRI JAGANNATH RAO (Chatrapur): Primacy.

SHRI SAMAR GUHA : Yes, Primacy or supremacy of the Directive Principles over the Fundamental Rights. We know that in an authoritarian system, whether it be of Right or of the ultra Left variety, whether it is of Communist pattern or of the Fascist pattern, in every such pattern, the Directive Principles are invariably given supremacy over the Fundamental Rights. It is an absolutely wrong concept for those who believe in democracy, if you want to equate the two concept or put the relation between Directive Principles and Fundamental Rights in that category that one is superior to the other, or subordinate one before the other. In a democratic society where you want to build up socialism on

the two essential pillars of democracy and socialism, then the Fundamental Rights and the Directive Principles should be balanced. Their relation should be equitable.

MR. DEPUTY-SPEAKER : The hon. Member's time is up.

SHRI SAMAR GUHA : They should be harmonised, they should be made compatible,—one compatible with the other. If you want to bring the supremacy of the one over the other, then you will lose the key to uphold democratic values. We are all for the abolition of the compensation clause. The Socialists want not compensation but some amount should be given for the property acquired or requisitioned. But, in this Bill a single sweep, all the seven fundamental rights that are enshrined in our Constitution from (a) to (g) of article 19 have been completely knocked out. The Law Commission has said that as Fundamental Rights for the abolition of the property rights, you are challenging our right of association, right of speech, right of forming assembly, right of forming unions and having residential rights and also the freedom of movement. All these have been made subservient to the Directive Principles. I should say these are being challenged. As I have said, in a democratic society, this is a very dangerous move to subvert fundamental rights.

MR. DEPUTY-SPEAKER : You please conclude.

SHRI SAMAR GUHA : One minute more. I want to know. The Minister has said that the Government is not going to touch these Fundamental Rights of freedom of expression freedom of unions freedom of association. The mere observations of the Law Minister do not guarantee to the future the Fundamental Rights that are essential for a

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democracy. For that, statutory provisions are essential.

About the quantum, I have said, we are all for abolition of the compensation clause. But what about criterion of deciding the quantum of amount, Mr. Gokhale ? Mr. Gokhale ! You are going to substitute the word 'compensation' by the word 'amount'. Even Mr. Siddhartha Shankar Ray also said it, but principle will govern the choice of the quantum of this amount? I want to know from you. Who will decide the principle of determining the total amount or the quantum of the amount?

SHRI H. R. GOKHALE : You and I, the whole Parliament.

SHRI SAMAR GUHA : I am very thankful to him. But, Sir, he knows that in the Centre or the State, by passing any law by the majority, the executive can have the right to determine the quantum of the amount. It may so happen that there are certain Parties of the right or the left persuasion in the States and that may happen at the Centre also in future. So, this word 'amount' will remain vulnerable to discretion of different political parties unless certain specific principles are laid down as to how this 'amount' is to be determined, how this quantum is to be determined? If it is not determined by certain statutory provision, then there is no other alternative but to agree with the Law Commission that certain scope should be given to the judiciary for keeping an eye to the criterion of determination of the quantum of amount.

I would conclude by saying that so far as compensation is concerned, we the Socialists, say 'No'. As far as amount is concerned, it should be less than market

value, but the amount has to be determined according to certain well laid principles so that the political opportunists cannot misuse or abuse the provision of 'amount' that will replace compensation.

SHRI A. K. M. ISHAQUE (Basirhat) : I rise to support the Bill. I had the good fortune to listen to so many good speeches made here today by persons from our side as well as from the side opposite. I had with great attention listened to the speeches made by Shri Shyamnandan Mishra while opening the debate today. After hearing him completely, I was reminded of a famous and well-known lament, 'The grapes are sour'. I do not know what charge he did not level against our party, and he even assured us that if things were left to him, he could have done everything very nicely.

He also felt sympathy for the poor, and for the have-nots, or he said it, for the small men and the minorities. If the gentlemen belonging to the party had any feeling for the small men and the minorities, I fail to understand what purpose they actually served by bringing about a grand alliance with the Swatantra Party and the Jan Sangh. I do not know how the the Swatantra Party were friends of the small people and how the Jan Sangh were friends of the minorities. If after entering into alliance with these parties, he still feel for the small men and the minorities, may God help him!

The Bill has been opposed from both sides, from the Right which says that democracy is being infringed upon, and that the right to property is being infringed upon and from the Left which says that there is practically no spirit of revolution or revolutionism in it.

When I hear this charge that democracy is being infringed upon and that the right

of the people is being infringed upon, I fail to understand for whom they are speaking or of whom they are thinking. Whose democracy is being attacked? Whose right to property is being attacked? What is the percentage of those persons whose right is wrong to be attacked and about which they are apprehensive? For only 2 per cent of the total population, they are so much apprehensive, and that is why they are pursuing that type of philosophy in politics. 98 per cent of the people do not have the capacity of entering into lavishness and cannot afford these luxuries. What is the meaning of democracy? What is the meaning of the right to property for those sections of the population?

When we go to the countryside, we see our people. When we talk to them we feel how we have failed to bring about a change in the laws. When we enter a village we find persons who never knew what property was. If we give right to property to such persons, what is the meaning of it? If we give such a person the right to go to court and to protest against any supposed injustice meted out to him, when he has got no means to go to the court, what is the meaning of it?

Even if oppression is committed upon him, he cannot go to a court of law to protest against it. He cannot set the law in motion against this injustice perpetrated on him. So when 70 per cent of the population are either unfed or underfed, why this sympathy for 2 per cent of the people should become the subject matter of a political philosophy?

I support the Bill because it sets in motion a process which may go to remove poverty from this country. If we cannot do that, we can foresee what may happen or can happen. We have seen it in West Bengal. The hon. member of the DMK said that people have waited for long. I agree with him. If nothing can be done,

if their lot cannot be changed, if poverty cannot be removed, the people will themselves come forward. They will not wait for this Parliament to go ahead for changing their lot. There will be simply lawlessness in achieving this result. That will not be good either for the Swatantra Party or the Jan Sangh or the nameless party, to which Shri S. S. Ray referred.

Therefore, when there is time all of us must engage all our attention to achieve this result. It is also the mandate of the people. Our party gave a pledge to the people that we are determined to remove poverty. People gave us a massive mandate. Therefore, we must be faithful to our commitments to them. I thank Government for proceeding in that direction.

The other parties see no revolutionary aspect in this. But I warn them of the consequences of overstepping, because then there is a danger of a counter-revolution in the country. In 1969, the United Front came to power in West Bengal with a strength of 218 members out of 280. But they misused the power.

SHRI P. K. DEO : That is exactly what you are doing now.

SHRI A. K. M. ISHAQUE : Instead of bringing about a revolution, they set free 10,000 goondas who brought about a goonda type of revolution. They set one section against another. They brought about all kinds of disorder in the State. As a result, they were thrown out.

In Burdwan district which is the habitat of the Marxist Communist Party, in the five elections held, only in 1962 they won 24 out of 25 . . .

MR. DEPUTY-SPEAKER : What has all this to do with the Bill?

SHRI A. K. M. ISHAQUE : In the municipal elections, the Marxist Communists were totally routed.

So if this country takes an over-step, there is a chance of a counter-revolution coming up. Our country is ridden with superstition, prejudices and conservatism. We have first of all to eradicate these evils and then we can take steps for reaching the goal of socialism ultimately.

SHRI SHYAM SUNDER MOHAPATRA (Balasore) : I was listening with rapt attention for the last two days to the speeches in this debate and two things came up uppermost in my mind; one is the role of judiciary and another one individual by name Golaknath. At 6-30 p. m. we are going to change the constitutional history of India. Had not Golaknath figured in the judicial process, probably this amendment would not have come about. Probably, Mr. Golaknath deserves a *Bharat Ratna*.

Sir, the question is, the Constitution is a replica of the people's mind. It is the replica of the general will of the people, as Rousseau said. This Constitution of India is going to reflect the people's mind. Now, when the Constitution-framers really wanted to frame the Constitution for the people of India, certainly socialism was not in their minds. Well, who are those who really drafted the Constitution? Mr. Gopalaswami Ayyangar, who was a civilian; Alladi Krishnaswami Aiyar was a great jurist; Dr. H. C. Mukerjee was the leader of the Indian Christians; Dr. Hridayanath Kunzru was a great philanthropist; Dr. Radhakrishnan was a great philosopher. And only two Congressmen were there—Mr. K. M. Munshi and Mr. T. T. Krishnamachari, and certainly they did not have socialistic views with them.

But today, in 1971, we are amending the Constitution which will give to the people of India socialism, democratic

socialism. We never thought, not even the great Gandhiji probably thought, that things will change so rapidly in the world. What Gandhiji thought was that these capitalists, these landed magnates, will behave as trustees. Have they behaved as trustees? Gandhiji had said that he conceived of a classless and casteless society. He said that a classless society would mean a society of human beings where there is no discrimination between the high and the low, and where the employer and the employed will be in perfect collaboration. Gandhiji thought that these capitalists would behave very nicely, honestly.

This Ghanshyamdas Birla, in whose house Gandhiji probably breathed his last—why did they not, during the last 23 years, give this house to the nation, for which the Government of India has now given Rs. 50 lakhs and for which Mr. Shashi Bhushan had to go on a hunger-strike before that house? Ghanshyamdas Birla—he represents the capitalist mind of the people. The Jains, and all these seths and sahkars only represent the capitalist mind.

Now, this amendment is going to ease a problem. I do not say that we have already brought socialism or socialism is round the corner. It is going to initiate a process by which we will reach that stage of socialism, probably what Gandhiji conceived.

Sir, in other socialist countries, they have also thought about individual rights and property. They have also thought about compensation. What the USSR Constitution says, in article 4, is that the system of socialist economy, socialist ownership of the means and instruments of production firmly established as a result of the abolition of the capitalist system of economy, abrogation of private ownership of the means and instruments

of production and the abolition of exploitation of man by man, constitutes the economic foundation of the USSR. Today, we are going to lay the foundation of an economy where we want to end the exploitation of man by man.

What about Yugoslavia which is very near to us as far as the ideological set-up is concerned? In article 37 of the Yugoslavian Constitution, they have said that "the use of property must not be injurious to the interests of the community." Now, here in India, the capitalist class, the vested interests, the landed magnates, have utilised property for their own interests. The entire economy of India is now in the hands of a few capitalists. How are we going to change the society unless we bring in this amendment to the Constitution, where we do not want to give compensation as they like? We want to give compensation as we like, as the people of India like.

What about China, where there is an aggressive type of socialism? In article 15 of their Constitution, it is also written that "the right to exist, the right to work and the right to property of the people shall be protected." What is the right of those people? It is the right of the communes. The people have almost no right. They are all seized by the State. The property is surrendered to the State. It is type of society which we do not conceive, but I say that in such constitutions of the socialist countries, where there is an aggressive type of socialism, where there is infantile communism, such things also are enshrined in their constitutions.

Even in Burma, where Gen. Ne Win is ruling, they have said in their constitution that "the right to acquire property is subject to law, public order and morality." Burma is not a socialist country. But it

has also been written that if it is against public morality or public interest or against the will of the people, then the State intervenes. These are things which naturally we cannot lose sight of. Probably two years ago, the CPM leader EMS or A.K. Gopalan wanted to wreck the Constitution from inside and there was lot of discussion here. I must say that the judiciary also reflects the type of society we have. If we have change in society, we will have change not only in the legislature and the executive; but also in the judiciary. If persons who come to the judiciary belong to the toiling strata, if the judges belong to workers' families and peasant's families, the very outlook of the judges will change. In order to bring that we must also initiate certain processes in the legislature to reflect the mind of the people. Alladi Krishnaswami Aiyer said in the Constituent Assembly: "the court is not to be regarded as super legislature or as a court of appeal or review; the legislature may act wisely or unwisely." It is the legislature which is supreme. It is the General Will behind us, the backing of 55 crores of people.

Mr. Anthony or, for that matter, Mr. Vajpayee may reflect the views of the capitalists and vested interests. When I was listening to Mr. Vajpayee I was reminded of a scene in a picture which I saw: The Fall of Berlin. Eva Braun was giving Hitler potassium cyanide. This last cry today of Vajpayee shows that last moment of Jansangha. We represent a great people, 55 crores of people in India. They have sent us here to the legislature with the massive mandate. What is our duty? We are not to be bothered by what they say or what the newspapers of the capitalist class say. Referring to the French Revolution in the Constituent Assembly. Pandit Jawaharlal Nehru gave a marathon speech: "my mind goes back to that mighty revolution which took place 150 years ago and to that Constituent Assembly which

[Shri Shyam Sunder Mohapatra]
met in the gracious and lovely city of Paris which had fought so many battles; the House will remember that when difficulties came and even a room for the meeting was denied to those who really went to the Constituent Assembly they met in an open Tennis Court and meeting there took the oath of the Tennis Court as it is called and decided everything." We today in this Parliament are to behave as they behaved in that Tennis Court 150 years ago. When Mirabeau stood up to address the people there were about 5000 soldiers and when a royal official was sent by the Louis XIV to order them to disperse Mirabeau said: "go and tell your grand master, sir, we are here by the wishes of the people and nothing but bayonet would drive us out." On this Bill we are with that feeling. Whatever Mr. Vajpayee or Mr. Frank Anthony or any other Maharaja may say we are not budging an inch and by 6.30 p. m. today the Constitution amendment will be passed. There is no doubt about it.

SHRI BIRENDER SINGH RAO (Mahendragarh): I have been trying to find arguments for supporting this progressive measure. I have heard the speeches of a number of Members this afternoon. There is a race in the House for the Trophy of radicalism and progressivism. I have also heard the speech of Shri Siddhartha Shankar Ray, the star performer of the Treasury Benches. It was very entertaining and amusing but I unfortunately could not find a single argument in his speech which could convince me that it was necessary to push through this measure for the progress of Indian people. I wish I could believe that progress without this measure is not possible. I am glad that our Government has suddenly woken up to the importance of the Directive Principles of State Policy. They have now come across this Chapter in the Constitution. I would like to support this Bill if I thought that any one of the Directive Principles, e.g., giving a uniform

civil code, could not be implemented without putting through this measure. I would also be glad to support this Bill if another Directive Principle, i.e., free and compulsory education to children upto the age of 14, could not be implemented without this measure. I would also be happy to support this Bill if the judiciary and the executive had been separated already by this Government in pursuance of one of the Directive Principles. I would also have believed the intentions of the Government if they had brought about modernisation in agriculture and animal husbandry as mentioned in the Directive Principles.

15:45 hrs.

[MR. SPEAKER in the Chair]

It is very painful to note that in the 20 years that have passed since the Constitution was framed, this is the 25th amendment before the Parliament of this country. It is fair to those who framed this Constitution. In about 200 years in the United States the Constitution has been amended so far only 24 times. If the progress of a country can be judged by amendments of the Constitution, then certainly we have already beaten America. And before this century is out, probably we will be hitting a century. The oldest Constitution in the world, that is Swiss Constitution, has been amended only about 50 times during the last 600 or 700 years, and yet can anyone say that the society there has not made any progress, that the people have not prospered? Sir, I would like to know from the Government why the recommendations of the Law Commission constituted by this Government have not been accepted. I presume that the members of this Commission were selected on the basis of merit and experience. They have given very balanced advice to the Government.

I would have been very happy and would have supported this measure if the advice of the Law Commission had been accepted and if the scope of this Bill had been confined only to those portions of article 19 concerned with property rights, if all the Fundamental Rights had not been invaded. Is it right to bring such a measure which is really an anti-climax for a party which has been fighting for human rights under British rule? We have derived the concept of our Constitution from Britain, from France and from the United States, and this very party in power in Parliament is now trying to trample upon human rights. Article 31C is proposed would affect all the Fundamental Rights under article 19. It would not be right to put people in such a humiliation that they would be looking to the executive power to save their honour and property. If Government's hands were clean, if their intentions are good, why should they bar the jurisdiction of the Courts in matters like this? I would like to support such a measure, but I suspect the intentions when the judiciary is proposed to be kept out altogether. You are a farmer. Lands can be taken for public purpose and no compensation or very little compensation may be paid by a legislature. You know how such a measure can be used in a vindictive and arbitrary manner. A State Government can say, "These fields belonging to so and so are the best place for the alignment of a particular road. This landed property belonging to such and such a person is the best place for constructing government offices or for digging a canal." So, these matters must be justiciable. Only in the name of princes or because in bank nationalisation they had some difficulty, everybody's rights, the dignity of the human being and individual freedom should not be curtailed.

The directive principles also say that the State must look after historical monuments. If they are really keen to protect

historical monuments, why for removing these living monuments of history in India—these few princes—should every human being's right be curtailed? Through you, I appeal that the Government should convince the nation that human dignity will not suffer, that fundamental rights are not proposed to be curtailed, and only in cases where too much property has been concentrated into certain hands, it will be taken over for public good. That could have been achieved even without this Bill. There are other ways and means to do it. People could be taxed very heavily. They could bleed every rich man in a manner that he would think it uneconomic to hold too much property. They can take away land in a manner that he would think four times before going to a court. Agricultural wealth tax is being levied. Income tax is being increased, ceilings are being fixed. Is this not enough?

Since you are getting impatient, I shall resume my seat.

MR. SPEAKER: It is not a question of my becoming impatient. Your party had only a few minutes and already three speakers have been accommodated.

PROF. S. L. SAKSENA (Maharajganj): Sir, I am the happiest man today that this Bill is under consideration in this House and will soon become law. The words which I spoke in my speech during the third reading of the Constitution on 19th November, 1949, have proved prophetic. This is what I said:

"I also regard article 31 about property as the charter of capitalism in this country. I am sure, the representatives of the people elected on the basis of adult suffrage will change this Article which makes all socialisation of the means of production for the community impossible. The Directive Principles of State Policy which have been so beautifully described in Part IV cannot

[Prof. S. L. Saksena]

be realised so long as Article 31 forms part of this Constitution. I would have wished that these Directive Principles had been incorporated as Fundamental Rights in the Constitution."

Today fortunately this Bill has decided to incorporate parts (b) and (c) of articles 39 as fundamental rights in the Constitution. I wish all the Directive Principles had been incorporated in this Bill, for they are the essence of Socialism. This is what I had said about them in that speech in the Constituent Assembly :

"The chapter on Directive Principles is, I think, the most hopeful chapter in the Constitution. I fondly hope that the principles enunciated in it as the ideals to be striven for in free India will be given effect to and incorporated in the laws of the country at no distant date."

Therefore, Sir, I would have wished in clause 31C the words "clause (b) or clause (c) of article 39" to be substituted by the words "articles 38 to 51". If you will read these articles you will find that the real content of socialism is contained therein.

I am opposed to all the amendments which have been given notice of, either by my friends on this side or the Minister there. If any amendment is necessary, it is that article 19 be replaced by articles 19 (f) and (g). That is the only amendment necessary. Sir, I support the Bill.

*SHRI NAGESWARA RAO (Machilipatnam) : Mr. Speaker, Sir, the misfortune today is that Law is at logger-heads with Politics. But what ultimately stands would be Politics only. Today there is no citizen on whom politics has no influence. And the Judges are no exception to this. The

new orientation that our beloved Prime Minister has been propounding is necessary not only for the political leaders or administrators but also equally necessary for the Judges who dispense justice.

When law is at loggerheads with politics this new orientation is necessary not only for the administrators and politicians but it is equally necessary for those who have to administer law and justice in the country. The State is Constitutionally under duty to implement the Directive Principles through appropriate legislation and the courts must be vigilant in safeguarding them. The soul of the father of the nation, Mahatma Gandhi is all pervasive in the Directive Principles of our Constitution. Today the Constitution (Twentieth-Amendment) Bill is a recognition the behest of Mahatmaji. The tradition of Bharat is : सर्वेजनाः सुखिनः भवन्तु । Let all people live happily and well. In implementing this great slogan *garibi hatao*, Shrimati Indira Nehru Gandhi will be acclaimed in history as the mother of the nation.

THE PRIME MINISTER, MINISTER OF ATOMIC ENERGY, MINISTER OF ELECTRONICS, MINISTER OF HOME AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRIMATI INDIRA GANDHI) : Mr Speaker, we have all been waiting for this Bill to come before the House and, in fact, many hon. Members have complained that it has come very late and that we should have brought it much sooner. We have brought it as soon as we could. I am glad to see that there is such massive support for it here, as indeed I believe there is in the country as a whole.

The Law Minister has given an able exposition of the need for the Bill and also

*The original speech was delivered in Telugu.

Government's thinking so that I need not enlarge on many of those points. I am sure that in winding up the debate he will also deal with the specific points raised, although when I listened very carefully both here and from my room I could not discern any new points at all.

Coming to the CPM. Their line was as expected. There is a basic difference in their way of thinking and functioning and ours. It sounds dramatic to talk of throwing out the Constitution lock, stock and barrel; it sounds heroic to talk of total revolution; but we all know that revolutions also settle down and every country has ultimately to find its own pattern.

And this is what we are trying to do in our country. But we are doing it peacefully and democratically. We listen also to the views of hon. Members of the CPM.

16 hrs.

I like Shri Piloo Mody because he helps to enliven the proceedings in the House. But there are some subjects which have to be dealt with seriously.

SHRI PILOO MODY : I am glad to see that you are following my example.

SHRIMATI INDIRA GANDHI : He has spoken lightly of the Directive Principles and Fundamental Rights and so on. Of course, the Swatantra Party's pet target has always been our public sector. I would only like to ask Shri Mody and his friends in and outside the House, as to who has mismanaged the textile mills, whether they be in Ahmedabad or in some other parts of the country. What is happening or has happened to the sugar mills in the UP and, for that matter, to the Ganesh Flour Mills, whose workers are squatting and starving outside my house. Instead of preaching to us, if Shri Mody would only take some time out to go and meet the people concerned, the bright lights of the private sector,

and try to put things right, there I think...
(Interruption)

SHRI PILOO MODY : Let me clarify. You have misquoted me.

SHRIMATI INDIRA GANDHI : I have not quoted you at all.

SHRI PILOO MODY : I have said things about the public sector in other debates and I am sorry to say.....(Interruption) that even yesterday Shri Mohan Kumaramangalam had me saying something which I did not say. I said, take the example of the public sector, which is supposed to be a cure for the concentration of wealth in private hands. The Directive Principles say that these should help the common good. I said, because it does not make profit, because it does not have the common good, would you thereafter say that it is following the directives that have been given to the Government in the Directive Principles of the Constitution ?

SHRIMATI INDIRA GANDHI : Firstly, of course, this follows from what I was saying. It is not contradictory to what I have said. It is true that there are some public sector units which are not functioning well for some there are good reasons for this and for some there are no reasons. I do not want to hide anything which is wrong because there is plenty that is right. But you want to highlight the wrong and hide what is right or ignore it. I just want.....(Interruption)

SHRI PILOO MODY : Just like the Ganesh Flour Mills.

SHRIMATI INDIRA GANDHI : Anyway, it was also alleged by him and Shri Anthony and, I think, one or two other members that we have done nothing in all these 24 years to give effect to the Directive Principles. To belittle the progress that this country has made, whether

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it is in education or in the expansion of opportunities for the people—and I would say, in this I include even those people for whom not enough has been done, such as our brethren of the Scheduled Castes and Scheduled Tribes and women and others—and also the panchayati movement, would be a libel on the whole nation.

The Directive Principles particularly ask us to avoid the concentration of wealth and the means of production and also to ensure the right to work and adequate means of livelihood. But did anyone, even those who drew up the Directive Principles, think that this could be done in such a short time? Did anyone in any other country imagine that this could be done in a few years? And to keep on harping on this or to keep on asking because we say that poverty must be removed, why it is not immediately removed! It is not a bottle that you can pick up and throw away or a label that you can snatch off. Here are deep-rooted old problems in the country, which only the most energetic hard work and determined pursuance of ideals, can solve. This Bill is a part of that. It is not removing poverty; it is not removing the whole of inequality; it is not removing all the injustice that exists. It is a very, very small step that helps a little. But that does not mean that it is not necessary. It is. Because it is all these little steps that take us in the right direction. Of course, Mr. Piloo Mody will quarrel with me about the direction. But that is not my fault. To go in this direction, to solve these problems, to give these necessary amenities, necessary dignity to our people, is the objective of all our plans of development, and it is because we have come across certain impediments into them that we have been compelled to introduce these amendments.

It is ridiculous to talk about arbitrary use of power. When we realised that

because of some judicial pronouncements, it was becoming impossible to implement effectively some of the Directive Principles, we put the whole thing before our people and their response is obvious to all. I do not think I need speak about this in detail.

I come now to Mr. Frank Anthony's speech. His words would have been very eloquent, had they not been so suffused and permeated, if you will permit me to say, with bitterness and even malice. He made wild accusations, and untenable statements. This was the first time that I have heard the term "honest work" used to describe manipulations of share and property value. He spoke also of blood and sweat. Certainly, blood has been shed, and sweat has flowed. But was it Mr. Anthony's intention to imply that it was the property-owners who have shed the blood and sweat? This is the impression I got when I was sitting here and listening to his speech. Certainly, if anybody's blood has been shed and sweat has flowed, but they are the blood and sweat of those on whose labour these property-owners have prospered.

Mr. Anthony claimed the monopoly of interpreting the Constitution on the plea that he was there. Fortunately, he was not the only one there when the Constitution was framed...

SHRI FRANK ANTHONY (Nominated-Anglo-Indians): You are a lady. I will not correct your incorrect statement. You are misquoting me.

SHRIMATI INDIRA GANDHI: Mr. Anthony, I claim no privilege of being a lady. I do not consider myself a lady. I am a woman. I think, the days of "ladies and gentlemen" have long since passed in this world. We are here not because we are women or men but because we are a part of the human race, because

we are involved in what is happening to the rest of the human race. We are determined to fight for their rights and their privileges.

Mr. Anthony also spoke about literacy. All of us here, and specially my colleagues, are greatly concerned about this matter. Literacy has not progressed as well as it should have been. But may I with due respect to the many educationists who are sitting here, say that literacy is important but not that important. I do believe that in our country, in these 24 years, an understanding of many things has grown amongst our people. I may also say, with due respect to the people in other countries that in no way is this understanding inferior to that of the literate people of the advanced countries. I think, for us who sit in Parliament because of the support of the people to refer sheeringly, to those who are illiterate is hardly becoming. They are the people who have supported for this country. It is their blood and sweat that has helped this country to survive, whether in war or in peace.

Both Mr. Anthony—I do not remember whether my friend, Mr. Piloo Mody said this or not, if he had not.....

SHRI P. VENKATASUBBALAH (Nandyal) : He must have said it.

SHRI PILOO MODY : If I have not already said it, I will say it in future.

SHRIMATI INDIRA GANDHI : Let him say it later.

Much has been said about our keeping an eye on votes. I should like to know from you here and in confidence if you like, do you know of any political party in India or in the United Kingdom or in the United States or elsewhere in the world, which is not concerned with votes? Do you know of any political individual who is not concerned with votes? All this

sounds very well. But what does it mean when you get down to it? When you try to find out what he is trying to say, it has no meaning.

SHRI PILOO MODY : Not to the detriment of the nation.

SHRIMATI INDIRA GANDHI : I would like to add that I doubt if there is any other Party which has stood so firmly for measures which have been unpopular amongst the people. It is not that we have stood only for measures which are popular. We have stood for them and we have persuaded the people that ultimately it was the right thing, even though there were so many people trying to delude them into the belief that our moves were against religion or some interest or the other. We do not abandon measures because they happen to be unpopular.

In an election meeting a long time ago, I was told 'Please don't mention such and such matter because people here are very angry, and if you talk about it, we will lose the election'. My reply was that since, 'This was what the Opposition parties were saying if I did not reply to them, there would be no point in my talking.' So, they said, 'You need not speak. You can just sit on the platform.' So, I said, 'All right.' After two people had spoken, an old man got up and remarked 'I have walked five miles to come here to hear my sister. When is she going to speak?' I thought this was an opportunity and I got up and said, 'I want to speak, but people think that what I am going to say will annoy you. So, they do not want me to speak. It is upto you. Shall I speak?' 'Naturally', he said. Then I explained our proposal. He said, The question has never been explained to us before. The Opposition Parties are saying the opposite. So, it is not that we shun moves which are unpopular and which may lose us votes. Many things have lost us votes but we have not left those programmes for

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that reason.....(Interruptions) I do not want to belittle the importance of the vote, because we all know that it is the symbol of the wishes of the people.

AN HON. MEMBER : Mr. Anthony is a nominated Member.

SHRIMATI INDIRA GANDHI : Parliament is a repository of the hopes and wishes of the people. It is the fountainhead of change and of justice. If Parliament is rendered unable to bring about change or to ensure social justice, then change will bypass Parliament. I have full respect for the Judiciary but I must say that it is Parliament which is the expression and guardian of the democratic will.

Earlier also, amendments to the Constitution became necessary because the courts have made it difficult for Parliament to implement programmes of social justice. The present set of amendments have also become necessary for the same reason.

Earlier I spoke about other people who were there at the time of the making of the Constitution and at that time this is what my father said about compensation—in the Constituent Assembly while the Constitution was still being drafted. I quote :

“Eminent lawyers have told us that on a proper construction of this clause, normally speaking, the judiciary should not and does not come in. Parliament fixes either the compensation itself or the Principles governing that compensation and they should not be challenged except for one reason, where it is thought that there has been a gross abuse of the law, where in fact there has been a fraud on the Constitution. Naturally, the judiciary comes in to see if there has been a fraud on the Constitution or not. But normally

speaking, one presumes that any Parliament representing the entire community of the nation will certainly not commit a fraud on its own Constitution and will be very much concerned with doing justice to the individual as well as the community.”

SHRI PILOO MODY : We ask no more.

SHRIMATI INDIRA GANDHI : All citizens are equal before the law. But can we honestly say that our law, as it has developed and as it has been interpreted, is giving that equality in actual practice ?

SHRI FRANK ANTHONY : So, she is doing away with all the Fundamental Rights ?

SHRIMATI INDIRA GANDHI : Many judgments have favoured the propertied classes, equating compensation with market value.

Shri Sumar Guha was very eloquent on what the hon. Law Minister said about the judiciary. I am sure the Law Minister did not in any way mean to say anything against the judiciary. He has, I think, full respect for the judiciary, and I may say, he has fuller respect for the judiciary

SHRI SAMAR GUHA: He said 'political decision on political issues.'

SHRIMATI INDIRA GANDHI : There is no decision in the world which is not political. If the Hon'ble Member is saying that any speech which he has made here is not political, I am very sorry that I do not believe it

SHRI SAMAR GUHA : I did not say it. The Law Minister said 'political decision on political issues'.

SHRIMATI INDIRA GANDHI : I would say that the remarks which Hon'ble Member is making on this point are equally political. They are equally with an eye on some section or another which he may think will want that point of view to be put forward.

I must point out that he made a very uncharitable statement about which I would like to protest very strongly. Mr. Speaker. If I have heard him correctly, he said something about Members of my party working for outside interests. Obviously he is judging people by his own standards, this does not happen in my party.

SHRI PILOO MODY : She cannot make that accusation against Shri Samar Guha.

SHRI SAMAR GUHA : The overnight socialists need not judge our character which is not only clean but long enough to justify our socialist professions and our dedication to socialism.

SHRIMATI INDIRA GANDHI : Now, much has been said about market value.

AN HON. MEMBER : She should not make any uncharitable remark about him.

SHRIMATI INDIRA GANDHI : I would not have said this if he had not made any uncharitable remark about our party. There is a French proverb which says—I shall not say it in French, translated into English it says—that 'This animal is wicked, because he defends himself when he is beaten'.

Sir, much has been said about market value. Now, what is market value? And how does it appreciate? The price of property goes up because of the investments made by society, because we build the land, we build the roads and we build

industry. It is unacceptable to us that a few should skim the cream of social investments, defrauding society as a whole.

I must say, I have, not much respect for market value or the values of the marketplace for that matter. The whole idea of private profit at the cost of the common man is repugnant to me, to my party, and I think, to the nation. It is astonishing how those who sneer at socialism being a foreign concept or import have had no hesitation whatsoever in embracing capitalism with such great ardour.

I think it was Shri Alladi Krishnaswami Iyer, the great jurist, who said :

"Our ancients never regarded the institution of property as an end in itself. Capitalism as it is practised in the West came in the wake of the Industrial Revolution and is alien to the root ideas of our civilisation."

I would like to reiterate that our amendment does not represent a departure from the basic framework of our Constitution. It is an effort to safeguard the intent of the Constitution. The Constitution-framers did not envisage any unregulated right to private property nor did they want property rights to come in the way of socio-economic progress.

Shri Vajpayee has returned to the House, not returned as a member, but since yesterday or the day before with a new-found enthusiasm for socialism. I think that on deeper thought he was trying to be right. I welcome this.

SHRI PILOO MODY : Why don't you welcome him?

SHRIMATI INDIRA GANDHI : If he accepts our policies *in toto*, if he accepts our methods, our principles, our aims, certainly he is welcome. I have no

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quarrel with Shri Vajpayee. I quarrel with his ideas. I have said that many times before. The only point I want to make is that if he wants to accept socialism, he will also have to reconsider many of his other ideas.

Shri Shyamnandan Babu also spoke of being a socialist. But he says he is a different kind of socialist.

AN HON MEMBER That is very much true.

SHRIMATI INDIRA GANDHI :
But I am afraid that lately he has been obsessed with rather trivial matters and not with basic matters which concern the country and the people.

I think I have dealt with the point made by Shri Krishna Menon. But I would like to repeat it in case there is any misgiving. He expressed concern that we were undermining people's confidence in the judiciary. I would like to emphasise that we do not want to weaken the judiciary. What we are saying is only this : let the judiciary not try to take over the powers of Parliament. I entirely agree with him that an impartial judiciary is indispensable to the rule of law.

Now, the other matter that has been worrying many members here is about minorities. I have no hesitation in saying with all the emphasis at my command that there is absolutely no threat to the minorities. Our Constitution has specific provisions giving the fullest protection to the minorities and to their educational and religious institutions. None of this is being touched or changed. I would like to say this since it is widely being rumoured around Parliament that some people may exploit this and accuse the Government or the Congress, of giving more to the minorities than to the majority. This is not new propaganda. We have heard it before.

We have faced it during elections. I sincerely hope that the public of India will see things in their true light. We are certainly not against the majority. How can we be ? Because, much as we welcome the support of the minorities, it is only the support of the majority that has brought us here—Shri Vajpayee may note. Nobody could have come to this Parliament with the support merely of the minorities. So when he says that we have one eye on the minorities, let me assure him that we can never do this at the cost of the majority community. But I do believe that in every country the majority has a responsibility. The bigger man has a responsibility towards the smaller man. We certainly hope that the day will come, and that too very soon, when we do not need to have these safeguards, when everybody can feel that he can get his just right and so on. But that day has not come yet. Therefore, we have to have safeguards for the minorities. Not only that, we have also special programmes for the Scheduled Castes and Scheduled Tribes. With all that, we have not yet been able to bring them to a place where they can compete fully with the others.

SHRI B. P. MAURYA (Hapur) :
Political reservations must go. That has created vested interests.

SHRIMATI INDIRA GANDHI : We will discuss that later.

I think the greatest protection to the rights of the majority as well as the rights of the minorities is this Parliament and the people as a whole.

May I now turn to the five amendments proposed by the Law Minister, amendments Nos. 11, 12, 13, 36 and 57 ? Regarding amendment No. 11, its objective was clear, to allay the apprehensions of the minorities that the amendment of Art. 31 would affect their rights under Art. 30.

The amendment was intended to make it clear that whatever rights the minorities already possessed under article 30 would not be affected by the amendment of article 31. We feel that it is important to reassure the minorities regarding this matter. But we have now decided not to move amendment No. 11 but to substitute it with another amendment, No. 57, which, we feel, expresses more clearly the intention of Government. The Law Minister will explain this in detail.

So far as amendment Nos. 12, 13 and 36 are concerned, the Government has followed with interest the various expressions of opinion of different Members during the debate. There appears to be a certain apprehension that Government is going back on its previous position. Amendment No. 12 is an attempt to clarify the scope of the jurisdiction of the court, but in view of the expressions of opinion made by different Members that the original draft is more satisfactory, Government have decided not to have amendment No. 12.

So far as amendment Nos. 13 and 36 are concerned, which introduce the need for a special majority for passing laws under article 31C, again there has been some apprehension that this could make it difficult to enact legislation which is directed at implementing the directive principles under article 31B and C. We have given our most anxious consideration to this matter, and have come to the conclusion that there is a certain basis for these apprehensions and that in fact the progress of legislation effectuating the principles referred to in article 31B and C might be retarded. We have, therefore, decided not to move these amendments.

But the crux of the matter is very simple: for whom are our Constitution and our laws meant—are they meant for the few privileged or for the many, poor

and weak? The fundamental rights and the directive principles are intended to benefit the poor and the weak, whether they are in the majority or in the minority. It would be a travesty of the Constitution if the fundamental rights afford protection to the privileged against the true interests of the poor.

I do not think there is any conflict between fundamental rights and the directive principles. They are supplementary and complementary. If you are afraid that our people are going to lose their faith in the fundamental values of the Constitution, I can only allay your fears by asking you to go and talk to the people. If Parliament misuses its power, I am sure that our people will not tolerate that Parliament for long. In any case, as my colleagues have already explained, any colourable use of the legislative power will always be open to judicial scrutiny.

Sir, I quoted something from my father, but the same thing has been said in different words by Abraham Lincoln, with which I would like to end:

“Why should there not be a patient confidence in the ultimate justice of the people? Is there any equal I hope in the world?”

Sir, I commend these amendments to the House.

MR. SPEAKER: The Law Minister.

SHRI M. SATYANARAYAN RAO (Karimnagar): Sir, I was not given any chance. I must be given a chance, two minutes or so at least, before he begins his reply.

MR. SPEAKER: It can be done later on, when we reach the further stages of the Bill.

THE MINISTER OF LAW AND JUSTICE (SHRI H. R. GOKHALE): Sir,

[Shri H. R. Gokhale]

I have heard and followed with careful attention the debate on this momentous Bill, which has gone on in this House from yesterday—the measure which has been proposed before this house for its consideration.

The Prime Minister has given just now in full perspective the theoretical, ideological and practical basis underlying this measure. My two colleagues the Steel Minister and the Education Minister have also dealt with some of the aspects which are relevant and which do arise for consideration in discussing a measure of this type.

But my main difficulty is, as the Prime Minister said, nothing came from the opposition in this debate; words, words and words, not one point and not one new idea. That increase the difficulty of answering a debate of this nature
(Interruptions)

SHRI PILOO MODY : He says that there is nothing to reply and we all agree with him. He can sit down and save the time of the House.

SHRI H. R. GOKHALE : He need not be perturbed by what I am going to say. I have heard with attention the speech of Mr. Frank Anthony and I was hoping that an experienced lawyer, as he is, some concrete point will be brought in for consideration which will point out how this measure is bad from the political or legal point of view. But the only point which Mr. Frank Anthony made was that this amendment was trying to undermine the basic structure, as he called it, of the Constitution.

Now I wonder wherefrom has Mr. Anthony learnt that the basic structure of the Constitution lies in the fact that there are fundamental rights in the Constitution. Perhaps I must say that he gets

his political philosophy from the Golaknath judgement. That judgement is the basis of his philosophy that the fundamental rights form the basic character or the basic structure of the Constitution. It is for the first time expounded in that case by a majority of a single Judge that because the fundamental rights are the basic structure or the foundation of the Constitution you cannot touch them.

Somehow or the other we on this side, who have been accustomed to respond effectively to the wishes and aspirations of the people, learnt our philosophy not from the reported judgements of the Supreme Court but from what we consider as a proper approach for meeting those aspirations and wishes. He mentioned he had a library and I dare say he has, but the library has to be used.

I will point out that the Directive Principles have been the basic foundation of the Constitution since the time the Constitution was discussed in the Constituent Assembly, and may I say even before. If my friend Mr. Frank Anthony had cared to look at the monumental treatise relating to the reports made by Mr. B. N. Rau who was the Adviser to the Constituent Assembly and who on the advice of the President was requested to tour round the world and discuss with eminent personalities the proposed constitution, he will know what were his views. They are not only Dr. B. N. Rau's views. He has also reported the views of two very eminent personalities, may I emphasise, of America because that will satisfy my friend Mr. Piloo Mody. In his report Dr. B. N. Rau says this : "as a result of the discussions we propose to introduce two amendments to the draft constitution; the first of them is designed to secure that when a law made by the State in the discharge of one of the directive principles imposed upon it by the Constitution happens to conflict with one of the fundamental rights guaranteed to the individual,

the former should prevail over the latter. In other words, the general welfare should prevail over the individual rights."

Now come the reference to the two persons who were very great in the legal world and widely respected :

"Justice Frankfurter considered that the power of judicial review implied in the 'due process of law' clause, of which there is a qualified version in section 16 of the Indian Draft Constitution, is not only undemocratic because it gives a few Judges the power of vetoing legislation enacted by the representatives of the nation, but also throws an unfair burden on the judiciary. Justice Hand considered that it would be better to have fundamental rights as moral precepts than as legal provisions in the Constitution."

Therefore, the idea is that the fundamental basis of all the structure that we provide for the governance of the country should be the Directive Principles and not the Fundamental Rights.

SHRI FRANK ANTHONY : Gokhale's thesis.

SHRI H. R. GOKHALE : Not your thesis quite certainly.

That is why even in one of the articles of the Constitution itself it has been provided. It is not as if the word "fundamental" is used only in respect of Fundamental Rights as my friend Shri Anthony would like to have it, but in terms it has been mentioned that the fundamental principles are fundamental in the governance of the country and that the State is bound to make laws so as to conform to these fundamental principles. It is not as if you go only to the Golaknath case to find out or you ask the Supreme Court Judges to tell us what is the fundamental basis or structure of our Constitution. It has been mentioned in the Constitution

itself and accepted as such even from a time before the Constitution was brought on the statute book. But I can understand the difficulty which Mr. Anthony has. My friend Shri Siddhartha Shankar Ray in the course of speech read out a portion of Mr. Anthony's speech. I must admit that Mr. Anthony made an eloquent speech on that day. Eloquence he always has, but that speech has greater substance. He said at that time, dealing with article 31A, that he would like Parliament to impose as many restrictions as possible so as to enable Government to acquire any property it liked and pay whatever compensation Parliament felt was proper or even no compensation.

SHRI FRANK ANTHONY : I am saying that even now. I say take it out.

SHRI H. R. GOKHALE : Don't be apologetic.

SHRI FRANK ANTHONY : I am not being apologetic. I am objecting to your misinterpretation.

SHRI PILOO MODY : Right or wrong, you take it.

SHRI H. R. GOKHALE : There are some people who are socialist in the morning and capitalist in the evening.

At that time, while he was dealing with agrarian reform, probably none of his supporters, whose cause he advocates in Parliament, the vested interests, was at all affected by the amendment of article 31A, but when it comes to talking of article 31 which takes within its range much wider canvas, then, Mr. Anthony employed his well known eloquence to say that we are interfering with basic structure of the Constitution.

SHRI FRANK ANTHONY : This is a deliberate misrepresentation. I said: take out article 31; take out article 19(1)(f),

[Shri Frank Anthony]

but do not efface articles 14 and 19. This is deliberate misrepresentation. You reply fairly and honestly. Do not twist what I said.

SHRI H. R. GOKHALE : If he does not remember what he said I got here a copy of his speech. He said :

"This Bill and particularly provision 31C has changed the basis and the basic character of the Constitution.....these Fundamental Rights were fundamental, they were meant to be fundamental, they were transcendental.....You are changing the whole basic character of our Constitution."

Where does he restrict himself to article 31 ? He has forgotten what he spoke yesterday.

SHRI FRANK ANTHONY : Read the rest of it if you are honest. Don't twist what I have said. (*Interruptions*).

SHRI H.R. GOKHALE : I assumed when you said those words, you were honest and therefore I read those words which you spoke yesterday. Am I honest again in referring to these words of Mr. Anthony which he said in 1955? He is certainly justified in forgetting them because he said those words in 1955. This is what he said then :

" I agree with the Prime Minister completely in this about the pace of achieving an egalitarian society at the risk of revolution and communism. I made it clear that if Article 31 or even if any of the Judicial interpretations by the court stood in the way of achieving a Welfare State, those obstacles should be removed. I stated clearly that Article 31 A should be made as wide as comprehensive, as possible and it should include every element, every aspect, of property which might be taken without compensation, which the Government consider necessary, in order to achieve a Welfare State."

I am not misquoting him. This is part of the record of the House and this is what he said during the discussion on the Constitution (Fourth Amendment) Bill.

Yesterday he asked me more than once in the course of his speech to call a spade a spade. He said, he would not advise me to call it a bloody spade. Even without his advice, I may assure him that none of the language which he employs, is suitable for me. I am not going to do it, because it does not fit in with my way of dealing with the problem. But I recognise everyone knows—he is a very eminent and erudite lawyer and he also knows—the difference between an enabling provision in law, whether it is in the Constitution or anywhere else, and a provision which actually sets down something which affects the rights and liabilities of parties. I am sure this would not be disputed. Mr. Anthony was asking me: Does the new article take away the rights under article 26, under article 25, under article 29 and under article 30? Does any enabling provision take away those rights? I have never heard it being said that an enabling provision takes away a right.

SHRI FRANK ANTHONY : It does not give you the power to take away.

SHRI H. R. GOKHALE : Then why imagine this possibility ? (*Interruptions*).

SHRI FRANK ANTHONY : Will you give a simple, straight, answer?

Does it give you the power to take away ? (*Interruptions*).

SHRI H. R. GOKHALE : There is an amendment which has been moved before the House that this Bill be referred to the Supreme Court. I remember even on the last occasion, when the Constitution Twenty-fourth Amendment Bill was brought before the House, there was a proposal that the Bill should go before the Supreme Court.

Now, in this case, a reference under article 143 has been suggested, if I am not wrong, by Shri P. K. Deo. Has the time come when we should take our advice on matters political and economic, which we consider to be good and in the interests of the country, from the Supreme Court? In fact, as I said in my Introductory Speech, we regard the Supreme Court as the highest tribunal in this country. I am reiterating what the Prime Minister said, that everyone of us has highest respect for the Supreme Court and we want it to be independent in this country. An independent Supreme Court is in fact the bastion of democracy. Because we want the Supreme Court to be independent, so we want the Supreme to remain out of the political and economic controversies. As I mentioned in my earlier speech, in a democracy everyone must try to save the court from itself, the judges from themselves. By dragging the judiciary into a political controversy we make them the target of attack by politicians on all sides.

Again, it may satisfy some of my friends on the other side if I refer to something which has been said with great eloquence and with great competence some years back when the question arose, and it would satisfy my hon. friend, Shri Deo, if I tell him that it came from the United States of America.

SHRI PILOO MODY: Have you no Russian authorities to quote, only to satisfy yourself?

SHRI H. R. GOKHALE: I need no authority, either Russian or American.

SHRI PILOO MODY: So you are genuine swadeshi.

SHRI H. R. GOKHALE: Everything American goes home with Shri Piloo Mody. What can I do?

This is said by President Roosevelt when he sent a message to the American Congress, dealing with the Supreme Court of America, and this was in the context of the New Deal legislation which was, one after another, struck down by the Supreme Court in America. In his fireside chat Roosevelt went to the heart of the Problem

He said :

“When the Congress has sought to stabilise national agriculture, to improve the conditions of labour, to safeguard business against unfair competition, to protect our national resources, and in many other ways, to serve our clearly national needs, the majority of the Court has been assuming the power to pass on the wisdom of these acts of the Congress—and to approve or disapprove the public policy written into these laws. This is not only my accusation. It is the accusation of most distinguished justices of the present Supreme Court. In the face of these dissenting opinions, there is no basis for the claim made by some members of the Court that something in the Constitution has compelled them regretfully to thwart the will of the people. The court in addition to the proper use of its judicial functions has improperly set itself up as a third House of the Congress—a super legislature, as one of the Justice has called it—reading into the Constitution words and implications which are not there and which were never intended to be there. We have, therefore, reached the point as a nation where we must take action to save the Constitution from the Court and the Court from itself. We must find a way to take an appeal from the Supreme Court to the Constitution itself. We want a Supreme Court which will do justice under the Constitution—not over it. In our courts we want a Government of laws and not of men, I want—as all Americans want—an independent judiciary as proposed

[Shri H. R. Gokhale]

by the framers of the Constitution. That means a Supreme Court that will enforce the Constitution as written, that will refuse to amend the Constitution by an arbitrary exercise of judicial power—amendment by judicial say-so."

Therefore, it is not as if somebody has disrespect for the Supreme Court and, therefore, he makes that comment. This is a situation which has arisen in every democracy. It had arisen in America when a popular government, which had subscribed to and adhered to implementation of popular wishes and aspirations of the people tried to do something in its legislative and executive sovereignty. The idea of any third chamber, like the judicial courts interfering in the enforcement of those policies, was resented everywhere.

This advice had been given to the Judges by President Roosevelt, not because he had no respect for the Supreme Court—may I remind the House?—but because he had respect for the Supreme Court and he wanted to point out to the Supreme Court that this method of their coming in through their judicial pronouncements so as to hamper the progress of the nation, would bring them in ridicule and controversy which really did not belong to them.

My hon. friend, Shri piloo Mody, said a lot. You must have seen, Sir, that he is in black dress today; he is in mourning dress.

SHRI PILOO MODY : It was not accidental; it was deliberate. And they have men over here who will laugh at a funeral!

SHRI H. R. GOKHALE : I can understand that because I know, with the passage of this Bill, Shri Piloo Mody knows that his support, the vested interests and the monopolists, is going to be extinguished and finished in this country.

SHRI PILOO MODY : Who supports you but every goonda in town? I am fed up with all these damn cheap jibes.

SHRI N. K. P. SALVE (Betul) : This is very unfair. He attacked us yesterday but we did not say anything.

SHRI BHOGENDRA JHA (Jainagar) : You declare him insane.

SHRI H. R. GOKHALE : I remember, I mentioned in this House, when I was dealing with the debate on the Twenty-fourth Amendment Bill, that I have respect for Shri Piloo Mody but, I think, the best way to give respect to him is to ignore him. I am not going to deal with any of his other arguments.

Many points were made in the course of the debate. I have respect for Shri Mishra. He has suggested that we exclude small properties from the operation of this. This is an attempt to show that they are extra-radical.

SHRI SHYAMNANDAN MISHRA : Did I say that? I have never said that you are trying to show yourself as extra-radical. I am saying that you are not.

SHRI H. R. GOKHALE : I am saying that you are trying to show yourself extra-radical.

SHRI SHYAMNANDAN MISHRA : I do not want a certificate from Shri Gokhale whom I have never recognised as a political being.

SHRI H. R. GOKHALE : In spite of his long and elaborate speech, he did not make it clear whether he was going to support the Bill as it is.

SHRI SHYAMNANDAN MISHRA : Didn't I? If you are so dense to what!

say, I cannot make you understand. I said that in the very beginning.

SHRI H. R. GOKHALE : Shri Mishra said that there were other Directive Principles also. We know that there are other Directive Principles also but only article 39 (b) and (c) are referred to in article 31C. He says, everyone must get a fair wage. No doubt, everyone must. Rather than anybody else, we on this side have fought more for a fair wage for the workers. I am proud to say that.

SHRI SHYAMNANDAN MISHRA : Therefore, their wages are being eroded and you are not doing anything at all.

SHRI H. R. GOKHALE : He also said that we were not giving effect to the other Directive Principles. Even though, as we want, he also wants that a fair wage should be introduced and certain other Directive Principles should be enforced, he would not help us to take a step which will create a situation in this country of creating resources by seizing them from people who are using them for their personal aggrandisement and giving them for the use of the nation. He did not say that these Directive Principles should be enforced and that he supported our Bill which would enable us to do so.

SHRI SHYAMNANDAN MISHRA : I have said that they are not to remain as toothless animals. Why do these things not stick to your mind, I do not know.

SHRI H. R. GOKHALE : I did not interrupt him even once when he was speaking.

SHRI SHYAMNANDAN MISHRA : But you are misinterpreting me.

SHRI H. R. GOKHALE : When it is inconvenient, you say that it is misinter-

preting you. In Parliament you have to take things which are inconvenient also.

He referred to me and my hon. friends and colleagues, Siddhartha and Mohan Kumaramangalam, and described us as forming a conclave or a consortium.

SHRI SHYAMNANDAN MISHRA
Never saw the Law Ministry being run by four Ministers.

SHRI H. R. GOKHALE : He is very fond of conclaves and consortiums. I am sure that he likes that word, because they had a very good experiment of consortiums and conclaves at the last elections. That consortium, in any case, met with the fate that it deserved. At least we on this side belong to a mind which is alive and devoted to certain ideals which have unity of purpose. There, it was a consortium of people who believe in different kinds of things. I just now saw, a few minutes before the Prime Minister spoke, Mr. Vajpayee, Mr. Shyamnandan Mishra and Mr. Frank Anthony, forming another conclave or consortium here. I know that even this consortium or conclave opposed to the Bill will meet the same fate miserably which they met when a consortium was formed in the last elections.

Much have been said about the right to property. As I do and many others do, they repose faith in the Supreme Court and I would quote what the Supreme Court Judge has said. They are very wise words spoken by the Judge of the Supreme Court in the present context, not in the good old days, probably, in the last six months, and he says :

"But the real difficulty arises when the two seem to conflict. Take for example "property". It requires no great prudence to see that if social changes that are indispensable—I emphasize the words "That are indispensable"—do

[Shri H. R. Gokhale]

not come gradually and by consent, they may come convulsively and by compulsion. The owning classes could fall into no greater error than to suppose that if property is to survive, poverty must also be accepted, because if poverty continues too long, the property system itself may cease to exist."

Therefore, in order that property should be an instrument for social justice, it should be an instrument for uprooting of poverty in the country which is an ideal of all of us. He is the same Judge whose name I mentioned yesterday and that is Mr. Hegde. He wrote an article recently dealing with Directive Principles and their relationship with Fundamental Rights. I have faith in Mr. Hegde and, for that matter, in every Supreme Court Judge provided they keep within their own limits.

The idea of property is not for personal aggrandisement because, if property survives, the more it gets entrenched into the hands of a limited few at the cost of many others who form a mass in the country, the result is not the mass will remain behind but, as Mr. Hegde said, the result will be that property will not survive. Poverty cannot survive in a country for long. No society, no democracy, can allow the society to subsist in poverty for any length of time. Therefore, the control on property for social ends is on accepted basis of all progress and that is the basis on which the present Bill has been brought before the House.

Some reference has been made to the amendments which were proposed. The Prime Minister has already referred briefly to some of these amendments. I would only like to clarify that the very first one, namely, amendment No. 11, has been now proposed to be substituted by another amendment

SHRI P. K. DEO : We are not dealing with amendments now. The amendments have not been moved yet.

SHRI H. R. GOKHALE : If you want me to deal with amendments later on, I will deal with them later on.

MR. SPEAKER : Later on.

SHRI H. R. GOKHALE : I will deal with them later on.

With these words, I support the Bill and I recommend to the House that it be taken into consideration.

SHRI FRANK ANTHONY : Sir, I want just one clarification on a crucial matter . . . (Interruptions)

SOME HON. MEMBERS : No, no.

17 hrs.

SHRI FRANK ANTHONY : Mr. Gokhale, may I have your attention please? Does the proposed 31C give the power to take away minority educational institutions ?

SEVERAL HON. MEMBERS : No, no.

SHRI FRANK ANTHONY : Let him answer. Does it give the power, Mr. Gokhale ?

SHRI H. R. GOKHALE : It does not mean that those rights are taken away.

SHRI FRANK ANTHONY : Does it give the power to take away minority educational institutions ? You must give me an answer . . . (Interruptions)

SHRI H. R. GOKHALE : I have answered. If the hon. Member cannot follow it, what can I do ?

SHRI FRANK ANTHONY : Does it give the power to take away minority educational institutions ? He must give me the answer . . . (Interruptions) Does it give the power ?

I am seeking your protection, Sir. He cannot be deliberately dishonest like this. Does it give the power?

MR. SPEAKER: Kindly sit down. Now, when that clause will come, you can seek that clarification.

SHRI FRANK ANTHONY: Because he spoke of it, Mr. Speaker.

MR. SPEAKER: Very well. When that clause comes, you can ask for the clarification.

SHRI H. R. GOKHALE: I can explain, but I cannot make him understand...
(Interruptions)

SHRI FRANK ANTHONY: You cannot get away with this cheap gutter jibe, Mr. Gokhale. No cheap gutter jibe. I want to know from you. Does this give that power? It is crucial. All the minorities are vitally concerned. I am not getting a simple, honest answer...
(Interruptions) I want a simple, honest answer. All the minorities... (Interruptions)

SHRIMATI INDIRA GANDHI: Mr. Anthony gets unnecessarily excited. It does not. So far as the minority institutions are concerned, so far as I have been able to understand, it does not change the present situation.

SHRI FRANK ANTHONY: Madam, I want to be very polite.

SHRIMATI INDIRA GANDHI: It exists to-day. That is the point.

SHRI FRANK ANTHONY: Please, you will be a little more forthright.

SHRI PILOO MODY: Madam, you have been misled deliberately.

SHRI FRANK ANTHONY: I have been pleading with you. Does 31C give

the power, only the power—I do not say they will do so—to take away minority educational institutions?

SHRIMATI INDIRA GANDHI: No such power is being taken here.

SHRI FRANK ANTHONY: Deliberately misled.

MR. SPEAKER: There should be a limit to it. Mr. Anthony, please sit down.

AN HON. MEMBER: Mr. Anthony wants to mislead the minorities.

MR. SPEAKER: Now, I will put the motion of Shri P. K. Deo to the vote of the House.

The question is:

"That the President of India be requested to refer the Bill to the Supreme Court under article 143 of the Constitution." (23)

The motion was negatived.

MR. SPEAKER: Now, I will put the amendment of Shri Atal Behari Vajpayee to the vote of the House.

The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th February, 1972." (24)

The motion was negatived.

MR. SPEAKER: Now, I shall put the main motion for consideration of the Bill. This will be by Division.

Let the Lobbies be cleared...

The Lobbies have been cleared.

The question is:

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

The Lok Sabha divided:

AYES

Division No. 8 |

[17.11 hrs.

Achal Singh, Shri

Bhagat, Shri B. R.

Afzalpurkar, Shri Dharamrao

Bhagat, Shri H. K. L.

Aga, Shri Syed Ahmed

Bhagirath Bhanwar, Shri

Agrawal, Shri Shrikrishna

Bhandare, Shri R. D.

Ahirwar, Shri Nathu Ram

Bhargava, Shri Babsheshwar Nath

Ahmed, Shri F. A.

Bhatia, Shri Durgadas

Alagesan, Shri O. V.

Bhattacharyya, Shri Dinen

Ambesh, Shri

Bhattacharyya, Shri S. P.

Ankineedu, Shri Maganti

Bhattacharyya, Shri Chapalendu

Ansari, Shri Ziaur Rahman

Bheeshmadev, Shri M.

Arvind Netam, Shri

Bhuvarahan, Shri G.

Awdhesh Chandra Singh, Shri

Bisht, Shri Narendra Singh

Azad, Shri Bhagwat Jha

Brahmanandji, Shri Swam

Aziz Imam, Shri

Buta Singh, Shri

Babunath Singh, Shri

Chakleshwar Singh, Shri

Bahuguna, Shri H. N.

Chanda, Shrimati Jyotsna

Bajpai, Shri Vidya Dhar

Chandra Gowda, Shri D. B.

Balakrishniah, Shri T.

Chandra Shekhar Singh, Shri

Benamali Babu, Shri

Chandrakar, Shri Chandulal

Banerjee, Shri S. M.

Chandrappan, Shri C.K.

Banerji, Shrimati Mukul

Chandrashekarappa Veerabasappa,
Shri T. V.

Barman, Shri R. N.

Chandrika Prasad, Shri

Barua, Shri Bedabrata

Chaturvedi, Shri Rohan Lal

Basappa, Shri K.

Chaudhari, Shri Amarsingh

Basumatari, Shri D.

Chaudhary, Shri Nitiraj Singh

Besra, Shri S.C.

Chavan, Shri D. R.

Chavan, Shri Yeshwantrao

Chavda, Shri K. S.

Chawla, Shri Amar Nath

Chellachemi, Shri A. M.

Chhotey Lal, Shri

Chhutten Lal, Shri

Chhudhary, Shri B. E.

Choudhury, Shri Moinul Haque

Daga, Shri M. C.

Dalbir Singh, Shri

Dalip Singh, Shri

Damani, Shri S. R.

Dandavate, Prof. Madhu

Darbara Singh, Shri

Das, Shri Anadi Charan

Das, Shri Dharnidhar

Dasappa, Shri Tulsidas

Daschowdhury, Shri B. K.

Deb, Shri Dasaratha

Deo, Shri S. N. Singh

Desai, Shri Morarji

Deshmukh, Shri K. G.

Dhamankar, Shri

Dhandapani, Shri C. T.

Dharamraj Singh, Shri

Dheria, Shri Mohan

Dhuria, Shri Apant Prasad

Dinesh Singh, Shri

Dixit, Shri G. C.

Dixit, Shri Jagdish Chandra

Doda, Shri Hiralal

Dube, Shri J.P.

Dumada, Shri L. K.

Dwivedi, Shri Nageshwar

Gandhi, Shrimati Indira

Gangadeb, Shri P.

Garcha, Shri Devinder Singh

Gautam, Shri C. D.

Gavit, Shri T. H.

George, Shri A. C.

Ghosh, Shri P. K.

Gill, Shri Mohinder Singh

Godara, Shri Mani Ram

Gogoi, Shri Tarun

Gohain, Shri C. C.

Gokhale, Shri H. R.

Gopal, Shri K.

Gopalan, Shri A. K.

Goswami, Shri Dinesh Chander

Gotkhinde, Shri Annasaheb

Govind Das, Dr.

Gowda, Shri Pampan

Guha, Shri Samar

Gupta, Shri Indrajit

Halidar, Shri Madhuryya

Hansda, Shri Subodh

Hanumanthaiya, Shri K.

Hari Klahore Singh, Shri

Hari Singh, Shri

Hashim, Shri M. M.

Hazra, Shri Manoranjan

Ishaque, Shri A. K. M.

Jadeja, Shri D. P.

Jagjivan Ram, Shri

Jamilurrahman Shri Md.

Janardhanan, Shri C.

Jeyalakshmi, Shrimati V.

Jha, Shri Bhogendra

Jha, Shri Chiranjib

Jitendra Prasad, Shri

Joishi, Shri Popatlal M.

Joishi, Shrimati Subhadra

Kadam, Shri J. G.

Kadannappalli, Shri Ramachandran

Kader Shri S. A.

Kahandole, Shri Z. M.

Kailas, Dr.

Kakodkar, Shri Purushottam

Kale, Shri

Kalyanasundaram, Shri M.

Kamakshatah, Shri D.

Kamala Kumari, Kumari

Kamaja Prasad, Shri

Kamble, Shri T. D.

Kapur, Shri Set Pal

Karan Singh, Dr.

Kasture, Shri A. S.

Kathamuthu, Shri M.

Kaul, Shrimati Sheila

Kavde, Shri B. R.

Kedar Nath Singh, Shri

Khadiikar, Shri R. K.

Kinder Lal, Shri

Kisku, Shri A. K.

Kotoki Shri Liladhar

Kotrashetti, Shri A. K.

Krishnan, Shri G. Y.

Kulkarni, Shri Raja

Kumaramangalam, Shri S. Mohan

Kureel, Shri B. N.

Kushok Bakula, hri

Lakkappa, Shri K.

Lakshmikanthamma, Shrimati T.

Laskar, Shri Nihar

Mahajan, Shri Vikram

Mahajan, Shri Y. S.

Maharaj Singh, Shri

Mahata, Shri Debendra Nath

Mahishi, Dr. Serojini

Majhi, Shri Gajadhar

Majhi, Shri Kumar

Malaviya, Shri K. D.

Mallanna, Shri K.

Mallikarjun, Shri

Mandal, Shri Jagdish Narain

Mandal, Shri Yamuna Prasad

Marandi, Shri Iswar

Maurya, Shri B. P.

Mayavan, Shri V.

Mehta, Dr. Jivraj

Melkote, Dr. G. S.

Menon, Shri V.K. Krishna

Minimata Agamdas, Shrimati

Mirdha, Shri Nathu Ram

Mishra, Shri Bibhuti

Mishra, Shri G. S.

Mishra, Shri Jagannath

Mishra, Shri Shyamnandan

Misra, Shri S. N.

Modi, Shri Shrikishan

Mohammad Ismail, Shri

Mohammad Tahir, Shri

Mohan Swarup, Shri

Mohapatra, Shri Shyam Sunder

Mohsin, Shri F. H.

Mukerjee, Shri H. N.

Mukherjee, Shri Samar

Munsi, Shri Priya Ranjan Das

Murthy, Shri B. S.

Muruganatham, Shri S. A.

Nahata, Shri Amrit

Naik, Shri B. V.

Nanda, Shri G. L.

Negi, Shri Pratap Singh Nimbalkar, Shri

Oraon, Shri Kartik

Oraon, Shri Tuna

Oza, Shri Ohanshyam

Pahadia, Shri Jagannath

Palodkar, Shri Manikrao

Pandey, Shri Damodar

Pandey, Shri Krishna Chandra

Pandey, Shri Narsingh Narain

Pandey, Shri R. S.

Pandey, Shri Sarjoo

Pandey, Shri Sudhakar

Panigrahi, Shri Chintamani

Pant, Shri K. C.

Paokai Haokip Shri

Parashar, Prof. Narain Chand

Parikh, Shri Rasiklal

Parmar, Shri Bhaljibhai

Partap Singh, Shri

Parthasarathy, Shri P.

Paswan, Shri Ram Bhagat

Patel Shri Natwarlal

Patel, Shri Prabhudas

Patil, Shri Anantrao

Patil, Shri E. V. Vikhe

Patil, Shri Krishnarao

Patil, Shri S. B.

Patil, Shri T. A.

- Patnaik, Shri Banamali
 Patnaik, Shri J. B.
 Peje, Shri S.L.
 Pillai, Shri R. Balakrishna
 Prabodh Chandra Shri
 Pradhani, Shri K.
 Qureshi, Shri Mohd. Shafi
 Radhakrishnan, Shri S.
 Raghu Ramaiiah, Shri K.
 Rai, Shrimati Sahodrabai
 Raj Bahadur, Shri
 Rajdeo Singh, Shri
 Raju, Shri P. V. G.
 Ram, Shri Tulmohan
 Ram Dhan, Shri
 Ram Prakash, Shri
 Ram Sewak, Ch.
 Ram Swarup, Shri
 Ramshankar Prasad Singh, Shri
 Rana, Shri M. B.
 Rao, Shrimati B. Radhabai A.
 Rao, Dr. K. L.
 Rao, Shri K. Narayana
 Rao, Shri M. S. Sanjeevi
 Rao, Shri M. Satyanarayan
 Rao, Shri Nagaswara
 Rao, Shri P. Ankincedu Parasada
 Rao, Shri Pattabhi Rama
 Rao, Shri Rajagopala
 Rathia, Shri Umed Singh
 Raut, Shri Bhoia
 Ravi, Shri Vayalar
 Ray, Shri Siddhartha Shankar
 Reddi, Shri P. Antony
 Reddy, Shri K. Kodanda Rami
 Reddy, Shri K. Ramakrishna
 Reddy, Shri M. Ram Gopal
 Reddy, Shri P. Narasimha
 Reddy, Shri Y. Eswara
 Richhariya, Dr. Govind Das
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Roy, Dr. Saradish
 Sadhu Ram, Shri
 Saha, Shri Ajit Kumar
 Saha, Shri Gadadhar
 Saini, Shri Mulki Raj
 Saksena, Prof. S. L.
 Salvo, Shri N. K. P.
 Samanta, Shri S. C.
 Sambhali, Shri Ishaq
 Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri Sakti Kumar
 Satish Chandra, Shri

Satpathy, Shri Devendra	Shetty, Shri K. K.
Satyanarayana, Shri B.	Shinde, Shri Annasahab P.
Savant, Shri Shankarrao	Shiva Chandika, Shri
Savitri Shyam, Shrimati	Shivappa, Shri N.
Sen, Dr. Ranen	Shivanath Singh, Shri
Sethi, Shri Arjun	Shukla, Shri B. R.
Sethi, Shri P. C.	Shukla, Shri Vidya Charan
Sezhiyan, Shri	Siddayya, Shri S. M.
Shafee, Shri A.	Siddheshwar Prasad, Shri
Shafquat Jung, Shri	Singh, Shri D. N.
Shahnawaz Khan, Shri	Singh, Shri V. N. P.
Shambhu Nath, Shri	Sinha, Shri Dharam Bir
Shankar Dayal Singh, Shri	Sinha, Shri Nawal Kishore
Shankar Dev, Shri	Sinha, Shri R. K.
Shankaranand, Shri B.	Sinha, Shri Satyendra Narain
Sharma, Shri A. P.	Sohan Lal, Shri T.
Sharma, Dr. H. P.	Sokhi, Shri Swaran Singh
Sharma, Shri Madhoram	Solanki, Shri Somchand
Sharina, Shri Nawal Kishore	Sonar, Dr. A. G.
Sharma, Shri R. N.	Stephen, Shri C. M.
Sharma, Dr. Shankar Dayal	Subramaniam, Shri C.
Shashi Bhushan, Shri	Subravelu, Shri
Shastri, Shri Biswanarayan	Sudarsanam, Shri M.
Shastri, Shri Raja Ram	Sunder Lal, Shri
*Shastri, Shri Ramavatar	Surendra Pal Singh, Shri
Shastri, Shri Sheopujan	Suryanarayana, Shri K. J.
Shenoy, Shri P. R.	Swaminathan, Shri R. V.
Sher Singh, Prof.	Swamy, Shri Sidhameshwar

*He voted by mistake from a wrong seat, and later informed the Speaker accordingly.

Swaran Singh, Shri

Swell, Shri G. G.

Tarodekar, Shri V. B.

Tayyab Hussain Khan, Shri

Thakre, Shri S. B.

Thakur, Shri Krishnarao

Tiwary, Shri D. N.

Tiwary, Shri K. N.

Tombi Singh, Shri N.

Tula Ram, Shri

Tuisiram, Shri V.

Uikey, Shri M. G.

Unnikrishnan, Shri K. P.

Vekaria, Shri

Venkatasubbalah, Shri P.

Venkatswamy, Shri G.

Verma, Shri Balgovind

Verma, Shri Sukhdeo Prasad

Vidyalankar, Shri Amarnath

Vijay Pal Singh, Shri

Vikal, Shri Ram Chandra

Virbhadra Singh, Shri

Yadav, Shri Chandrajit

Yadav, Shri Karan Singh

Yadav, Shri N. P.

Yadav, Shri R. P.

Zulfiqar Ali Khan, Shri

NOES

Agarwal, Shri Virendra

Anthony, Shri Frank

Bade, Shri R. V.

Banera, Shri Hamendra Singh

Brij Raj Singh-Kotah, Shri

Chaudhary, Shri Ishwar

Chowhan, Shri Bharat Singh

Deo, Shri P. K.

Deo, Shri R. R. Singh

Godfrey, Shrimati M.

Joshi, Shri Jagannathrao

Kachwai, Shri Hukam Chand

Krishna Kumari Jodhpur, Rajmata

Lalji Bhai, Shri

Malik, Shri Mukhtiar Singh

Mody, Shri Piloo

Narendra Singh, Shri

Nayak, Shri Baksi

*Pandey, Shri Tarkeshwar

Pandeya, Dr. Laxminarain

Patel, Shri H. M.

Pradhan, Shri Dhan Shah

Ramkanwar, Shri

*Rao, Shri Jagannath

Shakya, Shri Maha Deepak Singh

Sharma, Shri R. R.

Yadav, Shri G. P.

Vajpayee, Shri Atal Bihari

Verma, Shri Phool Chand

*Wrongly voted for Noes.

MR. SPEAKER: The result** of the Division is:

Ayes 363; Noes 29.

The motion is carried by a majority to the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

The motion was adopted.

MR. SPEAKER: We shall now take up clause-by-clause consideration.

Clause 2—(Amendment of article 31)

MR. SPEAKER: Members might send slips to the Table indicating the amendments they wish to move.

SHRI H. R. GOKHALE: I beg to move:

Page 1, line 16—for 'such amount is to be given otherwise than in cash.':' substitute—

'such amount is to be given otherwise than in cash:

Provided that in making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1) of article 30, the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.;" (57)

SHRI SHANKERRAO SAVANT (Kolaba): I beg to move:

Page 1, line 15,—

After "that" insert—

"the principles in accordance with which such amount is determined are not reasonable or equitable or that" (1)

SHRI M. KALYANASUNDARAM: I beg to move:

Page 1, line 19,—

after "(f)" insert "and (g)" (14)

SHRI SHYAMNANDAN MISHRA: I beg to move:

Page 1,

after line 16, insert—

"Provided that where any law makes any provision for the compulsory acquisition of any property within the ceiling fixed by the State or of an educational institution, such acquisition shall not be lawful unless the amount fixed by or determined under such law for the acquisition of such property is not less than the market value thereof, and is payable in case within one year." (26)

SHRI HUKAM CHAND KACHWAI (Morena): I beg to move:

Page 1,—

after line 16, insert—

"Provided that where any law makes any provision for the compulsory acquisition of any property belonging to persons of Scheduled Castes and Scheduled Tribes or of other weaker sections of the society, such acquisition shall not be lawful unless the amount fixed by or determined under such law for the acquisition of such property is not less than the market value thereof;" (33)

**The following Members also recorded their votes for AYES:

Sarvashri Panna Lal Barupal, Robin Kakoti, P. Bayappa Reddy, R.G. Tiwari, M. R. Lakshminarayana, K. Kamaraj, Jharkhande Rai, K. Balathandayutham, Biren Dutta, Jagannath Rao and Tarkeshwar Pandey.

SHRI ATAL BIHARI VAJPAYEE : I
beg to move :

Page 1,—

after line 16, insert—

"Provided that where any law makes any provision for the compulsory acquisition of any estate with area less than the agricultural ceiling prescribed under the existing law relating to land tenures in force in that area, such acquisition shall not be lawful unless the amount fixed by or determined under such law for the acquisition of such property is not less than the market value thereof;

Provided also that where any law makes any provision for the compulsory acquisition of any property of market value of less than rupees three lacs, such acquisition shall not be lawful unless the amount fixed by or determined under such law for the acquisition of such property is not less than the market value thereof.

Explanation.—In this section the expression "estate" shall have the same meaning as it has in article 31 of the Constitution." (35)

SHRI RAMAVATAR SHASTRI
(Paina) : I beg to move :

Page 1,—

for lines 13 to 16, substitute—

"manner as may be specified in such law; no such law shall be called in question in any court on any ground whatsoever." (42)

Page 1, line 19,—

for "in sub-clause (f) of clause (1) of article 19" substitute "in part III of the Constitution" (44)

PROF. MADHU DANDAVATE
(Rajapur) : I beg to move :

Page 1, line 11 :

after "amount" insert—

"for rehabilitation purposes in cases of genuine hardships" (49)

SHRI SAMAR GUHA : I beg to
move :

Page 1 :

after line 16, insert—

"Provided that where any law makes any provision for compulsory acquisition of any estate with area less than the agricultural ceiling prescribed under the existing law relating to land tenure in force in that area, and where the owner or owners of the estate has or have no other property more than rupees one lakh and no annual income more than rupees twenty thousand, such acquisition shall not be lawful unless the amount fixed by or determined under such law for acquisition of such property is not less than the market value thereof.

Provided further that where any law makes any provision for compulsory acquisition of any property of market value less than rupees one lakh, and where the owner of the property has no other property more than rupees one lakh or annual income more than rupees twenty thousand, such acquisition shall not be lawful unless the amount fixed or determined under such law for acquisition of such property is not less than the market value thereof.

Explanation.—In this section the expression "estate" shall have the same meaning as it has in article 31 of the Constitution." (51)

MR. SPEAKER : The clause as well as the amendments are now before the House.

SHRI INDRAJIT GUPTA : Amendment No. 57 was circulated to us only this morning. If he wants to say something on it, afterwards I hope you will permit us to make our observations.

MR. SPEAKER : He has already moved it.

SHRI INDRAJIT GUPTA : I do not know whether he wants to say anything. *(Interruption)*

SHRI FRANK ANTHONY : I would seek your guidance in the matter. No. 19 is an amendment to amendment No. 11 which was Mr. Gokhale's original amendment.

SHRI H. R. GOKHALE : I have not moved it.

MR. SPEAKER : He has not moved it.

SHRI FRANK ANTHONY : Although he has not moved it, still, my amendment

MR. SPEAKER : When he has not moved, to what amendment is your amendment then ?

SHRI FRANK ANTHONY : That is why I am seeking your guidance.

MR. SPEAKER : You can otherwise also speak, but he has not moved that amendment on which you want to speak.

SHRI FRANK ANTHONY : Please give us the right to speak on amendment No. 57, because we have given amendments on his amendment No. 11.

MR. SPEAKER : I will be asking a few Members just for two to three minutes each. I think it will take us up to 7.30 or even 8 p.m. Do you want to explain your amendment, Mr. Gokhale ?

SHRI H. R. GOKHALE : I shall briefly say it. The purpose of this amendment No. 57 is to protect the rights of the minorities which are already conferred on them under article 30(1) of the Constitution. The fundamental rights in article 30(1) refer to the right of the minorities, in respect of their educational institutions. It reads like this :

"All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice."

Now, the fundamental right under this clause is a right given to all minorities, irrespective of their being based on religion or language, to have the right to establish and administer educational institutions of their choice. Since some apprehensions were expressed in the last session and perhaps in this session also, it was thought necessary in consonance with the basic idea underlying the Constitutional provisions and the policy of the Government, that the minorities should be reassured that the proposed Bill will not in anyway abridge or abrogate their existing rights under article 30(1). In short, it only retains, reassured and reiterates the protection which is already given under article 30(1); it neither expands that right nor curtails it. That is to allay the fears of the minorities; the purpose being to assure them that this will not affect their right under article 30(1), whatever that right may be.

SHRI FRANK ANTHONY : Mr. Speaker, Sir, quite frankly, I am unable to understand the reason for this change, amendment to amendment. The original amendment No. 11 was some small gesture to the minorities because it spelt out that market value would be given. Now, we have got this new amendment No. 57.

With great respect, I must say I do not accept Mr. Gokhale's interpretation. Since

[Shri Frank Anthony]
leaving the Bar, he seems to have left a lot of his knowledge of law.

SHRI H. R. GOKHALE : I have added.

SHRI FRANK ANTHONY : May have added, but you seem to have abandoned it or abdicated it. If what Mr. Gokhale says is correct, that article 30(1) is intact, you are mainly reaffirming it, then, may I plead with Mr. Gokhale, please do not impose this moth-eaten, truncated fraud on the minorities? At least the other one gave market value. Now, because of pressure from some ranters in the party, this is done. According to press reports, one of the ranters did not know what he was talking about. He said, "how can you give market value if you take over the Aligarh Muslim University and not give it if you take over the Banaras Hindu University?" These are the kinds of ranters who now count in the ruling party. They do not realise things. In regard to the Aligarh Muslim University, I argued the first case, and I withdrew it because I knew they were going to lose it. And the Supreme Court said—I do not know whether Mr. Gokhale has forgotten all his law already—that the Aligarh Muslim University is not a minority institution; it does not attract article 30(1) because the Muslims were not able to prove that they had established it. So, this ranting went on, on misconceived, ignorant premises. You go back on these little gestures to the minorities; I say look at the legal significance.

The other one is market value. I said: please make it in cash; otherwise it gives it no content or meaning if you give us bonds 50 years hence. You have deliberately taken out market value. Look at this skulduggery. Why are you not honest? I do not understand this behaviour of the ruling party. Hypocrisy and skulduggery have become their second nature. You take it away. I am opposing this because

this is a fraud on the minorities. You are merely pretending solicitude for minority. Mr. Speaker, have you seen this new position, this is skulduggery? There was full market value. Now they say for the acquisition of such property they give an amount so that it will not restrict or abrogate that right.

Mr. Gokhale is not listening to me because he is going to indulge in cheap jibe. Why not use the word restrict? It might have had some meaning. But they have put in the word "abrogate". They juxtapose it. What is it? If the property is worth Rs. 50 lakhs, you have to give me Rs. 50 lakhs even if it is by way of bonds. By bringing in the word "abrogate"—restricted would have had some meaning—you can say: I am taking over your institution compulsorily; for Rs. 50 lakhs, I shall give you Rs. 50,000; I am not abrogating your right. This is a joke and the whole thing is a joke. This is why I am asking my friend to withdraw it and not perpetrate a further fraud on the minorities.

SHRI INDRAJIT GUPTA : As we understand it, amendment No. 57 is certainly an improvement on amendment No. 11. Because here as I had tried to explain in my remarks during the general discussion, we are not concerned with compensation for educational institution as such but for the property of an educational institution. That is how it has been stated both in 11 and 57. I had expressed some apprehensions solely on this score. I want that the rights of the minorities under 30 and 26 should be defended to be hit... (Interruptions) The right under article 30 is not the right to hold unlimited properties but the right of the minorities to establish and administer educational institutions.

I want some clarification from the hon. Minister. There may be there may not be—educational institutions which have come

into possession of large properties, whether by ways of lands or production units or factories which are all in the name of that educational institution but may have nothing whatsoever to do with the educational purpose of that institution. Of course it may be argued by those who run that institution that the income derived from those properties is necessary for running the institution. Under the cover of this plea any amount of property can be acquired even after this amendment is passed can be transferred to the name of an educational institution, whether it be a trust or something else.

This to my mind is a very real danger which is not provided for at all; there is no safeguard against it. There is no safeguard against the misuse of this article. The hon. Minister knows that are such institutions even today belonging to people who are members of certain minority communities. They happen to be members of certain minority communities but I think they are themselves representing certain vested interests. They own properties running into lakhs and crores of rupees, lands and all sorts of things.

The other day when the Coaking Coal Mines Takeover Bill was brought in here, somebody came to see me on behalf of two coaking coal mines which were run by some company in Bihar in Jharia or Dhanbad. I have got those papers with me. They explained to me that there was some educational or charitable trust which was run on the proceeds of those two coaking coal mines and therefore they said that those should be exempted and should not be taken over.

So, coaking coal mines can also become a part of an educational institution if proper adjustments are made. And I have said yesterday that when you speak of a linguistic minority, there are rich and powerful people who are owning crores

worth of property in States other than their own, the State of their origin. I have given the example of Birla, there are many like him, who operates mainly from Calcutta. He certainly can claim that he is a member of a linguistic minority so long as he is in West Bengal, and all his properties not only in West Bengal but even properties which may be in Rajasthan or anywhere else, can be transferred, after this amendment is passed, to the name of some educational trust in Calcutta. And when you take them over, you will have to pay them compensation. Of course, formerly it was said that they would pay the market value, which is astonishing. Now some sense has dawned on them and that has been removed. The amendment reads :

“Such amount is to be given otherwise than in cash :

provided that in making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1) of article 30...”

But that right is only the right to administer educational institutions. It is not the right, in the name of educational institutions, to own unlimited property which may have no direct nexus with educational purposes. If you had restricted this to the actual educational institutions, the buildings of the schools or colleges with their playgrounds etc. which are necessary for that educational institution, I would have no objection whatsoever. I might even agree to the payment of market value, but when you bring in this omnibus clause that any property (*interruptions*)

I do not know he is suffering from some sort of guilty conscience. I do not know whether his educational institutions own such vast properties.

SHRI FRANK ANTHONY : Nothing at all.

SHRI INDRAJIT GUPTA : I have not got him in mind, because I do not know anything about his institutions, but there are such institutions and in future such institutions will be able to transfer further properties in their name. That is the apprehension we have got. If you insist on keeping it as it is, I am afraid we will not be able to support this particular amendment. But I would like to know from the Minister what he thinks of these apprehensions which we think are very legitimate.

SARI SAMAR MUKHERJEE (Howrah): I fully share the views expressed by Shri Indrajit Gupta regarding these amendments, because in the name of educational institutions a regular business is going on in many parts of the country and huge amounts have been amassed and these institutions have become the centres of reaction and corruption. I have cited the example of the Catholic Church in Kerala in my speech yesterday. But the amendment provides that these institutions can use them as a source of income and business and amass huge properties. In any case, if you take over their properties, you have to pay them full compensation. That cannot be supported. That is why I also ask the Mover to withdraw the amendment.

PROF. MADHU DANDAVATE (Rajapur): I have given an amendment which completely accepts the spirit of the Bill, and I request Shri Gokhale that the Bill should be strengthened further in the light of the objects mentioned in the Statement of Objects and Reasons. Therefore in order to tighten the word "amount" which has been put in place of "compensation", I suggest that it should be "amount for rehabilitation purposes in cases of genuine hardship".

My only contention is that having said that in place of "compensation" the word

"amount" will be there, it is very likely that even the word 'amount' may be misused. Therefore, to tighten it up further, I have said, "amount for rehabilitation purposes in case of genuine hardships", so that the amount is not going to be given to those affluent sections who may utilise that amount further to perpetuate the misery of the masses. In order to ward off this danger, I have suggested this small amendment, which completely fits into the radical concept of the amendment Bill already moved by Government and I hope it will be accepted.

SHRI JAGANNATH RAO JOSHI (Shajapur): Are we discussing only the Government amendment or all the amendments?

MR. SPEAKER : The whole of clause 2 with all the amendments moved are under discussion. We have never discussed the amendments separately at any time. They are always discussed along with the clause.

श्री जगन्नाथ राव जोशी : अध्यक्ष महोदय, मैंने भी एक संशोधन दिया है, जिस के अन्दर यह मांग की है कि मर्यादा के अन्तर्गत जो भी सम्पत्ति हो, चल-सम्पत्ति, उसका पूरा मुआवजा मिलना चाहिये, किन्तु इस बात को मंत्री महोदय ने स्वीकार नहीं किया, यह कह कर कि यह गरीबों की भलाई के लिये है। किन्तु यह जो संशोधन अपने संविधान के लिये आया, वह जिस समय इस सदन के अन्दर पेश हुआ, उस समय और उसमें कोई संशोधन नहीं आया था, किन्तु जब प्रत्यक्ष में उस पर चर्चा शुरू हुई, उस समय जो संशोधन सामने था, उसमें भी फिर संशोधन आया। इससे यह पता चलता है कि किसकी बलवत्ता में हम कोई काम कर रहे हैं।

क्योंकि After all, this is going to be an enabling provision. आप क्या करेंगे, करने के लिये यह अधिकार है? तो सबाल यह आता है कि करने का अधिकार हम आप को दे रहे हैं, जिन का 24 सालों का सारा चिट्ठा हमारे सामने है।

श्री प्रधान मंत्री ने कहा था—

We have returned from Ghaziabad with a new found enthusiasm for socialism. हम तो भारतीय संस्कृति के आधार पर लड़े हैं और भारतीय संस्कृति सोशलिज्म को अपूर्ण दर्शन मानती है, क्योंकि मानव का मतलब केवल शरीर नहीं होता, उस में शरीर, मन, बुद्धि, आत्मा, चारों आते हैं। इसलिये समाजवाद के अन्तर्गत हम सामाजिक न्याय को समझते हैं और 24 सालों के अन्दर आप लोगों ने कितना सामाजिक न्याय इस देश में प्रस्थापित किया है यह देखना जरूरी है। आज के जो नई कांग्रेस के माननीय अध्यक्ष हैं श्री संजीवया जी ने जब पुराने जमाने में अध्यक्ष थे, उन्होंने कहा था The pauper inside the Congress has turned into a multi-millionaire. मैं समझ सकता हूँ कि सम्पत्ति जरूर बटे, यह बटने के लिये होती है, किन्तु मेरे सामने जो उदाहरण हैं उसमें सम्पत्ति एकबार की गई है। सम्पत्ति बांटी नहीं गई है। यह मैं नहीं कह रहा हूँ आपके कांग्रेस अध्यक्ष कह रहे हैं यह सम्पत्ति कैसे अजित की गई, यह सम्पत्ति आपके पास कैसे आई, यह क्या गरीबी को हटाने की बात है।

बहुत बार यहाँ कहा जाता है कि We have received a massive mandate. 1952 से लेकर 1971 तक कभी भी आप को बतलान में 50 प्रतिशत वोट नहीं मिले।

यह जो मैसिव मॅन्डेट की बात आप करते हैं There also you represent only 43.8 per cent. इसलिये मैं उसमें जाना नहीं चाहता हूँ, लेकिन देखना जरूर चाहता हूँ कि गरीबों की आपने कितनी भलाई की है। यहाँ पर पब्लिक सेक्टर और प्राइवेट सेक्टर की बात प्रधान मंत्री जी ने कही, मुझे उसको सुन कर दुख हुआ। प्राइवेट सेक्टर ठीक नहीं चलता, यह आप कब बतायेंगे जब पब्लिक सेक्टर को अच्छी तरह से चला कर दिखायेंगे, उसका लाभ जनता को होगा, जनता का जीवन स्तर ऊँचा होगा लेकिन 24 सालों के अन्दर ऐसा नहीं हुआ। जब प्रापर्टी अजित की जाती है तो उस समय नीयत पर शक करना पड़ता है। यही बात श्री फ्रैंक एन्टनी बार-बार कहते थे remove property from the Fundamental Rights Chapter उनका कहना यही है कि सम्पत्ति को मूल-भूत अधिकार से निकाल दीजिये, क्योंकि एक बार सम्पत्ति के नाम पर मूलभूत अधिकार को हाथ लगाने की प्रवृत्ति पैदा हो गई, तो फिर विचार-स्वातन्त्र्य, सगठन स्वातन्त्र्य, वाक-स्वातन्त्र्य, ये सब समाप्त हो जायेंगे।

मेरे सामने गृह मंत्री बैठे हैं, ये कहते फिरते हैं कि हाँ राष्ट्रीय स्वयं सेवक संघ पर पाबन्दी लगाने वाले हैं यानी 46 साल से काम करने वाली संस्था, जिसकी गति-विधियाँ क्या हैं, हमने बार-बार बतलाया है, साम्प्रदायिकता के खिलाफ हम भी हैं, किन्तु साम्प्रदायिकता किसे कहा जाय, इस के लिये आयोग बैठायें, परन्तु इसके लिये तैयार नहीं हैं, क्योंकि एक बार हाथ में अधिकार आया मूलभूत अधिकार को दवाने के लिये, तो फिर कौन-कौन-से मूलभूत अधिकार दवाने जायेंगे। Frank Anthony was

[श्री जगन्नाथ राव जोशी]

quite right when he wanted a categorical reply from the Home Minister whether it gives the right or not. यह राइट यूज होगा या मिसयूज होगा। मैं एक-एक कर के बतलाना चाहता हूँ क्योंकि आप लोगों से इसको स्वीकार किया है।

मैं प्रधान मंत्री जी से कुछ कलारिफिकेशन पूछना चाहता था। प्रधान मंत्री जी कहती हैं Tiller of the soil should be the owner. इस प्रिन्सिपल को आपने स्वीकार किया है, लेकिन पिछली चुनाव में संयुक्त समाजवादी पार्टी ने यह बात उठाई थी कि प्रजात मंत्री जी के पास भी जमीन है। यह बात मुझ को समझ में नहीं आई। If you accept the principle that the tiller of the soil should be the owner, then what right have you to own that property. वह एक बीघा है या दो बीघा है, सवाल यह नहीं है। If we believe in that principle, let us accept it honestly and truthfully. वह किसी किसान को दे देती।

ऐसी स्थिति में मुझे यह कहना है कि अगर आप रीमल आनेस्ट हैं और भलाई करना चाहते हैं तो जरूर कीजिये। हमने सीलिंग का विरोध नहीं किया है। हमने यह नहीं कहा कि सम्पत्ति पर मर्यादा नहीं लगाओ। हमने बार-बार यही कहा है और जब सहकारी केती के नाम पर किसानों की खेती छीने जाने की बात उठी, हम उसके खिलाफ रहे। जागीरदारी एबोलीशन और जमींदारी एबोलीशन का विरोध नहीं किया, लेकिन जब हम को लगा कि कोषापरेटिव फार्मिंग के नाम पर छोटे किसानों की जमीन छीनी जायगी, तो हम बढ़े हो गये। आज आप हमको बतलाते हैं कि आप इसमें किसानों का कल्याण सम-

रने हैं, लेकिन आप कुछ करके क्यों नहीं दिखाते।

आज वित्त मंत्री जी यहां नहीं हैं, वित्त मंत्री जी पिछले साल कुकड़ी प्रोजेक्ट का जो पूना के पास भूमि पूजन करने गए थे। वहाँ के जो इंदगिर्द के लोग थे, वे आए और उन्होंने मांग की कि कुकड़ी प्रोजेक्ट से जो गाँव डूब जायेंगे, जिनकी जमीनों को लिया जाएगा, पहले उनके बसाने की व्यवस्था की जाए। तुंगभद्रा प्रोजेक्ट जो हास्पेट में है, आप वहाँ जाइए। मोहसिन साहब वहाँ बंटे हैं, उनसे पूछिए। जिनकी जमीन डूब गई, उनको अभी तक मुद्रावजा नहीं मिला है। वे छोटे आदमी कहाँ जाय, कहाँ दर-दर भटकें।

एक बार कानून बन जाएगा तो उसके अन्दर बड़े आदमी पकड़े नहीं जाते। टैक्स इवेजन् के लिए बड़े आदमी पकड़े नहीं जाते। बैंक फाड में जो दो आदमी इन्वाल्ड थे, नागरवाला और मल्होत्रा, हमने अपनी आंखों से देखा—नागरवाला को एक दिन में सजा हो गई, लेकिन मल्होत्रा को अभी तक सजा नहीं हुई—यह कौन-सी व्यवस्था है, कौनसा कानून है। एक बार अधिकार आए तो फिर जैसे भर्जी आए वैसे करना। यही प्रवृत्ति आज 24 सालों से चल रही — I am prepared to exchange my property with anyone of you. Let him accept the challenge. भारतीय संस्कृति के समाज की कल्पना का आपको पता नहीं है। समाज को समर्पण और त्याग की जरूरत है।

इसलिए हमने मांग की थी और मैं कहना चाहता हूँ कि आपने मर्यादा को स्वीकार किया, हमने भी मर्यादा को स्वीकार

किया। सम्पत्ति कोई ऐसी चीज नहीं है जिस में परिवर्तन न हो सके। समाज, काल और परिस्थिति के अनुसार सम्पत्ति की कल्पना बदलती है। किसी जमाने में स्वयं स्त्री सम्पत्ति सम्भन्धी जाती थी। उपनिषद में कहा गया है कि—

ईशावास्यं इदं सर्वं याकित्यं
जगतयं जगत।

समग्र परमेश्वर का होने की वजह से केवल अपने जीने के लिए, देह को यन्त्र समझ कर साधन के रूप में जितना लेना है, नैवेद्य के रूप में लेना है, लेकिन जो उतना न लेकर समाज को न देते हुए खुद खाता है, उसको गीता में "बोर" कहा है। आप अब बतलाइये आप कौनसी नई बात कह रहे हैं।

Money has a tendency to accumulate. You speak of the exploiters. Those who entertain the people and collect money. ऐसे सिनेमा के एक्टर्स हैं। एक्टर्स हैं, एक्ट्रेसेज हैं। They never exploit; they entertain and they get lakhs of rupees. उनका पैसा समाज के लिए कैसे आयेगा? They bring not only pups from England but even dog biscuits wasting our foreign exchange.

आखिर यह जो संस्कार होते हैं वह कहां हैं? संजीवैया जी ने बताया था पापर टर्म्स इन्स्ट्रु ए मस्टीमिलियेयर। अपने देश में मस्टी-मिलियेयर्स ने कुयें बनवाए थे, धर्म-शास्त्रों में बनवाई थीं, शास्त्रों में बनवाए थे और धर्म-शास्त्रों में बनवाए थे, वह कहां हैं? एक ने भी धर्म जो प्रापर्टी प्रजित की उसने नदी पर बाट बनवाए, धर्मशास्त्रों में बनवाई? किसी ने रोका नहीं, आप गांव-गांव में जाकर कर

सकते थे लेकिन नहीं किया। इसलिए मैं कहना चाहता हूँ कि छोटा आदमी इसके अन्दर रगड़ा न जाए। इसलिए आज भी हम मांग करते हैं कि जो भी मर्यादा लगाए उसके अन्तर्गत कोई छोटी जमीन हो या गाँव में कोई छोटा मकान या बेत हो या दुकान हो उसको पूरा मुआवजा दिए बिना छीना नहीं जाना चाहिए। बड़ी सम्पत्ति पर पूरा मुआवजा देने की आवश्यकता नहीं है। इस बात को हमने स्वीकार किया है। सम्पत्ति पर मर्यादा लगाने का सिद्धान्त हमने स्वीकार किया है लेकिन यदि एक बार समग्र मूलभूत अधिकार को दवाने की प्रवृत्ति पैदा हो जाएगी तो वह केवल सम्पत्ति तक ही सीमित नहीं रहेगी।

अध्यक्ष महोदय, आज नये-नये प्रवक्तता तो यहाँ बँटे हैं लेकिन हमारे पुराने कांग्रेसी कोई नजर नहीं आते। अब कभी जगजीवन राम जी नहीं बोलते, यशवन्तराव चव्हाण नहीं बोलते, आजकल तो हर बात के लिए बोलने लगे हैं श्री मोहन कुमारमंगलम लेकिन ये कांग्रेसी कब से बन गए?... (व्यवधान)... इसीलिए हमें शक पैदा हो जाता है। जबसे ये प्रवक्ता आए हैं तब से ऐसी बातें हो रही हैं। This was not the first time the Supreme Court had declared anything *ultra vires*.

अल्ट्रावायर्स बहुत बार हुआ है लेकिन अल्ट्रावायर्स डिक्लेयर होने के बाद भी उनकी खामियों पर भी अमेडेन्ट लाए जाते थे। Nobody used to denigrate the courts. आखिर डेमोक्रेसी पर हमारा भरोसा है। We cannot denigrate the courts. जैसे हमारे में कोई कमी होती है तो हम ठीक करते हैं वैसे ही उनको भी यदि लगे

[श्री जयन्नाथ राव जोशी]

कि कुछ कमी है तो उसको ठीक करना चाहिए। लेकिन पिछली बार श्री मोहन कुमारमंगलम ने जो कहा उसको हमने सुना ही बड़ा दुख हुआ।

He said, "Look at the composition of these Judges; do they come from the working class?" Is there any gentleman here who comes from the working class? Does the Prime Minister or anybody else? Why do you denigrate them for nothing. I do not understand. You may not agree with the decision of the Court but what right have you to denigrate the Court? I may not agree with Shri Anthony. But I am very sorry to say, cheap jibe is not good.

इसलिए अध्यक्ष महोदय, हम केवल यही चाहते हैं कि किसी छोटे आदमी की कोई छोटी सम्पत्ति हो, कोई छोटा मकान हो, दुकान हो या खेत हो तो उसको बिना पूरा मुआवजा दिए न लिया जाए और यदि इस बात को सरकार स्वीकार करले तो हम भी इसका समर्थन करने के लिए तैयार हैं।

SHRI SHYAMNANDAN MISHRA :

Sir, my difficulty is that although I make my points perfectly clear, they do not seep into the consciousness of the Government Benches. I had earlier thought that the Prime Minister had a deeper understanding of me and that when I went deeper in any matter she would understand it. But probably what I said earlier got stuck on the superficial level on the other side. That is the case as far as the hon. Law Minister is concerned.

However, with regard to amendment No. 57 moved by the hon. Law Minister I have only to say that the way in which this amendment has been brought in substitutions of amendment No. 11, makes the whole matter very intriguing; in fact it goes to confirm the fears and apprehensions of the minorities about the fate of

their educational institutions. This amendment has made the matter worse and I can only say that I cannot express any great admiration for the way in which this amendment has been phrased. The amendment says :

"that the amount would not be such as would restrict or abrogate".

One could understand that the amount would not be such as would have the effect of restricting the minority rights. But so far as I understand the English language, there is absolutely no correlation between the amount and the restriction unless you interpret it in a very very far-fetched way. You could have brought it out very clearly and said that the amount would not be of such a nature as would have the effect of restriction. You do not stop at restriction; you go to abrogation. That nullifies the whole thing. That means the abrogation of the assurance that is embodied in this. I would, therefore, submit that at least the word "abrogation" should be taken away from this.

Now, I come to my amendment No. 26.

There, I have pleaded that holders of small property, that is, property which lies within the ceiling, should be protected. I have also said that in the matter of educational institutions there should be no discrimination. Probably, that will be vulnerable to attack in the court. So, I have spoken of the educational institutions as a whole.

Then, my specific submission is that the amount payable to them must be in cash and in no other form. Further, so far as small holders are concerned, the amount that should be paid to them should not only be the form of cash but also must be paid within a year. We have got the experience that sometimes compensation is not available within 10 years. You can therefore, imagine the plight of the small holders. So, I have moved this amendment

that small holders and educational institutions should be paid compensation at the market value and that amount should be in cash and payable within 1 year. I hope, it would be accepted.

SHRI M. KALYANASUNDARAM : Mr. Speaker, Sir, I rise to speak on my amendment No. 14. A new clause 2(b) is being inserted to article 31 of the Constitution which is sought to protect the legislation that may be passed under the power of clause 2 against any perversion relying on the Fundamental Rights. That is the purpose of clause 2(b). But in my opinion, why should it be confined to only sub-clause (f) of clause 1 of article 19?

I have suggested that sub-clause (g) of clause 1 of article 19 may also be included in the new clause. The purpose is this. Sub-clause (f) deals with the right to acquire, hold and dispose of property. Sub-clause (g) deals with the right to carry on business or occupation anywhere.

When the property is required for public purpose, it can be acquired without any legal interference. Why not business also be covered? For instance, the Tamil Nadu Government has fixed a ceiling for bus routes, that is no bus operator can own more than 10 routes. They have also passed a legislation to nationalise bus routes of these operators who own more than 50 bus routes. There are some operators who own about 100 bus routes. So, if those buses are nationalised and if those buses are taken over, if they go to the court, they can claim market value. The market value will be several times more in the case of bus operators and the buses. That is why I suggest that sub-clause (g) may also be included so that a most progressive legislation of that nature can be brought in in order to prevent concentration of wealth in the hands of a few. That is the purpose of this amendment which I have given notice of and I request

that the Minister may kindly examine this if he has already not done so.

SHRI SAMAR GUHA : I am also endorsing the views expressed by Mr. Indrajit Gupta and Mr. Samar Mukherjee. But I want certain clarification.

Suppose certain educational or religious institutions are being run by the minority communities. In a certain State 'A' community may be a majority community while 'B' community may be a minority community. Then, if you take the property of 'A' community and do not take the property of 'B' community because they are being treated as a minority community, the policy is against our whole concept of secular democracy. That will only create jealousy and a hiatus between the two communities. That will also perpetuate the discrimination of one community against another community and it will go against the whole concept of our secular democracy.

There is another point. Some rich men may shift their properties to such educational and religious institutions run by the minorities and they may be utilised for monopoly purposes or for purposes other than running the educational institutions. Another point that is worrying me is that there are both religious minorities and linguistic minorities. There is scope for central law as also for State law. Take for instance the Sikh community. In the case of the Central law, the Sikh community is treated as a minority. But they are a majority community in Punjab. They will be a minority community in West Bengal. In the case of a central law passed by the Parliament, the Sikhs will be treated as a minority all over the country, but in the case of a law passed by Punjab, they will be the majority community, whereas in a similar law passed in West Bengal, they will be treated as a minority. Similarly, Bengalis will be

[Shri Samar Guha]

treated as a majority community in West Bengal but a linguistic minority in Bihar or Orissa. In this case, the same principle, when applied in the case of a law passed by the Parliament will have one meaning and the law passed by the State legislature will have another meaning. So, some confusion will be created and some complication is bound to arise. A minority in the national perspective will be treated as a majority from the State perspective. This will create confusion. I want some clarification from the Law Minister in this regard.

श्री रामाबतार शास्त्री (पटना) : अध्यक्ष महोदय, मेरा संशोधन इस प्रकार है :

Page 1,—

for lines 13 to 16, substitute—

“manner as may be specified in such law; no such law shall be called in question in any court on any ground whatsoever.”

मैं इसलिये यह संशोधन पेश कर रहा हूँ कि अभी भी कुछ छिद्र बच जाते हैं और जो सम्पत्ति वाले लोग हैं वह उससे निकलने की कोशिश कर सकते हैं। इसलिये मेरे बतलाये हुए शब्दों को जोड़कर साफ-साफ कह दिया जाये कि उन्हें कोई मौका नहीं मिलेगा। जो शब्द मैं निकालना चाहता हूँ उनमें अमाउंट की बात कही गई है, कैसा की बात कही गई है। इसको बिल्कुल निकाल देना चाहिए ताकि जो लोग रास्ता निकालकर इस बिल के परपज को टिकीट करना चाहते हैं उनको उसका मौका न मिल सके। हमको साफ-साफ बात कहनी चाहिये ताकि उनके लिए रास्ता निकालना सम्भव न हो सके।

दूसरी बात यह है कि यहाँ पर अल्पसंख्यकों के नाम पर रास्ता निकालने की

कोशिश की जा रही है और बड़े-बड़े लोगों को अपनी सम्पत्ति बचाने का मौका दिया जा रहा है। इसके सम्बन्ध में एक प्रावधानों में अपने राज्य के अनुभव पर कहना चाहता हूँ। बिहार में बहुत से मठ हैं और मठाधीश भी हैं। खासकर छोटा नागपुर में आनन्द मार्ग के लोग बहुत बड़े पैमाने पर प्राविवासियों के नाम पर जगह-जगह पर स्कूल खोल रहे हैं। जो संशोधन श्री मोक्षने ने पेश किया है उसमें यदि मेरे बतलाये हुए शब्द जोड़ दिये जायें तो उन मठाधीशों को मौका नहीं मिलेगा कि हरिजनों के नाम पर "वे अपनी सम्पत्ति बचा सकें। ऐसे लोगों को मौका नहीं देना चाहिये जो माइ-नारिटीज के नाम पर अपनी बड़ी सम्पत्ति बचाना चाहते हैं। जो संशोधन मंत्री महोदय ने पेश किया है उसकी जरूरत नहीं है, उसके स्थान पर जो संशोधन मैंने पेश किया है उसको स्वीकार किया जाये ताकि जिस उद्देश्य के लिये बिल रबला गया है उसको हम पूरा कर सकें।

श्री हुकमचन्द कछुवाय (मुरेना) : अध्यक्ष महोदय, हिन्दुस्तान में हरिजन और प्रादिम जातियों के लोग बहुत बड़ी सख्या में हैं और उन लोगों ने जो बर्माई की है वह उनके गाढ़े पसीने की कमाई है। यहाँ बहुत से मेम्बर बैठे हुए हैं जो स्वयं प्रादिवासी हैं।

एक आमनीय सचस्य : हमें कौन-सा डर है? आज हरिजनों को कोई भय नहीं है। (अवधान)

श्री हुकमचन्द कछुवाय : मैं इस सम्बन्ध में यह कहना चाहता हूँ कि अगर कहीं पर हरिजनों या प्रादिम जातियों की सम्पत्ति ली जाये तो उनको बाजार भाव पर उसका

काम दिया जाये। यहाँ पर बहुत से मेम्बर हैं जो जानते हैं कि किस तरह से उन लोगों के ह्रास कमाई की जाती है। और वह इस बात को समझ सकते हैं कि पूरा काम मिलना चाहिये। मैं समझता हूँ कि मंत्री महोदय मेरे संशोधन को स्वीकार कर लेंगे और सदन भी उसको अपना पूरा समर्थन देगा।

SHRI H. R. GOKHALE : I have heard the comments on the amendment proposed by me as well as the other amendments.

A relevant point was raised by Shri Indrajit Gupta, and I would deal with that first. I want to assure him that the apprehension which he had expressed is not true, so far as the present amendment is concerned. If he will read the amendment, he will find that it does no better or no worse than reiterate the protection which is already given to the minorities, whether linguistic or religious, under article 30 (1).

SHRI FRANK ANTHONY : Why does he want to put it in ?

SHRI H. R. GOKHALE : I do not want this running commentary. I am now dealing with Shri Indrajit Gupta's point, and I shall deal with Shri Frank Anthony's point later.

SHRI FRANK ANTHONY : Why does he not reply ? We do not want him to reiterate it. Why does he want to reiterate it ?

MR. SPEAKER : For a Member of his standing, to go on doing like this is not very proper.

SHRI SHYAMNANDAN MISHRA : But the implication of his remark that he

is having a private talk with Shri Indrajit Gupta is not correct.

SHRI H. R. GOKHALE : I am not having a talk with him.

SHRI SHYAMNANDAN MISHRA : He has to address the House as a whole.

SHRI H. R. GOKHALE : I am dealing with Shri Indrajit Gupta's comments. I shall deal with everybody's comments. I am dealing with Shri Indrajit Gupta's comments now.

SHRI SHYAMNANDAN MISHRA : But he is dealing with them for the purpose of the whole House.

SHRI H. R. GOKHALE : Of course. Who has stopped the hon. Member from listening to me ?

SHRI SHYAMNANDAN MISHRA : Therefore, any remark could be made and it is valid.

SHRI H. R. GOKHALE : I do not understand what he is saying.

MR. SPEAKER : I also do not understand it.

18 Hrs.

SHRI H. R. GOKHALE : Anyway, the point which I am making is this that no new right is sought to be created. No right is sought to be abrogated. Whatever right is there under art. 30 (1) is by a further reassurance by means of a proviso, clearly protected. That is because there was an apprehension expressed here and outside the omnibus clause might affect the right of minority institutions referred to under art. 30 (1) to administer and establish their institutions. Now the apprehension perhaps which is right, as Shri Gupta said in his comments, is that in some cases this protection which is

[Shri H. R. Gokhale]
 given to minorities is misused, I am not saying that in all cases it is used properly. That misuse may be there. Even if no amendment is moved to this, it is there because of art. 30 (1), therefore, this amendment does not carry the matter to a position where we can say that it is worse or better than what it was before. In any case, we are not amending art. 30. Unless we amend art. 30 and make it non-applicable to properties other than properties, to which Shri Gupta referred, namely those which are actually used for the purpose of educational institutions, we cannot by this amendment curtail the ambit and scope of 30, whatever it means. Therefore, the idea is that whatever 30 gives, it protects; it does not give anything more nor does it take away anything from art. 30. In any case, this does not seek to define what is a minority; it does not seek to define what is a religious minority or what is a linguistic minority. That definition is not found even in art. 30. It has always been a matter for interpretation by courts and it has on occasions been interpreted, whatever is the rightful interpretation of the expression 'minority', religious or linguistic as interpreted by the courts.

So far as art. 30 is concerned, I would again say that we are not amending it because by a surreptitious move of inserting an amendment we cannot have the effect of amending 30. Therefore, the only object of this amendment is to see that these rights which are already there in the Constitution are protected. They are neither enlarged nor curtailed.

The other point, made by Shri Anthony, was that originally the proposed amendment provided for payment of the full market value. That was, according to him, some satisfaction to him. I can understand that. The question is: is full market value obligatory to be paid (*Interruption*). This is not a matter for derisive laughter.

SHRI FRANK ANTHONY : Why did you put it in the first place?

SHRI H. R. GOKHALE : It does not mean that we should not make the position clear. Therefore, the question is, if market value is payable if at all—I am not saying it is payable—under art. 30, then the right under 30 is being protected. If on the other hand the interpretation of art. 30 is that it is not obligatory that in order to assert the right of establishing and administering an institution, you must of necessity pay market value, we do not want to extend that right by providing for market value here, if it is not already included under 30.

Therefore, I would repeat that the idea underlying the amendment is neither does it expand nor does it curtail any of the rights which are created already under 30.

One hon. member also referred to discrimination between institutions belonging to minorities and other communities. This discrimination is not created for the first time. There is a clear understandable and rational classification which always avoids the charge of discrimination anywhere. That classification has already been made by the Constitution from the beginning inasmuch as that in respect of minority institutions such protection is given. When you say that the minorities have the right to administer and establish institutions, the reverse does not follow, that the majority does not have the right. What is said is that by the very fact that minorities need protection where they have to depend on the protection given by the majority community because the majority is in a position to enforce their will both in respect of themselves and the minorities; if they do it in respect of themselves, they cannot blame anybody because they have done it for themselves, but if they do it in respect of minorities, the minorities would

legitimately have a grievance that by taking advantage of the fact that they are minorities something which is against their interest is enforced on them. Therefore, even if you choose to call it discriminatory—I would not call it so, because it is based on a rational classification which is understandable—and even if it is discriminatory, it is not as if this amendment for the first time creates any discrimination between minorities and majorities.

Then, another amendment is with regard to another provision—I think my friend Shri Madhu Dandavate referred to his own amendment pertaining to the addition of words “amount for rehabilitation purposes”. I do not think it is necessary to do so; first of all, there seems to be a general misunderstanding that when the words “amount” is mentioned, payment of full market value, compensation, is made impossible. As was clarified earlier, it depends on the nature of the property, and on various factors which are germane to the consideration as to what is the appropriate compensation for the particular property acquired; as was explained earlier, if the property had already yielded profits to the owner they would apply to the larger properties, particularly to the means of production which are in the hands of a very few people; they have recovered the value of the property and much more, so much so that several times the value of the property in the form of compensation has already been taken by them. It might be a fit case for the legislature to say that payment of much less than the market value for that amount is justified. On the other hand, in another case, in the case of small properties, it will never be applied to petty, small shopkeepers' property which is used or which consists in small godowns or habitations. It is not that even in these cases the market value will not be paid. The elasticity of this clause provides for appropriate decision in each case, and

that is by Parliament. That is not by executive action. It is for Parliament to decide as to what is the appropriate market value payable in that particular case.

Then, a reference was made to the amendment; I think it is the amendment of Mr. Mishra; if I am mistaken, my hon. friend will correct me. That was to treat in a different way properties below a certain limit, but I think the reference there is to agrarian property in the first proviso.

SHRI SHYAM NANDAN MISHRA:

No; any property for which there is a ceiling, *i.e.* within that ceiling.

SHRI H. R. GOKHALE: Amendment Nos. 25 and 26. Let us take No. 26 which says:

“Provided that where any law makes any provision for the compulsory acquisition of any property within the ceiling fixed by the State or of an educational institution, such acquisition shall not be lawful unless the amount fixed by or determined under such law for the acquisition of such property is not less than the market value thereof, and is payable in cash within one year.”

Now, it is not as if such provisions are not found in the Constitution. You know the second proviso to article 31A which does mention such a distinction.

As I said earlier, the concept of urban property is different, because the location of the property, the situation of that property, the income which it yields, how much value the property really fetches after depreciation and several other things all these considerations come in. It may

[Shri H. R. Gokhale]

be that even in the case of urban property, it may not be reasonable in a particular case to pay the full market value. Moreover, the law relating to ceiling, if and when imposed in respect of property which is non-agrarian, can always take care of the small property-holders as has been done in the case of agricultural property. I would again repeat, with your permission, that the idea underlying this amendment is certainly not to take over property which is in the possession of individuals which is for their individual use, petty shopkeepers and dealers or petty house owners, small people having their houses and farms, etc. The main purpose of the amendment has always been, under this provision, to go to that property, where there is concentration of wealth, where the idea is to remove or finish that concentration of wealth so that the productivity which is attached to that particular property is available for national use. Therefore, a distinction is reasonably capable of being made, and I am sure will always be made, whenever the question of small property-holders arises.

SHRI SHYAMNANDAN MISHRA : Sir, may I seek just an elucidation from him? What effect will Article 31 (2) have on Article 31 (A)? Would there be any relationship between the two?

SHRI H. R. GOKHALE : 31 (1) is, not to acquire property without the authority of the law. That has been retained.

SHRI SHYAMNANDAN MISHRA : What happens to 31 (1)?

SHRI H. R. GOKHALE : It will always be under the authority of the law. How can it be otherwise?

SHRI SHYAMNANDAN MISHRA : Not only the authority of the law. Please read it over again. It is not only with

regard to acquisition by the authority of law.

SHRI H. R. GOKHALE : It is so. I shall satisfy you on that point. Under article 31 (1) originally no person shall be deprived of property save by the authority of law. That is retained. Therefore the overriding clause is that if any deprivation of property comes about it can only be by the authority of law. I shall read the original, before this amendment. Article 31 (2) reads: no property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law. So that is retained. All the subsequent clauses in Article 31 are subject to the overriding clause in Article 31. Therefore if for example you acquire some property for public purpose, but not with the authority of the law, that acquisition is bad. If on the other hand you acquire it for something which is not in accordance with the provisions of Article 31 (2), not by the authority of law, it will be bad acquisition. Even (2) says: "... compulsorily acquired or requisitioned save for a public purpose and save by authority of law." If we look at the proposed amendment the same authority of law is there. No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of law. Therefore under Article 31 (2) it must always be by authority of law. The overriding law is (1), (2) provides for authority and it provides a further restriction that it cannot be for any purpose; it has to be for a public purpose. Public purpose is again justifiable as it has always been. Therefore my submission to the Members is that there should be no fear of any property being acquired without the authority of law.

Reference was made to amendment No. 14 of Mr. Kalyanasundaram. He has referred to 19 (1)g also in addition

to (f) I have already given the reasons and I do not want to be very elaborate on that, why for the purpose of this amendment only (f) is retained and not (g).

The hon. Members will remember that this was necessitated by the judgement of the Supreme Court in the Bank Nationalisation case. Till that judgement was delivered it had been the view of the Supreme Court itself, that Article 31 and 19 are mutually exclusive. It means that the property which is covered by Article 31 is acquired in conformity with Article 31. There is no question of examining whether Article 19 applies or not because 31 is an independent Article, exclusive of Article 19. For the first time in the Bank Nationalisation case that view was reversed. It was urged that even if the acquisition of property under Article 31 is valid, it does not end there. You have to test it on the anvil of Article 19. It means that there is double jeopardy created for acquisition for any public purpose. To get over the difficulty 19 (1) has been added. You will remember that the whole clause is with regard to the right to acquire, hold and dispose of property. To the extent to which you are dealing with that topic you are not dealing with something else which deals with profession or business. I do not want to go into that. The properties of the business are covered. Therefore this clause applies to such property even if (g) is not mentioned. Unless it is suggested that it is intended to take over the right to carry on business also, I think it should not come in. For example if you say that nobody can carry on this business tomorrow, that is not intended by Article 31 and it is not germane to the original provision which is sought to be amended.

SHRI INDRAJIT GUPTA : There may be a case where the acquisition of property for a public purpose results in expunging my profession.

SHRI H. R. GOKHALE: It may be. But you can carry on that business elsewhere. The right to carry on business is to be distinguished from the right to hold property belonging to that particular business. For example you know that the banks were nationalised, but the banking companies exist. They were deprived of their property for which compensation has been paid. The undertakings have been acquired, but the banking companies have not been acquired. Therefore, they have still got the right to carry on business. They might set up business again. Therefore, the right to carry on business is distinct from the right to property which a particular business at a particular point of time owns or possesses. Therefore, the fact that we do not refer to Article 19(1) (g) does not mean that property belonging to business or industry is not capable of being acquired. Acquisition does not mean that you are forbidden from carrying on that business at all. Therefore, I would respectfully submit that the amendment as proposed is sufficient to meet the needs for which it is proposed.

Shri Kachwai also referred to various other things like taking over the properties of other communities.

श्री बी० पी० मोयं (हापुड) : सिड्यूल्ड कास्ट्स के लोगों के पास प्रापर्टी होती कहा है ?

SHRI H. R. GOKHALE: I think the hon. Member is very right. The people who are most agitated about property are those who own property, and they always make use of an argument on behalf of the depressed classes. It is the elephant which tramples upon the ants everyday that pleads on behalf of the ants when an attack comes. Where small properties are taken away and absorbed by big business and monopolists, the big man does not speak. As I have already explained, the

[Shri H.R. Gokhale]
idea is that it does not exclude the possibility of market value being paid in appropriate cases. I think that is enough explanation.

MR. SPEAKER: Amendment No. 1.

SHRI SHANKERRAO SAVANT: I withdraw it.

MR. SPEAKER: Has he the leave of the House to withdraw his amendment?

HON. MEMBERS : Yes.

Amendment No. 1 was, by leave, withdrawn.

MR. SPEAKER: I put Amendment No. 14 to the House.

Amendment No. 14 was put and negatived.

MR. SPEAKER: I put Amendment No. 26 to the House.

Amendment No. 26 was put and negatived.

MR. SPEAKER: I put Amendment No. 33 to the House.

Amendment No. 33 was put and negatived.

MR. SPEAKER: I will now put amendment No. 35 by Shri Vajpayee.

Amendment No. 35 was put and negatived.

MR. SPEAKER: I will now put amendments Nos. 42 and 44 by Shri Ram Avtar Shastri.

Amendments Nos. 42 and 44 were put and negatived.

MR. SPEAKER: I will now put amendment No. 49 by Mr. Dandavate.

Amendment No. 49 was put and negatived.

MR. SPEAKER: I will now put amendment No. 51 by Mr. Samar Guha.

PROF. MADHU DANDAVATE: He has authorised me to withdraw it.

MR. SPEAKER: He cannot authorise anybody else to withdraw it. I will put it to vote.

Amendment No. 51 was put and negatived.

MR. SPEAKER: The question is:

“Page 1, line 16,—

for ‘such amount is to be given otherwise than in cash’.”

substitute —

‘such amount is to be given otherwise than in cash:

Provided that in making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority referred to in clause (1) of article 30, the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.”; (57)

The Lok Sabha divided

AYES

Division No. 9]

[18.29 hrs.

Achal Singh, Shri	Bhandare, Shri R. D.
Afzalpurkar, Shri Dharamrao	Bhargava, Shri Basheshwar Nath
Aga, Shri Syed Ahmed	Bhatia, Shri Durgadas
Agrawal, Shri Shrikrishna	Bhattacharyya, Shri Chapalendu
Ahirwar, Shri Nathu Ram	Bheeshmadev, Shri M.
Ahmed, Shri F. A.	Bhuvarahan, Shri G.
Alagesan, Shri O. V.	Bisht, Shri Narendra Singh
Ambesh, Shri	Brahmanandji, Shri Swami
Ansari, Shri Ziaur Rahman	Buta Singh, Shri
Arvind Netam, Shri	Chakleshwar Singh, Shri
Awdhesh Chandra Singh, Shri	Chanda, Shrimati Jyotana
Azad, Shri Bhagwat Jha	Chandra Gowda, Shri D. B.
Aziz Imam, Shri	Chandrashekarappa Vecrabasappa, Shri T. V.
Babunath Singh, Shri	Chandrika Prasad, Shri
Babuguna, Shri H. N.	Chaturvedi, Shri Rohan Lai
Bajpai, Shri Vidya Dhar	Chaudhari, Shri Amarsinh
Balakrishniah, Shri T.	Chaudhary, Shri Nitiraj Singh
Banamali Babu, Shri	Chavan, Shri D. R.
Banerji, Shrimati Mukul	Chavan, Shri Yeshwantrao
Barman, Shri R. N.	Chawla, Shri Amar Nath
Barua, Shri Bedabrata	Chellachemi, Shri A. M.
Basappa, Shri K.	Chhotey Lal, Shri
Basumatari, Shri D.	Chhutten Lal, Shri
Besra, Shri S. C.	Choudhary, Shri B. E.
Bhagat, Shri B. R.	Choudhury, Shri Moïnul Haque
Bhagat, Shri H. K. L.	

Daga, Shri M. C.

Dalbir Singh, Shri

Dalip Singh, Shri

Damani, Shri S. R.

Darbara Singh, Shri

Das, Shri Anadi Charan

Dasappa, Shri Tulsidas

Daschowdhury, Shri B. K.

Deo, Shri S. N. Singh

Deshmukh, Shri K. G.

Dhamankar, Shri

Dharamgaj Singh, Shri

Dharia, Shri Mohan

Dhusia, Shri Anant Prasad

Dineah Singh, Shri

Dixit, Shri G. C.

Dixit, Shri Jagdish Chandra

Doda, Shri Hiralal

Dube, Shri J. P.

Dumada, Shri L. K.

Gandhi, Shrimati Indira

Gangadeb, Shri P.

Garcha, Shri Devinder Singh

Gautam, Shri C. D.

Gavit, Shri T. H.

George, Shri A. C.

Ghosh, Shri P. K.

Gill, Shri Mohinder Singh

Godara, Shri Mani Ram

Gogoi, Shri Tarun

Gohain, Shri C. C.

Gokhale, Shri H. R.

Gopal, Shri K.

Goswami, Shri Dinesh Chander

Gotkhinde, Shri Annasaheb

Govind Das, Dr.

Gowda, Shri Pampan

Hansda, Shri Subodh

Hanumanthaiya, Shri K.

Hari Kishore Singh, Shri

Hari Singh, Shri

Hashim, Shri M. M.

Ishaque, Shri A. K. M.

Jadeja, Shri D. P.

Jagjivan Ram, Shri

Jamilurrahman, Shri Md.

Jeyalakshmi, Shrimati V.

Jha, Shri Chiranjib

Jitendra Prasad, Shri

Joshi, Shri Popatlal M.

Joshi, Shrimati Subhadra

Kadam, Shri J. G.

Kadannappalli, Shri Ramachandran

Kader, Shri S. A.

Kahandole, Shri Z. M.

Kailas, Dr.

Kakodkar, Shri, Purushottam

Kakoti, Shri Robin

Kale, Shri

Kamakshaiah, Shri D.

Kamala Kumari, Kumari

Kamala Prasad, Shri

Kamble, Shri T. D.

Kapur, Shri Sat Pal

Karan Singh, Dr.

Kasture, Shri A. S.

Kaul, Shrimati Sheila

Kavde, Shri B. R.

Kedar Nath Singh, Shri

Khadilkar, Shri R. K.

Kinder Lal, Shri

Kisku, Shri A. K.

Kotoki, Shri Lijadhar

Kotrashetti, Shri A. K.

Krishnan, Shri G. Y.

Kulkarni, Shri Raja

Kumaramangalam, Shri S. Mohan

Kureel, Shri B. N.

Lakkappa, Shri K.

Lakshmikanthamma, Shrimati T.

Lakshminarayanan, Shri M. R.

Laskar, Shri Nihar

Mahajan, Shri Vikram

Maharaj Singh, Shri

Mahata, Shri Debendra Nath

Mahishi, Dr. Sarojini

Majhi, Shri Gajadhar

Majhi, Shri Kumar

Malaviya, Shri K. D.

Mallanna, Shri K.

Mallikarjun, Shri

Mandal, Shri Jagdish Narain

Mandal, Shri Yamuna Prasad

Marandi, Shri Iswar

Maurya, Shri B. P.

Mehta, Dr. Jivraj

Melkote, Dr. G. S.

Menon, Shri V. K. Krishna

Minimata Agamdas, Shrimati

Mirdha, Shri Nathu Ram

Mishra, Shri Bibhuti

Mishra, Shri G. S.

Mishra, Shri Jagannath

Misra, Shri S. N.

Modi, Shri Shrikishan

Mohammad Tahir, Shri

Mohan Swarup, Shri

Mohapatra, Shri Shyam Sunder

Mohsin, Shri F. H.

Munsi, Shri Priya Ranjan Das

Murthy, Shri B. S.

Nahata, Shri Amrit

Naik, Shri B. V.

Nanda, Shri G. L.

Negi, Shri Pratap Singh

Nimbalkar, Shri

Oraon, Shri Kartik

Oraon, Shri Tuna

Oza, Shri Ganshyam

Pahadia, Shri Jagannath

Palodkar, Shri Manikrao

Pandey, Shri Damodar

Pandey, Shri Krishna Chandra

Pandey, Shri Narsingh Narain

Pandey, Shri R. S.

Pandey, Shri Sudhakar

Pandey, Shri Tarakeshwar

Panigrahi, Shri Chintamani

Pant, Shri K. C.

Paokai Haokip, Shri

Pari kh, Shri Rasiklal

Partap Singh, Shri

Parthasarathy, Shri P.

Paswan, Shri Ram Bhagat

Patel, Shri Prabhudas

Patil, Shri Anant Rao

Patil, Shri E. V. Vikhe

Patil, Shri Krishnarao

Patil, Shri T. A.

Patnaik, Shri Banamali

Patnaik, Shri J. B.

Peje, Shri S. L.

Pillai, Shri R. Balakrishna

Prabodh Chandra, Shri

Pradhani, Shri K.

Qureshi, Shri Mohd. Shafi

Radhakrishnan, Shri S.

Raghu Ramaiah, Shri K.

Rai, Shrimati Sahodrabai

Rai Bahadur, Shri

Rajdeo Singh, Shri

Raju, Shri P. V. G.

Ram, Shri Tulmohan

Ram Dhan, Shri

Ram Prakash, Shri

Ram Sewak, Ch.

Ram Swarup, Shri

Ramshekhar Prasad Singh, Shri

Rana, Shri M. B.

Rao, Shrimati B. Radhabai A.

Rao, Shri Jagannath

Rao, Shri K. Narayana

Rao, Shri M. S. Sanjeevi

Rao, Shri M. Satyanarayan

Rao, Shri Nageswara

Rao, Shri P. Ankineedu Parasada

Rao, Shri Pattabhi Rama

Rao, Shri Rajagopala

Rathia, Shri Umed Singh

Raut, Shri Bhola

Ray, Shri Siddhartha Shankar

Reddi, Shri P. Antony

Reddy, Shri K. Kodanda Rami

Reddy, Shri K. Ramakrishna

Reddy, Shri M. Ram Gopal

Reddy, Shri P. Narasimha

Richhariya, Dr. Govind Das

Rohatgi, Shrimati Sushila

Roy, Shri Bishwanath

Rudra Pratap Singh, Shri

Sadhu Ram, Shri

Saini, Shri Mulki Ra

Salve, Shri N. K. P.

Samanta, Shri S. C.

Sanghi, Shri N. K.

Sankata Prasad, Dr.

Sant Bux Singh, Shri

Sarkar, Shri Sakti Kumar

Satish Chandra, Shri

Satpathy, Shri Devendra

Satyanarayana, Shri B.

Savant, Shri Shankerrao

Savitri Shyam, Shrimati

Sethi, Shri Arjun

Sethi, Shri P. C.

Shafec, Shri A.

Shafquat Jung, Shri

Shahnawaz Khan, Shri

Shaitani, Shri Chandra

Shambhu Nath, Shri

Shankar Dayal Singh, Shri

Shankar Dev, Shri

Shankaranand, Shri B.

Sharma, Shri A. P.

Sharma, Dr. H. P.

Sharma, Shri Madhoram

Sharma, Shri Nawal Kishore

Sharma, Shri R. N.

Sharma, Dr. Shankar Dayal

Shashi Bhushan, Shri

Shastri, Shri Biswanarayan

Shastri, Shri Sheopujan

Shenoy, Shri P. R.

Sher Singh, Prof.

Shetty, Shri K. K.

Shinde, Shri Annasaheb P.

Shiva Chandika, Shri

Shivappa, Shri N.

Shivanath Singh, Shri

Shukla, Shri B. R.

Shukla, Shri Vidya Charan

Siddayya, Shri S. M.

Siddheshwar Prasad, Shri

Sinha, Shri Dharam Bir

Sinha, Shri Nawal Kishore

Sinha, Shri R. K.

Sohan Lal, Shri T.

Sokhi, Shri Swaran Singh

Sonar, Dr. A. G.

Stephen, Shri C. M.

Subramaniam, Shri C.

Sedarsanam, Shri M.

Sunder Lal, Shri

Surendra Pal Singh, Shri

Suryanarayan, Shri K.

Swaminathan, Shri R. V.

Swamy, Shri Sidrameshwar

Swaran Singh, Shri

Swell, Shri G. G.

Tarodekar, Shri V. B.

Tayyab Hussain Khan, Shri

Thakre, Shri S. B.

Thakur, Shri Krishna Rao

Tiwari, Shri R. G.

Tiwary, Shri D. N.

Agarwal, Shri Virendra

Anthony, Shri Frank

Bada, Shri R. V.

Banora, Shri Hamendra Singh

Brij Raj Singh-Kotah, Shri

Chaudhary, Shri Ishwar

Tiwary, Shri K. N.

Toombi Singh, Shri N.

Tula Ram, Shri

Tulsiram, Shri V.

Uikey, Shri M. G.

Unnikrishnan, Shri K. P.

Vekaria, Shri

Venkatasubbaiah, Shri P.

Venkatswamy, Shri G.

Verma, Shri Balgovind

Verma, Shri Sukhdeo Prasad

Vidyalankar, Shri Amarnath

Vikal, Shri Ram Chandra

Virbhadra Singh, Shri

Yadav, Shri Chandrajit

Yadav, Shri Karan Singh

Yadav, Shri N. P.

Yadav, Shri R. P.

Yadava, Prof. D. P.

Zulfqar Ali Khan, Shri

NOES

Chavda, Shri K. S.

Chowhan, Shri Bharat Singh

Deo, Shri P. K.

Deo, Shri R. R. Singh

Godfrey, Srimati M.

Horo, Shri N. B.

Joshi, Shri Jagannathrao

Patel, Shri H. M.

Kachwai, Shri Hukam Chand

Patel, Shri Natwarlal

Kamraj, Shri K.

Pradhan, Shri Dhan Shah

Karni Singh, Dr.

Ramkanwar, Shri

Lalji Bhai, Shri

Saksena, Prof. S. L.

Malik, Shri Mukhtiar Singh

Shakya, Shri Maha Deepak Singh

Mishra, Shri Shyamnandan

Sharma, Shri R. R.

Mody, Shri Piloo

Singh, Shri D. N.

Narendra Singh, Shri

Vajpayee, Shri Atal Bihari

Nayak, Shri Baksi

Verma, Shri Phool Chand

Pandeya, Dr. Laxminarain

Yadav, Shri G. P.

Parmar, Shri Bhaljibhai

MR. SPEAKER : The result* of the division is : Ayes 316; Noes 35.

The motion was adopted.

MR. SPEAKER : The lobbies are already cleared. The question is :

“That clause 2, as amended, stand part of the Bill.”

The Lok Sabha Divided :

AYES

Division No. 10]

[18.31 hrs.

Achal Singh, Shri

Ankineedu, Shri Maganti

Afzalpurkar, Shri Dharamrao

Ansari, Shri Ziaur Rahman

Aga, Shri Syed Ahmed

Arvind Netam, Shri

Agrawal, Shri Shrikrishna

Awdhesh Chandra Singh, Shri

Ahrwar, Shri Nathu Ram

Azad, Shri Bhagwat Jha

Ahmed, Shri F. A.

Aziz Imam, Shri

Alagesan, Shri O. V.

Babunath Singh, Shri

Ambesh, Shri

Bahuguna, Shri H. N.

*The following members also recorded their votes for AYES :

Servshri Dharnidhar Das, Panna Lal Barupal, P. Bayappa Reddy, Y. S. Mahajan,
and Prof. Narain Chand Parashar.

Bajpai, Shri Vidya Dhar	Chaudhari, Shri Amarsinh
Banamali Babu, Shri	Chaudhary, Shri Nitiraj Singh
Banerji, Shrimati Mukul	Chavan, Shri D.R.
Barman, Shri R. N.	Chavan, Shri Yeshwantrao
Barua, Shri Bedabrata	Chawla, Shri Amar Nath
Basappa, Shri K.	Chellachemi, Shri A. M.
Basumatari, Shri D.	Chhotey Lal, Shri
Besra, Shri S. C.	Chhuttan Lal, Shri
Bhagat, Shri B. R.	Choudhary, Shri B. E.
Bhagat, Shri H. K. L.	Choudhury, Shri Moinul Haque
Bhagirath Bhanwar, Shri	Daga, Shri M. C.
Bhandare, Shri R. D.	Dalbir Singh, Shri
Bhargava, Shri Basheshwar Nath	Dalip Singh, Shri
Bhatia, Shri Durgadas	Damani, Shri S. R.
Bhattacharya, Shri Chapalendu	Dandavate, Prof. Madhu
Bheeshmadev, Shri M.	Darbara Singh, Shri
Bhuvarahan, Shri G.	Das, Shri Anadi Charan
Bisht, Shri Narendra Singh	Dasappa, Shri Tulsidas
Brahmanandji, Shri Swami	Daschowdhury, Shri B. K.
Buta Singh, Shri	Deo, Shri S. N. Singh
Chakleshwar Singh, Shri	Deshmukh, Shri K. G.
Chanda, Shrimati Jyotana	Dhamankar, Shri
Chandra Gowda, Shri D. B.	Dharamraj Singh, Shri
Chandrakar, Shri Chandulal	Dharfa, Shri Mohan
Chandrashekharappa Veerabasappa, Shri T. V.	Dhusia, Shri Anant Prasad
Chandrika Prasad, Shri	Dinesh Singh, Shri
Chaturvedi, Shri Rohan Lal	Dixit, Shri G. C.
	Dixit, Shri Jagdish Chandra

Doda, Shri Hiralal

Dube, Shri J. P.

Dumada, Shri L. K.

Dutta, Shri Biren

Gandhi, Shrimati Indira

Gangadab, Shri P.

Garcha, Shri Devinder Singh

Gautam, Shri C. D.

Gavit, Shri T. H.

George, Shri A. C.

Ghosh, Shri P. K.

Gill, Shri Mohinder Singh

Godara, Shri Mani Ram

Gogoi, Shri Tarun

Gohain, Shri C. C.

Gokhale, Shri H. R.

Gopal, Shri K.

Goswami, Shri Dinesh Chander

Gotkhinde, Shri Annasaheb

Govind Das, Dr.

Gowda, Shri Pampan

Guha, Shri Samar

Hansda, Shri Subodh

Hanumanthaiya, Shri K.

Hari Kishore Singh, Shri

Hashim, Shri M. M.

Ishaque, Shri A. K. M.

Jadeja, Shri D. P.

Jagjivan Ram, Shri

Jamilurrahman, Shri Md.

Jeyalaksmi, Shrimati V.

Jha, Shri Chiranjib

Jitendra Prasad, Shri

Joshi, Shri Popatlal M.

Joshi, Shrimati Subhadra

Kadam, Shri J. G.

Kadannappalli, Shri Ramachandran

Kader, Shri S. A.

Kahandole, Shri Z. M.

Kailas, Dr.

Kakodkar, Shri Purushottam

Kakoti, Shri Robin

Kale, Shri

Kamakshaiah, Shri D.

Kamala Kumari, Kumari

Kamala Prasad, Shri

Kamaraj, Shri K.

Kamble, Shri T. D.

Kapur, Shri Sat Pal

Karan Singh, Dr.

Kasture, Shri A. S.

Kaul, Shrimati Sheila

Kavde, Shri B. R.

Kedar Nath Singh, Shri

Khadilkar, Shri R. K.

Kinder Lal, Shri

Kisku, Shri A. K.

Kotoki, Shri Lijadhar

Kotrashetti, A. K.

Krishnan, Shri G. Y.

Kulkarni, Shri Raja

Kumeramangalam, Shri S. Mohan

Kurcel, Shri B. N.

Lakkappa, Shri K.

Lakshmikanthamma, Shrimati T.

Lakshminarayanan, Shri M. R.

Mahajan, Shri Vikram

Mahajan, Shri Y. S.

Maharaj Singh, Shri

Mahata, Shri Debendra Nath

Mahishi, Dr. Sarojini

Majhi, Shri Gajadhar

Majhi, Shri Kumar

Malaviya, Shri K. D.

Mallanna, Shri K.

Mallikarjun, Shri

Mandal, Shri Jagdish Narain

Mandai, Shri Yamuna Prasad

Marandi, Shri Iswar

Mausrya, Shri B. P.

Mehta, Dr. Jivraj

Meikote, Dr. G. S.

Menon, Shri V.K. Krishna

Minimata Agamdas, Shrimati

Mirdha, Shri Nathu Ram

Mishra, Shri Bibhuti

Mishra, Shri G. S.

Mishra, Shri Jagannath

Mishra, Shri Shyamnandan

Misra, Shri S. N.

Modi, Shri Shrikishan

Mohammad Tahir, Shri

Mohan Swarup, Shri

Mohapatra, Shri Shyam Sunder

Mohsin, Shri F. H.

Munsi, Shri Priya Ranjan Das

Nahata, Shri Amrit

Naik, Shri B. V.

Nanda, Shri G. L.

Negi, Shri Pratap Singh

Nimbaikar, Shri

Oraon, Shri Kartik

Oraon, Shri Tuna

Oza, Shri Ghanshyam

Pahadia, Shri Jagannath

Palodkar, Shri Manikrao

Pandey, Shri Damodar

Pandey, Shri Krishna Chandra

Pandey, Shri Narsingh Narain

Pandey, Shri R. S.

Pandey, Shri Sudhakar

Pandey, Shri Tarkeshwar

Panigrahi Shri Chintamani

Pant, Shri K. C.

Packal Haakip, Shri

Parasahar, Prof. Narain Chand

Parikh, Shri Rasiklal

Parmar, Shri Bhaljibhai

Partap Singh, Shri

Parthasarathy, Shri P.

Paswan, Shri Ram Bhagat

Patei, Shri Prabhudas

Patil, Shri Anantrao

Patil, Shri E. V. Vikhe

Patil, Shri Krishnarao

Patil, Shri T. A.

Patnaik, Shri Banemali

Patnaik, Shri J. B.

Peje, Shri S. L.

Pillai, Shri R. Balakrishna

Prabodh Chandra, Shri

Pradhani, Shri K.

Qureshi, Shri Mohd. Shaif

Radhakrishnan, Shri S.

Raghu Ramaiah, Shri K.

Rai, Shrimati Sahodrabai

Raj Bahadur, Shri

Rajdeo Singh, Shri

Raju, Shri P. V. G.

Ram, Shri Tulmohan

Ram Dhan, Shri

Ram Prakash, Shri

Ram Sewak, Ch.

Ram Swarup, Shri

Ramsbekhar Prasad Singh, Shri

Rana, Shri M. B.

Rao, Shrimati B. Radhabai A.

Rao, Shri Jagannath

Rao, Dr. K. L.

Rao, Shri K. Narayana

Rao, Shri M. S. Sanjeevi

Rao, Shri M. Satyanarayan

Rao, Shri Nageswara

Rao, Shri P. Ankineedu Parasada

Rao, Shri Pattabhi Rama

Rao, Shri Rajagopala

Rathia, Shri Umed Singh

Raut, Shri Bhola

Ravi, Shri Vayalar

Ray, Shri Siddhartha Shankar

Reddi, Shri P. Antony

Reddy, Shri K. Kodanda Rami

Reddy, Shri K. Ramakrishna

Reddy, Shri M. Ram Gopal

Reddy, Shri P. Bayappa

Reddy, Shri P. Narasimha

Richhariya, Dr. Govind Das

Rohatgi, Shrimati Sushila

Roy, Shri Bishwanath

Rudra Pratap Singh, Shri

Sadhu Ram, Shri	Sharma, Dr. Shankar Dayal
Saini, Shri Mulki Raj	Shashi Bhushan, Shri
Saksena, Prof. S. L.	Shastri, Shri Biswanarayan
Salve, Shri N. K. P.	Shastri, Shri Sbeopujan
Samanta, Shri S. C.	Shenoy, Shri P. R.
Sanghi, Shri N. K.	Sher Singh, Prof.
Sankata Prasad, Dr.	Shetty, Shri K. K.
Sant Bux Singh, Shri	Shinde, Shri Annasaheb P.
Sarkar, Shri Sakti Kumar	Shiva Chandika, Shri
Satish Chandra, Shri	Shivappa, Shri N.
Satpathy, Shri Devendra	Shivanath Singh, Shri
Satyanarayana, Shri B.	Shukla, Shri B. R.
Savant, Shri Shankerrao	Shukla, Shri Vidya Charan
Sethi, Shri Arjun	Siddayya, Shri S. M.
Sethi, Shri P. C.	Siddheshwar Prasad, Shri
Shafce, Shri A.	Singh, Shri D. N.
Shafquat Jung, Shri	Sinha, Shri Dharam Bir
Shahnawaz Khan, Shri	Sinha, Shri Nawal Kishore
Shailani, Shri Chandra	Sinha, Shri R. K.
Shambhu Nath, Shri	Sohan Lal, Shri T.
Shankar Dayal Singh, Shri	Sokhi, Shri Swaran Singh
Shankar Dev, Shri	Sonar, Dr. A. G.
Shankaranand, Shri B.	Stephen, Shri C. M.
Sharma, Shri A. P.	Subramaniam, Shri C.
Sharma, Dr. H. P.	Sudarsanam, Shri M.
Sharma, Shri Madhoram	Sunder Lal, Shri
Sharma, Shri Nawal Kishore	Surendra Pal Singh, Shri
Sharma, Shri R. N.	Suryanarayana, Shri K.

Swaminathan, Shri R. V.	Ulkey, Shri M. G.
Swamy, Shri Sidrameshwar	Unnikrishnan, Shri K. P.
Swaran Singh, Shri	Vekaria, Shri
Swell, Shri G. G.	Venkatasubbaiah, Shri P.
Tarodekar, Shri V. B.	Venkatawamy, Shri G.
Tayyab Hussain Khan, Shri	Verma, Shri Balgovind
Thakre, Shri S. B.	Verma, Shri Sukhdeo Prasad
Thakur, Shri Krishnarao	Vidyalankar, Shri Amarnath
Tiwari, Shri R. G.	Virbhadra Singh, Shri
Tiwary, Shri D.N.	Yadav, Shri Chandrajit
Tiwary, Shri K. N.	Yadav, Shri Karan Singh
Tombi Singh, Shri N.	Yadav, Shri N.P.
Tula Ram, Shri	Yadav, Shri R. P.
Tulsiram, Shri V.	Yadava, Prof. D. P.
	Zulfiqar Ali Khan, Shri

NOES

Agarwal, Shri Virendra	Karni Singh, Dr.
Anthony, Shri Frank	Lalji Bhai, Shri
Bade, Shri R. V.	Malik, Shri Mukhtiar Singh
Benera, Shri Hamendra Singh	Mody, Shri Pилоo
Brij Raj Singh Kotah, Shri	Narendra Singh, Shri
Chaudhary, Shri Ishwar	Pandeya, Dr. Laxminarain
Chowhan, Shri Bharat Singh	Patel, Shri H. M.
Deo, Shri P. K.	Pradhan, Shri Dhan Shah
Deo, Shri R.R. Singh	Ramkanwar, Shri
Godfrey, Shrimati M.	Shakya, Shri Maha Deepak Singh
Horo, Shri N. E.	Sharma, Shri R. R.
Joshi, Shri Jagannathrao	Vajpayee, Shri Atal Bihari
Kachwai, Shri Hukam Chand	Verma, Shri Phool Chand
	Yadav, Shri G. P.

MR. SPEAKER : The result* of the division is : Ayes 326; Noes 27.

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 3—(Insertion of new Article 31C)

MR. SPEAKER : Shri Narayana Rao is not moving his amendment No. 45. So, we take up clause 3.

SOME HON. MEMBERS : Tomorrow.

MR. SPEAKER : No. Those who want to move their amendments to clause 3 may either stand up and mention the number of the amendment or may send slips to the Table mentioning the number of the amendment that they wish to move.

SHRI FRANK ANTHONY : I beg to move :

Page 2, line 7,—

omit "article 14, article 19 or" (2).

Page 2,—

for lines 8 to 10, substitute—

"article 31 : " (3)

Page 2,—

omit lines 11 to 14. (4)

Page 2,—

after line 14, insert—

"Provided further that no such law shall derogate from the fundamental rights contained in articles 26, 29 and 30 of the Constitution." (5)

SHRI SHYAMNANDAN MISHRA : I beg to move :

Page 2, line 7,—

omit "article 14," (27)

Page 2, line 7,—

for "article 19" substitute—

"article 19(1)(f) and (g)", (28)

Page 2,—

after line 14, insert—

"Provided further that no such law shall over-ride the fundamental rights relating to minorities, whether based on religion or language, contained in article 26, article 29 and article 30 of the Constitution." (30)

SHRI ATAL BIHARI VAJPAYEE : I beg to move :

Page 2, line 9,—

after "court" insert "except" (34)

SHRI RAMAVATAR SHASTRI : I beg to move :

Page 2, line 3,—

for "article 13" substitute—

"Part III of the Constitution" (46)

Page 2, line 5,—

omit "clause (b) or clause (c) of" (47)

Page 2, lines 7 and 8,—

for "article 14, article 19 or article 31"

substitute—

"Part III of the Constitution" (48)

*The following members also recorded their votes for AYES :

Sarveshri Dharnidhar Das, Hari Singh, Panna Lal Barupal, Nihar Laskar, B. S. Murthy, Ram Chandra Vikal and Shrimati Savitri Bhyam.

श्री अटल बिहारी वाजपेयी : अध्यक्ष जी, इस विधेयक का अनुच्छेद 3 इस प्राचार पर उचित उहरावा जा रहा है कि उसके द्वारा राज्य के निदेशक तत्व कार्यान्वित किये जायेंगे। मुझे आश्चर्य है कि विधि मंत्री ने या विधेयक के समर्थन में बोलने वाले किसी भी अन्य मंत्री ने या सदस्य ने इस बात का उल्लेख नहीं किया कि जहाँ तक 31-सी का सवाल है, ला-कमीशन की राय को न मानने का कारण क्या है ?

ला-कमीशन ने कहा है—मैं उसे यहां उद्धृत करना चाहूंगा—

"It is obvious that the whole object of Article 31C, as at present drafted, is to enable Parliament and State Legislatures to pass laws with the object of implementing the Directive Principles in question. If that is so, we see no justification for excluding judicial inquiry into the question about the existence of any rational nexus between the law and the object intended to be achieved by it."

अध्यक्ष महोदय, इस बात को स्वीकार करना होगा कि ऐसी स्थिति हो सकती है कि कानून बनाते समय केन्द्रीय संसद् या राज्य विधान मंडल यह एलान कर दे कि हम किसी डायरेक्टिव प्रिन्सिपल को अमल में लाने के लिये कानून बना रहे हैं, लेकिन सच्चाई में उनका उद्देश्य डायरेक्टिव प्रिन्सिपल को अमल में लाने का न हो। विधि मंत्री महोदय स्वीकार करेंगे कि कोई फुल्लेंट डिक्लेरेशन किया जा सकता है केवल घोषणा ही करना काफी है या प्रदालत को इस बात का अधिकार होना चाहिये कि वह देखे कि जो कानून बनाये वे सम्बन्ध में राज्य के निदेशक तत्वों को अमल में लाने वाले हैं या नहीं।

ला-कमीशन ने भी इसका समर्थन किया है। अभी तक विधि मंत्री इसका कोई संतोषजनक उत्तर नहीं दे सके हैं।

ऐसी ही एक और चीज है—इसमें आर्टिकल 14 का भी समावेश किया गया है। आर्टिकल 14 के अन्तर्गत सभी नागरिक कानून के सामने बराबर हैं। क्या वह बराबरी भी अब खत्म होगी? ऐसी स्थिति आ सकती है कि एक उद्योग एक प्रदेश में सरकार द्वारा ले लिया जाय, उसमें जिन्होंने पूंजी लगाई है, उसका लाभ-प्रतिकर उन्हें बाजार भाव से न मिले और वही उद्योग किसी दूसरे राज्य में चलता रहे और उस का राष्ट्रीयकरण न किया जाय। उदाहरण के लिये उत्तर प्रदेश की चीनी मिलों का राष्ट्रीयकरण किया जा सकता है और महाराष्ट्र में राष्ट्रीयकरण से चीनी मिलों को छोड़ा जा सकता है...

एक माननीय सदस्य : वहाँ तो कोआपरेटिव मिलें हैं।

18.35 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

श्री अटल बिहारी वाजपेयी : मैं कोआपरेटिव मिलों की बात नहीं कर रहा हूँ, व्यक्तिगत मिलों की बात कर रहा हूँ। जो उत्तर प्रदेश में पूंजी लगायेगा वह गंवायेगा और जो महाराष्ट्र में लगायेगा, वह उसका मुनाफा कमायेगा। जो कार्तकारों की हैं, मैं उनकी चर्चा नहीं कर रहा हूँ, जो व्यक्तिगत मालिकों की चीनी मिलें हैं, मैं उनकी चर्चा कर रहा हूँ, वे अलग-अलग स्तर पर रखी जायेंगी। मैं एक दूसरा

[श्री अटल बिहारी वाजपेयी]

उदाहरण देना चाहता हूँ—सरकार कोई उद्योग-धन्धा लगाती है, उसमें लगी हुई पूंजी व्यक्ति के कानून के अन्तर्गत आ जाती है, लेकिन वही नागरिक अपनी पूंजी किसी ऐसे उद्योग में लगाता है, जिसका राष्ट्रीय-करण नहीं होता है तो उसकी पूंजी के साथ भेदभाव होगा। क्या इन पेचीदगियों पर विचार किया गया है, क्या यह जरूरी है कि आर्टिकल 14 का इसमें समावेश किया जाये। क्या यह भी जरूरी है कि सभी मूलभूत अधिकार इसकी लपेट में ले लिये जायें? विधि मंत्री ने इसका कोई उत्तर नहीं दिया, कहते हैं कि हमारा इरादा नहीं है। अगर इरादा नहीं है तो साफ कर दीजिये, कह दीजिये कि आर्टिकल 19 एफ० और जी० तक इसमें समावेश होगी और ए० से लेकर ई० तक यानी 91 के जो मूलभूत अधिकार हैं, वे इसमें नहीं लिये जायेंगे। इससे गलतफहमी दूर होगी। आप कह रहे हैं कि आपके विरुद्ध प्रचार किया जा रहा है तो आप प्रचार करने का हमको मौका क्यों दे रहे हैं। हम तो आपको सुझाव दे रहे हैं कि हमको मौका मत दीजिये.....

एक माननीय सदस्य : आप गलत प्रचार क्यों करते हैं।

श्री अटल बिहारी वाजपेयी : वह प्रचार गलत नहीं है, इतना सही है कि आप सभी मूलभूत अधिकारों को समाप्त करने का अधिकार ला रहे हैं। यह कहना ठीक है कि "इनेक्सन" है, इस संशोधन के पास ही जाने से अधिकार समाप्त नहीं होते हैं, लेकिन अधिकार समाप्त होने का दरवाजा खुल जाता है और हम वह दरवाजा बन्द रखना चाहते हैं। सम्पत्ति सम्बन्धी अधिकार सीमित करिये, लेकिन क्रांती के अधिकारों

पर किसी तरह का अंगुष्ठ लगाने की आवश्यकता नहीं है। क्या मैं याचा करूँ कि विधि मंत्री जी ऐसा उत्तर दें जो संतोषजनक हो।

SHRI SAMAR MUKHERJEE : My amendment is regarding Article 19. Clause 3 has covered the entire Article 19. We are opposed to this because Article 19 contains some of the Fundamental Rights given to the common masses to express their opinions, to form their associations, etc. If this is taken away, then there is every danger that the country will more and more pass on towards fascism.

We have bitter experience in West Bengal. Day in and day out, various issues are being placed here and discussions are taking place here. Heat is also being generated. But it is a real fact that in West Bengal, the elementary democratic movement is under brutal suppression.

A semi-fascist terror regime is now raging throughout West Bengal. Thousands and thousands are [now under warrants and a non-official estimate has put it that more than a lakh of warrants have been issued. You can imagine how the Fundamental Rights are being defended by this ruling class in West Bengal ?

Trade Unions are being broken. Trade Unionists are being dismissed without giving any scope to them. This is the experience.

Then comes Art. 19...

MR. DEPUTY-SPEAKER : I think this is a limited one—whether this can be raised in a court of law in order to nullify the law.

SHRI SAMAR MUKHERJEE : It is being negated by this very clause. That is why we suggested that only sections (f)

and (g) should be covered which relate to property and not other Fundamental Rights. In our last 24th Amendment also we placed this amendment. This is a very basic fundamental question. We cannot part with this. That is why I oppose covering the entire Art. 19 in clause 3.

SHRI SHYAMNANDAN MISHRA :

I have raised a very basic point. But it seems that the legal point just escapes the Law Minister.

I had submitted that in view of amendment to 31(2) will he not take the trouble of establishing how 31C is necessary? Whether amended Art. 31(2) would not control also the operation of 39 (b) and (c)? Whether de-concentration of economic power and distribution of the material resources of the community so as to subserve the common good could not be construed as public purpose? If they are going to be construed as public purpose, my respectful submission is that 31(2) should have been sufficient for this purpose. Now, if by way of abundant caution, 31(C) is considered necessary, then a further question that arises is whether the entire gamut of Art. 19 which includes the whole series of Fundamental and basic Rights must be involved in it. It was pointed out yesterday by the hon. Minister of Steel that such a provision exists in 31(A). A similar provision does exist in Article 31(A). I quite see that. In a far-fetched way that can be brought. How does it, however, escape such an intelligent mind that Article 31(A) relates to certain specific and concrete things and Article 39 (b) and (c) relate to something very vague and comprehensive, which you cannot easily define? So, the similarity between Article 31(A) and 31(C) here should not hold good. That does not seem to be apposite. My submission, therefore, is that in this clause the whole range of 19 should not be involved. It should be confined only to Article 19 (f) (i) and (g). That has also been the

recommendation of the Law Commission. I think that is a very proper recommendation made by the Law Commission. It is extremely appalling that Art. 14 should also be made inoperative so far as the operation of 39 (b) and (c) is concerned. If it is not being allowed to come in the way, it means that the right of constitutional protest is denied to a citizen. Therefore, I would say this 14 also must be omitted from this and the present clause should confine itself only to the two that I have mentioned. Then, my further submission is that this should not be in the clause where it is mentioned that if there is a declaration that it is for giving effect to...

SHRI P. K. DEO : On a point of order. The automatic voting lights are flicking off and on. So, there is something wrong with the mechanical system. So, next time there should be physical division by clearing the lobbies.

MR. DEPUTY-SPEAKER : I shall verify whether it is all right.

SHRI SHYAMNANDAN MISHRA : My further submission is that this declaration :

"No law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy."

should be taken out. After this portion is taken out, the paragraph would stand only upto the words "article 31".

As it is, it is extremely irritating in the sense that it is the certificate of the ruling executive which has to be accepted by everybody—that it is meant for giving effect to that kind of policy. That declaration must be challengeable in a court of law. This is the submission that I have made.

[Shri Shyam Nandan Mishra]

Lastly, my submission is that no such law shall override the fundamental right relating to minorities, whether based on religion or on language, contained in Article 26, Article 29 and Article 30 of the Constitution. That should form part of Article 31C as the last paragraph. The question has been asked umpteen times whether article 31C would adversely affect the rights and interests of the minorities...

SHRI FRANK ANTHONY : I have asked the question ten times.

SHRI SHYAMNANDAN MISHRA : He says that he has asked the question ten times. But there has been no reassuring reply from the Government. In fact, power is being taken which might be used for adversely affecting the interests of the minorities. Therefore, I have thought it fit to move this amendment which should prevent the mischief.

SHRI FRANK ANTHONY : I have four amendments. I would only speak on three of them.

Amendment No. 2 asks for the omission of articles 14 and 19 from article 31C. Here, I want to nail to the counter a deliberate distortion by the Law Minister. He was trying to answer me by first quoting me correctly, and he tried to make heavy weather of the fact that at some time—I do not know where I had said so—I said that property rights should be qualified. I have gone much further than that. I am reading from page 7315 of the record of my speech yesterday. This was what I had said :

"I would have said: 'All right, if you are really concerned',—one judge, I think it was justice Hidayatullah who said—'take the property out of the fundamental rights chapter; take article 31 out, and take 19 (1) (g)'......That would have been the most

honest thing, but on the pretext of qualifying property, you are wiping out the whole gamut of fundamental rights."

So, all that I had said was this, you take out property, that would have been the more honest thing to do. But what are you doing? You are wiping out the whole gamut of fundamental rights, you are wiping out all the freedoms, you are sanctifying discrimination, and as my hon. friend had said, you are destroying the freedom to speak enshrined in article 19 (1) (a), the freedom to assemble peaceably mentioned in article 19 (a) (b), and you are destroying the right to form associations and, of course, you are destroying the right to practise any profession.

Then my next amendment was No. 3 and that was to delete this :

"...no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy"

The Law Commission had pleaded that this should be made justiciable. In this arrogance, Shri Gokhale, with his superior knowledge, since he has become a politician, has cynically rejected this. So I have sought to delete this ouster of the jurisdiction of the courts.

The most important of my amendments is No. 5 which reads :

"Provided further that no such law shall derogate from the fundamental rights contained in articles 26, 29 and 30 of the Constitution"

I am asking Shri Gokhale for the 11th or 12th time. I did not expect this unworthy reply of him. With the Law Ministry full of giants, I did not expect he would fall for cheap jibes or disingenuous hair-splitting, trying to be clever, as if Mr. Anthony

does not know the distinction between an enabling provision and an actual provision. Mr. Anthony is not such a damn fool. What I asked over and over again is : does 31C give any legislature the power to take away minority educational institutions, charitable and religious trusts? Even now he won't give me an answer. He fobs it off to the poor lady Prime Minister who does not know the alpha and omega of law but merely repeats.....

SHRI B. P. MAURYA : That was why she nominated him.

SHRI FRANK ANTHONY : He will have many more incarnations and still he will be a trumpery lamp post compared to me.

SHRI B. P. MAURYA : Whether he is a lamp post or I am, he will come to know in this Parliament.

SHRI FRANK ANTHONY : Here the deliberate silence of the Law Minister has confirmed this position. It was the fear with me that under 31C any legislature, any ramshackle coalition by one vote could expropriate the Christian colleges and schools, the Sikh colleges and schools, the Muslim colleges and schools and the Anglo Indian colleges and schools.

SHRI S. MOHAN KUMARAMANGALAM : Nonsense.

SHRI FRANK ANTHONY : Why does he not honestly say that it is nonsense. I am asking for a reply under 31C whether it does not give the power to take away the minority institutions, educational, religious or charitable.

AN HON. MEMBER : Power to whom ?

SHRI FRANK ANTHONY : To any State Legislature you have given power under 31C to take away by one vote.

AN HON. MEMBER : No, it cannot be done.

SHRI FRANK ANTHONY : Let him say so.

MR. DEPUTY-SPEAKER : He will reply.

SHRI FRANK ANTHONY : They say it cannot be done. Why cannot he say that no legislation can be passed? Give me a simple honest answer. It will have no legal validity because I know what the communists are going to do, those friends with whom you have joined hands. Since 1958 they have tried to expropriate the Christian colleges, Christian schools and Anglo-Indian schools. Every time—thank God—I have been trying to argue these cases and I have had them struck down. What the communists are going to do is that immediately they will use 31C they will try to use it by getting Shri Mohan Kumaramangalam to argue the case, as he tried in the Kerala University case.

I do not know whether he will resign to argue the case. (*Interruption*)

SHRI S. MOHAN KUMARAMANGALAM : I had nothing to do with that case at all. (*Interruption*).

SHRI FRANK ANTHONY : What the Supreme Court had said in the Kerala Education Bill case, 1954, and again recently was that if you take over the management of a minority institution, it is expropriation. You cannot even take over the management. You can derecognise us if we are bad; you cannot exercise all the catena of authority; you cannot take over the management, because that is expropriation. You are sanctifying the worst form of expropriation.

All that I am asking my friend is to say that under Article 31C no ramshackle

[Shri Frank Anthony]

coalition, no communist government in Kerala, will be able to take over the management. *(Interruption)*. Let him say. It does not enable you to pass a legislation to take over education. That is all I want. Let him say; he would not say.

SHRI M. KALYANASUNDARAM : Sir, my amendment is No. 18, that is, to delete the proviso that is sought to be added to Article 31C. The proviso says :

"Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent."

This in effect restricts the powers of the legislature; they cannot pass the law and the law cannot be implemented unless the President gives his assent. The President giving assent means the Government giving assent.

It is not as though the radical economic reforms are introduced in this country only if directed by the Central Government. In certain States, democratic movements are strong enough to result in radical reforms. This will restrict their powers. Even recently, the Chief Minister of Kerala had complained bitterly that his proposal for an ordinance for the taking over of the foreign plantations has not been consented to yet by the Union Government. The Union Government themselves have several times complained that many of the State Governments do not implement the directives regarding the introduction of radical land reforms. That being the case, why should they take these powers to direct even the State Governments as to what they should do in this matter?

The powers are there in the Constitution. Let the State Legislatures be free to work out their own programme. If

they violate the Constitution, then appropriate remedy can be thought of by the people. So this proviso restricts the State legislatures. I want to know, when such a restriction is placed in the Constitution, whether the consent of the Chief Ministers was sought; whether the State Governments were consulted. When such a consultation was not made, it would be an encroachment on the powers of the State Governments. So, I am strongly opposed to this provision.

SHRI SEZHIYAN : Sir, the same amendment has been given by me through my amendment No. 32, that is, to omit lines 11 to 14. I want to raise the same basic points, because, as you know, the legislative business has been divided into three: the Union list, the State list and the concurrent list. The State list cannot deal with any of the subjects under the Union list. Only those coming under the State list and the concurrent lists can be dealt with by the States. If the legislature passes a Bill under the concurrent list, it has to come here and get the consent of the Central Government. But, here, we are making an inroad into the State list. If a Bill is passed on a purely State subject, and if it comes under the proviso, it has to go to the Centre. This is a new thing that has been introduced, though the founding fathers of the Constitution gave a separate list, an exclusive list, for the States.

19 hrs.

Now, two reasons may be given. One is the apprehension that the States will misuse the powers. That means they distrust the States. In the States also they are elected representatives of the people. Why should there be this distrust of the States? The States can also say in turn that the Central Government can misuse the powers. This mistrust and distrust is not good for the working of the federal

structure. The second may be: this is not a new thing, newly introduced. It is already there in the Fourth amendment. If so, if a wrong thing is there, let us do away with the wrong that has already been done.

SHRI H. R. GOKHALE: I shall deal with the points together because some of the points were common. The first point was that we should have confined it only to article 19 (f) and (g) as the Law Commission recommended and not included the whole of 19 for the purpose of non-applicability. In my introductory remarks I had myself referred to the recommendations of the Law Commission. The Law Commission had taken note of the basis on which the Government had the apprehension if it was confined only to article 19 (f) and (g). They expressly dealt with the decided cases such as the price-page schedule case or the Sakal newspaper case. They have said in terms that they do understand this apprehension and that looking at that decision they say that 19(a) was unduly and unjustifiably used by the court to strike down a legislation which Parliament had passed within its competence. What they say is: maybe, if the Supreme Court does it again, you can amend it afterwards. It is not that the Law Commission's view-point is not understood. They have also understood our viewpoint. But should we wait as the Law Commission says? In fact the Law Commission approves that if such a situation arises we should amend it afterwards. Therefore, in principle if that apprehension is justified, there is no objection by the Law Commission to this amendment. The only difference is whether we should do it now or afterwards. Then it is not a matter of decision for the Law Commission as to the point of time at which we should do it. Basically it has accepted that this is necessary according to the existing decision of the courts. On an overall consideration of the purpose and the objects for which this clause is being

inserted, how can anyone say that the Government is not entitled to take the view it has taken, and is bound to accept the Law Commission's recommendations and that Government should also share the hope which the Law Commission has and should wait with regard to the timing of the amendment.

It is not a case where the Law Commission has disagreed with us. In fact they appreciate our point of view. I had made it clear earlier.

The other objection is with regard to the inclusion of 14. Will the hon. Member remember that after careful consideration of all the provisions of the Bill even the Law Commission does not recommend that 14 ought to be excluded. Were they not aware of implications of article 14?.....
(Interruptions)

19:04 hrs.

[Mr. SPEAKER in the Chair].

SHRI SHYAMNANDAN MISHRA: They have taken a wrong view....

SHRI H. R. GOKHALE: You are entitled not to agree with them just as you are entitled not to agree with me also. Therefore, in one case you make an argument that the Law Commission has said this and therefore you should do this. Just as you are entitled to disagree, we are also entitled to disagree. On this point you may not agree with them; I entirely agree that you must not agree with every recommendation of the Law Commission; nor are we bound to do so. The main point is that they do not even discuss it because they know that it is absolutely necessary. In fact, we have consulted legal opinion. I do not want to mention names here, but very great legal

[Shri H. R. Gokhale]

experts have upheld the inclusion of article 14. If the Law Commission had felt as they did in the case of article 19 that it should be confined to (f) and (g), they would have discussed it; but they did not feel so in the case of article 14. Therefore, they did not recommend that article 14 should be excluded. All lawyers who have been dealing with constitutional cases are aware that whenever the Supreme Court found that a legislation could not be struck down under articles 19 or 31, it is struck down under article 14 as it is so broad, covering discrimination, arbitrary exercise of power, vagueness, reasonableness etc. It is so wide that anything can be struck down if the political philosophy underlying the legislation is not acceptable to the Court. Therefore, we thought if the object of the particular legislation is to be achieved, the power of Parliament should be supreme, and that is the whole intention underlying the inclusion of article 14.

Another point referred to is the declaration. There again I am aware as hon. Members are aware, that the Law Commission has recommended that the whole clause relating to the declaration should be deleted. I understand the point of view which you may have or the Law Commission may have, but as I said earlier, with all respect to the members of the Law Commission who are, I admit, experienced people in the judicial profession. I do not agree with the reason given by them that the courts will be helpless, in the sense that even if fraudulent or colourable legislation is passed in which you can reasonably point out and establish that it has no nexus whatsoever with the purposes or the objectives of articles 39 (b) and (c), the courts will be helpless, will be tied down and will not be able to examine the legislation. With all respect, I refute this argument, I would not agree with it, because again all lawyers know that however wide a clause, the first principle

is that clauses excluding jurisdiction have got to be very strictly construed.

SHRI SHYAMNANDAN MISHRA:
Then why do you make this futile exercise?

SHRI H. R. GOKHALE: Therefore the argument that the courts will be helpless is not justified at all. Then the question is why we want it. The reason is simple and obvious that, whatever the power to set aside legislation on the ground of colourable exercise or absence of nexus, the Court will not have any jurisdiction to interfere on the question whether or not a particular legislation is sufficient or adequate to implement the Directive Principles contained in articles 39(b) and (c). For example, the court, while agreeing that there is nexus to a certain extent, that even remotely you can say that the legislation has something to do with the objective of reducing concentration of wealth, cannot question the meaning of taking away the privy purses on the ground that it is not going to reduce concentration of wealth as it involves only a few crores compared to the large problems of the economy involving hundreds of crores. The Court will not be entitled to say that. The extent of implementation is a matter entirely for the powers of Parliament as the supreme legislature. How far it should go is not to be decided by the Court, that is the function of the legislature. That is precisely why I was going to point out earlier, but you instructed me to deal with it when dealing with the Clauses, that the addition of the word "adequately" was intended specifically to make explicit what is already implicit in the Clause as it is. It is implicit in the Clause that the Court can strike down fraudulent legislation, but when we have the word "adequately", it makes it clear that the Court can strike down a legislation which is fraudulent but it cannot go into the adequacy and find out the extent to which the object is fulfilled by the legislation. But members

on both sides of the House felt that it may raise difficulties; even if otherwise the clause enables the court to go ahead with striking down fraudulent legislation and there is no reason to give a ground for a legal argument or legal battle, where you can argue that 'adequately' means you can do this or you cannot do this. Therefore, in deference to the general feeling of members on both sides of the House, it was decided ultimately to drop the amendment. It did not alter the position at all. The position remains the same that courts are not powerless. The courts can strike down that legislation. If tomorrow the party of my friend, Mr. Pilloo Mody, comes to power somewhere and says, "We will increase the privy purses of princes" and makes a declaration that it is for the purpose of articles 39 (b) and (c), the court will strike it down. So, there is a plausible reason for not accepting the recommendation of the Law Commission.

With regard to the query raised by Mr. Anthony, I have dealt with it earlier, but if he is not satisfied, I am willing to deal with it again. You look at article 31C. I am sure Mr. Anthony has noticed that in the exclusions which are provided for in that clause, only three articles are mentioned—14, 19 and 31. Obviously articles 25, 26, 29 or 30 are not in any case expressly excluded from article 31C. Therefore, it is clear enough that the rights contained in articles 25, 26, 29 or 30 are not affected. But let us imagine a little further. I can see the argument: After all, 19 is excluded and the right to take property is there. Therefore, the right to take the property of educational institutions of minorities is also there. But as far as I have been able to understand, the position in law with regard to interpretation of statutes, much more with regard to interpretation of constitutional provisions, is that no one fundamental right can act in derogation of another existing fundamental right. It has been so held. Therefore, as

long as articles 25, 26, 29 and 30 remain on the statute-book, which give express guarantees to the minorities, which this House has again reiterated today by adding a proviso to the second clause of article 31, I wonder how it can be argued that merely because article 19 is excluded, the fundamental right expressly conferred by some other article is taken away.

SHRI FRANK ANTHONY : I only wanted this assurance from you.

SHRI H. R. GOKHALE : I thought such an elaboration would not be necessary, particularly because he is a reputed lawyer. I could have understood it coming from somebody else. Therefore, the apprehensions raised by Mr. Anthony are at best imaginary, because the legal position is clear. There is not even an implied exclusion. Therefore how can anybody take away the fundamental rights expressly conferred by articles such as articles 25, 26, 29 and 30 ?

He also said, abolish fundamental rights altogether, rather than doing this.

SHRI FRANK ANTHONY : I said take away property from fundamental rights.

SHRI H. R. GOKHALE : That improves the position. We were at cross purpose; maybe it was my fault. I thought he said, "Instead of doing this surreptitiously, why not take away the fundamental rights altogether?" I accept his explanation and I confine to only to property.

SHRI FRANK ANTHONY : Take property out of the chapter on Fundamental Rights.

SHRI H. R. GOKHALE : The argument is so fallacious for the simple reason that excepting for its applicability to the clause to regulate 39(c), is it Shri

Shri H. R. Gokhale]

Frank Anthony's suggestion that in all circumstances the property rights should be abrogated? Will other people support this? For example, suppose we say that it is a legislation relating to property which has nothing to do with the reduction of the concentration of wealth? The case of small property-holders, for example, was legitimately referred to by some members on that side. Case of acquisition for a purpose which is not a public purpose was legitimately referred to. Is it suggested that we should abolish this right to property?

We only want to regulate the right to property in specific cases, where a public purpose is established, where a nexus with the objectives of article 39(b) and (c) is established. Therefore, instead of welcoming such a suggestion where the regulation is limited to a defined number of cases rather than making it applicable in a blanket manner for all cases of property, it is being opposed. Should we take away the field of the ordinary farmers who are cultivating it personally by abolishing their right to property? Is it anybody's intention to do that? The intention clearly is not to touch any property which has nothing to do with anything like concentration of wealth, property which has nothing to do with common detriment to the society.

In fact, 39 (c) and (b) are to enable small people to have property. For that concentration of property has to be avoided. It is precisely to bring him to a standard of living where he will have property of his own, rather than concentration of property in a few hands.

Division No. 11]

Anthony, Shri Frank

Bade, Shri R. V.

Banera, Shri Hamendra Singh

Therefore, I am not able to understand the argument; if you want to do this, then abolish the fundamental right to property. That will not take my hon. friend, Shri Anthony, anywhere. The intention is not to abolish the right to property but to regulate it. That is why there is a provision in the second clause of article 31 to pay an amount. The idea is not expropriation; the idea is acquisition. As everyone has agreed, the amount can mean either the whole market value or an amount which is smaller than the market value. It will depend upon the circumstances. I think I have dealt with most of the points.

MR. SPEAKER : Shall I put all the amendments to the vote together?

SHRI FRANK ANTHONY : I want to press amendment No. 5.

MR. SPEAKER : All right. I will put amendment 2, 3 and 4 to the vote of the House.

Amendments Nos. 2, 3 and 4 were put and negatived.

MR. SPEAKER : The question is :

Page 2,

after line 14, insert

"Provided further that no such law shall derogate from the fundamental rights contained in articles 26, 29 and 30 of the Constitution." (5)

The Lok Sabha divided:

AYES

[19.25 hrs.]

Chandra, Shrimati Jyotsna

Chaudhary, Shri Ishwar

Chavda, Shri K. S.

Chowhan, Shri Bharat Singh

Deo, Shri P. K.

Deo, Shri R. R. Singh

Godfrey, Shrimati, M.

Horo, Shri N. E.

Joishi, Shri Jagannathrao

Kachwai, Shri Hukam Chand

Kamaraj, Shri K.

Kiruttinan, Shri Tha

Lalji Bhai, Shri

Malik, Shri Mukhtiar Singh

Mishra, Shri Shyamnandan

Mody, Shri Piloo

Narendra Singh, Shri

Nayak, Shri Baksi

Parmar, Shri Bhaljibhai

Patel, Shri Natwarlal

Ramkanwar, Shri

Shakya, Shri Maha Deepak Singh

Sharma, Shri R. R.

Singh, Shri D. N.

Vajpayee, Shri Atal Bihari

Verma, Shri Phool Chand

NOES

Achal Singh, Shri

Afzalpurkar, Shri Dharamrao

Aga, Shri Syed Ahmed

Agrewal, Shri Shrikrishna

Ahirwar, Shri Nathu Ram

Ahmed, Shri F. A.

Alagesan, Shri O. V.

Ambesh, Shri

Ankineedu, Shri Maganti

Ansari, Shri Ziaur Rahman

Arvind Netam, Shri

Awdhesh Chandra Singh, Shri

Azad, Shri Bhagwat Jha

Aziz Imam, Shri

Babunath Singh, Shri

Bahuguna, Shri H. N.

Bajpai, Shri Vidya Dhar

Balakrishniah, Shri T.

Balathandayutham, Shri K.

Banamali Babu, Shri

Banerjee, Shri S. M.

Banerji, Shrimati Mukul

Barman, Shri R. N.

Barua, Shri Bedabrata

Barupal, Shri Panna Lal

Basappa, Shri K.

Basumatari, Shri D.

Bersa, Shri S. C.

Bhagat, Shri B. R.

Bhagat, Shri H. K. L.

Bhandare, Shri R. D.

Bhargava, Shri Basanahwar Nath

Bhatia, Shri Durgadas
 Bhattacharyya, Shri Dinen
 Bhattacharya, Shri S. P.
 Bhattacharyya, Shri Chapalendu
 Bhuvarahan, Shri G.
 Bisht, Shri Narendra Singh
 Barhmanandji, Shri Swami
 Buta Singh, Shri
 Chakleshwar Singh, Shri
 Chandra Gowda, Shri D. B.
 Chandra Shekhar Singh, Shri
 Chandrakar, Shri Chandulal
 Chandrappan, Shri C. K.
 Chandrashekarappa Veerabasappa,
 Shri T. V.
 Chandrika Prasad, Shri
 Chaturvedi, Shri Rohan Lal
 Chaudhari, Shri Amarsinh
 Chaudhary, Shri Nitiraj Singh
 Chavan, Shri D. R.
 Chavan, Shri Yeshwantrao
 Chawla, Shri Amar Nath
 Chellachemi, Shri A. M.
 Chhotey Lai, Shri
 Chhuttan Lal, Shri
 Choudhary, Shri B. E.
 Choudhury, Shri Moinal Haque
 Daga, Shri M. C.
 Dalbair, Singh, Shri

Dalip Singh, Shri
 Damani, Shri S. R.
 Dandavate, Prof. Madhu
 Das, Shri Anadi Charan
 Das, Shri Dharnidhar
 Dasappa, Shri Tulsidas
 Daschowdhury, Shri B. K.
 Deb, Shri Dasaratha
 Deo, Shri S. N. Singh
 Deshmukh, Shri K. G.
 Dhamankar, Shri
 Dharamgaj Singh, Shri
 Dharia, Shri Mohan
 Dhuria, Shri Anant Prasad
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Dixit, Shri Jagdish Chandra
 Doda, Shri Hiralal
 Dube, Shri J. P.
 Dumda, Shri L. K.
 Dutta, Shri Biren
 Dwivedi, Shri Nageshwar
 Gandhi, Shrimati Indira
 Gangadeb, Shri P.
 Gautam, Shri C. D.
 Gavit, Shri T. H.
 George, Shri. A. C.
 Ghosh, Shri P. K.
 Gill, Shri Mohinder Singh

Godara, Shri Mani Ram

Gogoi, Shri Tarun

Gohain, Shri C. C.

Gokhale, Shri H. R.

Gopal, Shri K.

Goswami, Shri Dinesh Chander

Gotkhinde, Shri Annasaheb

Govind Das, Dr.

Gowda, Shri Pampan

Guha, Shri Samar

Gupta, Shri Indrajit

Haidar, Shri Madhuryya

Hansda, Shri Subodh

Hanumanthaiya, Shri K.

Hari Kishore Singh Shri

Hari Singh, Shri.

Hashim, Shri M. M.

Hazra, Shri Manoranjan

Ishaque, Shri A. K. M.

Jadeja, Shri D. P.

Jagjivan Ram, Shri

Jamilurrahman, Shri Md.

Janardhanan, Shri C.

Jeylaakshmi, Shrimati V.

Jha, Shri Bhogendra

Jha, Shri Chitanjib

Jharkhande Rai, Shri

Joahi, Shri Popatlal M.

Joshi, Shrimati Subhadra

Kadam, Shri Dattajirao

Kadam, Shri J. C.

Kadannappalli, Shri Ramachandran

Kader, Shri S. A.

Kahandole, Shri Z. M.

Kailas, Dr.

Kakodkar, Shri Purushottam

Kakoti, Shri Robin

Kale, Shri

Kalyanasundaram, Shri M.

Kamakshaiah, Shri D.

Kamala Kumari, Kumari

Kamala Prasad, Shri

Kamble, Shri T. D.

Kapur, Shri Sat Pal

Karan, Singh, Dr.

Kasture, Shri A. S.

Kathamuthu, Shri M.

Kaul, Shrimati Sheila

Kavde, Shri B. R.

Kedar Nath Singh, Shri

Khadilkar, Shri R. K.

Kinder Lal, Shri

Kisku, Shri A. K.

Kotoki, Shri Liladhar

Kotrashetti, Shri A. K.

Krishnan, Shri G. Y.

Krishnappa, Shri M. V.

Kulkarni, Shri Raja

Kumaramangalam, Shri S. Mohan

Kureel, Shri B. N.

Lakkappa, Shri K.

Lakshmikanthamma, Shrimati T.

Lakshminarayana, Shri M. R.

Laskar, Shri Nihar

Mahajan, Shri Vikram

Maharaj Singh, Shri

Mahata, Shri Debendra Nath

Majhi, Shri Gajadhar

Majahi, Shri Kumar

Malaviya, Shri K. D.

Mallanna, Shri K.

Mallikarjun, Shri

Mandal, Shri Yamuna Prasad

Marandi, Shri, Iswar

Maurya, Shri B. P.

Melkote, Dr. G. S.

Menon, Shri V. K. Krishna

Minimata Agardas, Shrimati

Mirdha, Shri Nathu Ram

Mishra, Shri Bibhuti

Mishra, Shri G. S.

Mishra, Shri Jagannath

Misra, Shri S. N.

Modi, Shri, Shrikishan

Mohammad Ismail, Shri

Mohammad Tahir, Shri

Mohan Swarup, Shri

Mohsin, Shri F. H.

Mukherjee, Shri Samar

Munsi, Shri Priya Ranjan Das

Murthy, Shri B. S.

Muruganatham, Shri S. A.

Nahata, Shri Amrit

Naik, Shri, B. V.

Nanda, Shri G. L.

Negi, Shri Pratap Singh

Nimbalkar, Shri

Oraon, Shri Kartik

Oraon, Shri Tuna

Oza, Shri Ghanshyam

Pahadia, Shri Jagannath

Palodkar, Shri Manikrao

Pandey, Shri Damodar

Pandey, Shri Krishna Chandra

Pandey, Shri Narsingh Narain

Pandey, Shri R. S.

Pandey, Shri Sarjoo

Pandey, Shri Tarkeshwar

Panigrahi, Shri Chintamani

Pant, Shri K. C.

Paokal Haokip, Shri

Parikh, Shri Rasiklal

Partap Singh, Shri

Parthasarathy, Shri P.

Paawan, Shri Ram Bhagat

Patel, Shri Prabbudas

Patil, Shri Anantrao

Patil, Shri E. V. Vikh

Patil, Shri Krishnarao

Patil, Shri T. A.

Patnaik, Shri Banamali

Patnaik, Shri J. B.

Peje, Shri S. L.

Pillai, Shri R. Balakrishna

Pradhani, Shri K.

Qureshi, Shri Mohd. Shafi

Radhakrishnan, Shri S.

Raghu Ramaiah, Shri K.

Rai, Shrimati Sahodrabai

Raj Bahadur, Shri

Rajdeo Singh, Shri

Ram, Shri Tulmohan

Ram Dhan, Shri

Ram Prakash, Shri

Ram Sewak, Ch.

Ram Swarup, Shri

Ramshekhar Prasad Singh, Shri

Rana, Shri M. B.

Rao, Shrimati B. Radhabai A.

Rao, Shri Jagannath

Rao, Dr. K. L.

Rao, Shri K. Narayana

Rao, Shri M. S. Sanjeevi

Rao, Shri M. Satyanarayan

Rao, Shri Nageswara

Rao, Shri P. Ankincedu Parasada

Rao, Shri Patabhi Rama

Rao, Shri Rajagopala

Rathia, Shri Umed Singh

Raut, Shri Bhola

Ravi, Shri Vayalar

Ray, Shri Siddhartha Shankar

Reddi, Shri P. Antony

Reddy, Shri K. Kodanda Rami

Reddy, Shri K. Ramakrishna

Reddy, Shri M. Ram Gopal

Reddy, Shri P. Bayapa

Reddy, Shri P. Narasimha

Reddy, Shri Y. Eswara

Richhariya, Dr. Govind Das

Rohatgi, Shrimati Sushila

Roy, Shri Bishwanath

Roy, Dr. Saradish

Rudra Pratap Singh, Shri

Sadhu Ram, Shri

Saha, Shri Ajit Kumar

Saha, Shri Gadadhar

Saini, Shri Mulki Raj

Saksena, Prof. S. L.

Salve, Shri N. K. P.

Samanta, Shri S. C.

Sambhali, Shri Ishag

Sanghi, Shri N. K.
 Sankata Prasad, Dr.
 Sant Bux Singh, Shri
 Sarkar, Shri Sakti Kumar
 Satish Chandra, Shri
 Satpathy, Shri Devendra
 Satyanarayana, Shri B.
 Savant, Shri Shankerrao
 Savitri Shyam, Shrimati
 Sen, Dr. Ranen
 Sethi, Shri Arjun
 Sethi, Shri P. C.
 Shafec, Shri A.
 Shafquat Jung, Shri
 Shah Nawaz Khan, Shri
 Shailani, Shri Chandra
 Shambhu Nath, Shri
 Shankar Dayal Singh, Shri
 Shankar Dev, Shri
 Shankaranand, Shri B.
 Sharma, Shri A. P.
 Sharma, Dr. H. P.
 Sharma, Shri Madhoram
 Sharma, Shri Nawal Kishore
 Sharma, Shri R. N.
 Sharma, Dr. Shankar Dayal
 Shastri, Shri Bkswanarayan
 Shastri, Shri Ramavatar

Shastri, Shri Sheopujan
 Shenoy, Shri P. R.
 Sher Singh, Prof.
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shiva Chandika, Shri
 Shivappa, Shri N.
 Shivanath Singh, Shri
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheshwar Prasad, Shri
 Sinha, Shri, Dharam Bir
 Sinha, Shri Nawal Kishore
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sokhi, Shri Swaran Singh
 Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Subramaniam, Shri C.
 Sudarsanam, Shri M.
 Sunder Lai, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaminathan, Shri R. V.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Tarodekar, Shri V. B.

Tayyab Hussain Khan, Shri

Thakre, Shri S. B.

Thakur, Shri Krishnarao

Tiwari, Shri R. G.

Tiwary, Shri D. N.

Tiwary, Shri K. N.

Tombi Singh, Shri N.

Tula Ram, Shri

Tulsiram, Shri V.

Uikey, Shri M. G.

Unnikrishnan, Shri K. P.

Vekaria, Shri

Venkatasubbaiah, Shri P.

Venkatswamy, Shri G.

Verma, Shri Balgovind

Verma, Shri Sukhdeo Prasad

Vidyalankar, Shri Amarnath

Vijay Pal Singh, Shri

Vikal, Shri Ram Chandra

Virbhadra Singh, Shri

Yadav, Shri Karan Singh

Yadav, Shri N. P.

Yadav, Shri R. P.

Yadava, Prof. D. P.

Zulfiquar Ali Khan, Shri

MR. SPEAKER : The result* of the division is : Ayes 29; Noes 342.

The motion was negatived.

MR. SPEAKER : Then, there are three amendments, Nos. 27, 28 and 30, by Shri Shyamnandan Mishra.

SHRI SHYAMNANDAN MISHRA : I wish to press my amendment No. 28. Others may be put to a voice vote.

MR. SPEAKER : I put amendment No. 27 moved by Shri Shyamnandan Mishra to the vote of the House.

Amendment No. 27 was put and negatived.

MR. SPEAKER : Now, I put amendment No. 28 moved by Shri Shyamnandan Mishra to vote.

The question is :

“Page 2, line 7, —

for “article 19” substitute—

“article 19 (1) (f) and (g)” (28)

The Lok Sabha divided :

*The following Members also recorded their votes :

AYES : Shri G. P. Yadav;

NOES : Sarvshri Jagdish Narain Mandal, Jitendra Prasad, Darbara Singh, Chandrajit Yadav, Y. S. Mahajan, Sudhakar Pandey, P. V. G. Raju, A. K. Gopalan, Teja Singh Swatantra, and Dr. Jivraj Mehra.

AYES

Division No. 12]

[19.34 hrs.

Anthony, Shri Frank

Bade, Shri R. V.

Banera, Shri Hamendra Singh

Bhattacharyya, Shri Dinen

Chaudhary, Shri Ishwar

Chavda, Shri K. S.

Chowhan, Shri Bharat Singh

Deb, Shri Darsaratha

Deo, Shri P. K.

Deo, Shri R. R. Singh

Godfrey, Shrimati M.

Gopalan, Shri A. K.

Hazra, Shri Manoranjan

Horo, Shri N. E.

Joshi, Shri Jagannathrao

Kachwai, Shri Hukam Chand

Kamaraj, Shri K.

Lalji Bhai, Shri

Malik, Shri Mukhtiar Singh

Mishra, Shri Shyamnandan

Mody, Shri Piloo

Mohammad Ismail, Shri

Mukherjee, Shri Samar

Narendra Singh, Shri

Nayak, Shri Baksi

Pandeya, Dr. Laxminarain

Parmar, Shri Bhaljibhai

Patel, Shri Natwarlal

Ramkanwar, Shri

Roy, Dr. Saradish

Saksena, Prof. S. L.

Sharma, Shri R. R.

Singh, Shri D. N.

Vajpayee, Shri Atal Bihari

Verma, Shri Phool Chand

Yadav, Shri G. P.

NOES

Achal Singh, Shri

Afzalpurkar, Shri Dharamrao

Aga, Shri Syed Ahmed

Agrawal, Shri Shrikrishna

Ahrwar, Shri Nathu Ram

Ahmed, Shri F. A.

Alagesan, Shri O. V.

Ambesh, Shri

Ankineedu, Shri Maganti

Ansari, Shri Ziaur Rahman

Arvind Netam, Shri

Awdhesh Chandra Singh, Shri

Azad, Shri Bhagwat Jha

Aziz Imam, Shri

Babunath Singh, Shri

Bahuguna, Singh H. N.

Bajpai, Shri Vidya Dhar

Balakrishniah, Shri T.

Banamati Babu, Shri

Benerji, Shrimati Mukul

Barman, Shri R. N.

Barua, Shri Bedabrata

Barupal, Shri Panna Lal

Basappa, Shri K.

Basumatari, Shri D.

Besra, Shri S. C.

Bhagat, Shri B. R.

Bhagat, Shri H. K. L.

Bhagirath Bhanwar, Shri

Bhandare, Shri R. D.

Bhargava, Shri Basheshwar Nath

Bhatia, Shri Durgadas

Bhattacharyya, Shri S. P.

Bhattacharyya, Shri Chapalendu

Bhuvarahan, Shri G.

Bisht, Shri Narendra Singh

Brahmanandji, Shri Swami

Buta Singh, Shri

Chakleshwar Singh, Shri

Chanda, Shrimati Jyotsna

Chandra Gowda, Shri D. B.

Chandrakar, Shri Chandula

Chandrashekarappa Veerabasappa,

Shri T. V.

Chandrika Prasad, Shri

Chaturvedi, Shri Rohan Lal

Chaudhari, Shri Amarsinh

Chaudhary, Shri Nitiraj Singh

Chavan, Shri D. R.

Chavan, Shri Yeshwantrao

Chawla, Shri Amar Nath

Chellachemi, Shri A. M.

Chhotey Lal, Shri

Chnutten Lal, Shri

Choudhury, Shri Moinul Haque

Daga, Shri M. C.

Dalbir Singh, Shri

Dalip Singh, Shri

Damani, Shri S. R.

Dandavate, Prof. Madhu

Darbara Singh, Shri

Das, Shri Anadi Charan

Das, Shri Dharnidhar

Dasappa, Shri Tulsidas

Daschowdhury, Shri B. K.

Deo, Shri S. N. Singh

Deshmukh, Shri K. G.

Dhamankar, Shri

Dharamgaj Singh, Shri

Dharia, Shri Mohan	Hansda, Shri Subodh
Dhusia, Shri Anant Prasad	Hanumanthaiya, Shri K.
Dinesh Singh, Shri	Hari Kishore Singh, Shri
Dixit, Shri G. C.	Hari Singh, Shri
Dixit, Shri Jagdish Chandra	Hashim, Shri M. M.
Doda, Shri Hiralal	Ishaque, Shri A. K. M.
Dube, Shri J. P.	Jadeja, Shri D. P.
Dumada, Shri L. K.	Jagjivan Ram, Shri
Dutta, Shri Biren	Jamilurrahman, Shri Md.
Dwivedi, Shai Nageshwar	Jeyalakshmi, Shrimati V.
Gandhi, Shrimati Indira	Jha, Shri Chiranjib
Gangadeb, Shri P.	Jitendra Prasad, Shri
Gautam, Shri C. D.	Joshi, Shri Popatlal M.
Gavit, Shri T. H.	Joshi, Shrimati Subhadra
George, Shri A. C.	Kadam, Shri J. G.
Ghosh, Shri P. K.	Kadannappalli, Shri Ramachandran
Gill, Shri Mohinder Singh	Kader, Shri S. A.
Godara, Shri Mani Ram	Kahandole, Shri Z. M.
Gogoi, Shri Tarun	Kailas, Dr.
Gohain, Shri C. C.	Kakodkar, Shri Purushottam
Gokhale, Shri H. R.	Kakoti, Shri Robin
Gopal, Shri K.	Kale, Shri
Goswami, Shri Dinesh Chander	Kamakshaiah, Shri D.
Gotkhinde, Shri Annasaheb	Kamala Kumari, Kumari
Govind Das, Dr.	Kamala Prasad, Shri
Gowda, Shri Pampan	Kamble, Shri T. D.
Guha, Shri Samar	Kapur, Shri Sat Pal
Gupta, Shri Indrajit	Karan Singh, Dr.

Kasture, Shri A. S.

Kaul, Shrimati Sheila

Kavde, Shri B. R.

Kedar Nath Singh, Shri

Khadilkar, Shri R. K.

Kinder Lal, Shri

Kisku, Shri A. K.

Kotoki, Shri Liladhar

Kotrashetti, Shri A. K.

Krishnan, Shri G. Y.

Krishnappa, Shri M. V.

Kulkarni, Shri Raja

Kumaramangalam, Shri S. Mohan

Kureel, Shri B. N.

Lakkappa, Shri K.

Lakshmikanthamma, Shrimati T.

Lakshminarayanan, Shri M. R.

Laskar, Shri Nihar

Mahajan, Shri Vikram

Mahajan, Shri Y. S.

Maharaj Singh, Shri

Mohata, Shri Debendra Nath

Mahishi, Dr. Sarojini

Majhi, Shri Gajadhar

Majhi, Shri Kumar

Malaviya, Shri K. D.

Mallanna, Shri K.

Mallikarjun, Shri

Mandal, Shri Jagdish Narain

Mandal, Shri Yamuna Prasad

Marandi, Shri Iswar

Maurya, Shri B. P.

Mehta, Dr. Jivraj

Melkote, Dr. G. S.

Menon, Shri V. K. Krishna

Minimata Agamdas, Shrimati

Mirdha, Shri Nathu Ram

Mishra, Shri Bibhuti

Mishra, Shri G. S.

Mishra, Shri Jagannath

Misra, Shri S. N.

Modi, Shri Shrikishan

Mohammad Tahir, Shri

Mohan Swarup, Shri

Mohapatra, Shri Shyam Sunder

Mohsin, Shri F. H.

Munsi, Shri Priya Ranjan Das

Murthy, Shri B. S.

Nahata, Shri Amrit

Naik, Shri B. V.

Nanda, Shri G. L.

Negi, Shri Pratap Singh

Nimbalkar, Shri

Oraon, Shri Kartik

Oraon, Shri Tuna

Oza, Shri Ghanshyam

Pahadia, Shri Jagannath

Palodkar, Shri Manikrao

Pandey, Shri Damodar

Pandey, Shri Krishna Chandra

Pandey, Shri R. S.

Pandey, Shri Tarkeshwar

Panigrahi, Shri Chintamani

Pant, Shri K. C.

Paokai Haokip, Shri

Parikh, Shri Rasiklal

Partap Singh, Shri

Parthasarathy, Shri P.

Paswan, Shri Ram Bhagat

Patel, Shri Prabhudas

Patil, Shri Anantrao

Patil, Shri E. V. Vikhe

Patil, Shri Krishnarao

Patil, Shri T. A.

Patnaik, Shri Banamati

Patnaik, Shri J. B.

Peje, Shri S. L.

Pillai, Shri R. Balakrishna

Pradhani, Shri K.

Qureshi, Shri Mohd. Shafi

Radhakrishnan, Shri S.

Raghu Ramaiah, Shri K.

Rai, Shrimati Sahodrabai

Raj Bahadur, Shri

Rajdeo Singh, Shri

Raju, Shri P. V. G.

Ram, Shri Tulmohan

Ram Dhan, Shri

Ram Prakash, Shri

Ram Sewak, Ch.

Ram Swarup, Shri

Ramshekhar Prasad Singh, Shri

Rana, Shri M. B.

Rao, Shrimati B. Radhabai A.

Rao, Shri Jagannath

Rao, Dr. K. L.

Rao, Shri K. Narayana

Rao, Shri M. S. Sanjeevi

Rao, Shri M. Satyanarayan

Rao, Shri Nageswara

Rao, Shri P. Ankineedu Parasada

Rao, Shri Pattabhi Rama

Rao, Shri Rajagopala

Rathia, Shri Umed Singh

Raut, Shri Bholu

Ravi, Shri Vayalar

Ray, Shri Siddhartha Shankar

Reddi, Shri P. Antony

Reddy, Shri K. Kodanda Rami

Reddy, Shri K. Ramakrishna

Reddy, Shri M. Ram Gopal

Reddy, Shri P. Bayapa

Reddy, Shri F. Narasimha

Richhariya, Dr. Govind Das

Rohatgi, Shrimati Sushila

Roy, Shri Bishwanath

Rudra Pratap Singh, Shri

Sadhu Ram, Shri

Saini, Shri Mulki Raj

Samanta, Shri S. C.

Sanghi, Shri N. K.

Sankata Prasad, Dr.

Sant Bux Singh, Shri

Sarkar, Shri Sakti Kumar

Satish Chandra, Shri

Satpathy, Shri Devendra

Satyanarayana, Shri B.

Savant, Shri Shankerrao

Savitri Shyam, Shrimati

Sethi, Shri Arjun

Sethi, Shri P. C.

Shafee, Shri A.

Shafquat Jung, Shri

Shahnawaz Khan, Shri

Shailani, Shri Chandra

Shambhu Nath, Shri

Shankar Dayal Singh, Shri

Shankar Dev, Shri

Shankaranand, Shri B.

Sharma, Shri A. P.

Sharma, Dr. H. P.

Sharma, Shri Madhoram

Sharma, Shri Nawal Kishore

Sharma, Shri R. N.

Sharma, Dr. Shankar Dayal

Shastri, Shri Biswanarayan

Shastri, Shri Sheopujan

Shenoy, Shri P. R.

Sher Singh, Prof.

Shetty, Shri K. K.

Shinde, Shri Annasaheb P.

Shiva Chandika, Shri

Shivappa, Shri N.

Shivanath Singh, Shri

Shukla, Shri B. R.

Shukla, Shri Vidya Charan

Siddayya, Shri S. M.

Siddheshwar Prasad, Shri

Singh, Shri V. N. P.

Sinha, Shri Dharam Bir

Sinha, Shri Nawal Kishore

Sinha, Shri R. K.

Sohan Lal, Shri T.

Sokhi, Shri Swaran Singh

Sonar, Dr. A. G.

Subramaniam, Shri C.

Sudarsanam, Shri M.

Sunder Lal, Shri

Surendra Pal Singh, Shri

Suryanarayana, Shri K.
 Swaminathan, Shri R. V.
 Swamy, Shri Sidrameshwar
 Swaran Singh, Shri
 Swejl, Shri G. G.
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Thakre, Shri S. B.
 Thakur, Shri Krishnarao
 Tiwari Shri R. G.
 Tiwary, Shri D. N.
 Tiwary, Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Tulsiram, Shri V.
 Uikey, Shri M. G.

Unnikrishnan, Shri K. P.
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri Sukhdeo Prasad
 Vidyalkar, Shri Amarnath
 Vikal, Shri Ram Chandra
 Virbhadra Singh, Shri
 Yadav, Shri Chandrajit
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadav, Prof. D. P.
 Zulfiqar Ali Khan, Shri

MR. SPEAKER : The result* of the Division is :

Ayes 36, Noes 324.

The motion was negatived.

MR. SPEAKER : I will now put amendments Nos. 30 and 34 to the vote of the House.

Amendments Nos. 30 and 34 were put and negatived.

MR. SPEAKER : I shall now put amendments Nos. 46, 47 and 48 in the name of Shri Ramavatar Shastri to the vote of the House.

Amendments Nos. 46, 47 and 48 were put and negatived.

MR. SPEAKER : The question is :

"That clause 3 stand part of the Bill".

Let the Lobby be cleared

The Lok Sabha divided:

*The following Members also recorded their votes :

AYES : Shri Gadadhar Saha;

NOES : Sarvshri Narsingh Narain Pandey, N. K. P. Salve, Sudhakar Pandey, and C. M. Stephen.

Division No. 13]

[19.40 Hrs.

AYES

Achal Singh, Shri	Bhagat, Shri B. R.
Afzalpurkar, Shri Dharamrao	Bhagat, Shri H. K. L.
Aga, Shri Syed Ahmed	Bhandare, Shri R. D.
Agrawal, Shri Shrikrishna	Bhargava, Shri Bhasheshwar Nath
Ahirwar, Shri Nathu Ram	Bhatia, Shri Durgadas
Ahmed, Shri F. A.	Bhattacharyya, Shri Chapalendu
Alagesan, Shri O. V.	Bhuvarahan, Shri G.
Ambesh, Shri	Bisht, Shri Narendra Singh
Ankineedu, Shri Maganti	Brahmanandji, Shri Swami
Ansari, Shri Ziaur Rahman	Buta Singh, Shri
Arvind Netam, Shri	Chakeshwar Singh, Shri
Awdhesh Chandra Singh, Shri	Chanda, Shrimati Jyotsna
Azad, Shri Bhagwat Jha	Chandra Gowda, Shri D. B.
Aziz Imam, Shri	Chandra Shekhar Singh, Shri
Babunath Singh, Shri	Chandrakar, Shri Chandulal
Bahuguna, Shri H. N.	Chandrappan, Shri C. K.
Bajpai, Shri Vidya Dhar	Chandrashekarappa Veerabasappa, Shri T. V.
Balakrishniah, Shri T.	Chandrika Prasad, Shri
Balathandayutham, Shri K.	Chaturvedi, Shri Rohan Lai
Banmali Babu, Shri	Chaudhari, Shri Amarsinh
Banerjee, Shri S. M.	Chaudhary, Shri Nitiraj Singh
Banerji, Shrimati Mukul	Chavan, Shri D. R.
Barman, Shri R. N.	Chavan, Shri Yeshwantrao
Barua, Shri Bedabrata	Chawla, Shri Amar Nath
Basappa, Shri K.	Chellachemi, Shri A. M.
Basumatari, Shri D.	Chhotey Lal, Shri
Beara, Shri S. C.	

Chhatten Lal, Shri

Choudhary, Shri B. E.

Choudhary, Shri Moinul Haque

Daga, Shri M. C.

Dalbir Singh, Shri

Dalip Singh, Shri

Damani, Shri S. R.

Darbara Singh, Shri

Das, Shri Anadi Charan

Das, Shri Dharnidhar

Dasappa, Shri Tulsidas

Daschowdhury, Shri B. K.

Deo, Shri S. N. Singh

Deshmukh, Shri K. G.

Dhamankar, Shri

Dharamgaj Singh, Shri

Dharia, Shri Mohan

Dhusia, Shri Anant Prasad

Dinesh Singh, Shri

Dixit, Shri G. C.

Dixit, Shri Jagdish Chandra

Dosa, Shri Hiralal

Dube, Shri J. P.

Dwivedi, Shri Nageshwar

Gandhi, Shrimati Indira

Gangadeb, Shri P.

Gautam, Shri C. D.

Gavit, Shri T. H.

George, Shri A. C.

Ghosh, Shri P. K.

Gill, Shri Mohinder Singh

Godara, Shri Mani Ram

Gogoi, Shri Tarun

Gohain, Shri C. C.

Gokhale, Shri H. R.

Gopal, Shri K.

Goswami, Shri Dinesh Chander

Gotkhinde, Shri Annasaheb

Govind Das, Dr.

Gowda, Shri Pampan

Gupta, Shri Indrajit

Hansda, Shri Subodh

Hanumanthajya, Shri K.

Hari Singh, Shri

Hashim, Shri M. M.

Ishaque, Shri A. K. M.

Jagjivan Ram, Shri

Jamilurrahman, Shri M.

Janardhanan, Shri C.

Jeyalakshmi, Shrimati V.

Jha, Shri Bhogendra

Jha, Shri Chiranjib

Jharkhande Rai, Shri

Jitendra Prasad, Shri

Joshi, Shri Popatlal M.

Joshi, Shrimati Subhadra

Kadam, Shri J. G.	Krishnappa, Shri M. V.
Kadannappelli, Shri Ramachandran	Kulkarni, Shri Raja
Kader, Shri S. A.	Kumaramangalam, Shri S. Mohan
Kahandole, Shri Z. M.	Kureel, Shri B. N.
Kailas, Dr.	Lakhappa, Shri K.
Kakodkar, Shri Purushottam	Lakshmikanthamma, Shrimati T.
Kakoti, Shri Robin	Lakshminarayanan, Shri M. R.
Kale, Shri	Laskar, Shri Nihar
Kalyanasundaram, Shri M.	Mahajan, Shri Vikram
Kamakshaiah, Shri D.	Mahajan, Shri Y. S.
Kamala Kumari, Kumari	Maharaj Singh, Shri
Kamala Prasad, Shri	Mahata, Shri Debendra Nath
Kamaraj, Shri K.	Mahishi, Dr. Sarojini
Kamble, Shri T. D.	Majhi, Shri Gajadhar
Kapur, Shri Sat Pal	Majhi, Shri Kumar
Karan Singh, Dr.	Malaviya, Shri K. D.
Kasture, Shri A. S.	Mallanna, Shri K.
Kathamuthu, Shri M.	Mallikarjun, Shri
Kaul, Shrimati Sheila	Mandal, Shri Jagdish Narain
Kavde, Shri B. R.	Marandi, Shri Iswar
Kedar Nath Singh, Shri	Maurya, Shri B. P.
Khadilkar, Shri R. K.	Mehta, Dr. Jivraj
Kinder Lal, Shri	Mekote, Dr. G. S.
Kiaku, Shri A. K.	Menon, Shri V. K. Krishna
Kotaki, Shri Lbadhar	Minimata Agandas, Shrimati
Kotrashetti, Shri A. K.	Mirdha, Shri Nathu Ram
Krishna, Shri G. Y.	Mishra, Shri Bibhuti
	Mishra, Shri G. S.

Mishra, Shri Jagannath	Panigrahi, Shri Chintamani
Mishra, Shri Shyamnandan	Pant, Shri K. C.
Misra, Shri S. N.	Paokai Haokip, Shri
Modi, Shri Shrikishan	Parikh, Shri Rasiklal
Mohammad Tahir, Shri	Parmar, Shri Bhaljibhai
Mohan Swarup, Shri	Pratap Singh, Shri
Mohapatra, Shri Symam Sunder	Parthasarathy, Shri P.
Mohsin, Shri F. H.	Paswan, Shri Ram Bhagat
Munsi, Shri Priya Ranjan Das	Patel, Shri Prabhudas
Murthy, Shri B. S.	Patil, Shri Anantrao
Muruganantham, Shri S. A.	Patil, Shri E. V. Vikhe
Nahata, Shri Amrit	Patil, Shri Krishnarao
Naik, Shri B. V.	Patil, Shri T. A.
Nanda, Shri G. L.	Patnaik, Shri Banamali
Negi, Shri Pratap Singh	Patnaik, Shri J. B.
Nimbalkar, Shri	Peje, Shri S. L.
Oraon, Shri Kartik	Pilli, Shri R. Balakrishna
Oraon, Shri Tuna	Pradhani, Shri K.
Oza, Shri Ghanshyam	Qureshi, Shri Mohd. Shafi
Pahadia, Shri Jagannath	Radhakrishnan, Shri S.
Palodkar, Shri Manikrao	Raghu Ramaiah, Shri K.
Pandey, Shri Damodar	Rai, Shrimati Sahodrabai
Pandey, Shri Krishna Chandra	Raj Bahadur, Shri
Pandey, Shri Narsingh Narain	Rajdeo Singh, Shri
Pandey, Shri R. S.	Raju, Shri P. V. G.
Pandey, Shri Sarjoo	Ram, Shri Tulmohan
Pandey, Shri Sudhakar	Ram Dhan, Shri
Pandey, Shri Tarkeshwar	Ram Prakash, Shri

Ram Sewak, Ch.	Sadhu Ram, Shri
Ram Swarup, Shri	Saha, Shri Ajit Kumar
Rameshkhari Prasad Singh, Shri	Saini, Shri Mulki Raj
Rana, Shri M. B.	Saksena, Prof. S. L.
Rao, Shrimati B. Radhabai A.	Salve, Shri N. K. P.
Rao, Shri Jagannath	Samanta, Shri S. C.
Rao, Dr. K. L.	Sambhali, Shri Ishaq
Rao, Shri K. Narayana	Sanghi, Shri N. K.
Rao, Shri M. S. Sanjeevi	Sankata Prasad, Dr.
Rao, Shri M. Satyanarayan	Sant Bux Singh, Shri
Rao, Shri Nageswara	Sarkar, Shri Sakti Kumar
Rao, Shri P. Ankineedu Parasada	Satish Chandra, Shri
Rao, Shri Pattabhi Rama	Satyapathy, Shri Devendra
Rao, Shri Rajagopala	Satyanarayana, Shri B.
Rathia, Shri Umed Singh	Savitri Shyam, Shrimati
Raut, Shri Bhola	Sen, Dr. Ranen
Ravi, Shri Vayalar	Sethi, Shri Arjun
Ray, Shri Siddhartha Shankar	Sethi, Shri P. C.
Reddi, P. Antony	Shafce, Shri A.
Reddy, Shri K. Kodanda Rami	Shafquat Jung, Shri
Reddy, Shri K. Ramakrishna	Shahnawaz Khan, Shri
Reddy, Shri M. Ram Gopal	Shailani, Shri Chandra
Reddy, Shri P. Bayapa	Shambhu Nath, Shri
Reddy, Shri P. Narasimha	Shankar Dayal Singh, Shri
Richhariya, Dr. Govind Das	Shankar Dev, Shri
Rohatgi, Shrimati Sushila	Shankaranand, Shri B.
Roy, Shri Bishwanath	Sharma, Shri A. P.
Rudra Pratap Singh, Shri	Sharma, Dr. H. P.

Sharma, Shri Madhoram
 Sharma, Shri Nawal Kishore
 Sharma, Shri R. N.
 Sharma, Dr. Shankar Dayal
 Shastri, Shri Biswanarayan
 Shastri, Shri Ramavatar
 Shastri, Shri Sheopujan
 Shenoy, Shri P. R.
 Sher Singh, Prof.
 Shetty, Shri K. K.
 Shinde, Shri Annasaheb P.
 Shiva Chandika, Shri
 Shivappa, Shri N.
 Shivanath Singh, Shri
 Shukla, Shri B. R.
 Shukla, Shri Vidya Charan
 Siddayya, Shri S. M.
 Siddheswar Prasad, Shri
 Sinha, Shri Dharam Bir
 Sinha, Shri Nawal Kishore
 Sinha, Shri R. K.
 Sohan Lal, Shri T.
 Sokhi, Shri Swaran Singh
 Sonar, Dr. A. G.
 Stephen, Shri C. M.
 Sudarsanam, Shri M.
 Sunder Lal, Shri
 Surendra Pal Singh, Shri
 Suryanarayana, Shri K.
 Swaminathan, Shri R. V.
 Swamy, Shri Sidrameshwar

Swaran Singh, Shri
 Swatantra, Shri Teja Singh
 Swell, Shri G. G.
 Tarodekar, Shri V. B.
 Tayyab Hussain Khan, Shri
 Thakre, Shri S. B.
 Thakur, Shri Krishnarao
 Tiwari, Shri R. G.
 Tiwary, Shri D. N.
 Tiwary, Shri K. N.
 Tombi Singh, Shri N.
 Tula Ram, Shri
 Tulsiram, Shri V.
 Uikey, Shri M. G.
 Unnikrishnan, Shri K. P.
 Vekaria, Shri
 Venkatasubbaiah, Shri P.
 Venkatswamy, Shri G.
 Verma, Shri Balgovind
 Verma, Shri Sukhdeo Prasad
 Vidyalkar Shri Amarnath
 Vijay Pal Singh, Shri
 Vikal, Shri Ram Chandra
 Virbhadra Singh, Shri
 Yadav, Shri Chandrajit
 Yadav, Shri Karan Singh
 Yadav, Shri N. P.
 Yadav, Shri R. P.
 Yadava, Prof. D. P.
 Zulfiqar Ali Khan, Shri

NOES

Agarwal, Shri Virendra

Anthony, Shri Frank

Bade, Shri R. V.

Banera, Shri Hamendra Singh

Chaudhary, Shri Ishwar

Chowhan, Shri Bharat Singh

Deo, Shri P. K.

Deo, Shri R. R. Singh

Godfrey, Shrimati M.

Horo, Shri N. E.

Joshi, Shri Jagannathrao

Kachwai, Shri Hukam Chand

Lalji Bhal, Shri

Malik, Shri Mukhtiar Singh

Narendra Singh, Shri

Nayak, Shri Baksi

Pradhan, Shri Dhan Shah

Ramkanwar, Shri

Sharma, Shri R. R.

Vajpayee, Shri Atal Bihari

Verma, Shri Phool Chand

Yadav, Shri G. P.

MR. SPEAKER : The result* of the division is as follows : *Ayes* : 337; *Noes* : 22

The motion is carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

The motion was adopted.

Clause 3 was added to the Bill.

MR. SPEAKER : We shall now take up clause 1, the Enacting Formula and the Title. They do not need any special majority but only simple majority. So, I shall put them to voice vote.

MR. SPEAKER : The question is :

"That clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI H. R. GOKHALE : I beg to move :

"That the Bill, as amended, be passed."

MR. SPEAKER : Motion moved :

"That the Bill, as amended, be passed."

*The following Members also recorded their Votes :

AYES : Sarvashri Hari Kishore Singh, C. Subramaniam, Panna Lal Barupal, Yamuya Prasad Mandal, Shankerrao Savant, L. K. Dumada, V. N. P. Singh, D. P. Jadeja and Y. Eswara Reddy ;

NOES : Shri Maha Deepak Singh Shakya and Dr. Laxminarain Pandeya.

SHRI ATAL BIHARI VAJPAYEE :
On a point of order.

MR. SPEAKER : I have seen it. There is a separate chapter on Constitution amendment Bills. In spite of that, I was careful to allow them to move it. We decided it in the Business Advisory Committee. I declared it yesterday also and twice this morning that this Bill would go through all its stages today.

SHRI P. K. DEO : I thank you for giving me this opportunity to speak at this stage.

We are passing through days of trouble and tension, specially due to the confrontation with Pakistan on the Bangla Desh issue and the refugee problem. It has been highlighted only yesterday by the Prime Minister as the dark days also. When unity is the prime need of the hour, the passage of a most controversial Bill which robs the citizen of his cherished rights is most untimely.

The 24th Amendment Bill gives adequate powers to Parliament to abridge or abrogate any of the fundamental rights. This should be exercised with restraint and circumspection. The undue haste in the passage of the Bill and the ousting of the Supreme Court for review in regard to scrutiny as to the validity of it and the utter confusion in which has been passed has belied all our expectations. Even prominent jurists like Sbri Setalvad and Shri Chagla who supported the 24th Amendment Bill have condemned the 25th Amendment Bill.

Art. 31C makes the amount fixed and determined not justiciable in any court of law. Just now we have decided that articles 14 and 19 will not be applicable so far as this Bill is concerned. A blanket power is being given, no line has been

drawn regarding a ceiling on definition of property. All properties come under the purview of this Bill. It is my fear that the Bill when passed will be subjected to the tyranny of the bureaucrats. Even if the amount is fixed by the legislature, they have to take recourse to the bureaucracy, some petty patwari or petty tehsildar to fix the quantum.

Sir, it will open the floodgates of corruption and, at the same time, it will subject to the whims that may be indulged in by any irresponsible legislature. The citizens will be subject to the mercy of the politicians. There has been a talk that the fundamental rights, if subordinated, will stand in the way of the implementation of the directive principles. The fundamental rights are precise and have been clearcut in comparison with the vague contours contained in the directive principles. The other day, we had an acid test of the genuineness of their intention. Two Bills based on the directive principles of State policy were discussed. Those Bills had been tabled by Dr. Karni Singh, to provide free and compulsory education to the children under article 45 of the Directive Principles and to provide jobs or secure the right to work. They have been negated by these high priests of socialism.

Sir, formerly, the States were not given the power to make any enactment on fundamental rights. Now, the States have been given the power. It is likely to be misused. We may not be surprised if one day the Orissa Government takes over the entire Rourkela property by giving one rupee as compensation to the Hindustan Steel. *(Interruption)*

MR. SPEAKER : The hon. Member's time is up.

SHRI P. K. DEO : Please give me a couple of minutes.

MR. SPEAKER : I would not have rung the bell. But I think the House is not in a mood to listen now.

SHRI P. K. DEO : How can you presume, Sir ? Every Member has got a right that his voice should be heard. Sir, this measure will put a premium on honesty. They cannot touch black money which has been the main source of patronage to the ruling party. Only the fruits of hard labour will be subjected to the tyranny of the majority.

Lastly, I beg to submit that the passage of this Bill will destroy our Constitution, and there will emerge a dictator; as Hitler emerged out of the ashes of the Wilmer Constitution and, this Constitution will pave the way for it. (*Interruption*)

MR. SPEAKER : Order, please.

SHRI P. K. DEO : Lastly, I appeal to the House that at last wisdom and reasoning should prevail, and that they will throw away this Bill.

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, मुझे केवल एक ही बात कहनी है। मेरे बारे में प्रधान मंत्री जी ने जो कहा है उसका एक ही जवाब है कि मेरा कांग्रेस पार्टी में शामिल होने का कोई इरादा नहीं है।... (अवधान)...

श्री इय्यास मन्वान मिश्र : बड़ी निरदयता दिखलाई। वाजपेयी जी को इतनी शक्की

दावत मिली लेकिन फिर भी उन्होंने कबूल नहीं की।... (अवधान)...

SHRI M. SATYANARAYAN RAO : Mr. Speaker, it is very untimely to make a speech. I have supported the Bill. I have voted for the Bill also. On behalf of the TPS, I want to tell this House that I support this measure. Since yesterday, I have been listening to the speeches of the hon. Law Minister and the other two hon. Ministers also. Unfortunately I could not get any light from those speeches. I have got some doubt with regard to article 19. Of course about 19(1)(g) I am supporting it. What about the freedom of speech and association ? That is what I wanted to ask and get some clarification. It has of course become too late for it. But I am not still convinced about it.

SHRI H. R. GOKHALE : I have talked about this extensively on more than one occasion and I have explained the implications of the inclusion of article 19. I wonder why the hon. Member is saying that I have not dealt with it.

MR. SPEAKER : I shall now put the question. Let the Lobby be cleared.

The question is :

“That the Bill, as amended, be passed.”

The Lok Sabha divided :

Division No. 14.]

[19.54 hrs.]

AYES

Achal Singh, Shri

Agrawal, Shri Shrikrishna

Afzalpurkar, Shri Dharamrao

Ahirwar, Shri Nathu Ram

Aga, Shri Syed Ahmed

Ahmed, Shri F. A.

- Ajagean, Shri O. V.
 Ambesh, Shri
 Ankineedu, Shri Maganti
 Ansari, Shri Ziaur Rahman
 Arvind Netam, Shri
 Awdhesh Chandra Singh, Shri
 Azad, Shri Bhagwat Jha
 Aziz Imam, Shri
 Babunath Singh, Shri
 Bahuguna, Shri H. N.
 Bajpai, Shri Vidya Dhar
 Balakrishnaiah, Shri T.
 Balathandayutham, Shri K.
 Banamali Babu, Shri
 Banerjee, Shri S. M.
 Banerji, Shrimati Mukui
 Barman, Shri R. N.
 Barua, Shri Bedabrata
 Basappa, Shri K.
 Basumatari, Shri D.
 Besra, Shri S. C.
 Bhagat, Shri B. R.
 Bhagat, Shri H. K. L.
 Bhagirath Bhanwar, Shri
 Bhandare, Shri R. D.
 Bhargava, Shri Basheswar Nath
 Bhatia, Shri Durgadas
 Bhattacharyya, Shri Dinen
 Bhattacharyya, Shri S. P.
 Bhattacharyya, Shri Chapalendu
 Bhuvarahan, Shri G.
 Bisht, Shri Narendra Singh
 Brahmanandji, Shri Swami
 Buta Singh, Shri
 Chakleshwar Singh, Shri
 Chanda, Shrimati Jyotsna
 Chandra Gowda, Shri D. B.
 Chandra Shekhar Singh, Shri
 Chandrakar, Shri Chandulal
 Chandrappan, Shri C. K.
 Chandrashekarappa Veerabasappa,
 Shri T. V.
 Chandrika Prasad, Shri
 Chaturvedi, Shri Rohan Lal
 Chaudhari, Shri Amarsinh
 Chaudhary, Shri Nitiraj Singh
 Chavan, Shri D. R.
 Chavan, Shri Yeshwantrao
 Chawla, Shri Amar Nath
 Chellachemi, Shri A. M.
 Chhotey Lal, Shri
 Chhuttan Lal, Shri
 Choudhary, Shri B. E.
 Choudhury, Shri Moinul Haque
 Daga, Shri M. C.
 Dalbir Singh, Shri
 Dalip Singh, Shri
 Damani, Shri S. R.

Dandavate, Prof. Madhu

Darbara Singh, Shri

Das, Shri Anadi Charan

Das, Shri Dharnidhar

Dasappa, Shri Tulsidas

Daschodhury, Shri B. K.

Deb, Shri Dasaratha

Deo, Shri S. N. Singh

Deshmukh, Shri K. G.

Dhamankar, Shri

Dhandapani, Shri C. T.

Dharamgaj Singh, Shri

Dharia, Shri Mohan

Dhusia, Shri Anant Prasad

Dinesh Singh, Shri

Dixit, Shri G. C.

Dixit, Shri Jagdish Chandra

Doda, Shri Hiralal

Dube, Shri J. P.

Dumada, Shri L. K.

Dutt, Shri Biren

Dwivedi, Shri Nageshwar

Gandhi, Shrimati Indira

Gangadab, Shri P.

Gautam, Shri C. D.

Gavit, Shri T. H.

George, Shri A. C.

Ghosh, Shri P. K.

Gill, Shri Mohinder Singh

Godara, Shri Mani Ram

Gogoi, Shri Tarun

Gohain, Shri C. C.

Gokhale, Shri H. R.

Gopalan, Shri A. K.

Goswami, Shri Dinesh Chander

Gotkhinde, Shri Annasaheb

Govind Das, Dr.

Guha, Shri Samar

Gupta, Shri Indrajit

Halder, Shri Madhuryya

Hansda, Shri Subodh

Hanumanthaiya, Shri K.

Hari Kishore Singh, Shri

Hari Singh, Shri

Hazra, Shri Manoranjan

Ishaque, Shri A. K. M.

Jadeja, Shri D. P.

Jagjivan, Ram Shri

Jamilurrahman, Shri Md.

Janardhanan, Shri C.

Jeyalakshmi, Shrimati V.

Jha, Shri Bhogendra

Jha, Shri Chiranjib

Jharkhande Raj, Shri

Jitendra Prasad, Shri

Joshi, Shri Popatlal M.

- Joshi, Shrimati Subhadra
 Kadam, Shri J. G.
 Kadannappalli, Shri Ramachandran
 Kader, Shri S. A.
 Kahandole, Shri Z. M.
 Kailas, Dr.
 Kakodkar, Shri Purushottam
 Kakoti, Shri Robin
 Kale, Shri
 Kalyanasundaram, Shri M.
 Kamakshaiah, Shri D.
 Kamala Kumari, Kumari
 Kamala Prasad, Shri
 Kamaraj, Shri K.
 Kambic, Shri T. D.
 Kapur, Shri Sat Pal
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kathamuthu, Shri M.
 Kaul, Shrimati Sheila
 Kavde, Shri B. R.
 Kedar Nath Singh, Shri
 Khadilkar, Shri R. K.
 Kinder Lal, Shri
 Kiaku, Shri A. K.
 Kotaki, Shri Liladhar
 Kotrashetti, Shri A. K.
 Krishnan, Shri G. Y.
 Krishnappa, Shri M. V.
 Kulkarni, Shri Raja
 Kumaramangalam, Shri S. Mohan
 Kureel, Shri B. N.
 Lakkappa, Shri K.
 Lakshmi Kanthamma, Shrimati T.
 Lakshminarayanan, Shri M. R.
 Laskar, Shri Nihar
 Mahajan, Shri Vikram
 Mahajan, Shri Y. S.
 Maharaj Singh, Shri
 Mahata, Shri Debendra Nath
 Mahishi, Dr. Sarojini
 Majhi, Shri Gajadhar
 Majhi, Shri Kumar
 Malaviya, Shri K. D.
 Mallanna, Shri K.
 Mallikarjun, Shri
 Mandal, Shri Jagdish Narain
 Marandi, Shri Iswar
 Maurya, Shri B. P.
 Mehta, Dr. Jivraj
 Melkote, Dr. G. S.
 Menon, Shri V. K. Krishna
 Minimata Agandas, Shrimati
 Mirdha, Shri Nathu Ram
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.

Mishra, Shri Jagannath	Panigrahi, Shri Chintamani
Mishra, Shri Shyamandan	Pant, Shri K. C.
Misra, Shri S. N.	Paokai Haokip, Shri
Modi, Shri Shrikishan	Parikh, Shri Rasiklal
Mohammad Ismail, Shri	Parmar, Shri Bhaljibhai
Mohammad Tahir, Shri	Partap Singh, Shri
Mohan Swarup, Shri	Parthasarathy, Shri P.
Mohapatra, Shri Shyam Sunder	Paswan, Shri Ram Bhat
Mohsin, Shri F. H.	Patel, Shri Prabhudas
Mukherjee, Shri Samar	Patil, Shri Anantrao
Munsi, Shri Priya Ranjan Das	Patil, Shri E. V. Vikhe
Murthy, Shri B. S.	Patil, Shri Krishnarao
Muruganantham, Shri S. A.	Patil, Shri T. A.
Nahata, Shri Amrit	Patnaik, Shri Banamali
Naik, Shri B. V.	Patnaik, Shri J. B.
Nanda, Shri G. L.	Peje, Shri S. L.
Negi, Shri Pratap Singh	Pillai, Shri R. Balakrishna
Nimbalkar, Shri	Pradhani, Shri K.
Oraon, Shri Tuna	Qureshi, Shri Mohd. Shafi
Oza, Shri Ghanashyam	Radhakrishnan, Shri S.
Pahadia, Shri Jagannath	Raghu Ramaiah, Shri K.
Palodkar, Shri Manikrao	Rai, Shrimati Sahodrabai
Pandey, Shri Damodar	Raj Bahadur, Shri
Pandey, Shri Krishna Chandra	Rajdeo Singh, Shri
Pandey, Shri Narasingh Narain	Raja, Shri P. V. G.
Pandey, Shri R. S.	Ram, Shri Tulmohan
Pandey, Shri Sudhakar	Ram Dhan, Shri
Pandey, Shri Tarakanwar	Ram Prakash, Shri
	Ram Sewak, Ch.

Ram Swarup, Shri	Sadhu Ram, Shri
Rameshwar Prasad Singh, Shri	Saha, Shri Ajit Kumar
Rana, Shri M. B.	Saini, Shri Mulki Raj
Rao, Shrimati B. Radhabai A.	Saksena, Prof. S. L.
Rao, Shri Jagannath	Salve, Shri N. K. P.
Rao, Dr. K. L.	Samanta, Shri S. C.
Rao, Shri K. Narayana	Sambhali, Shri Ishaq
Rao, Shri M. S. Sanjeevi	Sanghi, Shri N. K.
Rao, Shri M. Satyanarayan	Sankata Prasad, Dr.
Rao, Shri Nageswara	Sant Bux Singh, Shri
Rao, Shri P. Ankineedu Parasada	Sarkar, Shri Sakti Kumar
Rao, Shri Pattabhi Rama	Satish Chandra, Shri
Rao, Shri Rajagoppla	Satpathy, Shri Devendra
Rathia, Shri Umed Singh	Satyanarayana, Shri B.
Raut, Shri Bhola	Savant, Shri Shankerrao
Ravi, Shri Vayalar	Savitri Shyam, Shrimati
Ray, Shri Siddhartha Shankar	Sen, Dr. Ranen
Reddi, Shri P. Antony	Sethi, Shri Arjun
Reddy, Shri K. Kodanda Rami	Sethi, Shri P. C.
Reddy, Shri K. Ramakrishna	Sezhiyan, Shri
Reddy, Shri M. Ram Gopal	Shafee, Shri A.
Reddy, Shri P. Narasimha	Shafquat Jung, Shri
Reddy, Shri Y. Eswara	Shahnawaz Khan, Shri
Richhariya, Dr. Govind Das	Shailani, Shri Chandra
Rohatgi, Shrimati Sushila	Shambhu Nath, Shri
Roy, Shri Bishwanath	Shankar Dayal Singh, Shri
Roy, Dr. Saradiah	Shankar Dev, Shri
Rudra Pratap Singh, Shri	Shankaranand, Shri B.

Sharma, Shri A. F.	Stephen, Shri C. M.
Sharma, Dr. H. P.	Subramaniam, Shri C.
Sharma, Shri Madhoram	Sudarsanam, Shri M.
Sharma, Shri Nawal Klahore	Sunder Lal, Shri
Sharma, Shri R. N.	Surendra Pal Singh, Shri
Sharma, Dr. Shankar Dayal	Suryanarayana, Shri K.
Shastri, Shri Biswanarayan	Swaminathan, Shri R. V.
Shastri, Shri Ramavatar	Swamy, Shri Sidrameshwar
Shastri, Shri Sheopujan	Swaran Singh, Shri
Shenoy, Shri P. R.	Swatantra, Shri Teja Singh
Sher Singh, Prof.	Swell, Shri G. G.
Shetty, Shri K. K.	Tarodekar, Shri V. B.
Shinde, Shri Annasaheb P.	Tayyab Hussain Khan, Shri
Shiva Chandika, Shri	Thakre, Shri S. B.
Shivappa, Shri N.	Thakur, Shri Krishnarao
Shivanath Singh, Shri	Tiwari, Shri R. G.
Shukia, Shri B. R.	Tiwary, Shri D. N.
Shukla, Shri Vidya Charan	Tiwary, Shri K. N.
Siddayya, Shri S. M.	Tombi Singh, Shri N.
Siddheshwar Prasad, Shri	Tula Ram, Shri
Singh, Shri V. N. P.	Tulsiram, Shri
Sinha, Shri Dharam Bir	Uikey, Shri M. G.
Sinha, Shri Nawal Klahore	Unnikrishnan, Shri K. P.
Sinha, Shri R. K.	Vekaria, Shri
Sohan Lal, Shri T.	Venkatasubbalah, Shri P.
Sokhi, Shri Swaran Singh	Venkatswamy, Shri G.
Soner, Dr. A. G.	Verma, Shri Balgovind
	Verma, Shri Sukhdeo Prasad

Vidyalankar, Shri Amarnath

Yadav, Shri Karan Singh

Vijay Pal Singh, Shri

Yadav, Shri N. P.

Vikal, Shri Ram Chandra

Yadav, Shri R. P.

Virbhadra Singh, Shri

Yadava, Prof. D. P.

Yadav, Shri Chandrajit

Zulfikar Ali Khan, Shri

NOES

Agarwal, Shri Virendra

Lalji Bhai, Shri

Bade, Shri R. V.

Narendra Singh, Shri

Banera, Shri Hamendra Singh

Nayak, Shri Baksi

Chowhan, Shri Bharat Singh

Pandeya, Dr. Laxminarain

Deo, Shri P. K.

Pradhan, Shri Dhan Shah

Deo, Shri R. R. Singh

Ramkanwar, Shri

Horo, Shri N. E.

Sharma, Shri R. R.

Joshi, Shri Jagannathrao

Vajpayee, Shri Atal Bihari

Kachwai, Shri Hukam Chand

Verma, Shri Phool Chand

Karni Singh, Dr.

Yadav, Shri G. P.

MR. SPEAKER : The result* of the division is : Ayes 353; Noes 20.

a majority of not less than two-thirds of the Members present and voting.

The motion was adopted.

The motion is carried by a majority of the total membership of the House and by

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, December 2, 1971/Agrahayana 11, 1893 (Saka).

*The following Members also recorded their votes :

AYES : Sarvshri Kartik Oraon, Panna Lal Barupal, Yamuna Prasad Mandal, P. Bayappa Reddy, Pampan Gowda and M. M. Hashim;

NOES : Shri Ishwar Chaudhry.