about it yesterday, I thought, the same thing would be repeated

The question is :

"That clause 2, 3, the Schedule, clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clauses 2 and 3, the Schedule, Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. C. SETHI : Sir, I move :

"That the Bill be passed."

MR. SPEAKER : The question is :

"That the Bill be passed."

The motion was adopted.

12.22 hrs.

STATUTORY RESOLUTION *RE* : BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ORDINANCE, 1970 AND BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) BILL, 1970

MR. SPEAKER : The House will now take up discussion on the Statutory Resolution regarding disapproval of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance and the connected Bill for which 10 hours have been allotted.

If the House agrees, 5 hours may be allotted to the Statutory Resolution and motion for consideration of the Bill ; 4 hours for clause-by-clause consideration and 1 hour for the Third Reading.

SOME HON. MEMBERS : Yes.

MR. SPEAKER : So, it is agreed ; of course, we will have marginal adjustments.

SHRI BENI SHANKER SHARMA (Banka) : Sir, I move the following Resolution :

"This House disapproves of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1970 (Ordinance No. 3 of 1970) promulgated by the President on the 14th February, 1970."

While moving this Resolution I am conscious of the fact that the word "nationalisation has caught the imagination of the people, thanks to the Indian Goebbels, Shri Gujral and his propaganda machinery, though most of them do not understand the real implication of what nationalisation as preached and practised to day by this Government means.

15.24 hrs.

[Mr. Deputy-Speaker *in the Chair*]

Nationalisation has been made a slogan and it is being treated as a pawn in the political game. It is really unfortunate that socio-economic questions are mixed up and twisted for achieving political objectives.

As such, at the very outset I would like to make it clear that I and my party are not in any way opposed to nationalisation whether in the field of banking or industries provided the same is meant to improve the economic conditions of the toiling masses and to help the growth and development of the nation.

The Bharatiya Jana Sangh's approach to the problem of nationalisation, therefore, is practical and pragmatic and not doctrinaire and dogmatic. Bharatiya culture which is the basic plank of Jana Sangh stands for economic as well as political democracy and is against concentration of both political and economic power whether in the hands of the Government or the private persons. According to it, one can rightfully claim only as much as is sufficient for filling his belly. Whosoever claims more is a thief deserving punishment :

'यावत् भ्रियते जठरं तावत् स्वत्वं ही देहिनाम् ।
अधिकं योऽभि मन्येत स्तेनो दण्डयोति ॥'

The Atherva Veda enjoins :

'शत हस्ते समाहर, सहस्र हस्त विकीर'

That is, with hundred hands produce, with thousand hands distribute. And I think with these basic principles, Jana Sangh is really a greater and better socialist institution than any other party which claims to speak socialism, breathe socialism and live socialism.

[Shri Beni Shankar Sharma]

Now, coming to the present Ordinance, we are not unfamiliar with the rule by ordinances. That was a regular exercise indulged in by the old British rulers and the very name of an ordinance, like the red turban of the then police, was an anathama to our people. It was, therefore, expected of this Government that they would discard this hated exercise until and unless the exigencies and urgency of circumstances demanded it.

The Ordinances under our Constitution are issued under article 123 which says :

> "If at any time except when both the Houses of Parliament are in session, the President is satisfied that the circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinance as circumstances appear to him to require."

Did the President satisfy himself subjectively or objectively as to whether such circumstances existed ? At the time of the first Ordinance or even at the time of the issue of the present one, this was not done. Though this question was also posed before the Supreme Court, the court in its erudite judgment did not express any opinion on this vital issue or lay down any criteria to judge the same. However, at the time of the discussion of the first Ordinance and the Bill that was brought on its heels, it was shown from this side of the House at least that there was no urgency or emergency whatsoever which required the President to take action under the extraordinary provisions of the Constitution. Neither there was any foreign aggression nor there was any breakdown in the monetary system of the country which could justify such a hurried and hasty step. The only reason was something political and that too of a meanest order.

At the time the first Ordinance was issued, the country was in the throes of Presidential election. On the 12th of July, 1969, the Congress Parliamentary Board nominated Shri Sanjiva Reddy as their party's nominee which was not to the liking of the Prime Minister and her allies and they wanted to rid the Government of some of the old guards who did not fall in line with them and their wrath fell on poor Morarji Bhai. The Prime Minister in a fit of frenzy decided to remove him and he was made to quit his office on the 16th July, 1969. And perhaps to proclaim to the world from housetops that so long it was Shri Morarji Desai who was an obstacle in the way of progressive legislations, like, nationalisation of banks. The Prime Minister thought it to fit to get the first Ordinance issued on the 19th July, 1969 without waiting even for two days when the Parliament was going to meet. One fails to understand that the issue which the late lamented Prime Minister, Pandit Jawaharlal Nehru, the illustrious father of the illustrious present Prime Minister under whose big name she still finds a comfortable shelter could not decide in 12 years was decided by her in less than 72 hours. Intelligence par excellence indeed ! But then it was her strategy and wisdom to act in the manner she chose and I have no quarrel with her on this score.

But the haste and hurry and the fume and fury through which the legislation was rushed through in the House was something very very unfortunate. This deprived the House of discussing the issues involved in a calmer and coller atmosphere We, from this side, had suggested that the Bill be referred to a Joint Committee which could discuss the whole issue in a calmer and coller atmosphere of a committee room.

But our suggestion was not heeded. The hurry with which the Government moved is evident from the fact that the Law Minister himself during the course of the discussion of the Bill clause by clause introduced so many amendments which showed that no attention which such an important legislation required was bestowed on it. We had, therefore, further warned the Government that the Bill, if passed in that form, may be declared null and void by the courts and I am sorry that our prophesy proved to be true.

The Supreme Court judgment is a sad commentary on the ability of our Law Minister and the efficiency of his officers and he should have, as soon as the Court's judgment was published, resigned from his position, his own accord, in as much as by his rash and impetuous act he, not only brought shame and disrepute to his Government and the Prime Minister but to this House as well. I, therefore, demand that even now it is not too late for him to make amends and make room for somebody else better equipped than him.

Sir, I know our big and burly friend, the lawyer-*cum*-politician Minister is not ashamed of his conduct and instead of resigning after the Supreme Court judgment manoeuvred to have the present ordinance issued. Again, Sir, I fail to understand as to what was the emergency or urgency about it on this occasion too.

Sir, let us turn to the long title of the Ordinance which runs as follows :

> "An Ordinance to provide for the acquisition and transfer of undertakings of certain banking companies in order to serve better the need of developments of the economy in conformity with the national policy and objective and for matters connected therewith or incidental thereto."

Further the long title proceeds to say "Whereas the Parliament is not in Session and the President is satisfied that circumstances exist which render it necessary for him to take Immediate action"—I have tried to read in between the lines but I fail to find any reason which could justify this urgent step taken by the Law Minister.

However, Sir, there might have been some political reasoning or personal motive at the time the first Ordinance was issued but there was none whatsoever at the time of issuing this ordinance. In as much as the Prime Minister was comfortably seated in her saddle when the Supreme Court judgment was passed and there was no Morarji Bhai to be kicked out.

Sir, coming to the basic question, we are confronted with is: whether nationalisation of banks was at all necessary at the present juncture.

The Prime Minister herself stated in the Rajya Sabha on 5th March, 1970, while replying to a question that "we do not believe in nationalisation for the sake of nationalisation. There has to be a purpose behind it and this has been made quite clear previously." She had earlier stated that nationalisation alone could not solve all our problems and it was not a '*jadu-ki-danda*.'

Then, why this drama of nationalisation when the social control of banks was working quite well as envisaged in the Banking Companies Amendment Act (Act 58 of 1968), and was duly providing cheap credit to our farmers, artisans and small trader. Besides a high-power Banking Commission was already appointed to report on the whole economic conditions of the country and the Government could have waited for its report.

SHRI AMRIT NAHATA (Barmer) : Sir, on a point of order. Are hon. Members allowed to read speeches in the House ?

SHRI BENI SHANKER SHARMA : I am not ready but taking help from notes. These are my hand-spun and hand-woven notes.

MR. DEPUTY-SPEAKER : There is no point of order.

SHRI BENI SHANKER SHARMA : Sir, I fail to understand why we should take recourse to such a costly step of nationalisation and pay compensation to the extent of Rs. 87 34 crores for the purchase of the banks downright. After all what we wanted to do by nationalisation was to have a thorough control on the banking system of the country and to channalise the resources in a particular direction suiting to the needs of the times. This was already being done and done effectively under the social control system The working of the social control showed very good results and the same should have been given a fair trial. But, Sir, as perhaps social control was a child of Shri Morarji Bhai, though quite legitimate, the very sight of it might have been repugnant to P. M. and her new friend.

Sir, yet there was another way to achieve the same objective. In order to have complete control on these banks what was necessary was to control only 51% of the total shares by the Government. Already a sizeable portion of the shares of these banks are being held by such public institutions as Unit Trust and the Life Insurance Corporation and the balance could have been purchased by these very concerns or other Government institutions at market rates which would have cost the exchequer a much lesser amount than now decided to be paid as compensation in accordance with the Supreme Court directions.

I further fail to understand the mathematics or logic of this step. Is it worth while to indulge in the luxury of spending Rs. 87.34 crores when we are imposing new taxes to the tune of Rs. 170 crores and

[Shri Beni Shankar Sharma]

taking recourse to deficit financing to the tune of Rs. 225 crores ? By purchasing some more shares which would have cost less than a quarter of that amount, we would have achieved the same objective. Therefore, only for the high-sounding slogan of nationalisation just to hypnotise the masses and blur their vision and to appease the new ally, should the poor country and its people who are the object of great concern to the P. M. be made to pay such a high price and that too through their nose.

The hasty and haphazard nationalisation of the Banking Industry may not only throw the future development of the country in complete disarray and adversely affect its economic growth, but it may give rise to new problems which may often affect the national integrity of our country as it may lead to regional pools in the shape of demands by the States for greater share in allocation of funds and management in accordance with the credit deposit ratio of these States as has been recently claimed by the Government of West Bengal depriving the weaker and undeveloped States of their legitimate needs. A fine example of socialism indeed.

Now, a few words regarding the judgement of the Supreme Court. Never since independence, the highest judiciary of the country has come under such fire as after this judgement. The so-called progressives have started a mischievous campaign to malign and condemn the Supreme Court, in terms transcending the limits of legitimate and honest criticism sometimes bordering on open contempt. Sir, no democracy can be imagined without the two fundamental pillars on which it rests, *viz.*, regard for majority decision and the rule of law. Voices of conscience and disregard for the rule of law have no place in a democracy and no rule of law could exist without an independent and impartial judiciary.

I am proud that the Indian democracy has such a system of judiciary which does its duty boldly and courageously without any fear or favour or frown and I congratulate the learned and distinguished members of our judiciary who have upheld the prestige of our constitution.

But, Sir, it is a very painful sight when one finds mischievous insinuations being made by fanatical ideologists for whom the court's independence is an anathema. It is further painful when one finds such people who are not competent speaking in most disparaging terms about the judges of the Supreme Court. However no notice should be taken of such people, and their pronouncements. But it is something different when the Prime Minister of the country says something and speaks on the judgment of the Supreme Court. The Prime Minister just after the judgment was delivered on 10 February, 1970 observed at Ujjain, 'Thank God, the Supreme Court has not questioned the right of Parliament to legislate' and that 'surely it showed that obstacles were placed in the way of those who wanted to bring a change and do something new'. She further said in a meeting later at Indore that 'Judges were sensitive people and in a democracy such delicate matters should be dealt with only by creating public opinion in their favour'. We are having an example of public opinion in West Bengal. God save us from such a public opinion.

I do not mind what people like our ex-Deputy-Speaker say about it but when something comes from the lips of a responsible person such as our Prime Minister, I would say that it is very unfortunate.

The Judge cannot and should not be swayed by political considerations and it is none of their business to look to the ambitions and aspirations of the people which is the Paliticions' and Parliament's job. Their only business is to interpret the laws and see whether the same framed by Parliament were within the boundaries set by the Constitution. The framers of our Constitution had visualised such a situation when a swollen-headed Minister could inflict incalculable harm to the country by enacting legislation not permitted by the Constitution. So they made the judiciary quite independent of the executive and the legislature, each being supreme in its sphere. Therefore, it was not only unkind to the Judges but grossly insulting to the Constitution and the nation when the so-called progressives criticised not only the judgment of the Supreme Court but even the Judges as well. I know the Prime Minister is riding on a rough kazak horse trained by the Russians, the reins of which are held by such experienced trainers as Shri S. A. Dange and Shri Bhupesh Gupta.

One word about the necessity of legislation. The main object of this legislation is to provide easy credit to farmers and small traders and artisans, at the same time finding money required for the public sector. Both the objects are quite laudable but much caution is necessary. I am afraid if proper care is not taken in providing credit to our farmers without providing for crop insurance, the conditions of our banks may be the same as of the co-operative banks in their early day of formation.

There is yet another danger. The nationalised banks may be used to further the cause of the party in power. Instead of nationalisation, there may be bureaucratisation and the banks' money may be used through government officials to make people join the party in power. As regards providing money to the public sector, I would like to give a note of caution. The performance of our public sector has not been quite satisfactory and any further advances to be made to them must be made with eyes quite open. It has been discussed on the floor of this House times without number and I would not repeat the same but would only say that the 73 government undertakings with an investment of Rs. 3500 crores could earn only Rs 35 crores in 1968-69 while 101 concerns in the private sector with an investment of Rs. 1115 crores made a profit of Rs. 160 crores and contributed Rs 73 crores as taxes to the exchequer. How to judge the creditability of the former is a question.

Let us forget what has been done in the past. I request the Government to concentrate its attention on the future Let us examine very calmly and in a mood of dedication, whether nationalisation of banks is in the interest of the toiling masses, whether it is in their interest to spend Rs. 87 crores for this costly slogan only and whether the same or a better purpose may not be achieved by maintaining the *status quo* of social control or even by further tightening it or purchasing 51 per cent of the share capital of the banks.

Nationalisation, denationalisation and re nationalisation has been in the air for some time and perhaps there may again be denationalisation and re-nationalisation. I am not against divorce and re-marriage, if it is at all necessary, but how would you like to call a lady who indulges in this costly exercise not once or twice but every now and then ?

Therefore, in the end, I would submit in all humility that nothing blurs one's vision more than political passions and political bias and as such I would entrast the House to vote for my resolution and creat can atmosphere free from political bias in which all the relevant matters could be coolly discuss and debated including the issue whether nationalisation of banks or the *status quo* will be the best advantage of our toiling masses. Let us not be obstinate and rigid and let it not be said of us, as Burke said of certain persons "Argument is exhausted, reason is fatigued, experience has given judgment, but obstinacy is not conquered."

श्री शिव चन्द्र झा (मधुबनी) : उपाध्यक्ष महोदय, मेरा पायंट आफ आर्डर है। इस स्टैचुटरी रेजोल्यूशन के लिए जिन सदस्यों के नाम दिये गये हैं, उनमें से एक विचार-धारा के प्रतिनिधि होने के नाते माननीय सदस्य बोले हैं। इसमें मेरा नाम भी है और मैं एक दूसरी विचार-धारा का प्रतिनिधित्व करता हूं। इस लिए पहले आप मुझे बोलने का अवसर दें और फिर मंत्री महोदय को बुलायें। आप पुरानी कार्यवाही को देख लें। पहले भी ऐसा हुआ है कि स्टैचुटरी रेजोल्यूशन पर दो तीन सदस्य बोले हैं। यह एक अहम बिल है; कोई मामूली बिल नहीं है। जहां तक मुझे याद पड़ता है, श्री एम० एन० द्विवेदी इसी प्रकार एक स्टैचुटरी रेजोल्यूशन पर बोले थे। मैं पांच मिनट में अपनी बात कह दूंगा।

MR. DEPUTY-SPEAKER : Kindly do not take the time of the House. The procedure is that the person whose name comes first in the resolution moves the resolution, then the Minister moves the Bill for consideration, and after that the stage for consideration comes when Members can speak If you have given your name, you can speak at that time.

श्री शिव चन्द्र झा : इस सदन की पुरानी परम्परा रही है कि इस तरह के स्टैचुटरी

[श्री शिव चन्द्र झा]

रेजोल्यूशन पर दो तीन सदस्यों को बोलने का अवसर दिया गया है। उस परम्परा के अनुसार आप मुझे अपने विचार प्रकट करने के लिए पांच मिनट दें।

MR. DEPUTY-SPEAKER : Whatever be the old convention, this is the procedure being followed at the moment, and I have given my ruling that this is not a point of order.

श्री शिव चन्द्र झा : उपाध्यक्ष महोदय, यह एक अहम बिल है। पहले भी यह परम्परा रही है। इसलिए आप मुझे इस स्टैचुटरी रेजोल्यूशन पर बोलने के लिये दो चार मिनट दे दें।

MR. DEPUTY-SPEAKER : I am not permitting him. Nothing will go on record.

SHRI SHIVA CHANDRA JHA : **

MR. DEPUTY-SPEAKER : You have co-operated all this time. Why do you compel me to undertake an unpleasant measure now ?

श्री शिव चन्द्र झा : उपाध्यक्ष महोदय, मेरा निवेदन है कि स्पीकर या डिपुटी स्पीकर स्टैचुटरी रेजोल्यूशन पर दो तीन सदस्यों को बुला सकता है। पहले भी ऐसा होता रहा है। चूंकि यह विधेयक बड़ा इम्पार्टेन्ट है, यह कोई मामूली विधेयक नहीं है, इसलिए आप थोड़ी गुंजायश निकाल कर मुझे बोलने का अवसर दें।

THE MINISTER OF LAW AND SOCIAL WELFARE (SHRI GOVINDA MENON) : I oppose the Resolution moved by Shri Sharma and seek your leave to move the following motion.

श्री शिव चन्द्र झा : आन ए पायंट आफ आर्डर, सर। यह फिनांस मिनिस्ट्री का विधेयक है और इसलिए प्रधान मंत्री को, जो कि वित्त मंत्री हैं, यह बिल पायलट करना चाहिए। आप जानते ही हैं कि यह बिल बड़ा इम्पार्टेन्ट है। सुप्रीम कोर्ट ने इस प्रकार के पहले बिल को संविधान के विरुद्ध घोषित किया है। इसलिए यह आवश्यक है कि इस बिल पर बड़ी गम्भीरतापूर्वक विचार किया जाये और प्रधान मंत्री स्वयं इसको पायलट करें। मैं यह जानना चाहता हूँ कि क्या प्रधान मंत्री की ओर से ला मिनिस्टर को यह बिल पेश करने का अधिकार दिया गया है। (**व्यवधान**) अगर इस बिल पर अच्छी तरह विचार न किया गया, तो यह फिर सुप्रीम कोर्ट में रिजेक्ट हो जायेगा। या तो इस बिल को प्रधान मंत्री पायलट करें, जो कि फिनांस मिनिस्टर हैं, और या श्री सेठी करें। उपाध्यक्ष महोदय, क्या प्रधान मंत्री ने आपको लिखित रूप में सूचित किया है कि श्री मेनन इस बिल को पायलट करेंगे ?

MR. DEPUTY-SPEAKER : You have made a point of order. Please listen to me. You say that the Minister of Law cannot pilot this Bill.

SHRI SURENDRANATH DWIVEDY (Kendrapara) : There is no gazette notification temporarily handing over charge of the finance portfolio to the Law Minister for piloting this Bill. That is his point.

SHRI S. S. KOTHARI (Mandsaur) : The Law Minister is in delicate health. Why starin him ?

श्री मधु लिमये (मुंगेर) : उपाध्यक्ष महोदय, मैं माननीय सदस्य, श्री झा, के समर्थन में एक ही बात कहना चाहता हूँ। संसदीय लोकतन्त्र में मंत्री अपने विभागों के लिए जिम्मेदार होते हैं। आज श्री गोविन्द मेनन वित्त मंत्रालय के इस बिल को पेश कर रहे हैं और कल किसी एक्सपर्ट को ले आया जायेगा। (**व्यवधान**) क्या प्रधान मंत्री पर कोई जबर्दस्ती की गई थी कि वह वित्त मंत्रालय को ले लें ? वह एक बिल भी पायलट नहीं करती हैं। फिनांस बिल के बारे में भी यही होने वाला है। यह क्या मजाक है ? इसके अलावा मैं यह भी

**Not recorded.

कहना चाहता हूँ कि पार्लियामेंट में हम लोग नोट्स से पढ़ कर अपना भाषण नहीं दे सकते हैं, हमको **एक्सटेम्पोरी** स्पीच देनी पड़ती है, लेकिन मैं देख रहा हूँ कि प्रधान मंत्री और वित्त मंत्री.....

MR. DEPUTY-SPEAKER : You have made your point. I shall give ruling on that. Before I do that let me hear the Minister on this point.

श्री शिव चन्द्र झा : उपाध्यक्ष महोदय, क्या आपको प्रधान मंत्री की ओर से यह लिखित सूचना मिली है कि श्री मेनन इस बिल को पायलट करेंगे ?

SHRI GOVINDA MENON : Sir, on the point of order, I would draw your attention to rule 2 of the Rules of Procedure and Conduct of Business in Lok Sabha, which says :

> " 'member in charge of the Bill' means the member who has introduced the Bill and any Minister in the case of a Government Bill ;"

That is the rule of the Lok Sabha.

श्री मधु लिमये : क्या इसका मतलब यह है कि वह वित्त मंत्री रहेंगी, लेकिन एक भी बिल पायलट नहीं करेंगी ? यह क्या मजाक है ? (**व्यवधान**) अगर वह यह काम करने में असमर्थ हैं, तो श्री रणधीर सिंह को, श्री पाणिग्रही को या किसी और सदस्य को वित्त मंत्री बना दिया जाये । (**व्यवधान**).....

MR. DEPUTY-SPEAKER : Order, please. There are two points that have been raised. The first is, (*Interruption*) under rule 2 of the Rule of Procedure, 'Minister' includes any Minister. Now, the Law Minister, Shri Govinda Menon, has already given written notice.

श्री मधु लिमये : क्या सब बिलों के लिये यही होगा ? आज तक ऐसा नहीं हुआ है । श्री मथाई, श्री देशमुख, श्री कृष्णमाचारी, श्री मोरारजी देसाई इनसे पहले वित्त मंत्री रहे हैं और वे सब बिलों को पायलट करते रहे हैं । प्रधान मंत्री ऐसा क्यों नहीं कर रही हैं ? इसका मतलब है कि वह इनकाम्पीटेंट हैं । उनको हटा दिया जाये । (**व्यवधान**) ये लोग क्यों नहीं मानते हैं कि फिनांस मिनिस्टर के रूप में वह इनकाम्पीटेंट हैं ?

SOME HON. MEMBERS *rose*—

MR. DEPUTY-SPEAKER : I am on my legs. Kindly listen to me.

SHRI RANDHIR SINGH (Rohtak) : There is a specific rule. If he wants let him ask for a change in the rules. Now, he made a very irresponsible statement against our leader. He mentioned the word 'incompetent'. It should be expunged.

श्री मधु लिमये : वह अपना बिल पायलट करें । हम यही चाहते हैं कि उन को मौका दिया जाय आपनी काम्पीटेंस जाहिर करने का ।

SHRI RANDHIR SINGH : They are 100 times more competent than Mr. Madhu Limaye.

SHRI VIKRAM CHAND MAHAJAN (Chamba) : We are not going to tolerate this.

SHRI RANDHIR SINGH : Our leader is 100 times more competent than Shri Madhu Limaye or any one of them.

MR. DEPUTY-SPEAKER : I request you to sit down.

SHRI RANDHIR SINGH : It is not imperative that she should pilot the Bill. (*Interruption*)

MR. DEPUTY-SPEAKER : Order, order. I am coming to that. Therefore, it is quite in order that the Law Minister moves this Bill. (*Interruption*) I am coming to your point.

SHRI RANDHIR SINGH : The word 'incompetent' should be expunged.

MR. DEPUTY-SPEAKER : I am coming to the point. About how the Prime Minister should divide the business of the Govern-

[Mr. Deputy Speaker]

ment,—it is her own business. Then, I do not know what expression you are referring to, which should be expunged. I could not hear much of what Shri Madhu Limaye said because of the noise and confusion. I shall look into the records ; if their is anything that is unparliamentary which should be expunged, it would be looked into.

SHRI SHIVA CHANDRA JHA *rose—*

MR. DEPUTY-SPEAKER : I have already disposed of it.

SHRI SHIVA CHANDRA JHA : **

MR. DEPUTY-SPEAKER : Don't record.

(*Shri Shiva Chandra Jha then left the House*)

SHRI GOVINDA MENON : Mr. Deputy Speaker, Sir, I oppose the resolution moved by Mr. Sharma, and I move :

> "That the Bill to provide for the aequisition and transfer of the undertakings of certain banking companies, having regard to their size, resources, coverage and organisation, in order to control the heights of the economy and to meet progressively, and serve better, the needs of development of the economy in conformity with national policy and objectives and for matters connected therewith or incidental thereto, be taken into consideration."

Sir, it was sometime late in July last year that I had the privilege of moving a Bill in this House for taking over the undertakings of the same 14 banks referred to in the Schedule to this Bill.

It is necessary before I explain the principles of the Bill to draw the attention of members to what happened with respect to that Bill. Mr Masani may know about it, because as soon as the ordinance was issued on 19th July, 1969, he was one of the persons who rushed to the Supreme Court with a writ application to strike down the ordinance. There was another gentleman also who moved a writ application, whom the Prime Minister yesterday described as the philosopher of the Jan Sangh. The third gentleman who moved a writ application in this connection has been elevated to the position of General Secretary of the Swatantra Party, of which Mr. Masani is now President. After that ordinance was issued, a Bill to replace that ordinance was introduced in this House by me on 25th July 1969 ; at that time also, I was the Law Minister and the Prime Minister was the Finance Minister. This House passed that Bill on 4th August 1969 and the Rajya Sabha passed it on 8th August 1969. On the 9th August, the Chief Justice, who was then functioning as the President of India, gave his assent to the Bill.

Mr. Sharma in his speech referred to very many irrelevant things ; but one of the most relevant things in this connection is that there were more than 40 members of this House who thought they could put in a petition before the President that the Bill passed by both Houses of Parliament should not be assented to.

SHRI M. R. MASANI (Rajkot) : That was very good advice, but it was not listened to.

SHRI GOVINDA MENON : The Suppreme Court in its wisdom struck down the Bill on the 10th February this year. Mr. Masani would be interested to hear that this was not the only Act which the Supreme Court has struck down. We are proud of our Constitution under which there is provision for a judicial review of legislation. Accordingly, the Act which was challenged by these gentlemen, was struck down.

I may in this connection draw the attention of the House to the fact that in America, ever since the institution of Supreme Court came into existence there, upto this time, not less than 100 statutes passed by the American Congress were struck down by the Supreme Court there. In India also, there are a few statutes which have been struck down. Regarding our approach to the Supreme Court, I cannot do better than read out what the then Prime Minister, Shri Jawaharlal Nehru, stated in this House while moving the Constitution (Fourth Amendment) Bill. I cannot put it in better language. I quote what Shri Jawaharlal Nehru said while introducing the Constitution (Fourth Amendment) Bill to get over the effect of certain decisions of the Supreme Court :

**Not recorded.

"Now, what basically do these amendments deal with ? Basically, they deal with the power and authority of the Parliament, that is to say, how far that power and authority of this Parliament can be exercised without review or check, or other decision against it, by the courts, by the judiciary. Now, one of the fundamental basis of this Constitution and our general practice in this country is to have an independent and powerful judiciary. We have respected that and I hope we will continue to respect it."

SHRI M. R. MASANI : Why don't you do that ? Bow to the judgment.

SHRI GOVINDA MENON : "There is no question of chellenging, modifying, limiting or minimising the authority of judiciary in this country. That should be understood and therefore what the judiciary, the High Courts or the Supreme Court decide, we inevitably accept and we act upon it. That is one thing.

On the other side, 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. It may be, and it often is, that in interpreting the law of Parliament or in considering how far that law is in their opinion in conformity with the provisions of the Constitution they may indirectly decide on social and economic and like matters. In some countries, great countries, the Supreme Court has by the interpretations widened the strict provisions of the Constitution. It has actually widened them ; it may restrain them too. That is true. But 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."

This is what Prime Minister Nehru said on that occasion. Now, Shri Masani thought that the decision pronounced by the Supreme Court on the 10th February is something which is a bar to a Bill of this type being brought here again by the Government.

SHRI M. R. MASANI : who says that ? I did not say so.

SHRI GOVINDA MENON : I will draw his attention to what was decided by the Supreme Court. Now Shri Masani has shouted "respect the Supreme Court decision", what is the Supreme Court decision ? I would read out the decretal portion in the Supreme Court decision :

"Accordingly, we hold that the Act is within the legislative competence of the Parliament."

This is what was pronounced by the Supreme Court. Then they say that with respect to the provision for compensation they are not satisfied that proper provision have been in this Bill.

Again, I want to quote another passage from a speech by a very learned jurist in Parliament at that time and who adorns the bench of the Supreme Court today. I am referring to Justice K. S. Hegde. This is what he said with respect to the Fourth Amendment to the Constitution and now I am emboldened to read this because this speech is made by a jurist who now occupies the high position of a judge of the Supreme Court. He said :

"We are placed in an extraordinary situation and the government has no other go but to amend the Constitution. This brings us to a very difficult position and many times the question arises as to who is the ultimate arbiter in deciding constitutional issues. Is it the sovereign legislature of the country or the Supreme Court of the land ? Now, we have very wisely provided in our Constitution that in all constitutional matters the judgment of the Supreme Court shall be final and binding on the legislature. We have rightly pinned our faith on the judiciary"—

We stick to it today—

"but that is not to say that judiciary has not been making mistakes. You will realise, Sir, a similar situation arose during the time of the late President Roosevelt in America when he was having a number of social and economic legislations which were comprehensively called, the New Deal legislation, and the Supreme Court by a series of decisions in one manner or another hampered the

[Shri Govinda Menon]

progress of that legislation and President Roosevelt was more or less in a desperate position. He initiated a doctrine of recall of judicial decisions and Mr. Ransom in his very nice book called "The Majority Rule in Judiciary" has explained the position wherein he said that the Legislature can be made purposeless and functionless by the judiciary acting in a manner which may not be entirely in the spirit of the Constitution."

SHRI D. N. PATODIA (Jalore) : I think, the hon. Minister is confused. He is not piloting Shri Nath Pai's Bill ; he is piloting the Banking Bill.

SHRI GOVINDA MENON : Yes I am surprised that my learned friend gets confused so easily.

"It is rightly said, Sir, that law is one generation behind society and the lawyers are two generations behind society."

AN HON. MEMBER : You are a lawyer.

SHRI GOVINDA MENON :

"And may I add, Sir, that Judges are three generations behind society."

This is what was spoken in the Rajya Sabha by Shri K. S. Hegde, then a distinguished Member of Parliament, now a distinguished Judge of the Supreme Court of India and one of the ten Judges who subscribed to the decision which was pronounced on the 10th February. That was said by him in 1955.

Therefore there is nothing like a Supreme Court decision being final. If the Supreme Court has pointed out certain defects in the Bill and if the Government thinks that for the effectuation of its social objectives the Bill has to be re-enacted removing the deficiencies in the Bill pointed out by the Supreme Court, it is the privilege of Government to bring forward a Bill and it is the privilege of Members here to support and pass that Bill. It is in that spirit that Government have decided to bring forward this Bill today.

SHRI S. S. KOTHARI (Mandsaur) : It is an incomplete Bill. It is unconstitutional.

SHRIMATI SUCHETA KRIPALANI (Gonda) : When initially the mistakes are pointed out, they will not listen.

SHRI GOVINDA MENON : This is a sort of remedial legislation in order to get over the difficulties pointed out by the Supreme Court.

The Bill was introduced last time on the hope that after the Bill becomes law it will enable the weaker sections of the community in India to get greater financial help from banking institutions. But as soon as the Ordinance was issued, Shri Masani and Shri Madhok and Shri Masani's General Secretary were able to persuade the Supreme Court to issue a stay order against some of the fundamental provisions of the Act, particularly section 15 of the old Act, which enabled us to issue directions to these banks in certain matters. Those stay orders continued till the 10th February when the writ petition was finally disposed of. I am very glad to note that although this time the Ordinance was issued last month, Shri Masani did not think it worth while to rush to the Court yet with respect to the Ordinance which has been issued.

SHRI VIKRAM CHAND MAHAJAN : That is because this Ordinance is foolproof now.

SHRI GOVINDA MENON : I, therefore, want to draw the attention of the House to what has been achieved by the functioning of these 14 banks as public corporations, statutory corporations, for about 5 to 6 months in spite of the stay order which Mr. Masani thought fit to get from the Supreme Court.

SHRI S. S. KOTHARI : Why is the hon. Minister obsessed with my hon. colleague here ?

SHRI GOVINDA MENON : I am obsessed with him as he is with me.

SHRI KANWAR LAL GUPTA (Delhi Sadar) : But why should we suffer ? Why should the House suffer ?

SHRI GOVINDA MENON : The stay-order prevented us from issuing any directive

to these banks and, for a period of 5 to 6 months, from 19th July, 1969 to the end of December, 1969, the custodians were running these banks and they did certain things under the advice from the Government which was given from time to time in the meetings of the custodians of these banks.

Sir, I think, it will be of interest to the House to know what the result of the working of these banks in the public sector has been. One of the red-rags soown by those who are opposing the Bill was that as a result of nationalisation, there will be flow of deposits from the nationalised banks to other banks We, even at that time, repudiated that suggestion. The records are here now to show that during these 5 to 6 months, the deposits of these 14 nationalised banks went up very significantly and they went up by about Rs. 160 crores by the end of December. That is by way of deposits in spite of the threat given by the opponents of the Bill.

Then, we also said, while moving the Bill, that one of the objectives of nationalisation would be to provide finance to sectors of our community which did not usually get support from finance institutions and one such sector was agriculture. I find that between the end of June, 1969 and the end of December, 1969, the finance supplied by these banking corporations to agriculture exceed the previous figure by Rs. 1,14,950.

SHRI ASOKA MEHTA (Bhandara) : What was the previous figure ?

SHRI GOVINDA MENON : The previous figure also I will give. Then, the total number of accounts . ..

SHRI ASOKA MEHTA : That is not important.

SHRI GOVINDA MENON : That is also important. The total number of accounts in these 14 nationalised banks at the end of June, 1969 were 1,34.84 and that went up, by end of December, to 2,49.799 That is the number of accounts of agricultural operators with respect to these banks. The average account was Rs. 2,300 with respect to these 14 banks.

SHRI ASOKA MEHTA : What about loans ?

SHRI GOVINDA MENON : I will come to that.

I refer to these figures to show that in the course of these five months in spite of our difficulty to issue directions to the banks, the small man in the country began to get benefit for the first time in his life through these 14 nationalised banks. This is agricultural finance.

Then the indirect finance provided to agriculture by public sector banks—that also I will refer to, that is to say, giving money for fertilisers, tractors, etc. The number of accounts at the end of June, 1969 in all the 14 banks together was 4047 and at the end of the year it went upto 14,053. From 4,000 to 14,000 is a big jump. Then, another idea we put forward was that small scale industries are likely to be benefited by the nationalisation of these banks. I find that at the end of June. 1969 advances by public sector banks to the small scale industries were 36,301 and by the end of the year it went upto 46,512.

SHRI BAKAR ALI MIRZA (Secunderabad) : What is the amount ?

SHRI GOVINDA MENON : That also I will give you. It was stated that it would be the objective of the Government to see that these public sector banks advance money to road transport operators—not only big operators who run buses but to persons who run taxies, scooters, auto-rickshaws, etc. But the end of June, 1969 the number of accounts to road transport operators was 2,527 out of which 2,147 were for owners of taxies, scooters and auto-rickshaws. By the end of the year that figure went upto 4,189. From 2,147 to 4,189. So, in the course of five months, these people who by any reckoning would be considered to be the small people of our country got a good deal of benefit from these nationalised banks.

Another idea we put forward was that these banks should be able to supply funds to retail traders and I find that whereas number of advances by the end of June, 1969 to retail traders was 28,037, by the end of the year it went upto 41,073 almost double.

It was suggested during the Debate by those who supported the Bill that these banks should so change their policy that persons who are self-employed should get the benefit of finance. By the end of June, 1969,

[Shri Govinda Menon]

when the Ordinance was issued, there were 422 cases of self-employed individuals, who got financial support from these banks ; but by the end of the year 1969 it went upto 3,029 ; from 400 it rose to 3,029.

It has been said that these banks in the public sector should unlike the old joint stock banks be available for help to students who require money for their education. By end of June, 1969 there were 594 students who had got some benefit from these banks and I find that out of this 594 most of it came from two or three banks and other banks were not doing anything. But by the end of the year the number rose from 594 to 1,193 and all the banks except one or two began to give these advances to students for their education.

Then, Sir, at the end of June, 1969, the percentage of the advances to the neglected sectors was 14.83. That is, if 100 was the total advance and 14.83 went to the neglected sectors, which were referred to in that Act. But by the end of December the percentage went upto 19 58. Mr. Asoka Mehta wanted me to give absolute figures. I will give that by the time the Debate is concluded. I don't find it here in my papers.

I refer to these things now because when we come again to this House with a request to re enact the Bill avoiding some of the defects which have been pointed out by the Supreme Court the House has a legitimate interest in knowing to what extent the advantages were reaped by the weaker sections of the community on account of the operation of these banks in the public sector. I hope that this will be sufficient evidence to show that a good deal of benefit was available to these weaker sections of the community during these days. And, Sir, I make bold to assert that if it were possible for us to issue directives to these banks the results would have been much better. We could not do it. Throughout these 6 or 7 months—between the date of first promulgation of the Ordinance and the 10th of February when the Act was struck down—it was a period of unsettlement. We do not know what the final result would be And therefore, we could not even finance these schemes which were contemplated in the previous Act. The scheme would have provided the details for these things.

I believe that this information should enable the House—even those who opposed the Bill last time—to vote for the Bill this time. I hope the unanimous support of the Members of the House will be given to this Bill.

After having said this I want to tell what the difference is between the previous Bill and the present Bill. What the Supreme Court objected to was this

We gave in the second schedule to the previous Act certain principles which would be available to the tribunal which would be set up to value the undertakings, that is to say in the previous Bill the attempt was to value the undertakings, find the broken down value, the break-up value, value of assets, value of liabilities ; assets minus liabilities would be the compensation payable to the banks.

The Supreme Court said that that is not the proper way to value a going undertaking.

श्री हुकमचन्द कछवाय (उज्जैन) : उपाध्यक्ष महोदय, विधि मन्त्री का भाषण हो रहा है और सदन में गणपूर्ती नहीं है। इतना महत्वपूर्ण भाषण है और सदन में 50 मेम्बर भी नहीं हैं।

16.33 hrs.

MR. DEPUTY-SPEAKER : The bell is being rung—Now there is quorum. Shri Menon.

SHRI GOVINDA MENON : Shri Asoka Mehta asked regarding the total advances made—I did not have the figures ready then; Now I have them. So far as agriculture is concerned, it rose during these five months from Rs. 26.96 crores to Rs. 27.94 crores ; indirect finance to agriculture rose from Rs. 33.47 crores to Rs. 49 39 crores : advances to small scale industries rose from Rs. 148 crores to Rs. 169 crores ; for road transport, it rose from Rs. 6.69 crores to Rs. 12 85 crores : to retail traders, it rose from Rs. 19.2[illegible] crores to Rs. [illegible]5.57 crores : to self-employed individuals it rose from Rs. 33 lakhs to Rs. 1 crore. I believe this was a great achievement, particularly when we were not in a position to issue policy

directives to these banks on account of the stay order.

At the time the Ordinance was promulgated and the Bill was being discussed here, the law had been laid down by a Constitution Bench of the Supreme Court in what is known as the Shamjidas Mangaldas case. The main object of the Fourth Amendment was this.

The Constituent Assembly thought that article 31(2) which provides for compensation for property acquired was worded in such a manner that the compensation fixed would not be justiciable. That was the advice given to the Constituent Assembly by prominent jurists who were in the Assembly at that time like the late Sir Alladi Krishnaswami Ayyar, but in spite of that, before the Fourth Amendment of the Constitution there were a few cases decided by the Supreme Court, the most important of which is known popularly as Bela Banerjee's case wherein the Supreme Court said that the word "compensation" in article 31(2) means just equivalent of the property taken over, that is to say it should be the market value. It was thought by Government and Government's legal advisers that that was not the intention, that article 31(2) should not involve us in this trouble, and therefore, in order to get out of that mischief, the Constitution was amended by the Fourth Amendment. This is what article 31(2) said :

> "No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for compensation for the property so acquired or requisitioned and either fixes the amount of the compensation or specifies the principles on which, and the manner in which, the compensation is to be determined and given ;"

What I read now is what was introduced by the Fourth Amendment of the Constitution.

> "and no such law shall be called in question in any court on the ground that the compensation provided by that law is not adequate."

This is clear enough. There was a decision of the Supreme Court in January, 1969 upholding the idea that when Parliament fixes compensation payable for property acquired, that is a matter which is not justiciable. The legal advisers of the Government, when the previous Ordinance and Bill came out, relied heavily upon the decision of the Supreme Court in January, 1969, but in the matter of this case there has been a fresh thinking on the part of the Supreme Court and they thought that the principles which were enumerated in the previous law were not relevant, were not good, were not proper, and that is mainly the reason for striking down the law. And what we have done in this Bill is to follow the other procedure, that is to say, to fix the amount of compensation with respect to the undertaking of each Bank. The figures are given in Schedule II, the name of the Bank and the value in crores for the undertaking which we propose to pay to those Banks. When we brought the Bill last time, we said in the Financial Memorandum that it was expected, that the money which will have to be shelled out for acquiring the undertakings of these banks will be approximately Rs. 75 crores. No accurate assessment was possible and therefore the House was told that it would be about 75 crores. Even at that time it was suggested by some hon. friends here that although the Government fixed about Rs. 75 crores, it was likely to be much more than that I distinctly remember Mr. Madhu Limaye having read out from a magazine, *Commerce* I believe, where it was said that it was likely to be about Rs. 150 crores and I think he even attempted to bring a privilege motion for misleading the House on compensation payable. We have given up that process in this Bill and the total amount for all the banks together would come to about Rs. 87.40 crores.

SHRI S. M. BANERJEE : That is also too much.

SHRI GOVINDA MENON : There are friends who think so. But this is the assessment which was made by the experts of the Finance Ministry in consultation with the Reserve Bank into consideration all the aspects of the matter including taking the directions given by the Court with respect to valuation. That is the difference between the old Act and this new Bill. The amount has been fixed ; there is no doubt about it. That indeed is the main difference.

The view was expressed that the Supreme Court.....

SHRI S. S. KOTHARI : On a point of order. The Law Minister says that the Supreme Court was not entitled to enquire into the amount of compensation fixed by Parliament. I agree. We as Members of Parliament have to determine what compensation is to be paid. But how are we to determine whether compensation assessed by this Government is correct or incorrect, whether a uniform basis has been adopted ? What is the principle of compensation ? The Law Minister must take this House into confidence with regard to the principles. Otherwise, we are not going to pass this Bill. I am not concerned whether it is one rupee or a thousand rupees ; I want to know the principles.

MR. DEPUTY-SPEAKER : It is not a point of order. He has heard you and it is for him to reply.

SHRI GOVINDA MENON : The law laid down by the Supreme Court is that compensation should not be illusory. If there are Members here who think that Rs. 87.40 crores is illusory, I have nothing to say ; their idea about illusion must be strange indeed. We are not completing the discussion on this Bill with this speech only ; we shall take up clause-by-clause consideration and I have seen that several amendments had been tabled questioning the quantum of compensation. I do not want to include everything in this speech.

SHRI S. S. KOTHARI : You will let us know later the principles ?

SHRI GOVINDA MENON : Certainly. It is the privilege of Parliament to fix compensation for an undertaking taken over for a public purpose.

The Supreme Court has said even in this case that Parliament has got the legislative power to do so, and the Supreme Court also is aware of the rules in this regard because the rule laid down in Heydon's case long ago in England has been accepted by the Supreme Court on several occasions. I would just for the enlightenment of those Members of this House who may not have heard about it, read out the rule laid down in what is known as Heydon's case with respect to interpretation of statutes. I am quoting from the latest edition of Maxwell on the *Interpretation of Statutes*. This is the passage :

> "In Heydon's case, in 1584, it was resolved by the Barons of the Exchequer 'that for the sure and true interpretation of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law) four things are to be discerned and considered : (1st). What was the common law before the making of the Act. (2nd). What was the mischief and defect for which the common law did not provide. (3rd). What remedy the Parliament hath resolved and appointed to cure the disease of the commonwealth. And (4th). The true reason of the remedy ; and then the office of all the Judges is always to make such construction as shall suppress the mischief, and advance the remedy, and to suppress subtle inventions and evasions for continuance of the mischief, and pro private commodo, and to add force and life to the cure and remedy, according to the true intent of the makers of the Act, pro bono publico.'
>
> In 1898, Lindley M. R. said : "In order properly to interpret any statute it is as necessary now as it was when Lord Coke reported Heydon's case to consider how the law stood when the statute to be construed was passed, what the mischief was for which the old law did not provide, and the remedy provided by the statute to cure that mischief."
>
> Although judges are unlikely to propound formally in their judgments the four questions in Heydon's case, consideration of the 'mischief' or object of the enactment is common, and will often provide the solution to a problem interpretation."

I read this out not to make my speech pedantic. My only object is to tell the responsible Members of Parliament considering this Bill to acquire the undertakings of these banks that under the Constitution (Fourth Amendment) Bill, the power is entrusted with the Members of this House and the other House to fix the compensation. And once compensation is fixed, it becomes not subject to judicial review. That is the line which we have adopted in the fourth amendment of the Constitution.

AN HON. MEMBER : Why fix it so high ?

SHRI GOVINDA MENON : When such a responsibility is vested in Parliament, Parliament has also to see that in fixing the compensation, there is no element of unfairness involved ; because, after all, these banks belong to the corporations called limited companies, but ultimately the owners are the share holders, and when we are taking over these undertakings, in the interests of the common people, we should also see to it that the interests of the shareholders, most of whom will be common people, are not affected in any way. The formula we have adopted here was adopted when the Imperial Bank was nationalised and was called the State Bank of India by parliamentary legislation in 1955. I, therefore, believe that we have respected the ruling of the Supreme Court that we have got the power to acquire the undertakings. We have accepted the ruling of the Supreme Court that the principles laid down were not relevant and proper. We are now proceeding according to the constitutional right of this Parliament to acquire these undertakings by laying down as a lump sum the amount of compensation payable. Our contention all along has been, the Attorney General was contending, that the principles were relevant, but the court did not accept it. That is why the law was struck down.

I do not want to speak any further at this stage. I would request the House to give unanimous support to this Bill.

MR. DEPUTY-SPEAKER : The statutory resolution and the consideration motion of the Bill are before the House. There is an amendment tabled by Mr. Yashpal Singh, but he is absent.

Now, Mr. Asoka Mehta.

16.52 hrs

[Shri K. N. Tiwari *in the Chair*]

SHRI ASOKA MEHTA (Bhandara) : Mr. Deputy Speaker, Sir, I support the motion that has been moved by the hon. minister to convert the ordinance into law, in order that the banks that we have nationalised should remain nationalised. This situation has arisen, we have been compelled to reconsider this piece of legislation once again, because of the decision of Supreme Court. All these years, in some of the weighty pronouncements of the Supreme Court, the judges gave shape to two major concepts. In the course of the recent important judgments, these concepts have been revised or perhaps reversed. The first is that till recently the Supreme Court adjudged cases on the assumption that the extent of protection of important guarantees, such as the liberty of person and right to property depends upon the form and object of State action and not upon its direct operation upon the individual freedom. The governing considerations, therefore, were that it looked at the form and object of State action. Now this has been changed and the concept put forward is, the extent of protection against impairment of fundamental rights is determined not by the object of the legislature nor by the form of action, but by the direct operation of the individual rights.

I do not know to what extent this reversal or revision was brought about because of the way in which this particular piece of nationalisation was carried out. The Supreme Court has now raised the issue that in determining whether a particular peace of legislation infringes the fundamental rights of citizens, what will guide it in future is not the form and object of the legislation. We know that the form in which the original ordinance was suddenly issued last time, not on this occasion, and the object were such as would create that kind of doubt. I do not know ; I cannot read the minds of the judges of the Supreme Court. But, in this country a certain doubt has been created, both about the form and the object with which this particular legislation was pushed through, whether this government can be relied upon to bring forward pieces of legislation for objects which can be accepted as valid: This, perhaps, may be the reason why this basic concept has been revised ; I do not know.

Secondly, the other concept that they revised was that while different articles in Chapter III used to be treated independently as separate codes, or were to be interpreted within the four corners of each article—and that is the reason why in Shri A. K. Gopalan's case a certain judgment was delivered—now this is changed and the Supreme Court has decided that these articles will be, as it were, covered together. As against the old view that by

[Shri Asoka Mehta]

"harmonising is meant that each provision is rendered free to operate with full vigour in its own legitimate field" the new concept is put forward "Part III of the Constitution weaves a pattern of guarantees on the texture of basic human rights. The guarantees delimit the protection of those rights in their allotted fields ; they do not attempt to enunciate distinct rights". The whole approach has been changed. The result is that the fundamental right of personal freedom, has been greatly deepened and strengthened, and so also the other fundamental rights including the right to property.

To what extent, the manner, the purpose for which this legislation was pushed through in the past has been responsible, to what extent the de-stabilisation of politics in this country which was brought about by this piece of legislation is responsible, for this basic revision in the approach of the Supreme Court towards protecting the fundamental rights of the citizen is a matter on which I am not in a position to say anything, but I hope the House will keep this in mind.

The next point is that if this deepens the fundamental rights it may perhaps have deepened the property rights also. But, when we are discussing this piece of legislation I do not think we are called upon to discuss fundamental right to property. The reason why I feel that we should not go into a discussion of that question—it should be considered on its own merits at the proper time—is that if we are considering a piece of legislation which is concerned with piecemeal nationalisation, I do not know how far one can talk of appropriation or one can talk of giving compensation unrelated to the value of what you are taking over.

We are talking over banks which have about 55 or 56 per cent of the deposits. The Imperial Bank of India, which had deposits of 25 to 26 per cent was taken in 1955. Now we are taking over, or we are seeking to take over another chunks of banks ; some more banks will be left as they are. In the same manner, it is possible that one might go about nationalising in a piecemeal manner either some part of industry in a particular region, as is sought to be done with regard to sugar industry in Uttar Pradesh. Are we going to discriminate between people ? Supposing my friend, Shri Asok Sen, has invested his money, whatever it is, in the textile mills of Gujarat and I have invested my money in the sugar mills of Uttar Pradesh. Is it that because I have invested in the sugar mills of U.P., in this piece-meal nationalisation are we going to say that those who have invested money in the sugar mills must be penalised but those who have invested their money in the textile mills must not be penalised ? If I had invested my money in banks which are not nationalised today, what happens ? So, I suggest that if India wants to move forward by piece-meal nationalisation—we are encouraging people to investment and all kinds of tax concessions are given to people to invest in industries—when the question of piece-meal over of industrial, banking or any other enterprises come in, the question that we have to consider is whether this has any relevance to the general question of how do we deal with the property rights. That will have to be discussed either when we consider the fiscal measures as a whole or, as we have been suggesting, we can handle the high peaks of property by introducing a capital levy because we are all interested in protecting the broad landscape of property rights and it is only the high peaks of property with which we are concerned. I think, constantly to question people's right to have property while carrying out piecemeal nationalisation will create a great deal of confusion and uncertainty. I would, therefore, suggest that this whole question of property rights be considered separately.

17.00 hrs.

The Reserve Bank of India was nationalised in 1948 because it was argued that the pivot of banking institutions should be in the hands of Government. The State Bank of India, with a number of subsidiaries, was nationalised in 1955. In both cases a certain formula was applied. The formula applied was the average market price of the share during the previous 12 months and roughly speaking three times the face value of the share was given. I am glad my hon. friend, Shri Kothari he is not here now—raised the point as to on what basis we are going to fix the compensation. I do not know how many shareholders there are and how many are big share holders and how many

are small shareholders, though it makes no difference. The point is on what basis we are going to compensate.

It is said that a certain quantum is laid down in the Bill. If the principles are laid down, they can be adjudicated upon by a court. When the quantum is laid down, Parliament has the responsibility of going into them very carefully. I think, it is not enough that the Minister should come forward, when that particular clause in the Bill comes up before us, and explain to us on the spur of the moment how these calculations have been made. It is necessary that we should have a proper note so that we are able to study and decide in what way this has been done and whether there is any danger of discrimination between one bank and another, between one region and another and between one type of investment and another.

If we are going to proceed, as I said, by piecemeal nationalisation in this country and are going to retain mixed economy, it is necessary that Parliament also must have certain principles to guide it and certain conventions to govern it. As I said, in 1948 as well as in 1955 in the banking industry itself certain principles were applied and certain were followed. One would like to know what the new norms are, if they deviate from them why they deviate and whether these deviations will take place when similar piecemeal nationalisation takes place in future.

It is true that while class legislation is forbidden, reasonable classification can be permitted in making laws. Reasonable classification requires fulfilment of certain conditions, namely, intelligible differentia as well as a nexus between the basis of classification and the object of the Act.

As far as these 14 banks are concerned, this is what the minority judgment has to say :—

> "The legislature found 14 banks to have special features, namely, large resources and credit structure and good administration. The categorisation of Rs. 50 crores and over *vis-a-vis* other banks with less than Rs 50 crores is not only intelligible but is also a sound classification. From the point of view of resources these 14 banks are better suited than others and therefore speed out efficiency which are necessary for implementing the objectives of the Act can be ensured by such classification."

Here it is said that this is a proper classification because these 14 banks with more than Rs. 50 crores of deposits have large resources, large credit structure, good administration etc. If that is so, how can we exclude foreign banks from this category ?

If the foreign banks are to be excluded, the mover of the Bill will have to come forward to say what is the reason for excluding the foreign banks. The categorisation, the classification, is permitted provided, as I said, the criteria of differentiation are proper and true. From both points of view—I do not know whether there are any other criteria—on what basis foreign banks with deposits of more than Rs. 50 crores have been excluded if Rs. 50 crores on a particular date is the dividing line. The question is : Why foreign banks are being excluded ? If you excluded them, will not this piece of legislation again come up for scrutiny ?

To the best of my recollection, I think, the majority judgment has kept its mind open on this question and it has not given its verdict one way or the other. Do you want this new piece of legislation to be also challenged in the court of law ? If foreign banks are to be excluded, even when they have deposits of more than 50 crores, what are the reasons for the same ? Unless we are satisfied, unless the reasons are given with which even the courts are satisfied, that is a reasonable classification, that this is not a discrimination of any kind, I am afraid, this piece of legislation will also remain open to being challenged in the courts What the consequences will be I do not know.

Then, the Law Minister gave us some figures about the progress that has been made by the banks in the last six months. Unfortunately, the figures have been given in such a fashion, that they cannot be compared with the figures that we have been given in the Economic Survey. In the Economic Survey, in regard to the progress made by banking, as far as agriculture, small-scale industries, exports and other things are concerned, from 30th June, 1968 to 30th June, 1969, certain figures have been given. I was hoping that parallel figures will be given for the last six months so that we may know whether the attempt has been frittered. But the figures are given entirely

[Shri Asoka Mehta]

on different basis. It is not possible to have comparison. I further hope that some perspective will be offered to us because one is interested in knowing as to what is given to happen.

Here again, not just now while this piece of legislation is being discussed, I would like to suggest that when the Annual Plan is put before us or when the Five Year Plan is put before us, we should have the credit plan, an annual plan of credit as well as five year plan of credit. Without that, it is very difficult to understand what is happening and what is expected to happen.

On the basis of information available, various experts have tried to make certain calculations One set of calculation that I would like to give is that during the Fourth Plan, if the economic progresses at the rate at which it is expected to progress under the Plan, then the bank deposits are, likely to go up by Rs. 3,000 crores on the assumption that there will be no price rise. If there is price rise, and there is a sharp price rise, the deposits will also increase sharply but the real value does not remain the same. On the assumption that there will be no price rise and that the Plan will be able to achieve the objectives laid down in the Plan, then, roughly speaking, Rs. 3000 crores more of deposits will be available during the five year period. Of that, something like 1000 crores will be needed for maintaining certain balances in the Reserve Bank and what has to be invested in the securities of the Government. That means, Rs. 1000 crores will go to the Government for their various budgetary requirements. Now, the rate of growth that the industry is expected to make is 9 per cent and, if that is realised, then, the requirements of the industry will be Rs. 1100 crores and, on the basis of increase in national income and increase in industrial product on and agricultural production the increase credit requirements for Trade and Commerce will be about Rs. 200 crores to Rs. 300 crores What is left then ? These are the traditional requirements of Government and of industry and trade and that means the traditional claims on the increased deposits of Rs. 3000 crores will be something like Rs. 2300 crores to Rs. 2400 crores.

What is going to be left for agriculture and small scale industry will be Rs. 600 crores. But the credit requirement of agriculture as calculated is Rs. 2500 crores plus Rs. 750 crores from Co-operative Banks. As against the requirements of over Rs. 3000 crores, the utmost that is likely to be available from the Banks at this rate is about Rs. 600 crores. Therefore, when we arouse the expectations in the country, I think, it is good to keep these dimensions in mind and not go about telling people, 'Your credit needs will be fully met'. Here a low profile and a low visibility approach is necessary. Otherwise, we will be creating dissatisfaction. To say that as against 400 rikshawalas we have given loans to 800 rikshawalas may be good politics in the short run, but, in the long run, I think, it is really going to damage the country. At present, the money supply-deposit ratio—the marginal ratio of deposits to money supply—is 66%. If we can raise that marginal ratio why should it be that out of Rs. 100 only Rs. 66 will come as deposit and the rest remains as liquid money—If we increase the marginal ratio by expanding Branches and by inducing people to use more and more of banking facilities, we will have more resources which will be useful for the purpose of irrigation and galvanising the economy. These are the areas in which, I hope, the Government will go into. I am committed to bank nationalisation. I hope this instrument of bank nationalisation will be used in a manner whereby it is a part and parcel of the whole planning process. There is a credit plan. There is a five-year credit plan and the expectations aroused in the country are not out of tune and out of touch with what we are likely to do or what we are in a position to achieve. Therefore, on this also I hope at the appropriate time some information will be made available.

I would like to invite the attention of the Minister concerned, not so much the Law Minister as the Finance Minister, to the valuable work done by some banks. Everybody knows about the Syndicate Bank. But everybody does not know about the valuable work that has been done by the Bank of Patiala. Some of these small Banks have done remarkable pioneering work. I hope their work will be studied and as we multiply seed farms, we will multiply these things very quickly.

In 1955 when the Imperial Bank of

India was converted into State Bank, I had referred at that time to the necessity of Business extension deposits and to put the borrowing farmer on budget. All these things which were fully explained at that time have not been attended to during the last 15 years. I hope and trust that, that too will be done.

Therefore, while I welcome this Bill, there are many things I would like to know about this Bill. And what is more important, one would like to know much more about it as to how this Bill is going to be implemented In these directions, we continue to live in an area of ignorance.

SHRI A K. SEN (Calcutta--North-West) : Mr. Chairman, I am very happy to find and I am sure, in saying so I shall be voicing the feelings of many of us here that this Bill and the events which preceded it have proved beyond doubt that we are still governed by law and by the Constitution and that the Government, as all of us, obeyed the dictates of the law and our courts and the judiciary. There is another fact which is quite remarkable and which should not be missed and that is the misconception that the Constitution stands in the way of progress or that nationalisation is not a sound proposition. The Constitution does not stand in the way of nationalisation. The Supreme Court has held that the Parliament is competent to nationalise banks and other undertakings for public purpose. The only thing to notice and to remember is that this nationalisation has also to be in accordance with law and the provisions of the Constitution and it is not open for us here or any where else to try to overcome or transcend the limits which the Constitution has set for those who want to nationalise either industry or trade.

This is very significant, for in many States today there has been a tendency to think that simply because either one party or the other thinks that a man's property is not worth anything it can be taken just because the party in power thinks that it can be so taken, without even passing a law, without even arming the Executive with the proper authority, without even laying down the principles and the purposes for which this nationalisation is to be affected.

Sir, I come from a State where this sector has been rather dim and grim, if I may say so for quite some time past. It has been openly advocated that it will be open for anybody who calls himself either a man of the masses or a toiling worker to go and just squat on somebody else's property and grab it if he wants to do so and that that man has no protection under the law. This is not a question which is to be answered for the first time that when the Parliament or the competent legislatures in the States think that certain property or certain undertakings or certain other means of production or credit institutions are to be nationalised to the public good or for a public purpose, a law needed and that that law has to be passed in accordance with the provisions of the Constitution That is exactly what the Supreme Court has said and it will be a mistake to suppose—as many have very glibly given expression to such views—that the Supreme Court stands in the way of the people's progress. Nothing like that. In fact, the Supreme Court has repeatedly stressed this fact that it is for the Parliament and for the Legislature to frame a policy, an economic and social policy, and it will be for them to frame an appropriate law to carry out those policies ; but that law must follow the path the Constitution has prescribed. And, it will not be for the legislatures concerned or for the Parliament concerned to try to chalk out a new path for itself, for, ourt is a prescribed path, a limited path upon which to tread ; and it is not for each legislature or a fleeting majority which control the legislature for the time being to take out for itself a path it chooses. For the Consritutional path is a permanent path ; the Constitutional path is the path of the law and it cannot be deviated from, except at a risk of being set right by the Courts.

Now, with these observations, Sir, I welcome the Government's measure for bringing forward speedily a law which will stand the test which the Supreme Court has laid down for the purpose of nationalising a vital sector in our economy. It is no longer any matter of debate nor does it brook any debate that credit instiiutions which control the savings of the nation and with which we have to build up all our development programmes are a vital sector of our economy. And the people, nor Parliament, can leave it to chance for those who control the credit institutions either to afford necessary credit for some and not for

[Shri A. K. Sen]

others. In fact, Sir, we have set up priorities for ourselves in the matter of development. We have our agricultural programmes; we have our programmes for assisting the small-scale industries. We have our programmes for assisting the middle-class entrepreneurs and I do not consider that the credit institutions must subserve the interest either only of the big industrialist or big trader. Infact, the growth of the small trader and the growth of the small man or the middle-class entrepreneur has to be ensured and cannot be ignored any more. While I welcome this Bill, and while along with so many of us here, I whole-heartedly support this measure, we must express our misgivings at the way some of the old nationalised credit institutions have behaved in the past.

And the complaints we all hear are not only stray or infrequent but are freely and widely expressed, namely, that the nationalised credit institutions like the State Bank still only prefer the big man, the big industrialist and the big trader and the voice of the small enterpreneur is very frequently not heeded. In fact, some of us who are connected with small enterprises know how difficult it is to induce a bank like the State Bank to be a little sympathetic to the needs of the small enterpreneur. Therefore, I hope when these big institutions are nationalised, those who will be in charge of them as agents of Government and as guardians Parliament has set up for looking after the vital interests of the nation will not fail to frain a proper policy which will be ameliorative of the difficulties of the common man, the small man, the small agriculturist the small enterpreneur so that he will feel that the nationalised credit institutions have really brought about a fundamental change in our credit policy and in the matter of affording the necessary assistance without which no enterprise, either agricultural or industrial, can possibly thrive or expand.

I am also very happy to see that such a silent and fundamental revolution has been brought about through the aegis of law. This is a pointer to those who think that changes can be brought about only by bloody revolutions or agitations. In the last twenty years ever since we ushered in the Constitution, vast changes have been wrought in our economy; big landed estates have disappeared, agricultural ceiling laws have been passed by freely elected legislatures; important industrial units and industries have been nationalised; the State Bank, the Reserve Bank and life insurance and so many other important sectors of our economy have not only been nationalised but also developed in the public sector like the vast steel factories and other heavy industrial units that we have built up, all with the aid of laws passed by a freely elected Parliament. It has never been even questioned that these laws have not been to the public good or have not been administered for the public good. The great revolutionary step of nationalising within such a short space of time such vast credit institutions, all with the aid of laws passed by this House, shows how easy it is and yet how important it is, to observe that all our future progress either in this direction or in any other, has to be only with the sanction of laws passed by Parliament and by the freely elected legislatures and not by those who shout in a robble 'do this' or 'do that'. The heavens cannot be brought down just by shouting, by bloody revolutions or by bloody agitations,

This is the position which really makes us optimistic and which really throws up such a vast vista of hope for the people and the expectation that this measure has roused all over the country. Why is in that this measure roused such a widespread enthusiasm and fervour throughout the country? Simply because of this, people feel that after all the Constitution and those whom they have elected to serve the Constitution and lead the Government and the legislative have served them well by making such progressive steps possible through the aid of law.

I, therefore, feel that there will be very few to question the wisdom of this measure and very few to criticise the manner in which this measure has been framed.

While I say this, I at the same time want to sound a note of caution and that is this, that the great expectations which have been roused by this measure should not be allowed to be stifled even for a moment, and it is likely to be so stifled if the measure is not really followed up with vast new experiment is in the field of making

our credit available to those sectors which have been served so far of proper credit facilities.

It is well known that our agriculture depends by and large on the credit facilities offered by the village sahukar and village moneylender who readily lend at high rates, usurious rates of interest and grab the people's property to realise their loans. It is a happy thing to remember that the old description of the Indian peasant is no longer apposite today. The Royal Commission on Agriculture, while reporting on the condition of the agriculturists, said not very long ago, only in 1928, that the Indian peasant was born in debt, lived in debt and died in debt. It may be that that condition is no longer so acute as it used to be a few decades ago, but nevertheless it is a fact that, as Shri Mehta pointed out, the successful culmination of this green revolution as we call it, this agricultural revolution, will depend very much on extended credit facilities which we make available to the small farmer all over the country. Similarly, we have roused expectations in the minds of the small entrepreneur, the small transport man, the small trader, the small man who forges a few things in his small factory with the aid of his own arms or with the aid of a few labourers he employs. If his needs are not properly attended to, these expectations will soon be dashed to the ground and that will create a condition which will be fatal not only for us but for the confidence which the people have reposed in us by according such widespread support for this measure.

With this note of caution I hope that those who will be charged with the task of administering the new banks will do so wisely, liberally and with caution and circumspection, and that the people will hail that the vast credit institutions of the country have been nationalised by this Parliament for the public good.

SHRI JYOTIRMOY BASU (Diamond Harbour) : There is a piece of news that the National Assembly of Cambodia has thrown out its Head of State, Prince Norodom Sihanouk. Will you kindly ask the Government to make a statement ? On the floor of the House we have discussed Cambodia for a long time and it will be of interest to the Members of the House, I have no doubt that Prof. Mukerjee will support me in this regard. I want to know whether the Government has received the news and how far it is correct.

MR. CHAIRMAN : What you have said has gone on record.

SHRI JYOTIRMOY BASU : Will you be good enough to ask the Government to make an announcement confirming or denying it ? This is a very important issue.

MR. CHAIRMAN : The Minister is here and he has taken note of it.

SHRI M. R. MASANI (Rajkot) : I rise to support the statutory resolution for disapproving the Ordinance moved by Shri Sharma and oppose the motion for consideration of the Bill moved by the hon. Minister, Mr. Govinda Menon.

When Mr. Madhok and I decided on the morning after the Ordinance was enacted last year that this whole measure was *ultra vires* of the Constitution and should be struck down, I must confess that we had not counted on being rewarded with such a historic judgment of the Supreme Court which not only struck down the illegal law but had also laid down propositions of considerable value in the way of expanding the area of Fundamental Rights of the citizen for which we are all grateful. We applaud the judgment of the Supreme Court and we are happy that in this manner we have brought about a desirable result.

When the Bill, which was struck down later on by the Supreme Court, came before the house on 25th July 1969 we again warned that it also was invalid because it violated certain Fundamental Rights. Speaking in this House on 25th July last year, I said :

> "This Bill violates Fundamental Rights ; this Bill is expropriatory ; it is discriminatory ; it has no public purpose. Therefore, this Bill is *ultra vires* of the Constitution."

What we said has happened. Today we see the pathetic spectacle of the incompetent legal advisers of this incompetent Government giving a long apologia, about how justifiable was the mistake they had committed. The Government may be wasting the time of the House by bringing a Bill a second time. But it goes on record that

[Shri M. R. Masani]

this Government and its legal advisers do not know the law of this country and do not take enough trouble to safeguard the Constitution of this Country.

We are opposed to bank nationalisation outright. Why ? A statement was made in our Election Manifesto as far back as 1967 and I shall quote it now because what we said then is only too likely to be vindicated in the years to come. We said :

> "The Swatantra Party is opposed to the nationalisation of banks contemplated by the Congress Party which is utterly irrelevant to the country's problems and would retard development besides being fatal to monetary stability, security and saving by placing the savings of lakhs of small depositors at the mercy of a Government seeking to lay its hands on all available resources."

It is for this basic reason that we oppose this Bill a second time in this House.

We believe in a mixed economy where State and private enterprise compete on equal items for the welfare of the community. But the burden of proving the need for nationalisation lies very squarely on the shoulders of those who sit opposite.

Even in respect of socialist Sweden, where socialism had been practised with such success, Axel Iveroth says :

> "Those who maintain that the States should take responsibility for an increased rate of economic progress by carrying out thoroughgoing changes in our prosperity creating machinery must now realize that the burden of proof lies upon them."

This burden has not been discharged in this particular case. No case has been made out why these fourteen banks should be nationalised.. (*Interruptions.*) The Truth is unpalatable.

My party stands for a commission of enquiry being appointed in respect of any industry where a case is sought to be made out for nationalisation. If something that approximates to a Royal Commission in England is appointed in this country, takes evidence and comes to the conclusion that for the public good a particular industry should be nationalised, I am prepared to go along with it. But that kind of judicious, objective enquiry has not been made in this case. On the contrary, in this particular case all the evidence is against it. The Prime Minister of this Government which is going in for the nationalisation herself did not think so at Bangalore. What did she say in her memorandum to the AICC ? She said that they could either consider the nationalisation of the top five or six banks or issue directions to the effect that their resources should be reserved to a larger extent for public purposes. In other words, she had an open mind ; what she wanted could be done without nationalisation. Yet within a matter of weeks, in fact, of days, her mind changed and it was suddenly discovered that nationalisation was the panacea that was required.

The Deputy Prime Minister of that same Government went on record as saying that nationalisation was not necessary. I quote his words :

> "Recent experience does not suggest that large banks need to be taken over so as to be made to do something which they are not doing.
>
> "There is no reason why, under central control, that is, social control, they cannot be made to do what the State Bank is doing in the national interests, nor is it right that the State Bank is expected to do what banks as institutions concerned everyday with depositor's money cannot do. No bank, whether in the public or the private sector, can abandon the test of viability of a credit transaction. The experiment of social control is a continuing one. It aims at socialisation of credit without nationalisation of banking. Our experience in the last year or so shows that this is an experiment whose results, we have every reason to believe, will be rewarding."

So, whatever enquiry was made by the Prime Minister and the Deputy Prime Minister shows that there was no case for natiolisation. Social control was not given a chance and this measure was sprung upon the country. We believe that a basic dilemma faces Parliament and the Government—

श्री रवि राय (पुरी) : बार बार सदन में शिकायत की गई है कि जब यहां बिलों इत्यादि

पर चर्चा हो तो कोई न कोई कैबिनेट स्तर का मंत्री यहां रहना चाहिये । लेकिन कोई कैबिनेट स्तर का मंत्री नहीं होता है । अब भी नहीं है । आप उनको बुलायें ।

SHRI M. R. MASANI : I was saying that in a case like this, there is a basic dilemma facing us. Either a bank is run on commercial principles free from political intervention, as is done by nationalised banks in France. In that case, there is no change and there is no purpose in nationalisation. All that has happened is that Rs. 87 crores of the tax-payers' money are wasted in paying compensation to the shareholders. On the other hand, if nationalisation means the encouragement of a monopoly and it is politically motivated, then it is pernicious because the money of the depositors will be trifled with in a manner that it should not be trifled with as is happening with co-operative banks and land mortgage banks in this country. So, this is the dilemma the gentlemen opposite have to face. Either nationalisation is pointless and expensive or it is pernicious and dangerous. And from this dilemma, we find there is no escape whatsoever.

Who will benefit from nationalisation ? Is it the shareholders ? There is no doubt that the compensation provided in this Bill is somewhat more generous and fair than the last one which we got the Act struck down by the Supreme Court. Even this time, I am not sure that the compensation is adequate or fair. I will mention three or four reasons why I say so. The market value of land and buildings of head offices and hundreds of branches of the banks have been heavily depreciated in the books of the banks, and are really worth much more than what was allowed for in the Government's computation.

The goodwill built up over several decades has not been accounted for in the compensation.

Equity and justice demand that the shareholders should be entitled to a share of the bank's profits made between July last and February this year during which period the banks were illegally occupied by those gentlemen opposite. No compensation is given for occupying the banks for six or eight months illegally, without any legal authority.

Then, interest at the rate of four per cent is given on the compensation, but we know the prevailing rate for borrowing is nine and a half per cent to 10 per cent on secured borrowings, and so, the rate of four per cent is inadequate.

Finally, the shareholder does not get the money in cash. He gets it payable over three years during which, thanks to the inflationary policies of this Government, the rupee will be depreciating further. So what I say is that full justice has not been given to the shareholders.

Then, will it benefit Labour ? I say no. Those employees who belong to nationalised banks have already realised that their right to collective bargaining, their right to strike, their right to bonus have already been truncated. I would like to read to the House a resolution passed by the Reserve Bank Employees' Association at an extraordinary general meeting of their union held in Bombay on 3rd July, 1964. This was passed after debate by 380 votes to 20. It says :

> "This extraordinary general meeting of the Reserve Bank of India Employees' Association, Bombay, held on the 3rd July, 1964, having considered the question of nationalisation of banks, resolves that this Association is opposed to the nationaliation of banks, since experience shows that nationalisation of banks would not be conducive to interests and welfare of the employees."

AN HON. MEMBER : When was that ?

SHRI M. R. MASANI : 1964. They were wise before the time !

> "As such, this Meeting decides to dissociate itself and the Association from the campaign for nationalisation of banks and to take all such steps as are necessary in furtherance of this decision."

Therefore, Labour will not be benefited.

Now, let us take the depositors. The depositors' deposits are in danger according to me when people like the people opposite get their hands on them. These depositors are small people. In 1967, there were 12,400,000 personal accounts in this country with an average deposit of Rs. 150. These are small people whose money will now be diverted for unproductive investment in wasteful governmental enterprises, which will

[Shri M. R. Masani]

be the best that can happen, or there may be trafficking in overdrafts. We know that the resources of cooperative banks and land mortgage banks are used for patronising the supporters of the ruling party throughout the country It happens in all the States. The biggest source of corruption today is cooperative banks and land mortgage banks. This is likely to happen with fourteen nationalised banks also.

If these resources are frittered away, the depositor has no guarantee beyond Rs. 5000. The first Rs. 5000 of your money, Mr. Chairman, or of anyone here Government guarantees, but nothing more. We have tabled an amendment to this Bill that the Government guarantee should be unconditional and that the depositor must be reimbursed to the entire extent of the money that may be wasted by the nationalised banks.

A danger of nationalisation is concentration and monopoly. Gandhi believed in decentralisation of economic power. (*Interruption*). I would request Mr. Basu to try to listen ; if he listens, he will learn a little more. Indulging in a running commentary or making a noise when somebody else is speaking is not the way of democracy. The whole point here is to listen to one another.

SHRI JYOTIRMOY BASU : You do not believe in democracy ; you have been talking about military rule.

SHRI M. R. MASANI : He is getting me mixed up with Gen. Cariappa ! I do not think I look like him.

SHRI JYOTIRMOY BASU : That is your variety.

SHRI M. R. MASANI : I was quoting Mahatma Gandhi, who had a very sound idea as to where the popular interest lay. He talked about money in the banks. In his book *A Week with Gandhi*. Louis Fischer quotes Gandhi as saying something in which we believe, but not those sitting opposite. He says ;

> "You see, the centre of power now in New Delhi or in Calcutta and say, in the big cities. I would have it distributed among the seven hundred thousand villages of India. That will mean that there is no power. In other words, I want the seven hundred thousand dollars now invested in the Imperial Bank of India withdrawn and distributed among the seven hundred villages. Then each village will have its one dollar which cannot be lost."

This was symbolic. Gandhi was making on argument against what these people are doing today is exactly the reverse of what Gandhiji wanted. They want to concentrate all the millions of dollars belonging to the small men in the hands of this Government and those who carry out their orders.

Even so, thank goodness, the present law leaves some freedom of choice to the depositor and the creditor to move from one bank to another, because only fourteen banks have been nationalised and a few have survived. To that extent, there is no complete monopoly in banking, even after this law is passed. It is for this reason that we are opposed to the nationalisation of even a single more bank, whether it is an Indian bank or a foreign bank. We are not concerned with the nationality of the bank. We are concerned with the area of freedom of choice left with the depositor or creditor If more banks are nationalised, the evil will spread further. Today the evil is there, fourteen banks are struck by the plague. We do not want more banks to be struck by the plague because fourteen banks are struck.

An attempt has been made in certain quarters—not yet in this House, I am glad to say—to try to argue that the judgement of the Supreme Court necessitates that foreign banks and other Indian banks should also be nationalised. I have studied the judgment of the Supreme Court very carefully. It says nothing of the kind. They have refused to deal with this matter. They say that it is not necessary for them to go into this question. But what do they say ? They say :

> "It makes hostile discrimination against the named banks in that it prohibits the named banks from carrying on banking business, whereas other banks—Indian and foreign—are permitted to carry on banking business, and even new banks may be formed which may engage in banking business."

So, do not invoke this bogey of discrimination and do not say that only because fourteen banks were nationalised and not others, therefore, the Act was struct down and that you can not nationalise any category you like. The court only said that you should not discriminate between nationalised banks and non-nationalised banks in regard to the carrying on of banking and other business. So, it is not good invoking the judgment of the Supreme Court in order to create a case for nationalising more banks, whether they are Indian or foreign.

Therefore, we shall do what we did on the last occasion. On the 30th of July 1969 we voted against an amendment moved by the Communists to nationalised the other banks which were left out. If such an amendment is moved again, we shall vote against it because we wish to be consistent in what we do. We believe that the less of monopoly the greater the chances for the citizens of this country and the more banks are nationalised the more poisonous the effects of this monopoly. For this reason, we shall certainly oppose the attempt to nationalise one more bank beyond the fourteen that are attacked.

These are the reasons why we want to oppose this Bill. Even at this late stage, if this government will withdraw this Bill and appoint a Commission of Inquiry to investigate whether or not a case exists for nationalisation, we are prepared to co-operate with such an investigation, share our views with them and if that expert body comes and says that there is a case for nationalisation, then I am prepared to go in for it. But, in the absence of that, our experience of State enterprises in this country is a most unfortunate one. We convert prosperous enterprises into loosing enterprises by nationalisation. We do not want this further process of ruin to get expanded and, therefore, we shall oppose the Bill at every stage.

SHRI AMRIT NAHATA (Barmer): Mr. Chairman, Sir, Shri Ashok Mehta just now said that in striking down the Bank Nationalisation Act the Supreme Court had reversed and revised many of its earlier stands and he gave some examples. I would like to add some more. The Supreme Court had held earlier that a company or a corporate body could not be considered a citizen and could not, therefore, claim fundamental rights guaranteed under the Constitution to Indian citizens; the shareholders of companies, for example, are not liable to pay the debts, dues or arrears of those companies. Smilarly, a corporate body could not claim the fundamental rights which its shareholders could claim. But in this judgment the Supreme Court has revised the earlier attitude and decided that even a company or a corporate body could claim fundamental rights under the Constitution as any other citizen.

The judgment of the Supreme Court says that the nationalisation of these fourteen banks is a hostile discrimination in as much as these fourteen banks are prevented from continuing or carrying on banking trade. This means that from now onwards the Supreme Court will consider any partial nationalisation as hostile discrimination. In the past, when the Imperial Bank was nationalised, this plea was never raised. When the Life Insurance Corporation was nationalised, nobody has said that general insurance is not being nationalised. If this argument of hostile discrimination is taken to its logical conclusion, it would be very difficult on the part of this government to undertake any more partial nationalisation. For exmaple, we have declared that the State will take over the foreign trade item by item.

If the Centre decides to take over import or export trade of a particular item, it would again be struck down on the plea that this is hostile discrimination; then they would say that traders cannot import or export this particular commodity while they can import or export other commodities. This argument of hostile discrimination, I believe, is fraught with grave dangers.

SHRI M. N. REDDY (Nizamabad): On a point of order, Sir. In his entire speech he is criticizing the judgment of the Supreme Court. The judgment is not the subject of discussion here. (*Interruption*.) Government accepted the judgment and brought forward the Bill again. (*Interruption*.) He is saying that the Supreme Court would do this or that. It is against the dignity of the Supreme Court. It should not be allowed.

MR. CHAIRMAN: There is no point of order.

SHRI AMRIT NAHATA : I am not prepared to be guided by the hon. Member about what I should speak and what I should not.

I am constrained to submit that the Supreme Court in striking down the Bank Nationalisation Act has gone beyond its jurisdiction. For example, the Constitution lays down specifically that the fairness or adequacy of compensation to be paid or the principles on which compensation is to be paid are non-justiciable. The Fourth Amendment of the Constitution is absolutely specific and clear. While moving the Fourth Amendment Bill Pandit Jawaharlal Nehru had said :

> "Parliament fixes either compensation itself, or the rules governing compensation ; and they would not be challenged by courts 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."

Till very recently the Supreme Court has upheld this principle. In the case of Gujarat *versus* Shantilal the Supreme Court Bench, presided over by the then Chief Justice, Shri Subba Rao, categorically and very clearly upheld this principle and of the Fourth Amendment Act and held that the Supreme Court had no power to go into the adequacy or otherwise of compensation or the principles governing compensation. But now the Supreme Court has revised and almost reversed that stand.

I may point out to you that even before the Fourth Amendment the intention of the framers of our Constitution had been made very clear in the Constituent Assembly. In 1949 Pandit Jawaharlal Nehru had said in the Constituent Assembly :

> "Eminent lawyers have told us that on a proper construction of the clause, the judiciary should not and does not come in."

Dr. Ambedkar had said in the Constituent Assembly :

> "The Constitution excluded judicial review of the quantum or principles of compensation as the framers were apprehensive of judicial vagaries in the moulding of law."

Even then, when the Supreme Court went repeatedly, in one case after another, into the question of the adquacy or otherwise of compensation it was felt necessary that this clause about compensation be made more specific and explicit. That is why the Fourth Amendment was brought forward. After that it is for the first time that the Supreme Court has gone again into the question of adequacy or otherwise of compensation.

It has been said that the property right in our Constitution is almost the same as in the Constitution of the USA. I would like to remind you that while the US Constitution uses only the words "just compensation", the Indian Constitution uses only the word "compensation." This distinction is very important. Our Constitution, even before the Fourth Amendment and certainly after the Fourth Amendment, has been very clear that the matter of compensation will be decided by the Legislature. Of course, if the legislature were to perpetrate a fraud on the Constitution or a mockery on the Constitution, say, if we were to decide that we will give 1 paisa to every shareholder as the compensation, then, certainly, the Supreme Court has every right to challenge this decision of the legislature as a fraud or a mockery on the Constitution. But in the present judgment, the Supreme Court has not called the principles on which we have decided to pay compensation as a fraud or a mockery on the Constitution.

The Supreme Court has laid down certain principles, that is, market value, payments in cash and even goodwill has to be taken into consideration while deciding the adequate quantum of compensation. That is why the share-holders who held total shares of Rs. 21 crores in these 14 nationalised banks are now getting Rs. 87 crores. It has been said that these banks were private banks. They were not private banks. With only Rs. 21 crores, these banks could utilise hundreds of crores of rupees of poor depositors and those moneys were used for building industrial empires, those moneys were used for the growth of monopolies, those moneys were used against the interests of the common man in the country and against the interests of the backward regions of the country—only a few cities flourised ; only industries in a small number of houses flourished. They were never private banks. This was private expropriation and use of

public Money. And this mistake has been corrected by nationalising these banks.

If this principle is to be pursued in future that market value must be paid, that it should be paid in cash and that goodwill is also to be taken into consideration, I am afraid, further progress in the direction of social justice and equality would become very difficult. I am afraid, the Government has also indirectly surrendered before this judgment of the Supreme Court which the Supreme Court should not have given because they have no right to give.

Again, this Government should have come forward and said before the House that the compensation is being further reduced because, once we fix the quantum of compensation, no judiciary can challenge it. Therefore, if we are, indirectly, to submit to these criteria laid down by the Supreme Court that goodwill should taken into consideration or the market value should be taken into consideration, then, in future, this Government itself will face difficulties when it wants to come forward with a legislation of social justice.

I want to remind this Government of an historic statement which Pandit Jawaharlal Nehru made in this House. I quote :

> "No Supreme Court and no judiciary can stand in judgment over the sovereign will of Parliament. If we go wrong here and there, it can point it out, but in the ultimate analysis, where the future of the community is concerned, no judiciary can come in the way No system of judiciary can function in the nature of a Third House of correction."

Why I say this is, because, here, in the judgment of the Supreme Court, striking down the Bank Nationalisation Bill, there is an observation which I want to draw your attention to.

The judgment says :

> "For achieving the needs of a developing economy in conformity with the national policy and objectives, the resources of all the banks - foreign as well as Indian—are inadequate."

Who is the Supreme Conrt to question the wisdom of this House ? It is the House which will decide what is necessary for the fulfilment of the national objectives and what is not necessary for the fulfilment of the national objectives. The Supreme Court has no right to question the wisdom, the policy of the Government or of the Parliament or of the people of the country. The Supreme court has, certainly, gone beyond its scope and I would, therefore, invoke the famous message of President Roosevelt which he gave to the American Congress. The situation is almost similar This Government under the leadership of Mrs. Indira Gandhi is giving the New Deal to the weaker sections of the country. We are almost in the same conditions which were faced by President Roosevelt when he introduced the New Deal. This is the famous message which President Roosevelt gave to the American Congress. I quote :

> "When the Congress sought to stabilise national agriculture, to improve the condition of labour, the majority of the Court has been assuming the power to pass judgment on the wisdom of the Acts of the Congress. 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."

I would request this Government and this House, in the words of President Roosevelt, to save our Constitution from the Supreme Court and to save the Supreme Court from itself.

18.00 hrs.

श्री रवि राय (पुरी) : सभापति महोदय, अभी मैं सरकार की तरफ से ए. के. सेन साहब का और नाहाटा साहब का भाषण सुन रहा था। दोनों ने गद्‌गद् होकर के इस बिल का समर्थन किया है। दूसरी तरफ मसानी साहब ने इस बिल का विरोध किया है। मेरा पहला आक्षेप इस बिल के बारे में यह है कि क्या वजह है कि सरकार को दोबारा फिर इस बिल को सदन के सामने लाना पड़ा ? पिछली बार जब हम इस पर बहस कर रहे थे उस समय सदन में जिन-जिन चीजों के बारे में हम लोगों का आक्षेप था, शिकायत थी, आलोचना थी, इस राष्ट्रीयकरण के बिल को लेकर के, उसमें से किसी भी शिकायत को सरकार मानी नहीं

[श्री रवि राय]

जिसके चलने इस बिल को दोबारा यहां लाना पड़ा ।

पहली बात यह है कि यह बैंकों का जिस तरीके से राष्ट्रीयकरण किया गया उसको देखते हुये यही कहा जा सकता है कि इस सरकार का कुछ लम्बान का दृष्टिकोण नहीं है । यह क्यों ऐसा हुआ ? क्या वजह है कि सरकार की हिम्मत नहीं पड़ी, मैं नाहाटा साहब से पूछना चाहता हूं कि यह तो पूंजीवाद के समर्थक नहीं हैं, पूंजीवाद की खिलाफत करते हैं, लेकिन क्या वजह है कि आज भी मेनन साहब की हिम्मत नहीं थी इस बिल में इस क्लाज को रखने की कि विदेशी बैंकों का भी राष्ट्रीयकरण किया जाय ? यह मानी हुई चीज है कि 1956 साल में जब नासिर साहब स्वेज कैनाल का राष्ट्रीयकरण किये, एक बहुत बड़ा ऐतिहासिक कदम उठाया, और भले ही यह तानाशाह हैं लेकिन इसके लिये नासिर साहब का हमने स्वागत किया और उसी तरह से ईरान के मुसादिक साहब की बात ले लीजिये जो कि अमेरिकी आयल कार्टेल के खिलाफ लड़ते-लड़ते मर गए, इसी तरह से बर्मा के ले-विन को ले लीजिये या पुराने इंडोनेशिया के सुकर्णो साहब को ले लीजिये, यह सब विदेशी पूंजी या विदेशी बैंकों का राष्ट्रीयकरण किये, लेकिन आज हम लोग क्या देख रहे हैं कि यह सरकार विदेशी बैंकों के सामने दब गई और मुझे याद है कि इन्दिरा गांधी का यह तर्क था कि क्योंकि विदेशी व्यापार में विदेशी बैंकों की सहायता मिलती है, इसलिए हम विदेशी बैंकों का राष्ट्रीयकरण नहीं कर रहे हैं और दूसरी तरफ यह सरकार कह रही है कि हम आयात-निर्यात व्यापार का भी राष्ट्रीयकरण करेंगे । तो दो तरह की दुविधा में यह सरकार फंसी हुई है । इसलिये मैं कहना चाहता हूं कि देश में जो बैंक हैं, कमर्शियल बैंक हैं, उनका तो राष्ट्रीयकरण कर लिया, लेकिन विदेशी बैंकों को आपने छोड़ दिया, इससे पता चलता है कि सरकार का राष्ट्रीयकरण का अर्थ नहीं समझी । यह सरकार सरकारीकरण कर रही है । असली अर्थ जो राष्ट्रीयकरण का है वह आप नहीं समझे । क्या 1955 में इम्पीरियल बैंक का राष्ट्रीयकरण नहीं हुआ था और क्या बीमा कम्पनियों का भी इसी तरह से राष्ट्रीयकरण नहीं हुआ था ? लेकिन क्या इन दोनों चीजों से यह साबित हो गया कि यह सरकार समाजवाद के रास्ते पर चल रही है ? तो जो आज सरकार की आरती उतार रहे हैं वह यह समझ नहीं रहे है कि सरकार ने अभी तक समाजवाद का अर्थ नहीं समझा । मेरे कहने का मतलब यह है कि सरकार समाजवाद का अर्थ नहीं समझी और समाजवाद का अर्थ यह कि हिन्दुस्तान में अमीरी और गरीबी के बीच की जो खाई है, जब इस बैंक राष्ट्रीयकरण के कानून से इस खाई को हम पाट नहीं सकते तो इससे समाजवाद आ नहीं सकता । इसलिए मैं यह कहना चाहता हूं कि यह सरकार का जो बिल है इस बिल में विदेशी बैंकों के राष्ट्रीयकरण का कोई जिक्र ही नहीं है और सभापति जी, आपने देखा होगा कि मसानी साहब ने अपने भाषण के अन्तिम हिस्से में इस सरकार ने जिस तरीके से इस बिल के जरिए सुप्रीम कोर्ट के फैसले के बाद मुआवजे को बढ़ाया है, उसका स्वागत किया है । इस तरह से आप देखेंगे कि मसानी साहब, इन्दिरा जी, सेन साहब या नाहाटा साहब इन दोनों में सामंजस्य हो रहा है, मतभेद टूट चुका है और दोनों राष्ट्रीयकरण के चलते जो मुआवजा बढ़ाकर दिया गया है, पूंजीपतियों को जो ज्यादा मुआवजा दिया गया है, उसका स्वागत कर रहे हैं ।

इसी सिलसिले में मैं आपको यह सूचना देना चाहता हूं कि तीन साल पहले जब डा० लोहिया जिन्दा थे, हम लोगों की तरफ से एक बिल पास करने के लिए दिया गया था

और राष्ट्रपति जी से हम लोगों ने उस की अनुमति मांगी थी। वह बिल गांधी जी की ट्रस्टीशिप थ्योरी को लेकर हम लोग डाक्टर लोहिया की तरफ से यहां लाये थे। हम उसके लिए बार-बार सरकार से मिले कि वह राष्ट्रपति जी को उसकी अनुमति के लिये सुझाव दे, लेकिन सरकार ने राष्ट्रपति जी को सुझाव नहीं दिया और उसकी अनुमति नहीं मिली। उसके बाद जार्ज फरनेन्डीज की तरफ से फिर उस बिल को यहां रखा गया और सौभाग्य से श्री हिदातुल्ला उस समय अस्थायी राष्ट्रपति बने, तो हमें उसकी इजाजत मिल गई और अब वह बिल इस सदन में इन्ट्रोड्यूस हो चुका है।

इसलिये मेरा कहना है कि यह सरकार एक तरफ तो राष्ट्रीयकरण की आरती उतार रही है लेकिन दूसरी तरफ पूंजीपतियों की जो जायदाद है, सम्पत्ति है वह बढ़ती चली जा रही है और इस बिल के चलते, सभापति जी पूंजीपतियों का देश की अर्थ व्यवस्था पर जो प्रभाव है, वह घट नहीं रहा है, बढ़ रहा है। इसलिये मैं कहना चाहता हूं कि इस सरकार का बैंक राष्ट्रीयकरण को लेकर समाजवाद के रास्ते पर चलने का जो तर्क है वह थोथा है, नकली है, इसमें कोई तर्क नहीं है।

जब मोरारजी भाई अर्थ मन्त्री थे, इसी सिलसिले में एक प्रश्न का उत्तर देते हुए उन्होंने जो आंकड़े सदन को बताये थे, उन्हें मैं आपके सामने रखना चाहता हूं। उन्होंने बताया था—1964 में बिरला के एस्टेट्स 292 करोड़ रुपये के थे, लेकिन 1966-67 में वे 480 करोड़ रुपये के हो गये। उसी तरह से टाटा के बारे में उन्होंने बताया था कि उसके एस्टेट्स 417 करोड़ रुपये से बढ़कर 547 करोड़ रुपये के हो गये। मफतलाल ने तो कमाल ही कर दिया—1964 में उसके एस्टेट्स 46 करोड़ रुपये के भी नहीं थे, लेकिन 1966-67 में वे 106 करोड़ रुपये के हो गये। यानी बिरला के एस्टेट्स में 64 प्रतिशत का इजाफा हुआ, टाटा के एस्टेट्स में 31 प्रतिशत का इजाफा हुआ लेकिन मफतलाल के एस्टेट्स में तो 131 प्रतिशत की वृद्धि हो गई और अब यदि पिछले दो सालों के आंकड़े प्राप्त किए जाय तो आप को पता चलेगा कि इनके एस्टेट्स ढाई-गुना या तीन गुना बढ़ चुके हैं। इससे स्पष्ट हो जाता है कि इन बड़े पूंजीपतियों के घरानों का हमारी अर्थ व्यवस्था पर कितना प्रभाव है।

इसी सिलसिले में मैं आपको यह भी कह देना चाहता हूं कि

18·08 hrs.

[Shri Shri Chand Goyal *in the Chair*]

यह जो मुआवजा दिया गया है यह इतना क्यों बढ़ा दिया गया है? आप जानते हैं कि जितने हमारे देश में क्रेडिट इंस्टीयूशन्ज हैं, जैसे एल० आइ० सी०, यूनिट ट्रस्ट आफ इण्डिया, डवलपमेंट बैंक, इनके पास 5 हजार करोड़ रुपये से ज्यादा रुपया है, इनका रुपया कौन लेता है। अगर आप आंकड़ों को देखें तो आप को मालूम होगा कि इन पूंजीपतियों के घरानों ने ही उस रुपये को लिया हुआ है या जब कांग्रेस का विभाजन नहीं हुआ था तो कांग्रेस दल को बिरला के यूनाइटेड कामर्शियल बैंक ने 10 लाख रुपया उधार दिया था। इससे पता चलता है कि बैंकों का राष्ट्रीयकरण करके समाज में बुनियादी परिवर्तन लाने की दृष्टि से कोई पग इस बिल में नहीं उठाया गया है, इसी लिये हम लोगों का इससे विरोध है।

मैं आपको यह भी बताना चाहता हूं कि पिछले दिनों जब मोरारजीभाई का सामाजिक नियन्त्रण चल रहा था, उस वक्त कुछ कांग्रेसी लोगों को इन बैंकों का डाइरैक्टर बनाया गया था। मैं उन के नाम गिना सकता हूं—जैसे उत्सव पारीख और जी० वी० नवलकर को बैंक आफ बड़ौदा में, त्रिभुवनदास पटेल को सैन्ट्रल बैंक आफ इंडिया में, शांतीलाल शाह, एम० पी० और कान्तिलाल घिया, एम० एल० ए०, एस०

[श्री रवीराय]

एन० देसाई और रघुनाथ सिंह को यूनियन बैंक, जसभाई पटेल और मगनभाई पटेल को बैंक आफ इंडिया में डायरैक्टर बनाया गया। ये लोग उस वक्त डायरैक्टर बने और अब राष्ट्रीय करण के बाद भी हिम्मतसिंह जी और मोहन कुमार मंगलम जैसे आदमियों को ऊंची-ऊंची तनख्वाहों पर रखा गया है, उनकी तनख्वाहों को घटाने या सुविधाओं को घटाने की कोई व्यवस्था इस बिल में नहीं की गई है। अब हिम्मतसिंह जी जैसे नकली वामपंथी और मोहन कुमार मंगलम जैसे नकली वामपंथी यहां अपना पैर जमा लेंगे और वही 20-30 हजार रुपया तनख्वाहें और सुविधायें प्राप्त करते रहेंगे, जिनके चलते भारतवर्ष के करोड़ों गरीब लोगों को इन राष्ट्रीयकृत बैंकों से कोई लाभ नहीं होगा, कोई कर्जा इन क्रेडिट इंस्टीचूशन्ज से उनको मिलाने वाला नहीं है।

सेन साहब कानून के विशेषज्ञ हैं, उन्होंने यहां कहा कि इस संविधान के चलते कोई क्रान्तिकारी कदम रुक नहीं सकता। मैं कहना चाहता हूं सेन साहब से—संविधान के तीसरे अनुच्छेद में जो सम्पत्ति के सम्बन्ध में धारा 31 है—जिसमें सम्पत्ति का बुनियादी अधिकार रखा गया है, उसके चलते आप कुछ नहीं कर सकते हैं। हम लोग तो इसका शुरू से ही एतराज कर रहे हैं, लेकिन जब संविधान निर्मात्री परिषद् बनी थी, क्या जवाहर लाल नेहरू के खुद के समर्थन से इस धारा को नहीं रखा गया था? अभी नहाटा साहब फरमा रहे थे—जवाहरलाल जी के कुछ उद्धरण दे रहे थे—वे थोड़ा इस तरफ भी ध्यान दें। सभापति जी, मैं यह बात स्पष्ट रूप से कहना चाहता हूं कि जो संविधान हमारे सामने है, उसमें बुनियादी परिवर्तन की जरूरत है। कांग्रेस दल जो देश में समाजवाद लाने की बात कर रहा है, समाजवाद की आरती उतार रहा है, मैं उस को चुनौती देना चाहता हूं—अगर आप समाज में बुनियादी परिवर्तन करना चाहते हैं तो फिर सम्पत्ति के मामले में संविधान में जो धारा 31 है, उसको हटाइये, सम्पत्ति के बुनियादी अधिकार की जो बात है, उसको खत्म कीजिये। यदि आप ऐसा नहीं करते हैं, तो सुप्रीम कोर्ट को दोष देना एक थोथी बात होगी, क्योंकि इससे आपको कुछ लाभ नहीं होगा।

सभापति जी, दुनिया में जितने हाईकोर्ट के जज हैं जब ये लोग सम्पत्ति के मामले में विश्लेषण करते हैं तो उसकी तरफ उदार दृष्टि से देखते हैं, लेकिन जब शहरी आजादी और व्यक्तिगत आजादी का प्रश्न आता है तो इनका दृष्टिकोण अनुदार हो जाता है। वर्ग-चरित्र के नाते उन लोगों का दृष्टिकोण ऐसा बन गया है इसलिये मैं कहता हूं कि एक नई संविधान निर्मात्री परिषद् बननी चाहिये जो देश के लिए एक नया संविधान बनाये। आज का जो संविधान है, उससे समाज में कोई बुनियादी परिवर्तन होने वाला नहीं है। मैं जानना चाहता हूं कि क्या प्रधान मन्त्री और कांग्रेस दल इस बात के लिए तैयार हैं कि एक नई संविधान निर्मात्री परिषद् बनायेंगे? हिन्दुस्तान के 18 साल की उम्र से ऊपर जो भी नवयुवक और नवयुवतियां हैं, जो भी मर्द और औरतें हैं, सब को लेकर उनके वोट से जो नुमाइन्दे चुनकर आयेंगे उनको लेकर एक नई संविधान निर्मात्री परिषद् बनाई जाय, ताकि हम लोग समाज में बुनियादी परिवर्तन कर सकें। यदि आप ऐसा नहीं करते हैं तो मैं आपको चुनौती देना चाहता हूं—मैं तो ऐसा मानकर चलता हूं कि जब तक यह सरकार है और इस सरकार की मौजूदा नीतियां हैं—यह सरकार बुनियादी परिवर्तन का कोई पग नहीं उठा सकती है। इसलिए मैं इस सरकार से कुछ भी आशा नहीं करता हूं, लेकिन यदि सरकार हमारे सुझावों को माने तो फिर हिन्दुस्तान के गरीबों के लिये कुछ रास्ता खुल सकता है। आखरी बात मुझे यह कहनी है कि

हम लोग जो समाजवादी हैं, समाज में बुनियादी परिवर्तन लाने के लिए बैंक राष्ट्रीयकरण का जो सुझाव दिया है, वह तो सरकार को मानना ही चाहिये, लेकिन वास्तविक रूप में समाजवाद को लाने के लिये यह आवश्यक है कि पर्सनल कंजम्पशन, व्यक्तिगत उपभोग पर नियन्त्रण लगाया जाये। सरकार इस बात को तय करे कि प्रत्येक हिन्दुस्तानी 15 सौ या दो हजार रुपये से ज्यादा खर्चा एक महीने में नहीं करेगा मैं जानता हूं कि प्रो० वी० के० आर० वी० राव इस नीति से सहमत हैं लेकिन इसको कार्य रूप देने के लिए वे सरकार को राजी नहीं कर सकते। लेकिन जब तक आप पर्सनल कंजम्पशन पर नियन्त्रण नहीं लगाते हैं, हर एक हिन्दुस्तानी के खर्चे पर नियन्त्रण नहीं लगाते हैं, टाटा, बिड़ला, श्रीमती इंदिरा नेहरू गांधी तथा इस देश में जितने बड़े-बड़े ब्यूरोक्रैट्स हैं उनके व्यक्तिगत उपभोग पर नियन्त्रण नहीं लगाते है तब तक वास्तव में इस देश में समाजवाद नहीं आ सकता है। आज एक तरफ तो श्रीमती इंदिरा गांधी चाहती हैं कि एक करोड़ का मकान दिल्ली में बन जाये और दूसरी तरफ वे कहती हैं कि हम समाजवाद लाना चाहते हैं। ऐसी दशा में मैं कहना चाहता हूं कि इनके समाजवाद का कोई मतलब नहीं है। आज सारा झगड़ा, सारा संघर्ष केवल सत्ता के लिए है। वे हमेशा के लिए प्रधान मन्त्री बनी रहना चाहती हैं। उनकी थीम यह है कि मैं प्रधान मन्त्री बनी रहूं, समाज में कोई बुनियादी परिवर्तन हो या न हो।

आखिर में मैं कहना चाहता हूं कि अगर आप देश में समाजवाद लाना चाहते हैं तो उसके लिये समाज में बुनियादी परिवर्तन करने होंगे। इस बैंक राष्ट्रीयकरण बिल के द्वारा यदि वास्तव में आप कुछ बुनियादी परिवर्तन करना चाहते हैं तो हमने जो इसके ऊपर संशोधन दिये हैं, मैं सरकार से अपील करना चाहता हूं कि क्लाज बाई क्लाज डिस्कशन के समय उन संशोधनों को स्वीकार किया जाये तभी यह बढ़िया बिल हो सकता है और इस बिल के द्वारा गरीबों का लाभ पहुंचाया जा सकता है।

SHRI CHINTAMANI PANIGRAHI (Bhubaneswar) : All in all it has perhaps taken seven months, if I am correct, for the Government to nationalise, for the Courts to de-nationalise, for our President to re-nationalise and for Parliament to reaffirm the principle of nationalisation of these 14 major Banks. I see in this a real struggle between the opposing forces which have developed in this country during the last 20 years. When I analyse the events of the last seven months, I am reminded of the old story of *Alice in Wonderland* where it is said that we have to keep running all the time in order to stay where we are. I think it is better to keep running than to stagnate and to accept the challenges of life and to keep moving in the right direction. That is the best way of reaching our goal.

The Government has accepted the recommendations of the Supreme Court so far as the charge of discrimination is concerned. The charge was that in the previous Act there was discrimination against the shareholders by forbidding them from doing banking business. The relevant provision in the previous enactment, section 15(2)(c) has been omitted in the new Ordinance and the present Bill. This means that the share-holders will be free to engage themselves in banking as well as non-banking business if it is so provided in the Articles of Association of the undertaking. This is most dangerous. Why ? Because one of the spokesman who had been promoted to be the General Secretary of the Swatantra Party has said that with dynamic management it should be possible for men of the nationalised banking companies to restart banking business with much greater efficiency and economy thus rendering a useful service to the business community. This was his immediate reaction to the verdict of the Supreme Court judgment. I was looking into the powers and functions of the Reserve Bank. The Ministry might say that the Reserve Bank has the power to check it. Suppose some shareholders want to take advantage of the situation and start certain banking institutions under new names and if the Reserve Bank comes in their way, cannot [illegible] to the Supreme Court again because the ques-

[Shri Chintamani Panigrahi]

tion of discrimination will arise again. Whatever power the Reserve Bank may have, I do not think that anybody can prevent any new bank to come up in the de-nationalised sector. The Reserve Bank can also declare an area as banned area and prevent new entrants in that place. But it has limited scope. How can you prevent the old shareholders from forming a new banking company ? It is a matter of controversy. I hope the hon. Minister will give serious thought to this matter and see if any loophole is there so that we can have more powers, if need be, to prevent the mischief that is sought to be done by this kind of judgment on the laws we have passed. If the hon Minister argues that hundred enactments of the American Congress had been struck down by the Supreme Court in the United States and that only five had been struck down here and that we should not worry till 5 or 95 more such enactmentss are struck down, that is no argument.

Pandit Nehru who was one of the greatest intellectuals of our times could foresee things and say what would happen in the process of democratic growth. He has said in his book : *Whither India :*

> "Whose freedom are we particularly striving for (asked Nehru), for, nationalism covers many sins and includes many conflicting elments ? There is the feudal India of the princes, the India of the big zamindars, of the small zamindars, of the professional classes, of the agriculturists, of the industrialists, of the bankers, of the lower middle class, of the workers. There are the interests of foreign capital and those of home capital, of foreign services and home services. The nationalist answer is to prefer home interests to foreign interests, but beyond that it does not go. It tries to avoid disturbing the class division or the social status quo. It imagines that various interests will somehow be accommodated when the country is free Being essentially a middle class movement, nationalism works chiefly in the interests of that class. It is obvious that there are serious conflicts between various interests in a country and every law, every policy, which is good for one interest may be harmful for another. What is good for the Indian prince may be thoroughly bad for the people of his state, what is profitable for the Zamindar may ruin many of his tenants, what is demanded by foreign capital may crush the industries of the country."

Therefore, let us read the judgment of the Supreme Court differently. It is a question of struggle between a few propertied class and the vast masses of our country Look at the composition of the First Lok Sabha, Second, Third and the Fourth Lok Sabha. You will find a great deal of difference. Taking advantage of the democratic institutions of this country, that feudal and monopoly capitalists class whom the people were fighting all along they have succeeded in getting into the democratic institutions of this country. It is not unnatural that they are not confined only to this House or they are not confined to outside institutions. They are there in all the institutions which we have created. Therefore, the process of struggle has started I hope Parliament in its wisdom will try to see things as they are. As we see today in the country, there is greater conflict between the different generations : you will find a young Member in this House will be completely different from an old Member. Similarly, in courts also a young judge would be different from a judge who is old So when a great social change is going on in this country, the impact of it will also be seen in the judiciary which is only a creation of this sovereign Parliament and Constitution. I hope the Law Ministry and the Home Ministry will take serious note of the changing situation in this country.

You will be surprised to find one thing. I may bring to your kind notice one interesting thing. Don't you see it today that the Home Ministry, after 20 years of freedom, came out and said that the large-scale disturbance in the agricultural areas is caused because of the growing discontent among the landless people. Could the Home Ministry says this thing two or three years ago ? Never. The Home Ministry's answer would have been that "if there is agrarian unrest, if there is an agrarian revolution or unrest, send police to suppress it."

SHRI E. K. NAYANAR (Palghat) : They are sending the CRP.

SHRI CHINTAMANI PANIGRAHI : You are requesting them to be sent. Do not

request them to go there. It is a good point. I am happy. What is happening in Calcutta? The police is not doing anything unwaranted. The parties are fighting among themselves and killing each other. This is something quite different (*Inter uption.*) The question is quite different. Therefore, a great change is taking place in this country. If we read the history of the judiciary, you will find that it sometimes happens that when democratic institutions are brought to disrepute and contempt, that paves the way for the inroad of monopolists and dictatorships.

I may just bring this one thing to the kind notice of the House. What is happening all round India? The democratic institutions, one by one, Parliament, judicature, and all those institutions, came to disrepute. And ultimately what happen? Military dictatorships came into those countries. I hope this Parliament in time has passed this legislation, and I hope that it is in the interests of the people, it is the duty and responsibility of the people's representatives that they should defend what they have done. I am simply ashamed that the Members of Parliament, who are elected to this House by the mandate of the people, for the interests of the people for the service of the people, should decide to go to courts and challenge their acts elsewhere. They should reset fight and argue here and should abide by the overwhelming decision of this House. I think in this way, if we go on, people will lose faith in the judiciary also and it would be a bad day for our country.

Lastly, I am happy at whatever little has been done by the Government. After the nationalisation of 14 major banks, the State sector today has achieved a controlling height, and as the Law Minister has just now stated, 83 per cent of the credit and finances is under State control, and only 17 per cent is under the private sector. It is a good achievement. But I would like to bring to the notice of the hon Minister, what happen after the nationalisation of banks.

I am receiving letters every day. I am informed that if they go to the nationalised bank, they are spending Rs. 700 to get a loan of Rs. 5,000. They have to take the man home to their fields give him a good feast—meat and the rest—so that he will be satisfied and will give a good report, recommendation But even then, several months pass and the applicant does not get the loan.

I am receiving many such letters. I hope the Minister of State for Finance will look into the difficulties which the people are facing. About whatever little achievement has been made, I am happy. Within 6 months, direct financial help to farmers from nationalised banks has increased to Rs. 25 crores. Bank credit to small industries has increased to Rs 21 crores Bank credit to small businessmen has increased to Rs. 42 crores. In spite of the difficulties put in the way, these achievements are there.

Sir, you are a lawyer and I will ask your opinion How can you ask a butcher to pass a judgment on a flock of sheep whether they will be slaughtered or not? If people have shares in the banks, can they go and question the validity of the amount of compensation? The entire argument of Mr. Masani was to increase the amount of compensation. He is not satisfied with Rs 87 crores. Monopolists and capitalists can never be satisfied with any amount. The time has come when the Representation of the Peoples Act should be amended to the effect that those who are elected to Parliament shall be members of the Constituent Assembly. The term of Parliament and Constituent Assembly will be coterminous for five years. By that way, we can also amend the Constitution and do everything we want to do. The time has come when we will have to face the real struggle between the forces who represent the vested intrests and the new generation that is coming up. Through the instrument of this Parliament, we shall overcome this difficulty.

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18.32 hrs.

HALF-AN-HOUR DISCUSSION

Visit by Delegation of Provisional Revolutionary Government of South Vietnam to India

MR. CHAIRMAN : The House will now take up the half-hour discussion. Mr. Nayanar.

SHRI E. K. NAYANAR (Palghat) : Sir, After 14 years of freedom fight against U. S. imperialism and their puppets, South Vietnamese people liberated three—fourth of the South Vietnam and formed a Provi-