

Mr. Deputy-Speaker: The question is:

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

Those in favour will please rise in their seats.

I see there are 31 Members in favour of the motion.

Those against will please rise in their seats.

I see none. The motion is adopted.

The motion was adopted.

श्री म० ला० द्विवेदी : मैं बिल को इंट्रोड्यूस करता हूँ ।

Mr. Deputy-Speaker: Shri Shree Narayan Das, absent. Pandit K. C. Sharma.

14.51 hrs.

CONSTITUTION (AMENDMENT) BILL*

(Amendment of Articles 124 and 217) by Shri K. C. Sharma

Shri K. C. Sharma (Sardhana): Sir, I beg to move for leave to introduce a Bill further to amend the Constitution of India.

Mr. Deputy-Speaker: The question is....

Dr. M. S. Aney (Nagpur): Sir, what is the article that is amended? They do not mention even this.

Mr. Deputy-Speaker: The Bills have been circulated.

Dr. M. S. Aney: Whether they are circulated or not is a different matter. It is necessary for the hon. Speaker to see that the motion put to the House is properly explained to the House. If you do not mention the provision of Constitution which is sought to be amended, then it means

it is not a proper motion before the House

Mr. Deputy-Speaker: We cannot depart from the accepted procedure.

Bills have been circulated to the hon. Member. The question is:

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

The motion was adopted.

Shri K. C. Sharma: Sir, I beg to introduce the Bill.

Mr. Deputy-Speaker: Shri Tika Ram Paliwal, absent. Sir, we take up the other Bill.

14.52 hrs.

UNTOUCHABILITY (OFFENCES) AMENDMENT BILL

(Amendment of sections 3 and 4) by Shri S. M. Siddiah

Mr. Deputy-Speaker: The House will now take up further consideration of the following motion moved by Shri S. M. Siddiah on the 22nd June, 1962:—

"That the Bill to amend the Untouchability (Offences) Act, 1955 be circulated for the purpose of eliciting opinion thereon by the 31st December, 1962."

Is Shri Paresh Nath Karyal here? No. Anybody wanting to speak? Shri S. M. Banerjee:

श्री स० मो० बनर्जी (कानपुर) :
उपाध्यक्ष महोदय, यह बिल छूतछात को खत्म करने के लिये लाया गया है। इस में कहा गया है कि जो आज भी हरिजनों पर या कुछ अन्य जातियों पर मंदिरों में जाने पर या किसी दरिया में नहाने पर कैद लगे हुई है उस को दूर किया जाय। मैं समझता हूँ कि आज के जमाने में जब कि हम सिक्कूलरिज्म को मानते हैं और चाहते हैं कि जात पात न हो तो ऐसे बिल की जरूरत है।

[श्री स० मो० बनर्जी]

मैं यह मानता हूँ कि सिर्फ किसी बिल के पास करने से छूतछात दूर नहीं हो सकती। मैं ने छोटा नागपुर में खुद देखा है कि जो ट्राइबल लोग हैं उन से छूतछात बरती जाती है और कोई उन के हाथ का खाना नहीं खाता और ऐसा ही मैं ने उत्तर प्रदेश के गांवों में भी देखा है। यह जरूर कह दिया गया है कि कानून से छूतछात दूर कर दी गई है लेकिन आज भी वहाँ हरिजनों के मंदिरों में जाने पर पाबन्दी है। जहाँ तक मेरा ख्याल है हमारे मुसलमान भाई किसी के मस्जिद में जाने पर रुकावट नहीं लगाते और न गुम्बदों में ही कोई रुकावट है। लेकिन मन्दिरों में हरिजनों के जाने पर रोक है गो कि कह दिया गया है कि उन में हरिजन जा सकते हैं। अन्नपूर्णा जी और विश्वनाथ जी के मन्दिरों को मैं ने खुद देखा है। पहले बनारस के अन्नपूर्णा जी मन्दिर के अन्दर हम लोग जा सकते थे और मूर्ति के पास तक जा सकते थे लेकिन जब से कहा गया है कि हरिजन भी मंदिर में जा सकते हैं वहाँ एक बीवार बना दी गई है और अब दूर से ही दर्शन किया जा सकता है। तो मेरे दिमाग में यह बात नहीं आती कि एक तरफ तो हम कहते हैं कि हरिजन भाइयों को ऊपर उठाया जाय और दूसरी तरफ हम इस तरह का भेदभाव रखते हैं। हमारे माननीय मित्र जिन्होंने इस बिल को लाने की हिम्मत की है उन्होंने ने इस के स्टेटमेंट आफ आवजैक्ट्स एंड रीजन्स में कहा है :

"Section 3 of the Untouchability (Offences) Act, 1955, restricts the religious right of a member of the Scheduled Castes belonging to a particular religion or religious denomination or section of the religious denomination from entering and offering worship in any place of public worship which is open to a member of a different religion or religious denomination or sector of a religious

denomination. Section 4 similarly restricts his social rights to the use of river, well, road, dharm-sala and places of public entertainment. He should have equal religious rights with any Hindu, and equal social rights with any member of the general public and it is necessary and expedient to remove those restrictions."

हमारे संविधान में साफ शब्दों में कहा गया है कि नौकरी के मामले में या धर्म के मामले में सब के साथ इन्साफ किया जायेगा और हर एक को अस्तिथार है कि अपने धर्म को माने और मन्दिरों में जा सके। मेरे ख्याल में यह सही नहीं है कि समाज के इतने बड़े अंग को, जिन का आज समाज में शायद बहुमत है, इस तरह अलग रखें। मैं समझता हूँ कि ऐसा करना गलत होगा। मैं इस सिलसिले में सदन का ध्यान इकबाल के एक शेर की तरफ आकर्षित करना चाहता हूँ जो कि उन्होंने ने उस वक्त लिखा था जब कि वह नेशनलिस्ट थे। उन से पूछा गया कि आप खुदा को मानते हैं या नहीं, तो उन्होंने ने जवाब दिया था :

खुदा के बन्दे तो हैं हजारों बनों में फिरते हैं
मारे मारे।

मैं उस का वन्दा बनुंगा, जिस को खुदा
के बन्दों से प्यार होगा।

तो मैं समझता हूँ कि हम लोगों में इसी तरह की भावना होनी चाहिये कि जो लोग समाज के कल्याण के लिये काम करते हैं और समाज के स्तर को ऊंचा उठाते हैं उन से हम प्यार का बर्ताव करें। आज भावना यह है कि अगर वह दरिया में नहा लेंगे तो दरिया अशुद्ध हो जायेगा। मैं समझता हूँ कि यह सही परम्परा नहीं है। एक जमाना था जब कि शूद्र के कान में वेद का मन्त्र पढ़ा जाता था तो उस के कान में शीशा गरम कर के डाल दिया जाता था और उस के कान को जिन्दगी भर के लिये खराब कर दिया जाता था। लेकिन आज जब हम

राष्ट्रीय एकता लाना चाहते हैं तो हम को भेद भाव को दूर करना चाहिये। देश में जिन लोगों का स्तर नीचा है उस को ऊपर लाने की हम को कोशिश करनी चाहिये मैं समझता हूँ कि इस बिल को पास करने में कोई दिक्कत नहीं होनी चाहिये। जिन माननीय सदस्य ने इस बिल का प्रस्तुत करने की हिम्मत की है वह पाज किसी बजह से सदन में मौजूद नहीं है।

कुछ माननीय सदस्य : मौजूद हैं।

श्री श्री ० मो० बनर्जी : जो लोग कि हरिजन या शिड्यूल्ड कास्ट कहलाते हैं उन को हमें अपने बराबर लाना चाहिये और जो अपने को ब्राह्मण या ठाकुर कहते हैं उन को इस बिल का स्वागत करना चाहिये। उन को इस का समर्थन करना चाहिये। मैं समझता हूँ कि इस से समाज का कल्याण होगा। अगर हम देश में एकता की भावना लाना चाहते हैं तो हम को छ्त्राछूत दूर करनी चाहिये।

जिन नदियों की धारा हर चीज को पवित्र करती है उन में आज हरिजनों को नहाने नहीं दिया जाता। अगर हम देश को मजबूत बनाना चाहते हैं तो हम की इन भावनाओं को दूर करना चाहिये और अपने हरिजन भाइयों को ऊपर उठाने में मदद देना चाहिये। इस के लिये हम को अपनी भावना बदलनी होगी। सिर्फ कानून से या संविधान में संशोधन करने से यह काम नहीं हो सकता। हम को समाज के इस अंग को जो समाज के कल्याण का काम करता है बराबरी का दर्जा देना चाहिये। हो सकता है कि हमारी समाज की इमारत के मंत्रिमंडल के सदस्य चमकती हुई ईंटें हों लेकिन हमारे हरिजन भाई इस इमारत की बुनियाद की ईंटें हैं, ये हमारे काम करने वाले भाई हैं, जो कि समाज के नीचे स्तर पर हैं और जिन के बूते पर समाज खड़ा हुआ है। ये जाहिर नहीं होते और इन को हम शकल नहीं देखते।

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ। श्री चाहता हूँ कि मंत्रिणी महोदया कम से कम इस भावना को देखते हुए इस को मंजूर करें।

15 hrs.

Shri Vidya Charan Shukla (Mahasamund): I support this measure with my whole heart. Even after our law has made untouchability a criminal and cognizable offence, I am sorry to say that it is not being properly implemented in our country. We have from time to time been asking various questions about this, and the Home Ministry which is in charge of this matter at the Centre has been giving us very slipshod replies, particularly about the cases that have been registered in the States under this Act. We are only told about the challans that are registered but we have not been told, in spite of our repeated efforts, how much or how many of these challans have resulted into convictions of those people who had been challaned for violation of this Act. I personally suspect that 90 per cent of the challans that are put up by the police for violation of this Act fail in the courts because they are not properly presented. No care is taken by the police properly to make up a case. As a matter of fact, in spite of the Constitutional provisions and the Untouchability Act, of ours, the conditions in the country are at such a level that the implementation of these provisions has been found very difficult.

It is not only the duty of the Central and the State Governments but also the duty of the legislators who come and represent the people in this august House and in the various legislative assemblies to devote a part of their time to see that this evil of untouchability is removed from our society. But I am afraid that most of us who talk big words here or say all kinds of things against untouchability here do not observe it in practice.

[Shri Vidya Charan Shukla.]

Again, there is a small minority among the untouchables who have shown, directly or indirectly, at times, that they are not also too anxious that this kind of thing should go, because certain vested interests have been created. I am very happy that that is only a very small minority. But some do feel that this difference should continue for sometime just to see that their leadership may continue. But this kind of element among the untouchables is happily going down. I am sure that we will all get together to fight this evil of untouchability.

The Parliamentary Secretary to the Minister of Mines and Fuel (Shri Thimmaiah): There is no such element. It is wrong.

Shri Vidya Charan Shukla: The conditions in the villages are very pathetic. We who have spent a lot of time during the last general elections in the villages had a tremendous amount of evidence to show that the provisions of the Untouchability (Offences) Act have not yet percolated down to the village level. The people, the Government officers and the politicians themselves refrain from even explaining these things to the villagers.

I would like to support this Bill wholeheartedly and commend it for the acceptance of the House.

श्री शिव नारायण (बांसी) : उपाध्यक्ष महोदय, जो बिल सदन के सामने है.....

Mr. Deputy-Speaker: I find that he has already spoken. Shri Sham Lal Saraf.

Shri Sham Lal Saraf (Jammu and Kashmir): Sir, speaking about this Bill which has been moved by Shri Siddiah, I should like to say that as far as untouchability is concerned it is certainly a curse and not only we here but those outside the House, our leaders, our spiritual leaders, have always held it and deemed it as a

curse. There is no doubt about it. But, unfortunately, nobody, in the past or even in the immediate past, had the courage to stand up against it. Fortunately for us, the great leader we had in our country, along with the emancipation of the country in the political sphere, also did a lot socially. Therefore, as far as the removal of untouchability is concerned, I must say that this stigma must go. It may be that there are a few pockets here and there, but on the whole, as far as the country is concerned, the country has listened to the need for its removal, to the need for the removal of this social stigma which should not remain anywhere in any part of the country.

I must say one or two things about this. I would especially tell my hon. friends who may belong to such communities as are even now called Harijans or some of us who sometimes try to out-herod Herod by speaking out things in favour of such friends who belong to the Harijan community that they try to become their partners and friends; in other words, that is not friendship. That is far from friendship.

Now, we must feel that this is absolutely a human question; absolutely a social question. I think there should be none in this world, more particularly in our country, who would speak in favour of untouchability. But what happens? The services and what not are drawn into this question of untouchability. So, it leaves a bad result on the efforts and thinking and even upon the working of those people whether Harijans or non-Harijans, whether Hindus or non-Hindus, who are always out to espouse the cause of Harijans and especially to remove bag and baggage this stigma of untouchability from the country.

From some of the speeches that I have heard, I would respectfully submit that I find we restrain our speeches. Just now, an hon. friend of mine was speaking. Though he

belongs to such and such a caste, he tried to become a greater and more vigorous enthusiast than any of those who are working in the field for bringing social reform in the country, in order to—I would say—exploit it politically. Actually, it is a question which is human and social. I personally feel it is a spiritual and moral responsibility. Even though I may belong to the so-called high caste, I must see that all my efforts are out to work towards and help in removing untouchability and bringing up such sections of the community as are behind, on par with all other communities in the country. Therefore, keeping that in view, I would submit to all those friends who are in favour of the removal of untouchability that they should try to bring up such sections of the community to higher levels and almost on a par with the rest of the country. We must forget such things as would again result in divisions within divisions, and come out openly and work on a plan that one day all of us will live at one stage, at one place and at par with every other person.

I think that there can be no two opinions about the removal of untouchability. But to think that because of the passing of a law we may make it obligatory upon those sections of the people that they must enter this temple and that temple is wrong. I would say that would be a negative attitude. That approach will not at all help the purpose of the Bill and it will not at all help the purpose of the Bill and it will not at all be helpful and conducive to the purpose that is in view and that is in the mind of the hon. Member who has brought forward this Bill before the House. Therefore, my submission is that this Bill may be withdrawn. I would request my hon. friend to withdraw the Bill. Of course, we all of us offer our helping hand to him and thus, let us see that, with all our joint effort, the purpose that has induced and moved my hon. friend to bring forward this Bill is achieved

and that the evil of untouchability is removed. Therefore, my submission would be, without bringing laws like this, without creating an atmosphere of negativity, let us positively see that these grievances are removed in no time. I would respectfully submit to my hon. friend who has moved this Bill to withdraw it and say positively what should be done and then whole country will be with him.

Shri Yallamanda Reddy (Markapur): Sir, I wholeheartedly support this Bill moved by my hon. friend. We know that untouchability is a thing which everybody must oppose, but in practice even the fringe of the problem has not been touched so far. This Act has been passed in 1955, but its implementation is not so encouraging as anybody thinks. If we see the report of the Commissioner for Scheduled Castes and Scheduled Tribes it is somewhat unhappy.

The cases which were registered and cases where prosecution or conviction was made have been decreasing year by year. The number of cases registered was 693 in 1956, 492 in 1957, 550 in 1958 and 481 in 1959. The number of convictions was 80 in 1955, 149 in 1956, 87 in 1957, 127 in 1958 and 105 in 1959. That means the percentage of convictions is gradually decreasing. It was 76.9 per cent in 1955 and 36.3 per cent, 42.1 per cent and 40.9 per cent during the subsequent years respectively. Therefore, this report reveals a gradual decrease in the number of cases registered and in the number of convictions.

The Commissioner has also suggested that this Act is not being implemented well. He has said:

"In view of the limitations of the Untouchability (Offences) Act, 1955, as pointed out in the previous reports, it was suggested that all the State Governments and the Union Territory Administrations should examine the desirability of enacting legislation on the pattern already adopted by Government of Madras..." etc.

[Shri Yallamunda Reddy.]

So, though this Act was passed in 1955, no State Government has taken it seriously and tried to implement it. Though there is this Act, prohibiting all these things, in so many places of the country, people openly practise these things. These things are being brought to the notice of the Government time and again. But they simply offer lip-symathy and never care to prosecute those culprits who do all these things. We can find from this very report how untouchability is being practised. Today after 15 years of independence, Harijans are not allowed to take water even from public wells. If there is a marriage procession belonging to the scheduled castes, the caste people raid the procession and beat them up. When these things are brought to the notice of Government, the State Government take it very lightly and they never look to the cause of the untouchables.

I want this Act to be amended radically. Of course, the amendments given by my hon. friend—though I support it—is not so important, because it relates to a particular thing. But in the same section, there are other matters which must be amended, so that this Act may give some help to the Harijans.

In the Act, the following words appear:

“Other persons professing the same religion or belonging to the same religious denomination or any section thereof”.

These words are sought to be deleted by this amending Bill, because section 3 of the Act says,

“Whoever on ground of untouchability prevents any persons...” etc.

Therefore, if a particular person is being prevented to take water or to live in a choultry on the ground of untouchability, the preventor must be punished. The amendment given by my hon. friend is quite commendable and I support it, but I request that this whole Act should be radically changed, so that at least some relief

may be given under this Act to the scheduled castes.

There is no use indulging in tall talks that we have passed a big Act in 1955 giving all protection to Harijans, while it is not being implemented in practice. These things are happening because of the callous negligence of State Governments and those persons who are at the helm of affairs. So, we must see that the Act is amended in such a way that the culprits do not get away after committing the offence.

As Shri Saraf says, there is not only this Act, but we have to do so many things. Unless the position of the untouchables is improved socially and economically, simply passing Acts will not improve their real position. So, while supporting this Bill, I request the Government to look into other matters also which would help these untouchables.

Shri Sonavane (Pandharpur): Sir, I rise to support the Bill before the House. The Bill is very simple and straightforward. It seeks to remove a small disability that is likely to be put on the scheduled castes who do not belong to a particular section or denomination and who want to have access to any temple belonging to that section or denomination of the same religion. What happens is this. There is a temple belonging to a certain denomination or section of a religious community. They prevent persons who are untouchables from other sections on the plea that they do not belong to their section or denomination and not because they are untouchables. That is what they say. That is the plea or defence taken by those persons who prevent entry into their own temples to an untouchable. They do not say that they prevent him because he is an untouchable, but they take the plea or cloak that he does not belong to their section or community.

Such a case did happen in my constituency six years ago. There was a temple and when the Act was passed,

some local leaders 'who were Harijans' wanted to have entry into that Jain temple and have *darshan* of the idol. Coming to know of this, the Jain management or authorities of the temple locked the temple and went away. Then the local Scheduled Castes leaders approached the Collector in the matter. He found that the temple was locked. He then took powers into his hands, broke open the lock and entered the temple. The Jains, rich as they are, took recourse to the court of law and put up the defence that they did not prevent the persons, who were seeking entry into the temple, from entering the temple on the ground of untouchability but that they did so on the ground that they did not belong to the Jain Community and that the temple was for the Jains, a denomination of the Hindu religion. That was the defence that they had put up and it succeeded. My hon. friend, Shri Siddiah, seeks to remove that lacuna, that clause or that particular defence that is there in the original Act.

In the subsequent clauses, there is mention of entry into hotels, entry into saloons, drawing water and all those things. If a hotel, a saloon or a well belongs to a particular section or a denomination of a particular section of a religion, then a plea might be taken that it belongs to them and others cannot use it. In actual practice the 'untouchables' would be denied the right to use them or access to them.

Therefore, Sir, I earnestly feel that this amendment is essential. As you know, untouchability is prevalent among the Hindu community only. It might have percolated to the Sikh community later on, but originally it was prevalent among the Hindus only. Shri Siddiah, the sponsorer of this Bill, says that for the Scheduled Castes who belong to the Hindu faith this provision should be made in the original Act so that all the trouble

would be saved and no defence, as I mentioned earlier, would be allowed to be put up in the courts on that score.

Then, Sir, there are some State Governments who have implemented this Act and enforced it in a little rigorous way though not in a hundred per cent satisfactory way. I would like to mention particularly the States of Maharashtra, Punjab and Madras. The other States have not taken this Act so seriously, even though Uttar Pradesh and one other State have passed some Acts in the nature of declaration of rights and those are the permissive Acts. I would, therefore, appeal to all the States to take it into their hearts and see that these weaker sections of the society are not allowed to have any handicap and they are given free access to all temples, hotels, saloons, wells etc.

I would also appeal to all the communities, particularly the Hindus, to change their minds. Even though in the big cities and towns there is a little change to be found, but the stony hearts, particularly of those in the rural areas, are really stony.

Shri Sham Lal Saraf: Changing fast.

Shri Sonavane: That is the trend. That slow trend you would not like if you were an untouchable. Even that change is taking place at a snail's speed. Unfortunately, you are a non-Scheduled Caste and, therefore, you would not appreciate that. It is easy to be said than felt.

Shri Sham Lal Saraf: I may tell my hon. friend that I have lived with Scheduled Castes for a number of years.

Shri Sonavane: Living is different from feeling. I have felt it and experienced it. The hon. Member might have had only a sight-seeing of it. Let him not play with the real feelings. The real suffering is there. I agree that in the cities and towns untouchability is going away. But the stony

[Shri Sonavane.]

hearts in the rural areas have got to be changed. Let wisdom dawn upon them, and let the ghost of untouchability disappear from this country.

श्री प० ला० बाळुपाल (गंगानगर) :
उपाध्यक्ष महोदय, अस्पृश्यता अपराध ऐक्ट के अन्दर संशोधन करने के लिये जो विधेयक आया है मैं उस का हृदय से स्वागत करने के लिये खड़ा हुआ हूँ। इस कानून में संशोधन करने के सम्बन्ध में कहा गया है कि मन्दिरों में प्रवेश करने के लिये कड़े नियम बनाये जायें। मैं इस से सहमत हूँ, लेकिन इस के साथ साथ मैं राजस्थान के जिस एरिया से आता हूँ वहाँ मन्दिरों की जो बात है वह तो है ही, जो सरकारी और गैर-सरकारी जलाशय हैं, कुएं, कुट और तालाब हैं, उन के अन्दर प्रवेश करने के सम्बन्ध में अगर कानून को कड़ा बनाया जाये तो मुझे और भी ज्यादा खुशी होगी। यह मैं समझता हूँ कि केवल कानून के बल पर ही किसी आदमी को ऊंचा उठाया जाये तो यह कोई बड़ी अच्छी बात नहीं है। अगर कानून से हम को कुर्सी पर बिठा सकते हैं, लेकिन कानून के जरिये आप हम को किसी के हृदय में बिठा दें, तो वह नहीं हो सकता। कानून से आप हम को मन्दिरों में प्रवेश करा सकते हैं, लेकिन किसी के दिल में प्रवेश नहीं करा सकते। कानून से आप कुओं से पानी दिला सकते हैं लेकिन किसी की सहानुभूति नहीं दिला सकते। जब यह बात आती है तो फिर कैसे किया जाये तो कहते हैं कि हृदय परिवर्तन किया जाये। जहां तक हृदय के परिवर्तन की बात है, उस से मैं सहमत नहीं हूँ। हृदय परिवर्तन तो उन में होता है जिन के पास हृदय होता है। आज मैं देखता हूँ कि हिन्दू समाज के हृदय पत्थर के हो चुके हैं। हमारे देश को आजाद हुए करीब १५ वर्ष हो चुके हैं। लेकिन आज भी हम जब गांवों में जा कर देखते हैं तो पाते हैं कि हरिजनों को स्वेच्छा से और स्वतन्त्रता स कुओं से पानी नहीं पीने दिया जाता, कुओं से उन को पानी नहीं लेने दिया जाता।

बल्कि कोई-कोई तालाब तो ऐसे हैं जो प्राकृतिक रूप से बने हैं, वहां से भी उन को पानी नहीं लेने दिया जाता। यह बिल्कुल सही बात है। जरा भी गलती इस में नहीं है। मैं चाहता हूँ कि पूरे राजस्थान में कोई ५० कुएं भी ऐसे बतला दें जो कि सरकार के पैसे से बनवाये गये हों और उन में हरिजनों को पानी पीने का अधिकार हो। आज वहां पर उन को वहां पर पानी लेने का अधिकार नहीं है। आज भी हिन्दू समाज में हरिजनों के प्रति ईर्ष्या और द्वेष है। उदाहरण के तौर पर मैं बतलाऊँ कि ४ जुलाई का वाक्या है, चूरू डिस्ट्रिक्ट के कंझेऊ गांव में छः महीनों के लिये हरिजनों का पानी बन्द किया गया। पानी ही बन्द नहीं किया गया बल्कि उन के साथ मार पीट की गई। पेड़ों से बांध कर उन को पीटा गया, उन का धन और जेवर छीन लिया गया और खाना बंदोश कर के गांव से बाहर निकाल दिया गया। जब हम ने सरकार के सामने अपील की तो वहां पुलिस गई और पुलिस के फोर्स से उन को पानी दिलाया गया। लेकिन गांव वालों की इतनी हिम्मत हो गई कि पुलिस के सामने भी लाठियां और डंडे ले कर आये और पत्थरों की वर्षा की। लाठियां उन के सामने चलाई। दुर्भाग्य से हुआ क्या कि दो निरपराध आदमी उस में मारे गये। जो पीछे से तार हिलाने वाले और आपस में लड़ने वाले आदमी थे उन को कुछ नहीं हुआ। आज भी गांवों के अन्दर जब यह हालत है कि वह पुलिस का सामना कर सकते हैं, पुलिस के सामने छत्रछात्र को हटने का मुकाबला कर सकते हैं, तो जब तक कोई कड़ा कानून नहीं बनेगा तब तक कुछ नहीं हो सकता।

मैं प्रार्थना करना चाहता हूँ कि राजस्थान के अन्दर कम से कम, मन्दिर भले ही आप हम लोगों के लिये न खोलें, लेकिन जलाशय खोल दें और हम को पानी दिला दें तो हम पानी को भी परमेश्वर कर के मान लेंगे

क्योंकि पानी तो मनुष्य के जीवन के लिये अनिवार्य होता है। जब मनुष्य को स्वतन्त्रता से पानी जैसी वस्तु भी नहीं मिलती तो मैं समझता हूँ कि इस से बढ़ कर दुर्भाग्य की बात हमारे लिये कोई नहीं हो सकती। मैं कहना चाहता हूँ कि हरिजनों की सामाजिक भ्रष्टाचार या उस के स्टैंडर्ड को सुधारने के लिये पहले उन की आर्थिक भ्रष्टाचार को सुधारा जाये, तो मैं समझता हूँ कि छुआछूत मिटाने में काफी सहायता मिल सकती है।

मेरे बहुत से साथी अभी बोलना चाहते हैं इसलिये अधिक न कह कर मैं आप का आभारी हूँ कि आप ने मुझे बोलने का समय दिया और आशा करता हूँ कि जो कुछ मैंने कहा है उस पर सरकार ध्यान से गौर करेगी।

श्री गौरी शंकर (फतेहपुर) : उपाध्यक्ष महोदय, यह जो संशोधन सदन के सामने आया है मैं उस का स्वागत करता हूँ। इस के पहले जो ऐक्ट था उस में छुआछूत को काग-निजेबिल ऑफिस करार दिया गया था, मगर कागनिजेबिल ऑफिस होते हुए भी उस कानून के वह क्लाजेज बिल्कुल रिडेंडेंट रहे और उन का जो प्रयोग ऐसे ऑफिस के लिये होना चाहिये था वह कभी नहीं हुआ। इसलिये मैं समझता हूँ कि किसी कानून के बनाने मात्र से यह छूतछात का मसला हल नहीं हो सकता। मैंने देखा है कि जो इस प्रकार के कानून बनाये जाते हैं उन पर भ्रमल नहीं होता। देहातों में यह चीज ज्यादा है और वहाँ पर अछूतों के साथ दुर्व्यवहार किया जाता है। इस की वजह यह है कि देहातों में कुछ लोग ऐसे रहते हैं जो हरिजनों पर हावी है, ये खुली क्लास के लोग हैं और उन के मुकाबले में अछूतों को साहस नहीं होता कि वे अपनी रिपोर्ट लिखायें और मुकदमा दायर कर के शहादत और सबूत ला पावें।

इस में तो कोई शक नहीं कि यह संशो-धन ला कर इस बात की कोशिश की जा रही

है कि कोई कानून बनाया जाये, लेकिन मेरा यह निश्चित मत है कि यह छुआछूत का मसला कानून बना कर हल नहीं किया जा सकता है। हम सब लोगों का यह अनुभव है कि शहरों में तो हम इस चीज को समाप्त करने में कामयाब हुए हैं मगर देहात में यह चीज बाकी है। वहाँ तो जब तक हम लोगों की भावनाओं को नहीं बदलेंगे, जब तक हम उन को यह न समझायेंगे कि यह हमारे भाई हैं और हम को इन के साथ बराबरी का व्यवहार करना चाहिये, तब तक कानून बना कर यह मसला हल नहीं किया जा सकता। मैंने पहले भी यह संकेत किया कि इस मुल्क में दूसरे जुर्मों को भी कागनिजेबिल बनाया गया है, लेकिन अगर आप आंकड़े इकट्ठा करें तो आप को मालूम होगा कि जहाँ तक अनटचै-बिलिटी का सवाल है इस के बहुत कम केसेज आ पाये हैं, और इस की वजह वही है जो कि मैंने आप को पहले बतलायी है।

तो इस में शक नहीं कि अगर यह कहा जाये कि हम ने आजादी पाने के २५ साल बाद इस चीज को समाप्त कर दिया है तो तो यह कहा गलत होगा और यह केवल कहने की ही चीज होगी। मुझे उत्तर प्रदेश का अनुभव है। अभी भी उत्तर प्रदेश में ऐसे बहुत से गांव हैं जहाँ हरिजनों को कुंभों से पानी भरने की आज्ञा नहीं है। वे मजबूरन तालाब का गन्दा पानी पी कर अपना जीवन निर्वाह करते हैं। तो सही बात तो यह है कि हमारे मुल्क के इतने बड़े तबके के साथ जो कि इतने बहुमत में हैं, यह सलूक किया जा रहा है। उस का नतीजा यह होता है कि एक विद्रोह सा हो रहा है।

अभी मन्दिर प्रवेश का कानून बनाया गया। मैं ने खुद जा कर देखा कि तीर्थों में पहले जिन मन्दिरों में ब्राह्मण, क्षत्रीय आदि जा सकते थे और मूर्तियों का स्पर्श कर सकते थे और पूजन कर सकते थे उन को भी अब वैसा नहीं करने दिया जाता। होता यह है कि कानून

[श्री गौरी शंकर]

बनने के बाद तुरन्त बाद उस से बचने का तरीका निकल आता है और इसलिये कानून से यह चीज दूर नहीं होती है। तो मैं यह संकेत करूंगा कि यह संशोधन मंजूर भी कर लिया जाये और इस को कानून में भी रख दिया जाय लेकिन अगर हम लोगों की भावनाओं को नहीं बदलेंगे तो इस प्रकार के कानूनों से यह मसला हल नहीं हो सकता।

मैंने एक बार सदन के सामने प्रेसी-डेंशियल एड्रेस पर संशोधन रखते हुए संकेत किया था कि समाज में रद्दोबदल तभी हो सकती है जब सचार्ड और ईमानदारी से देहात में प्रचार कर के वहाँ के लोगों की भावनाओं को बदला जाये और उन को यह समझाया जाये कि हरिजनों के साथ उन को बराबरी की जिन्दगी बसर करनी है और हरिजनों को यह नहीं अनुभव होने देना है कि उन के साथ भेदभाव किया जा रहा है। तभी इस दिशा में कुछ सफलता मिल सकती है।

जो यह संशोधन सदन के सामने आया है कि इस बिल के बारे में जनता की राय जानी जाये मैं उस का स्वागत करता हूँ। इस में कोई शक नहीं कि जो पुराना कानून था वह रिडेंडेंट रहा। आप कोई और कानून बना दें तो ठीक है मगर जैसा कि मैं ने निवेदन किया, जिन चीजों का मैं ने ऊपर जिक्र किया है अगर उन को नहीं किया गया तब तक केवल कानून से कोई फायदा नहीं होगा।

Shri D. C. Sharma (Gurdaspur): I am surprised that fifteen years after our independence a Member of Parliament should bring forward a Bill like this. A friend of mine stated just now that we should try to change the hearts of people and that we should not try to do things by means of legislative measures. So far as the change of heart is concerned, I think we tried it for about a thousand years. But nothing happened till some reformers came upon the scene and tried to put

an end to untouchability. Of course, the abolition of untouchability became a dynamic programme in the hands of Mahatma Gandhi and the Congress. Now the Governments in the various States of India and in the Centre have introduced legislation to abolish untouchability. If we had left the whole thing to the good sense of the people I think we should have been made to wait till the Doomsday and still we would not have been able to abolish untouchability. Therefore, legislative measures are essential to put an end to this kind of social curse from which we have been suffering for many many hundreds of years. As that is the only solution, I think Shri Siddiah has done well in bringing forward this Bill.

But I was surprised at it because things like that do not happen in my State. I am glad that Shri Sonavane has referred to Maharashtra and Punjab. They have done a great deal to remove untouchability. Therefore, I felt surprised when I read this Bill. I do believe that this malady does exist there, this malady on the denominational plane and also on the social plane. It is our bounden duty to put an end to it. So, I congratulate Shri Siddiah for having drawn our pointed attention to it.

Some friends of mine have been talking about temples. We have all kinds of temples. We heard about the *satyagraha* that was staged at Banaras before a great temple where the harijans were not allowed to enter. That is recent history and not past history. A friend over there has referred to some temple in his constituency where the harijans were not allowed to enter. So, I would say that so far as discrimination in the matter of worship is concerned, it should cease to exist, whether it concerns the Hindus, untouchables or touchables. There should be no discrimination in the eyes of God. In the eyes of God we are all equal. We are all equal in the temple of God and it should be open to all.

Then, where are those rivers, from where people are not allowed to drink water? I do not know to which rivers reference is made. Are they really rivers? I was thinking that rivers are made by God and they flow everywhere. I was under the impression that anybody could go to a river and drink water from there. But there may be private rivers also in this country of ours.

Shri Inder J. Malhotra (Jammu and Kashmir): There are private rivers in Gurdaspur District.

Shri D. C. Sharma: There are no private rivers in Gurdaspur District but they are there in Jammu and Kashmir State to which my hon. friend referred just now. So, there may be rivers which belong to some private persons. Of course, there are wells which are personal property. There are roads which are personal property. I have seen sign-boards hanging upon some private roads and you cannot go there. There are some *dharamshalas* which belong to one particular denomination. There are places of public entertainment also which belong to some particular persons.

I was submitting that this discrimination in matters of religion and social inequality should disappear. I feel that unless this disappears our Untouchability Abolition Act does not fulfil its objectives fully. I would, therefore, request the hon. Minister not to ask the hon. Mover of this Bill to withdraw this Bill.

Shri Inder J. Malhotra: How does he know that the hon. Minister is going to ask that?

Shri D. C. Sharma: I will request Shri Siddiah not to withdraw the Bill. That is the fate of these Bills. I think, Shri Saraf was perhaps anticipating the verdict of the hon. Minister when he said that Shri Siddiah should withdraw the Bill. I will request the hon. Minister not to ask the hon. Mover of this Bill to withdraw the Bill and I

would also request him to see to it that this kind of social and religious discrimination is abolished. We have abolished discrimination of many kinds but this exists and the time has come when we should put an end to it.

Shri Basumatari (Goalpara): Mr. Deputy-Speaker, Sir, I quite appreciate the feelings expressed by my hon. friend, Shri Siddiah. We have achieved independence and it is 15 years that we have been talking about untouchability. We have tried our level best to remove it but the way in which it should be removed has not been found. Sometimes it is found that there are two public wells, one for the Harijans and the other for the other castes. Though the Government is very serious about it, I do not know why with all this seriousness they have not been able to penetrate to the hearts of the people. Therefore I appeal to this House, and when I say that I mean the leaders of the country, to change their hearts. Unless they change their hearts, this Act cannot do anything. I appeal to the leaders to change their hearts first. Then only it is possible to ask the common people to change their hearts.

We have found that there is some ceremonial eating with the Harijans. There is some *khana* with the leaders. But that does not mean that they have changed their hearts. There also what I find is that in the ceremonial eating the leaders sit on one side and the Harijans sit on the other side. If they eat food sitting together in the same arena, that alone does not remove this feeling of untouchability. Therefore, this proposed amendment that there should not be any bar to any temple or place of worship, and other public places, like wells and tanks, is quite befitting the present situation in the country. I do not know whether the Government will accept it or not.

There is already an Act, that is, the Untouchability Abolition Act. Even though that Act is in existence, we have not been able to remove un-

[Shri Basumatari.]

touchability. So, I want to suggest to the Government that those who follow the principle of untouchability should be given a black mark in their service conduct rolls. Also, at the time of giving any party tickets to politicians at the time of elections, this should be considered.

Mr. Deputy-Speaker: That is a separate matter. That does not concern the Bill.

Shri Basumatari: It is there. Still, I do not find that it is observed by our political leaders.

Mr. Deputy-Speaker: That does not concern this Bill. That has nothing to do with it.

Shri Basumatari: It has reference to this Bill too. Therefore this Bill by which he wants to remove this bar to entering into temples etc. should be accepted. I do not know in what form they will accept it, but before accepting the Bill, at the time of discussion, they should be very clear in their minds about the steps as to how to remove this feeling from the hearts of the people.

Shrimati Sarojini Mahishi (Dharwar North): Mr. Deputy-Speaker, Sir, there cannot be two opinions as regards the removal of untouchability. That must be destroyed root and branch. But about the means by which we are going to achieve the goal, there may be a difference of opinion.

I had an occasion to take a Canadian lady to one of the villages and on the outskirts of the village when she found some small huts being occupied by the so-called untouchables, she asked me whether it was so common in India. I asked her how the conditions were in Canada and she said, "There is untouchability in Canada also but that is on account of the colour bar so to say." She asked, "Is it due to that in India also?" I am not going to explain here everything

in detail but then think, as Dr. Ambedkar explained, the origin of untouchability may be due to the way the Aryan conquerors treated the Dravidians or the Southerners as if they were their slaves. That was the relationship between the conquerors and the conquered. In all places where this relationship between the conqueror and the conquered exists, this practice of keeping the conquered at a distance prevails. Gandhiji once purchased a first-class ticket but he was not permitted to occupy a seat in the first-class compartment. That is how the British people treated him. But the conditions that existed in those days and the relationship of the conqueror and the conquered do not exist any more. It is, therefore, natural that such ideas and practices should no longer prevail in this country.

Gandhiji tried to make an experiment and he made successful experiment to remove this social stigma of untouchability from the surface of India. This stigma of untouchability, like other stigmas that we have got in society, the earlier it is removed the better it is. I may not be wrong in saying that a particular religion or religious denomination, or the so-called interpreters of that particular religion think their religion to be purer by restricting or narrowing it. The narrower a particular religious denomination is the purer it is supposed to be. The more the persons are thrown out of the community the greater the purity, is the idea. Therefore this false notion should be removed. That is the first thing to be achieved. Gandhiji in order to bring unity in the whole country and in order to see that strict equality prevailed among all people born on the surface of the earth, made a huge experiment even against the wishes of the so-called orthodox people. Raja Rammohan Roy, Tilak and other people also had made such a revolution and had conducted such experiments even against the opposition of the orthodox people. After independence we find that it has been put as one of

the provisions in the Constitution. Article 17 of the Indian Constitution says that untouchability and its observance or enforcement of any of the practices in any way is considered as an offence and it shall be dealt with strictly as an offence. When articles 14, 15 and 16 give equal rights to all the citizens, it was not necessary to mention this particular article again. But even then great stress has been put there. Irrespective of caste, creed, sex or place of birth every citizen has been assured equality before law and equal protection of law and there can be access for every citizen to any pond or pool or tank or any public road or anything of that kind. Therefore when this assurance has been given there was no necessity for article 17. But article 17 specially mentions the fact that untouchability and its observance in any form will be considered as an offence. That shows the great emphasis and stress that is laid by the Constitution and our people upon it.

This particular amendment says that for the words "same religion or denomination or any section thereof" the words "Hindus or any section thereof" should be substituted. I feel that it conveys the idea or it implies as if the so-called untouchables are not Hindus. Of course, that may be implied in it, but I think I may quote a particular stanza from the Gita to show that that is not the idea that was given by the Hindu mythologies. We find among the writers of riks also that many of them belonged to the *shudra* community. In the *Chhandogya Upanishad* also, we find a beautiful passage where King Janaka has been asked to seek his philosophy from Raikwa, who was called a *shudra*. In the Gita, there is the following sloka:

'Chaturvarnyam mayaa srishtam gunakarmavibhagashaha'. That was how the Lord put it in the Gita which is considered as the most sacred book. He has said there that "These fourfold divisions of society have been made by me, and these are based upon the

division of labour; they are *gunakarmavibhagashaha*; they are based on the qualities and actions of persons'. So, it was only on account of the qualities and actions that there was such a division, but otherwise, they were entitled to all the rights that the other Hindus were entitled to, and, there cannot be any discrimination against anybody on this score.

The only thing that we need today is a better psychological approach. I might mention one instance in this connection. Once, I was talking to a village lady belonging to the untouchable community, and I tried to persuade her to come and draw water from the common well. The lady and her mother-in-law were both opposed to it. They said 'We have been practising this untouchability since ages, and if we draw water now from the well, we do not know to what hell we shall be sent'. That was the nature of their mental outlook. Therefore, we shall have to change that mental outlook. After I had requested her several times, she finally came there and drew water from the well. Then, I was rather surprised to hear a remark from the old lad. She said 'You, officers and others, come in the jeep and wait here only for a few hours. Do you know whom I had sent? It was not a lady belonging to the untouchable community, but it was a different lady belonging to another community. After all, how much time all, how much time do you think we require to throw dust in your eyes?'. That was how that old lady remarked. I was very sorry to hear that.

Therefore, we require a better psychological approach to remove the particular stigma that is hanging on the mind for ages together. If we want to remove it, we cannot all of a sudden remove it by legislation. What is needed is a better approach and a better understanding on both sides. The so-called untouchables also should understand that they have equal rights and privileges, and they have also got equal responsibilities.

[Shrimati Sarojini Mahishi].

The nearer we go to the southern parts of the country, we find 'inaudibles' also in certain parts of the country, persons whose words also cannot be heard. There are such superstitions, and such practices and blind conventions that are being followed in the country, and we shall take some time to remove those conventions from this country.

I feel that this particular amendment which has been brought forward to the Untouchability (Offences) Act, 1955 has been brought forward at the right time. In order to remove the misunderstanding that may be created on account of the words 'other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person' these words should be substituted by the words 'Hindus or any class or section thereof'. So, I welcome this particular amendment to the original Act, and I wish that full co-operation will be given by the whole country for the removal of untouchability, and the Act will be strictly enforced in future.

The Deputy Minister in the Ministry of Home Affairs (Shrimati Chandrasekhar): I am grateful to the hon. Member for having expressed their concern over the question of untouchability, its abolition and its implementation which according to them and also according to us is not very proper.

Before I come to the points raised by most of the Members—some of them were not very relevant to the amendment that has been brought forward by Shri Siddiah in his Bill—I shall first deal with most of the points raised by Shri Siddiah in his Bill.

Shri Siddiah's object is to secure equal religious rights for Scheduled Castes with any Hindu and equal social rights with any member of the general public. To achieve this, the hon. Member has suggested an amendment to the Untouchability (Offences)

Act, 1955. In this connection, he read out the provisions of section 3 of the existing Act, which states:

"Whoever, on the ground of untouchability, prevents any person—

- (a) from entering any place of public worship, which is open to other persons professing the same religion or belonging to the same religious denomination or any section thereof as such person, or
- (b) from worshipping or offering prayers or performing any religious service in any place of public worship or bathing in or using the waters of any sacred tank, well, spring or water course, in the same manner and to the same extent as is permissible to other persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person shall be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both."

The purpose of the proposed amendment, according to Shri Siddiah, is to have equal religious rights with any Hindu and equal social rights with any member of the general public. It would have the effect of restricting the scope of the existing Act (which is applicable to non-Hindus also) to Hindus only. The question whether the scope of the Bill should be confined to Hindus only had also come up for consideration earlier. It was pointed out then that article 17 of the Constitution which abolishes untouchability and forbids its practice in any form and provides that the enforcement of any disability arising out of untouchability shall be an offence in accordance with law would have been infringed if any such discrimination was made. If the amendments are

accepted, it will only restrict the scope of the existing Act which will forbid the practice of untouchability in any religion and not merely among the Hindus, and then the Act would not be in full accord with article 17 of the Constitution and is likely to be struck down by the courts on the ground of discrimination.

Shri Siddiah has also pointed out that in this country very few temples belong to the Hindu community as a whole. On the other hand, there are many temples which belong to various religious denominations and some which are meant for a section of a religious denomination to which even non-Scheduled Caste Hindus, if they do not belong to that particular denomination or that particular section of a religious denomination, are not allowed the right of entry.

It was also mentioned that this question was taken up by the Commissioner for Scheduled Castes and Scheduled Tribes, who in his report for the year 1956-57 said:

"The Government of India may consider the desirability of amending the Untouchability Offences Act, 1955, on lines of the Bombay Hindu Places of Worship (Entry Authorisation) Act, 1956 and the Uttar Pradesh Temples Entry (Declaration of Right) Act, 1956."

This suggestion on examination show that our law is related to article 17 of the Constitution which abolishes untouchability whereas the Bombay and UP laws relate to article 25(2) (b) of the Constitution.

While our law ensures avoidance of discrimination on the ground of untouchability amongst members of the same religion, the same religious denomination or the same section of a religious denomination in regard to entry into places of public worship open to that religion, that religious denomination or that section of the religious denomination, as the case may be, the U.P. and Bombay laws

go much further and throw open a place of public worship belonging even to a section of a religious denomination to all members of that religion. Shri Siddiah mentioned the 48th Report of the Estimates Committee which made the following recommendations:

"The Committee suggest that the Government of India should undertake a detailed study of the various legislations on untouchability and social disabilities and their comparative usefulness or failures and as a result thereof, they should prepare a comprehensive model Bill on the subject. Alternatively, the Government of India may advise State Governments to incorporate such good features in their relevant Acts as are found in the Bombay Hindu Places of Public Worship (Entry Authorisation) Act, 1956, and the Uttar Pradesh Temple Entry (Declaration of Right) Act, 1956".

16 hrs.

[SHRI MULCHAND DUBE *in the Chair*]

This was also examined earlier. A study was in fact undertaken and full consideration also given to the views of State Governments while framing the existing Untouchability Offences Act of 1955 which prescribes punishment for the practice of untouchability in any religion, not merely amongst Hindus. For dealing with the disabilities arising therefrom and other matters connected therewith. Since then no fresh legislation on this subject could have been enacted by any State Government as the provision of article 17 read with article 35 (a) (ii) specifically debars the State legislatures from making laws for punishment for those rights which are declared to be offences under Part III of the Constitution.

It may also be noticed that section 3 of the Untouchability Offences Act makes it clear that no person can, on the ground of untouchability, be prevented from entering any place of

[Shrimati Chandrasekhar]

public worship. The section, therefore, is wide enough to penalise all discrimination against untouchability as such. What it does not do is to throw open places of public worship, open to one class of Hindus, to all Hindus generally. However such exclusion is not on the ground of untouchability and as certain Hindus who belong to non-scheduled castes will also be excluded, there can be no practice of untouchability in such cases. It is a matter for examination and decision on broader considerations whether places of worship which are now open to a section of Hindus should be open to all sections of Hindus. However, action is permissible under article 25(2)(b) and in fact, Bombay and U.P. have utilised this provision to enact such legislation. In this the major thing for us to remember is that the Untouchability Offences Act of 1955 does not in itself incorporate any new provision in the law. The Act of 1955 gives a practical shape to article 17 of the Constitution which abolishes untouchability. Therefore, any matter which has no relevance to article 17 cannot come under the ambit of this Act.

Shri Siddiah himself has referred to the recommendation of the Estimates Committee in their 48th Report and says that 'there is some restriction for members of the scheduled castes to enter all temples, whether they are sectional or denominational. They have taken one plea that even though there is discrimination, according to section 3 of this Act the discrimination is not based upon grounds of untouchability.'

Besides, Shri Siddiah pleads for equal rights for scheduled castes with any Hindu and equal social rights with any member of the public. Article 17 is the article on which is based the Untouchability Offences Act, 1955. The emphasis is on rectifying the absence of a right; where all other things are equal, where a non-scheduled caste person could have had access to a

place of worship or a dharmshala etc., such access should be made available to a member of a scheduled caste also. In other words, if a person belonging to a scheduled caste is being prevented from doing something solely because he belongs to the scheduled caste, whoever is preventing him, should be punished. The Act, it is true, does not throw open all Hindu temples to all the sections of the Hindus generally, but that is not on the ground of untouchability.

Thus, while under the 1955 Act, no person can be denied entry into a temple on the ground that he is an untouchable, yet a restriction by which a temple is open only to members of a particular denomination or section, and not to members of other sections would be valid, if such discrimination is not based on the ground of untouchability. It would seem that it is in fact open to Parliament to enact legislation providing that all public temples should be open to Hindus generally and should not be restricted to any particular section thereof. Whether such legislation should be enacted or not is a different question. But such legislation would have nothing to do with the punishment or the prohibition of untouchability as such. It will be a general measure of social reform or welfare and cannot be deemed to be legislation against untouchability.

As pointed out earlier, if it is considered desirable to achieve such a thing, it will have to be done by means of a separate enactment and not by amending the Act of 1955. It is, however, likely that conditions in this regard may vary from State to State and it might perhaps be more appropriate to leave the question of initiating such legislation to the State Governments. We shall also bring this to the notice of State Governments.

In this connection, it may be noticed that section 4 of the Bombay Act which prescribes penalties for those who obstruct sections of Hindus from entering

a place of public worship specially states:

"Nothing in this section shall be taken to relate to offences relating to the practice of untouchability."

Similarly, there is also legislation in other States besides UP and Bombay. There is, for instance, the Madras Temple Entry Authorisation Act of 1947 which is in force in Madras and in certain parts of Andhra Pradesh. I believe there is similar legislation in Kerala also.

Shri Siddiah's doubt about section 4 of the principal Act becomes unfounded, if the Act is properly read. The difficulty arises only if it is misread. This section is also based on untouchability. If anyone is prevented from using the utensils in any hotel or public place or dharmshala or musafirkhana on the ground of untouchability, there is punishment which can be meted out according to the Act of 1955.

There has been a lot of criticism during the discussion this afternoon and also last time concerning the implementation of the Act. A number of Members spoke about the improper implementation of the Act. Widening the scope of the Act would only complicate matters. I would request hon. Members to do their best in seeing to the proper implementation of the Act. In the recent conference of State Ministers, a detailed discussion took place. Recommendations have been made. Probably, it will be premature to think of widening the scope of the Act.

During discussion, a number of points were raised. Shri Basumatari suggested that Government servants who practised untouchability should be blacklisted. We have issued instructions recently that the practice of untouchability by government servants and in government offices would be viewed as misconduct and punished as such.

Regarding prosecutions for the observance of untouchability, mention was made by Shri Vidya Charan Shukla and answer was given very well by Shri Yallamanda Reddy. The Report of the Commissioner for Scheduled Castes and Scheduled Tribes which was laid on the Table gives figures. From 1955 to 1959, there were 2,396 cases registered with the police; 2,072 were challaned and the number convicted was 548, compounded 427 and pending cases 791. If Members will go through the Report, they will get a fair idea of what has been done.

Most of the remarks made by hon. Members pertained to the improper implementation of the Untouchability Offences Act. That has not very much to do with the amendment that has been brought forth by the hon. Member, Shri Siddiah. Besides, mention was also made by Shri Siddiah about some of the restrictions placed in religious places not under the pretext of untouchability but under the law which does not allow them to enter the temples. We will make special enquiries about this in Delhi first, and then extend it to other places, and if there is desirability, we will also take further steps in this regard.

With these words, I would like to request the hon. Member to withdraw the Bill as I do not think there is need to circulate it for public opinion.

Shri Siddiah (Chamarajanagar): Mr. Chairman, Sir, I really thank the Members who took part in the discussion on the Bill, most of whom have supported it.

The Deputy Minister, while replying to the debate, was pleased to state that the present Act really restricted the religious rights of the scheduled castes, and that they are prevented from entering a temple which is open only to a particular denomination. That is the reason why I wanted an amendment.

According to article 17 of the Constitution, untouchability is abolished

[Shri Siddiah]

and its observance in any form is punishable. Before the Constitution was adopted, an untouchable could be prevented, and it could be said that because he was an untouchable, he was prevented, but now after the coming into force of the Constitution and passing of the Untouchability Offences Act, another ground of escape has been made available to the caste Hindus. Now they can say that a man is prevented not on the ground that he belongs to the untouchable community, but because he does not belong to the denomination to which alone the temple is thrown open. So, instead of helping the removal of untouchability, we have given an additional point to prevent the Harijans from entering some temples. As a rule, temples which are open to Hindus or to different religions are very few and far between, whereas temples which are meant for a particular denomination are very many, and temples which are meant for a section of a denomination are innumerable. The main object of my amendment was to make the Harijans assimilated with the Hindus because they are considered to be Hindus. I do not want them to be considered as social inferiors. It is a question of self-respect and human dignity, but the present Act as interpreted by the hon. Deputy Minister means that they will be considered as social inferiors, and the reason given is that even non-scheduled castes are not allowed to enter a temple if they do not belong to the particular denomination to which the temple is thrown open. That means that the progress or the removal of untouchability is now tied up with the entry to the other caste Hindus who form the major bulk of the Hindu community.

I feel that this untouchability is only an extreme form of caste, and therefore I have begun to feel that unless this caste is removed, untouchability cannot be removed root and branch in this country. Our leaders have been appealing to the country that this caste is a bad thing and that it is ruining national solidarity.

The other day, the President of India, while making a speech on the Independence Day Eve, appealed to the nation to evolve a coherent society which is very necessary for our country. He said:

"Wisdom requires us to be compassionate, to be forgiving, to forbear judgment. Unfortunately, we are more critical of others than of ourselves. We preach from platforms, tolerance and understanding; but do not manifest these qualities in our daily life, in our dealings with others. If we cling to caste hierarchy, if we do not treat human beings with respect and dignity, if we show ourselves lacking in sensibility and human feeling, if we believe that we are pleasing God thereby, we do offence to God and ourselves."

This is a very important pronouncement made by the President. He goes on to say further:—

"We cannot live in the 20th century when we are handicapped by institutions and machinery of our earlier age. This is the source of our national incoherence. If we adhere to the principles and the practice of democracy, we will not compromise with disruptive, reactionary and anti-social forces. The recent elections showed that the system of castes and the feeling for groups, linguistic and communal, had not loosened its hold on the masses. These have impaired the health of our democratic structure."

That goes to show that everybody is realising that caste is a bad thing and it should go. I appeal to the Home Minister to take courage and bring about legislation. Just as there is legislation to remove untouchability, there should be legislation to remove caste and then only this untouchability which is an off-shoot of caste will be removed completely.

The hon. Deputy Minister stated that it is a matter for consideration whether we should enact under Article 25 (2) (b) of the Constitution to provide entry into temples to all Hindus or any section thereof. She has admitted that the U. P. Government and the Bombay Government have done it already. I had pointedly asked what the Government of India has done so far as Delhi and other Union territories are concerned. But, she has now assured us that enquiry will be made and necessary action will be taken on that. It is really important from this point of view, that once the other non-Harijans, the backward classes particularly, are allowed to enter these temples, I think, there will be no difficulty for Harijans to do it afterwards.

As I said, the removal of untouchability is linked with the amelioration of the conditions of the non-Scheduled Castes and Backward Classes and their being allowed to enter the temples and other places. Therefore, I appeal to the Home Minister either to bring in necessary legislation—to see that the Bill is brought as early as possible, under Article 25 (2) (b) of the Constitution—or to extend some of the Acts which are in force in Bombay and U.P. to the Union territories. I also feel that the Central Government should be a model to the State Governments in the matter of amelioration work for the Scheduled Castes. It is no use telling that we have referred the matter to the State Government and that they are taking action. Is it not necessary that the Government of India should be a model to the State Governments in this respect? I hope our Home Minister who is very sympathetic towards Scheduled Castes and Tribes will take some positive action with regard to this.

When this Act was before the Joint Committee, they made a valuable suggestion that in each State there should be a committee to review the implementation of the Act. Except M. P., no other State, I think, has taken that action. It is necessary that

there should be such a committee to review the progress and implementation of this particular Act. It has been admitted that this Act has not been implemented properly for two reasons. Firstly, the police are not taking cognisance of these cases and secondly, even the Harijans on account of their economic conditions are not able to go and lodge complaints against caste Hindus who are usually of richer class. So, I request the Home Minister to issue instructions to State Governments to implement this Act in all earnestness. The hon. Deputy Home Minister had assured that action is being taken about these matters and so I request the House to permit me to withdraw the Bill.

Mr. Chairman: Has the hon. Member leave of the House to withdraw his Bill?

The Bill was, by leave, withdrawn.

16.24 hrs.

HINDU SUCCESSION (AMENDMENT) BILL

(Amendment of Section 30) by Shri Hem Raj

Shri Hem Raj (Kangra): Sir, I beg to move:

"That the Bill further to amend the Hindu Succession Act, 1956 be taken into consideration."

Sir, in this Bill I have suggested an amendment to section 30 of the Hindu Succession Act. It has been necessitated due to special circumstances which obtain in Punjab. Before I proceed to the specific points, I deem it proper to bring to the notice of the House the special differences which exist in Punjab for which reason this Bill has been necessitated. As an eminent lawyer, you, Mr. Chairman, know that there are two schools: the mitakshara and dayabagha. The former recognises both devolution of property by survivorship and by succession. But survivorship applies to joint family and succession to property held in absolute ownership by