

(xiii) Notification S.O. No. 3429, dated the 25th September, 1976, publishing the Export of Coir Yarn (Inspection) Amendment Rules, 1976.

(xiv) Notification S.O. No. 3430, dated the 25th September, 1976, publishing the Export of Coir Matings (Inspection) Amendment Rules, 1976.

(xv) Notification S.O. No. 3431, dated the 25th September, 1976, publishing the Export of Non-baled Coir Yarn (Inspection)

[Placed in Library. See No. LT-11482/76]. for (i) to XV

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): Mr. Chairman, Sir, in the last four days there had been a very good debate of a high level and we have heard a few really very good speeches. Most of them were in support of the Bill and a few of them, critical. The other day, a very distinguished Member of this House, Mr. Borooah, spoke and told this House, in an hour-long speech, of the basic foundations of our constitutional structure. He took the whole constitutional structure in the very correct perspective and highlighted, in particular, the fact that the constitutional structure as evolved by the Constituent Assembly was not based on any confrontation between the three wings of our Government—the legislature, the executive and the judiciary. And that is why in her speech yesterday, the Prime Minister again emphasised that what we are really trying to do is to restore back the correct position as it was intended to be when the Constitution was framed.

Sir, I have been feeling with some sorrow here in this country that we had a good many great lawyers but not jurists. Perhaps we have found one. The great emphasis laid by Mr. Borooah on the basic foundations of our constitutional structure was so well done that it really put in the

correct perspective the entire Constitution, as it was always intended to be from the very beginning. Of course, he referred to certain other matters of equal importance. For example, he said that there is no emphasis on the philosophy of law, that a mere adherence to a written, codified law has unfortunately been our way of looking at the legal system in this country. He also made references to the need for having a look once again in to our judicial system and in to our legal education. I will come to these matters, Sir, later on.

At the moment I wanted to emphasize certain other points. Although, unfortunately, I was not in a position to hear Shri Borooah here, I read his speech from the first line to the last. Sometimes when you hear a speech, it does not have a lasting effect. But when you read a speech when you read the written word, it has a more lasting effect and it is that effect which was on my mind when I read the speech of Shri Borooah.

Shri Daphtary made a critical speech. One thing he said with reference to the cases which were decided and I think he had in mind particularly two cases. One was the Golaknath case and the other was the Kesavanand Bharati case. And he said that they were not decided on political considerations, but they were decided on account of a fear which was in the minds of the Judges that very soon the Fundamental Rights were going to be taken away or were going to be reduced to a position where the very objective of putting these Fundamental Rights as entrenched provisions of the Constitution was going to be defeated. But I would like to know whose fear the Judges had in their minds—was it the fear of the people or was it the fear of Parliament? In fact, the argument given by Shri Daphtary supports what we had been saying earlier that these two cases, at any rate, were decided by political considerations because a Judge need not have any fear of what Parliament will do or what the people

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will demand. It was the function of the courts to look at the Constitution as it was and to interpret it. But instead of interpreting the Constitution, according to Shri Daphtary's own admission, they were guided by a fear which was lurking in their minds—that ultimately the responsibility and the duty of protecting the people from the encroachment on these rights was on them and it was not of Parliament, it was not of the people themselves. So, far from making an argument in support of these decisions, to my mind Shri Daphtary's argument that these cases were born out of fear really once again emphasises that these cases were decided not really with a judicial mind, but on considerations which were extraneous and it was on account of these extraneous considerations—may I say political considerations?—that these cases were decided. But his own senior colleague—who is unfortunately no longer now—the former Attorney-General, Shri Setalvad, had written in his book immediately after the judgment in Golak Nath case came that this case was decided on political considerations. And Shri Setalvad was not one who always went along with us in everything. But he considered the judgment and on the basis of those reasons came to an independent conclusion that such a decision could not have been arrived at by the court, if the court had acted merely on judicial considerations. Shri Daphtary also said what we are doing in this Constitutional Amendment Bill. To quote his exact words "Fundamental Rights have been imprisoned", so he said. Has he noted that we have released the Directive Principles from the imprisonment and that they were imprisoned for years together by these Fundamental Rights? And, Sir, does he not agree, does he not realise, that on account of the imprisonment of these Directive Principles by the Fundamental Rights for quite a long time, this country had been prevented from going ahead, from passing legislation

or doing other things, either administratively or otherwise, which was asked for by the people and which it was in the interest of the people to do? Therefore, there is no use shedding tears by saying, "You have imprisoned the Fundamental Rights". May be to a certain extent and in certain respects the Fundamental Rights will not have that place of primacy which they all along had and, instead, the Directive Principles will have primacy, will have precedence over the Fundamental Rights.

Mr. Daphtary also said that there has been no debate. This has been replied to adequately by the honourable Members and he, in particular, said that it is no use having a few meetings in halls and in closed places. Where do you have mass meetings to explain these Constitutional amendments? Where do you discuss these amendments with them? He said: "Have Members of Parliament gone to their constituencies and discussed these amendments with the people in their constituencies?" Well, I can assure Mr. Daphtary that the Members of Parliament who represent constituencies have done so. But I can understand that Mr. Daphtary will not be able to appreciate fully how Members who represent constituencies act and function, particularly when such vital issues affecting the nation are involved. Mr. Daphtary said so many other things. He was of the view that if we pass these Constitutional amendments, our federal structure is going to be disturbed. Of course, he did not elaborate this very much. But I would say, and I have said before, that our Constitution was not based on that classical concept of federation and even people like Mr. B. N. Rau and later many jurists including the Judges of the Supreme Court have stated times without number that our Constitution, though federal in character, has a strong bias in favour of the Centre. And, Sir, as was said the other day, if you want to do things for the country, it is essential that the Centre should be stronger. There-

fore, there is no reason for worrying about theoretical concepts of federalism when the basic approach, which was made by our founding-fathers, was never federal in that sense and it cannot be legitimately claimed that we have disturbed that federal structure merely because more powers, and residuary powers, as was pointed out by some, have been given to the Centre and Parliament instead of to the State Legislatures and so on.

Mr. Krishan Kant not only shared the time of the other parties, the Jana Sangh, the BLD and the Socialist Party, but obviously shared their views also and when I read the entire speech of Mr. Krishan Kant, I found that there was nothing said with reference to the Constitutional amendments and there was repetition of, and there was emphasis, over, and over again on, the well-known and now much heard of talk about this Parliament not being competent to amend the Constitution, and about sovereignty resting with the people and not with Parliament and so on. And, Sir, here is a Member of this House who is disputing the sovereignty of Parliament who need not be told that ultimately the people in a democracy are supreme and it is the people who vest their sovereignty in Parliament by electing their own representatives to the two Houses. I do not wish to enter into a legalistic argument. But, even from the point of view of a legalistic argument, I can say that the Supreme Court has held that legal sovereignty rests with Parliament and not with the people. It originates from the people and goes on to the elected representatives and the bodies which function as the bodies to whom the duties and responsibilities are given for giving effect to the mandate of the people.

Sir, I think it is unnecessary now to repeat and refer to all these arguments with regard to there being no debate and whether there have been no discussions, etc. These things have been said here and they have been

replied to on this side more than once. And I do not think this criticism is going to carry us, or for that matter, the people of our country any further.

Coming to the constitutional amendments, Sir, in a very short remark the Prime Minister summed up the objectives of this amendment yesterday morning in her speech. She said:

"The objective of this Bill is the rejuvenation of the nation and the Constitution. We are bringing into sharp focus the intentions of our founding fathers. We are re-establishing harmony between the legislature, the executive and the judiciary as originally provided in the Constitution..."

She made a very significant remark which I think, applies to all these friends who have been critical of the amendments here now. And in respect of the flouting that has been done in the past with regard to the constitutional amendments made in the past and with regard to other steps which we have taken, she said:

"There is a saying that some people are so conservative that they believe that nothing can be done for the first time,"

meaning thereby that if there is anything which sticks on traditions, sticks on historical precedents and which only reiterates what has been done in the past then that alone is not bad. What you do for the first time is bad because you do it for the first time, and no change of any significant character can be made unless we here are willing to do it for the first time and are willing to make changes for the first time in the larger interests of the country.

Sir, I was astonished when I saw particularly last night, when I read Mr. Borooah's speech carefully. So much has been said in law about literature and in literature about law. And I find some very cryptic observations made with regard particularly to these matters by lawyers. It was

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said that a judicial review is an undemocratic shoot an otherwise respectable tree. If we talk of judicial review, traditional jurists in this country and outside have come to the conclusion that if there is any undemocratic feature in the Constitution, it is the feature of judicial review. It is undemocratic, because what is democratically done and decided by the elected representatives is set at naught by people who are not so elected and who, in that sense, do not represent the people.

Sir, Mr. Borooah referred at great length to the judicial system and the Prime Minister in her speech said that she hoped that the Law Minister would look into it. That is why I am making the statement, because I believe that these amendments which we are making would not do a lot of good or bring a great deal of Progress to our judicial system—that certainly is not the be-all and end-all of everything, until we set ourselves on the task immediately of restructuring our judicial system, because unless we do this and unless we reform the whole judicial system which has come down to us from the British, based largely on Anglo-Saxon Jurisprudence, and which, in my view, is not in tune with the genius of our people or of our country, we shall be failing not only in our duty to the people but even to these constitutional amendments. We should follow it up by having a complete review and restructuring of the judicial system. Sir, while talking of a litigant, Mr. Borooah referred to Learned Hand who unfortunately did not reach the Supreme Court of America, although everyone there and all over the world recognised Learned Hand as by far the most important, eminent and learned of all legal philosophers. He remained at the Federal Court level only. What he said is this:

"I must say that as a litigant I should dread a law suit beyond

almost anything else short of sickness and death."

These are the words of Learned Hand. Here is a Judge who has been experienced in the process of litigation in America where it is perhaps far more quicker than it is here in India. In India we have reduced the judicial system to a position where for years together there is no end to litigation. In addition to the money, time and energy spent by the two sides to a litigation and the public time and public money spent on administering justice, the ultimate result of this litigation has been, in the minds of most people in this country, that of frustration. The arguments drag on, particularly in the superior courts, for not only days, but for weeks together. We know of some cases in recent experience where arguments dragged on for months and not only for weeks. That led the famous poet, W.H. Auden, to say this:

"In the youth, said his father, I took to the law and argued each case with my wife and the muscular strength which it gave to my jaw has lasted the rest of my life."

He was trying to emphasise the amount of energy spent in talking, talking and talking which could perhaps match only with an argument with his wife. Perhaps, our Prime Minister thinks it was not so. May be I am wrong on that. But what is important is what has been said. I think that is very significant.

Sir, I would again repeat what has been said yesterday by the Prime Minister that whenever it appeared that we were critical of the Judges, we were not critical of the whole fraternity of Judges. In fact, more than anyone else, we are aware that in this country we had very learned and eminent Judges who have not only been eminent because they were learned, but who had a full and clear awareness and understanding of the social background in which they functioned. Mr. Borooah referred to a

few names from amongst them who had not only participated in rendering judicial pronouncements, but who had contributed a great deal in many other matters of great social importance, like the setting up of universities and educational institutions. He mentioned even a British Judge, Sir Maurice Gwyer. I do not know whether in this country we would accept that position because Mr. Maurice Gwyer was not a legal philosopher. In fact, he was basically a legal draftsman. Very few people know about that. In this country, we tend to regard draftsmen as persons who are only concerned with the mechanics of drafting. That is not correct. He was instrumental in founding perhaps the best and the greatest university in the country, the Delhi University. There have been other Judges who have participated in such things and there are a few now who are participating in such things. Therefore, it is not that we have not been able to appreciate the great role played by Judges not only in the courts because of the cases which they decide, but also in other fields, social fields and fields in which they made great contributions in our country. And even in judicial pronouncements, as my friend, Mr. Mir Qasim, when he spoke the other day, rightly pointed out, if you make a calculation of the total number of judges who participated, beginning with the first case of Sajjan Singh case as it is known till the last case, the Kesavananda Bharati case, out of the total number of judges who participated in all these decisions you will find that a large majority of judges had recognised that Parliament was supreme and that it had the power to amend the Constitution. Therefore, when we are saying that Parliament is the final authority so far as supremacy in respect of amending the Constitution is concerned, it is not as if in this country there had not been great and farsighted judges who had not recognised this position in the past and till recently. The very fact that even in the last case, where the judgment was only by a narrow

majority of one, would indicate that a very substantial minority has recognised the position and so was the case in the decision of 1967 in Golak Nath case where a substantial minority in that total bench which heard this case has recognised the importance of Parliament's power to amend everything including the Constitution.

Sir, an American judge, some years back, in 1955, delivered the Tagore Law Lectures in India, and the lectures were published under the title of 'From Marshall to Mukherjee.' Mr. Mukherjee was then the Chief Justice. And he took a review of the judicial systems in America and in India. And when he was dealing with matters like amendment to the Constitution, he pointed out that in America, the courts have recognised that some questions are purely political questions. "There had been a large number of amendments to the Constitution in America too. A few were challenged but no challenge as far as I know succeeded in the court and in the last of these, the Supreme Court threw out the challenge on the ground that an amendment of the Constitution is not a matter for judicial determination but is a matter which is a political matter and which can best be handled not by courts but by the representatives of the people themselves." In this connection, Sir, he concluded the remarks by saying—he was referring to those observations of the American Supreme Court—"They reflect the realisation that no judiciary ever can run a nation, that it is but one of several branches of Government, that its field is narrowly restricted." That has been the theory with regard to the constituent power which is the power to amend the Constitution and it has been accepted for years together all over the world, in America and even in India by these very large number of judges who had participated in these cases and had held that the power to amend rests with the sovereign body, namely Parliament and not with the courts. That is why, Sir, I was a little disturbed when I read Mr. Daphtary's

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speech when he said that they were not decided on political consideration but were decided out of fear. And that is what really made me fear that some of these judges were really afraid of the people and of Parliament. Otherwise, what was the fear about? And the fear was for the people. It was a consideration which was political and not judicial. That is what I wanted to emphasise.

Sir, we had a number of decisions and I do not wish to go into all these decisions. But we have had long and elaborate judgments full of learning and erudition. But a jurist in England said that a decision can be said to be a final decision only when it was a correct decision and correct decisions have been rendered all over the world not always necessarily by the judiciary but by their respective legislative forums. And, it is an important function of the Legislature to modify judicial interpretation if that is not found in line with what the people's aspirations are. A wrong decision must be corrected and it is that correction by Parliament which becomes the final decision.

Sir, with regard to the judicial system many instances were given yesterday by some hon. Members, particularly one hon. Member who was at one time a member of the Judiciary, and he said that a decision with regard to his entitlement to service was rendered after he had retired. I came across a case very recently—I can give you a number of instances—where a suit was filed in one of the High Courts in its Original Jurisdiction in the year 1970. As everyone knows issues are framed in the beginning and two of the issues were whether court fees are properly paid and whether this court or some other court had the jurisdiction and there were some other issues also. The case dragged on for years, till recently, till four months

back, when the judgment was delivered. Sir one would be surprised to find that no other issue on merits was decided. The only thing which was said after 5 years was that this court has no jurisdiction and the court fees are not properly paid and what is important and astonishing is that even this judgment was delivered one year after the final arguments were heard. Now, maybe, it is because of the faults in our system. I am not blaming the judges. May be, the blame rests everywhere, including the Judges. But the fact is that all these illustrations lead one to the inevitable conclusion that if justice has to be not only accessible to everybody but has to be effective and if the people's confidence and faith in the judicial system has to be retained, then it is on use hanging on to old traditional, and most of them outmoded, ideas both of jurisprudence and of procedure. But, I must confess, Sir, that whenever I have been dealing with some of the laws and the matters went to a Select Committee or a Joint Committee, the Law Minister or, for that matter, the lawyer Members of Parliament have not made an insignificant contribution in continuing the outmoded procedures.

SHRI BHUPESH GUPTA (West Bengal): Why? Not necessarily.

SHRI H. R. GOKHALE: It is here, I think, where lawyers have to take a wider look at the needs of the situation and see that we once and for all, wherever it is justified, break away from the past and take courage in our hands to do a thing for the first time if it is good. But that unfortunately has not happened in this country with the result that the whole judicial system has come into disrepute. From the trial court to the Supreme Court the litigation goes on and on for years together and instances are not wanting, at least I know one in one of the High Courts where a suit filed in the year 1885 is still pending. And they say what can you do? If the trial court goes wrong, the only remedy

must be by way of an appeal and if the appeal court also goes wrong then the appeal court must be subject to a further appeal and till what time, till you come to the Supreme Court. Here again I find that this was discussed by another jurist. He said: the function of a trial court is to be quick, courteous and wrong. That is not to say that the court of appeal should be slow, rude and right, for that would be to usurp the function of the House of Lords. Sir, ultimately there is no guarantee that the Supreme Court is always right. What he wanted to emphasise is that at some stage even in a good, capable judicial system we must adjust ourselves to, and give finality to a judicial determination and it is not necessarily true that that finality is only obtained in the Supreme Court because the Supreme Court is always right. It is right because there is no one else above it to say that it is wrong. Therefore, Sir, it becomes very important as the Congress President rightly pointed out that immediately after this we should set ourselves on this equally important task of having a look at our judicial system and restructuring it by seeing to it that these organs of the judicial system functioned really to do justice and not to carry on litigation or to serve the ends or purposes of a few of them who are deeply involved in the litigation itself.

The Congress President also referred to the expensiveness of law. He referred to the minutes of Macaulay, the famous minutes, and his reference to those minutes gave me an opportunity to look at them again last evening. Even at that time, many many years back when he wrote these minutes, he was really dealing with a judicial system which had immediately come to this country after the East India Company's setting up of the courts, which we know as 'Sadar Adalat' and all that, he had referred to the expensiveness of litigation in this country. If you look at the judicial system and the expensiveness of liti-

gation as it is at present, one is astonished to imagine how many litigant can really survive this tremendous burden of money which is required for the litigation, money which is required in going after the courts, the cases which go on from stage to stage, from the trial court to the ultimate level of the Supreme Court. Therefore, when I was really referring to the re-organisation of the judicial system, I was obviously including in it a major part of it, namely the great burden placed on the litigants by heavy burden which is put on them and quite often unnecessarily in their quest for obtaining justice from the courts of law. Equally important was the reference to the legal education system. In my days Sir, they used to teach Roman Law. I do not know whether they do it now in the Law Colleges.

AN HON. MEMBER: It continues to be there.

SHRI H. R. GOKHALE: If it continues to be there, then it is really a matter of great unhappiness. Even in those days we felt unhappy to read the Roman Law, not because it was taught in Latin but because the whole basis of the Roman Law which was taught was with the idea of such great reverence to the status quo and property, that even at the initial stages a law student was taught that the highest pedestal in a judicial system is your respect for the status quo and or respect for property. Even the jurisprudence of which we are talking, may be as shown in Salmond's well-known book of jurisprudence or in other books, everything that we were taught had no relevance to our system here in India, as if there had been no jurisprudence in India, as if the passage of hundreds of years of time has not taught us anything about something which has taken place elsewhere and which we could perhaps learn with great profit. As I said in the other House, why is it that it is not possible for our jurists and our lawyers and for our people

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in Parliament and elsewhere to evolve a jurisprudence of their own which is more in tune with the genius of our people and with our system? The duty of looking after the legal educational system has been given to the Bar Councils who are the representatives of the whole Bar in India but I am sorry to say that in the last seven or eight years nothing has been done, particularly with regard to the main responsibility which has been entrusted to them, namely the legal system or for that matter, take for example, the necessity of providing legal aid to the poor. That is why a great emphasis is laid in the proposed Directive Principles on the question of providing legal aid to the poor. Now, all would agree that the bodies which are charged with the responsibility, if they do not do it, it should become all the more the responsibility of us here to look into not only the judicial system but the legal educational system also. Sir, I had referred to these two points because these were the two important points made by the Congress President in his speech yesterday. I thought, strengthened by the remarks made by the Prime Minister, I should make it clear that this is not farther away from our mind that this is the main important question to which we must address ourselves when we get this Bill passed.

Then, there were criticisms, particularly, with reference to some of the clauses of the Constitution (Amendment) Bill. There was a reference, in particular, to the clause dealing with anti-national activities. Mr. Daphtary, in fairness to him, I must say, said 'I am not so much afraid of the present Government, but what will happen in the future because Constitution is not for the present time, but it is for all times'. As has been pointed out in the other House, if there is a non-benign Government which is going to come in the future, that non-benign Government is not going to go by the written words

which we have inserted in this Constitution. It may be that, sooner or later, we may go with this fear that we are the guardians of all posterity, that only we can take care of posterity and that posterity will not be in a position to take care of itself. In fact, the history of this country has shown that as generations pass and as new generations come in, we have a new generation which has devoted itself to the task which comes up before it and which has thrown up a new leadership in this country. This is really the viability, the strength, of democracy in our country. If we have faith in that, it is better we concentrate on this as to whether what we are doing now is right or wrong. If what we are doing is right, we need not be so much afraid of the so-called elements which might come in the future and which might take advantage of this Constitution and use these provisions in a non-benign way. In fact, if this is not there and if they want to do it, surely, because of what we have said here in this Constitution, they are not going to stop from doing it in the future. Therefore, a greater faith and a greater confidence in the democratic instincts of our people and in ourselves is the surest guarantee that what we do now will not be allowed to be misused by anybody in the future. This will not be allowed to be misused in the future if the people exert the influence and the strength which they have been exerting till now. On merits, Sir, I do not think anybody can say that it is not necessary to curb anti-national activities. I have not heard a single speech when somebody had said 'Yes: there are anti-national activities, but they should be allowed to remain as they are and nothing should be done to curb them'. Arguments were made here and there with regard to this part of the clause or the other and that if a particular thing is allowed to be there, it will be misused. The surest guarantee against any misuse is not what is said in the clause. The surest guarantee against any misuse is the awareness and the consci-

ousness of the people and the pressure which they will exercise as they do in all democracies, to see that any written provisions of the Constitution, or, for that matter, any law, is not misused.

Things were said with regard to legitimate trade union activities. This has been said in the other House as well as here. I repeat it here that these are not intended to curb legitimate and legal trade union activities. The trade unions will be allowed to function under the ordinary law, in the ordinary way, as organisations representing the working class and any provision in the anti-national activities clause is not going to be allowed to come in the way of the functioning and the working of a legitimate and legal trade union. But if, under the guise of a trade union activity, what is done is not a trade union activity, but what is done is the uprooting of rails or the cutting off of telegraph poles, surely, it should be considered as an anti-national activity. We cannot recognise this as a legitimate trade union activity. It may, and it should, come under what is described as an anti-national activity. It is for this purpose that these provisions are made in the new article 31D to deal with anti-national activities. Who can for example, take objection to this? If attempts are made by individuals or by organisations to disrupt communal harmony, to create, in this country, an atmosphere of communal hatred, it should be regarded as an anti-national activity. But the fear expressed by some, very few though, that we are going to curb the rights of the minorities, is absolutely wrong. It is absolutely wrong because the legitimate rights of the minority and the protection that is given to them in the Constitution and elsewhere are further highlighted by the fact that even in this very Constitutional Amendment, in the Preamble we have added the word "Secular" although it had always been regarded as the basic tenet of the functioning in our governmental system, in our political

system in this country. Therefore, these bogies are sought to be raised either in the name of minorities or such other organisations and when we look at the written constitution of the Rashtriya Swayam Sewak Sangh—for example, I had the opportunity to see their written constitution and we went only by their written constitution—it is impossible to say that the Rashtriya Swayam Sewak Sangh is an organisation we know as it is today. In fact, it is the activities of the Rashtriya Swayam Sewak Sangh which are not bad or good because of the written constitution which they flourish to the outside world but because of the actual activities in which this organisation is engaged in the country for the last several years. Can any one legitimately say that this is not an anti-national activity and it should not be curbed by appropriate provisions of the Constitution? I know it was argued by some that in article 19 you have the right to have reasonable restrictions. We looked into this and, Sir, reasonable restrictions again are left to be determined as to whether they are reasonable or not. Any one of those who know the activities of those organisations and who will only look at the written Constitution can say that it is unreasonable to do something against an organisation, the written constitution of which looks so nice. Therefore, this duty should not be charged on people who are not expected or supposed to deal with political matters. So, it is not article 19 under which appropriate action can be taken against anti-national activities. It was thought necessary that a special provision in the Constitution should be made to deal with anti-national activities so that these activities do not become a threat to the unity and the integrity of this country, to the sovereignty of this country. One of the clauses is that those who do things which will endanger the unity, integrity and sovereignty of this country, these organisations or individuals, are anti-national. Can any one with any sense of honesty raise any objection to these

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provisions in the clause dealing with anti-national activity? But, Sir, most of these arguments are made not on account of a genuine fear that it is not merely the anti-national organisations or individuals who are going to be dealt with but they are raised with a view to divert the attention of the people from the real objectives or the purposes of a provision which is made in the Constitution. And so, it applies to many other provisions which are made in this Bill.

Dealing with the powers of the courts, as I had occasion to say at many places, here and elsewhere, Sir, the powers of the Courts are not taken away. It is not right to say that the courts have no function left to perform. In fact, the major function which really ought to be with the courts is still left to be performed by them. They can enforce the Fundamental Rights and they can certainly say that a certain Act either of the legislature or of the executive is in contravention of any other provisions of the Constitution. It is still left with them. They have the power to set aside any executive act if it is illegal. They have the power to set aside any decision of a judicial or a quasi judicial tribunal if it is contrary to law, subject of course, always to the overriding consideration that these decisions should not be rendered merely on technical grounds but that they should be rendered if really there is a substantial injury or if there is a substantial failure of justice. Can any one legitimately or reasonably argue that these provisions take away the powers of the courts or do they really put those powers in the courts which really ought to be with the courts and no other powers with which they were not really concerned? We have quoted in the course of the debate here, innumerable instances to hon. Members, pointing out the way in which this power under article 226 has been exercised by many courts in India. It is not necessary for me to repeat or add to those illustrations. They are plenty. Various

steps were taken here both in the interests of the courts and in the interests of the people to see that the functions of the Judiciary are very clearly ear-marked so that the Judiciary performs its own functions within its own sphere, so that the ordinary citizen gets his relief where that relief is due and the courts could not function where it is not their business to interfere.

Therefore, the same argument had been made repeatedly—made on behalf of some Members in this House—that the Judiciary is now, once for all, being finished and that that institution will no longer exist in the country. The same has been said when it was pointed out that the intention or the whole trend is to concentrate all the powers in the Centre. No example was given. But there is a general platitude which is used in many speeches which had been critical of the constitutional amendments. But in what respect has the power of the Centre been increased more than what the power was before the constitutional amendments were made? May be, this reference was to the use of Central forces in the States in cases of grave emergency. But this is not new because in America—I am coming to America because most of my friends who spoke are very fond of the American system—such a power exists. Not only does it exist but in the last few years it has been used no less than seven times in respect of disorder in the various States. If it is done in America it is a good thing but it is bad if we do it here to see that grave disturbances do not take place in the States. In fact, it is one of the duties of the Centre under the Constitution to see that all the States function within their allotted sphere without any violence or without the failure of the constitutional machinery. In fact it was necessary and it was high time that the Centre, by proper legislation, took over that responsibility which was always its from the very beginning.

Sir, these were the various criticisms which were made in respect of the provisions of the Bill and I do not wish to take very long once again reverting to the role of the lawyer. Because being a lawyer myself, I want to emphasise that it is high time. Of course, the Prime Minister said that there is a new priestly order which has been in charge of this with the result that they look to what has been done in the past, never realising that even at that time these things were done.

SHRIMATI INDIRA GANDHI: That was a quotation.

SHRI H. R. GOKHALE: That was a quotation which referred to a priestly order. I am not putting these words in the mouth of the Prime Minister. But it was a reference to priestly order which always held old and outmoded ideas. That was the reference.

Law has been described—and I will close, Sir, with this quotation because it was written by a well-known poet;

"Yet law-abiding scholars write
Law is neither wrong nor right,
Law is only crimes punished by
places and by times,
Law is the clothes men wear any-
time, anywhere,
Law is good morning and good
night."

Sir, let us change our whole approach to this system. Let us look at these constitutional amendments in the correct perspective. I am sure that with these constitutional amendments, at least one major step has been taken in the right direction, no doubt to be followed by other equally important steps.

SHRI BHUPESH GUPTA: Now you have seen that the whole speech has been devoted to judiciary and law. That is the trouble of even having an ex-Judge as a Minister.

SHRI OM MEHTA: Sir, I request that the voting be taken at exact 12. There are five minutes left. Since you have announced that the voting will be at 12 O'clock, let us wait for some time.

SHRI BHUPESH GUPTA: Sir, since it is postponed, can we raise certain points? There are five minutes left. Five minutes of the House should not be wasted because there are many things to be raised. For example, we have to discuss.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI OM MEHTA): Sir, he is a very experienced Member of the House.

SHRI BHUPESH GUPTA: Sir, the first point that I should like to.... (Interruption). Sir, you kindly look at him. Sir, one point which I should like to raise is that...

MR. CHAIRMAN: Mr. Bhupesh Gupta, after we announced the Division, it is not correct to speak. Let us wait for two minutes.

SHRI LAKSHMANA MAHAPATRO: (After a pause) We are having time for assimilation and reflection!

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration."

The House divided.

MR. CHAIRMAN: Ayes—194; Noes—Nil.

12 NOON

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration."

The House divided

MR. CHAIRMAN: Ayes 194
Noes .. Nil

Abdul Khader, Shri M. S.
Abid, Shri Kasim Ali
Adivarekar, Shrimati Sushila Shankar
Ahmad, Dr. Z. A.
Amarjit Kaur, Shrimati
Amla, Shri Tirth Ram
Amjad Ali, Shri Sardar
Anand, Shri Jagjit Singh
Anandam, Shri M.
Antulay, Shri A. R.
Arif, Shri Mohammed Usman
Avergoankar, Shri D. D. Jagtap
Balram Das, Shri
Banerjee, Shri B. N.
Banerjee, Shri Jaharlal
Bansi Lal, Shri
Barman, Shri Prasenjit
Basar, Shri Todak
Berwa Shri Jamnalal
Bhagwan Din, Shri
Bhagawati, Shri B. C.
Bhardwaj, Shri Jagan Nath
Bhatt, Shri N. K.
Bhola Prasad, Shri
Bhupinder Singh, Shri (Punjab)
Bisi Shri Pramatha Nath
Borooah, Shri D. K. (Assam)
Bose, Shrimati Pratima (West Bengal)
Buragohain, Shri Nabin Chandra (Assam)
Chakrabarti, Dr. Rajat Kumar
Chanana, Shri Charanjit
Chattopadhyaya, Prof. D. P.
Chaturvedi, Shrimati Vidyawati
Chaudhari, Shri N. P.
Chaurasia, Shri Shiv Dayal Singh
Chettri, Shri Krishna Bahadur
Choudhury, Shri Nripati Ranjan
Chowdhary, Dr. Chandramanilal
Chowdhri, Shri A. S.

Chundawat, Shrimati Lakshmi Kumari
Das, Shri Bipinpal
Deb Burman, Shri Bir Chandra
Deshmukh, Shri Bapuraoji Marotraoji
Dhabe, Shri S. W.
Dhulap, Shri Krishnarao Narayan
Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Gadgil, Shri Vithal
Ghose, Shri Sankar
Gill, Shri Raghbir Singh
Goswami, Shri Sriman Prafulla
Gowda, Shri K. S. Malle
Gowda, Shri U. K. Lakshmana
Gupta, Shri Bhupesh
Gupta, Shri Gurudev
Habibullah, Shrimati Hamida
Hansda, Shri Phanindra Nath
Hashmi, Shri Syed Ahmad
Himmat Singh, Shri
Imam, Shrimati Aziza
Jain, Shri Dharamchand
Jha, Shri Kamalnath
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishanker
Kalaniya, Shri Ibrahim
Kamble, Prof. N. M.
Kameshwar Singh, Shri
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.
Koya, Shri B. V. Abdulla
Kripalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.

Kumaran, Shri S.
 Kumbhare, Shri N. H.
 Kureel, Shri Piare Lall urf Piare Lall Talib
 Lalbuaia, Shri
 Lokesh Chandra, Dr.
 Lotha, Shri Khyomo
 Madhavan, Shri K. K.
 Mahanti, Shri Bhairab Chandra
 Mahapatro, Shri Lakshmana
 Mahida, Shri Harisinh Bhagubava
 Majhi, Shri C. P.
 Makwana, Shri Yogendra
 Malaviya, Shri Harsh Deo
 Mali, Shri Ganesh Lal
 Malik, Shri Syed Abdul
 Mehrotra, Shri Prakash
 Mehta, Shri Om
 Menon, Shrimati Leela Damodara
 Mhaisekar, Shri Govindrao Ramchandra
 Mirdha, Shri Ram Niwas
 Misra, Shri Lokanath
 Mishra, Mahendra Mohan
 Mishra, Shri Rishi Kumar
 Mittal, Shri Sat Paul
 Mohan Singh, Shri
 Mohideen, Shri S. A. Khaja
 Mondal, Shri Ahmad Hossain
 Mukherjee, Shri Kali
 Mukherjee, Shri Pranab
 Mukhopadhyay, Shrimati Purabi
 Mulla, Shri Anand Narain
 Munda, Shri Bhaiya Ram
 Murahari, Shri Godey
 Nanda, Shri Narasingha Prasad
 Narasiah, Shri H. S.
 Nathi Singh, Shri
 Nizam-ud-Din, Shri Syed
 Nurul Hasan, Prof. S.
 Oberoi, Shri Mohan Singh
 Pai, Shri T. A.
 Pande, Shri Bishambhar Nath

Papireddi, Shri Bezawada
 Parashar, Shri Vinaykumar Ramlal
 Parbhu Singh, Shri
 Patil, Shri Deorao
 Patil, Shri Gulabrao
 Pawar, Shri D. Y.
 Poddar, Shri R. K.
 Pradhan, Shrimati Saraswati
 Prasad, Shri K. L. N.
 Punnaiah, Shri Kota
 Qasim, Syeed Mir
 Rachaiah, Shri B.
 Raha, Shri Sanat Kumar
 Rahamathulla, Shri Mohammad
 Rai, Shri Kalap Nath
 Rajasekharam, Shri Palavalasa
 Raju, Shri V. B.
 Ranbir Singh, Shri
 Ranganathan, Shri S.
 Rao, Shrimati Rathnabai Sreenivasa
 Rao, Shri V. C. Kesava
 Ratan Kumari, Shrimati
 Reddi, Shri K. Brahmananda
 Reddy, Shri Janardhana
 Reddy, Shri K. V. Raghunatha
 Reddy, Shri Mulka Govinda
 Reddy, Shri R. Narasimha
 Refaye, Shri A. K.
 Roshan Lal, Shri
 Sahu, Shri Santosh Kumar
 Saleem, Shri Mohammad Yunus
 Saring, Shri Leonard Soloman
 Savita Behen, Shrimati
 Schamnad, Shri Hamid Ali
 Sethi, Shri P. C.
 Seyid Muhammad, Dr. V. A.
 Shahi, Shri Nageshwar Prasad
 Sharma, Shri Kishan Lal
 Sharma, Shri Yogendra
 Shastri, Shri Bhola Paswan
 Shastri, Shri Prakash Veer
 Shyamkumari Devi, Shrimati

Singh, Shri Bhishma Narain
Singh, Shri D. P.
Singh, Shri Irengbam Tompok
Singh, Shrimati Jahanara Jaipal
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sinha, Shri Indradeep
Sisodia, Shri Sawaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan, Shrimati Maimoona
Sultan Singh, Shri
Swaminathan, Shri V. V.
Swu, Shri Scato
Thakur, Shri Gunanand
Tilak, Shri J. S.
Tiwari, Shri Shankarlal
Totu, Shri Gian Chand
Triloki Singh, Shri
Tripathi, Shri Kamalapati
Trivedi, Shri H. M.
Vaishampayan, Shri S. K.
Venigalla Satyanarayana, Shri
Verma, Shri Shrikant
Vyas, Dr. M. R.
Wajd, Shri Sikander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal
Zawar Husain, Shri

NOES

NIL

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

MR. CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill. As was decided in the House on the 4th November, the clause-by-clause consideration of the Bill will be taken up today and continued tomorrow, the 10th November,

up to 5-30 p.m. Amendments to a clause may be moved, considered and disposed of when that particular clause would come under consideration. All the clauses, if agreed, will be put to vote together at 5-30 p.m. tomorrow, the 10th November, 1976. Agreed?

HON. MEMBERS: Yes.

MR. CHAIRMAN: Now we take up clause 2 of the Bill. There are two amendments, one by Shri J. N. Bhardwaj and the other by Shri V. V. Swaminathan.

Clause 2 (Amendment of the Preamble)

SHRI JAGAN NATH BHARDWAJ (Himachal Pradesh): Sir, I move:

1. "That at page 1, for lines 9 to 11, the following be substituted, namely:—

“(a) for the words “SOVEREIGN DEMOCRATIC REPUBLIC” the words “SOVEREIGN DEMOCRATIC SOCIALIST SECULAR REPUBLIC” shall be substituted; and”.

SHRI V. V. SWAMINATHAN (Tamil Nadu): Sir, I move:

2. "That at page 1, line 10, after the word 'Secular' the word 'FEDERAL' be inserted."

The questions were proposed.

SHRI JAGAN NATH BHARDWAJ: Mr. Chairman, Sir, the first amendment that I have moved is a simple amendment. Here I seek to rearrange the words that in the name of our Republic.

SHRI BHUPESH GUPTA: We cannot hear anything.

MR. CHAIRMAN: No noise, please.

SHRI BHUPESH GUPTA: Sir, we thought we are having a democracy which is amending the Constitution. We are not having a run away democracy after voting. They are all going away.

SHRI JAGAN NATH BHARDWAJ: Sir, here I seek the rearrangement of the words that in the name of our Republic. The words are "SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC".

[Mr. Deputy Chairman in the Chair]

The first three words start with the letter "S". When we pronounce it, it becomes a little uneasy to pronounce these three words starting with the letter "S"—sovereign, socialist, secular. If we take the abbreviations, it is very uneasy to pronounce as 'SSSDR'. If you accept my amendment, that is, SDSSR, it will be easy to pronounce. If you take the abbreviations as given in the Bill, that is, SSSDR, a man like me may forget one "S", or people may like to say "triple S". Therefore, Sir, my submission is that the words in the name may be rearranged as I have proposed in my amendment. It is very easy. This is a formal type. It is not any substantial change in the name. It is only a re-arrangement of words. I think it may be possible for our hon. Law Minister to accept this amendment. Otherwise, I am not very particular about names. The real substance has been put in the Constitution. It does not bother me how a name has been put. It was just an idea that I wanted to place before this honourable House and it is upto our leadership to accept it. They have been very liberal and considerate.

Passingly, I will mention another point in connection with the Constitution and then I will sit down. Yesterday or the day before Shri Daphary said that this Constitution will put us into trouble. That idea is wrong. Our great party, the Indian National Congress, is inspired by the teachings of great leaders like Gokhale, Tilak, Mahatma Gandhi, Motilal Nehru, Jawaharlal Nehru, Sardar Patel, Lala Lajpat Rai and Subhash Chandra Bose. All these great leaders have put the right thing in our mind and it has been so put that we could

oust the mightiest empire—there was no empire mightier than the British empire—with our non-violent methods. I am sure this Constitution will not put us into trouble. On the other hand, this Constitution will be able to do real justice to the country and its people.

SHRI V. V. SWAMINATHAN: Mr. Deputy Chairman, the introduction of the words "socialist" and "secular" in the Preamble is quite welcome. I move that the word "FEDERAL" may be inserted after the word "Secular". We do not subscribe to the theory of "implied limitation" on the amending power of the Parliament to amend any part of the Constitution. Parliament has the constituent power under article 368 to amend the Constitution including its Preamble. Somebody says that Preamble is not part of the Constitution. We do not accept it. Preamble is part of the Constitution. In fact Preamble is the soul and conscience of our Constitution. It is the face of the Constitution and just like the face is the index of the mind the Preamble shows the identity and ideology behind our Constitution.

Somebody says that the proposed Bill bringing in amendment to the Preamble alters the basic structure of the Constitution. We do not agree because secularism and socialism constitute the basic character of the Constitution. Somebody says that Constitutional values have been removed. We do not feel it is so because Constitutional values such as Parliamentary Democracy, independence of judiciary and socialist pattern of society are all retained in the Constitution. Somebody says the Constitution is debased and devalued. We feel that it is only revalued. I would only request that the term "FEDERAL" may be added in the Preamble, even though the Law Minister in his reply has said that there is no doubt about the federal character of our Constitution. If it is so, at least to remove any doubt in the minds of some people, it is better that we add the word "FEDERAL".

[Shri V. V. Swaminathan]

addition of this word will not make the Centre less strong or weaken. Even in the USSR Constitution article 13 says... "Union of Soviet Socialist Republic and shall be a federal State..." Merely by adding the word "FEDERAL" the Centre's position will not be weakened and we are not a party to weaken the Centre. We want a strong Centre. I would like the Law Minister to give an assurance that the federal nature of our Constitution will not be destroyed. And, Sir, some provisions regarding the removal of subjects like education, administration of justice, constitution and organisation of all courts except the Supreme Court and the High Courts, deployment of armed forces in any State and clause 59 in particular raise some reasonable doubts in the minds of our party people and I would, therefore, request that the honourable Law Minister may please appreciate the feelings behind this and would request him to add the word "FEDERAL" in the Preamble.

MR. DEPUTY CHAIRMAN: We will now take up the amendments.

SHRI BHUPESH GUPTA: Sir, I will speak on these amendments.

MR. DEPUTY CHAIRMAN: You have not given any amendments on this

SHRI BHUPESH GUPTA: Sir, I will speak on these amendments also. Sir, this amendment, moved by Shri Bhardwaj, is not that innocent. He thinks that it is only a change of word because, before the word "socialist", he wants to put the word "democratic". Now, Sir, this is not just that innocent as you make out because now it is customary in the world to denigrate socialism sometimes by using the words "democratic socialism". It is always democratic and it cannot be anything but democratic. The finest democracy exists in socialism only.

SHRI JAGAN NATH BHARDWAJ: I have said that.

SHRI BHUPESH GUPTA: I am correcting you. Sir, there are also tendencies in the world to preface the word "socialism" with the word "democratic". Sir, only recently, a coup took place in Thailand where the militarists and the fascists have taken over power by a bloody coup involving students and others and the leader of the coup has said, has declared: "We stand for democratic socialism". Now, I have been inspired by them. Sir, whenever socialism is sought to be assailed and the idea of socialism is to be denigrated, they take refuge under the word "democracy" in order to launch their attack under a camouflage and in many of the countries where fascism has come, sometimes they say that there is democratic socialism, whereas the truth is that socialism by definition is democratic and there cannot be any socialism minus democracy. But this kind of definition is given for this purpose by some people... (Time bell rings)... Sir, I have to speak on this amendment though we have not given any amendments. But we could have given amendments. We want to speak on the Preamble.

MR. DEPUTY CHAIRMAN: But you should have given your amendments.

SHRI BHUPESH GUPTA: We would like to give, but we have not given. But it is not necessary. Anyway, I wish to speak on these things because we are adding a solemn word in our Constitution thereby making a very important and significant and historic commitment on behalf of the nation, on our behalf and on behalf of the generations yet unborn. We are saying that our Republic is a Socialist Republic. We know, Sir, that the Preamble is a declaration. But the Preamble is the vital aspect of the Constitution and anyone who believes in the Constitution and constitutional democracy as they call it will be called upon to act up to the Preamble, whether in power or out of power, whether in administering laws or in making laws or in dealing with public

matters. Hence, Sir, any activity which is anti-socialist, any kind of ideological projection which defies and denigrates socialism will truly be a treason, morally at least, under our new Constitution. Sir, this is very very important to remember. We are saying that our Constitution is secular and any activity, any propaganda, any political act which is contrary to the principle of secularism is against the Constitution and any political party or anyone who goes contrary to the principles of secularism will make itself or himself open to the charge of undermining the very foundations and the basis of our Constitution. Similarly, anyone, under whatever pretext, goes against the ideas of socialism or denigrates the working people or launches an attack against them or denounces the socialist countries, will, in fact, be undermining the very foundation of the Constitution.

SHRI JAGAN NATH BHARDWAJ: You want that democracy should also go?

SHRI BHUPESH GUPTA: I am not saying that you are doing it

In view of this, Sir, we would expect the Government to act up to this amendment to the Preamble to the Constitution. Henceforward, nothing which is a patent defiance of the constitutional declaration of our Republic, namely, Socialism, will be permitted or tolerated in our country.

Secondly, the inclusion of the word 'Socialism' also makes it obligatory on us to develop a consistent attitude towards multi-national corporations and towards monopoly capital of our seventy-five big business houses. It is important that we take action against them. All our protestations will be judged, not so much by what we write in our Constitution but by what we do in practical life. Sir, concessions to monopolists and liberalisation of economic and fiscal measures for them would be inconsistent with the proclamations... (Time bell rings) Therefore, it enjoins upon us, after the

amendment is made, that we take strong and vigorous action against monopolists and other vested interests, which are exploiting the masses, in order to bring about a change in society. Sir, we know that our socialist State is a different type of State. We are conscious that socialism cannot come unless the working people and all other sections of the democratic people have their due share in the State power. We do not believe that socialism can come without the working people being within the control of power along with democratic forces in the country. It is of vital importance and consistent with the commitment that changes are made in the economic, social and political structure of the country. Political structure is capable of change now if we are true to these amendments. Economic structure is capable of undergoing radical changes if we are true to these amendments. A different kind of attitude has been adopted towards the down-trodden people in the villages, factories and other places. Our preference should shift towards the exploited. This is only a declaration which we are making. But the declaration enjoins upon us the responsibility of giving direction to our political and national life, so that the forces which make for socialism came up gradually and the forces which tend to go against socialism, whether in the economic or political life, are constantly pushed back. Sir, therefore, I say that let us realise the significance of this amendment. We take it only as a declaration. Indeed it is a long way; if I may use Pt. Jawaharlal Nehru's quotation; Miles and miles we have to go in order to...

MR. DEPUTY CHAIRMAN: I will call the Minister to speak.

SHRI BHUPESH GUPTA: We can do so by radically restructuring our political and social life and, above all, by a reliance on the working people. I do hope that...

MR. DEPUTY CHAIRMAN: Please take your seat.

SHRI BHUPESH GUPTA: I do hope that Mr. Gokhale will look into the implications of what I have said.

SHRI H. R. GOKHALE: I do not wish to make a long reply. The hon. Member himself said that it was only a re-arrangement of words and the words have been put after careful deliberation and consideration.

So far as the second amendment is concerned, my friend wants the word 'Federal' to be added. Now, he knows that this was discussed in the Constituent Assembly. We did not say 'Federation of India'; we said 'Union of India.' That was because it was not basically a fully federal structure, and therefore, Sir, by calling it 'Federal' it does not become federal if it is not, and it does not cease to be federal. Therefore, Sir, I think that these are of no purpose.

MR. DEPUTY CHAIRMAN: Mr. Bhardwaj, are you withdrawing your amendment?

SHRI JAGAN NATH BHARDWAJ: Yes, I withdraw it.

MR. DEPUTY CHAIRMAN: The question is:

"That leave be granted to the Mover to withdraw his amendment (No. 1)".

The motion was adopted.

The amendment (No. 1) was, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: Mr. Swaminathan, are you pressing your amendment or withdrawing it?

SHRI V. V. SWAMINATHAN: I withdraw it.

MR. DEPUTY CHAIRMAN: The question is:

"That leave be granted to the Mover to withdraw his amendment (No. 2)".

The Motion was adopted.

The amendment (No. 2) was, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: Now, we go to Clause 3. There are no amendments. There is an amendment by Mr. Abdulla Koya on Clause 4. Since it is a negative amendment, it is not admissible. We go on to Clause 5. Shri Abdulla Koya's amendment No. 4 is a negative amendment. It is not admissible. Other amendments can be moved.

Clause 5—(Insertion of new article 31D. Saving of laws in respect of anti-national activities.)

SHRI BHUPESH GUPTA: Sir, I move:

**5. "That at page 2, after line 20, the following be inserted, namely:—

'(2A) Any law in respect of matters referred to in sub-clause (a) or sub-clause (b) shall provide for the determination of the question whether a particular individual or association is engaged in anti-national activity by an independent tribunal with the right to appeal to the Supreme Court guaranteed.'

**7. "That at page 2, in lines 38 and 39 the words 'or the security of the State or the unity of the nation' be deleted."

**8. "That at page 2, for lines 40 to 42, the following be substituted, namely:—

'(iii) which is intended to overthrow the Government by law established by anti-democratic and violent means.'

**9. "That at page 2, lines 43 to 46 be deleted."

*For text of the amendments vide column *supra*.

**The amendments also stood in the names of Shri Yogendra Sharma, Dr Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Birchandra Deb Barman and Shri Lakshman Mahapatro.

SHRI B. V. ABDULLA KOYA (Kerala): Sir, I move:

*130. "That at page 2, after line 16, the following proviso be inserted, namely:—

'Provided that any such law shall make specific provision for judicial review by a High Court Judge of any executive order or action taken under this law for declaring any association as anti-national'."

SHRIMATI SUMITRA G. KULKARNI (Gujarat): Sir, I move:

6. "That at page 2, line 37, for the words 'sovereignty and' the words 'sovereignty, cultural, historical and ethnical' be substituted."

14. "That at page 3,—

(i) in line 4, after the words 'anti-national' the words 'and anti-social' be inserted;

(ii) in line 6, after the words 'anti-national' the words 'and anti-social' be inserted; and

(iii) in line 8, after the words 'anti-national' the words 'and anti-social' be inserted."

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I move:

10. "That at page 2, lines 44-45, the words 'or the disruption of public services' be deleted."

SHRI JAGAN NATH BHARDWAJ: Sir, I move:

11. "That at page 2, lines 44-45, for the words 'the disruption' the words 'the unlawful disruption' be substituted."

SHRI N. H. KUMBHARE (Maharashtra): Sir, I move:

12. "That at page 2, line 45, after the words 'public services' the words

'through planned sabotage or violence provided that the internal disturbance or disruption of public services will not be construed as such if it is caused on account of strike or peaceful and lawful agitation to secure better conditions of service' be inserted."

13. "That at page 3, after line 2, the following Explanation be inserted, namely:—

'Explanation:—Harmony shall be deemed to have been threatened or disrupted if the right of reservation in services for Scheduled Castes and Scheduled Tribes is questioned or opposed by taking recourse to incitement leading to communal hatred'."

The questions were proposed.

MR. DEPUTY CHAIRMAN: Clause 5 and the amendments thereon are open for discussion.

SHRI B. V. ABDULLA KOYA: Sir, I have moved this amendment because of my anxiety to protect the interests of the minorities and the Scheduled Castes and Scheduled Tribes. The wording should be as follows:

"That at page 2, after line 16, the following proviso be inserted, namely:—

'Provided that any such law shall make specific provision for judicial review by a High Court Judge of any executive order or action taken under this law for declaring any association as anti-national'."

SHRI BHUPESH GUPTA: Sir, in our view the amendments that we have moved on this clause are important. I should like to make some observations. I hope you will hear with us because we consider these

*The amendment also stood in the names of Shri S. A. Khaja Mohideen and Shri A. K. Rafaye.

[Shri Bhupesh Gupta]

amendments quite important from amongst the amendments that we have moved. First of all, I should like to point out to the House that this provision has been included completely ignoring the recommendations of the Swaran Singh Committee Approved by the All India Congress Committee. Swaran Singh Committee was appointed by the Congress leadership to make certain recommendations. They made certain recommendations which we discussed and on which we gave our opinions and the Congress Party Members also discussed them. Sir, then what happened is a very interesting thing, and the story should not be untold to Parliament. The recommendations of the Swaran Singh Committee, finalised by the AICC, disappeared into some lobbies somewhere, into some rooms in the Secretariat and there the tampering with the recommendations started by some officials and, maybe, by some others in order to take the opportunity of the Constitution amendment to push in or to smuggle in many other things which are absolutely unnecessary, irrelevant from the point of view of socio-economic changes that we think or contemplate under this amendment or otherwise even from the legal point of view. And this amendment—clause 5—was inducted or rather smuggled into the Bill behind the back of all of us. I say that many members of the Swaran Singh Committee were surprised that such a tampering with the proposed Constitutional amendments had taken place by some people sitting behind the AICC, behind the Congress Working Committee and at the back of it, ignoring or bypassing the Swaran Singh Committee and by arrogating to themselves enlarging and expanding the recommendations in such a manner that they, in some respects, take away much from the political, moral grace of the Constitution (Amendment) Bill, Sir, according to my reckoning, at least 27 new items have been introduced in this Bill which are not warranted by the recommendations of the Swaran Singh Committee.

Who authorised them? Which is that body responsible for it? Yes, of course, the Cabinet had finalised it. We should like to know from the Law Minister as to who drafted them. What was the mechanism? We know how most of the good provisions came to be made. They were made through discussion in the ruling Party first of all amongst themselves, secondly by a Committee of the ruling Party appointed by its leadership, Thirdly by the AICC and later on with us formally I had approached the Prime Minister that these things should be discussed. And I must say to the credit of the Prime Minister that she was good enough to make arrangements for consultation with the opposition parties, including our Party. Some parties, did not participate in the consultation. We did and we gave our suggestions. I may inform you that the discussion between us on the one hand and Mr. Swaran Singh and Mr. Gokhale on the other—Mr. Raghu Ramaiah and Mr. Om Mehta were also present—went on fairly well and in fact we had a feeling of a true dialogue even if we had not seen eye to eye on certain matters. But the approach was sound, the approach was good, a democratic approach. But here, Sir, after the discussions were over, suddenly we found a Bill has been introduced containing something, rather many items, which had not been even remotely suggested to us in the course of the discussion either by Mr. Swaran Singh or by Mr. Gokhale or by Mr. Om Mehta or by Mr. Raghu Ramaiah. We were taken by surprise when the Bill came in Parliament to find some clauses, and this is one of them. Sir, is it proper? May I ask; Is it the way to amend the Constitution? Then I wrote to the Prime Minister later on. I must say that one day before this special Session took up this Bill, there was some consultation. But not a word of ours has been accepted. Not a word. We went through the Bill, clause by clause, made suggestions even at the last hour hoping against hope that this Bill should be amended in this manner, specially the new

clauses. But not one was accepted. Sir, we were told that order had come from some quarter—I do not know who gave that order and nowadays so many people are issuing orders signed by the Government—that not a word had to be changed. Is it the attitude, Sir, in dealing with the constitutional propositions? Leave alone those who are non-cooperating; they may have forfeited their right to be consulted, to be heeded to or to be taken into account as regards their views. What about others, we, the Muslim League, the ADMK and many Congress Members? All right, they did not have any say in this matter.

Sir, we are now enacting some of the things which are not the creation of the political leadership of the country but the creation of the bureaucracy, and this is one of such clauses. That, Sir, should be known to Parliament. I ask hon. Members to go through the proceedings of the Constituent Assembly. Every single article, draft article, had been discussed threadbare, put again and again if necessary, before a Committee of Members of the Constituent Assembly, who did not share the same views on every matter and then certain things were evolved. What came in the way? What came in the way of holding such a discussion before the Special Session commenced and what prevented the Government from taking the suggestions that we have made and even now we are making? Sir, in the other House we proposed this amendment and we are repeating it again for historical reasons. Many will come and many will go but generations will come and see as to what we said and what others said, how an amendment to the Constitution is to be broadly welcomed, how certain things which are to be highly welcomed have been treated by the bureaucracy and some elements in the administration. The Prime Minister gave an assurance while explaining clause 5 in the other House. What was the harm in accepting her explanation as a proviso in this particular

clause? Even that has not been done. Sir, this has left a very bad taste.... Let it be known to the country that this Constitution Amendment Bill in so far as the bureaucratic additions are concerned have not been properly discussed with any one of us. That should not be the approach. That does not mean that all the provisions of the Bill are bad. That does not mean that every new addition is necessarily bad. Whatever is good we have pointed out and wholeheartedly we are supporting it. In fact, we are supporting the entire Bill despite the blemishes in it despite this kind of an addition that has been made. We have, therefore, suggested this amendment. I know it will not be accepted by Mr. Gokhale I would not persuade him to improve upon it. In the Lok Sabha we gave an amendment and they did not accept it. What do I say about this amendment. If you are very keen on this thing, we said, as far as the question of definition of anti-national activity is concerned, that we are against cession of any part of the country and any activity which seeks cession of any territory of India is undoubtedly an anti-national activity and we have no hesitation in supporting any measures which are provided for to cover them in a Bill of this kind. We are not opposed to it that way. Then, there are certain other things, integrity of any part of our territory or integrity of the country. We all stand for these things. But many things have come in. First of all, you go through the other clauses. In sub-clauses (2), (3) and (4) you will find that they have been bodily lifted from the Defence of India Rules. You will find that many of these are already covered by the Prevention of Anti-National Activities Act, which we passed in this House and the other House some years back, when I believe Shri Lal Bahadur Shastri was the Prime Minister. There are other measures also which we have passed to cover all these things. There is nothing new in it. But they have been introduced in this Bill, I do not know why. (Time bell rings).

[Shri Bhupesh Gupta]

Sir, give me a little time on this thing.

MR. DEPUTY CHAIRMAN: You have already taken 13 minutes.

SHRI BHUPESH GUPTA: I will not take much time on other things. But this is a very important matter and hon. Members there have not given any amendments. Therefore, you will not be running short of time.

MR. DEPUTY CHAIRMAN: There are so many amendments on that side.

SHRI BHUPESH GUPTA: Therefore, I say, we have suggested some deletion. Our most serious objection is to clause (4) which is intended or which is a part of a scheme which is intended to curb internal disturbance or the disruption of public services. The Prime Minister assured that it is not intended against legitimate trade union activities or other things. But it does not say so. Let there be an explanation added to it. We can understand that. Nothing is said here. Therefore, Sir, Parliament will be in a position to enact any law to define such activities. We are writing it in the fundamental document. Yesterday the Prime Minister said a very correct thing. She said: Well it depends on what kind of a Government one has. If a reactionary Government comes they will ignore the Constitution and do what they like no matter what we say or do. Sir, what is the guarantee that we may not have to face such an eventuality? In any case, we should provide for even such contingencies. Why should I enact in the Constitution something which is not necessary in the first instance to be enacted and then provide ammunition to a Government which is reactionary? Sir, suppose, for arguments sake, a Jana Sangh Government comes in—it will never happen, I know; I am saying for the sake of argument—or a reactionary government comes in. What is the guarantee that your activities will not be described by them as anti-national activities? What is the guarantee that your protests against the rightist regime or the activities of

the rightists' regime, of destabilisation even, will not be denounced as activities causing public disturbance or disruption of public service? You are opening this thing here. Sir, how are the powers misused? You passed emergency powers and other powers. In fact, this is more than that. And this clause has been exploited by the rightist forces. Is the Constitutional amendment meant to make emergency permanent? You have Sir, given a handle for propaganda to them. Why should it be so by the incorporation of this kind of clause?

Sir, here I have got to say something. As you know, we wanted to celebrate the 40th Anniversary of Kisan Sabha in Himachal Pradesh. Now, I tell you how the powers are abused, the powers under the Defence of India Rules, the Emergency powers, MISA or any other restrictive laws that are in operation. And such an order emanated from the Himachal Pradesh Government. Now, what is this order? Sir, we, in the Kisan Sabha, applied for permission. And the order said: Yes, you can hold indoor meeting provided—and the conditions were laid down by the bureaucracy, the Sub-Divisional Officer, Civil, No. 2, of Noorpur District Kangra, for holding a public meeting to celebrate the 40th Anniversary of Kisan Sabha. I will read out the conditions laid down:

(1) That they not—they do not know even English; Anyway, forget it; they can write in Hindi. Probably, it meant "That they shall not..."

That they shall not raise any slogan or speech or discussions against the policies of the Government, including emergency and the 20-point programme;

(2) They shall not criticise, even in general, the Government and any government functionary;

(3) That their speeches shall be only constructive in support of the policies;

(4) Written undertaking from you is necessary regarding the above three conditions which may be given to the undersigned before the start of the function.

Now, Sir, I ask you: Did you pass emergency for this kind of an order being issued, and above all, to the Communist Party which has mobilised all its forces for the implementation of the 20-point programme? And, Sir, did we pass a law that Government officers cannot be criticised, Government cannot be criticised, Government policy cannot be criticised? You had never sanctioned it. You have not gone that far. But here, armed with the powers you have given to a Divisional Officer and to the bureaucracy, they have the impudence to issue such directions to our Kisan Sabha which is engaged in the implementation of many of your policies, certainly the 20-points programme...

SHRI JAGAN NATH BHARDWAJ: Is the 20-point programme a licence to do unlawful things?

SHRI BHUPESH GUPTA: Sir, it is already for us, he will see.

All that we are asked to do is: Go and hold a meeting and go on praising the Government. It is a shame on that Government if we are asked to go hold a meeting and go on praising the Government. We are thankful to them, they have not said: Go on praising some individuals. They have not said it. We are thankful, grateful and beholdened to this Divisional Officer because now nobody talks about the Government, the Working Committee of the AICC. We know all that is gone. Now, why should this order be passed? This is the result of the law which you passed and you see what happen when it is placed in wrong hands. I do not know what the Government is going to do about it. This is why we say it is absolutely unnecessary. Sir, public order is covered by article 19(a) of the Constitution. ut you can deal with public

disorder as provided in the Constitution. When you deal with the Fundamental Rights, which which Government can impose reasonable restrictions in the interest of public order. The Constitution already provides for it. You have brought in all these things. This is an attempt to intimidate the working people; this is an attempt to give powers to the bureaucracy so that they can wield the big stick. In any case, such a provision does not bring grace to the Constitutional amendments. Therefore, we have suggested, in our amendment, that there should be a provision like this:

"Any law in respect of matters referred to in sub-clause (a) or sub-clause (b) shall provide for the determination of the question whether a particular individual or association is engaged in anti-national activity by an independent tribunal with the right to appeal to the Supreme Court guaranteed."

This is a legal matter where the law is being implemented. Surely, Sir, people should have that right. It should not be left to the bureaucracy or Parliament for the time being to determine this. Parliament can determine. But as I said before, we are writing something into the fundamental law of the land. A change of Government, not only a change of Government, but a change in the complexion of the Government and a change in the complexion of Parliament, may create a situation when such a provision will be a weapon in the hands of the most reactionary forces to suppress the progressive forces, to curb and suppress legitimate actions of the working people. We are not in a State where we can say no such legitimate and democratic action is needed on the part of the working people to have their grievances redressed and to have their legitimate demands met. Therefore, this is an obnoxious clause which is likely to defeat the purpose of many good things which we are doing. This should be taken away. I wish the Government had given some thought to it.

[Shri Bhupesh Gupta]

I discussed this matter with Mr. Gokhale. I even suggested to him that there should at least be some proviso or some explanation so that people know what you mean by it and it does not become a weapon in the hands of those who might be interested in taking cover under this new article which is proposed to be inserted in the Constitution and who might use it for their own ends and against the interests of the nation and the people.

SHRIMATI SUMITRA G. KULKARNI: Sir, I have moved an amendment to sub-clause 4(b)(ii) of clause 5. Now, sub-clause (4) defines an anti-national activity and sub-clause (4)(b)(ii) says:

"which disclaims, questions, threatens, disrupts or is intended to threaten or disrupt the sovereignty and integrity of India or the security of the State or the unity of the nation;"

My amendment says:

"which disclaims, questions, threatens, disrupts or is intended to threaten or disrupt the sovereignty and....

Here comes my amendment—

".....the sovereignty, cultural, historical and ethnical integrity of India or the security of the State or the unity of the nation;"

For the first time, we are including this anti-national activities clause and defining it in our Constitution. We have the experience of the past. In the last two or three years, a number of incidents have taken place all over India, in different parts of the country which have been of concern to us whether this country can survive and how long its Government will sustain. As a nation, our experience has been that such incidents have taken place and it has become necessary to include such a provision in the Constitution. While defining it, we are also saying what are the activities which should be considered as anti-national activities. Now, Sir, in this respect, I submit that India has a composite culture. It does not consist of one culture or one racial

group or one religion or one class or one language. We are a sub-continent as big as Europe minus Russia. We have a composite culture, an Aryan and Dravidan culture. We have also a touch of Mongolian culture, a touch of Iranian culture and also a touch of Western culture which we have inherited for the last 150 years. So, all these various aspects of culture are there. We have also a number of castes, a number of languages, a number of religions. As we go from place to place, from Kashmir to Punjab, from Punjab to Gujarat and from Gujarat to Maharashtra, to Tamil Nadu, Karnataka and Kerala, the culture changes. The culture changes from place to place. There are innumerable cultures and the composite of it is known as Indian culture. Therefore, it is very essential that any activity, any action which goes against the cultural integrity of our country should also be treated and looked upon as an anti-national activity. This is the reason why I have brought in this amendment. Again, I have also used the word 'ethnical' because we have got so many races. Here Dr. Lokesh Chandra is sitting who is an authority on the ethnical and racial culture of this country. He will agree with me that we have got innumerable races, various cultures and different ethnical groups living in our country, within the bounds of our country. So, any actions against these things also will be very much harmful for the unity and integrity of the country.

Then, we have tried to define 'unity'. When we are trying to define 'unity and integrity', it is essential to add the words 'cultural, historical and ethnical' so that the definition is made a little more precise. In this connection, I would like to give one or two examples. Last year in certain parts of the country effigies of the mythological characters such as Ramachandra and other Mahabharata characters, were burnt. This comes under the cultural integrity. Do we want to permit such things? This is the thing which aggravates the situation in the country, which affects the people and their emotions. Similarly, when a certain

cultural group feels insecure, the anti-national activities will be on the increase. That is why I say that these words should be added in the definition of 'integrity'.

I have got two amendments in this clause and I am speaking simultaneously on both the amendments. The other amendment is also under the Definition clause. On page 3 of the Bill, under sub-clause (4)(c) of clause 5, "anti-national association" has been defined. In the Bill it reads:

"(c) 'anti-national association' means an association—

(i) which has for its object any anti-national activity."

Here, I have said that the words "anti-social" should be added.

Again in its sub-clauses (ii) and (iii) I have said that the words "anti-social" should be added. Both these words "anti-social and anti-national" will explain that these are the activities relating to cultural, historical and ethnical importance. In case, my previous amendment, that is, cultural, historical and ethnical integrity of this country, is accepted and is added in this Bill, then of course, the subsequent amendment of mine is not necessary. But if this cannot be included here, then it is important and my earnest request to the hon. Law Minister would be that at least these words should be added. Otherwise, it will always remain incomplete. The anti-social activities will go on the increase. Actually, this was the basic reason why in this country we had to impose emergency. Time and again, we have witnessed anti-national activities, anti-social activities against the cultural integrity of the country, against the ethnical interest of the country and that is the reason why it became imperative for this Government to impose for this much against its wish to do so. It is not as if we want this emergency to perpetuate, but these were the reasons for imposing the emergency. And if we want to avoid it and if we want to take care of these things, it is essen-

tial that we must define "integrity of the country" also and at the same time add "anti-social elements" also at the end of "anti-national activities". If that is done, then it will take care of the overall picture that is in the mind of the framers of this Bill.

Thank you, Sir.

SHRI KRISHNARAO NARAYAN DHULAP: Sir, in clause 4(b) "anti-national activity" has been defined. We have no quarrel with the definition given in clauses 1, 2, 3, 4, 5 and 6. Only certain points must be cleared and some explanation must be added by the Government to make the whole thing clear. I have given my amendment to delete the words "or the disruption of public services" in sub-clause (4). Sir, the words "public services" have not been defined in the amending Bill. They might have been defined in some other Act. But the Judges, being what they are and as we know them, will go by the letters of the clause concerned. And every activity under the Government or a local body will be covered by the words "public services"; railways, water supply, electric supply, food supply, food production, sanitary services—everything under the sun—can be covered under the words "public services" and so, Sir, it is going to have a very adverse effect. Not only that. Practically the right to strike will be wiped out. Whatever has been achieved by the workers by their sacrifices for years together, by their struggle will be wiped out. Because of these words, every strike will be treated as anti-national, curbs will be put on it and workers' hard earned right will be jeopardized. Therefore, my suggestion is, as a matter of fact, the whole clause 5 is redundant, unnecessary and uncalled for because all these things are covered under the provisions of the Indian Penal Code. But if you want to highlight these activities so that people should take note of these things, as they are enshrined in the Constitution itself, I have no quarrel with that but these words should go. Otherwise, whatever has been achieved by the workers, fighting continuously for their

[Shri K. N. Dhulap.]

rights for years together, will be wiped out. Their strikes will be once for all banned and they will be debarred from resorting to gainful activities.

My second point, Sir, is regarding the whole clause itself which is before us. For example, the words "... threaten or disrupt harmony between different religious, racial, language or regional groups or castes or communities" are used. Sir, recently, Mr. Gokhale had been to Belgaum and I have read in the papers that he has promised to the Marathi-speaking people living there that he will put forth their case before the Prime Minister. That is an old, vexed issue which has been there since the States were reorganised on the linguistic basis. That dispute is still a problem; it has been hanging fire for more than twenty-five years now. So, if those people agitate to put forth their views, naturally it will be construed as a threat to or disruption of harmony between people speaking different languages. So, if you want to put such restrictions on such activities, this issue should be solved. Therefore, it is high time that the Government should take note of such issues and solve them immediately or as early as possible. Otherwise, these things, such activities regarding border dispute problems will be treated as anti-national, the work of the people will suffer and ultimately the whole thing will take a different turn altogether. With these words, I put forth my amendment and I hope that the Minister will take into consideration what has been said by me.

SHRI JAGAN NATH BHARDWAJ: Sir, in lines 44-45, page 2, I have proposed an amendment to the effect that the word "unlawful" may be inserted before "disruption". I move this amendment because this is a fundamental or basic right of trade unions, and some trade unions in the country doubt that this right will be taken away from them, the right to strike. Therefore, I say that if the activities are unlawful, we have no objection to these being treated as anti-national. But there should be care enough to see

that the trade unions are allowed to carry on their lawful activities. Therefore, Sir, I suggest that to build up a state of confidence among the working classes, especially those who are working under the trade unions, this amendment may be accepted. That is all.

SHRI N. H. KUMBHARE: Sir, there can be no objection to the prevention and prohibition of anti-national activities. But my feeling is that activities which have been enumerated in different clauses are of a sweeping nature. I seek to amend clause 5(4) (iv), which reads as under:

"which is intended, or which is part of a scheme which is intended, to create internal disturbance or the disruption of public services;"

We can visualise a situation when the disruption and disturbance could be caused even when employees in public service take recourse to a strike which could otherwise be peaceful and legitimate. Therefore, I wanted to qualify it. I wanted to make an amendment to the effect that the restriction should be there if disruption is caused through planned sabotage or violence, provided that the internal disturbance or disruption of public service will not be construed as such if it is caused on account of strike or peaceful or lawful agitation to secure better conditions of service. My other friends who have spoken earlier have supported this. I suppose there is a legitimate apprehension in the minds of the employees that this clause which is very wide in terms may cover an activity which could otherwise be, as I said earlier, a peaceful and legitimate activity.

Now, let us refer to article 19 of the Constitution, which gives freedom of association, which gives freedom to form unions. According to this and the laws of the land, the labour laws, the unions have been given the right to go on strike. In the event their legitimate claims are not conceded and they go on strike and the effect is that it causes disruption, I think the persons who have given a call to strike would certainly be covered by the present

provision. Therefore, my submission is that the exception that I have made ought to have been there. I think this position has not been visualised while drafting this clause. (*Time bell Rings*)

The hon. Member very rightly has tried to bring into the Bill activities which disrupt harmony on the basis of religion, race, language, caste and community. Unfortunately in our country casteism has created innumerable problems and because of casteism there is so much of hatred against the lower castes. Therefore I have suggested that it should have a wider coverage, and that is important. I have said:

"Explanation. Harmony shall be deemed to have been threatened or disrupted if the right of reservation in services for Scheduled Castes and Scheduled Tribes is questioned or opposed by taking recourse to incitement leading to communal hatred."

Sir, as you know very well, the right of reservation is not an ordinary right, that right flows from the Constitution itself. But here is so much of resentment against reservation, and a section of the employees has gone to the extent of forming associations. I know of one association at Ludhiana styled as "Anti-Reservation Employees' Association". They say that reservation is basically wrong, it is discriminatory, it is unconstitutional, and they do so only because there is a conflict of interest. In fact, there is no conflict of interest. The whole idea is that this deprived section of the society should be afforded more opportunities in all spheres. I have also actually seen a representative of an association at Agra going on a hunger strike, demanding that reservation in the services should be withdrawn. Therefore, this has created a lot of heart-burning and the possibility of communal tension cannot be ruled out. So, let us impress upon them that this is the only provision which is somewhat helping this section of the

society. As you know, Sir, the Scheduled Castes and the Scheduled Tribes have no land, no opportunity for trade, they have no business, nothing of the kind. And their only hope is employment. And here also, a systematic effort is being made to see that this valuable right is taken away from them. Therefore, my submission is that if it is brought under anti-national activity, it will create a climate wherein those people who are indulging in this kind of activity are spoiling the atmosphere will feel scared.

My humble request to the hon. Minister is that both my suggestions should be incorporated. -

SHRI C. K. DAPHTARY: Mr. Vice-Chairman, I wish to say a few words on the amendments moved by my friend, Mr. Bhupesh Gupta. It is necessary, I feel, having regard to the very general way in which the new article 31D has been framed, particularly the definitions of 'anti-national activity', that there should be some body or court or some tribunal before which a person can go and be heard on the question whether his activity is, in fact, anti-national or not. I am afraid of these wide definitions because we know that definitions are very badly applied. Take the MISA. The MISA, as I have said before, is a limited Act for the security of the State and for the prevention of public Disturbance. Yet, it has been applied indiscriminately to all sorts of things. And the apprehension is that any law that will be passed in this regard, in regard to (a) and (b) of 31D, will be misapplied in the same way, particularly when I see that the section provides that until any law is made, the existing laws with reference to items (a) and (b) shall continue. One of the laws is MISA, it will be so construed, and the apprehension further is that any law which will be now made under this section will have the same characteristics as MISA. That is to say, it will be a law of preventive detention. Therefore, some forum is necessary where a person can agitate

[Shri K. C. Daphtary.]

the question whether he is, in fact, guilty of anti-national activity or not. The apprehension, I say, is correct because of the continuation of MISA and other laws in regard to (a) and (b) of 31D. And if that is so, Sir, then there can be no remedy at all. Extension of preventive detention is a thing to be fought against and striven against. The Swaran Singh Committee had put a clause at the end of this provision, if I remember aright, that any law may be made for penalising. If I am right, it was in the fundamental duties; I am not sure. But it said that the law should be one for penalising and not for preventing. So, here the definition should be more particular than it is now. And if it is not going to be made more particular, there must be in any event, whether it is made more particular or not, some remedy available to a person against whom the law is set in motion under this section.

SHRI H. R. GOKHALE: Sir, the apprehensions expressed by the hon. Members are not well founded. Firstly, by the adoption of this clause, the Government will have no power to declare any activity as anti-national. It is obvious that a law will have to be passed, and that power to pass the law is only with Parliament, not with the State legislatures. That is made clear in the provision itself. Moreover when the law is passed, that law can certainly take care of such suggestions as the one, for example, Mr. Bhupesh Gupta has made in his amendment that there should be a tribunal. There can be, but that is a different matter which can be considered and provided for in that law itself. The existing provision here in sub-section (3), which refers to the present laws which will continue in force, is not a reference to MISA but it is a reference to the Prevention of Unlawful Activities Act which is now on the statute book. Therefore, it is the Prevention of Unlawful Activities Act which will continue till a law is made under the enabling provision contained in 31D. And all hon. Members have the right to speak about the law which will be brought before this House, and I am quite sure that all

these suggestions which are made here can be borne in mind and appropriate safeguards can be provided in the law which will be passed.

With regard to trade union activities, Sir, I do not wish to repeat, but I have said this morning, I have said in the other House, and so has the Prime Minister, that it is certainly not the intention of the Government nor is it contemplated that under this article 31D any law will provide for making the activities of a lawful, legitimate trade union illegal. Therefore, I would request hon. Members not to be apprehensive at this stage. The proper stage at which they can certainly make these suggestions again is when the legislation will be brought.

MR. DEPUTY CHAIRMAN: The question is:

130. "That at page 2, after line 16 the following proviso be inserted, namely:—

'Provided that any such law shall make specific provision for judicial review by a High Court Judge of any executive order or action taken under this law for declaring any association as anti-national.'"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

5. "That at page 2, after line 20, the following be inserted, namely:—

'(2A) Any law in respect of matters referred to in sub-clause (a) or sub-clause (b) shall provide for the determination of the question whether a particular individual or association is engaged in anti-national activity by an independent tribunal with the right to appeal to the Supreme Court guaranteed' "

7. "That at page 2, in lines 38 and 39, the words 'or the security of the State or the unity of the nation' be deleted."

8. "That at page 2, for lines 40 to 42, the following be substituted, namely:—

'(iii) which is intended to overthrow the Government by law established by anti-democratic and violent means.'

9. "That at page 2, lines 43 to 45 be deleted."

Those in favour may please say "Aye".

SOME HON. MEMBERS: Aye.

MR. DEPUTY CHAIRMAN: Those against may please say "No".

SOME HON. MEMBERS: No.

MR. DEPUTY CHAIRMAN: I think the "Noes" have it....

SHRI BHUPESH GUPTA: The "Ayes" have it. Let us have a division. Amendments should be put to vote separately. We shall support our amendments and we shall oppose their amendments.

MR. DEPUTY CHAIRMAN: The question is:

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'(2A) Any law in respect of matters referred to in sub-clause (a) or sub-clause (b) shall provide for the determination of the question whether a particular individual or association is engaged in anti-national activity by an independent tribunal with the right to appeal to the Supreme Court guaranteed.'

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'(iii) which is intended to overthrow the Government by law established by anti-democratic and violent means.'

9. "That at page 2, lines 43 to 45 be deleted."

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—14; Noes—105.

976 RS—3.

AYES—14

Ahmad, Dr. Z. A.

Anand, Shri Jagjit Singh

Bhola Prasad, Shri

Deb Burman, Shri Bir Chandra

Dhulap, Shri Krishnarao Narayan

Gowda, Shri V. K. Lakshmana

Gupta, Shri Bhupesh

Kumaran, Shri S.

Mahapatro, Shri Lakshmana

Raha, Shri Sanat Kumar

Roy, Shri Kalyan

Sharma, Shri Yogendra

Sinha, Shri Indradeep

Swaminathan, Shri V. V.

NOES—105

Abid, Shri Kasim Ali

Adivarekar, Shrimati Sushila Shankar

Amarjit Kaur, Shrimati

Amjad Ali, Shri Sardar

Anandam, Shri M.

Antulay, Shri A. R.

Arif, Shri Mohammed Usman

Banerjee, Shri Jaharlal

Bansi Lal, Shri

Basar, Shri Todak

Bhardwaj, Shri Jagan Nath

Bhupender Singh, Shri

Bisi, Shri Pramatha Nath

Bose, Shrimati Pratima

Buragohain, Shri Nabin Chandra

Chakrabarti, Dr. Rajat Kumar

Chanana, Shri Charanjit

Chandrasekhar, Shrimati Maragatham

Chaturvedi, Shrimati Vidyawati

Chaurasia, Shri Shiv Dayal Singh

Chettri, Shri Krishna Bahadur

Choudhury, Shri Nripati Ranjan

Chundawat, Shrimati Lakshmi Kumari

Das, Shri Bipinpal

Deshmukh, Shri Bapuraoji Marotraoji

Dhabe, Shri S. W.

7

Dinesh Chandra, Shri Swami
Dutt, Dr. V. P.
Dwivedi, Shri Devendra Nath
Goswami, Shri Sriman Prafulla
Habibullah, Shrimati Hamida
Hashmi, Shri Syed Ahmad
Himmat Singh, Shri
Joshi, Shri Jagdish
Joshi, Shri Krishna Nand
Joshi, Shrimati Kumudben Manishan-
ker
Kapur, Shri Yashpal
Kesri, Shri Sitaram
Khan, Shri F. M.
Khan, Shri Khurshed Alam
Khan, Shri Maqsood Ali
Khan, Shrimati Ushi
Khaparde, Shrimati Saroj
Kollur, Shri M. L.
Kripalani, Shri Krishna
Krishna, Shri M. R.
Kulkarni, Shrimati Sumitra G.
Kureel, Shri Piare Lall urf Piare Lall
Talib.
Lokesh Chandra, Dr.
Madhavan, Shri K. K.
Majhi, Shri C. P.
Malaviya, Shri Harsh Deo
Malik, Shri Syed Abdul
Mehta, Shri Om
Menon, Shrimati Leela Damodara
Mhaisekar, Shri Govindrao Ram-
chandra
Mirdha, Shri Ram Niwas
Misra, Shri Lokanath
Mishra, Mahendra Mohan
Mittal, Shri Sat Paul
Mondal, Shri Ahmad Hossain
Mukherjee, Shri Kafi
Mukherjee, Shri Pranab
Mukhopadhyaya, Shrimati Purabi
Nanda, Shri Narasingha Prasad
Narasiah, Shri H. S.

Nathi Singh, Shri
Nizam-ud-Din, Shri Syed
Nural Hasan, Prof. S.
Parbhu Singh, Shri
Patil, Shri Gulabrao
Pradhan, Shrimati Saraswati
Prasad, Shri K. L. N.
Rai, Shri Kalap Nath
Rachaiah, Shri B.
Rahamathulla, Shri Mohammad
Raju, Shri V. B.
Ranbir Singh, Shri
Rao, Shrimati Rathnabai Sreenivasa
Ratan Kumari, Shrimati
Reddy, Shri R. Narasimha
Sahu, Shri Santosh Kumar
Saleem, Shri Mohammad Yunus
Saring, Shri Leonard Solomon
Savita Behen, Shrimati
Seyid Muhammad, Dr. V. A.
Shastri, Shri Bhola Paswan
Shyamkumari Devi, Shrimati
Singh, Shri Bhishma Narain
Singh, Shri Irengbam Tompok
Singh, Shri Mahendra Bahadur
Singh, Shrimati Pratibha
Singh, Dr. V. B.
Sisodia, Shri Sawaisingh
Soni, Shrimati Ambika
Sukhdev Prasad, Shri
Sultan Singh, Shri
Swu, Shri Scato
Thakur, Shri Gunanand
Tiwari Shri Shankarlal
Tripathi, Shri Kamlapati
Trivedi, Shri H. M.
Wajd, Shri Sikander Ali
Yadav, Shri Ramanand
Yadav, Shri Shyam Lal

The motion was negatived.

SHRIMATI SUMITRA G. KUL-
KARNI: Sir, I wish to withdraw my
amendments (No 6 and No. 14).

MR. DEPUTY CHAIRMAN: The question is:

"That leave be granted to the Mover to withdraw her amendments (No. 6 and No. 14)."

The motion was adopted.

The amendments (No. 6 and No. 14) were, by leave, withdrawn.*

MR. DEPUTY CHAIRMAN: The question is:

"That at page 2, lines 44.45, the words 'or the disruption of public service' be deleted."

The motion was negatived.

SHRI JAGAN NATH BHARDWAJ: Sir, I wish to withdraw my amendment (No. 11).

MR. DEPUTY CHAIRMAN: The question is:

"*That leave be granted to the Mover to withdraw his amendment (No. 11)."

The motion was adopted..

The amendment (No. 11) was, by leave, withdrawn.

The House reassembled after lunch at fifteen minutes past two of the clock, **Mr. Deputy Chairman** in the Chair.

Clause 6—(Insertion of new Article 32A)

MR. DEPUTY CHAIRMAN: We go to clause 6. Mr. Abdulla Koya. Amendment No. 15. But it is a negative amendment. It is barred. Then, we take up Amendment No. 16.

SHRI SANAT KUMAR RAHA (West Bengal): Sir, I beg to move:

†16. "That at page 3 line 14, after the words 'in such proceedings' the words 'or unless any State law goes against any principle laid down in

Part IV of the Constitution' be inserted"

The question was proposed.

SHRI SANAT KUMAR RAHA: Sir, hereby a new clause, clause 32A, has been provided. Sir, the clause as it stands is like this:

"Notwithstanding anything in article 32, the Supreme Court shall not consider the constitutional validity of any State law in any proceedings under that article unless the constitutional validity of any Central law is also in issue in such proceedings."

Sir, in this case it is not sufficient enough to show that we want the Central laws should also be justiciable or non-justiciable. It should be specifically clarified by the amendment which I have given. Part IV has Directive Principles and States are guided by Directive Principles. They have got precedence over the Fundamental Rights. So I think that for the sake of justice we should make it clear and specific that Central laws should also be scrutinised by the Supreme Court. Only the constitutional validity is not concerned, but it is also necessary when State laws go against the very principles laid down in Part IV. We are giving priority and precedence to Fundamental Rights. I think this should be taken into consideration. It is a minor amendment, so that the Central laws, if they do not go against the Directive Principles should also be not justiciable by the court, but the Supreme Court must think that State laws when they go against the principles, are justiciable. The Supreme Court shall not consider the constitutional validity of any State laws unless they go against any principles laid down in Part IV of the Constitution.

*For text of amendments vide cols...supra.

†(The amendment also stood in the name of Shri Bhupesh Gupta, Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Birchandra Deb Burman and Shri Lakshmana Mahapatra).

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V. A. SEYID MUHAMMAD): The whole scheme is that the Central laws will be challengeable only in the Supreme Court and the State laws will be challengeable in the High Courts. So far as Central as well as State laws are involved in the same case they will be challenged in the Supreme Court. This proposed amendment actually upsets the entire scheme. Apart from that, there is another reason. Article 37 specifically states that the Directive Principles shall not be justiciable before a court of law. If we accept the amendment, the Directive Principles will become justiciable. That is not the intention altogether. Another difficulty is this: Who will decide that the State Law is against or violates the Directive Principles? There must be some authority. That authority will obviously be the High Court to start with in order to determine that a State law is against the Directive Principles. Then it comes to the Supreme Court. For this reason, it is not acceptable.

MR. DEPUTY CHAIRMAN: The question is:

16. "That at page 3, line 14, after the words 'in such proceedings', the words 'or unless any State law goes against any principle laid down in Part IV of the Constitution' be inserted."

The motion was negatived.

Clause 7—(Amendment of article 39)

SHRI N. H. KUMBHARE: Sir, 1 move:

17. "That at page 3, for clause 7, the following clause be substituted, namely:—

"7. For article 39 of the Constitution, the following article shall be substituted, namely:

39. The State shall in particular direct its policy towards securing—

(a) Citizen's economic and social status shall be determined by labour and the results of labour on the basis of equal rights and responsibilities.

(b) The State through suitable legislative measures shall prevent concentration of wealth and means of production in the hands of an individual by formulating national policy and fixing ceiling on properties, income and expenditure.

(c) The State shall formulate National Wage Policy and give a frame-work so as to regulate earnings of the employed persons and shall further declare the National Minimum Wage below which no worker shall be paid.

(d) The State shall take steps to survey and locate the public places to which the citizen has no access on the ground of untouchability and it will be the endeavour of the State to create condition to facilitate exercise of the right of a citizen to have access to the public place.

(e) The State shall acquire subsisting right in Agricultural land held by the private individuals and the agriculture industry will be organised by dividing the land into collective farms for cultivation by residents of the village, so that, there will be no landlord, no tenants and no landless labour and it will be the obligation of the State to finance the cultivation and the State shall be entitled to penalise the worker who wilfully neglects to make the best use of the means of cultivation offered by the State or otherwise acts prejudicially to the scheme of collective farming."

SHRI BHUPESH GUPTA: Sir, I move:

*18. "That at page 3 for the existing clause 7, the following be substituted, namely:—

"7. For article 39 of the Constitution, the following article shall be substituted, namely:—

39. The State shall, in particular, direct its policy towards securing—

(a) that the citizens, men and women equally shall be ensured the right to work and an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community including the principal means of production, distribution and exchange, shall be owned and managed, by the State so as to put the State firmly on the road of social progress;

(c) the concentration of ownership of land in the hands of rich landed gentry is eliminated and distribution of land to the tiller ensured and voluntary production co-operatives of self-cultivating farmers and large scale State farms are established;

(d) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(e) that there is equal pay for equal work for both men and women; and

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood

and youth are protected against exploitation and against moral and material abandonment, and are assured of adequate facilities for training in sports and pursuing cultural activities'."

SHRIMATI SUMITRA G. KULKARNI: Sir, I move:

19. "That at page 3, line 17, for the words, 'given opportunities' the words 'given equal opportunities' be substituted."

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I move:

20. "That at page 3, after line 20, the following be inserted, namely:—

'(g) that population is controlled through family planning and other suitable measures'."

SHRI SYED AHMAD HASHMI (Uttar Pradesh): Sir, I move:

131. "That at page 3, after line 20, the following be inserted, namely:—

'(g) that the minorities are uplifted economically, socially and educationally and provided job opportunities in the States as well as in Public and Private Sector Undertakings and their lives and properties are protected and preserved and the officials and authorities concerned found responsible for not enforcing this security are sternly dealt with'."

The questions were proposed.

SHRI N. H. KUMBHARE: Sir, I want some matters to be incorporated in the Directive Principles of State Policy. It says:

"The State shall in particular direct its policy towards securing—

(a) Citizen's economic and social status shall be determined by

*The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman and Shri Lakshmana Mahapatro.

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[Shri N. H. Kumbhare]

labour and the results of labour on the basis of equal rights and responsibilities.

(b) The State through suitable legislative measures shall prevent concentration of wealth and means of production in the hands of an individual by formulating national policy and fixing ceiling on properties, income and expenditure.

(c) The State shall formulate National Wage Policy and give a frame-work so as to regulate earnings of the employed persons and shall further declare the National Minimum Wage below which no worker shall be paid.

(d) The State shall take steps to survey and locate the public places to which the citizen has no access on the ground of untouchability and it will be the endeavour of the State to create condition to facilitate exercise of the right of a citizen to have access to the public place.

(e) The State shall acquire subsisting right in Agricultural land held by the private individuals and the agriculture industry will be organised by dividing the land into collective farms for cultivation by residents of the village, so that, there will be no landlord, no tenants and no landless labour and it will be the obligation of the State to finance the cultivation and the State shall be entitled to penalise the worker who wilfully neglects to make the best use of the means of cultivation offered by the State or otherwise acts prejudicially to the scheme of collective farming."

Sir, when we have placed 'socialism' in the Preamble, you would agree with me that it really casts a heavy responsibility on the State. 'Socialism' should not be something like ornamental just to show off. But hence-

forth, the Government will have to direct its policies so as to secure socialism in the real sense. Now, there may be a little controversy over the concept of socialism and how socialism could be achieved. But there are certain matters over which I do not suppose there can be any controversy as such. When we have put socialism in the Preamble, we will have to see that our policy of socialism is promoted and strengthened and nothing is done by executive or administrative action by which our concept of socialism is undermined. What is socialism, after all? In the first place, there should be no exploitation. Sir, I will give one example. Suppose I am working as a landless labourer and I am being paid Rs. 2 per day. Now, in the context of high cost of living, for my bare subsistence I am eligible for Rs. 5 and because I have no bargaining capacity and because I know that if I do not work there, I have no other alternative but to starve, and if I work for Rs. 2, it is nothing short of exploitation. Sir, through you, I pose a question to the Government: Have they taken steps to see that at least this sort of exploitation, apart from doing something for the welfare of the workers, is stopped? Could the Government be able, even after 26 years of independence, to stop this exploitation? I don't think the Government could say that they had done so. They have not been able to stop the exploitation. Let us forget the private employer. I can speak about the Government undertakings. (*Times bell Rings*). Sir, I have not started my arguments yet.

MR. DEPUTY CHAIRMAN: Mr. Kumbhare, you have already taken seven minutes.

SHRI N. H. KUMBHARE: Sir, we have to bring socialism. Can it be done in two minutes?

MR. DEPUTY CHAIRMAN: We can also speak for years on socialism. And Mr. Kumbhare, I may tell you that I have been a socialist all these

years and I am still to really grasp what is meant by socialism.

SHRI N. H. KUMBHARE: Sir, my submission is that I should be allowed to make a reference to some of the amendments.

Sir, I can give you a concrete example of a Government department. There a regular employee is being paid Rs. 9 and a worker who is branded as a casual labour and doing the same type of work for years together is being paid Rs. 4. Is this socialism? Therefore, Sir, my submission is that the Government will have to take care of this and see as to what should be done.

Sir, I will now switch over to other subjects which I mentioned in my amendments. One relates to untouchability. It is true that under the Constitution, untouchability has been abolished and the practice of untouchability in any form has been totally forbidden and there is no doubt about it.

SHRI KRISHNARAO NARAYAN DHULAP: On paper only.

SHRI N. H. KUMBHARE: I partly agree with you. Sir, if you go to a village and in that village if the well happens to be located at a place where the dominant caste or the caste Hindus live, a Scheduled Caste person, though he knows that he has a right to go and fetch water, he does not go there. And if he tries to assert his rights there is a lot of protest. So he does not muster courage to go there with the result that....

SHRI HAMID ALI SCHAMNAD: Is it because of inferiority complex?

SHRI N. H. KUMBHARE: No, not in the least.

MR. DEPUTY CHAIRMAN: Mr. Schamnad, you better not interrupt him. He has already taken so much of time. If you start interrupting him, he will take more time.

SHRI N. H. KUMBHARE: Because they are in a minority and because they are backward, even though they know that they have got a right to go and fetch water, they have no courage to do so. So, there should be some duty cast on the State to intervene in such matters. My submission is that we can certainly draw up a scheme by which a Government agency can go and try to bring about conciliation between the parties and ensure that that public place is accessible to all the Scheduled Caste people. This is another suggestion which I wanted to be incorporated in the Directive Principles so that we can wipe out this untouchability for all time to come.

Then, Sir, as regards the wage policy, I know that the other day the Prime Minister in one of her public speeches said that we should formulate some sort of a national wage policy so that this disparity in the wage structure would be done away with and she said that she has been saying this thing for the last two years. It is really a matter of regret that even when the Prime Minister is so vocal about certain important matters of national interest, where a labourer will be benefited and where there will be a fair deal to everybody, there is total failure on the part of the executive Government to take suitable steps. Therefore, my suggestion is that a Constitutional duty should be cast on the Government and the moment this is adopted the first thing that the Government will have to do is to formulate a national wage policy where we will be able to do away with the disparities. These are some of my suggestions and I urge upon the House that they may be accepted.

MR. DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, do you want to speak?

SHRI BHUPESH GUPTA: I will only speak on some aspects of these amendments. On others Mr. Anand and Mr. Raha will speak.

MR. DEPUTY CHAIRMAN: You cannot have two or three Members to speak on the same amendment.

They can speak on some other amendments. You speak on this amendment.

SHRI BHUPESH GUPTA: Everybody is given a right to speak, if you kindly allow it. Sir, let it not be thought that even voices have been stifled. Enough has been done, no more of it. Nothing will be lost.

Sir, these amendments relate to the Directive Principles. Now, as you know the Constitution Amendment Bill has touched the Directive Principles and added certain things to it. Broadly speaking, in so far as they come, they are to be welcomed. Our problem has been that the Directive Principles are not implemented. There was one obstacle which we are removing, the obstacle coming from the Judiciary, when they interpreted that the Directive Principles must give way to the Fundamental Rights, in other words, that the Fundamental Rights must prevail over the Directive Principles in the event of a conflict. That position we are removing. We are accepting today after so many years the proposal that Shri B. N. Rau made in the Constituent Assembly that in the event of a conflict between the Directive Principles and the Fundamental Rights, the Directive Principles shall prevail. That suggestion was rejected by the Constituent Assembly. In this House repeatedly over the years we had been suggesting and proposing that the Directive Principles should have supremacy over the Fundamental Rights. The Government at long last accepted this position and we have naturally reason to be happy about it and no hesitation in supporting it. Now, Sir, let us be frank about it. Is it only because of the Supreme Court that the Directive Principles have not been implemented? No. The Supreme Court has certainly come in the way of implementation of the Directive

Principles, or for that matter, the High Courts especially, taking recourse to article 226. They have come in the way of implementation of Directive Principles. But, that is not all. What, for example, prevented the Government from implementing the Directive Principle with regard to compulsory primary education? There are many other provisions in the Directive Principles which the Government could have implemented. They have not done it because the policies of the Government come in the way of implementation of the Directive Principles. Let it be frankly stated today that if many of the Directive Principles have not been implemented or inadequately implemented, responsibility for this lies not only with the Supreme Court in its own sphere of judicial decisions but also with the Government and the executive. This must be frankly admitted. Honesty demands that we admit it; otherwise, people will think for all our legitimate criticism against the Supreme Court and the judiciary that we are making a scapegoat of this institution. Take for example the Directive Principle under article 39(c) which says:

"that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;"

May I know, Sir, whether Government is not responsible for the violation of this Directive Principle? How could the Birlas, the Tatas and the 75 monopoly houses in the country could grow? They have been pampered by the policy of the Government, by public financial institutions and otherwise. Is it not a fact today that even now when we are passing this Constitution (Forty-fourth Amendment) Bill, the monopolists are getting concessions and Mr. Birla has declared that they had never had it so good as they have now during the emergency. Sir, these things, the concessions that have been given and

the patronage that is being showered on Mr. K. K. Birla and others contradict not only what we are suggesting but even the existing provisions of the unamended Constitution. Therefore, Sir, let us be very frank that the Directive Principles will never be thoroughly implemented if the Government does not bring about necessary changes in its policies and does not adopt an attitude in order to curb the vested interests, especially the monopolists and others. These concessions to the monopolists do not sit well with either the amendments that you have suggested or the existing Principles. Let us frankly admit on this solemn occasion our own failure to the nature, our own mistakes to the nation. I have made some concrete suggestions to this clause. What I have suggested is this:

“(a) that the citizens, men and women, equally shall be ensured the right to work and an adequate means of livelihood;”

Sir, having inscribed in our Constitution the goal of socialism, it stands to reason that we inscribe this also in our Directive Principles rather than trotting out some mere platitudes and sentiments which do not mean much, in the absence of a very concrete enunciation of the task and the fulfilment of the task.

Sir, here again, I have suggested:

“(b) that the ownership and control of the material resources of the community, including the principal means of production, distribution and exchange, shall be owned and managed by the State so as to put the State firmly on the road of social progress;”

According to the goal we have set before ourselves under our Preamble. I have suggested:

“(c) the concentration of ownership of land in the hands of rich landed gentry is eliminated and distribution of land to the tiller

ensured and voluntary production co-operatives of self-cultivating farmers and large scale State farms are established;”

“(d) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;”

“(e) that there is equal pay for equal work for both men and women;”

The other point will be dealt with by Comrade Anand. This I have suggested and there is an amendment here about population control through the family-planning and other suitable measures. In this connection, I would say only this. You have not included this thing in the Directive Principles. Let it be stated clearly that population control should be carried out through measures which are not coercive and that there will be no compulsions of the type which are being indulged in. What has happened in Muzaffarnagar, not very far from here, is a matter of shame and causes us very great anxiety when we come to know such things. Many people had been shot and such things are happening in the country. The Prime Minister herself has rightly said that coercion is not the policy. But is it not a fact that coercion is being practised? Is it not being practised in some parts of the country—I do not say in all parts of the country—by some Governments? Is it not a fact the Magistrate or the Divisional Commissioner of Muzaffarnagar had to be transferred because of the manner in which he behaved in enforcing family planning? Who does not know that this gentleman was saying that he was the goonda and the magistrate both? Such things are happening. We should be careful. Family planning must be pursued through voluntary methods, through education and enlightenment. We can do so. We stand for family planning. But ‘population control’ is the better term which should be used. Somebody may like to plan

[Bhupesh Gupta.]

his family by enlarging the size. I do not know what do you mean by 'planning'. The better term is 'population control'. In a country like ours this is very very essential and we cannot achieve the objective unless we proceed on a very democratic basis. I demand the reconsideration of the manner in which the family planning programme is being implemented in some parts of the country. I would ask, during this Session, a discussion on this subject so that we can bring our own wisdom to bear on this subject in order to evolve a democratic family planning programme which would be acceptable to all, and will at the same time rule out coercion. Let it be said by the Prime Minister and others that anybody found guilty of using coercion or repression in regard to family planning would be liable for exemplary punishment under the law. If necessary, let us enact a law here on this subject. These are some of the suggestions I have made on this particular clause relating to the Directive Principles. Other things will follow.

I do maintain that when you are amending this Chapter on Directive Principles, you should put it in such a manner as to give a proper direction for the fundamental governance of the State which the Directive Principles are meant for and you should not leave things vague. We should remember the fact that despite the Directive Principles and the provision under article 39 (c), the Tatas, the Birlas and the other monopoly houses have grown to menacing proportions. Before Independence, Mr. G. D. Birla and his family had Rs. 50 crores worth of assets under their control. Today, they have nearly Rs. 600 crores worth of assets under their control. The Tatas and the Birlas, the two big giants did not have, before Independence, even Rs. 200 crores worth of assets in their possession. Today, between them,

two families only, they have nearly Rs. 1500 crores worth of assets under their control. This only shows how the Directive Principles have been violated. Who is responsible for it? Only the judiciary? Yes, judiciary has come to their rescue. We are dealing with the judiciary now. But who will deal with us? Who will deal with the Government in particular? Who will deal with the Government policies which give concessions right now, under the Emergency, to the monopolists and others, the monopolists who attack the workers, the monopolists who plunder, the monopolists who deny bonus to the workers and adopt other repressive measures? The monopolists are allowed to do all this by the Government which is patently not only anti-working class, if I may say so, but also, to some extent, anti-national. I would like to know, who will ensure the implementation of the Directive Principles against such acts. Therefore, be a little self-critical when you are amending the Constitution. You add to your credibility. We are all responsible. I include all of you. I do not claim any special privilege here. Let us tell the nation. We, in Parliament, and those who are in the Government, have our share of the responsibility for the fact that the Directive Principles had not been implemented. This is not only because of the obstacles created by the judiciary, but this is also because of the policies of the Government. Let us make a commitment here, as we proceed with the passage of this Bill, that such policies which hit the interests of the masses and which are against the spirit of the Directive Principles will be given up and abandoned, as we have abandoned some other things through this Bill for the purpose of promoting the social objectives which we have set before us.

श्रीमती सुमित्रा जी० कुलकर्णी : ३५-

समापति महोदय, कलाज-7 के 'च' में जो लिखा हुआ है कि 'बालकों को, स्वतन्त्र

और गरिमामय वातावरण में स्वस्थ विकास के लिए अवसर पर सुविधाएँ दी जाएँ और बालकों और अल्पवय्य व्यक्तियों की शोषण से तथा नैतिक और आर्थिक परित्याग से रक्षा की जाए' इसमें मेरा संशोधन है और बहुत छोटा सा संशोधन है और वह है 'सब बालकों को' (कुछ बालकों को नहीं मगर सब बालकों को) स्वतन्त्र और गरिमामय वातावरण में स्वस्थ विकास के समान अवसर और सुविधाएँ दी जाएँ। मैं दो शब्द जोड़ रही हूँ एक तो 'सब' और दूसरा 'समान'। यह मैंने इसलिये जोड़ा है कि ताकि सब बालकों को समान अवसर और सुविधाएँ प्राप्त हों।

श्रीमन्, इस संशोधन के बारे में मुझे सदन के समक्ष कुछ अपने विचार रखने हैं। ये दोनों शब्द बहुत छोटे से शब्द हैं। हम सब जानते हैं कि 'सब' केवल दो अक्षरों से बना है और 'समान' तीन अक्षरों से मिलकर बना है। वास्तव में कोई भी पूछ सकता है कि इतने छोटे से संशोधन की क्या विशेषता है। मैं बताना चाहती हूँ कि इसमें सब बच्चों के लिये समान सुविधाएँ प्राप्त होना निहित है।

मेरा आपसे सामने और इस सदन के सामने अत्यन्त नम्रतापूर्वक निवेदन है कि अगर प्रजातंत्र की आत्मा कहीं पर भी बचती है तो वह इस 'समान' और 'सब' शब्द में बचती है। जब तक प्रजातंत्र में 'सब' शब्द का समावेश नहीं होगा तब तक प्रजातंत्र वस्तुतः रह नहीं पायेगी। उसी प्रकार से समाजवाद की चेतना को अगर हमें उठाना है तो इस 'समान' शब्द को रखना होगा। समाजवाद अगर कहीं है तो वह इस 'समान' शब्द में निहित है। श्रीमन्, जब तक हम 'समान' शब्द को स्थापित नहीं करेंगे तब तक हम समाजवाद नहीं ला सकते हैं। पिछले 10-15 दिन से दूसरे सदन में और 4 दिन से इस सदन में और आज सुबह से हम समाजवाद की चर्चा कर रहे हैं। अगर हम समाजवाद चाहते हैं तो जब तक हम यह 'समान' शब्द नहीं लायेंगे

तब तक हमारा समाजवाद अपूर्ण ही रहेगा। उसकी जो मंजिल है वह अभी ही रह जायेगी वास्तव में वह कोई चीज नहीं रहेगी। श्रीमन्, फ्रैंच रेवील्यूशन के समय में भी समान अधिकार को माना गया। इसलिये जब तक इन शब्दों का हम सम्मान नहीं करते हैं तब तक हम समाजवाद की स्थापना नहीं कर सकते। संक्षेप में मुझे आपसे यह कहना है कि बच्चों के बारे में हम ये शब्द क्यों नहीं जोड़ देते। हमारे बच्चों ने कौनसा ऐसा अपराध कर लिया जिससे हम उन्हें इन शब्दों से वंचित करें। सबसे बड़ी चीज जो इस देश में समाजवाद पर कुठारघात करती है, प्रत्याघात करती है वह है इस देश की शिक्षण संस्थाएँ। दिल्ली शहर में, बम्बई शहर में, कलकत्ता शहर में एक से एक ऊँची अट्टालिकाओं में रहने वाले बच्चे एक से एक अच्छे स्कूल में जाते हैं और उन्हें प्रत्येक तरह की सुविधाएँ, जो कि उन्हें घर में भी नहीं मिलती हैं वहाँ स्कूलों में मिलती हैं। दूसरी तरफ़ आप गांवों में जाइये। आप देखेंगे कि वहाँ पर बच्चे खुले में पढ़ते हैं। एक कमरे के अन्दर तीन-तीन क्लासे पढ़ाई जाती हैं। एक कमरे में 50-50, 60-60 बच्चे बैठते हैं। उनको पढ़ाने की कोई सुविधा नहीं है, कोई व्यवस्था नहीं है। एक ही कमरे में पहली, दूसरी और तीसरी की कक्षाएँ लगती हैं। पढ़ाने वाला भी उनको क्या पढ़ायेगा। जब तक इस तरह की तकलीफें रहेंगी तब तक हम समाजवाद नहीं ला सकते। इसलिये मेरा यह आवश्यक है कि शिक्षा के मामले में और स्कूलों के मामले में यह बहुत जरूरी है कि हम समान अधिकार और समान सुविधाएँ दें (Time Bell Rings) श्रीमन्, इस विषय पर मैं बहुत कुछ कहना चाहूँगी क्योंकि यह बहुत गम्भीर और गहरा प्रश्न है।

MR. DEPUTY-CHAIRMAN: Now I want to make it clear that I will not give more than five minutes to each

[Mr. Deputy Chairman]

speaker because otherwise, we cannot complete the whole of the amendments by tomorrow.

श्रीमती सुमित्रा जी० कुलकर्णी : श्रीमान, मैं तीन मिनट आपके और लूंगी।

MR. DEPUTY CHAIRMAN: Yes, now you complete your speech in two minutes. I will give you another two minutes.

श्रीमती सुमित्रा जी० कुलकर्णी : आपके साथ मैं सहमत हूँ मगर यह गम्भीर प्रश्न है और इस पर अपने विचार रखना जरूरी है। मैं जानती हूँ कि सदन मेरे साथ सहमत होगा। अगर हम इसको मान लें तो मैं समझती हूँ कि सही मायने में हम समाजवाद ला सकते हैं। कल इस सदन में प्राइम मिनिस्टर ने बोलते हुये यह कहा कि हम पुनरुद्धार करना चाहते हैं।

जब हम अपने देश का पुनरुद्धार कर रहे हैं और देश को प्रगति के पथ पर आगे ले जा रहे ह तो हमें अपने बच्चों की तरफ भी ध्यान देना चाहिये। जब तक अपने देश के बच्चों की तरफ ध्यान नहीं दिया जाएगा तब तक हमारे देश का पुनरुद्धार नहीं हो सकता है। आज हमारे देश में तरह तरह के स्कूल चलाये जा रहे हैं। कोई भी आदमी स्कूल खोल लेता है क्योंकि स्कूल बड़ी सरलता से खोला जा सकता है। इसके लिये ज्यादा पैसे की जरूरत नहीं होती है। अहमदाबाद शहर में अनेक प्रकार के स्कूल चल रहे हैं और ऐसा प्रतीत होता है कि स्कूल खोलना लोगों का आर्थिक साधन बन गया है, आमदनी बनाने का एक जरिया बन गया है। ऐसी हालत में जब तक हम इस बिल में "समान" शब्द को नहीं डालेंगे तब तक संविधान की यह जो धारा है उसका वास्तविक उद्देश्य पूरा नहीं हो सकता है। मैं समझती हूँ कि इस बात से सब लोग सहमत होंगे। मैं पूछना चाहती हूँ कि केवल बच्चों के साथ ही स तरह का अन्याय क्यों किया जा रहा है?

आज जब हम संविधान में संशोधन करने जा रहे हैं तो हमें बच्चों के लिए विशेष सुविधायें प्रदान करने का प्रावधान करना चाहिये हमारे संविधान के आर्टिकल 16 में लिखा हुआ है—

"There shall be equality of opportunity for all citizens in matters relating to employment or appointment."

Now, Sir, this is a question of equality and of citizens.

मैं पूछना चाहती हूँ कि क्या हम अपने बच्चों के लिये यह छोटासा शब्द भी नहीं दे सकते हैं? आर्टिकल 16 में इक्वेलिटी शब्द का उपयोग किया गया है। मैं चाहती हूँ कि इसमें "ग्रैंड" शब्द जोड़ दिया जाये। 'सब' और 'समानता' ये दो शब्द हैं जिनको मैं जोड़ना चाहती हूँ। कोई भी ऐसा आदमी नहीं होगा जो अपने बच्चों की चिन्ता न करता हो। बच्चों के भविष्य के बारे में सबको चिन्ता होती है। मैं समझती हूँ कि ऐसे लोग हो सकते हैं जो देश के लिये चिन्ता न करते हों, लेकिन अपने बच्चों की चिन्ता सब करते हैं। व्यक्तिगत परिवार के प्रति सबको चिन्ता होती है। मैं विधि मंत्री जी से पूछना चाहती हूँ और मैं श्री नूरुलहसन साहब से भी पूछना चाहती थी, लेकिन वे इस वक्त यहां पर नहीं हैं, क्या वे लोग अपने पौत्र-पौत्रियों को इस प्रकार के स्कूलों में भेजना पसन्द करेंगे? इस लिये आज आवश्यकता इस बात की है कि बच्चों को भी समान अधिकार दिये जायें। मैं फिर विधि मंत्री जी से नम्र निवेदन करना चाहती हूँ कि वे इस विषय पर विशेष ध्यान दें और जो प्रस्ताव सदन के सामने रखा गया है उसको स्वीकार कर लें। जब तक हम इसको स्वीकार नहीं करेंगे तब तक हमारे देश में समाजवाद नहीं आ सकेगा।

SHRI KRISHNARAO NARAYAN DHULAP: Sir, the articles, from 36 to 51 are included in the Directive Principles of State Policy, and we are adding a few more to the list. Experience shows that in the Directive Principles of State Policy, some

assurance for a better life is given to the down-trodden, the underdog of the society in the country while the Fundamental Rights are given to persons who are rich, the propertied class, the vested interests. Sir, the assurances are there in the Directive Principles of State Policy. For example, the right to work is there in article 41. But nothing has been done by the State—either by the Central Government or the State Governments. Article 44 speaks about a uniform civil code; article 45 speaks of free and compulsory education to children up to the age of fourteen years and it has also been mentioned there that within ten years from the inception of the Constitution, every child up to the age of fourteen years will be given free and compulsory education. Now we are adding three more. But what is the use of going on adding all these things unless something is done about them? There should be some time limit that such and such a thing will be done within a particular period. Of course, in spite of there being such a time-limit in respect of providing free and compulsory education for all children up to the age of fourteen, the children from poorer classes do not have it. But, in spite of this I am saying that unless and until there is a time-limit, there is no use of adding to the list.

Particularly, in article 31C there is a proviso that all these principles in Chapter IV are not justiciable in the first instance. Under article 31C if any Act is passed by a State Legislature or the Central Government, nobody can go to the court to get things done which might have been promised in the Act passed under the Directive Principles of State Policy. This is something which should be taken note of. Unless and until the proviso to article 31C is removed, there is no use adding to the list which is already there. Sir, I am bringing this amendment before the House with a particular intention behind it. Population control was one of the recommendations of the Swaran

Singh Committee which was appointed by the Congress President, Shri D. K. Borooah, regarding the proposed amendments to the Constitution of India. In this book published by the All-India Congress Committee, on page 5, the recommendation is given like this:—

Paragraph 2. "But new directives should be included in article 39 to the following effect:

Family planning

(1) The State shall direct its policy towards securing population control through family planning and other suitable measures."

This was the recommendation of the Swaran Singh Committee. I want to know why it has been dropped. Sir, there has been some provision made in the amending Bill, and that is, on page 19 of the Bill, the Concurrent List has been amended. In the Concurrent List, this has been added—"20A. Population control and family planning". So, instead of bringing in this amendment in the Directive Principles of State Policy, the Government has come with an amendment to the Concurrent List. It is very obvious, Sir, that if it is brought under the Directive Principles of State Policy, then Government will have to make some law some day. Whether they are going to make law, there is no assurance whatsoever. Therefore, Sir, if this is a policy of the State, and if the Government feels that unless and until family planning is there, and population control is there, whatever achievements are there on social and economic fronts, they are not going to materialise, why have they not done it? Instead of bringing in some sort of legislation to that effect, threats are being given outside. The other day, the Youth Congress leader Sanjay Gandhi, who had been to Bombay and Poona, said categorically and unequivocally in his

[Shri Krishnarao Narayan]

speeches that unless and until family planning is resorted to, this country is not going to make any progress, and that those who are opposing it on any grounds whatsoever have no place in this country—they have place outside this country. This is what a big youth leader is saying outside. The Government has to take note of the things happening in the country. I do not know what came in the way of the Government accept whatever has been recommended by the Committee appointed by the Congress President.

With these words, I conclude.

شری سید احمد حاشمی : سر -

بہت ہی اہم اور بہت ہی اہم ہے امپلیمینٹ میں پیش کر رہا ہوں۔ یہ اسٹیٹ پالیسی کی ڈائریکٹو پرنسپلز میں پیج نمبر ۳ پر ۲۰ لائنوں کے بعد ہے۔ یہ امپلیمینٹ اس لحاظ سے بھی بہت اہم ہے کہ ابھی ہم جب کہ اپنے دستور میں امپلیمینٹ کر رہے ہیں تو اس کے پری ایمپل اس کی تمہید اور اس کے دیباچہ اس کے ضمیر اور جواز میں ہم نے مزید الفاظ کا اضافہ کیا ہے۔ اس میں سوشلزم اور سیکولرزم نے الفاظ کو بڑھایا ہے۔ سوشلزم کا تقاضہ یہ ہے کہ یہ سماجی اور معاشی انصاف لائے۔ اقتصادی طور پر وہ لوگ جو کہ گروے ہوئے ہیں۔ معاشی طور پر وہ لوگ جو پست ہیں وہ ایسی زندگی نہیں گزار رہے ہیں جیسی زندگی انہیں گزارنی چاہئے۔ سوشلزم نے الفاظ بڑھانے سے ہمارا مقصد ہے کہ ہم اس طرح سے ان کا دیولپمنٹ کریں اس طرح اس سیکشن کو اتھائوں

کہ وہ زندگی کی دوز میں دوسروں کے ساتھ برابر رہیں اور ان سے پیچھے نہ رہیں۔ چنانچہ یہی وجہ ہے کہ اس کا احساس اس کی فیملنگ نہ صرف یہاں ہمارے ملک کے دوسرے ذمہ دار بلکہ ہماری پرائم منسٹر بھی اس کی فیملنگ اور اس کا احساس کر رہی ہیں چنانچہ انہوں نے صوبائی حکومتوں کو گائڈ کیا ہے۔ اس بات کے لئے اقلیتوں اور ان لوگوں کو جن کو کہ ابھی تک اگلوں کا جاتا رہا ہے نظر انداز کیا جاتا رہا ہے ملک کی منصوبہ بندی کے اندر ان کو اس بات کا موقع دیا جائے اور ان کے ساتھ انصاف کیا جائے تاکہ وہ زندگی کی دوز میں دوسروں سے پیچھے نہ رہیں۔ لیکن ظاہر ہے کہ ہمارے ملک میں ایک تو وہ نیتی ہے ایک تو وہ پالیسی ہے جو ہماری ذمہ دار ملک کی کیبنٹ اور ہمارے ملک کی پرائم منسٹر ہوتی ہیں اور چلاتی ہیں لیکن بدقسمتی سے ایک نیتی اور ایک پالیسی وہ ہے جو ہمارے ملک میں ہماری لال فہتہ شاہی اور افسر شاہی کی ہے جو یہ نہیں چاہتی کہ اس ملک کے اندر ایک ایسا ماحول ایک ایسا وائٹاورن اور ایک ایسی شکل پیدا ہو جس سے ہر ایک کو سماجی طور پر سوشل طور پر اور معاشی طور پر انصاف ملے اور جسٹس ملے۔ یہی وجہ ہے کہ کئی اشورنسز

حکومت کی طرف سے ہوتے ہیں تو اس میں وہ بادشاہی قاتلے ہیں اور اس میں رکاوٹ قاتلے ہیں۔ میں سمجھتا ہوں کہ یہ اسمبلی منٹ جو میں پیش کر رہا ہوں اگر اس کو دستور کا ایک حصہ بنا دیا جائے تو وہ بے انصافی جو اب تک ہوتی رہی ہے وہ ختم ہو جائیگی۔ میں آپ کو مثال دونگا کہ مسلمان اس ملک میں ۱۱۰ پروسنت ہیں لیکن سروسٹیز کے اندر ملازمتوں کے اندر زندگی کے دوسرے شعبوں کے اندر ان کا پروپورشن ان کا تناسب دو فی صدی سے زیادہ نہیں پڑتا چاہے وہ سنٹرل سروسٹیز میں ہوں یا اسٹیٹ سروسٹیز میں ہوں۔ میں سمجھتا ہوں کہ اگر اس میں یہی شکل قائم رہے اور ہم اشرورنس لے کر یہ سمجھتے رہے کہ تمام ملک کے اندر ان اشرورنسٹیز کے مطابق کام ہوتے رہیں گے اور ہم مطمئن ہو گئے تو ہم سمجھتے ہیں کہ ہماری ذمہ داری پوری نہیں ہوئی یا نہیں ہو سکتی یہ اس وقت ہو سکتا ہے جب ہم اس کو اس طرح قیل کریں کہ واقعی اگر اس کے اندر کمی ہے اگر اس کے اندر کوئی کوتاہی ہے تو اس کے اوپر مناسب ایکشن ہو مناسب اس کا نوٹس لیا جائے اور اگر اس میں کوئی گلتی اور مجرم پایا جائے تو اسے سزا دی جائے۔ میں نے ابھی کہا سینیٹرل سروسٹیز سٹیٹ سروسٹیز کے بارے

میں۔ میں کہونگا کہ چونکہ سینیٹرل سروسٹیز کے اندر یا صوبائی ملازمت کے اندر ان کا تناسب کم ہوتا چلا جا رہا ہے اسی طرح انڈرٹیکنگس ہماری جو ہیں پرائیویٹ سیکٹر جو ہیں ان کے اندر بھی وہ تناسب اقلیتوں کا مسلمانوں کا کم ہوتا چلا جا رہا ہے اسی لئے یہ ضروری ہوگا کہ ہم اس دستور کے اندر اس دفعہ کو امپلیمینٹ کریں۔ ہم مثال کے طور پر ای۔سی۔چیز پیش کر دیں جس سے پرائیویٹ سیکٹر اور انڈرٹیکنگس میں بھی انہیں جگہ ملے ایسا کرنا ضروری ہے۔ میں الفاظ پیش کرتا ہوں اردو کے اندر اور انگریزی کے اندر کہ اقلیتوں کو اقتصادی تعلیمی اور سماجی طور پر اوپر اٹھایا جائے یہی ہمارے دستور کی منشا رہی ہے۔ حکومت نے بار بار اشرورنسٹیز دیئے ہیں کہ اقلیتوں کے معاملات میں کچھ رعایتیں دی جائیں اور پبلک سیکٹر اور سرکاری انڈرٹیکنگس میں ان کی آبادی کے تناسب کے مطابق ملازمت دی جائے۔ میں نے آپ سے عرض کیا کہ مسلمانوں کی آبادی ۱۱ پوزنٹ ۵ پروسنت ہے لیکن دو پروسنت سے زیادہ ان کو تناسب نہیں پڑتا۔ بلکہ آبادی کے تناسب کے متعلق ایمپلیمینٹ بعض موقعوں پر تو بالکل ہی زیر و پوائنٹ ہے اس طریقہ سے ان کے جان و مال کو پروٹیکٹ کیا جائے

حفاظت کی جائے اور جو افسوس جو حکام اس حفاظت کو مہیا نہ کرنے کے ذمہ دار پائے جائیں گے ان کے خلاف سخت کارروائی کی جائے۔ میں اس بات کو نوٹس میں لاؤں کہ آج ایمرجنسی میں چونکہ لا ایڈ آرڈر کی ذمہ داری مقامی حکام کے اوپر ڈال دی گئی ہے لہذا ایک کمیونل رائٹ نہیں ہوا اور نہ کوئی فساد ہوا۔ ظاہر ہے آج ایمرجنسی ہے کل کو نہیں رہے گی۔ اسی طرح اگر یہ ذمہ داری ڈال دی جائے مقامی حکام کے اوپر ضلع کے حکام کے اوپر کہ نہ صرف یہ لا ایڈ آرڈر بلکہ مائینٹیننس نے جان و مال اور ان کی ملکیت کی حفاظت کی ذمہ داری بھی تمہارے اوپر ہے۔ اگر تم اس حفاظت کی ذمہ داری کو پورا نہیں کر سکتے تو تم جواب دہ ہو گے۔ تم اس بات کے ذمہ دار ہو گے۔ میرے انگریزی میں یہ الفاظ ہیں۔

'that the minorities are uplifted economically, socially and educationally and provided job opportunities in the States as well as in Public and Private Sector Undertakings and their lives and properties are protected and preserved and the officials and authorities concerned found responsible for not enforcing this security are sternly dealt with.'

میں نے یہ بات اس لئے کہی کہ پچھلے کمیونل فسادات اور فوقہ وارانہ فسادات کی اگر تاریخ دیکھی

جائے تو معلوم ہوگا کہ بہت سے فسادات میں مقامی حکام انوارڈ رہے ہیں ملوث رہے ہیں ذمہ دار رہے ہیں۔ اگر مقامی حکام انوارڈ نہیں ہوتے تو وہ کمیونل رائٹس نہیں ہو سکتے تھے اگر وہ اپنی ذمہ داری پوری کرتے تو کبھی لا ایڈ آرڈر کو خطرہ پیش نہ ہوتا۔ (Time bell rings) محض اس بیک گراؤنگ کے اندر کہ ہماری منزل سماجی (سوشل) اور اکنامی جسٹس کی ہے ہم یہ چاہیں گے کہ ہندوستان کا ہر فرقہ اور طبقہ جو اب تک اگلوں کا جاتا رہا ہے اس دفعہ کے ذریعہ اس کی سماجی، معاشی امداد ہو۔ میں اس بات کا تقاضہ کروں گا کہ بہت سے موقعوں پر ہم نے کچھ ذاتوں کو کچھ برادریوں کو پچھوا مان کر ان کو کچھ پرائیویز دی ہیں کچھ مراعات دی ہیں لیکن مجھے افسوس کے ساتھ کہنا ہے کہ اس ملک کے اندر بہت سے ایسے سیکشن بھی ہیں جو مسلسل اگلوں کے لئے ہیں زندگی کی دوز میں وہ بہت پچھے ہیں لیکن محض اس لئے کہ وہ کسی اور مذہب سے تعلق رکھتے ہیں۔ میں مثال دوں گا گورکھپور کے اندر اگر کے اندر بہت سے مسلمان مہتر ہیں لیکن ان کو وہ پرائیویز اور سہولتیں میسر نہیں ہیں جو دوسری ذات شیڈولڈ کاسٹ، شیڈولڈ ٹرائبس جیسے پچھوے طبقہ کے لئے ہیں۔ میں یہ عرض کروں گا کہ یہ ضروری ہے کہ کذبہ کی آمدنی کے حساب سے تمام سہولتیں مراعات اور پرائیویز مہیا کی جانی چاہئیں ان الفاظ کے ساتھ میں نے جو یہ امپلیمنٹ پیش کیا ہے مجھے امید ہے یہ ہاؤس اس کو منظور کریگا۔

†[श्री संयव ग्रहमव हातासी : सर, बहुत ही आराम और बहुत ही ग्रहम एमेंडमेंट मैं पेश कर रहा हूँ। ये स्टेट पालिसी की डारेक्टिव प्रिंसिपल में पेज नम्बर 3 पर, 20 लाइनों के बाद है। यह एमेंडमेंट इस लिहाज से भी बहुत ग्रहम है कि अभी हम जब कि अपने दस्तूर में एमेंडमेंट कर रहे हैं तो इसके प्रीएम्बल इसकी तुमहीद और इसके दिवांवा, इसके जमीर और जवाज में हमने मजीद अल्फाज का अजाफा किया है। इसमें सोसलिज्म और सेक्योलरिज्म के अल्फाज को बढ़ाया है। सोशलज्म का तकाजा यह है कि यह समाजी और मुआशी इन्साफ लाये। इक्तासादी तौर पर वो लोग जो कि गिरे हुये हैं, मुआशी तौर पर वे लोग जो पस्त हैं वे ऐसी जिन्दगी नहीं गुजार रहे हैं जैसी जिन्दगी उन्हें गुजारनी चाहिये। सोशलज्म के अल्फाज बढ़ाने से हमारा मकसद है कि हम इस तरह से उनका डेवलपमेंट करें, इस तरह से उस सेक्शन को उठाये कि वे जिन्दगी की दौड़ में दूसरों के साथ बराबर रहें और उनसे पीछे न रहें। चुनांचे यही वजह है कि इसका एहसास, इसकी फीलिंग न सिर्फ यहां हमारे मुल्क के दूसरे जिम्मेदार बल्कि हमारी प्राइम मिनिस्टर भी इसकी फीलिंग और इसका अहसास कर रही हैं। चुनांचे उन्होंने सुवाई हकूमतों को गाइड किया है। इस बात के लिये अकलीयतों और उन लोगों को जिनको कि अभी तक इग्नोर किया जाता रहा है, नजर-अन्दाज किया जाता रहा है, मुल्क की मन-सुबाबन्दी के अन्दर उनको इस बात का मौका दिया जाये और इनके साथ इन्साफ किया जाये ताकि वो जिन्दगी की दौड़ में दूसरों से पीछे न रहें लेकिन जाहिर है कि हमारे मुल्क में एक तो वो नीति है; एक तो वो पालिसी है जो हमारी जिम्मे-दारी मुल्क की केबिनेट और हमारे मुल्क की प्राइम मिनिस्टर कहनी हैं और चलाती हैं लेकिन बदकिस्मती से एक नीति और एक

पालिसी वो है जो हमारे मुल्क में हमारी लाल-फीताशाही और अफसरशाही की है जो यह नहीं चाहती कि इस मुल्क के अन्दर एक ऐसा माहौल, एक ऐसा वातावरण और एक ऐसी शक्ल पैदा हो जिससे हरेक को समाजी तौर पर, सोशल तौर पर और मुआशी तौर पर इन्साफ मिले और जमाटे मिले, यही वजह है कि कई एण्योरेंसेज हकूमत की तरफ से होते हैं तो इसमें वो बाधा डालते हैं और उसमें रुकावट डालते हैं। मैं समझता हूँ कि अगर यह एमेंडमेंट जो मैं पेश कर रहा हूँ अगर इसको दस्तूर का एक हिस्सा बना दिया जाये तो वो बेइन्साफी जो अब तक होती रही है वो खत्म हो जायेगी। मैं आपको मिसाल दूंगा कि मुसलमान इस मुल्क में 11.5 परसेंट हैं लेकिन सर्विसेस के अन्दर मुताजमतों के अन्दर, जिन्दगी के दूसरे शोबों के अन्दर उनका प्रोपोरशन, उनका तनासब 2 फीसदी से ज्यादा नहीं पड़ता चाहे वो सेन्ट्रल सर्विसेज में हों या स्टेट सर्विसेज में हों। मैं समझता हूँ कि अगर इसमें यही शक्ल कायम रही और हम एण्योरेंस लेकर यह समझते रहे कि तमाम मुल्क के अन्दर उन एण्योरेंस के मुताबिक काम होते रहेंगे और हम मुतमैयन हो गये तो हम समझते हैं कि हमारी जिम्मेदारी पूरी नहीं हुई या नहीं हो सकती। ये उम वक्त हो सकता है जब हम उसको इस तरह डील करें कि वाकई अगर इसके अन्दर कमी है अगर इसके अन्दर कोई कोताई है तो इसके ऊपर मुनासिब ऐक्शन हो, मुनासिब इसका नोटिस दिया जाये और अगर इसमें कोई गिल्टी और मुजरिम पाया जाये तो उसे सजा दी जाये। मैंने अभी कहा सेन्ट्रल सर्विसेज और स्टेट सर्विसेज के ऊपर मैं। मैं कहूंगा कि चूकि सेन्ट्रल सर्विसेज के अन्दर या सुवाई मुलाजमत के अन्दर इनका तनासब कम होता चला जा रहा है। इसी तरह अंडरटेकिंग हमारी जो हैं, प्राइवेट सेक्टर जो हैं उनके अन्दर भी वह तनासब अकलीयतों का, मुसलमानों का कम होता चला जा रहा है इसलिए यह जरूरी होगा कि हम इस दस्तूर

[श्री सैयद अहमद हाशमी]

के अंदर इस दफा को एमेंड करें। हम मिसाल के तौर पर ऐसी चीज पेश कर दें जिससे प्राईवेट सेक्टर और अण्डरटेकिंग्स में भी उन्हें जगह मिले ऐसा करना जरूरी है। मैं अल्फाज पेश करता हूँ उर्दू के अन्दर और अंग्रेजी के अन्दर कि अकलियतों को इक्वतादी, तालीमी और समाजी तौर पर ऊपर उठाया जाये। ये हमारे दस्तूर की मनशा रही है। हकूमत ने बार बार एंशयोरेंस दिये हैं कि अकलियतों के मामलात में कुछ रियायतें दी जायें और पब्लिक सेक्टर और सरकारी अंडरटेकिंग्स में उनकी आबादी के तनासब के मुताबिक मुलाजमत दी जाये। मैंने आपसे अर्ज किया कि मुसलमानों की आबादी 11.5 परसेंट है लेकिन 2 परसेंट से ज्यादा उनको तनासब नहीं पड़ता। बल्कि आबादी के तनासब के मुतलिक एम्पलायमेंट बाज मौकों पर तो बिल्कुल ही जोरो प्वाइन्ट है। इस तरीके से उनकी जानो माल को प्रोटेक्ट किया जाये, हिफाजत की जाय और जो आफीसर्ज, जो हुक्काम इस हिफाजत को मुहैया न करने के जिम्मेदार पाये जायें उनके खिलाफ सख्त कार्यवाही की जाये। मैं इस बात को नोटिस में लाऊँ कि आज एमरजेंसी में क्योंकि ला-एण्ड-प्राइंडर की जिम्मेदारी मुकामी हुक्काम के ऊपर डाल दी गई है। लिहाजा एक कम्युनल रायट नहीं हुआ। और न कोई फिसाद हुआ। जाहिर है आज एमरजेंसी है। कल को नहीं रहेगी—अगर ये जिम्मेदारी डाल दी जाये मुकामी हुक्काम के ऊपर, जिला के हुक्काम के ऊपर कि न सिर्फ ये ला-एण्ड-प्राइंडर बल्कि मानोरिटिज के जानोमाल और उनकी मलकीयत के हिफाजती जिम्मेदारी भी तुम्हारे ऊपर है अगर तुम इस हिफाजत की जिम्मेदारी को पूरा नहीं कर सके तो तुम जवाबदेह होगे। तुम इस बात के जिम्मेदार होंगे। मेरे अंग्रेजी में यह अल्फाज है।

“that the minorities are uplifted economically, socially and educationally and provided job opportunities in the States as well as in

Public and Private Sector Undertakings and their lives and properties are protected and preserved and the officials and authorities concerned found responsible for not enforcing this security are sternly dealt with.”

मैंने यह बात इसलिए कही कि पिछले कम्युनल फसादात और फिरकादाराणा फसादात की अगर तारीखें देखी जाये तो मालूम हो कि बहुत से फसादात में मुकामी हुक्काम इनवाल्वड रहे हैं, मलौंस रहे हैं, जिम्मेदार रहे हैं। अगर मुकामी हुक्काम इनवाल्व नहीं होते तो वो कम्युनल राइट्स नहीं हो सकते थे। अगर वो अपनी जिम्मेदारी पूरी करते तो कभी ला-एण्ड-प्राइंडर को खतरा पेश न होता। ('Time Bell Rings.) महज इस ट्रैकग्राउंड के अन्दर कि हमारी मजिल समाजी (सोशल) और इक्नामी, जस्टिस की है। हम यह चाहेंगे कि हिन्दुस्तान का हर फिरका और तबका जो अब तक इगनोर किया जाता रहा है इस दफा के जरिया उसकी समाजी व मुआशी इस्वाद हो। मैं इस बात का तकाजा करूंगा कि बहुत से मौकों पर हमने कुछ जातो को, कुछ बिरादरियों को पिछड़ा मान कर उनको कुछ प्रायटीज दिया, कुछ मराआत दी हैं। लेकिन मुझे अफसोस के साथ कहना है कि इस मुल्क के अन्दर बहुत से ऐसे सेक्शन भी हैं जो मुसल-सल इगनोर किये गये। जिन्दगी की दौड़ में वह बहुत पाछे हैं लेकिन महज इसलिये कि वो किसी और मजहब से ताल्लुक रखते हैं। मैं मिसाल दंग गोरखपुर के अन्दर, आगरा के अन्दर बहुत से मुसलमान मेहतर हैं लेकिन उनको वे प्रायटीज और सहूलियतें मुअस्सर नहीं हैं जो दूसरी जात शेड्यूलड कास्ट, शेड्यूलड ट्राइब्स जैसे पिछड़े तबका के लिये हैं। मैं यह अर्ज करूंगा कि यह जरूरी है कि कुतबा की आमदनी के हिसाब से तमाम सहूलियतें मराआत और प्रायटीज मुहैया की जानी चाहिए। इन अल्फाज के साथ मैंने जो यह एमेंडमेंट पेश किया है मुझे उम्मीद है यह हाउस इसको मंजूर करेगा।]

DR. V. A. SEYID MUHAMMAD: The amendments fall into three groups. One proposes to replace the present article 39 by the proposed amendment moved by the concerned Members. The others are for introduction of certain words or for omission of certain words. The third one is for the introduction of a new clause in article 39. With great respect to the Members who have moved these amendments I wish to say that the amendments are either superfluous or even harmful. Replacement of article 39 does not add anything to the existing article except it is in the nature of expanding and giving more words in the form of adjectives to the existing phraseology in the article. For example—I will not go into the various suggestions—one suggestion is to add the words “right to work.” Actually, in the present article 39, sub-clause (a) says:—

“that citizens, men and women equally have the right to an adequate means of livelihood.”

This expression is much more wider than the mere right to work...

SHRI JAGJIT SINGH ANAND: Adequate means of livelihood without work?

SHRI BHUPESH GUPTA: You should note that in our amendment we have included words “women”, “equal” and “right to work” and have retained your words “adequate means of livelihood”. Women do not always get equal pay for equal work. Unless you give them work, how can they earn livelihood? It does not come from charity.

DR. V. A. SEYID MUHAMMAD: According to the Government the existing phraseology is much more wider than mere “right to work”. When we have a comprehensive expression why use an expression which contracts its scope?

SHRI BHUPESH GUPTA: After 30 years of our independence 40 per cent of our people are below the poverty line. They do not have even

Rs. 40 per month to spend. This is the kind of livelihood you have given.

DR. V. A. SEYID MUHAMMAD: Shri Bhupesh Gupta made two allegations which suggest that either the Government has not put into practice the principles laid down in Chapter IV or they have no mind to implement them. Both these allegations I refute. It may not be adequate, but an earnest attempt has been made in this direction. The very objective of this amendment is to achieve it more quickly. About the intention, I do not want to say anything. Assuming what he says is correct—which I do not admit—and if the *bona fides* of the Government is questioned, how does Shri Bhupesh Gupta’s suggested amendment make our intention different? If what we do does not convince Shri Bhupesh Gupta of our *bona fides*, his amendment will not make any change in our attitude....

SHRI BHUPESH GUPTA: It is not a question of *bona fides*.

DR. V. A. SEYID MUHAMMAD: I do not yield.

Now, Sir, the amendment by Shri Kumbhare falls under the category which, as I have said earlier, is really harmful and it will lead to a harmful situation. The harm lies in the fact that he has suggested two things. The substance of his amendment is this that he has suggested the addition of the words “shall prevent concentration of wealth and means of production in the hands of an individual”. Concentration of wealth in private hands is harmful. But this amendment leaves out the companies, the really big entities, etc. which have got concentration of wealth and power. That is why I say that if we accept this amendment of Shri Kumbhare, it will really do harm to the present provisions.

Then, Sir, we have got article 39 and the proposed amendment to it under the bill makes it more elaborate and if his amendment is accepted, this

[Dr. V. A. Seyid Muhammad]

clause (b) will altogether be omitted. Now, coming to Mrs. Kulkarni's amendment in which she has suggested the inclusion of the word "equal", I do not know whether she wants equality with grown-up people or she wants equality among the children themselves. She went on repeating inspiring words about the French Revolution. It is not necessary to travel that far in distance and time. Our Constitution, from the Preamble onwards and in article 15, 16 and 18, says about this and the entire Constitution is based on the principle of equality. So, her expression does not make it clear whether it is equality with grown-up people or equality amongst themselves.

SHRIMATI SUMITRA G. KULKARNI: Sir, it is not a question of equality with grown-up people, but it is a question of equality amongst the children themselves. I took pains to explain this and I am surprised that the Honourable Minister does not appreciate this. I do not know what is derogatory in saying that equal treatment should be given to all the children of the country.

DR. V. A. SEYID MUHAMMAD: That is why I say that the word is superfluous. When the entire Constitution, from the very beginning from the Preamble onwards till the end including in particular articles 14, 15 and 16, is based on the concept of equality, mere adding a word is superfluous and I repeat it.

SHRIMATI SUMITRA G. KULKARNI: Sir, if the word "equality" is superfluous, what is the use of having the Preamble then.

MR. DEPUTY CHAIRMAN: Mrs. Kulkarni, you cannot go on arguing with him. By arguing with him, you cannot expect him to reply and he is not giving to accept your amendment.

SHRIMATI SUMITRA G. KULKARNI: He may not accept my amendment, Sir. But he cannot con-

demn it. It is the spirit of democracy.....

(Interruptions)

MR. DEPUTY CHAIRMAN: You cannot go on arguing with him.

SHRI BHUPESH GUPTA: Sir, on a point of order. The honourable lady Member is quite right. You have said that he will not accept the amendment. He will not accept the amendment. But that does not entitle him to give any argument that he likes. On the contrary, he should give convincing arguments.

MR. DEPUTY CHAIRMAN: You see, Mrs. Kulkarni moved her amendment and she spoke on it and he has replied. That is all.

SHRI BHUPESH GUPTA: I am only supporting her.

MR. DEPUTY CHAIRMAN: But she does not need your support.

SHRIMATI SUMITRA G. KULKARNI: Sir, I very much take objection to the word "superfluous".

SHRI BHUPESH GUPTA: Sir, do you think that she needs only your support and so she does not need anybody else's support? Evidently, you have a very high opinion about yourself.

MR. DEPUTY CHAIRMAN: But I have a high opinion about the lady Member.

SHRIMATI SUMITRA G. KULKARNI: Sir, my submission is this: I have moved an amendment and I may be given a minute to explain my point.

MR. DEPUTY CHAIRMAN: You, have explained it enough.

SHRIMATI SUMITRA G. KULKARNI: Sir, the House is witness to what I said. If the word "equality" is superfluous, what is the relevant word in democracy?....

(Interruptions).

MR. DEPUTY CHAIRMAN: That is all right.

SHRIMATI SUMITRA G. KULKARNI: But, Sir...

MR. DEPUTY CHAIRMAN: No, no. You have made your point and let the Minister reply now.

DR. V. A. SEYID MUHAMMAD: It is precisely this that I was telling that the Preamble, articles 14, 15 and 18, and the entire Constitution as a whole are full of the concept of equality and it is not necessary to repeat on every occasion that word and when it is not necessary, the English meaning of the expression "unnecessary" is "superfluous" and I repeat the word.

SHRIMATI SUMITRA G. KULKARNI: Let me say one thing, Sir. Children in the country are not given equal treatment . . .

MR. DEPUTY CHAIRMAN: You cannot go on repeating your arguments. I am sorry you are going against the procedures...

SHRIMATI SUMITRA G. KULKARNI: But, Sir...

MR. DEPUTY CHAIRMAN: This will not go on record.

Shrimati Sumitra G. Kulkarni:
(continued to speak)

DR. V. A. SEYID MUHAMMAD: Regarding the point which Mr. Hashmi made, I appreciate the good intentions and his anxiety concerning the welfare, prosperity and future of the minority communities, particularly the Muslim community to which he belongs. Sir, there are two types of rights and opportunities to which any community is entitled. One comes under the special rights to a minority community—educational, religious, cultural, etc. Those are provided and protected under articles 25, 26—up to

30. Regarding the educational rights which he wants now to be introduced in the Directive Principles, there is already article 46. For his benefit and for the benefit of the House, I will read it out:

"The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation."

Now, what we propose to do is exactly the same with reference to minority communities.

سید احمد ہاشمی : مائٹریٹیو

کا لفظ اس میں نہیں ہے -

†[श्री संयद अहमद हाशमी : मायनारिटोज
का लफज इन्मे नही है ।]

DR. V. A. SEYID MUHAMMAD: What is intended is that after protecting their special features and special rights, religious, educational and cultural under articles 25 to 30, there are the economic rights which we wanted to protect. The expression in article 46 is much wider than mere minorities, so that I do not think it is really necessary to accept his amendment. While I appreciate the anxiety and the Government is equally concerned about the welfare of the minorities in this country, for these reasons I cannot accept his amendment.

SHRI N. H. KUMBHARE: Sir, on a point of clarification. The hon. Minister has stated special treatment as regards reservation in employment is available to everybody who would otherwise be treated backward. I would like to know from him that so far as these provisions are concerned, these cover only those who are Hindus and Sikhs. Others are not covered.

DR. V. A. SEYID MUHAMMAD: I am not aware wherefrom he got this impression. I do not know wherefrom

[Dr. V. A. Seyid Muhammad]

he gets the expression 'Hindus' in article 46 which I read. The economically backward means everybody. Where is the question of Hindus there?

MR. DEPUTY CHAIRMAN: Now, Mr. Kumbhare, are you pressing your amendment?

SHRI N. H. KUMBHARE: Yes.

MR. DEPUTY CHAIRMAN: The question is:

17. "That at page 3, for clause 7, the following clause be substituted, namely:—

"7. For article 39 of the Constitution, the following article shall be substituted, namely:—

'39. The State shall in particular direct its policy towards securing—

(a) Citizen's economic and social status shall be determined by labour and the results of labour on the basis of equal rights and responsibilities.

(b) The State through suitable legislative measures shall prevent concentration of wealth and means of production in the hands of an individual by formulating national policy and fixing ceiling on properties, income and expenditure.

(c) The State shall formulate National Wage Policy and give a frame-work so as to regulate earnings of the employed persons and shall further declare the National Minimum Wage below which no worker shall be paid.

(d) The State shall take steps to survey and locate the public places to which the citizen has no access on the ground of untouchability and it will be the endeavour of the State to create condition to facilitate exercise of the right of a citizen to have access to the public place.

(e) The State shall acquire subsisting right in Agricultural land held by the private individuals and the agriculture industry will be organised by dividing the land into collective farms for cultivation by residents of the village, so that, there will be no landlord, no tenants and no landless labour and it will be the obligation of the State to finance the cultivation and the State shall be entitled to penalise the worker who wilfully neglects to make the best use of the means of cultivation offered by the State or otherwise acts prejudicially to the scheme of collective farming'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

18. "That at page 3, for the existing clause 7, the following be substituted, namely:—

"7. For article 39 of the Constitution, the following article shall be substituted, namely:—

"39. The State shall, in particular, direct its policy towards securing—

(a) that the citizens, men and women, equally shall be ensured the right to work and an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community, including the principal means of production, distribution and exchange, shall be owned and managed, by the State so as to put the State firmly on the road of social progress;

(c) the concentration of ownership of land in the hands of rich landed gentry is eliminated and distribution of land to the tiller ensured and voluntary production co-operatives of self-

cultivating farmers and large scale State farms are established;

(d) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(e) that there is equal pay for equal work for both men and women; and

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment, and are assured of adequate facilities for training in sports and pursuing cultural activities'.

The motion was negatived.

MR. DEPUTY CHAIRMAN: Now we come to Mrs. Kulkarni's amendment. Do you withdraw your amendment or not?

SHRIMATI SUMITRA G. KULKARNI: Sir, the hon. Minister should have the ability to accept it. This is a thing with which the entire House will agree with me...

MR. DEPUTY CHAIRMAN: Do not speak for the entire House...

(Interruptions).

SHRIMATI SUMITRA G. KULKARNI: I am a very disciplined member of the Congress. I would request that the hon. Minister should come to my rescue and agree...

(Interruptions).

MR. DEPUTY CHAIRMAN: Now you must come to my rescue. Are you withdrawing the amendment or not?

SHRIMATI SUMITRA G. KULKARNI: If the whole House want that

they do not want equality for their children, I will withdraw it...

(Interruptions).

MR. DEPUTY CHAIRMAN: If you do not want to withdraw it, I will put it to vote.

SHRIMATI SUMITRA G. KULKARNI: I withdraw it.

MR. DEPUTY CHAIRMAN: Has she the leave of the House to withdraw her amendment?

SHRI BHUPESH GUPTA: Leave should not be given. A lady who has advanced so agreeably and so far should not be allowed to retreat.

MR. DEPUTY CHAIRMAN: I put the amendment to vote. The question is:

19. "That at page 3, line 17, for the words, 'given opportunities' the words "given equal opportunities" be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

20. "That at page 3, after line 20, the following be inserted, namely:—

'(g) that population is controlled through family planning and other suitable measures.'"

The motion was negatived.

SHRI SYED AHMAD HASHMI: Sir I wish to withdraw my amendment No. 131.

MR. DEPUTY CHAIRMAN: The question is:

"That leave be granted to the Mover to withdraw his amendment (No. 131)"

The motion was adopted.

The amendment (No. 131) was, by leave, withdrawn.*

Clause 8—(Insertion of new article 39A).

SHRI N. H. KUMBHARE: Sir, I move:

21. "That at page 3 for lines 23 to 28 the following be substituted, namely:

'39-A. The State shall, by suitable legislation or scheme or in any other way, secure that the operation of the legal system promotes justice on the basis of equal opportunity and also provide therein for free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities'."

22. "That at page 3, after line 28, the following be inserted, namely:—

'39B. The State shall take necessary steps to ensure adequate employment opportunities for the Members of Scheduled Castes, Scheduled Tribes, Buddhists and Christian converts from Scheduled Castes, Backward Classes and Muslims as a measure of promoting their economic interest.'"

SHRI BHUPESH GUPTA: Sir, I move:

*23. "That at page 3, after line 28 the following be inserted, namely:—

'39B. The State shall take all necessary steps for full protection of the rights of Muslims and other minority communities and those belonging to the Scheduled Castes and Scheduled Tribes and other weaker sections in all spheres of national life, particularly in matters of education and employment.'"

The questions were proposed.

SHRI N. H. KUMBHARE: My amendment No. 21 refers to Clause 8 by which article 39A is sought to be inserted. The provision of this article is necessary because my impression is that though the State desires to ensure that the operation of legal system should promote justice, it does not spell out as to what the State proposes to do. If you scrutinise this provision closely, it would appear that the scheme relates only to legal aid and it does not relate to promotion of justice. In order to remove this ambiguity or possibility of misinterpretation, I have moved to substitute that provision by my amendment. It says:

"The State shall by suitable legislation or scheme or in any other way, secure that the operation of the legal system promotes justice on the basis of equal opportunity and also provide therein for free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities."

The purpose of my amendment is to lay more emphasis on the operation of a new scheme by which it will be possible for every citizen to get equal opportunity. The article, as it does not lay more emphasis on the new system to be evolved and it speaks about a legislation or a scheme in respect of legal aid only. My submission is that you must evolve such a new scheme by which it would not be necessary for the Government to provide for legal aid. The involvement of the new scheme itself should facilitate equal opportunities for every citizen. Sir, if we analyse the decisions given by the judiciary, including High Courts and the Supreme Court, we will find that many decisions have served as hurdles in implementing our socio-economic programmes.

*The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bholu Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumarao, Shri Bir Chandra Deb Berman and Shri Lakshmana Mahapatro.

Many national projects and schemes for economic and other development are stalled by litigation and delays. Sir, I will give you one example. Let us take the case of a worker. I am speaking about the workers because I am concerned with the labour laws. Under the present scheme, if a worker is removed from work, he has first to give a notice to the employer and thereafter he has to go to the conciliation officer. Then the conciliation proceedings take place. The Conciliation officer sends a failure report to the Government and the Government considers the failure report and then decides whether it is a fit case for referring to a tribunal for adjudication. After a decision of the Government, the dispute is referred to a tribunal and then the tribunal adjudicates upon the dispute and gives a decision. And that decision, after being challenged in the High Court, finally goes to the Supreme Court. So, Sir, as I have said earlier, if you make an analysis, it would be seen that almost in 80 per cent of cases, even if the worker's claim is quite just and proper, ultimately he finds himself that he is practically without any relief whatsoever. Of course, there are certain inherent defects in the legal system itself. Even if otherwise, I am entitled to relief, it is denied on some technical grounds, as you know, the question of limitation comes, some interpretation of law comes. Even if a poor worker is otherwise entitled to some relief, the relief is denied to him. Therefore, it is high time the entire legal system is changed totally. Therefore because of the possible interpretation where you will not be taking the power to make a law or draw up a scheme or any other thing to evolve a new legal system, I suggest the amendment, Sir.

* SHRI BHUPESH GUPTA: Sir, my amendment has been partly spoken of by the hon. Member there.

MR. DEPUTY CHAIRMAN: I hope you will be short then.

SHRI BHUPESH GUPTA: Sir, you encourage to speak. Do not discourage.

MR. DEPUTY CHAIRMAN: You have to stick to the time also.

SHRI BHUPESH GUPTA: If we do not speak, where will you be, Sir? And we want you to be here.

Sir, the amendment is as follows:

"The State shall take all necessary steps for full protection of the rights of Muslims and other minority communities and those belonging to the Scheduled Castes and Scheduled Tribes and other weaker sections in all spheres of national life, particularly in matters of education and employment."

I want these things to be included now in the Directive Principles. I may explain why I want it. Sir, in the Directive Principles, under article 46, it is stated as follows:

"The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation."

Firstly, Sir, there is no such word as 'Muslim' here. For the first time, I am suggesting here that that word should be included. Why? Because the Muslim community is the biggest minority community in our country and it should be named as such in the Constitution itself. That does not take away the grace of our secular Constitution. On the contrary, it adds to our firm commitment to secularism. Sir, apart from the Scheduled Castes and weaker sections, the Muslim community also needs a little special attention in addition to what we must have done to the other communities mentioned under article 46. Why am I saying this? Sir, many years have passed since our Constitution was

[Shri Bhupesh Gupta].
adopted and from the very first day it was a secular Constitution. It is not as if we are stating the goal of secularism. Our national movement was a secular democratic movement and hence secularism is in the blood of our system. That is number one. It is not as if we are declaring secularism for the first time as our goal. Now, Sir, we have included the word 'secularism' in order to emphasise this aspect of our republic, which is secular; in other words, we are telling the world that we shall undertake all measures necessary in order to make secularism as a true living reality of life rather than a declaration or a bias or a sentiment. Not that we have not done anything to promote a sentiment but much more also remains to be done.

Sir, take the case of Muslims. Let us all be frank about this thing and not beat about the bush. Can we say that the Muslim minority community, which is the biggest minority community in our country with a population of 70 million or so, perhaps a little more, have all the rights to which they are entitled in practice under the Constitution? Look at the employment, look at the bigger posts in the Administrative Services, in the Police Services, in the Judiciary, in the educational institutions, look at even the educational institutions and scientific institutions and look at the students. How many Muslims are there? Now, we should ask ourselves in all seriousness why are they not there? Sir, is it because they lack in qualities which others have? Not at all. This Indian culture as we have inherited today is the creation of Hindus, Muslims and others together and we cannot think of our culture if we do not take into account the great contributions that have been made by the Muslim community over the ages. Can we think about it? No. After Independence it was expected that everything would be done to instal the Muslim community in the rightful place in the matter of employment, in the matter of education, in the matter of services, in all walks of life. We

have not done that. Let us all be very frank about it. Apart from the fact of protection not being adequately being given to them, is it not a fact that they have a sense of fear and frustration also? In the High Courts of India how many Muslim judges are there? I am not a communalist. I do not make any communal speeches. Let it not be thought that if a Muslim makes a speech demanding his rights that he is a communal-minded person. No. He is entitled to do that as a citizen of India, to claim the rights which are due to him and he is entitled to fight against the denial of such rights. How many judges, for example, in the Supreme Court, in the High Courts or in the highest judiciary in India belong to the minority communities? Let the figures be placed before us. How many members of the Indian Administrative Service, the Indian Foreign Service, the Indian Police Service and other All India Services belong to the minority communities, Muslim minority community in particular? Let them state before the House. Sir, there are educational institutions today. Why they are not also there? They are getting a back seat there. I do not say you are to blame personally or anybody. I am not blaming anybody. But let us recognise the hard fact. Take the case of scientific and technological institutions. Why are they not found in sufficient numbers there? What is the explanation for it? We should find that out. Sir, the explanation is that secularism is not practised by those who occupy the key positions. Is it not a fact that the Delhi Administration has been largely under the control of the R.S.S. and the Jan Sangh in recent years who saw to it that the members of the minority community were kept out of it? Who does not know that in the Bihar Administration the Anand Marigis, Jan Sanghites and others had a big say and they discriminated against the Muslim community? Who does not know that the big monopoly capital the Birlas in particular, practised communalism in the sense of discriminating against Muslims? If the employment register of companies or industrial undertakings

and others under the control of Birlas, Dalmias, Jains, specially of Birlas were to be seen, you will see that it is difficult for a Muslim to get employment there or to climb to an important executive position. They are second class citizens in the eyes of these tycoons and monopolists. Sir, in order to compel them not to practise such discrimination against the minority communities we should do something. These are very vital questions that we are putting. Sir, I can give you one example. After independence, for several years there was not a Muslim judge in the Calcutta High Court. When I raised this point in this House, it was said privately and also in the House: what could be done if there were no qualified men available? But, then, before independence, the last Chief Justice of the Calcutta High Court was a member of the minority community, a Muslim. Now, everybody knows it today, especially those who deal with this subject today. That is why I say that this thing has remained. In the administration, communal spirit has been injected by certain people and they see to it that Muslims do not get in and even if they get in, they do not get a due share and a due position in the administration. Sir, I know of a Minister in West Bengal, Dr. R. Ahmad, an eminent Dentist, who was inducted into the Ministry by late Dr. B. C. Roy. He regretted that he could not appoint even an orderly belonging to the minority community because whenever you take a stand, you would be accused of practising communalism. In that way such things have happened. Therefore, Sir, this should be clearly stated. I have not given any detailed suggestions as to how this should be done. It also applies to the Scheduled Castes and other tribes and so on. Sir, this should be done and if you include it, the State will give clear directions. Why, for example can the Prime Minister's office of the Government of India not give directions to the States that in the appointments to services in the public undertakings, there should be such an arrangement to ensure that a

definite number of the members belonging to the minority communities is employed in high positions? What is the difficulty in that? What is the difficulty in issuing administrative directions and get things done, apart from legislation? For the moment, I am not going into the question of quota. I am in favour of fixing a quota in the government services for the members of the Muslim community. Otherwise, Sir, nothing will be done, because always excuses can be found to keep them out as, indeed, they have been found to keep them out. But, even so, if you accept my amendment, then you would be empowered to give such directions as are needed to compel the State Government, and also the public undertakings to employ the Muslim members of the minority communities. This should also be projected in the private sector where discrimination is rampant against the minority communities. Sir, we are a secular State. Today, we have reached a stage where secularism must be our way of life and that we can demonstrate by practising it especially in industries and other offices. That is why I have made this suggestion in the matter of education also. Sir, discrimination is going on. Sir, let us not try to gloss over the unpleasant fact. One of our troubles is to gloss over the unpleasant facts. Many hon. Members have said that I have raised a subject which was not necessary according to them, to be raised on this occasion. But, if I have raised it, it is because I want to strengthen the secular content of our Constitution, give life and substance to the provisions that you have added to the Preamble so that by the sanction of the Constitution, protection is given to justice which has been denied to the minority communities, particularly, the Muslim community.

DR. V. A. SEYID MUHAMMAD: Sir, there are three amendments to Clause 8. The first is by Mr. Kumbhare proposing to replace the present article in the proposed Bill, article 39A, by another article which he has submitted as an amendment. Actually, Sir, I examined it very carefully. It does not

[Dr. V. A. Seyid Muhammad] add any new idea or new provision. It is really a re-wording of the existing article 39A as contained in the Bill. I examined it in detail and what I find is that the idea contained in both the Government's proposal and the proposed amendment is the same. There are three things which prevent me from accepting it. One is from the point of view of the wordings, the grammar and construction and also the efficacy to convey the intention of either the Government or the proposed amendment. Therefore, considering that, I feel that the proposed article 39A, as contained in this Bill, is much more acceptable than what has been proposed by Mr. Kumbhare. Sir, the other two fall into the same category and have the same objective. One is by Mr. Bhupesh Gupta and the other is by Mr. Kumbhare. They propose the insertion of a new article 39B. The main object of both the amendments is to give certain protection to the rights of Muslims and other minority communities and those belonging to the scheduled castes and the scheduled tribes and other weaker sections, in all walks of life. I want to assure the Members who have moved these amendments as well as the House that the Government fully shares their anxiety in regard to the welfare of the communities and the backward sections concerned. It is very well known, particularly to the minority communities, that in the person of the present Prime Minister,—without trying to flatter her—we have the best protector and a person who is most concerned with the welfare and the progress of the communities concerned and their interests.

SHRI BHUPESH GUPTA: I do not like this argument being given every time.

DR. V. A. SEYID MUHAMMAD: I have only begun.

SHRI BHUPESH GUPTA: When these things were being debated in the Constituent Assembly, nobody told Jawaharlal Nehru that he would become the provisional Prime Minister. Nobody told him 'You will become the

Prime Minister' and argumentatively disposed of the matter. Here, we are talking about the Constitutional amendments. I know Shrimati Indira Gandhi is secular and anti-communal and I do not doubt when you say that she would like to do all these things. But despite the fact that we had Jawaharlal Nehru, the greatest secular man the national movement had produced, as the Prime Minister of this country for 17 years not much could be done in regard to the Muslim community and they did not receive their due rights which were due to them.

DR. V. A. SEYID MUHAMMAD: I beseech you to advise Mr. Bhupesh Gupta to have a little more patience. I just began my submissions. He cannot say 'You are giving the same argument and you do not say anything else'. I have only said this. I have not come to the various other things. He did not wait for it. This sort of interruption, I think, is absolutely uncalled for, to say the least.

I was telling this and I repeat it again, whether it irritates or satisfies Mr. Bhupesh Gupta, that the present Prime Minister is one of the greatest protector and a person who is most concerned with the welfare and the progress of the communities concerned. This I have heard from people who are, for various reasons, opposed to the Congress and its policies and to some of the activities of the subordinate officials about whom complaints have been voiced from time to time. The main thing is that whether the proposed amendments are necessary or whether they will have the desired effect. This is what we are considering. In reply to Mr. Hashmi's proposed amendment, I covered the same area and I said that their special interests are protected.

SHRI N. H. KUMBHARE: How are they protected?

DR. V. A. SEYID MUHAMMAD: This is just like asking, after reading the Ramayana, who is Rama. We had been discussing the entire Constitution for all these 25 or 30 years.

SHRI BHUPESH GUPTA: The decisions of the National Integration Council meeting which was held at Binnagar in 1968, presided over by the present Prime Minister, whom you are mentioning again and again, have not been implemented. I was a participant in that conference. We drew up resolutions together with the participation of a number of Chief Ministers. Ask how many Chief Ministers have implemented them?

SHRI N. H. KUMBHARE: We want the hon. Minister to be a bit specific. Since there is a provision for reservations in employment to the scheduled castes and the scheduled tribes in the Constitution, why should there not be a more enlarged provision by which other minority communities could also be covered? This is my point.

MR. DEPUTY CHAIRMAN: He is explaining. He is precisely doing what you are asking him to do.

SHRI N. H. KUMBHARE: We want the hon. Minister to be specific. If there is a provision, why should it not be applied to the other minority communities?

MR. DEPUTY CHAIRMAN: If you are not satisfied with what he is saying, he cannot help it. But he is giving the best of his argument.

DR. V. A. SEYID MUHAMMAD: I can only say that the patience has become a very rare commodity these days. I was saying that the constitutional protections under Arts. 25 to 30 are there. Then I referred to article 46 also. They may have complaints against implementation. Now what is being suggested is also an amendment to the Constitution. If the provisions of the Constitution has not been implemented, how is it going to improve the situation or where is the guarantee that by accepting this amendment it will be implemented? So, implementation part is entirely a different question. At present, we are dealing with the proposed amendments

to the Constitution. So, I do not want to go into the implementation aspects. I want only to say, for the same arguments which I put in reply to Mr. Hashmi's, that sufficient protections are already there and by including a similar provision I do not think that itself will help. Whether that is implemented or not is a different question. There is no guarantee that by accepting that amendment it will be implemented. Let us deal with the implementation question separately. So, in these circumstances, I do not feel that I can accept the amendment.

MR. DEPUTY CHAIRMAN: The question is:

21. "That at page 3 for lines 23 to 28 the following be substituted, namely:

'39A. The State shall, by suitable legislation or scheme or in any other way, secure that the operation of the legal system promotes justice on the basis of equal opportunity and also provide therein for free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

22. "That at page 3, after line 28, the following be inserted, namely:

'39B. The State shall take necessary steps to ensure adequate employment opportunities for the Members of Scheduled Castes, Scheduled Tribes, Buddhists and Christian converts from Scheduled Castes, Backward Classes and Muslims as a measure of promoting their economic interest'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

[Mr. Deputy Chairman]

23. "That at page 3, after line 28 the following be inserted, namely:

'39B. The State shall take all necessary steps for full protection of the rights of Muslims and other minority communities and those belonging to the Scheduled Castes and Scheduled Tribes and other weaker sections in all spheres of national life, particularly in matters of education and employment'."

The motion was negatived.

Clause 9—(Insertion of new article 43A)

SHRI JAGAN NATH BHARDWAJ:
Sir, I move :

24. "That at page 3, line 34, after the words 'any industry' the words 'business, public works and services' be inserted."

SHRI N. H. KUMBHARE (Maharashtra): Sir, I move:

25. "That at page 3, line 34, after, the words 'any industry' the words 'at all levels and with regard to industries in private sector, the State shall, take further steps to secure for the workers partnership and share in ownership of the industry' be inserted."

SHRI KHURSHED ALAM KHAN (Delhi): Sir, I move :

26. "That at page 3, after line 34, the following be inserted, namely:

'43B. The State shall take effective steps for the protection and well-being of minorities and en-

sure measures for their equitable participation in administrative, economic and other developmental activities of the nation and national life'."

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I move:

27. "That at page 3, after line 34, the following be inserted, namely:

'43B. The State shall take steps, by suitable legislation or in any other way, to secure remunerative price for each major agricultural produce having regard to *inter alia*, the cost of production including minimum wages to be paid to the agricultural labourers under any law and such other relevant factors thereto'."

SHRI BHUPESH GUPTA: Sir, I move:

*28. "That at page 3, after line 34 the following be inserted, namely:

'43B. The State shall take suitable steps through legislation and otherwise to ensure the right of collective bargaining to workers and employees.

43C. The State shall undertake all necessary measures to reorganise and democratise the administrative machinery at all levels so that it becomes an effective instrument for achieving the objective of socio-economic revolution.

43D. The State shall take effective steps to prevent the intrusion of money power in elections and other democratic processes or interference otherwise in such processes by money power'."

*The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanaat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman and Lakshmana Mahapatro.

SHRI V. V. SWAMINATHAN : Sir,
I move :

29. "That at page 3, line 34, after the words 'any industry' the words 'and payment for their work in accordance with its quantity and quality' be inserted."

The questions were proposed.

SHRI JAGAN NATH BHARDWAJ : Sir, with the insertion of article 43A I must congratulate the Government and the Prime Minister and other leaders that they have done a very good work by raising the standard of working people. Surely, this is a very unique step taken but in this connection, I will have to say that the proposed provision only covers the workers who are engaged in industry. I think this great work will remain incomplete if the workers in the Government undertakings, private undertakings, business and other services are not included in the sphere of giving them participation in the management. Now the workers who are left uncovered are those who are employed in the Life Insurance Corporation, in banks, in the State Trading Corporation which employs about 4000 workers. There are big projects like Sutlej-Bias link project, Talwara project and similar other projects in various parts of the country. There are so many huge projects where the worker will not be given this benefit. Therefore, to accommodate all the working people and to give them benefits of participation in management, I think it is fairly reasonable if my amendment is accepted.

It is not a new thinking. In countries like the GDR, Russia and some other countries, workers are given full share in the management of industry, business and even Government departments. Therefore, when we feel the necessity for involving people in the working of industries—and in our country there is even the idea that in administration also people should be involved—I think it is quite reasonable that this sphere should be

enlarged beyond the sphere of industry so that the working people of the country get a fresh mind and fresh way of life and so that there will be a lot of enthusiasm among the working people along with the managements and the Government when they will also realise the difficulties of the Government. The experience in Russia has been very successful; the experience in the GDR has been very successful; in other countries also it is equally useful.

With this end in view, Sir, I would urge upon the hon. Minister to accept my amendment.

SHRI N. H. KUMBHARE : Sir, the purpose of my amendment is two-fold. By suggesting that workers' participation should be amplified and their participation should cover all levels. I have added the words "at all levels". That is the aim. Therefore, with a view to making their participation more meaningful, it is necessary to specify that the participation will be at all levels. Now, one of the 20 Point Programme refers to participation of workers and even though a period of more than one year has passed, I do not think we can say that this participation has been accomplished. Most of the private sector undertakings are reluctant to provide for a scheme by which there could be participation, much less effective participation.

[The Vice-Chairman (Shri Lokanath Misra) in the Chair]

Even the Labour Minister, at one stage, clarified participation by saying that to begin with we are giving participation only at the shop level. I do not understand the meaning of "shop level". It may be at a low level. But my amendment is that participation should cover all levels including participation where workers would be consulted, where workers' advice could be obtained even in matters of decision-taking. Let us take the example of profits and the share of the

[Shri Jagan Nath Bhardwaj]

workers by way of bonus in the profits. Here also workers' view should prevail and they should have a voice. If this is not done, then I do not think participation in any way would be effective. It will be just superfluous and it will not be effective participation. Therefore, I suggest that participation should be at all levels.

But then, could we not go a step ahead? Why participation only? Therefore, my suggestion is that "with regard to the industries in the private sector, the State shall take further steps to secure for the workers partnership and share in ownership of the industry". Since by placing socialism in our framework more responsibility comes, Government is expected to take more radical steps towards that direction. If the industries remain in the hands of the private sector and if the private sector is allowed to exploit the workers, I do not think we could say that we have been able to achieve socialism. Therefore, some steps should be taken so that in a phased manner we can gradually eliminate private ownership. And it is not difficult. In a particular undertaking, if there are one thousand workers and they give their contribution out of their salaries, or they give half of their share in the bonus, that way they would be able to subscribe to the capital of the industry and ultimately the industry can come in their hands. It is not difficult. I think it is a necessary step. Therefore, I have suggested that the Government should also declare that it will go in for taking over the industries from the hands of the private persons. Sir, we have made a provision by which it is not necessary that for taking over a particular industry we give compensation at market value. And in a particular industry if it is decided that the entire industry should come in the hands of the workers, then we can certainly have a scheme whereby the owners of the industry are given

debentures payable after 20—30 years so that immediately the industry is placed in the hands of the workers. This way the industry could be transferred from the hands of the individuals to those of the workers. Unless this is done, I do not think we will be able to take any concrete steps towards the achievement of socialism. Therefore, I have suggested that not only there should be partnership but the ownership should be transferred to the workers. This is my suggestion.

SHRI KHURSHED ALAM KHAN (Bihar): Sir, no doubt, the Constitution of India adequately protects the rights and privileges of the minorities—and when I say minorities, I mean all the minorities, not any one single minority. Besides, it is also a fact that there is a desire at all levels, in the higher circles, to implement the provisions that safeguard the interests and the fundamental rights of the minorities in letter and spirit. But, really speaking, our experience over the last three decades has not been a very happy one. I do not know what has been the experience of the learned Doctor who has been replying to all the amendments. Sir, in spite of what I have stated earlier about the rights that are protected and that are enshrined in our Constitution in respect of the minorities, I must admit and say that our experience, as I said, has not been a very happy one and the real problem comes at the stage of implementation and interpretation. No doubt the learned Doctor will say that this is a question of legislation and not interpretation or implementation. But then this is a very big question. What should we do? Where should we look? And what should we expect? This being so, those who obstruct and flout the implementation are really at fault. What is to be done about them? What is the remedy left to us who are the sufferers—and sufferers not for six months, a year or two, but for the last several years, in fact over the last three decades? We also appreciate that secularism has been adopted as our way of life. The

value we have evolved, we all cherish. Sir, this being so, in the new climate that is prevailing under the dynamic leadership of our Prime Minister, let us give to all a real sense of security, a real sense of fearlessness, a real sense of justice, a real sense of participation in all aspects of our national life. Sir, we quite admit the virtues of this Forty-fourth Amendment, but, at the same time, please ensure that the apprehensions, doubts and fears from the minds of the minorities—and when I say minorities, I again repeat all the minorities—should be removed, because in this very House some time ago our prime Minister said: "By people, we mean all the people". When they mean all the people, naturally the minorities are also included, and they should be looked after well and they should get their due share. Sir, it is a universally admitted fact that the emergency has brought us certain gains and in the changed situation, left these amendments also bring some real gains, some real change, in the condition of the minorities who really deserve a helping hand, who really deserve special consideration.

The main objective of my amendment is the greater good of the nation. Let no section of the society be a mill-stone round the neck of our nation. Unless this is done, there will always be discontentment and unhappiness and we would not like any kind of discontentment or unhappiness in our country. It is our experience that the Prime Minister's sense of justice always came to the rescue of the minorities' rights and privileges. The consistency and the fearlessness with which the Prime Minister has supported secularism cutting across decades of unrealistic approach has been appreciated and applauded by all as much as her other achievements. But here I must admit—the fact remains that much is yet to be done in the matter of the rights and privileges of the minorities. We have won the battle but we have

yet to win the war. Let us not lose the war because the beginning has been good and when the beginning has been good, the end will also be good.

Sir, here I will quote only one instance. For instance, take employment opportunities for the Muslims. Three decades ago, the ratio of the Muslim population was 10 per cent of the total population of the country and at that time the ratio of employment of the Muslims was—unfortunately, I do not have figures for other minorities—32 per cent in the total services. Today our ratio to the total population is 11.5 per cent as admitted, while our ratio about employment opportunities in the public sector and in the Government services has come down to 2 per cent. And what about the private sector? There is none, no employment opportunities are available in the private sector at all. This is an economic problem. We want an appreciation of the problem of the minorities, of the weaker sections of this country, and it has to be appreciated in the right spirit.

Sir, when we are marching with confidence and with assurance towards the goal of prosperity, why leave anybody behind? Why not give a helping hand to everybody to come forward and join us in this march towards our destination, towards our destiny? Sir, how long should I continue this sad story of the difficulties of the minorities? For instance, recently a survey was conducted in UP about the educational problems of the minority communities. You will be surprised to find that the children going to school in the primary stage was 50 to 70 per cent. Then this ratio came down, in respect of children of the secondary age group, to between 30 and 50 per cent. And at the college or university level it came down to between 1 and 5 per cent. Now, what is this? Is this due to the drop-outs? I assure you, no. The reason is economic. The parents are unable to send their children to higher education and spend money on their higher education; they prefer to

[Shri Khurshed Alam Khan]

withdraw their children after the primary stage because at the primary stage education is free and that is the age where a child is unable to earn anything. And when they withdraw them at the secondary stage, it is because they cannot afford the education and at the same time they expect that the children should earn some little money to add to the meagre income of the family.

Sir, this may be so, but I assure you that we have, however, not lost all hope. The Prime Minister is the embodiment of our hope and inspiration, and this is particularly so with the minorities, the weaker sections and the downtrodden. This situation is our basic reason for hope and faith in the future. I repeat, this is our basic reason for hope and faith in the future. Here I would also like to say a word of caution to the people of my own community. The minorities in general and Muslims in particular, I would say, need a progressive outlook with a sense of history but forward-looking. They need new paths of novel adventure, a place of honour and dignity and a full sense of participation. But how is this to be achieved? Something has to be done; some organ should be there, some agency should be there to ensure this. (*Time bell rings*) Sir, I am speaking for the minorities and I will take five minutes more. I am speaking for all the minorities, not for only one. Here I would like to say that at least in the States, there should be a Minorities Commission. This Commission should look after the implementation part. Similarly, I would like to know what happened to the implementation of the report of the National Integration Council conference of 1968 which was held at Srinagar.

In the end, I would like to say that all the historic decisions, all important decisions of our national life and pertaining to our nation will have now to be taken with the consent of the down trodden, the weaker sections and the minorities. If this is not done,

I assure you, Sir, these historic decisions will not be everlasting. And we want them to be everlasting. Thank you.

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I speak on behalf of the 80 per cent of our people who are engaged in agriculture in this country. It is an important sector of our economy. In my amendment, I propose that the agriculturists should be given a remunerative price, at least for their major commodities. Agriculture should be treated as an industry. And if they are not given a remunerative price, then their economic condition would be so low that they would not be in a position to pay the minimum wages which they are required to pay, according to the provisions of the different Acts, to the agricultural labourers in this country.

Sir, in the market, the unscrupulous traders are looting this agricultural community. They are sucking their blood, and unless and until something is done, this process will continue hereafter also. There was a move that the wheat trade should be taken over by the Government. But unfortunately at the meeting of the Chief Ministers of different States called by the Prime Minister at that time, some of the Chief Ministers, belonging to the Congress Party itself, thwarted the move of the Prime Minister, and this thing continued thereafter also. The person who is most affected is the poor and marginal farmer. He is always a distress-seller. He goes to the market and sells his commodities at a very low price. Again he is a distress-purchaser because he goes to the market and purchases at a high price. Taking into consideration what they have to put in as investment, the loan they have to get from the Government or co-operative institutions for buying better seeds, for bunding operations, for buying agricultural implements, fertilizers and other things, something should be done to help them. Further, the whole of the agricultural economy in this country

depends on the vagaries of nature. If there is more rain, the crop is affected. If there is less rain, the same thing is repeated. So, unless and until the Government comes to the aid of the agriculturists in this country, their lot will not be improved. Therefore, my suggestion is this. This should be included in the Directive Principles of the State policy as the workers are given participation in the management of their own industries. They represent one per cent of the whole population. Here all the farmers, marginal farmers, agricultural labourers and who work for them are all intimately connected with this and therefore this suggestion of mine may please be accepted.

SHRI LAKSHMANA MAHAPATRO
(Orissa): I rise to speak on the first part of the amendment moved on our behalf. It reads as follows:

"The State shall take suitable steps through legislation and otherwise to ensure the right of collective bargaining of workers and employees."

Inter-national working class is in the vanguard in creating the history of mankind. As part of that international community, the working class of our country has done nothing less. You know when the working class gets emancipated, it not only frees itself from the shackles of exploitation but every strata of the people. So it is in continuous struggle for emancipation and on many an occasion such struggles turn bloody. They are the most exploited section of the community. Ultimately they wrested the right of collective bargaining. This right of collective bargaining is now universally accepted as the best means of redressing the grievances of the working class. But this right is being gradually eroded in our country. You know the working class of this country, due to their awareness of things, has stood solidly when it found that chaos and black days were sought to

be brought in by the forces of reaction. During those dark days they unitedly fought with all other progressive and democratic forces and successfully contained these evil forces. When after the emergency was declared, a national economic programme was announced and when there was a demand by the country through the Prime Minister for greater production it was the working class of this country that gave the country the optimum production. In many public sector undertakings, the working class gave the production of the highest record. After all these struggles, due to their awareness, you have wisely and correctly given them a place of honour in our country by saying that they will be able to participate in the management of different undertakings and establishments. But what is really going on in the country in the name of participation in the management? These workers are asked to increase production. They are only allowed to speak on maximising utilisation. Nothing beyond that. Have they a right of say in the matter of endless profits, needless overheads, wasteful expenditure and in the matter of purchases? And, Sir, have they got any right of say in the matter of proper utilisation of the raw materials or in the matter of the fraud committed every day or in the matter of double and treble accounting with a view to defrauding everybody including the Government?... (Time bell rings)... I will complete in one or two minutes, Sir. Therefore, I say that this participation in the management in the different establishments is still at this low level of a joint council or a shop council and nothing beyond that, with the only object of enhancing production or maximising utilisation. But those people have accomplished well and they should be allowed to exercise their right, the right of having their grievances redressed by collective bargaining. Sir, for a very long time, in this country, we have been pleading for one union in one industry so that they can all collect at one place and they

[Shri Lakshmana Mahapatro]. can place their points of view solidly and this has not been accepted by the authorities. In this country, you know how the grievances of the workers are redressed and Mr. Kumbhare has pointed this out very clearly. In the present scheme of legislation in the country, as far as the redressal of the grievances of the workers is concerned, first of all, he can have his matter placed before the tribunal only after conciliation fails which should be reported to the Labour Department and if the Labour Department, in its wisdom, would make a reference to the tribunal and only then the matter gets through to the tribunal; otherwise not. Then he goes to the High Court and for even after the tribunal decides the case in his favour, the matter can be taken up in the High Court and the Supreme Court as well. Therefore, what I say is this: This is how the litigation goes on and this sort of litigation the worker has to face in order to secure the redressal of his grievances. You know, Sir, that this morning, when the Law Minister was making his illuminating reply, he mentioned that a particular litigation started in 1885 and it is still going on and that is the fate of our litigation. Therefore, you cannot ask a worker to go into litigation like this for everything that he needs or that he is required to attend to. Now, after the emergency was proclaimed and after the 20-point programme was launched, they started supporting it and we said that there should not be losses and that lock-outs, lay-offs and closures should not be there and will not be allowed and would be there only under certain conditions for which prior permission is necessary. But even now these things are there and who is there to protect the interests of the workers who stood solidly behind the Government in fighting back the fascist forces in the country? Therefore, I say that this is only a small demand which they make and this demand has been universally accepted and this demand should be conceded.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): You please wind up now.

SHRI LAKSHMANA MAHAPATRO: Sir, I am concluding and I am saying the last few words.

Sir, the other day, the honourable Prime Minister was saying we might amend the Constitution in any way we liked for achieving the socio-economic good of the people, but what was important was that even the Constitution as amended also would not yield the results unless the people who were supreme were aware of all these things. Sir, the working class, which is aware of its duties, has always been behind the Government in all matters. They are aware of their duty and their responsibility and their rights also and because of their proven awareness of their rights, I think, their demand for collective bargaining which should be conceded. That is what we want in this particular clause and that will not be too great a concession to the working class.

SHRI INDRADEEP SINHA (Bihar): Sir, my amendment is very simple. In the Statement of Objects and Reasons, the Government has accepted this principle that the people should be associated at every level in the formulation of Government decisions and in the execution of Government programmes. My amendment seeks to incorporate this idea in the Directive Principles of the Constitution and I hope the honourable Minister will have no difficulty in accepting it.

SHRI BHUPESH GUPTA: Sir, my amendment is quite simple, but it is provocative also and I say, to intelligent people it would be thought-provoking.

"The State shall take effective steps to prevent the intrusion of money power in elections and other democratic processes or interference otherwise in such processes by money power."

Sir, however much we may be talking about it, outside the Birlas are smiling and laughing: Do you politics, gentlemen, as you like in Parliament, amend your Constitution, extend the life of Lok Sabha, postpone the elections, if you like, but we are there, with our money bags, to determine the course of politics in this country and even the politician. This is the reality today. Sir, I come from a State which has been known for the intrusion of money power in politics in general and elections in particular. We were young when we won independence. Sardar Amjad Ali was a child at that time, if he was born at all. Anyway, what happened then? At the dawn of independence, we found suddenly Mr. G. D. Birla becoming the headquarters and centre of West Bengal politics in certain upper class politics. Well, it is he who intervened to get Mr. Profulla Ghosh ousted. It is on record also. Profulla Ghosh was a member of the Congress Working Committee also. But I am not going into that now as to who is good and who is bad. Bedhan Babu was a great leader in the Congress. But the decision was taken not really by the Congressmen. The decision was taken in the Birla House, by G. D. Birla's family, and things began to change. Politicians in the ruling party began to change their loyalties, and so on. Well, that was the beginning. Birlas dominated certain circles in politics. Many of them are now in the Syndicate Congress. Who does not know that Mr. Atulya Ghosh had the backing of the Birlas and others of the Calcutta big business, merchants, Englishmen and others. Stories have been related in the past years and recorded in the proceedings of this House.

Then in the 1950s there was Mr. Mundra, the 'star', whom Mr. Feroze Gandhi exposed. A good friend, good father and good husband, he exposed Mr. Mundra, who got away with the LIC and some licences and so on.

One day Dr. Radhakrishnan told me: "Why are you objecting to Mr. Mundra so much? He only gave one lakh to the Congress fund to get away with more than one crore of rupees from the LIC." Mundra tried to dominate politics. But his career was cut short by my friend, Mr. Feroze Gandhi.

Well, Sir, now we hear about another man who has appeared in the horizon. What his name? His name I am told, is Kamal Nath. I would like to know who is Kamal Nath? What is his business? When I go to Calcutta, people say that Kamal Nath is dominating certain political circles in West Bengal in the ruling party. How long must West Bengal bear with this? Birla, Mundra and now Kamal Nath. Can you save us from a situation of this kind? Kamal Nath is not a big businessman at all. He is a broker type of man himself having little money. But he is highly influential in the Bengal politics now. My friends from Bengal are sitting opposite. One is sitting here. May I address in all humility a word to them? We have such origin of politics dominated by such great figures in the old days as Chitranjan Das, Mahatma Gandhi, Jawaharlal Nehru, Subhash Chandra Bose and J. N. Sen Gupta. Our cultural life has been influenced by Ram Mohan Roy, Bankim Chandra, Sarat Chattopadhyaya, Rabindra Nath Tagore, Nazrul Islam and others. Must we bear a situation when the West Bengal people should think they are going to be ruled from behind the scene by one non-descript Kamal Nath? I ask you this thing. Kamal Nath is powerful not because he has the qualities of Desh Bandhu Chitranjan, nor because he has the piousness of Rabindranath Tagore, nor because he is a leader of the calibre of Ram Mohan Roy. Kamal Nath is powerful because he has the control of money. He can make money available. Money plus political influence creates a dangerous situation for democracy and our democratic inheritance and

[Shri Bhupesh Gupta]

tradition. (*Time bell rings*) I have to speak a little more. Why are you ringing the bell? Is it because money has come in? (*Interruptions*) I read a lot of stories in the newspapers concerning the ruling party. I am not interested in the internal affairs of the Congress Party. It is their affair. If Mr. Amjad and others quarrel, it is their affairs. They should settle it. If I see that one Kamal Nath is behind that quarrel, well I begin to suspect something. That is why I say that it is a dangerous situation.

Sir, today we are amending our Constitution for bringing about radical socio-economic changes by using the Constitution. We are removing the obstacles of judiciary. Who removes the obstacles of black money? Who removes the obstacles of big money? Who removes the obstacles created by the Birlas, Tatas, Dalmias and others. Now Kamal Nath is also there. Therefore, there should be a commission. You cannot make your democracy safe unless you keep big money out of it. Ministers come and go sometimes due to the machinations big money. There was a time when Gulzari Lal Nanda was the Home Minister.....

SHRI HARSH DEO MALAVIYA:
Who is this Kamal Nath?

SHRI BHUPESH GUPTA: I do not know who is this Kamal Nath. You better find out. Whenever I go to West Bengal I find that it is not Siddharta Shankar Roy or Pranab Mukherjee or Amjad Ali or Rajat Chakravarty who is ruling there. It is Kamal Nath who rules Bengal. I hang my head in sheer shame, sorrow and pain because though we are the inheritors of freedom fighters, we have to bear such a situation. Our compatriots of the younger generation come and tell us: Bhupesh Babu, save us from the rule of Kamal Nath. Sir, I say this thing because I know West Bengal. We will never tolerate such stuff. We will not allow a satellite of big

money to rule us. We will not allow Kamal Nath to shine or twinkle as a star in the horizon of West Bengal. Bengal's patriotism, Bengal's culture we share with the rest of the country. We will never tolerate this kind of outrageous and atrocious interference in the politics of the country. And I beseech my friends of the ruling Party, keep men like Mr. Kamal Nath out. Today the target may be we from this side. Tomorrow it will be you. We have seen how Mr. Birla said, "I had in my pocket 44 MPs." He declared it publicly. Today, Mr. K. K. Birla is not making this declaration. But he is posing as a great patriot, gathering favours right and left and shining in the official favours. We hear so, Sir. Therefore it is very, very important. They will try to destroy with their money power and influence all that you stand for good and progressive things and which we also share. Because, Sir, if in the ruling party things go wrong, much will go wrong with the country. We are not one of those who write off the Congress. The Congress has an important role to play in the life of the nation today. It is the country's majority party, the biggest party today. And hence if things go wrong within the Congress due to intrusion of money and money power, much will go wrong in the country, and the monster will descend on you and devour you even. (*Time bell rings*). Sir, I have been making this point about the intrusion of money power in elections. We know how Mr. Tata submitted a memorandum before the Bombay High Court to say in his affidavit that he had paid both to the Swatantra Party and to the Congress party in order to safeguard his interest. Do we not know how Mundhra declared that he had to pay in order to make his position secure? Is it not a fact that the owner of the Martin Burn & Company, Mr. Rajen Mukerjee's son, also donated Rs. 3 lakhs to the Congress Party and boasted that he had given money to the Party?

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Mr. Bhupesh Gupta please listen to me.

SHRI BHUPESH GUPTA: These are the people you should take care of. And they will utilise the postponement of the elections to have their own way. Tomorrow they are making the election costly by putting up their candidates by spending so much money. Mr. G. D. Birla's son, Mr. K. K. Birla contested the election as a Jana Sangh candidate and was defeated by the Congress Party. Today, he is a loyal Congress man, more loyal than all the kings and queens of the Congress including everybody else that is there. Sir, I say, they are coming that way. They will determine because of their money who shall be the candidate.

THE VOICE-CHAIRMAN (SHRI LOKANATH MISHRA): Mr. Bhupesh Gupta, so, we shall now put your amendment to vote.

SHRI BHUPESH GUPTA: What vote? Here is the amendment.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Please listen to me.

SHRI BHUPESH GUPTA: Sir, the High Court of Calcutta and the High Court of Bombay passed strong strictures against the intrusion of money. Sir, the Congress Party has proposed the Bill. The Government proposed the Bill. I do not mean the Congress. Today, the Congress has itself undergone a change. Many people are sitting here now. I have been here for long. Sir, they are coming from the poorer sections of the community, young men, educationists, agriculturists, workers, employees and from these classes they are coming. They are of a different type. They are under attack by big money. What will they do? They want to corrupt some of them. I do not say that you will be corrupted. That is their intention. With the strength of their money, they want to smuggle into the ruling party and also into other parties. Such people will do that. Who does not know the big money which is swearing by the 20-point programme, the monopolists, showing their patriotism in London and other places, and spending a lot of money on lavish par-

fies as Mr. Birla did? And Mr. G. D. Birla met the leader of the Jewish community in the United States at the residence of Mr. Kaul, who has now retired. Sir, these are the people who are financing the total revolution, who are financing the J.P. movement, who are also financing the rightist parties and who are also colluding with the communal organisations. Sir, politics is a business for them. And they want politicians for business. They want politicians for business. Sir, I cannot think of the crisis in West Bengal if I do not take into account the operations and machinations of these big money people and so on. Therefore, Sir, my words will be addressed to you, Mr. Law Minister, now.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): It is time that you should wind up.

SHRI BHUPESH GUPTA: Time is ending, yes, yes. This is very important what I am talking now, what I am telling now.

SHRI JAGAN NATH BHARDWAJ: He is another monopolist in this House.

SHRI BHUPESH GUPTA: What I am saying, the Law Minister should take a note of it. Our Constitution is not safe. Its proclamation is not safe. Its Preamble is endangered if we do not take effective measures.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): He has taken note of it. Mr. Bhupesh Gupta, please listen to me. He has taken note of it and you have made your point amply clear.

SHRI BHUPESH GUPTA: Do I have an assurance then that Kamal Nath type of people will be curbed? What is the use of taking note of it otherwise? (*Interruptions*).

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Kindly wind up now.

SHRI BHUPESH GUPTA: Therefore, Sir, I have said it that it is very very important and the Government

[Shri Bhupesh Gupta].

should include it and enact measures to prevent direct and indirect interference of the money power not only in elections but in all our democratic processes and institutions. Sir, they are very happy because we are facing some difficulties in running our Institutions. They create difficulties and then exploit them. What is more dangerous today is that they are taking advantage of the emergency situation by exploiting it for their own ends. They will be supporting the reactionary, retrograde, anti-social, communal forces, no matter which party they belong to.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): You have to wind up now.

SHRI BHUPESH GUPTA: Having belonged to a party of that type, they should be more familiar how the blackmoney behaves, how the big money behaves. Therefore, I suggest that my amendment should be accepted. (*Time bell rings*)

Again, Sir, I obey you and before I sit down, may I appeal to my friends of the Congress to save us from the machinations of being ruled from behind the back by a protege of money power, by men like Kamal Nath. I hope what I have heard is not true. But if it is true, it is a danger signal and you are in danger of money power.

SHRI V. V. SWAMINATHAN: The proposed article 43A deals with one of the points of the 20-point programme and provides for the participation of workers in the management of undertakings or other organisations. This has been given a constitutional status and I support this and while supporting this clause I want to bring in the amendment that the words "and payment for their work in accordance with its quantity and quality" may be inserted after the words "any industry" in line 34, at page 3. If the Fundamental Duties are to be called the ten commandments, I will invite the hon. Minister's attention to the 10th commandment, namely, to strive

towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement. This clause is "payment not only for quantity but also for quality of work". This finds a place in many progressive countries, namely, the socialist States. So there is nothing objectionable and it will be in consonance with the 10th commandment, if this amendment is accepted.

DR. V. A. SEYID MUHAMMAD: Sir, there are a number of amendments to clause 9. One was by Mr. Bhardwaj. It suggested that the words "business, public works and services" should be added to article 43A, which says that the State shall take steps by suitable legislation to secure the participation of workers in the management of undertakings, etc.

Actually, the expression "undertakings and establishments" is wide enough to include what Mr. Bhardwaj has suggested. But, there is one difficulty, apart from that, in including the precise expression "business, public works and services". Public works and services are mainly and solely owned by the Government and it may not be possible to have the participation of workers in the services and the public workers.

SHRI JAGAN NATH BHARDWAJ: If you see the wordings of the clause....

DR. V. A. SEYID MUHAMMAD: About the inclusion of the expression "at all levels" with regard to industries in private sector, in article 43A the expressions "undertakings, establishments, organisations" etc., are without any limitation so that it is not necessary to introduce the expression "at all levels" because the present expression is so wide that at all levels it can be done and there is no necessity of actually bringing in this expression, as if there is some limitation there.

One other proposal is that the workers should have the right to have partnership or the right to take shares

Actually, if the hon. Member refers to article 39B, he will see that the ownership and control of the material resources of the community should be so distributed which is best to subserve the common good. If it is found that it is in the best interests of the community to have such partnership or shares in the concerned industries, certainly it can be done and the directive is already there under article 39B. Mr. Khurshed Alam Khan's proposal is almost on the same lines as proposed by Mr. Hashmi, Mr. Bhupesh Gupta and Mr. Kumbhare relating to clauses 7 and 8. I have replied in detail about those points raised at that time and I do not propose—nor it is necessary—to repeat what I have already said.

It was very thoughtful of Mr. Khan to bring in a personal equation by asking me my personal experience in the matter. I would be very glad to answer him but in the matter of the amendments to the Constitution, my personal experience is rather irrelevant.

Sir, similar amendments have been suggested as article 43D and Mr. Bhupesh Gupta and others have brought in the suggestion to introduce article 43C.....

SHRI BHUPESH GUPTA: I would like to hear Mr. Gokhale since he is here, because this proposition when he was, I believe, a judge of the Bombay High Court, came up about the question of money power. I do not know when he was the judge. Mr. Tendulkar gave the judgment. Mr. Chagla was also there. Actually I want him to tell us about the money power, what he thinks about it.

SHRI H. R. GOKHALE: Let him finish the other part.

SHRI BHUPESH GUPTA: It seems you are the real power in the Law Ministry.

DR. V. A. SEYID MUHAMMAD: Regarding money power, Mr. Gokhale has promised since Mr. Bhupesh Gupta wants to know what happened at the time of Mr. Tendulkar. I do not know what happened at that time.

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): It is between the two Ministers to decide as to whether he would reply or Mr. Gokhale would reply.

SHRI BHUPESH GUPTA: I mean no reflection on him, Sir. He is a nice man. He can reply. Only I said that since Mr. Gokhale is here, he could say something.

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): Let him finish it first.

DR. V. A. SEYID MUHAMMAD: The only thing I would say is that if Mr. Bhupesh Gupta wanted to convince, by his long speech, the people on this side, the Members and the Ministers on this side about the ways and other evils of money power, he has wasted his time. We are already convinced and we are trying to take steps in this regard. Therefore, the entire long argument was quite unnecessary. There is no question of convincing the already faithful. Therefore, I would say Mr. Bhupesh Gupta's long speech was absolutely wasted in that direction. We are already convinced about the evils.

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): He says they are already convinced about the ill-effects of money power and about the influence of money power and that therefore, there was no necessity for you to have wasted so much of your time.

SHRI BHUPESH GUPTA: Since you are convinced about money power, no name be included.

DR. V. A. SEYID MUHAMMAD: Not money power, but the evils of money power. You are convinced

[Dr. V. A. Seyid Muhammad]

about the money power. We are convinced about the evils of the money power.

SHRI K. K. MADHAVAN (Kerala)
May I know how Mr. Bhupesh Gupta's amendments fit in with this clause?

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): This is not the time when you can ask for explanations.

DR. V. A. SEYID MUHAMMAD:
These are the main amendments proposed and, for the reasons mentioned we regret we are not in a position to accept these amendments.

SHRI KRISHNARAO NARAYAN DHULAP: I would like to know about my amendment.

SHRI BHUPESH GUPTA: I would like to hear Mr. Gokhale.

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): Do you have anything to say with regard to Mr Dhulap's amendment?

DR. V. A. SEYID MUHAMMAD:
Except that it is not acceptable to us

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): Government does not agree. They do not accept it.

SHRI LAKSHMANA MAHAPATRO:
What about collective bargaining power?

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): He is not accepting it.

SHRI H. R. GOKHALE: My colleague had already explained the position. He has done it well. But Mr. Bhupesh Gupta had referred to some case in the Bombay High Court. I am aware of it, of course. I was not concerned with the case as a judge but I was the person who appeared for one of the shareholders. That shareholder had challenged one of the provisions in the Articles and Memorandum of Association of the Tata Com-

pany. The challenge was that the provision relating to the giving of donations to a political party was contrary to the provision contained in the then existing Companies Act. I had argued on behalf of the shareholder and lost the case in the Bombay High Court. The Bombay High Court accepted, in principle, what I said there, namely that this should not be done. But in view of the law as it was at that time, the judge who delivered the judgment, said that he was deciding the case against my contention 'with a heavy heart', to use his words. But this has no relevance to the question which Mr. Bhupesh Gupta has raised. Subsequent to that case, Parliament accepted the suggestion made by the High Court of Bombay and the Companies Act was amended. Now, the only question which he raises now is that there should be something here by way of a Directive Principle that money power, particularly in elections should be curbed.

SHRI BHUPESH GUPTA: Mr. Gokhale, to refresh your memory, in that judgment, the judges—this has been discussed in this House also—told the Government that measures should be taken to curb this money power and its interference with the election process whatever the provisions may be in the Companies Act.

SHRI H. R. GOKHALE: We have now amended the Companies Act.

SHRI BHUPESH GUPTA: The pillars of democracy will be destroyed if the money power is allowed to operate in the elections. They said something like that.

SHRI H. R. GOKHALE: I was exactly saying the same thing that the suggestions made by the judges in that judgment were accepted by Parliament and later on, the Companies Act was amended. I used only two sentences. He has used many. The substance is the same. The point is that the view of the Bombay High Court was accepted by the Government and the Companies Act was amended.

SHRI BHUPESH GUPTA: Money power does not mean only donations to companies. Money power means other things also. As you know well, moneys are supposed to be collected without cheque.

SHRI H. R. GOKHALE: I would advise my friend not to have a running commentary. I have heard him fully. I was talking about the particular case. I now come to the broader question to which he referred, namely, curbing of money power particularly in elections. Now there can be no dispute on the fact that so far as elections are concerned and in a country like ours we are pledged to the basic principle, that elections should be fair and free. The use of money for influencing elections is a very detestable thing and, as my friend said, we need not be convinced about this because that is the basis on which we have proceeded and on which we proceed. My friend knows it, when we were discussing on an earlier occasion the proposed amendments to the election law, the Representation of the Peoples Act, this was one of the points which was very very closely discussed. They had given their views and at that time we had indicated that we had been in broad agreement with them. When we come to amending the Representation of the Peoples Act; certainly this will be borne in mind. The only point is whether it will be appropriate to place such a clause as he is suggesting in his amendment. I think it is not necessary here. There are many things which can be said. Not only about money power, we can talk about corruption, about many other things, but when you put these things here, when you are dealing with the question of workers' participation in management, it does not become relevant and appropriate to put a clause here. This does not mean that we do not agree with what Mr. Bhupesh Gupta is saying.

Now, Mr. Bhupesh Gupta referred to Mr. Kamalnath. Well that is a name which I have heard for the first time today. I must confess it.

SHRI BHUPESH GUPTA: What ignorance, Mr. Law Minister!

SHRI H. R. GOKHALE: I must confess that I am ignorant and he probably knows much more about these persons than I. I do not, I must confess.

SHRI BHUPESH GUPTA: It is not a personal explanation. I do not know much about him except that when I go to Calcutta people always ask me as to who he is.

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): So, you are not accepting his amendment.

SHRI H. R. GOKHALE: No, I can't.

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): Now I put the amendments to Vote. Mr. Bhardwaj, are you withdrawing your amendment or you are pressing?

SHRI JAGAN NATH BHARDWAJ: Before I say anything on this, I would like the hon. Minister to.....

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): Are you withdrawing?

SHRI JAGAN NATH BHARDWAJ: I will do that. But before that I want one clarification.

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): You have already spoken on the amendment

SHRI JAGAN NATH BHARDWAJ. Only one clarification. I do not want to say much. My clarification is, in my amendment I seek that the sphere of coverage may be extended beyond industry. On this point I want the hon. Minister to assure us that the Government will keep their mind open on this issue and that while framing laws they will take this point into consideration.

DR. V. A. SEYID MUHAMMAD: Well, The Government always keep

[Dr. V. A. Seyid Muhammad]
their mind open not only in this matter but in other matters also.

SHRI JAGAN NATH BHARDWAJ:
I have no hesitation in withdrawing the amendment. Sir, I wish to withdraw my amendment (No. 24).

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): The question is:

"That leave be granted to the Mover to withdraw his amendment (No. 24)."

The motion was adopted.

The amendment (No. 24) was, by leave withdrawn.*

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): Yes, Mr. Kumbhare.

SHRI N. H. KUMBHARE: The hon. Minister has not been specific in giving the reply.

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): At this stage you can only say whether you want to withdraw or whether you want to press.

SHRI N. H. KUMBHARE: He has not been specific in saying whether he approves of the ownership of the workers so far as the industry is concerned. He has not said a word about it.

DR. V. A. SEYID MUHAMMAD: I said it is not necessary. I have said about article 394 and that is sufficient.

SHRI N. H. KUMBHARE: That is entirely a different matter.

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): Whatever he had to say he has said. Now would you like to withdraw your amendment or press it?

SHRI N. H. KUMBHARE: I press it.

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): The question is:

25. "That at page 3, line 34, after the words 'any industry' the words 'at all levels and with regard to industries in private sector the State shall, take further steps to secure for the workers partnership and share in ownership of the industry' be inserted."

The motion was negatived.

SHRI KHURSHED ALAM KHAN: Sir, I wish to withdraw my amendment (No. 26).

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): The question is:

"That leave be granted to the Mover to withdraw his amendment (No. 26)."

The motion was adopted.

*The amendment (No. 26**) was, by leave, withdrawn.*

THE VICE CHAIRMAN (SHRI LOKANATH MISRA): The question is:

27. "That at page 3, after line 34, the following be inserted, namely:—

'43B. The State shall take steps by suitable legislation or in any other way, to secure remunerative price for each major agricultural produce having regard to, *inter alia*, the cost of production including minimum wages to be paid to the agricultural labourers under any law and such other relevant factors thereto.'

The motion was negatived.

*For text of amendment vide col. . *Supra*.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Mr. Bhupesh Gupta, would you like to press or withdraw your amendment?

SHRI BHUPESH GUPTA: I have appreciated Mr. Gokhale's statement, but since my amendment is to curb intrusion of money power and as I do not know whether Mr. Gokhale will be due for intrusion, I press my amendment.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): The question is:

28. "That at page 3, after line 34 the following be inserted, namely:

'43B. The State shall take suitable steps through legislation and otherwise to ensure the right of collective bargaining to workers and employees.

43C. The State shall undertake all necessary measures to reorganise and democratise the administrative machinery at all levels so that it becomes an effective instrument for achieving the objective of socio-economic revolution.

43D. The State shall take effective steps to prevent the intrusion of money power in elections and other democratic processes or interference otherwise in such processes by money power."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Mr. Swaminathan is not present. His amendment will be put to vote.

The question is:

29. "That at page 3, line 34, after the words 'any industry' the words

'and payment for their work in accordance with its quantity and quality' be inserted."

The motion was negatived.

New Clause 9A

SHRI JAGJIT SINGH ANAND (Punjab): Sir, I move:

*30. "That at page 3, after line 34 the following new clause be inserted, namely:

'9A. After article 45 of the Constitution, the following articles shall be inserted, namely:

'45A. The State shall promote by suitable means participation of youth in physical culture, training and sports.'

45B The State shall take measures to ensure the full and free participation in the political life of the country of all citizens on completion of eighteen years of age'."

The question was proposed.

SHRI JAGJIT SINGH ANAND: Sir, I shall try to be very brief but I shall speak separately on 45A and 45B.

As for 45A, as we all know, during the last twenty-nine years we have not made much progress in the field of physical culture and sports. We had only one leg to stand upon, and when we got defeated in hockey also in Montreal there was a great shock and that matter was discussed in both the House. In this House if you remember the time had to be extended and after that the Speaker of the Lok Sabha had appointed a Committee which is poorly represented by this House—I think there is only one Member. What I want to point out

*The amendment also stood in the names of Shri Bhupesh Gupta, Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri S. Kumaran, Shri Bir Chandra Deb Burman and Shri Lakshamana Mahapatro.

[Shri Jagjit Singh]

is that we are a great nation with a great past and we have very great talent in the field of physical culture and sports also. We have the example of a very small nation which devoted its energies to the promotion of physical culture and sports namely the German Democratic Republic coming up in such a big way and winning the admiration of everybody irrespective of ideology.

Sir, I need not emphasise the importance of these things in this context. I only want to say that we are talking here of participation of youth. The participation of youth in physical culture, training and sports will not only take the name of our country forward, it will not only enable us to play a proper role which has gone by default in the twenty-nine years of independence but it will also unleash the innate initiative of the youth in a positive direction. Therefore, while many important things are included in the Directive Principles already, I would only request Shri Gokhale to give due consideration to adding this also because our own experience is that we have not paid sufficient attention to this. By adding this he will only be putting it into focus and we shall also be able to make up the time-lag of these twenty-nine years.

Coming to 45B, all that is demanded in 45B is that the voting age should be lowered from twenty-one years to eighteen years. This is a question that has already been debated in this House through a Private Member's Bill. There was a large measure of support and even the Government said that it has an open mind on this question. I only wish to remind that our independence, our sovereignty and our Constitution are the products of our great freedom struggle. I might also remind this House that Kartar Singh Sirpa, the organiser of the first Ghaddar revolt was hanged when he was not yet eighteen and that Bhagat Singh—who is considered as the martyr of martyrs—started his political career when he was not yet

nineteen. When the youth of our country made such a great contribution to the freedom struggle—and after the freedom struggle also—and when after the imposition of the emergency the youth have shown a new sense of participation, I would request that the youth should be positively involved in the processes of democracy.

And in the process of building up the future of the country, it deserves that the age limit should be lowered to 18. Now we have put socialism in the Preamble of our Constitution. In fact, all socialist countries in the world have already adopted it in their Constitutions which give them the right of voting at the age of 18. It will be in consonance with the change in the Preamble that we reduce the age of voting to 18. Then we can draw upon the energies of the youth. The Prime Minister and other people have also talked about it. Even within the ruling party at one stage it was said that the youth wing of the ruling party was outdoing the ruling party as such, the Indian National Congress, by its activities, and all that. If the ruling party is at all serious, it will be paying a tribute to the newly unleashed energies of the youth if they lower the age limit and bring it down to 18 years. If the Government has an open mind, as Mr Bhupesh Gupta put it, the mind should not remain open always, but they should take some positive and firm decisions.

With these words, I would urge that both these additions should be made to the Directive Principles and my amendment should be accepted.

SHRI H. R. GOKHALE: Sir, with regard to the new article 45A, i.e., "promoting by suitable means participation of youth in physical culture, training and sports," the objective no doubt is laudable, and that has been the objective of the Government of India also. And when he said that we should keep this in mind with a view to doing something in this direc-

[Shri H. R. Gokhale]

tion, I agree with him. I think the Government will keep it in mind that something more positive is required to be done in this direction. I am sure the Government is aware of this. But I do not think that in this Constitutional Amendment, as a new Directive Principle, it is necessary to be added.

With regard to the proposed article 45B, i.e. "to ensure the full and free participation in the political life of the country of all citizens on completion of eighteen years of age", all I can say is that this is a matter on which there is something to be said for but a lot to be said against. Now a large number of countries as yet, even those countries which had been experimenting democracy of our type for long many years, have not adopted this. Some have, but many have not. Now, under the circumstances, keeping in mind the background of the situation in this country, we have to take a decision some time or the other. He said: Do not keep the mind open for all times. I do not agree with him. I do not want to close it also. I want to keep it still open for consideration at an appropriate time. Moreover, an addition of this clause without amending the other relevant article which says that the voting age will be 21, will be useless. Therefore, if an amendment was necessary, it should have been brought there. But that clause was not under consideration in the present Constitution (Amendment) Bill. Therefore, without saying for or against this, all I can say is that I am against inclusion of this as a new article in the Constitution.

SHRI BHUPESH GUPTA: What about amendment No. 33? Amendment No. 33 says that you should have a provision in the Constitution so that Parliament and the State Legislatures may review the working of the Government relating to the Directive Principles. The only thing I want to say.....

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): That is the next clause, Clause 10. We are in Clause 9A and Clause 9A does not include this. Mr. Bhupesh Gupta, are you pressing your amendment No. 30?

SHRI BHUPESH GUPTA: Yes, I am pressing.

THE VICE-CHAIRMAN: (SHRI LOKANATH MISRA): The question is:

30. "That at page 3, after line 34 the following new clause may be inserted, namely:—

'9A. After article 45 of the Constitution the following articles shall be inserted, namely:—

45A. The State shall promote by suitable means participation of youth in physical culture, training and sports.'

45B. The State shall take measures to ensure the full and free participation in the political life of the country of all citizens on completion of eighteen years of age.'

The motion was negatived.

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Now we will come to clause 10. There are three amendments. Amendment No. 31 is by Shri Jagan Nath Bhardwaj.

Clause 10—Insertion of new clause
48A

SHRI JAGAN NATH BHARDWAJ: Sir, I move:

31. "That at page 4, line 4, for the words 'the forests' the words 'the forests, mineral wealth' be substituted."

The question was proposed

THE VICE-CHAIRMAN (SHRI LOKANATH MISRA): Amendments No. 32 and 33 are by Shri Bhupesh Gupta.

SHRI BHUPESH GUPTA: Sir, I move:

*32. "That at page 4, line 4 and 5, after the word 'country', the words 'and undertake adequate and effective measures to check environmental pollution' be inserted."

*33. "That at page 4, after line 5, the following be inserted namely:—

'48B. There shall be a Standing Committee of Parliament and the State Legislatures as the case may be for reviewing and investigating all matters relating to and implementation of the Directive Principles.'

The questions were proposed.

SHRI BHUPESH GUPTA: Both of us will speak. First let him speak.

SHRI JAGAN NATH BHARDWAJ: Mine is a simple amendment. I again congratulate the Government for taking upon itself the protection of forests and other natural wealth. I would also like that the words 'mineral wealth' be included in this. Why do I say this? It is because I have seen it being wasted. Once I had a chance to go to Goa. I saw there that quite a deal of iron ore was thrown by the Japanese and other people on the road. This meant that there was nobody to look after this valuable thing. Iron ore is an asset to our country and it is being wasted. It is not one tonne; it is hundreds of tonnes of iron ore being spilled there. If we go to Jharia where there are the coal fields, the cream of coal has been taken out there and much of this is left untreated with the result that there is fire, there is accident. This means that there is nobody to look after it. There may be somebody but it was not properly done.

National wealth in the shape of mineral wealth was not cared for as it should have been done.

[The Vice-Chairman (Shri V. B. Raju) in the Chair]

So, I have suggested that the words 'mineral wealth' should also be included in article 48A which is a welcome provision. I urge upon the hon. Minister to kindly accept this amendment of mine.

SHRI JAGJIT SINGH ANAND: Sir. I will take amendments Nos. 32 and 33 one by one. In amendment No. 32, I want the words 'and undertake adequate and effective measures to check environmental pollution' to be inserted. Why do I particularly emphasise on 'adequate and effective measures to check environmental pollution'? It is because environmental pollution is becoming a big problem in all the industrialised, advanced countries. It has become a great question as to what will happen to humanity if environmental pollution is not controlled. In our country also it has become a very big problem. In our country there has been a rapid growth of industries in certain sectors, in certain areas, especially around the big cities. There has been a haphazard growth of cities as such also. There are cities in which the industries are located right in the heart of them. Cities have also grown enormously. Take the example of Delhi. Delhi has grown more than five times in the last 29 years. And it is in today's paper that the thermal power project that is functioning in Delhi is sending out smoke and creating a poisonous atmosphere up to 15 km. from its location. So, pollution in the capital of the country is a serious problem and this problem is a growing one. Therefore, I would urge upon the hon. Minister to specifically add

*The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Birchandra Deb Burman and Shri Lakshmana Mahapatro.

these lines that I have suggested. It is also in consonance with what has already been stated in that provision. This will make the provision more specific and it will enable the Government to take more concrete measures and not leave the problem in the air.

Sir, in regard to my amendment No. 33, I only want to remind you that the chapter on Directive Principles—which is from article 36 to article 51 of the Constitution—provides in article 37—

“The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.”

So, even today one thing is very clear, which was there before also.

That is while these principles should be fundamental to the governance of the country and all our laws should be enacted keeping these principles in view, they are not enforceable in any court of law. Now, as you all know, my party has come out in full-throated support of the Constitution (Forty-fourth Amendment) Bill as such, and one of the principal reasons for this support has been, as the hon. Minister, Mr. Gokhale himself said while moving this Constitution Amendment Bill, that now the predominance of the Directive Principles over the Fundamental Rights is being guaranteed. And while replying to the debate, he also said “We are releasing the Directive Principles from imprisonment. We are trying to uphold the supremacy of the Directive Principles.” I go with these noble sentiments and I also go with the case that has been made out by the hon. Minister and by colleagues on both sides regarding the role of the courts in specific cases which has held up our progress, which has withheld the country from going forward. But let us see what is laid down in the Directive Principles. I

will just mention two or three: free and compulsory education till the age of 14; to raise the level of nutrition and the standard of living and to improve public health; organisation of agriculture and animal husbandry on modern and scientific lines; and separation of judiciary from the executive. I am only mentioning a few. If you look at these and examine how far the courts have hampered or impeded the process of their implementation, you will find that there is not much blame on the courts. The courts are not to blame for this. The blame also lies in the fact that the duty of the State to apply these principles in making laws has, in some cases, been not paid sufficient attention while in other cases it has not been paid any attention at all. And it is not only a question of the Government not laying down any policy in consonance with these directive principles, but it is also a question of the bureaucracy that we have inherited from the British. (*Time bell rings*) Sir, I shall be brief. I have been brief earlier also. It is a very important point that I am making. Please do not ring the bell so soon. I am only making my preliminary remarks on an important question. What I am trying to say is, I am all for laying the blame on the judiciary where it has gone wrong and I am all with the Government in taking measures to see that the judiciary in future is not able to question the supremacy of Parliament in relation to the Constitution. But, Sir, we have to be self-critical. We have to examine our own conduct. And we find that much has gone by default because of the way the Government has paid attention to the Directive Principles and because of the way the bureaucracy has tinkered with the problem of implementation of the Directive Principles. Therefore, here is a chapter, the Directive Principles, on which there is agreement at least between my party and the ruling party. And I say there is much larger agreement in the House and outside in the country that the Directive Principles must take the prime

[Shri Jagjit Singh Anand]
place in the life of the nation. Now they cannot be taken to the court. Now, if they cannot be taken to the court, then where have they to be taken? As was said in another context, the biggest court is the people of this country. But the people of this country operate only when they elect their representatives. Then, next to the people of this country, the biggest and most authoritative court is the elected Parliament of this country. Since the Directive Principles cannot be taken to a law court, they must be repeatedly taken before the court of Parliament elected by the people, which is the biggest court after the people themselves. And the proposal that I am making about a standing committee both at the Parliament level and at the level of the State legislatures will be a final guarantee and this standing committee will be a watch-dog committee to see not only that the judiciary is not encroaching on the Directive Principles but also that any legislation that is brought forward is in consonance with the letter and spirit of the Directive Principles. It will also see that the Government takes energetic enough steps, vigorous enough steps, and the Government is alive to the situation, to bring more and more laws in consonance with the Directive Principles and that when the Government brings them, the bureaucracy does not sabotage them. Unfortunately we have inherited the bureaucratic structure from the British. Mr. Gokhale was mentioning about the judicial structure and very rightly so. But I would say that the bureaucratic structure also needs to be radically recast if we have to go forward at the present stage of the evolution of our country and its historic march to its destiny. Therefore, I am saying that it is necessary that a standing committee is formed both at the State level and at the Central level so that, that standing committee is able to see that these Directive Principles are enforced and the Government is energetic enough to incorporate them in the laws and

the bureaucracy does not hamper their implementation. It will be a continuing court to see that the Directive Principles really get a supreme place after a long lapse of time and after all those who sacrificed all for our country could only dream of it. I do hope the honourable Law Minister will accept the proposal for constituting a standing committee which will act as the court of the House for the implementation of the Directive Principles both at the State and Central levels.

SHRI BHUPESH GUPTA: My amendment is for insertion of the following:

"There shall be a standing committee of Parliament and State Legislatures as the case may be, for reviewing and investigating all matters relative to the implementation of the Directive Principles."

This is a very simple and reasonable amendment. I will explain to you why this is called for. The Directive Principles in our Constitution are not enforceable. Now we have gone a step forward. The Fundamental Rights will not be in a position to bar their implementation. That is a step forward. That only enables us to implement the Directive Principles better. That all by itself does not mean that Directive Principles are implemented. We have assumed power to overcome the judicial obstacles for implementation of the Directive Principles. But much, therefore, will depend upon how we proceed to implement the Directive Principles. It is quite clear that we have not been fair to the Directive Principles since the commencement of the Constitution. If we were serious and had intended that way, we could have implemented many of these Directive Principles far better than we have done. It has also been our experience that the Directive Principles are by passed by the State Governments, although according to the Constitution they are supposed to be the fundamental principles for the governance of the State.

This is stated in the Constitution itself. There is no means of checking as to how these are being implemented or how the Directive Principles are being treated by the concerned authorities, whether at the Centre or the State level. Those of you who were in this House or the other House for long will admit one thing. I have been here since 1952, as you know. I cannot recall one occasion, not a single occasion, when we spent even one hour in the quarter of a century to review the implementation of the Directive Principles. Occasionally, we had come to the Directive Principles by way of references to substantiate some of our cases or for other purposes in dealing with legislation and other matters. But never had there been an occasion when this Parliament considered the proposition of implementation of the Directive Principles as a distinct, separate challenging, subject in order to come to their conclusions in the light of their experience. Never we have done it. This is the position with the States also, as far as I know. I think in this matter I am absolutely correct that no State has also reviewed the implementation of the Directive Principles. These Directive Principles have remained largely ornamental or as adornment in the Constitution to be looked at whenever it pleased us and to be forgotten whenever it has been convenient for us. That is what has happened. Otherwise, many of these could have been implemented. On the contrary, State policies have been directed against the Directive Principles, in defiance of the Directive Principles, as an outrage of the Directive Principles. Even so, Sir, we have not called the authorities to account. Therefore, Sir, we have suggested this. Since we have enshrined in the Constitution certain laudable principles, I would say that they have a history. Part IV of the Constitution has a history in our freedom movement and these Directive Principles embody some of the noble sentiments of all those people who were in the freedom movement and

of those leaders who had pioneered India's freedom movement and the social renaissance in many ways. They spell out the sentiments of those people and they embody the noble sentiments of those people. We had adopted in the Karachi Congress the resolution relating to the Fundamental Rights and other things. If you read the Independence Resolution which we had adopted on the banks of the five rivers you will find the basis of the Directive Principles. Therefore, I say that the Directive Principles signify the noble inheritance of our freedom struggle which you must carry forward even after our independence. But, Sir, what has happened? We gave the Directive Principles an important place in our Constitution in Part IV. In the Constituent Assembly there was a recommendation or proposal that the Directive Principles should be made enforceable. But that was not accepted and that was a great mistake. The Directive Principles remained merely as a declaration and yet, Sir, declarations could have been acted upon. But we have not done that. In the Directive Principles, for example, there is a provision to the effect that we have to provide for equal pay for equal work for both men and women. Have we done it? No. We have not done that. Then again, Sir, it has been said in the Directive Principles that we should ensure adequate means of livelihood for our people. Sir, after 25 or 30 years of our freedom, we are still in a stage when 22 crores of our brothers and sisters are living in slums and hovels and in a state of utter poverty, destitution and hunger, with not even an income of about forty rupees per month which would enable them to spend on their necessities and to live above the poverty line. Now, Sir, why should it be so? What has happened to this particular Directive Principle? Why can't we discuss it by way of reviewing the implementation of the Directive Principles of State Policy and try to find out as to what has happened to that

[Shri Bhupesh Gupta]

Directive Principle which ensures our citizens adequate means of livelihood? It has gone by callous default and that is not creditable for us, for those who function in Parliament, for those who function in the Government and for those who are in the helm of affairs, running our economic life and our cultural life. Why should it be so? Sir, we never discussed it. Therefore, I have suggested that now that you have very correctly put the emphasis on the Directive Principles and given them precedence over the Fundamental Rights, you should make it something more living, something more dynamic, something which will give confidence to the people and I think the suggestion of Standing Committees is only to meet the purpose in view to some extent. Sir, the other day, the Prime Minister said here that there should be more and more involvement of the people in the implementation of the Plan and other things. I say that there should be more and more involvement of the people in the implementation of all the progressive measures and policies of the Government. Now, Sir, the Directive Principles indicate the basic direction for the policies to be adopted. Therefore, why should we people in Parliament and in the State Legislatures not be involved in this process through a proper mechanism and through proper organisational and institutional arrangements? It is only for this purpose, Sir, that I have suggested Standing Committees. The concept of Standing Committees we have been pleading in this House and in the other House for quite some time Parliamentary democracy in our country cannot be viable and strong enough to meet the requirements of a challenging situation much less the aspirations and urges of our people, unless we have such Standing Committees which will have control over the bureaucracy. Bureaucrats are accountable to them, not to you, and they come and answer questions on the basis of the brief prepared by the bureaucrats. But

the Standing Committees will enable you to call the bureaucrats as witnesses at different levels, ask them as to what they have done and also criticise them, help them in getting the answers and ensure their involvement between the legislative wing and the administrative wing. Yesterday the Prime Minister said that we are re-establishing harmony between the legislature, the executive and judiciary. Certainly it should be done. But so far as the Directive Principle is concerned, it is neglected, defied and sometimes violated. If we had lived up to the Directive Principles, we would not have the monstrous spectacle of monopoly capital riding in our country, free India, in so atrocious and outrageous manner. If the Directive Principles had been implemented in the spirit in which they were adopted, in the spirit of the Karachi Resolution, in the spirit of the Lahore Congress and in the spirit of martyres, we would not have millions and millions of people going about without food, clothing and shelter, and living in disease, hunger and poverty. We would not have this spectacle. We would not have this registered unemployment of the order of one crore. Probably two or three crores of people are unemployed or partially employed.

Now, Sir, I am recalling this thing to impress upon the Government to bring some machinery, some mechanism, with the collective vigilance, collective wisdom, collective foresight of Parliament or legislature, into play and live up with this institution in a more manly and direct manner for the implementation of so fundamental principles as the Directive Principles and others. This can be done if you set up standing committees, with necessary statutory powers with the sanction of the Constitution. That is why I have suggested this... (*Time bell rings*). So, therefore, I say that let us take the Directive Principles meant to serve

the masses, alleviate their condition, enrich our culture, give integrity and character to our society, so that the teeming millions may live in happiness and joy, through the institution which I have suggested. Therefore, I say that this proposal merits the consideration of the Government.

Finally, Sir, every year there should be a discussion in Parliament on how the Directive Principles are being implemented. Never has this Government moved a Resolution on this subject. Nor have we moved it. I also criticise ourselves. I am not just blaming that side. This is the time when we must be self-critical; we must criticize ourselves. Mr. Vice-Chairman, our credit before the eyes of the nation will go up if we do this, not with conceit but in a spirit of self-criticism. Sir, we owe a public apology to the nation to our suffering people that despite the fact that the Directive Principles have been inscribed in our Constitution and they have remained there for years and years, we have not stood by them as we are expected to stand by..... (Time bell rings). And, therefore, I say that let us adopt such things. We can discuss this. Committees shall be in continuous sessions. That will be a permanent body, co-existing with the legislature, seized of the problems specifically, drawing collective experience and wisdom at all levels and enlightening Parliament on various matters. This is what I have suggested. I regret, Sir, that the hon. Ministers do not have any time. They believe more in their bureaucrats. The Bill was drafted at the last stage by some Secretaries and others or some technical men perhaps. (Time bell rings). What do they know of this thing? I do not blame them. Such things should be decided and settled amongst you with us. Now can we improve matters when we leave them to the bureaucrats? If this abiding undying faith in bureaucracy, if I may say so, is not given up, it will be the ruin of

the Directive Principles and ruin of the Government, if not the ruin of the nation. Therefore, Sir. I demand that Parliament be taken more readily into the picture in a forthright manner. Let them have their standing committees at their respective levels so that the Directive Principles become the principles of our existence, so that the Directive Principles guide us not only in our public functioning, but, if possible, in our private life also, so that we can make the Directive Principles, not a declaration to be written only, but a living spectre of life which makes difference to the life of the people and the nation. (Time bell rings). Sir, this is the approach which was expected.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): You have made your point.

SHRI BHUPESH GUPTA: But my friend, Mr. Gokhale, believes more in officers. Sir, let us, in these benches, say that the Bill carries a lot of provisions in some respect which has the smell of bureaucracy. I see bureaucrats here and there. I wish that was eliminated. I am trying to do it. You can accept the amendment, Mr. Gokhale. He is on his toes and ready to speak. Mr. Gokhale, listen to good things and say good things. That will be good for you and good for us.

SHRI H. R. GOKHALE: Sir, first I speak with regard to amendment No. 31. The hon. Member wants the words "mineral wealth" to be added after forests. As you can see, the scheme of this article is like this. Perhaps forests and wild life are very closely connected. It is really the forests where you have the wild life. When you talk of wild life, you think of forests. The combination of wild life and forests is a very appropriate combination. If we include "mineral wealth", it will be absolutely out of place. In that case, why should we not include other wealth under the oceans? There is a lot of wealth there. There are a lot of other things

[Shri H. R. Gokhale]
which can be said. It does not fit in with the scheme of this article.

Coming to the other amendments about which Mr. Bhupesh Gupta and my other friends spoke with great vehemence, I would say that you look at the Directive Principles. A reference was in particular made to article 37 of the Constitution.....

SHRI JAGJIT SINGH ANAND: Before that, there was a reference to environmental pollution also.

SHRI H. R. GOKHALE: That is really unnecessary because when you talk of taking care of environment, you talk of environmental pollution also. If you do not take care of environmental pollution, then what are you going to take care of? You are wanting us to say something obvious. We do not want to confine it to pollution. Care of environment can be taken in other respects also, though pollution is a major part of taking care of environment. It is only one aspect of taking care of environment.

Coming to the other amendment, a reference was made to article 37. I think it is quite relevant to make a reference to that article. The provisions contained in this part shall not be enforceable by any court, but the principles, therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. Now, it takes care of both executive action as well as legislative action. When this article talks of State, it obviously means State as defined in article 12. And as you know, Sir, State includes Parliament, therefore, it is unthinkable that a Committee of Parliament will supervise the work of Parliament itself. That is something like a contradiction in terms. But I do see the anxiety that there should be something, some machinery which would take care of the implementation of the Directive Principles. Mr. Bhupesh Gupta himself confessed about his Party and he said about us

also that in the last few years, nothing had been done to have a check on what is done or what is not done. Maybe, he said it may be by way of a discussion, raising a discussion in the House. Nobody prevents you or us for that matter from raising such a discussion in the House, and if there is any need for a watch-dog, I think, the best watch-dog is the Parliament itself, and the Parliament at that time can function either through its Committees or other agencies which Parliament might deem fit to appoint.

SHRI BHUPESH GUPTA: What I say is this. Surely we can move a resolution. You can also move that. That can be done. That will be done, perhaps, in future. But that will only be a debate. What I suggested is that there should be a machinery, where a Committee of Parliament functioning on behalf of Parliament reviews the working of the Directive Principles in relation to each province of jurisdiction.

SHRI H. R. GOKHALE: I understood your point. But the point is that you do not need a Constitution Amendment for appointing a Committee. Parliament can at any time appoint a Committee. Why do you need a Constitutional amendment? That is what I am saying. The second thing is, Sir, I do not agree that nothing had been done in pursuance of the Directive Principles so far. Have we not, for example, taken under the control of the State means of production in many areas? Has there not been built up a sizeable, big public sector in this country? Has legislation not been passed in respect of other Directive Principles? Even if you look at this—"that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment"—I am not willing to agree that nothing has been done in this direction. About this point "that there

is equal pay for equal work for both men and women', we have recently passed a legislation in this regard. And the point 'that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength', I think, legislation has been passed with regard to this. There can be a point that what is done already is not enough. Maybe, something more needs to be done. But I am joining issue on the general statement that nothing has been done to implement the Directive Principles.

SHRI BHUPESH GUPTA: I have never said that nothing has been done. You know what has been done....

SHRI H. R. GOKHALE: Therefore, the point is, to the extent to which before the present Constitutional amendment, what can be done, that has been attempted to be done and it has been done in spite of the fact that in many respects there were many hurdles in enforcing the Directive Principles because certain Fundamental Rights came in the way and that is exactly what is now being sought to be remedied by making the Directive Principles not subservient to the Fundamental Rights....

SHRI BHUPESH GUPTA: What forces the Government, the financial institutions to finance money recklessly to monopoly capitalism?

SHRI H. R. GOKHALE: The Government also set up a machinery for the purpose of controlling the monopolies and also in respect of other methods which are used, which are in the nature of bad trade practices or illegal trade practices. It is all right, you might say legitimately that it is not all that. We want that it should be something more. But it is not that nothing has been done, it is not something to say that it cannot be

done unless you set up a Parliamentary Committee.

SHRI BHUPESH GUPTA: Sir, I never said it. Mr. Gokhale, you are a lawyer. I am also a logical man. How can I make such a stupid remark that nothing will be done unless you set up a Committee? Sir, all I say is that the Committee will help the process of getting the things done.

SHRI H. R. GOKHALE: I will never say that you have said a stupid thing...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The Minister has said that a Constitutional amendment is not necessary for that. Now, there is no misunderstanding here.

SHRI H. R. GOKHALE: I never said that. But the point is that it is good if he has not said it. But if anybody says it, let me put it that way. There is an answer for it. And something more needs to be done. That is a legitimate demand. The only point is whether it can be done and whether it should be done by appointing a Parliamentary Committee by making a constitutional amendment for the purpose, which is not required.

SHRI BHUPESH GUPTA: In the Constitution you are even dealing with the quorum of Parliament. Such trivial things you are doing.

SHRI H. R. GOKHALE: Quorum of Parliament has obviously to be included in the Constitution.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): There is a separate clause for it.

SHRI H. R. GOKHALE: Sir, for these reasons I am not able to accept it.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Amendment No. 31. Do you press for vote? Mr. Bhardwaj.

SHRI JAGAN NATH BHARDWAJ:
Sir, I withdraw it.

THE VICE-CHAIRMAN (SHRI V.
B. RAJU): The question is:

"That leave be granted to the
Mover to withdraw his amendment
(No. 31)."

The motion was adopted.

The amendment (No. 31) was by
leave, withdrawn.*

THE VICE-CHAIRMAN (SHRI V.
B. RAJU): The question is:

32. "That at page 4, lines 4 and 5,
after the word 'country', the words
'and undertake adequate and effective
measures to check environmental
pollution' be inserted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI
V. B. RAJU): The question is:

33. "That at page 4, after line 5,
the following be inserted namely:

'48B. There shall be a Stand-
ing Committee of Parliament and
the State Legislatures as the case
may be for reviewing the investi-
gating all matters relating to the
implementation of Directive
Principles.'"

The motion was negatived.

Clause 11—Insertion of new Part IVA

THE VICE-CHAIRMAN (SHRI
V. B. RAJU): We shall take up clause
11 now. There are 17 amendments.

SHRI N. H. KUMBHARE: Sir, I
move:

34. "That at page 4, after line 16,
the following be inserted, namely;

'(cc) to strive towards streng-
thening the foundation of the
Socialist, Secular and Democratic
Constitution.'"

35. "That at page 4, after line 18,
the following be inserted, name-
ly:—

'(dd) to help other persons in
danger on the basis of solidarity
to participate with others in
combating dangers.'"

40. "That at page 4, after line 22,
the following be inserted, name-
ly:—

'(ee) to abjure prejudice and
hatred towards members of Sche-
duled Castes on preconceived
notions of low caste.'"

SHRI SYED AHMED HASHMI
(Uttar Pradesh): Sir, I move:

36. "That at page 4, for lines 19
to 22, the following be substituted,
namely:—

'(e) to abjure fascism and also
abjure maligning, suppressing,
misrepresenting, distorting, any
religion, culture, language, his-
tory of the country and to re-
nounce atmosphere of hatred,
suspicion and violence.'"

SHRIMATI SUMITRA G. KUL-
KARNI (Gujarat): Sir, I move:

37. "That at page 45, line 21,
after the word 'regional' the word
'Caste' be inserted."

46. "That at page 4, line 28, for
the words 'scientific temper' the
words 'scientific attitude' be sub-
stituted."

48. "That at page 4, after line 33,
the following be inserted, name-
ly:—

"(k) to respect official langu-
age and other Indian languages."

*For the text of the amendment vide col. *supra*.

SHRI K. K. MADHAVAN (Kerala):

Sir, I move:

*38. "That at page 4, line 22, after the words 'dignity of women' the words 'and persons belonging to weaker sections like Scheduled Castes and Scheduled Tribes' be inserted."

SHRI KRISHNARAO NARAYAN DHULAP: Sir, I move:

41. "That at page 4, line 23, for the word 'composite' the words 'great ancient Indian' be substituted."

44. "That at page 4, lines 26-27, the words 'and to have compassion for living creatures' be deleted."

47. "That at page 4, after line 33, the following be inserted; namely:—

'(k) to respect the democratic institutions enshrined in the Constitution and not to do anything which may impair their dignity or authority;

(l) to render assistance and co-operation to the State in the implementation of the directive principles of State policy so as to subserve the interests of social and economic justice;

(m) to pay taxes according to law.'"

SHRI KHURSHED ALAM KHAN:

Sir, I move:

42. "That at page 4, line 24, after the word 'culture' the words 'and taken effective steps for its development, furtherance and growth' be inserted."

SHRI JAGAN NATH BHARDWAJ (Himachal Pradesh): Sir, I move:

43. "That at page 4, line 26, for the words 'and wild life' the words, 'wild life and any sort of national wealth including minerals' be substituted."

49. "That at page 4, after line 33, the following be inserted, namely:—

'(k) to refrain from spreading rumours, light talk and cheap popularity hunting manoeuvres.'"

SHRI V. V. SWAMINATHAN (Tamil Nadu): Sir, I move:

45. "That at page 4, line 28, for the words 'to develop' the words to eradicate superstition and caste system and to develop' be substituted."

SHRI BHUPESH GUPTA: Sir, I move:

†50. "That at page 4, after line 33, the following be inserted, namely:—

'(k) to respect the dignity of labour and the democratic rights of the toiling people.'"

The questions were proposed.

SHRIMATI SUMITRA G. KULKARNI: Sir, I want to say one thing for your consideration and for the consideration of the House. This is a very important section dealing with Fundamental Duties which we are introducing for the first time and ten important duties are being prescribed. I would submit that we may discuss each one of them individually instead of lumping them together.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Now, the amendments are being discussed separately.

SHRIMATI SUMITRA G. KULKARNI: Then it is all right.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Clause 11 and the amendments are now open for discussion. Shri Kumbhare.

*The amendment also stood in the name of Shri B. Rachaiah.

†The amendment also stood in the names of Shri Yogendra Sharma, Dr. Z. A. Ahmad, Shri Indradeep Sinha, Shri Kalyan Roy, Shri Bhola Prasad, Shri Sanat Kumar Raha, Shri Jagjit Singh Anand, Shri S. Kumaran, Shri Bir Chandra Deb Burman, Shri Lakshmana Mahapatro.

SHRI N. H. KUMBHARE: So far as clause (c) of the Fundamental Duties is concerned, it prescribes that a citizen shall uphold and protect the sovereignty, unity and integrity of India. Now, my amendment is that besides upholding and protecting the sovereignty, unity and integrity of India, the citizens should also strive towards strengthening the foundation of the socialist, secular and democratic Constitution. Obviously, Sir, our nation is wedded to the policy of secularism, socialism and democracy. It may be said that while prescribing duties under (a), it is mentioned:

"(a) to abide by the Constitution and respect its ideals..."

It is true that it could be covered under the general term 'Ideals' but my intention to bring this is to spell out what are the ideals and objectives for which we stand and as we have spelt out and made more clear and specific by mentioning 'sovereignty, unity, integrity' likewise I want that we must also make a mention that a citizen is committed to socialism, a citizen is committed to secularism and a citizen is democrat in the real sense. That is the idea and there is nothing more than that.

Then, Sir, I have also sought an amendment to the duty as prescribed under (d) which states:

"(d) to defend the country and render national service when called upon to do so."

By the amendment which I want to seek, I have added:

"(dd) to help other persons in danger on the basis of solidarity to participate with others in combating dangers."

So far as the first part of the clause is concerned, it prescribes a duty of a citizen towards the nation. Of course, it is welcome. It is very much needed. But a citizen's duty towards the nation is only, I feel, restricted. A citizen's duty should be towards another citizen as well. It is

a must. It should be there. Therefore, I have said that a citizen should also help the other citizen if he is in danger, if he is in distress. It is only an idea to amend the same idea, to have a wider coverage, to make it more comprehensive and more purposeful. That is the idea for which I have made this amendment.

Then, I have suggested another amendment, that is, amendment No. 40. Should I, Sir, speak now or I shall get another turn?

THE VICE-CHAIRMAN (SHRI V. B. RAJU): You speak on No. 40 also. There is nothing wrong.

SHRI N. H. KUMBHARE: Then, Sir, I have suggested an amendment as regards the duties *vide* amendment No. 40. It is to the effect:

"(ee) to abjure prejudice and hatred towards members of Scheduled Castes on preconceived notion of low caste."

I think, Sir, you would agree with me that in our country, the conditions are somewhat very peculiar. It is known that it is because of the caste system here. It is true that our Constitution has made a provision by which untouchability has been totally abolished and its practice is also forbidden. But, there are two aspects to the whole problem of caste system. The first is untouchability. But this is not the only problem. The other problem relates to that of prejudice and hatred. I do know whether this prejudice and hatred will go. Therefore, I have said that this should also be a part of the duties if the nation is committed to a casteless and as classless society. How can you build up a real casteless society unless you abjure this feeling of hatred and prejudice? This is in a concealed form. This is everywhere. Sir, you will agree with me that in our country, unfortunately, howsoever a man may be enlightened, howsoever a man may be educated and howsoever a man is full of ideas and ideals, I must say that 90 per cent of the people of our country are not free from prejudice and hat-

red against the lower classes like the scheduled castes and others. This is the position. Therefore, the time has come when a duty is cast upon us and we must give up all these nasty ideas. This is a must. I would request the Government to accept at least this suggestion.

شری سید احمد ہاشمی (اُتر

پردیس): میں امینڈمنٹ نمبر ۳۶ پیش کر رہا ہوں جو میں سمجھتا ہوں کہ ہمارے ملک کے شہریوں کے لئے جو آئین بنایا جا رہا ہے اگر اُس میں اسے شامل نہیں کیا گیا تو ایک بہت بڑی کمی رہ جائیگی۔ سبھی کو اس بات سے اتفاق ہے کہ ہمارے ملک میں آج سے نہیں سوئیکڑوں اور ہزاروں سالوں سے مختلف کلچرس رہے ہیں مختلف تہذیبیں رہی ہوں اور اس کے علاوہ ہمارے ملک میں مختلف زبانوں کے لوگ اور مختلف مذہبوں کے لوگ رہتے چلے آ رہے ہیں یہ ہمارے ملک کی ایک پرمیٹرا اور روایت رہی ہے۔ یہاں پر ہر کلچر کو ہو مذہب کو اور ہر زبان کو عزت دی گئی اور اس کا اپنا ایک کوریکٹر رہا ہے۔ ہم نے اس کا احترام کیا ہے اور اپنی آنے والی نسلوں کو بھی احترام کرانے کی کوشش کی ہے۔ یہ آئینڈیل ہم نے ہندوستان کی آزادی کے بعد بھی اپنایا۔ ہم نے یہ کہا کہ جب تک ہمارے ملک میں سیکولرزم

کے خیال کو نہیں اپنایا جائیگا اور سیکولرزم کو نہیں اپنایا جائیگا اس وقت تک ہم ان پرمیٹراؤں اور روایات کو اپنے ملک میں قائم نہیں رکھ سکتے ہیں۔ ہمارے ملک کی ایک تہذیب رہی ہے۔ ایک طرف تو ہمارے ملک میں یہ آئینڈیلوجی رہی ہے اور سیکولرزم کو اپنایا گیا اور اس کو آئے بڑھایا گیا لیکن دوسری طرف اس ملک میں ایسی طاقتیں بھی رہی ہیں اور میں کہتا ہوں کہ آج بھی ہیں جو اس بات کو پسند نہیں کرتیں کہ یہ سیکولرزم کا آئینڈیل جو ہم اپنے ملک میں اپنا رہے ہیں اور جس کو اپنے آئین میں جگہ دے رہے ہیں وہ نہیں ہونا چاہتے وہ نہیں چاہتے ہیں کہ سیکولرزم کی آئینڈیلوجی اس ملک کے اندر چلے اور سیکولرزم کا آئینڈیا اس ملک میں پڑے۔ یہی وجہ ہے کہ وہ بار بار اس بات کی کوشش کرتے رہے ہیں اور مختلف دھنگوں سے کرتے رہے ہیں کبھی انہوں نے ہندوستان کے مختلف مذہبوں کے ماننے والوں کو آپس میں بانٹنے کی کوشش کی اور ان میں آپس میں نفرت اور ہتھکڑ پھیلایا اور ان پر الزام تراشی کی بہتان لگایا اور یہاں تک کہ غیر وفاداری کا الزام لگایا۔ داکہ جو سے دستوریں پیدا ہوئے جاہوں نے نئی دستوریں پیدا کرنے کی کوشش کی جو

[شری سید احمد حاشمی]

کشمکش اور نفرت کی بلندی پر قائم تھی۔ ہمارے ملک کے اندر آپ غور کریں کونسی طاقت تھی جس نے اے بلچ آف دی تہات جیسی کتاب چھاپی جس نے اس ملک کے اندر سیلنگزوں ہزاروں فساد کرائے اور روپیہوں کی دولت اس ملک کی چل کر رکھ دی ہوئی۔ اس دیہی کے اندر آج بھی ایسے لوگ ہیں۔ میں مثال پیش کروں گا۔ ابھی دلی یونیورسٹی کے ہندی وہاگ کے ایک ریڈر ہیں انہوں نے ایک کتاب لکھی ہے۔ وہ اپنے لوگ ۱۹۷۶ء جس کے اندر اگر آپ صفحہ ۱۳۸ سے لے کر ۱۴۰ تک پڑھیں جو ایک ناول کی صورت میں ہے اور ایمرجنسی کے بعد ہی شائع ہوئی ہے۔ ۱۰ مارچ ۱۹۷۶ء کو اس کی اشاعت ہوئی ہے جس کے اندر وہ کہتے ہیں—آپ غور کیجئے۔

وہ شکل جی چاہے کچھ بھی کہئے اب دیہی کا بھلا نہیں دیکھ رہا ہے۔ پرانی کانگریس تو پھر بھی کچھ تھی اب یہ نئی کانگریس تو دیہی کا ستیاناس ہی کر دے گی—

وہ تو آپ کے وچار میں کونسی پارٹی دیہی کا ہٹ کریگی کمیونسٹ پارٹی۔ ۱۹۷۶ء ہرمود نے چوانے کی فرض سے کہا۔

وہ ارے دام دام۔ آپ نے بھی کن پاپوں کا نام لے لیا۔ ارے یہ تو

سسرے ہتھارے ہوتے ہیں۔ کس کی ہتھا کرتے ہیں۔ ارے کسکی نہیں کرتے۔ آدمی سے لے کر جانور تک سب کی کرتے ہیں—میں تو سمجھتا ہوں کہ یہ جانور کی ہتھا کرتے ہیں۔

وہ نہیں نہیں صاحب آدمی کو بھی مارتے ہیں کلکتہ میں اتنا ہتھا کاند مچا رکھا ہے اور آپ کہتے ہیں کہ یہ خالی جانور مارتے ہیں۔

پرمود مسکرایا۔ وہ ارے چھوڑئے دو بے جی۔ جانور بھی طرح طرح کے ہوتے ہیں۔ اچھا یہ بتائیے کہ آپ کس کا راج چاہتے ہیں۔ کس کی حکومت چاہتے ہیں۔

وہ ارے کس کا کیا۔ جس کا دیہی ہو۔ دیہی ہندوؤں کا ہے انہیں کا راج ہونا چاہئے۔ مسلمانوں نے تو اپنا حصہ الگ لے ہی لیا۔ اب مسروں کا کیا لگا ہے اس دیہی میں اور صاحب یہ کمیونسٹ یہ کانگریسی یہ مسلمانوں کا تلوا چاٹنے والے لوگ ہیں ان کا من پرما رکھا ہے اور یہ سسرے جس پتل میں کھاتے ہیں اسی میں چھید کرتے ہیں۔ دیکھئے نہ ان کی بولی۔ برتن۔ پہناوا سب اس دیہی سے باہر کا ہے۔ یہی دنیا کرواتے ہیں اور جب پتتے ہیں تب کانگریسی اور کمیونسٹوں کا ہلہ کرتے

ہیں کہ ہندوؤں نے مسلمانوں کو مارا ہے - کہیں یہ گائے کاٹ کر ملندے ہیں پھینک دینگے کہیں ہمارے جلوس پر پتھر مارینگے - ۲۲

उपसभाध्यक्ष (श्री बी. बी. राजू):
इतना ही काफी है। हमारी समझ में आ गया है।

شبى سيد احمد هاشمى - ممبر
خیال ہے کہ پروری بات تب سمجھ میں آئیگی جب سب سن لیں گے - کہیں ہمارے پیڑوں کو کڑاتے ہوئے اپنا تمزیہ نکالوں گے کبھی چھپ چھپ کر پاکستان سے جاسوسی کرینگے اور یہ دونوں پارٹیاں ووٹ لینے کے لئے انہیں داماد کی طرح مانتی رہیں گی - ارے یہ بھی کوئی بات ہوئی اس سے تو ان کا من بکڑ گیا ہے اور دیہی کے ساتھ غداری کرتے رہتے ہیں - جن سلگھ کا راجہ ہو جائے تو یہ لوگ ایک دن میں تھک ہو جائیں - واہ کیا بڑھیا بات کہی ہے باجپئی جی نے کہ یہ مسلمانوں کا بھارتیہ کرن کرو —

شکل جی جو بھی کہئے دعورت کا راجہ اُچت نہیں ہوتا - ارے سب دیہی کا وناش ہو جائے گا دعورت کے شامن میں - ارے ہم کہتے ہیں صاحب کے دعورت چوکا بڑتن کرنے کے لئے ہے کہ شامن کرنے کے لئے — ۲۲
دہاں ہاں سمجھ گیا — دعورت خالی بچہ چلے کے لئے ہے یہی نا - اور اب دیکھئے اندرا جی، کیسے پرشوں

بچے چلوا رہی ہے - پاتل دیسانی کامراج نچلمکپا کتلے کتلے وہر پرہی ایک اور تہہ ان کی مردانگی کہاں گئی — ۲۲

एक माननीय सदस्य : इसके लेखक कौन है ?

شبى سيد احمد هاشمى - اس کے اٹھک رام دھرتیہ مسر ہیں جو دلی یونیورسٹی میں ہندی وہپاکہ کے ریڈر ہیں -

श्री कमलापति त्रिपाठी : यह किस यूनिवर्सिटी से है ?

شبى سيد احمد هاشمى - دلی یونیورسٹی میں ہندی وہپاکہ کے ریڈر ہیں - انہوں نے یہ کتاب لکھی ہے ایک ایسے ذہن کا آدمی جس کے پاس ہزاروں بچے پڑھ رہے ہوں اس کے ذہن کے اندر یہ ہے اس کے ذہن میں بدبو ہے زہر ہے وہ بچہ کو کھا تعلیم دے سکتا ہے اور آج تک یہ کتاب ضبط نہیں کی گئی ہے -

میں کہتا ہوں کہ آج بھی ایسے لوگ ہیں جو باوجود ان ساری چھڑوں کے یہ کوشش کرتے ہیں کہ کسی طرح سے سیکولرزم اس ملک کے اندر پھیلے نہ پائے بلکہ وہ فاشزم اور انارکی اس ملک کے اندر پیدا کرنا چاہتے ہیں جس کی بنا پر ان کو اس ملک میں پناہ مل رہی تھی - لیکن جب اس ملک میں ایمرجنسی نافذ ہوئی

[شوی سعید احمد حاشی]

اور انہوں نے یہ محسوس کیا کہ اس ملک کے اندر اب امن کا ماحول پیدا ہو گیا ہے - تو آج ایسی ہی طاقتیں ہیں جو یہ چاہتی ہیں کہ اس ملک سے اس کنسپشن کو جو ہماری پرمیہرا اور جو ہمارے فلسفہ وستان کے دستور کا جزو ہو گیا ہے اس کو ختم کر دیں لہذا ہم یہ چاہتے ہیں کہ یہ جو فنڈامینٹل قیوتہز ہیں شہریوں کے فرائض ہیں ان کو پورا کرنے کے لئے ضروری ہے کہ ان راستوں پر پورے طریقہ سے پابندی لگے اور اگر پابندی نہیں لگائی گئی روک نہیں کی گئی ان تمام راستوں کے اوپر تو میں سمجھتا ہوں کہ اس آئیندیاوچی کے اندر سیکولرزم اور سوشلزم کو ملک کے دستور میں لا کر ہم اسکے امپلیمینٹیشن کے اندر کبھی کامیاب نہیں ہو سکیں گے - اس لئے ہم سمجھتے ہیں کہ ہمارا امپلیمینٹ بڑا قیمتی ہے بڑا ضروری ہے روک لگانے کے لئے - اس امپلیمینٹ کو میں پڑتا ہوں - فاشنزم کو ختم کرنا - - - اور تہمت طرازی کو ختم کرنا کسی مذہب تمدن - تاریخ اور اس کی انفرادیت دبانا یا مسخ کرنا اور نفرت شہادت اور تشدد کا ماحول پیدا کرنے میں ملوث ہونا اس کا انگریزی میں ترجمہ اس طرح سے ہوگا

"to abjure fascism and also abjure maligning, suppressing, misrepresenting, distorting any religion, culture, language, history of the country and to renounce atmosphere of hatred; suspicion and violence."

محترم - میں یہاں ایک بات اور کہوں گا بہت سے اشورنسپز اس ہاؤس کے اندر دئے گئے ہیں مثال کے طور پر جیسے مسلم پرسنل لا ہے اس کے بارے میں اشورنسپز دئے گئے ہیں - میں نے اس بات کو اس لئے بدھ کیا کہ اس قسم کی طاقتوں ایسے عفوانات کو اور ایسی ہیڈنگس کو تلاش کرتی ہیں اور اس کی بنیاد پر ایکسلائٹیشن کی کوشش کرتی ہیں - تو میں یہ چاہوں گا کہ قانریکٹیو پرسنل کے اندر آرٹیکل - ۴۴ کے اندر اس کو بھی تبدیل کر دیا جائے اس فقرہ کا ضرور خاتمہ کیا جائے اور مسلمانوں کے پرسنل لا کو ایکزمپٹ کیا جائے تاکہ اس قسم کی طاقتیں اس سوال کو لے کر کسی قسم کی اشتعال انگیزی نہ کر سکیں - میں سمجھتا ہوں کہ لا منسٹر اس قیمتی امپلیمینٹ کو ضرور قبول کریں گے اس لئے کہ یہ ملک کے فہوچر کے انٹرسٹ میں ہے - ہمارا ملک ترقی نہیں کر سکتا - ہم آگے نہیں بڑھ سکتے اگر سیکولرزم کے کنسپٹ کو اور سوشلزم کے خیالات کو آگے نہیں بڑھاتے ہیں -

†[श्री सैयद अहमद हाशमी (उत्तर प्रदेश): मैं अमेंडमेंट नम्बर 36 पेश कर रहा हूँ। जो मैं समझता हूँ कि हमारे मुल्क के शहरियों के लिए जो आईन बनाया जा रहा है अगर उसमें इसे शामिल नहीं किया गया तो एक बहुत बड़ी कमी रह जायेगी। सभी को इस बात से इत्ताफाक है कि हमारे मुल्क में आज से नहीं सैकड़ों हजारों सालों से मुख्तलिफ कल्चर्स रहे हैं, मुख्तलिफ तहजीबें रहीं हैं और इसके अलावा हमारे मुल्क में मुख्तलिफ जवानों के लोग, और मुख्तलिफ मजहबों के लोग रहते चले आ रहे हैं। ये हमारे मुल्क की एक परम्परा और रवायत रही है। यहां पर हर कल्चर को, हर मजहब को और हर जवान को इज्जत दी गई और इसका अपना एक कैरेक्टर रहा है। हमने इसका अहतराम किया है और अपनी आने वाली नस्लों को भी अहतराम कराने की कोशिश की है। यह आइडियल हमने हिन्दुस्तान की आजादी के बाद भी अपनाया, हमने यह कहा कि जब तक हमारे मुल्क में सैक्यूलरिज्म के ख्याल को नहीं अपनाया जायेगा और सैक्यूलरिज्म को नहीं अपनाया जायेगा उस वकत तक हम उन परम्पराओं और रवायत को अपने मुल्क में कायम नहीं रख सकते हैं। हमारे मुल्क की एक तहजीब रही है। एक तरफ तो हमारे मुल्क में यह आइडियलोजी रही है और सैक्यूलरिज्म को अपनाया गया और इसको आगे बढ़ाया गया लेकिन दूसरी तरफ इस मुल्क में ऐसी ताकतें भी रही हैं और मैं कहता हूँ कि आज भी है जो इस बात को पसन्द नहीं करतीं कि यह सैक्यूलरिज्म का आइडियल जो हम अपने मुल्क में अपना रहे हैं और जिसको अपने आईन में जगह दे रहे हैं वह नहीं होना चाहिए, जो नहीं चाहते हैं कि सैक्यूलरिज्म की आइडियलोजी इस मुल्क के अन्दर चले और सैक्यूलरिज्म का आइडिया इस मुल्क में पनपे। यही वजह है कि वह बार बार इस बात की कोशिश करते रहे हैं और मुख्तलिफ ढंगों से करते रहे हैं। कभी इन्होंने हिन्दुस्तान के मुख्तलिफ मजहबों के

मानने वालों को आपस में बांटने की कोशिश की और इतमें आपस में नफरत और हैटरेड फैलाया और इन पर इल्जाम तराशी की, बोहतान लगाया और यहां तक कि गैर-वफादारी का इल्जाम लगाया। “ओक” जैसे हिस्टोरियन पैदा हुए जिन्होंने नई हिस्ट्री पैदा करने की कोशिश की जो कश्मकश् और नफरत की बुनियाद पर कायम थी। हमारे मुल्क के अन्दर आप गौर करें कौन सी ताकत थी जिसने “ए बंच आफ दी थाट” जैसी किताब छपी जिसमें इस मुल्क के अन्दर सैकड़ों हजारों फसाद कराये और र्प्यों की दौलत इस मुल्क की जल कर राख हुई। इस देश के अन्दर आज भी ऐसे लोग हैं। मैं मिसाल पेश करूंगा अभी दिल्ली यूनिवर्सिटी के हिन्दी विभाग के एक रीडर हैं, जिन्होंने एक किताब लिखी है—“अपने लोग” जिसके अन्दर अगर आप सफा 138 से लेकर 140 तक पढ़ें जो एक नावल की सूरत में है और एमरजेसी के बाद ही साया हुआ है। 10 मार्च 1976 को जिसकी अशायत हुई है जिसके अन्दर वह कहते हैं आप गौर कीजिये “शुक्ल जी चाहे कुछ भी कहिए अब देश का भला नहीं दीख रहा है गुरानी कांग्रेस तो फिर भी कुछ थी अब यह नई कांग्रेस तो देश का सत्यानाश ही कर देगी”।

“तो आपके विचार में कौन सी पार्टी देश का हित करेगी? कम्युनिस्ट पार्टी”- प्रमोद ने चिढ़ाने की गर्ज से कहा—
“अरे राम राम—आपने भी किन पापियों का नाम ले लिया—अरे यह तो सुसारे हत्यारे होते हैं। किसकी हत्या करते हैं—अरे किस की नहीं करते—आदमी से लेकर जानवर तक सब की करते हैं। मैं तो समझता हूँ कि ये तो जानवर की हत्या करते हैं।”

“नहीं, नहीं साहब आदमी को भी मारते हैं। कलकत्ता में इतना हत्याकांड मचा रखा

[श्री संयद अहमद हाशमी]

हैं और आप कहने हैं कि ये खाली जानवर मारते हैं ?”

प्रमोद मुस्कराया—“अरे छोड़िये दुबे जी, जानवर भी तरह तरह के होते हैं अच्छा यह बताइये कि आप किस का राज्य चाहते हैं, किसकी हकूमत चाहते हैं।”

“अरे किस का क्या—जिसका देश हो—देश हिन्दुओं का है इन्हीं का राज होना चाहिए, मुसलमानों ने अपना हिस्सा अलग ले ही लिया अब सुसरी का क्या लगा है इस देश में—और साहब ये कम्युनिस्ट—ये कांग्रेसी सभी मुसलमानों का तलवा चाटने वाले लोग हैं। उनका मन भरग रखा है और ये सुसरे जिस पत्तल में खाते हैं उसी में छेद करते हैं। देखिये न, इनकी बोली, बर्तन पहनावा—सब इस देश से बाहर का है यही दंगा करवाते हैं और जब पिटते हैं तो कांग्रेसी और कम्युनिस्टों का हल्ला करते हैं हिन्दुओं ने मुसलमानों को मारा है—कहीं ये गाय काट कर मन्दिर में फेंक देंगे और कहीं हमारे जलूस पर पत्थर मारेंगे।”

उपसभाध्यक्ष (श्री बी० बी० राजू) :
इतना ही काफी है—हमारी समझ में आ गया है।

श्री संयद अहमद हाशमी : मेरा खयाल है कि पूरी बात तब समझ में आयेगी जब सब सुन लेंगे। “कहीं हमारे पेड़ों को गिराते हुए अपना ताजिया निकालेंगे, कभी छुप छुप कर पाकिस्तान से जासूसी करेंगे और ये दोनों पार्टियां वोट लेने के लिए इन्हें दामाद की तरह मानती रहेंगी। अरे यह भी कोई बात हुई इससे तो इनका मन बिगड़ गया है और देश के साथ गहरी वरते रहते हैं। जनसंघ का राज्य हो जाये तो ये लोग एक दिन में ठीक हो जायें। वाह क्या बढ़िया बात कही है वाजपेयी जी ने कि मुसलमानों का भारतीय-करण करो।”

शुक्ल जी जो भी कहिये “औरत का राज्य ठीक नहीं होता—हमारे सब देश का विनाश हो जायेगा—औरत के शासन में। अरे हम कहते हैं साहब कि औरत चौका बर्तन करने के लिए है या शासन करने के लिए ?”

“हां ! हां ! समझ गया औरत खाली बच्चा जनने के लिए है”—यही न। अरे अब देखिए इन्दिरा जी कैसे पुरुषों से बच्चे जनवा रही हैं। पाटिल, देसाई, कामराज, निर्जलिगप्पा कितने कितने बीर पुरुष एक ओर थे उनकी मर्दानगी कहां गई ?”

एक माननीय सदस्य : इसके लेखक कौन हैं ?

श्री संयद अहमद हाशमी : इसके लेखक राम दशरथ मिश्र हैं जो दिल्ली यूनिवर्सिटी में हिन्दी विभाग के रीडर हैं।

श्री कमलापति त्रिपाठी : यह किस यूनिवर्सिटी से हैं ?

श्री संयद अहमद हाशमी : दिल्ली यूनिवर्सिटी में हिन्दी विभाग के रीडर हैं—इन्होंने यह किताब लिखी है—एक ऐसे जहन का आदमी जिसके पास हजारों बच्चे पढ़ रहे हों उसके जहन के अन्दर यह है उसके जहन में बदवू है, जहर है—वह बच्चों को क्या तालीम दे सकता है और आज तक ये किताब जस्त नहीं की गई है। मैं कहता हूं कि आज भी ऐसे लोग हैं जो वावजूद इन सारी चीजों के यह कोशिश करते हैं कि किसी तरह से सैक्यूलरिज्म इस मुल्क के अन्दर पनपने न पाये बल्कि वो फासिज्म और अनारकी इस मुल्क के अन्दर पैदा करना चाहते हैं जिसकी बिना पर उनको इस मुल्क में पनाह मिल रही थी—लेकिन

जब इस मुल्क में एमेरजेंसी नाफिज हुई और उन्होंने यह महसूस किया कि इस मुल्क के अन्दर अब अमन का माहौल पैदा हो गया है तो आज ऐसी ही ताकतें हैं जो यह चाहती हैं कि इस मुल्क से इस कन्सेप्शन को जो हमारी परम्परा और जो हमारे हिन्दुस्तान के दस्तूर का जुज हो गया है इसको खत्म कर दें लिहाजा हम यह चाहते हैं कि यह जो फ़ंडामेंटल ड्यूटीज हैं, शहरियों के फरायज हैं उनको पूरा करने के लिए जरूरी है कि इन रास्तों पर पूरे तरीके से पाबंदी लगे और अगर पाबंदी नहीं लगाई गई, रोक नहीं की गई—इन तमाम रास्तों के ऊपर, तो मैं समझता हूं कि इस आइडियोलोजी के अन्दर सेक्यूलरिज्म और सोशलिज्म को मुल्क के दस्तूर में ला कर हम इसके इम्प्लीमेंटेशन के अन्दर कभी कामयाब नहीं हो सकेंगे। इसलिए हम समझते हैं कि हमारा एमेंडमेंट बड़ा कीमती है, बड़ा जरूरी है रोक लगाने के लिए। इस एमेंडमेंट को मैं पढ़ता हूँ—फ़ासिज्म को खत्म करना और तोहमत तराज्जी को खत्म करना किसी मजहब तमद्दुन, तारीख और इसकी इनफरादियत दबाना या मसख़ा करना और नफरत शुबहात और तशद्दू का माहौल पैदा करने में सलाओस होना इसका अंग्रेजी में तर्जुमा इस तरह से होगा—

“to abjure fascism and also abjure maligning, suppressing, misrepresenting, distorting any religion, culture, language, history of the country and to renounce atmosphere of hatred, suspicion and violence.”

मोहतरिम—मैं यहां एक बात और कहूंगा—बहुत से एक्शोरेंसेस इस हाउस के अन्दर दिये गये हैं मिसाल के तौर पर जैसे मुसलिम पर्सनल ला है—इसके बारे में इक्शोरेंसेस दिये गये हैं मैंने इस बात

को इसलिए पेश किया कि इस किस्म की ताकतें ऐसे उनवानात को और ऐसी हेडिंग्स को तलाश करती हैं और उसकी बुनियाद पर एक्सप्लान्टेशन की कोशिश करती हैं तो मैं यह चाहूंगा कि डायरेक्टिव प्रिंसिपल के अन्दर आर्टिकल 44 के अन्दर इसको भी तबदील कर दिया जाये। इस फ़ितना का जरूर खात्मा किया जाये और मुसलमानों के पर्सनल ला को एग्ज़ेम्प्ट किया जाये ताकि इस किस्म की ताकतें इस सवाल को लेकर किसी किस्म की इशतआलअंग्रेजी न कर सकें। मैं समझता हूं कि ला मिनिस्टर इस कीमती एमेंडमेंट को जरूर कबूल करेंगे—इसलिए यह मुल्क के पयूवर के इंट्रेस्ट में है। हमारा मुल्क तरक्की नहीं कर सकता, हम आगे नहीं बढ़ सकते अगर सेक्यूलरिज्म के कंसैप्ट को और सोशलिज्म के ख्यालात को आगे नहीं बढ़ाते हैं।]

श्रीमती सुमित्रा जी० कुलकर्णी (महाराष्ट्र) : श्रीमान्, मैं क्लाज 11 के भाग 4(क) के मूल कर्त्तव्यों पर बोल रही हूं। मैंने आपसे निवेदन किया था कि हर एक कर्त्तव्यों के ऊपर अगर अलग चर्चा होगी तो स्पष्टीकरण ठीक होगा। खर, आपने चारों इकट्ठा कर लिए तो मैं भी उसका अनुपालन करूंगी।

इससे पहले कि मैं संशोधन के बारे में चर्चा करूं मैं यह कहना चाहती हूं कि दुनिया के बहुत कम देशों में इस तरह से मूल कर्त्तव्यों को संविधान में सम्मिलित किया गया है। दो या तीन जगहों में ऐसे कांस्टीट्यूशन हैं कि जहां पर इसका समावेश हुआ है मगर जहां यह समावेश करने हैं वहां हमेशा उसी अनुपात में सरकार के ऊपर यह जिम्मेदारी भी रखी जाती है कि उसके भी कुछ नियम कर्त्तव्य होते हैं। तो इस परिस्थिति

[श्रीमती सुमित्रा जी० कुलकर्णी]

मैं मानती हूँ हमने अच्छा किया कि हम मूल कर्तव्यों को ले आए लेकिन अभी कोई स्पष्टता स के बारे में हम नहीं समझ पाए हैं क्योंकि जो जो चीजें इस के बारे में हैं वे निम्न हैं, किस के बारे में चर्चा करें ? हम एक दो बातें सुझा सकते हैं पर हमें उनको करने की इजाजत नहीं है। मेरे कहने का मतलब यह है कि यह एक बड़ा नेक इरादा तो है लेकिन हमको इसको सोचना चाहिए कि इस को सचमुच हम कर सकेंगे, इसका पालन कर सकेंगे ? अगर हम पालन कर सकेंगे तो किस तरह से कर सकेंगे ? क्योंकि अगर भविष्य में इस विषय के ऊपर हम कानून लागू करने जाएंगे तो मुझे लगता है कि नागरिक स्वातंत्र्य के ऊपर बहुत बड़ा संकुश लग जाएगा। तो ये सब बातें सोचने की हैं जिनकी वजह से मन में आशंका है जिनको दूर करने के लिए मैं आपके सामने 3 संशोधन उपस्थित करना चाहती हूँ।

सबसे पहला संशोधन है (ड) के अंदर जो कि मैं बताती हूँ। वह संशोधन पूर्व में कैसा था, संशोधन के पश्चात् क्या है ? "भारत के सभी लोगों में समानता तथा समान मातृत्व की भावना का निर्माण करें जो धर्म, भाषा, प्रदेश और वर्ग के ऊपर आधारित सभी भेदभाव से परे हो..."

श्रीमन्, मैं इसमें एक शब्द जोड़ना चाहती हूँ—धर्म, भाषा और जाति। मेरा ऐसा मानना है कि जाति शब्द के बिना, जाति-पात के बिना हम इसके अंदर जो उद्देश्य हैं उनको पूरा नहीं कर सकते हैं। मेरे स संशोधन के बाद इस प्रकार पढ़ा जाएगा—"भारत के सभी लोगों में समानता और समान मातृत्व भावना का निर्माण करे जो धर्म, भाषा, जाति, प्रदेश

या वर्ग पर आधारित सभी भेदभाव से परे हो; ऐसी प्रथाओं का त्याग करे जो स्त्रियों के सम्मान के विरुद्ध हो।"

श्रीमन्, जाति-पात का भेदभाव किस तरह की विषमताओं को खड़ा करता है, किस तरह के आंदोलन अपने देश में खड़े करता है, उसकी वजह से कितनी कठिनाइयाँ हमने हजारों सालों से भुगती हैं, इसका वर्णन सदन के सामने करने की आवश्यकता नहीं है। मगर यह एक बड़ी गंभीर खामी है। बहुत आश्चर्य भी है, दुख भी है, कि ये शब्द कैसे छूट गए हैं ? आखिर जब हम सका मसविदा तैयार कर रहे थे तो कास्टिडिज्म के ऊपर ध्यान क्यों नहीं दिया ? मैं सोचती हूँ, सारा इसका जो उद्देश्य है वह पूर्ण हो ही नहीं सकेगा। जाति के नाम पर—हम रोज अखबारों में पढ़ते हैं—कि जो उच्च जातियाँ हैं वे हरिजनों के ऊपर और माइनोरिटी कम्युनिटीज के ऊपर, अल्पसंख्यकों के ऊपर अनेक अत्याचार करती हैं। उन अत्याचारों का विरोध होना ही चाहिए और वह विरोध करने की ताकत इस कर्तव्य में तभी आएगी जब शब्द "जाति" को भी उसमें जोड़ा जायगा। तब तक हम जाति का समावेश इसमें नहीं करेंगे तब तक हमारा उद्देश्य किसी हालत में पूरा नहीं हो सकता है। श्रीमन्, इस सेक्शन में कहा गया है—धर्म, भाषा, प्रदेश या वर्ग उसके हिसाब से जितने अंतराल होते हैं या जो डिविजन होते हैं वह उसके ऊपर होना चाहिए। एक तो जितने धर्म के नाम पर वाद-विवाद हुए, जितने भाषा के नाम पर वाद-विवाद हुए, जितने प्रांतों के नाम पर वाद-विवाद हुए, उससे कहीं ज्यादा वाद-विवाद हमारे यहां जाति के ऊपर हुए हैं। श्रीमन्, एक ब्राह्मण जाति को ही ले लीजिए। उत्तर भारत में कितनी ही सारी जातियाँ ब्राह्मणों के अंदर हैं। दक्षिण भारत में उतनी ही

हैं, पश्चिम भारत में उतनी ही हैं और पूर्व भारत में भी उतनी ही हैं। पूर्व भारत का जो ब्राह्मण है वह मछली खाना स्वीकार करता है, पश्चिम भारत का ब्राह्मण वह खा सकता है पर कुछ और लोग नहीं खा सकते हैं। तना आचार और विचार का अंतर है। इतनी जातियों के प्रश्न हैं। हमारे देश में 1300 रिग्नताइज्ड कास्ट्स हैं। तो मेरा यह कहना है कि जब तक हम स खामी को नहीं पूर्ण करेंगे तब तक हमारा जो उद्देश्य है वह रह जायगा इसलिए मेरा बत वित्तमन्त्रापूर्वक इस मदन से आपके माध्यम से विधि मंत्री से अनुरोध है कि अगर व इसके अंदर कास्ट शब्द है, हिन्दी में यह जाति शब्द है, तो जाति शब्द का भी समावेश होना चाहिए अन्यथा हमारा उद्देश्य बाकी रह जाएगा। यह मेरा एक संशोधन है।

दूसरा जो संशोधन मेरा है श्रीमन्...

This I will have to render in English because the wording is in English, and I have substituted the word in Hindi. This is about Part IVA, clause 51A, sub-clause (h). Sir, it reads as follows:

"(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;"

Sir, I really do not know how this word 'temper' finds a place here in 'to develop the scientific temper, humanism and the spirit of inquiry and reform;'. It is very vague, and it cannot be defined. I may be ignorant in this matter. It is for the first time that I have come across this word in constitutional language. May I know whether it has been anywhere defined? What is the scope of this word 'temper'? What does it mean? What is exactly 'scientific temper'? I am very positive that we in this country are very much in need of a scientific attitude. I want to sub-

mit for the consideration of this House that instead of the word 'temper', the word 'attitude' would have been the correct language, the correct word; it will give much better expression about what is our objective. It is not something which can be loosely used. We want that our children, our schools, our education, our people, the whole nation should develop a scientific attitude so that whatever the students listen to, whatever they hear, whatever they are told, they do not take it for granted but that they examine it with the intelligent mind of a scientist who will step by step progress from one point to another and come to a logical conclusion. This is the objective of the hon. Minister in introducing this as one of the duties. It is rather difficult to implement it. Still, let us be hopeful that it can be implemented. But the fact remains that the word 'temper' is not the proper word or language; it is not satisfactory. It is the attitude which is more important than the temper. I hope the hon. Minister will consider this suggestion of mine.

श्रीमन्, मैंने अपनी ओर से आपके सामने एक और सुझाव दिया है।

THE VICE-CHAIRMAN (SHRI V. B. RAJU): You have spoken in Hindi and English and now you can speak in Gujarati.

SHRIMATI SUMITRA G. KULKARNI: If you want, I can speak in Marathi also. I can speak in half a dozen languages with equal facility.

THE VICE-CHAIRMAN (Shri V. B. Raju): That is by the way.

श्रीमती सुमित्रा जी० कुलकर्णी : मैं जरा भी अंग्रेजी में इस विषय पर नहीं बोलती, लेकिन हिन्दी का जो शब्द है वह बहुत सही है। दृष्टिकोण शब्द इतना अच्छा था, लेकिन अंग्रेजी का अनुवाद बहुत ज्यादा प्रचलित रहा है इसलिये मैंने अपनी बात अंग्रेजी में कही। हिन्दी में उस का जरा भी

[श्रीमती सुमित्रा जी० कुलकर्णी]

मैंने विरोध नहीं किया और मैं यह बड़े खेद के साथ कहती हूँ कि हम हिन्दी में अनुवाद तो करते हैं लेकिन वह अनुवाद सही नहीं होता है। उस अनुवाद से गलतफहमी पैदा हो सकती है और मतिभ्रम होने की शंका रहती है।

श्री इयाम लाल यादव : टेम्पर का अनुवाद तो सचि होना चाहिए और एटीच्यूड का अनुवाद दृष्टिकोण होना चाहिए।

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Now, we are entering into an argument. Let us leave it to the draftsmen. The Minister will explain it.

श्रीमती सुमित्रा जी० कुलकर्णी : यद्यपि यह ठीक है कि जैसे बाइबिल में न कमांड-मेंस दिये थे कि जो क्रिश्चियन लोग हैं वह न दस मूल कर्तव्यों का पालन करेंगे तभी उनकी जिन्दगी सुखमय रहेगी और वह स्वर्ग के अधिकारी होंगे उसी हिसाब से मेरा ध्याल है कि यह दस कर्तव्य हम ने अपने मूल संविधान में रखे हैं। इस दस के नम्बर को बढ़ाना शायद ठीक न माना जाये मगर मैं अपने दिल में दुख के साथ और संकोच के साथ और साथ ही बहुत गंभीरता के साथ यह सुझाव देना चाहती हूँ कि इस में एक 11वें कर्तव्य को कमी रह गयी है जिस का जोड़ना इस में परमावश्यक है। हमारे देश में सार्वभौम सत्ता सावरैनिटी कुछ चीजों में मानते हैं। जैसे हमारा झंडा है, जैसे हमारा राष्ट्रीय गीत है वह हमारी सार्वभौमिकता का, सावरैनिटी का प्रतीक है, अविभाज्य अंग है। जब तक यह चीज पूरे देश में एक न हो, हमारी सावरैनिटी पूरी नहीं होती। इसी प्रकार श्रीमन्, हमारे देश को राष्ट्र भाषा भी हमारे लिये उतनी ही महत्वपूर्ण तथा आवश्यक है। मैं उस के लिये राष्ट्रभाषा शब्द का उपयोग नहीं कर सकती हूँ क्योंकि हमारे संविधान में आफिशियल लैंग्वेज शब्द का प्रयोग किया गया

है। उस में नेशनल लैंग्वेज शब्द का प्रयोग नहीं किया गया है। हमारे संविधान में आफिशियल लैंग्वेज, राज भाषा शब्द का प्रयोग किया गया है इसलिए मैं कहती हूँ कि भले ही हम शब्द नेशनल लैंग्वेज का यूज न करें क्योंकि हो सकता है कि कुछ लोगों को इस में आपत्ति हो, मगर यह परम आवश्यक है कि हम को इस में राज भाषा शब्द का अवश्य ही उपयोग करना ही चाहिए जो कि नहीं किया गया। अगर हम इस मूल संशोधन को स्वीकार कर लें तो आखिर में यह होगा कि राज भाषा की तरह ही अन्य भाषाओं का आदर होना चाहिए। इस विषय में मैं श्रीमन् आपके सामने यह कहना चाहती हूँ कि 28 साल से हम ने संविधान में हिन्दी को मान्यता दी है। हमारा एक मात्र देश है कि जहां राज भाषा को संविधान में मान्यता दी गयी है, लेकिन आज तक हम ने उस को कार्यान्वित नहीं किया है। श्रीमन्, दुनिया के देशों में हमारा बड़ा मजाक होता है कि जब कहीं दो संस्कारी नागरिक हमारे देश के मिलते हैं तो वे आपस में अंग्रेजी में बात करते हैं। उन के पास अपनी व्यक्तिगत कोई भाषा नहीं होती है। यह हमारा दिवालियापन है यह हमारे स्वाभिमान की कमी है। जब हम यहां से जाते हैं और आपस में घरों में बात करते हैं तो विदेशी भाषा का अवलंबन लेते हैं। मैं दुख के साथ कहना चाहती हूँ कि दिल्ली शहर में बड़े बड़े घरों में एक फेशन हो गया है कि हम अंग्रेजी में बोलें, बात करें। बच्चों के साथ बोलेंगे तो अंग्रेजी में बोलेंगे टेलीफोन पर बात करेंगे तो अंग्रेजी में और जब औरतें बाजार में जाती हैं तो भले ही वे गलत अंग्रेजी बोलें, लेकिन अंग्रेजी में ही बोलती हैं। अगर हम अंग्रेजी में न बोलें तो हम को कुछ गिना नहीं जाता। अगर हम एयर प्लेन में सफर करते हैं और हिन्दी में एयर होस्टेस से कोई चीज मांगते हैं तो वह हमारी तरफ ध्यान नहीं देती। वह गमझती है कि हम गवार हैं जिन को देखने की जरूरत

नहीं। यह चीज रोज हो रही है। मैं भाषा पर आग्रह नहीं करती, अगर सविधान में अंग्रेजी को मान्यता दी जाती या किसी दूसरी भाषा को मान्यता दी जाती तो हम उस भाषा को शिरोधार्य करते, लेकिन इस देश के सविधान बनाने वाले लोगों ने बहुत सोच समझ कर यह तय किया था कि इस देश के अन्दर हिन्दी स्वाभाविक, सहज और मान्य भाषा हो और इसलिये इस को राज भाषा माना जाये। अब हमने यह निर्णय लिया, (समय की घटी), श्रीमान्, पहले मैं आप से यह निवेदन करना चाहती हूँ कि मैं अपने तीन अमेन्डमेंट्स पर बोल रही हूँ। मैंने पहले ही कहा था कि आप मुझे अलग-अलग समय दें। आपने घंटी बजाई इसलिये मैंने यह कहा है। यह विषय इतना महत्वपूर्ण है इसके लिए थोड़ा समय दिया जाए। मैं तीन महीने से इस देश के बड़े-बड़े कारखानों में घूमी हूँ। हर जगह जब मैं जाती हूँ तो पहले हम को यह कहा जाता है कि वैज्ञानिक शब्द, तकनीकी शब्द हिन्दी में नहीं आ सकते हैं। कुछ लोगों ने ऐसा समझ लिया है कि हिन्दी भाषा कोई स्पन्दतीर्थ है। स्पन्दतीर्थ का अर्थ यह है कि जिसके अन्दर नये शब्द आ ही नहीं सकते। उन्हीं के शब्द बनाने चाहिए। मैंने कहा कि यह किस ने नियम बना दिया कि हम हिन्दी भाषा में पारस, अंग्रेजी, फ्रेंच, टेलियन, अरबी आदि के शब्दों का उपयोग नहीं कर सकते हैं। जिस प्रकार अंग्रेजी भाषा के अन्दर साढ़े सात सौ हिन्दी के शब्द हैं, तमिल शब्द हैं, अंग्रेजी भाषा में जिस प्रकार गुजराती के शब्द हैं, पश्चिम शब्द हैं तो इसी प्रकार हमको हिन्दी को बनाना है तो मूल भूत रूप से हिन्दी में दूसरी भाषाओं के शब्दों को लेना चाहिए। अगर हम यह कर लगे तो न उसमें तत्नीकी शब्द-कोष की खामी रह जाएगी, न वैज्ञानिक शब्द-कोष का अभाव रहेगा। हम बकशाप, मशीन, रेलवे, टेलीफोन आदि एक शब्द को ले लें तो वह हिन्दी भाषा

के शब्द हो जाएंगे और वह हिन्दी भाषा को ज्यादा समृद्ध करेंगे।

श्री श्याम लाल यादव : ये शब्द तो चालू हैं हिन्दी में आज भी।

श्री एन० एच० कुम्भारे : भाषा के सवाल पर हमारे देश में मतैक्य नहीं है।

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Let us speak on this when we come to official language.

श्रीमती सुमित्रा जी० कुलकर्णी : हमारे पास आफिशियल लैंग्वेज ऐक्ट है, लेकिन हमारे पास उसको इम्प्लीमेंट करने की इच्छा की कमी है आज तो इच्छा की भी कमी नहीं है। (Interruptions)

जब हम यह मानते हैं कि हमारे देश का झंडा है, हमारे देश का राष्ट्र-गीत है तो हमारे देश की राष्ट्र भाषा भी है। मैं यह नहीं मान सकती हूँ कि इस देश में कोई एक फ़ैमिली है जो हिन्दी नहीं समझती है। हम लोग आपस में कहते हैं कि हम हिन्दी नहीं जानते हैं लेकिन हम बाज़ार में जाकर सब्जी हिन्दी में खरीदते हैं, हम सिनेमा हिन्दी के देखते हैं, हम अपने बच्चों के साथ हिन्दी में बातें करते हैं जो पोती-पोते होते हैं वह हिन्दी नौकरों के साथ हिन्दी बोलते हैं। इसलिए यह चीज दिमाग से निकालने के लिए यह आवश्यक है कि विधि मन्त्री इस के अन्दर राजभाषा का भी समावेश करें। मैंने अकेले ही राजभाषा का संशोधन नहीं दिया है, मैंने उन सभी भारतीय भाषाओं का नाम रखा है क्योंकि मैं उनका भी आदर करती हूँ क्योंकि हमारी सभी भाषाएँ ऊंची से ऊंची साहित्यिक भाषाएँ हैं और किसी को भी यह हक नहीं है कि वह दूसरी भारतीय भाषा, भारत की चौदहों भाषाओं में से किसी का अपमान करे। चाहे तमिल हो, तेलगु हो, मलयालम हो, उनके लिए हमारे दिल में उतना ही प्रेम है जितना कि हिन्दुस्तान के बारे में। यह चीज बहुत आवश्यक है, इसलिए इसमें राजभाषा का समावेश होना चाहिए। अगर हमारे विधि मंत्री जी इसको

[श्रीमती सुमित्रा जी० कुलकर्णी]

11वां नम्बर नहीं देना चाहते हैं तो मेरा उनसे अनुरोध है कि जो पहला नम्बर है जिसके लिए हम कहते हैं कि कंस्टिट्यूशन के लिए श्रावण करें, जिस के बारे में हम कहते हैं कि राष्ट्र-गीत, राष्ट्रीय झंडा पत्र है, उसी के साथ राजभाषा और अन्य भारतीय भाषाओं का भी समावेश करें।

THE VICE-CHAIRMAN (SHRI V. B. RAJU): I must inform the House that we may have to sit till 8 o'clock because it seems it has been agreed that upto clause 25 this discussion will go on.

SHRI H. R. GOKHALE: I am ready to sit as long as you like. But the point is that even if we sit upto 8 o'clock we will not reach upto clause 25. It is just not possible.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): There is some agreed arrangement and the business should be completed within the allotted time. This is to request you to cut short your speeches on amendments.

श्री श्याम लाल यादव: 11वां नम्बर तो हमारे देश में शुभ माना जाता है।

SHRI D. P. SINGH: Eight is not only unreasonable...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Parliaments sit at nights and even at mid-nights.

SHRI D. P. SINGH: Whenever necessary we will sit.

SHRI BHUPESH GUPTA: How long are we sitting?

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Let us see how it progresses.

SHRI BHUPESH GUPTA: Let us finish upto clause 11 and tomorrow we shall finish everything.

SHRI NRIPATI RANJAN CHOU-DHURY: Today we will sit upto 7 o'clock. This is my personal opinion. It is upto the House to accept it. Tomorrow at 5 P.M. there will be guillotine.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): We will stick to the time agreed upon. Tomorrow at 5.30 P.M. the voting commences. Before that, consideration of all the amendments must be over. If some amendments are left, they will have to be guillotined.

SHRI BHUPESH GUPTA: I have gone through the list. If you see the list of amendments, you will note that we have covered nearly half of the list. We started really after 1 o'clock. Within five hours we have covered this much. Tomorrow we will start at 11 o'clock....

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Possibly we may have to sit from 10 o'clock.

SHRI BHUPESH GUPTA: Between 11 o'clock and 4 o'clock, if we sit without lunch break, we will get five hours. That should be enough for the amendments that are still there. On some of the clauses there are no amendments. I think we can concentrate on some. That can be managed easily. I think you can keep to the schedule of voting at half past five.

THE LEADER OF THE HOUSE (SHRI KAMLAPATI TRIPATHI): Let us finish as much as possible.

SHRI SRIMAN PRAFULLA GOSWAMI: We have read all the amendments. Nobody need make speeches on their amendments. We have read them. Let them simply move the amendments and not make speeches. Speeches are boring.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Shri Madhavan on amendment No. 38.

SHRI K. K. MADHAVAN (Kerala): My amendment is for insertion of the words "and persons belonging to weaker sections like the Scheduled Castes and Scheduled Tribes" so as to place them on the same footing as women as is sought to be done in this Bill. I am very happy, Sir, that a new Chapter, that is, Chapter IV-A, is included in this amending Bill and that it imposes certain duties on the citizens of the country and that this Chapter is entitled "Fundamental Duties". It says that it shall be the duty of every citizen to renounce practices derogatory to the dignity of women. This is very good. But, Sir, at the same time, I would like to say there is nothing in any of these clauses in this Chapter to the effect that the citizens should renounce any practice that are derogatory to the dignity of the Scheduled Caste and Scheduled Tribe people. Sir, while the question of liberation of women is a matter of readjustment between men and women within the home, the question of the dignity of the Scheduled Caste and Scheduled Tribe people is entirely different. There is an article in our Constitution, that is article 46, which says that the State shall promote with special care the educational and economic interests of the weaker sections of the people and, in particular, of the Scheduled Castes and the Scheduled Tribes and shall protect them from social injustice and all forms of exploitation. Sir, now I would like to emphasise the second part of this article. It says that the State shall protect them from social injustice and all forms of exploitation. There is another article, that is, article 14, which also says that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 15 prohibits discrimination. Then, there is also article 17 which abolished untouchability. It penalises the observance of untouchability. It was under this article that the Untouchability (Offences) Act has been passed more than two decades ago and it is in force in the country. But this has not served the purpose satisfactorily

and this has not helped us fully in removing the various disabilities arising out of the practice of untouchability. The removal of these disabilities has not been completely covered by this Act and the result is that the Scheduled Caste people suffer. Every year, in the Report of the Commissioner for Scheduled Castes and Scheduled Tribes, there is a chapter on the atrocities committed on these people and so many cases are reported. But only a few cases which end in conviction. This is because of the very ineffective judicial system that we have wherein one has to labour under many hardships to prove a case and secure conviction though it is the State which sets up the prosecutor in the case of such offences. Sir, the circumstances in which the Scheduled Caste and the Scheduled Tribe people live and the conditions prevailing in the country place those people at a disadvantage and they are not able to plead their cases successfully.

Sir, the new Chapter, Chapter IV-A, places certain fundamental duties on the citizens of this country. This is a very good attempt. It says that it shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women. But, Sir, the movers of this amending Bill have forgotten the desirability of and the necessity for incorporating the idea that, it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of the weaker sections of the society like the Scheduled Castes and the Scheduled Tribes while they have not forgotten to mention this in the case of women. I think this was probably because of an omission and that omission has to be corrected, Sir. Even after 25 years—a quarter of a century—of our independence, the Scheduled Castes and Scheduled Tribes are labouring under so many disabilities, in employment and in all walks of life. There is an amendment which seeks

[Shri K. K. Madhavan].
to place the dignity of weaker sections like the Scheduled Castes and Scheduled Tribes on the same footing as that of women, I may even suggest that the Scheduled Castes and Scheduled Tribes deserve much more protection than is sought to be done in favour of women. So I would plead with the Government that the Government may come forward even at this late stage and accept my amendment and do full justice to the weaker sections of the society like the Scheduled Castes and Scheduled Tribes.

Thank you, Sir.

SHRI KRISHNARAO NARAYAN DHULAP (Maharashtra): Sir, the Swaran Singh Committee had recommended 8 fundamental duties, while in the amending Bill there are 10 duties, ten commandments. While framing the amending Bill, three were dropped. Last time also when I spoke about the other recommendations of the Committee, I asked as to why these have been dropped by the Government. But the hon. Minister Dr. V. A. Seyid Muhammad, has not replied to this. Now I will again raise this issue. Why have these three recommendations been dropped?

Secondly, I will take up my first amendment, that is, Amendment No. 41. Before referring to that, I will add a few words about the fundamental duties. A duty should be concrete, crystalised, that you shall do this and you shall not do that. Here we see that some duties are very vague, and what is expected of the citizens cannot be made out from the provision that has been made in this clause. For example, take the duty to cherish and follow the noble ideals which inspired our national struggle for freedom. At the time of struggle for freedom, 'Satvagraha' was an accepted weapon of the movement, hunger strike was also resorted to. Does the Government approve of these measures which were taken recourse to by our national leaders at that time? There is nothing definite in this duty which has been cast upon

the citizens, except these values. Then, I will refer to the 'development of the scientific temper, humanism and the spirit of inquiry and reform'.....

THE VICE-CHAIRMAN (SHRI V. B. RAJU): May I interrupt you? I advice you to limit your speech to the amendments and then explain.

SHRI KRISHNARAO NARAYAN DHULAP: The whole clause is before us. I am referring to my amendments also and whatever is there. So these duties are vague. Sir, more than 80 per cent of our people are illiterate. What is definite about the duty as such to develop scientific temper, humanism and the spirit of inquiry and reform? This vague duty should be taken out of this clause, and as recommended by the Swaran Singh Committee those three clauses should be added, particularly the last clause, that is, to pay the taxtaxes according to the law.

Sir, I was not here in the House at that time. But I was told that one of the Ministers in the Central Government inadvertantly did not pay taxes for years together. So this duty should be cast upon the citizens. That was the recommendation. I do not know why it has been dropped. The Government will have to give explanation for that. A doubt has been cast about the composite culture. We do not know what is that composite culture. We are all Indians in this country. I belong to Maharashtra. Somebody may belong to Bengal or Andhra. We are all Indians as such. There is unity in diversity. So, all of us are bound by one thread and that is our nationality. We are all Indians and our culture is Indian culture, great ancient Indian culture. Mr. Gokhale has, in the foreword to the book on Constitution published by him and given to the hon. Members of the House, referred to our land as great ancient land. In the same way, our culture is a great ancient culture which is there to bind all the people of this country together. Therefore, I

have put the words "great, ancient Indian".

In regard to having compassion for living creatures, that is (g),—to protect and improve the natural environment including forests, lakes, river and wild life, and to have compassion for living creatures—I would say that a majority of the population in this country is non-vegetarian.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Please confine yourself to the amendment.

SHRI KRISHNARAO NARAYAN DHULAP: This is my amendment, Sir. I have asked them to delete this thing. This should be deleted. As a non-vegetarian, suppose I go on killing fish and chicken. Still a duty has been cast upon me to have compassion for living creatures. That is hypocrisy. Therefore, what is the use of keeping this thing as a fundamental duty which is being trampled upon every day by crores of citizens? Therefore, at least this amendment of mine should be accepted. This should be deleted. With these words, I conclude.

SHRI KHURSHED ALAM KHAN: Sir, the other day while taking part in the debate, a very distinguished Member of the House described these duties as "Ten Commandments". But I feel that one of the commandments—I refer to sub-clause (f)—appears to be incomplete. It reads very much like Milton's *Paradise Lost* which is appreciated by all but read by none. Sir, frankly speaking, it must be admitted that sub-clause (f) of the proposed Part IV-A appears like an incomplete commandment, as I stated earlier. Culture is something which is not static or it is not a monument which is to be preserved and honoured. Culture has to develop. Culture has to improve. It is gratifying to note that we consider our composite culture a rich heritage and wish to preserve it. This is as it should be and it is characteristic of our country, our society and our soil. But it is not the end of it. Our rich heritage of

composite culture is not a monument. nor is it a precious manuscript which needs to be honoured and preserved. I can assure you that there will be no secularism in this country without composite culture. Composite culture is contributed by all the people and by all the regions. That is composite culture. Whether you call it Indian culture or composite culture is another thing. Culture of a nation is like an eternal flowing stream fed by numerous regional and subsidiary streams. Besides, it is a universally accepted fact that the culture of a country or a society flourishes only by sharing it with others and it decreases by saving it. Sir, this heritage is the product of inter-mixing of two great cultures, the ancient Hindu culture as they call it and the west and Central Asian or the Islamic culture. But now what we have inherited as the composite culture is the culture of this soil; it is the culture which has developed on this soil, it is the culture which has been developed by our inter-mixing and it is not foreign to this country and, therefore, it has to be accepted universally and without any conditions or without any reservations. Sir it is most appropriate that a special provision has been incorporated about it in Chapter IV-A of the Bill. This is as it should be. This should remain and at the same time what I have suggested should be added as otherwise the clause will remain incomplete, it will not carry the full sense and it will not meet the required purpose. Our culture is not a monument and, therefore, if it is to be a living organism, if it is to be a dynamic culture, then it has to expand, it has to develop, and it has to grow. Sir, I would like to know here who could deny the contribution of the minorities in developing our rich composite culture. For centuries, saints, scholars, poets, artists, musicians of the Muslim community have inspired the life and thinking of the people and made immense contribution, valuable contribution and everlasting contribution. We are all proud of it. And this is our culture common heritage, and every Indian should be proud of it. Sir, we

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have to preserve and we have to honour and not only preserve and honour this cultural heritage but also develop this precious heritage from whosoever it may have come and whomsoever may have contributed because, now it is our culture, common culture, culture of every Indian citizen and we are all proud of it. Sir, we cannot allow the national heritage to be destroyed or damaged or checked. This will mean the violation of all contemporary norms of thinking, living and behaviour. Religion, race or reactionary forces and fascist tendencies should not be allowed to prevent or obstruct the development of this culture. Sir, I must say that slogans like Indianisation of minorities is a product of a diseased and stagnant mind. Those who have propagated such slogans are today standing fully exposed and our stand has been vindicated properly.

Sir, one very significant factor is the national and emotional integration which can be helped by this common heritage or the common culture or the composite culture as we call it. Really speaking, saints like Amir Khusroo, seven centuries ago initiated this national integration and now it is our duty to take it forward to see that it develops and to see that there is no stagnation and that it is developed, that it is not checked by reactionary forces. Sir, the Prime Minister has brought a fresh inspiration and vigour to the Constitutional provisions, to safeguard all that is dear and precious to us. Let this precious heritage of composite culture also be guarded in the same spirit, in the same manner.

Sir, the Chapter relating to Fundamental Duties is an important part of any political system, and this is going to be an important feature of our Constitution, and we should give it the importance that it deserves and the honour that it deserves. We hope

that our desire, aspiration and need shall receive due consideration by the people who are concerned. I know that it may be difficult at the moment to accept this suggestion or this amendment but I hope, and sincerely and honestly hope, that the hon. Minister will bear it in mind and he will do something about it at some appropriate time. Sir, the Taj Mahal of our composite culture will ever inspire us with the lustre of its own.

SHRI JAGAN NATH BHARDWAJ:

Sir, I am dealing with two amendments Nos. 43 and 49. Both these amendments relate to the Fundamental Duties. Addition of Fundamental Duties has been welcomed, I think everywhere, all over the country. There is some criticism, people say that this is superfluous but I think that it is not superfluous and was a necessity. In fact, it is not a new thing. Buddha's ten tenets were very useful. They raised the morale of the people. Ashoka had to adopt those ten principles like thou shall not steal, thou shall not commit adultery. In this way, Buddha's tenets could do a lot of good to our country. The Fundamental Duties are just like those tenets. They will have educative value in educating our children in the schools. If we put them in our text books the result will be that there will be a lot of improvement in the standard of our national character. So, this is a very welcome steps and I congratulate the framers of the Fundamental Duties and their inclusion in the Constitution.

Now, I will come to my amendment No. 43.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): You have already said about it in the earlier discussion.

SHRI JAGAN NATH BHARDWAJ: Regarding 43, my intention was that we should protect all the mineral wealth but I was not given a kind reply by the hon. Minister. Anyway, that

happened because I was not artistic in putting my amendment. So, I admit my weakness. In putting my first amendment, I tried to be artistic but there also I met the same fate. So I remember one thing that we used to say in our school days:

पढ़तम् तब भी मरतम्,

न पढ़तम् तब भी मरतम् ।

फिर पढ़कर क्या करतम् ।

Now, I am feeling why should I put these amendments. Both of them have fallen flat. What was the need for me to have brought forth such amendments? Anyway this was just by the way. My intention in moving this amendment is that the mineral wealth should be protected; if not in this amendment let it be done in some other way. The Government should take a note of it. I want to say that this is also our responsibility.

Now, I am coming to my amendment No. 49. In this amendment, I have proposed that another clause, clause (k) may be added as the 11th fundamental duty, namely "to refrain from spreading false rumours, light talk and cheap popularity hunting manoeuvres".

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Not false rumours but rumours.

SHRI BHUPESH GUPTA: You have said to refrain from spreading rumours, light talk and cheap popularity hunting manoeuvres. Can you give any examples?

SHRI JAGAN NATH BHARDWAJ: During war-time, rumours did so much of damage and harm to the country. Some responsible people talk very lightly and thus they spread ill-will among the people.

SHRI RANBIR SINGH: People's war.

SHRI JAGAN NATH BHARDWAJ: Instead of doing constructive things

people resort to cheap popularity hunting manoeuvres so that they may become popular. (Interruptions) I am not telling you, Mr. Bhupesh Gupta. Why are you worried?

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Please do not disturb.

SHRI JAGAN NATH BHARDWAJ: This is for the sake of educative value. Thank you.

SHRI V. V. SWAMINATHAN: My amendment No. 45 relates to the 8th Fundamental Duty in the Chapter relating to Fundamental Duties. The 8th duty is to develop the scientific temper, humanism and the spirit of inquiry and reform. To do this duty abolition of caste system and superstition is essential. Hon. Member Shri Bhupesh Gupta talked eloquently about the evil influence of money power and other hon. Members like Shri N. H. Kumbhare and Shri Hashmi and other Members invited the attention of the House to the evils and prejudices of caste system and other superstitions and even though there are, to some extent educated people who are raised to the level of elite they have not shed their prejudice caste and other customs. That is why to create a classless society, the abolition of caste system is very essential. We can see this evil of caste system during elections also, which is worse than the money power. Whatever party may be there, ruling party or any other party, they are not able to succeed in the elections if a particular caste dominates in that constituency. The candidate of that caste alone can come up in the election. The party is not able to put up its own candidate irrespective of the caste. So, the evil of caste system raises its ugly head during elections also. Why, even after 29 years of our independence and after 25 years of our having enacted our Constitution, we are not able to at least pass some executive orders? Even in the voters' lists when the people are enrolled, they are asked about their caste. When we go to the

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courts to give some evidence as witness, we are first asked about our caste. So is the case at the time of registration. Caste is always mentioned. Even if the ruling party cannot accommodate and bring about a suitable provision for the abolition of the caste and superstition, they can, at least, issue executive orders to abolish this system of mentioning caste in the voters' list or in the courts or in the registration office. That is very important. Without this, we cannot develop the scientific temper, humanism and the spirit of inquiry and reform. Many such evils, many prejudices, many defects in our system are only due to caste system. Our great people, ancient poets and prophets, saints and seers talked so much and preached about the abolition of the caste system. In spite of such preachings, we are not able to abolish it. So, it is most appropriate to add the words "to eradicate superstition and caste system and to develop" the scientific temper, humanism and the spirit of inquiry and reform. Thank you.

SHRI SANAT KUMAR RAHA (West Bengal): Sir, my amendment No. 50 is very simple. It is regarding the dignity of labour and the democratic rights of the toiling people. Though it is a very simple amendment, I think, Sir, it is the spirit, the content and the mind of the entire Chapter of Fundamental Duties. Sir, the duties have been formulated but these duties have been formulated without the spirit, without the mind and without the content which can make the body move. If there be no mind, the body cannot move. So my amendment would be that the entire Chapter of Fundamental Duties should be guided, like the Directive Principles, by the concept and the philosophy of the dignity of labour and, side by side, respect for the toiling people. This, in fact, should come at the first place as (a) and not as (k). However, I am suggesting this amendment formally under (k).

Sir, our Fundamental Duties have been prescribed in order to build a new civilisation and a new national life based on duties which will contribute to democracy and social progress. So many duties have been prescribed for building a way of life for a new society which we envisage by this constitutional amendment. Sir, these should be based on productive labour on the basis of the rights guaranteed for the toiling people. Sir, in our society, we still find feudal elements. These vices of feudalism are there. Though, capitalism is rising, it is co-existing and compromising with feudal legacies. So, we are not able to build up a new civilisation and a new national life. I think, to overcome all these difficulties and vices in our national life, we have to respect the dignity of labour. The labour today is still considered as menial labour. Therefore, we have to respect the dignity of labour and the democratic rights of the toiling people. When I say labour, I mean productive labour, which creates history, which makes history and which makes a society move. We should have this concept and end in view regarding labour and toiling people. But I think labour is still considered in terms of superiority and inferiority. These ideas should be removed from the very way of our life. My amendment is very very simple. It is also true that the society grows out of labour. In the field of human civilisation, new labour and new civilisations emerge. Historically, labour is productive and creative. Sir, if this concept of labour and toiling people is not accepted and included in the list of duties, I think the very spirit, the vital concept and philosophy of dignity of labour will be lost and thereby, we will be making these duties only formal in our daily routine life. Even for our daily life, it is essential that there should be this concept and philosophy of dignity of labour which can guide our daily life. I would not take much of the time of the House. I would say only one word more. A list of ten duties have been enumerated. There is the ques-

tion of national integrity, dignity of women, development of a scientific temper and humanism, striving towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement and so on. All these things depend upon the will of the people. That will must be based on the dignity of labour. With these words', I would request the hon. Minister to accept my amendment. There is nothing harmful in this amendment and which may not be unacceptable to him.

SHRI H. R. GOKHALE: There has, indeed, been a very very good discussion on this clause 11 relating to the Fundamental Duties. It is for the first time that we have this innovation in our Constitution. For that matter, in very few other Constitutions, duties are enumerated. In countries which have democracies more or less similarly based, we do not have such duties enumerated. Therefore, it is very heartening to see that the inclusion of this Part IVA has been welcomed by all concerned. If we have to expand these duties, it is not as if it is not possible to do so. In fact, quite a few things which were spoken here in the course of the discussion, were in themselves, not unimportant. But when we decided to include this Chapter on Fundamental Duties, two basic things were kept in view. The first is that, since the duties are to be the duties of all citizens in this country, they should be of general application to all citizens. The second thing is that. In respect of none of these duties, anybody can say that they smack of a partisan character. Nobody, for example, can say that this particular duty has been included because it is more in line with the political view of Mr. Bhupesh Gupta or the political view of Mr. Gokhale. These are duties of an all-pervading character, which should be generally acceptable to all citizens, irrespective of their

political views, irrespective of their approaches to various problems in the country. Therefore, it was thought that when we are first introducing a set of ten duties in our Constitution, we should, at this stage, concentrate on a few of them, which are of general importance and general application, about which, about their acceptance by all citizens, there should be no doubt at all. That is indeed so because nobody here has spoken basically against any one of these duties which are there in Part IVA. Keeping this in mind as a background of formulation of these Duties, it may not be desirable to go on adding to these duties, nor as it were, all the other things which were mentioned are not important. I am not here to underestimate the value of some of the suggestions which were made by hon. Members but look at the whole scheme. If you read from the list, they show a certain harmony, they show a certain approach which tells the citizens that these are the minimum things which are regarded as their duties. Not that there are no other duties it was for example, said by one hon. Member that the Swaran Singh Committee had recommended that there should be a duty to pay taxes. No doubt, it is a duty to pay taxes if he is assessable to tax and it is not only a duty, but failure to perform this duty, is followed by a certain liability, a certain penalty. There are may other duties in that sense which are legally enforceable and which form part of our laws but here not all are covered. By law some are covered but not all. There are some others which are not covered by laws and which are intended to project a certain image of our country and of our citizens before our country and before the whole world that these are the torchlights, the guiding principles on the basis of which a citizen is asked to behave and function. Keeping this in mind, I very humbly suggest that we should not disturb the present structure which is there, which is enumerated in the 10 Fundamental Duties in this clause (Interruption). I have not concluded. I

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remember your suggestion. I will come to it later on. This is the background.

SHRI BHUPESH GUPTA: You may explain one point here. Look at the Duty (j) which says: to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement. What I want to know from you is whether it applies to the Council of Ministers also.

SHRI H. R. GOKHALE: Yes, the Council of Ministers are first citizens.

SHRI BHUPESH GUPTA: You have said: to strive towards excellence in all spheres of individual and collective activity. Individual as Ministers surely and collectively as Council of Ministers? There are some Ministers who are behaving most deplorably. In sheer flattery they are beating everybody else. Is it not the duty of every Minister to function as a member of the Council of Ministers collectively and see . . .

SHRI H. R. GOKHALE: Well, undoubtedly so, Sir. If you talk of the whole group of persons, why bring in the black sheep only. I do not consider anybody as a black sheep here but when we talk of black sheep, are you suggesting that in other walks of life there are no black sheep, that there are no black sheep in Parliament, there are no black sheep in the country? But you do not judge the Council of Ministers as a black sheep in that way. It is a question which it is needless to ask. There can be no Minister unless he is a citizen first. It is the basic duty of a citizen and perhaps, if not equally, all the more it applies to a Minister, not in an individual capacity but in his collective functioning. So, this is not a question which needs an answer. It is so patent on the face of it. We do not give duties of a Minister here. The duties of a policeman or a Railway Guard are not given here.

SHRI BHUPESH GUPTA: If my grandfather comes and bows to me, it will not be functioning in excellence either individually or collectively. If a Chief Minister behaves in a sheepish manner somewhere, it is not functioning in excellence either individually or collectively. If a Minister gets up and says, I have been your stooge, somebody else's stooge, I will continue to be your stooge, it does not mean collective.... (Interruptions)

SHRI H. R. GOKHALE: That is exactly what I was saying. It will equally apply, to many other categories of people. That is what I am saying. If it applies to all others, it may apply to Ministers. The question is that when you lay down a duty . . .

SHRI BHUPESH GUPTA: Members of Parliament.

SHRI H. R. GOKHALE: To everybody. I am not confining it to Members of Parliament. Those who are outside this House or those who are in the Ministry or outside the Ministry, those who are in many other walks of life in this country, so long as they are citizens, they are governed by these duties. That is a plain thing which does not need any explanation because, in the first instance, a Minister, of all, has got to be a citizen, has got to be bound by these duties more than anyone else. Does it need any explanation at all? That is my question.

What I was saying is that there were many suggestions which were made. My friend, honourable Shrimati Sumitra Kulkarni said that the word "attitude" is appropriate and "temper" is not appropriate. It was a point raised and I just very hurriedly called for the Concise Oxford Dictionary and I am, more than before, convinced that "temper" is the correct word and not "atti-

tude". Now look at the simple meaning. Because it is a suggestion very genuinely made, I thought that it should be genuinely met. Here, for example, you have got the definition of "temper". Even before looking at the dictionary, I knew that "temper" is something much more than "attitude". When I speak of my temper or when I speak of somebody else's temper, I am really talking of the mental framework of an individual. The persons should be so made mentally. It is not an attitude for the time being but it is a temper which builds in himself as a part of his mental framework. That is why we are using the word "temper". "Attitude" can be for a particular thing; it can be irrespective of whatever the temper. Here, my friend on the opposite side, Mr. Bhupesh Gupta, may take a certain attitude towards a certain thing but his temper may be quite different. And I am willing to concede that he has a scientific temper.

SHRI BHUPESH GUPTA: The trouble is when it is hot temper.

SHRIMATI SUMITRA G. KULKARNI: I only ask him, what is the definition of "temper"? Have you defined it in the Constitution?

SHRI BHUPESH GUPTA: When it is hot temper, it is bad.

SHRIMATI SUMITRA G. KULKARNI: You have to define it in the Constitution. Otherwise keep it; I do not have any particular objection to it.

SHRI H. R. GOKHALE: You need not define everything in the Constitution because then you will have to define "science", "scientific"; every other thing will have to be defined then. The English language being what it is, it is understood in a particular way. We have a standard dictionary. Of course, a word in English can mean a different thing. Therefore, "temper", also may mean something else. If I have a bad "temper", that is not the temper I am talking of. But if I have a temper, it is a part of my mental make-up. There-

fore, before I approach a thing, I do not have to prepare my temper because that is my temper, my mental make-up is like that. But my attitude may be quite different now. Therefore, when I am talking of temper now, leave the dictionary meanings—I have seen them carefully. Because it was a good point raised, I am suggesting to my friend, Shrimati Kulkarni, kindly to have a look at the Concise Oxford Dictionary and, if she has a bigger one, Webster's, for example. She may have a look at it and she will find the same meaning. It is given there.

Now, it was asked: "What is "scientific temper"?"

SHRI BHUPESH GUPTA: Mr. Gokhale, we are now having a new phenomenon tailored temper. Temper is getting tailored nowadays.

SHRI H. R. GOKHALE: Yes. Therefore, we are told, let it be tailored by your scientific approach and not anything else. So, the words used are "scientific temper" and not any other temper.

When we talk of scientific temper, what do we mean, Sir? For that I don't think I need to look at the dictionary. The simple meaning is that I shall not be dogmatic. When I say that a particular thing is good, I will not be guided by dogma; I will be guided by a rationale, an approach which can be justified by reason. And that is scientific temper. "Science" does not necessarily mean science in the other sense, for example, physics, chemistry, etc., though all these faculties require a scientific attitude towards all the sciences. Therefore, we say a "scientific temper" is a dogmaless approach, a rationale approach, an approach guided by reason and not by other considerations and which is a temper and not an attitude which is temporary. So I need not dwell any further on this. Then so many suggestions were made with regard to the Scheduled Castes and the Scheduled Tribes.

SHRI N. H. KUMBHARE: In the suggestion which I have made the matter became very clear.

SHRI H. R. GOKHALE: Now let us come to the other thing. If there is any Constitution in the world, it is our Constitution which has recognised at the very first opportunity the need for protecting the Scheduled Castes and the Scheduled Tribes. Even though the provisions which are contained in the Constitution relating to the Scheduled Castes and the Scheduled Tribes, from the strictly legal point of view, could have been regarded as discriminatory, that discrimination was consciously and deliberately made with a view to seeing that if at all there is a strata of society here which requires a special protection, in spite of the fact that we might have to discriminate, protection was given to them, the Scheduled Castes and the Scheduled Tribes. What more guarantee do you want to have? And, added to this, we are now adding the word 'secular' in the Preamble. Therefore, all these additions, to my mind, are unnecessary. They are recognised by everyone without any difference of opinion. As being a part of our political system, they have been included in our Constitution, and, as I said earlier, it is not necessary to go on adding to these duties. Now, I was talking about the duty to pay taxes... (Interruptions)

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Please don't interrupt him. You already had your say. Let the Minister answer. You need not give any further explanation.

SHRI H. R. GOKHALE: There are some amendments which frankly I did not follow. For example, there was an amendment to the effect that it shall be the duty of everyone to protect everybody else by participating in such a manner that he will protect that person from danger. Now, we know what danger is, and we also do not know what danger is, because what you might look upon as danger

may not be dangerous to me; certain things are dangerous according to me and certain other things are dangerous according to you. The point is that you cannot put a thing in the list of duties on which there could be a diverse opinion and there could be confusion in understanding the duty itself.

AN HON. MEMBER: What about the official language?

SHRI H. R. GOKHALE: Now the official language is already there in the Constitution. Secondly, we in this country have taken the attitude that while we regard that Hindi is the language which should in course of time become the language of this country—and all efforts at official level and other levels are being made to see that it develops further—we do not want to impose Hindi. For example, at the moment, there is some apprehension or danger about Hindi coming in as a matter of law. Maybe a time will come when this will become acceptable everywhere.

SHRIMATI SUMITRA G. KULKARNI: Sir, it is not a question of Hindi. It is a question of the official language, the National Flag and the National Anthem.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Madam, you had explained it like a teacher.

SHRIMATI SUMITRA G. KULKARNI: I am not a teacher. You probably were. This is the issue. We are not imposing language on anybody.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): He does not need any further explanation.

SHRIMATI SUMITRA G. KULKARNI: Sir, it is a question of...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Do not interrupt the Minister. Let his thought process be not disturbed.

SHRIMATI SUMITRA G. KULKARNI: His thought process is so strong that it cannot be disturbed.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Madam, please co-operate.

SHRI H. R. GOKHALE: As I said in the beginning, let us not put anything in the list of duties about which there could be apprehensions in certain quarters. The apprehensions may be unfounded. Maybe a time will come when the misunderstanding can be removed. But when we put a series of duties before the people, let those duties be such that everyone will without demure accept those duties as his or her duties. That is not to say that I do not give importance to what she was saying. In fact, that was what I said with regard to most of the suggestions which were made in the course of this discussion. Let us not disturb the harmony of this list of 10 duties which have been thought out very carefully. There are many other things which have been stated. Maybe at a later stage when circumstances are better and there is greater acceptance of those ideas throughout the length and breadth of the country, we will bring the necessary changes. The Constitution is not there for all times. It may be that we will change it. Everything will be considered. Therefore, I would suggest that before these duties become part of the Constitution, let us adopt the scientific temper in deciding whether any duties should be adopted or not. Sir, that is my earnest appeal to all honourable Members. I do not think I need go into everyone of these because I have very carefully listened to all the suggestions. I think that some of them were valuable; there is no doubt but we will take them into account at the proper time.

SHRIMATI SUMITRA G. KULKARNI: I have a last submission to make. One minute.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): No. Mr. Kumbhare, do

you want your amendments to be put to vote?

SHRI N. H. KUMBHARE: Sir, I want...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Not only you, but others also who have moved amendments have had an opportunity to speak.

SHRI N. H. KUMBHARE: The Minister has not...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Will you please co-operate?

SHRI N. H. KUMBHARE: I am co-operating. I am raising a point of order.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Where is the point of order at this stage?

SHRI N. H. KUMBHARE: I have made a specific suggestion...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): You cannot take the time of the House. You are not respecting the Chair. This is not the way. Do you want your amendments to be put to vote or not?

SHRI N. H. KUMBHARE: Yes.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

34. "That at page 4, after line 16 the following be inserted, namely:

'(cc) to strive towards strengthening the foundation of the Socialist, Secular and Democratic Constitution.'"

The motion was negatived.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

35. "That at page 4, after line 18, the following be inserted, namely:

'(dd) to help other persons in danger on the basis of solidarity

[Shri V. B. Raju]

to participate with others in combating dangers.'"

The motion was negatived.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

40. "That at page 4, after line 22, the following be inserted, namely:

'(ee) to abjure prejudice and hatred towards members of Scheduled Castes on pre-conceived notion of low caste.'"

The motion was negatived.

SHRI SYED AHMED HASHMI: Sir, I wish to withdraw my amendment No. 36.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

"That leave be granted to the Mover to withdraw his amendment (No. 36.)"

The motion was adopted.

The amendment (No. 36) was, by leave, withdrawn.*

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Amendments Nos. 37, 46 and 48 of Shrimati Sumitra Kul-karni.

SHRIMATI SUMITRA G. KULKARNI: Sir, I only want to submit...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): No explanation. Please say if you want to press your amendments or not.

SHRIMATI SUMITRA G. KULKARNI: I just want to...

THE VICE-CHAIRMAN (SHRI V. B. RAJU): No speeches now.

SHRIMATI SUMITRA G. KULKARNI: I withdraw my amendments Nos. 37, 46 and 48.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

"That leave be granted to the Mover to withdraw her amendments (Nos. 37, 46 and 48.)"

The motion was adopted.

The amendments (Nos. 37, 46* and 48*) were, by leave, withdrawn.*

SHRI K. K. MADHAVAN: Sir, I wish to withdraw my amendment (No. 38).

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

"That leave be granted to the Mover to withdraw his amendment (No. 38)."

The motion was adopted.

The amendment (No. 38) was, by leave, withdrawn.*

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

41. "That at page 4, line 23, for the word "composite", the words "great ancient Indian" be substituted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

44. "That at page 4, lines 26-27, the words "and to have compassion for living creatures" be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

47. "That at page 4, after line 33, the following be inserted, namely:

'(k) to respect the democratic institutions enshrined in the Constitution and not to do anything which may impair their dignity or authority.'

(l) to render assistance and co-operation to the State in the implementation of the Directive Principles of State Policy so as to subserve the interests of social and economic justice.

(m) to pay taxes according to law.'

The motion was negatived.

SHRI KHURSHED ALAM KHAN: Sir, I seek the permission of the House to withdraw my amendment (No. 42).

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

"That leave be granted to the Mover to withdraw his amendment (No. 42)."

The motion was adopted.

The amendment (No. 42) was, by leave, withdrawn.*

SHRI JAGAN NATH BHARDWAJ: Sir, I seek the permission of the House to withdraw my amendments (Nos. 43 and 49).

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

"That leave be granted to the Mover to withdraw his amendments (Nos. 43 and 49)."

The motion was adopted.

The amendments (Nos. 43 and 49*) were, by leave, withdrawn.*

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

45. "That at page 4, line 28, for the words "to develop" the words "to eradicate superstition and caste system and to develop" be substituted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The question is:

"That at page 4, after line 33, the following be inserted, namely:

'(k) to respect the dignity of labour and the democratic rights of the toiling people.'"

The motion was negatived.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): Clause 12. There are no amendments.

For clause 13 there is a small amendment (No. 51) in the name of Shri V. V. Swaminathan. It is barred. We go to clause 14.

SHRI BHUPESH GUPTA: We can adjourn now.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS, DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI OM MEHTA): Sir, I must make it quite specific that tomorrow the voting on the clauses will have to be at 5.30 p.m. We should finish all our discussion by 5-30 p.m.

SHRI BHUPESH GUPTA: On clauses 20 to 34 there are no amendments. Only after clause 34, the amendments start.

SHRI OM MEHTA: We will have to close all discussion on the clauses by 5-30 p.m.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): That is made clear. Tomorrow before 5-30 p.m. everything must be over and we should be ready for voting.

SHRI OM MEHTA: There may be no lunch hour.

THE VICE-CHAIRMAN (SHRI V. B. RAJU): The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at twenty-six minutes past seven of the clock till eleven of the clock on Wednesday the 10th November, 1976.

*For the text of the amendment vide col... *Supra*.