

THE CONSTITUTION (FORTY-SECOND AMENDMENT) BILL, 1976

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V. A. SEYID MUHAMMAD) : Sir I beg to move :

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

Sir, this amending Bill consists of two parts mainly. One relates to the amendment of article 297 of the Constitution and the second part relates to the inclusion of certain Acts in the Ninth Schedule.

Sir, in regard to the amendment to article 297, before I go into the details. I would like to clarify certain points. Certain expressions are contained now in article 297. By the proposed amendment, the expression 'exclusive economic zone' is proposed to be included. I would mention briefly what exactly these expressions mean. According to the generally accepted consensus of world opinion and as agreed to at the conference on the law of the seas, territorial waters extend to 12 miles from the base line. Exclusive economic zone is a new concept which has been developing and it is really in a definable stage now. As a result of the various conferences held on the law of the seas, there is a consensus on this concept 'exclusive economic zone' that it extends to 200 miles from the base line or 188 miles from the territorial waters. The continental shelf extends to 200 miles from the base line or to the outer edge of the continental margin.

In regard to the sovereignty of India, I would like to clarify certain points before I go into the details of the proposed amendment. The sovereignty of India, the exclusive sovereignty of India, extends to the entire territorial waters, to the subsoil territorial waters and the

space over the territorial waters. All foreign ships (other than warships) shall have the right of innocent passage through the territorial waters. Foreign warships, including submarines, can enter or pass through the territorial waters, only after getting the prior consent of the Central Government. In regard to the question of sovereignty in the matter of continental shelf, India has full and exclusive sovereign rights in respect of the continental shelf.

In regard to the question of sovereignty in the exclusive economic zone, the concept which is proposed to be included in the Ninth Schedule, India has rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living, as well as for producing energies from tides, winds and currents. It will have exclusive rights in this zone for construction, maintenance or operation of off-shore terminals etc. and such other rights as may be recognised by international law. Nobody else has similar rights in this zone. Foreign ships can pass through this zone without interfering with the exercise of India's rights. The present amendment has been introduced with the intention of bringing in the whole concept covering the territorial waters, the continental shelf and the exclusive economic zone. As will be evident from clause 2 of the Bill, the idea is to enable Parliament to pass the necessary legislation. That is to say, it is an enabling power. Further necessary laws have to be passed and, I am sure, the Government will propose such necessary legislation without delay.

Having stated the general concept of these expressions, I wish to say that these enabling powers are very much necessary. The international law in this field is fast developing. Among many countries, as I said, there is a consensus regarding the concept of "exclusive economic zone", "continental shelf" and "territorial

waters", and the position that would emerge is that we give, by this enabling clause, power to Parliament to make the necessary laws in consonance with the consensus as well as in consonance with the negotiations which may take place in future. That is the object.

Having stated that, Sir, I would now like to proceed to the next part of the proposed amendment, namely, the introduction of certain Acts specified in the amendment which will form items 125 to 188 in the present Ninth Schedule if this Bill is adopted and made into law. In bringing forth this proposal to include these Acts, the main object and the principle is that there are certain Acts which are essential in the public interest as progressive measures in order to take necessary steps to improve the general welfare of the people and also to protect public interests. That is stated in the Statement of Objects and Reasons also. So, with these objectives, the question arises: Why they have to be put in the Ninth Schedule? As the previous experience goes—and recent experience also—because many matters are pending now before the courts challenging some of the Acts which are included, and with the apprehension that the provisions of the other Acts may also be challenged and stays granted, we are proposing to introduce these enactments which we consider to be, as I said, very essential as progressive legislations as well as in the public interest and to protect them from attacks in the courts of law.

I do not propose to deal in detail with these various Acts because there are a number of them. But, if the occasion arises, I will reply to the points as and when they are made.

Sir, I commend the Bill to the House.

The question was proposed.

DR. Z. A. AHMAD (Uttar Pradesh): ' Mr. Deputy Chairman, Sir, I want to

submit that our party is broadly in agreement with the proposed Constitution amendments incorporated in this Bill. I say "broadly in agreement" because there are certain provisions with which we disagree, there are certain items which we do not want to be included in this Constitution (Amendment) Bill—and I will indicate those items later. But, by and large, it is a step in the right direction. In fact, from our benches, have been demanding for a long time that the Ninth Schedule be expanded and more Acts included in it, particularly socio-economic enactments, land and other enactments which are subject to mutilation or which are subject to distortion or which are subject to being struck down by the courts and which have actually been "mishandled", I would say, by the courts. I would draw your particular attention to the laws relating to land ceiling, and land reforms, generally speaking. Now, it is a very unfortunate matter that for the last 25 years, I think, we have only been trying to introduce land reforms—first through the Zamindari Abolition Act, then some tenancy Acts, then, in the sixties, land ceiling Acts, and then subsequently, after the seventies, again certain land reform Acts, particularly relating to ceiling and tenancy. Now, this is a reality which has to be admitted, that the courts have worked havoc with these enactments—worked havoc actually. In fact, I would say that the courts are responsible—the courts of various gradations—for stopping or impeding or stalling the enforcement of these Acts. Judges with their antiquated outlook, or with their social bias in favour of the landlords or the propertied class, have given verdicts which have obstructed the enforcement of these Acts and defeated the objectives contemplated.

Now, I do not want to read the long list of writ petitions that have been filed by big landed interest. But I may mention a few things. In Andhra Pradesh, for example, about 100 writ petitions are pending, by important,

[DR. Z. A. AHMAD]

big landlords. In Bihar, there are 173 writ petitions pending. This is from a statement which I secured from the Agriculture Ministry. In Haryana, 351 writ petitions are pending. In Himachal Pradesh, 84 writ petitions are pending. In Kerala, about 600 civil revision petitions are there. In Madhya Pradesh, there are 44 writ petitions pending, in Maharashtra, there are 2083 writ petitions pending. Uttar Pradesh has 3100 writ petitions pending. Now, how do you face this situation? There are 3100 writ petitions in my State. Though I cannot give you the exact date on which this is the position, but it is only a few months ago. Now, this situation can not be met just by allowing these poor peasants against whose interest these writ petitions have been filed to fuff it out in the courts of law. It just cannot be. It is impossible. In most cases, the verdict goes in favour of the big landed interests who do not want their lands to be given under the ceiling laws or who do not want their tenants to get occupancy rights. Therefore, the very spirit of enactments is defeated and the laws suffer. For example, I would give some illustrations of the issues on which writ petitions have been filed. Classification of land is a very complicated thing. As soon as there is a move for acquisition of land by the administration, the man runs to the court and says: It is an inferior quality land. I should be covered by higher slab ceiling. Now, how is the court to decide whether a particular plot of land is of A, B or C category? It is fantastic. But the courts start getting evidence, all sorts of fabricated evidence put up by the landed interests. The administration, in many cases, is tempted by money graft. There is a lot of corruption in the administration, particularly in such cases where the big landed interests are ready to give any amount of money to get official evidence distorted in their own favour. Then, definition of 'family'. After discussion at various levels, after a long time, there was a consensus evolved

regarding the definition of family, in regard to the imposition or enforcement of ceiling laws. Again, whether the major son or the minor son should be included or not, or how many minor sons should be included, all these complications are created through the writ petitions. And in some cases, the courts have intervened very effectively in order to give their judgment in favour of the landlords who have filed the writ petitions. Then there is another peculiar thing. The position is taken that the due process of law has not been observed. Some little pro-forma is given and in that they will say that this item or that item is not there or that it was not received in time, that it was not posted in time. All sorts of things are there. Therefore, we find that in Punjab, Haryana, Gujarat and in many other States, vital provisions of the ceiling laws have been struck down or stayed or the taking possession of land has been stopped by the courts. When the law says that the land can be taken possession of, then some complication is created, some pretence or excuse is put forward. The man runs to the court and then the court intervenes and stops the taking of possession of the land. Thus, it goes on and on.

It is unfortunate that this amendment was not introduced earlier. In fact, we have been clamouring for it at public meetings, in committee meetings, in the Assemblies and in both the Chambers of Parliament; we have been demanding that socio-economic legislations should be insulated from judicial review. But somehow, earlier our demand could not be accepted by the ruling party for obvious reasons because I am sure that there is a tremendous amount of pull exercised by the landed interests inside the ruling party, and particularly in the States.....

SHRI OMPRAKASH TYAGI (Uttar Pradesh): That is a fact.

DR. Z. A. AHMAD: But you yourself are for it. Now, you may change your opinion. You were the people

who were most vocal against land reforms. Your party, the Jana Sangh, was...

SHRI OMPRAKASH TYAGI: We have never been in power.

DR. Z. A. AHMAD: You may not have been in power, but you were exercising your pull, in unison or in unity with those elements of the party in power who did not want such radical socio-economic legislations to be enacted. Well, now, you cannot nod your head in approval. You cannot run with the hare and hunt with the hounds. Anyway, the reactionary rightists elements in the political life of the country, whoever they may be—I do not want to name the parties—are forging a combination, they are forming an all-India party in order to impede such enactments. Well, they shout and raise anti-Communist slogans and say, why should land ceiling be there, the liberty is at stake and so on. They were the protectors of the vested interests whether in industry or in agriculture and therefore they started shouting. And now, they are uniting to have an all-India party in order to raise their voice very effectively against socio-economic legislations of this nature.

SHRI OMPRAKASH TYAGI: You will also shout after some time.

DR. Z. A. AHMAD: I will not. By and large, some items are to be excluded from it. That is a different matter. But with the spirit in which this amendment has been conceived—the objectives have been laid down by the hon. Minister—we are obviously in agreement. We have been, in fact, clamouring for a long time for such an enactment.

Therefore, while welcoming this amendment—obviously our party will support and vote for it—what I want to submit is this. There are a large number of Acts which have been included in the Ninth Schedule. Well, it would have been only fair to have

given us an idea or at least a summary or a synopsis of the Acts which you proposed to include. Well, as a man who is interested in agrarian legislation, I can spot out the Acts which relates to my field, the agrarian field. But there are some which do not relate to my field. I cannot actually detect them very easily. It would have been better if you had given us a summary of the main provisions of the Acts which have been included in the Ninth Schedule. (Time-bell rings). It is now too late to do that, but I think in future this should be the practice that if you have an omnibus amendment of this type...

SHRI B. N. BANERJEE (Nominated): That would postpone your Bill by three months.

DR. Z. A. AHMAD: Does not matter, but then the whole process should have started earlier.

SHRI B. N. BANERJEE: The Bill must have been conceived only a few days back.

DR. Z. A. AHMAD: My complaint is that it should have been conceived much earlier, nine months earlier. Anyway...

SHRI U. K. LAKSHMANA GOWDA (Karnataka): The effort, was lacking from your side. That is why it was conceived late.

DR. Z. A. AHMAD: No, no, from our side there was enough shouting,

"Ninth Schedule, Ninth Schedule, Ninth Schedule". People said it was an obsession with us.

Now, apart from this, I submit that in this omnibus amendment, the Prevention of Publication of Objectionable Matter Act should not be included. To this question, to this issue attention has been drawn of the hon. Minister in the other House also. We strongly feel that this amendment

[Dr. Z. A. Ahmad]

should exclusively be related to socio-economic legislation. Other legislation relating to rights of freedom of speech or freedom of organisation and other such rights should be dealt with separately, on a separate level. Socioeconomic legislation exclusively should have been included in this. (*Time-bell rings*). Two minutes more, Sir.

MR. DEPUTY CHAIRMAN: Dr. Ahmad, to-day we are running short of time.

DR. Z. A. AHMAD: You are running short of time? Usually you have more than* enough time. I am surprised.

MR. DEPUTY CHAIRMAN: There are a number of speakers. So I think that after you, the speaker should take only ten minutes each because otherwise we cannot finish.

DR. Z. A. AHMAD: So, two minutes more. In regard to this issue, I do not want to go into details because in the other House the whole thing has been discussed, and I do not want to repeat. After all, in the Prevention of Publication of Objectionable Matter Act, a tremendous amount of authority has been given, great powers have been given, to local officials who can misuse them and who usually misuse them, who have local grudges to settle, local accounts to settle, with the press people or with those who criticise them. They can play havoc with them. So the right for any editor to have the advantage of judicial review should be given to him. Of course, under emergency conditions those rights will be limited. But including the Act in the Ninth Schedule deprives them completely of the right to take recourse to judicial review.

Lastly, a word regarding retrospective effect. I do think that you can easily lay down, in clear and precise terms, a provision for retrospective application of this amendment. I am not a lawyer and perhaps I will not be able to understand very easily the

legalistic or juridical arguments that our hon. Minister will place before us. But, Sir, what I am afraid is that after some time the question may be raised again and probably after the termination of the emergency, the question may be raised again and somebody may well say: "Well, there was¹ an amendment to the Constitution, but that amendment did not provide for the retropective application of the provisions of the Bill." Therefore, why not do it in this Bill now? So many cases I have put before you and there are thousands of cases relating to landlords, land ceilings, tenancy Acts, distribution of lands to the poor peasants and the agricultural workers and so on and they are pending in the courts and they are still there and they have been frozen there. They can be revived and they can be revived after the emergency. Some clever lawyer may stand up and ask: "Why did not the Government provide for the retrospective enforcement of these provisions? Why was the Government silent at that time?" Therefore, again the same process of arguments and discussions will start and the Government will be at a disadvantage and they will not be able to explain things easily. Therefore, my submission is that there should be, in this Bill itself, a provision for giving retrospective effect to the Bill in relation to all the socio-economic laws included in it. Thank you very much, Sir.

SHRI SARDAR AMJAD ALI (West Bengal): Mr. Deputy Chairman, Sir. I rise to support this Constitution Amendment Bill. This Bill seeks to include certain laws in the Ninth Schedule of the Constitution. Unlike other Bills seeking to amend certain other Acts, this amendment to the Constitution, in my view, is rather very important and is very specific.

Sir, I regard the constitution of a country as something which reflects the aims and objects and the hopes, and aspirations of its people and I feel that the constitution of a country should not be a static one. In

addition to being a document containing the aims and aspirations of the people and giving guidelines to the country and the government of the country, the constitution must also be a living document and as such, it should reflect the changes that occur in the society and the changing aims and aspirations of the people in a given society and it should reflect the changes that occur on the political front or on the socio-economic front. That is why I am paying much attention and more care to this amending Bill.

Sir, this Bill proposes to include some enactments, which have been passed by the various State Legislatures and also by the Centre, in the Ninth Schedule and most of these laws have been passed to protect the interests of the poorer sections of *£Bkr* community. Earlier also, Sir, we had added some enactments in the Ninth Schedule of the Constitution and here we are adding some more Acts to be protected against the wrath of the judiciary, as they say, and, therefore, I have no hesitation in extending my support to what Dr. Ahmad has said and also to this Bill. It is our experience that although the Government wants to fulfil the expectations of the people according to the changes that occur in the society and the State Legislatures and Parliament pass laws reflecting those expectations and aspirations of the people and put them in the written statute, there are some difficulties which come in way and unfortunately, the objectives with which these laws are passed cannot be achieved since the laws are questioned by the judiciary. Therefore, there is a lot of confrontation with the judiciary in respect of the aims and objects with which a Legislature or Parliament passes a law. Sir, as my senior colleague, Dr. Ahmad, said just now, so many writ petitions are pending in the High Courts and the Supreme Court in the country.

I take this privilege to state here that it is unfortunate that while in the courts any matter is brought for ad-

judication, most of the time it so happens that courts do take a view on the literal interpretation of the Statute without even caring to know as to what the intention of the Legislature is, and that is how the conflict that comes up, unfortunately, takes the shape of a debate in the whole country. But, Mr. Deputy Chairman Sir, I strongly support and advocate more the cause of the society than the cause which is reflected in the letters of law. The intention, the expectation, the hopes which are reflected in a dynamic society have got to be given much more regard than the way the interpretations are being done in our courts.

Mr. Deputy Chairman, it has been a debate outside this House, and throughout the country that, well, here is a Government which is allegedly going to amend the Constitution in order to do away with certain rights enshrined in Chapter III as Fundamental Rights of our Constitution. I would submit, Sir, taking advantage of this Bill here before this House for consideration. I submit that even if the debate is there the country that certain provisions in the Constitution in the name of Fundamental Rights can-riot be changed, I believe we, legislators have got to take a different view. Mr. Deputy Chairman, I do recollect at the present moment that it was in the year 1970—fortunately, I was a Member of the other House at that time—it was Mr. P. Ramamurti who had advocated in a Private Member's Resolution in the Lok Sabha, that even rights enshrined in Chapter III as Fundamental Rights in our Constitution should not be regarded as sacrosanct. According to the changes in time and changes that do occur in a society, the concepts of rights and liberties also get changed. Therefore, the Constitution, which should be, and which is, regarded as a living document of the reflections and aspirations of the people, should not lose sight of those changes, that happen in the society. Therefore, the rights which were enshrined at that time, thirty or forty years ago, in any given

1978

[Shri Sardar Amjad Ali] society, cannot remain static or as sacrosanct in the Constitution, in the Statute Book. He argued that Fundamental Rights also were subject to change according to the wishes and desires of the people, according to the concept that varies from time to time in a dynamic society, which has got to be accepted by the Legislature itself. When the Congress Party is trying to amend the Constitution, it is asked what the Congress Party is going to . . .

SHRI VISWANATHA MENON (Kerala): Do you want a national debate whether the Constitution should be changed... (Interruptions).

SHRI SARDAR AMZAD ALI: My friend, Mr. Menon, perhaps regards this house as an anti-national forum. We have the opportunity of a national debate. A national debate, fortunately, if I am not misunderstood, was desired by his leader, Mr. P Ramamurti in 1970 in the other House. According to that desire, the whole country took up the matter and discussed the issue. They were confronted with certain rights and privileges as enshrined in the Constitution and interpreted by the courts. Now, the Congress Party is taking some action in that direction. It is the will of the people which will have to be given preference and not the desire of one or two Judges who are in the High Court or the Supreme Court. (Time bell rings) That national debate is going on. Mr. Deputy Chairman, Sir, before I conclude, I want to submit that it is no good for the Government to include certain legislations in the Ninth Schedule without caring to see whether the spirit enshrined in those statutes is really fulfilled. For instance, a particular piece of legislation is going to be protected here. It is, at Serial No. 127. It is the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (Central Act 13 of 1976). I do not hesitate to extend my support that such a piece of legislation which has been directed against the economic

offenders who have exploited the society from the economic point of view should be outside the purview of the courts. The rights which follow from a society or a State which is built up on the combined efforts of all the civilised people are meant for good and noble people and not for those who are exploiters and who do not abide by the provisions of the statutes which they are expected to do. Mr. Deputy Chairman, Sir, it is good that we are giving protection that the Central Act 13 of 1976 should not be challenged in any court of law. If it cannot be challenged in a court of law, then there should be some way of seeing as to whether the intention of this law is being fulfilled or not. Sir, because of short time I cannot give my opinion about the other statutes. Here is the Report of the Ministry of Finance for 1975-76. It has been stated here in this House many times that the Government a very bona fide intention of forfeiting the property of smugglers and racketeers which has been illegally earned. What steps have you taken so far? This report says at page 123:

"Competent authorities which have been entrusted with the task of confiscating the properties of smugglers and foreign exchange racketeers under the Smugglers and Foreign Exchange Manipulators Act took over towards the end of January, 1976. Up to 15-3-1976, these authorities have issued show-cause notices in 46 cases. Not a single property has been attached."

It could not be foreited. I want to submit that protection of a particular Act from being challenged in a court is all right. But what about the protection of the spirit of the provisions made in the Act itself? Therefore, I would like to support this Bill with the observation that in order to protect the interests of those whose interests should get priority in a backward society, in a poor society like ours, it is good to bring this sort of an enactment in the Constitution. But, at the same time,

I would request the Law Minister to see that the provisions of those Acts—those social legislations—are really implemented and are really translated into action.

With these remarks, Sir, I support the Bill.

श्री ओ३म् प्रकाश त्यागी : उपसभापति महोदय, संविधान संशोधन विधेयक जो सामने है उसे सरकार ने बहुत होशियारी और चालाकी के साथ प्रस्तुत किया है। इसका बहुत सा अंश ऐसा है जिससे मैं और मेरी पार्टी सहमत हैं। लेकिन कुछ बातें इस विधेयक में ऐसी जोड़ दी गई हैं जैसे भोजन के अन्दर विय की बूंद डाल दी जाए। वैसे ही अवस्था इसमें हमारी है। इस विधेयक में धारा दो और तीन हैं। धारा-2 में यह है कि समुद्री सीमा में जो भी पदार्थ आएँ चाहे जल में हों या भूगर्भ में हों उनके ऊपर भारत का अधिकार होता चाहिए और समुद्री सीमा का निर्धारण सरकार करे, संसद करे इस प्रकार का प्रावधान इसमें मांगा गया है। मंत्री महोदय से मैं यह जानना चाहता हूँ कि यह चीज इतने जोड़ने को आवश्यकता क्यों पड़ी? अन्तर्राष्ट्रीय जगत् में समुद्री सीमा के विषय को लेकर अती पिछले दिनों जो कॉन्फेंस न्यूयार्क में हुई थी जिसमें गोबले साहब भी गये थे, क्या वहाँ पर कोई समस्या आई थी जिसे कारण आपको यह विधेयक प्रस्तुत करना पड़ा? यह बात मैं आप से जानना चाहूँगा यदि आप इस अन्तर्राष्ट्रीय महत्व के विषय पर चर्चा करने का इस संसद् में अवसर देते तो अधिक अच्छा होता।

दूसरे, सरकार ने धारा 3 में, संविधान की तबम् अनुसूची में दिये गये लैंड रिफॉर्म के सम्बन्ध में भी कहा है। जब अहमद साहब बोल रहे थे तो उन्होंने कहा है कि इसे कुछ माल पहले क्यों नहीं लाया गया। मैं तो यहाँ तक कहता हूँ कि आजादी प्राप्त होने के तुरन्त बाद ही इसे क्यों नहीं लाया गया। अहमद को जब भी कोई बात कहनी होती है

370 RS—6

तो वह जनसंघ का नाम जरूर लेते हैं क्योंकि उनको जनसंघ के बगैर खाना हजम नहीं होता। मैं उनसे पूछना चाहता हूँ जो कुछ उन्होंने जनसंघ के बारे में कहा है क्या उनके पास कोई प्रमाण है, कोई सबूत है? मैं उनका आभारी हूँगा अगर वह किसी भी जनसंघ के मैनिफेस्टो या जनसंघ की नीति के आधार पर कोई प्रमाण दे सकें, सबूत दे सकें। भूमिमुधार के सम्बन्ध में जनसंघ हमेशा से लड़ता रहा है। काश्तकारों के प्रति जनसंघ का सदैव से ध्यान रहा है, लेकिन फिर भी इन 28 वर्षों में इस सम्बन्ध में कोई मुधार नहीं हुआ। सरकार हमेशा से इस दोष में कानून की आड़ लेकर बचती रही है। इसका वास्तविक कारण क्या था। इसका वास्तविक कारण यह था कि प्रान्तीय सरकारें इसको मानती नहीं थीं। केन्द्रीय सरकार में पंडित जवाहर लाल जी का नेतृत्व रहा। उनकी हार्दिक इच्छा थी कि इसे किया जाए। क्योंकि प्रान्तीय सरकारों में जो अधिपत्य था वह जमींदारों का और पंजीपतियों का था। उन्होंने ही इन क्रान्तिकारी कार्य को नहीं होने दिया। यहाँ से, केन्द्र से संकेत मिलने के बाद भी उन्होंने इस कार्य को नहीं होने दिया। अभी भी क्रान्तिकारी पग उठाने के लिए प्रधान मंत्री महोदय ने घोषणा की है। जब उन्होंने राज्य सरकारों को इस कार्य को करने के लिए कहा तो भी उन्होंने इस दिशा में बहुत हिचकिचाहट दिखाई। इसी के कारण से जिनकी भूमि खानी चाहिए थी, उसका वितरण होना चाहिए था, वह नहीं हुआ। मैं यह पूछना चाहता हूँ कि प्रान्तीय सरकारों ने केन्द्रीय

सरकार के आदेश के अनुसार कार्य

1 P.M. क्यों नहीं किया? यह काम

उनको करना चाहिए था।

अब आप यह बिल लाये हैं। पहले के कानून में दोष रहे, इसलिए लोगों ने कानून की शरण ली। मैं यह कहना चाहता हूँ कि आप अब यह विधेयक लाये हैं, बहुत अच्छी बात है।

[श्री ओइम प्रकाश त्यागी]

मैं इसलिए सरकार को बधाई देता हूँ कि अब सरकार ने यह उत्तरदायित्व अपने ऊपर ले लिया है। अब ये सारे कानून 9वीं सूची में आ जायेंगे और इसलिए आपको यह देखना होगा कि भूमि मुधार सम्बन्धी जो कानून हैं और उनको कार्यान्वित करने का जो तरीका है उसके सम्बन्ध में सरकार का उत्तरदायित्व होगा। मुझे इस बात का हर्ष है कि अब इस सदन में सरकार इन भूमि मुधारों के सम्बन्ध में उत्तरदायी होगी। मैं सरकार के इस उत्तरदायित्व के लिए उसको बधाई देता हूँ।

दूसरी चीज मैं आपत्तिजनक मैटिरियल के प्रकाशन के सम्बन्ध में कुछ कहना चाहता हूँ आपने आपत्तिजनक मैटिरियल के प्रकाशन पर प्रतिबंध लगाया है। मैं समझता हूँ कि अब आप इसको चोर दरवाजे से लाना चाहते हैं और यहाँ पर ले आये हैं। मैं समझता हूँ कि इस चीज को इस प्रकार ले लाना आवश्यक नहीं था। धारा 14, 19 और 20 तथा 21 के अनुसार इस प्रकार की सम्भावना पहले से ही हो सकती है। लेकिन सरकार इस बात को जानती थी और जानते हुए भी सरकार इस विषय को 9वीं सूची में लाई है। मैं समझता हूँ कि 9वीं सूची में जिन विषयों को लाया जाता है उसका उद्देश्य तो यही होता है कि देश के हित में जितने भी आधिकारी और प्रगतिशील कदम होते हैं उनको इस सूची में सुरक्षा प्रदान की जाती है ताकि उनके सम्बन्ध में न्यायालय में कोई झगड़ा पैदा न हो। पहले से इस सम्बन्ध में जो कानून है उसके मुताबिक कोई भी आपत्तिजनक लेख, प्रकाशन और प्रैस, इन तीनों के लिए कड़ी सजा का प्रावधान है और यहाँ तक कि प्रैस को जप्त भी किया जा सकता है। ऐसी स्थिति में आपने इसको 9वीं सूची में शामिल कर दिया है यह बात समझ में नहीं आती है। अब तो आप यह स्थिति ला रहे हैं कि आप किसी भी प्रकाशन को या समाचार को आपत्तिजनक घोषित कर देंगे

और उस पर एक्शन लेगे। अगर किसी को फांसी भी लगाई जाती है तो उसको अपनी सफाई देने का मौका दिया जाता है। लेकिन आप तो इस विधेयक के द्वारा इस बात का भी मौका नहीं दे रहे हैं कि कोई आबजेकनेबल मैटिरियल है या नहीं। ऐसी स्थिति में यह बात समझ में नहीं आती है कि आप किस उद्देश्य से यह बात 9वीं सूची में सम्मिलित कर रहे हैं। मेरी समझ में तो यह आता है कि आप विरोधियों की आवाज को, चाहे वे किसी भी पक्ष के हों, बन्द करना चाहते हैं। मैं यह भी समझता हूँ कि इस प्रकार का षडयंत्र आपने बहुत पहले से शुरू कर दिया था। हमारे देश में जो न्यूज एजेंसियाँ स्वतंत्र रूप से काम कर रही थी, उनके स्थान पर "समाचार" नामक एजेंसी बना दी गई। अब स्थिति यह है कि जो समाचार सरकार जारी करना चाहती है वही समाचार-पत्रों में जाते हैं। सारी समाचार एजेंसियों को मिलाकर जो समाचार एजेंसी अब बनाई गई है, वह भी आजाद नहीं है। इस प्रकार की घटनाएँ सामने आ चुकी हैं जिनके बारे में समाचार-पत्रों में कुछ भी नहीं छपा गया है। दिल्ली में कैदी मुरंग बनाकर भाग गये और कलकत्ते में दरवाजे तोड़ कर चले गये। यही नहीं अभी हाल ही में तुर्कमान गेट पर जो घटना घटी, उसके सम्बन्ध में भी समाचार-पत्र में बहुत कम जानकारी दी गई। बहुत-सी घटनाओं के सम्बन्ध में तो कोई जानकारी ही नहीं दी गई। आज की ही एक घटना आपको बताना चाहता हूँ। कल फेमिली प्लानिंग के बारे में यहाँ पर एक प्रश्न था। उसके सम्बन्ध में कुछ समाचार-पत्रों में तो मेरा नाम आया है और समाचार भी आया है, लेकिन वीर अर्जुन में मेरा नाम लिखा हुआ नहीं है। मैंने उनसे पूछा कि आपने मेरा नाम क्यों ओमित कर दिया? उन्होंने कहा: त्यागी जी, वहाँ स्वतंत्र तरीके से कारेस्पोंडेंट ने समाचार दिया होगा, यह सरकारी एजेंसी

“समाचार” में समाचार हमारे पास आया है इसलिए उभरें नाम आपका थोड़ा उड़ा दिया है, हम क्या करें ? तो यह कोशिश आपकी पहले से थी कि विरोधियों को किसी प्रकार का प्रोत्साहन न मिले, उनका विचारों की स्वतंत्रता न मिले। तो आपने आब्जेक्शनेबल मैटर के नाम पर समाचारपत्र वालों को पहले से डराया हुआ है कि एडवर्टाइजमेंट नहीं देंगे, यह चीज नहीं देंगे, वह चीज नहीं देंगे। यह संशोधन आने से पहले ही वे डरे हुए हैं। मैं समझता हूँ, वह बात जो आपने यहाँ लाकर जोड़ी है, यह देश हित में नहीं है, न जन-हित में है। देशहित में इसलिए नहीं कि प्रजातंत्र में जब सरकार का विश्वास और संविधान के अन्दर उसकी आधारशिला रखी है और प्रजातंत्र का मूल आधार है विचार स्वातंत्र्य, तो अगर विचार स्वातंत्र्य को आपने समाप्त कर दिया, विचारों की अभिव्यक्ति को समाप्त कर दिया, तब तो मैं समझता हूँ देश में एक तानाशाही शासन हो जाएगा और उसके कुपरिणाम बहुत भयंकर हो सकते हैं। यह जनहित में भी नहीं है क्योंकि जनता के कष्टों को सरकार तक पहुंचाने का मार्ग क्या है ? या तो उनके प्रतिनिधि यहाँ पर संसद में बोलें या समाचारपत्र के संवाददाता या संवादक उसकी अभिव्यक्ति करें। अगर सरकार ने कोई घोटाला किया, जैसे कि कई स्कैंडल हुए हैं, तो स्कैंडल को या और आलोचना की बातों को सरकार तो लाएगी नहीं। और अगर समाचारपत्र लाते हैं तो आप आब्जेक्शनेबल मैटर के अन्तर्गत उसके खिलाफ कार्यवाही कर सकते हैं। अब इसके मायने यह है कि समाचारपत्रों के संवादक कुछ तुलसीदास जी के दोहे छाप दें या मीरा के गाने छाप दें, कुछ थोड़े से गीत रख दें, और संसद की भी कार्यवाही छापने का आपने आर्डर दे दिया है कि जिम्मेदार तुम होगे, यानी किसी की स्पीच अगर छाप दी और आपकी दृष्टि में आब्जेक्शनेबल हो गया तो सजा हो गई उनको। तो आपने बकायदा सफाया किया हुआ है। मैं पूछता हूँ अगर मजदूरों के हितों

को बचाना है, उनकी शिकायतें दूर करनी हैं, तो उसके लिए रास्ता क्या है। आज तक मजदूरों की यूनियन जो होती थी वह प्रदर्शन कर सकती थी लेकिन अब आपने उस पर प्रतिबन्ध लगा दिया है। मैं जानना चाहता हूँ कि उनके कष्टों को, वेदना को प्रगट करने के लिए आपने क्या मार्ग छोड़ा है ? आज तक समाचारपत्र वाले महानुभूति रख कर कुछ लिख सकते थे लेकिन आज अगर कोई अपने समाचारपत्रों में लिखे या कोई विज्ञप्ति प्रकाशित करे तो आपकी रिफ्त में आ जायेंगे क्योंकि आपने उन सब रास्तों को रोक दिया है जहाँ वे अपील कर सकें। इसलिए यह देशहित और जनहित के विरुद्ध विधेयक है। इसलिए मैं प्रार्थना करता हूँ कि आप एक बहुत अच्छी व्यवस्था को पास करने जा रहे हैं लेकिन उसमें यह एक जहर की बुंद रखी हुई है। इसको अगर आप निकाल दें, डिलीट कर दें, तो ज्यादा अच्छा होगा। आपके पास पहले से इतनी शक्तियाँ हैं आब्जेक्शनेबल मैटर के ऊपर प्रतिबन्ध लगाने के लिए, संबद्ध व्यक्तियों को दण्डित करने के लिए। परन्तु इस प्रकार से जनता की आवाज को आप बन्द मत काजिए। यह देशहित में नहीं है और आपके हित में भी नहीं है; आपके लिए भी खतरनाक साबित होगा। इतना कहते हुए धन्यवाद देता हूँ।

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2 P.M.

The House then adjourned for lunch at nine minutes past one of the clock.

The House reassembled after lunch at two minutes past two of the clock. The Vice-Chairman (Shrimati Purabi Mukhopadhyay) in the Chair.

MESSAGE FROM THE LOK SABHA

The Constitution (Thirty-second Amendment) Bill, 1973

SECRETARY-GENERAL: I have to report to the House the following