SHRI BHUPE H GUPTA: You can move. I can give the motion. This House *on* this May Daf...

MR. DEP17T CHAIRMAN: You have already ex »ressed your sentiments and I think the hole House shares your sentiments.

SHRI BHUPE H GUPTA: Therefore, one line you can ay: On this May Day this House greets he workers of India and the working peope all over the world and pays its homage I. the memory of martyrs in the cause of th I working-class.

SHRI CHITT v BASU (West Bengal): This may be aco pted.

MR. DEPUT CHAIRMAN: Can I have a copy of 1 le resolution or whatever it is?

SHRI BHUP1 SH GUPTA: I shall iust write it cleat y.

SHRI N. R. MUNISWAMY ^Tamil-Nadu) : Is it p oper to write like that?

श्री मानसिंह वर्मा (उत्तर प्रदेश) : श्रीमन्, इस सम्बन्ध में मैं केवल यह पूछना चाहता हूं कि में डे तो प्रति वर्ष ही आता है, क्या इससे पूर्व भी इस सदन ने ऐसा किया है जिसके लिए आज यह मोशन दिया जा रहा है ?

श्री उपसनायति : मोशन नहीं है।

अगैडाह्यामाई व॰ पटेल : पहले भी किया है तो भी नहीं करना चाहिए।

श्री उपसमापति : वर्मा जी, ये मोजन नहीं है।

SHRI MANi- KGH VARMA: What is it ?

MR. DEPUTY CHAIRMAN: It is not a motion or esolution.

SHRI MAN SINGH VARMA : Then, what is it

MR. DEPUT / CHAIRMAN: lam only asking for the words that he has used. I am not asking lira to give me a copy of the resolution, >ut the words that he has used.

SHRI N. R. MUNISWAMY: I do not think there s any procedure like this.

# convening of a n€w Constituent Assembly

SHRI DAHYABHAI V. PATEL : Ben-gal alone does not make the whole country. They are speaking all the time.

MR DEPUTY CHAIRMAN: It is not a resolution or any motion. Some hon. Members have expressed their views that we should greet the working people in India as well as in the world and I think most of the Members agree with the sentiments. It is not a question of passing any resolution or motion. On behalf of the House I greet the working people in India as well as in the whole world and pay my homage to all those people...

SHRI K. CHANDRASEKHARAN (Kerala) : And the homage of the House.

MR. DEPUTY CHAIRMAN : As well as the homage of this House to all those workers who have strived and struggled in the past to improve and ameliorate the conditions of the working class throughout the world.

### RESOLUTION *RE* CONVENING OF A NEW CONSTITUENT ASSEMBLY

SHRI N. R. MUNISWAMY (Tami Nadu) Sir, I beg to move the following Resolution

"This House is of opinion that in the present context of the unprecedented social, political and economic changes that have come about in the country, during the last two decades and more, a new Constituent Assembly be convened before the next General Elections to effect suitable amendments to the various articles of the Constitution of India with a view to strengthen and preserve the country's integrity, sovereignty, unity and neutrality, and to achieve the desired results of progress in socialism and democracy, by securing to all citizens of India justice, liberty, equality and fraternity; and this House further recommends that in maknig such amendments, the Constituen Assembly shall keep in view in particular:

(i) fundamental rights keeping law and order intact;

(2) re-orientation of the Centre/State relationship with particular *reference* to legislature, judiciary and executive;

# convening of a new Constituent Assembly

[Shri N. R.Muniswamy]

(3) the powers of the President and the Governor vis-a-vis the Prime | Minister ar:d the Chief Minister; [

(4) the official language of India ! and its script; find

(5) the multiplicity of parties and allied matters.".

Sir, while moving this resolution I am sure I am opening up a very sensitive aspect of the Constitution. At the outset I have to pay respect to our statement and others and jurists and experts who flamed our Constitution. They have spent more than two or three years in framing this Constitution and they must have utilised at least hundreds of reams of paper and spent sleepless nights; and f'01 days and nights they were working in several Committees and have produced this Constitution. So it is not so easy to throw it away and open the Pandora's box and geneiate all kinds of controversies. I pay my respects to them. Not that I am belittling their efforts. But what I wish to say is that out Constitution has come into force at the end of November 1949 and in the course of these twenty years and more I learn, subject to correction, that about 21 amendments have been carried out to the Constitution. That indicates that there is something wrong somewhere, and not only because of the social changes but also the economic changes which have come into play these amendments have to be carried out in the course of 21 year?, round about a 1 amendments. This indicates that there are still several aspects to be reconsidered and several amendments are vet to come.

I wish to c'rcumscribe my observations with reference to a limited portion of my resolution. When I say that a Constituent Assembly has to be convened, I have this in mind. The Constituent Assembly that was originally constituted was under a restricted franchise under the Government of India Act. not that we enjoyed adult franchise, and under the restricted franchise of the Government of India Act the Constituent Assembly Members were elected and they framed the Constitution. Now the elected Members of both the Houses are there. We all know that in case of conflict between the two Houses we always go in for a joint session. So far as the Constituent Assembly which I have got in mind is concerned, the two Houses can always meet in Ihe Central Hall and appoint a a Committee and that Committee can

revise the entire Constitution and pick up only those articles which need changes in the context of the present conditions, not only the political situation but also the social and economic situations; that Committee can cull out those articles alone and produce consolidated amendments and suggest them to the joint session of both Houses, and then they can de passed by Parliament in the usual course. That was the object with which I said that a Constituent Assembly should be convened. I did not thereby mean that we must throw away the entire present set-up of our Parliament and go in for new Members who would constitute the new Constituent Assembly. So that was the object with which I framed this resolution.

While framing this I have also to say that there are only a few points which I have had in mind. The first thing which I have taken up is "fundamental rights keeping law and order intact". The recent judgment of the Supreme Court in Gola-knath case has opened a new thought in the legal world as well as in. our political and social life as to whether we have to go in for an amendment of the Constitution so far as the fundamental rights are concerned. The suggestion thrown out by the Supreme Court was that we have to have a separate Constituent Assembly to alter or modify the fundamental rights. The fundamental rights as enunciated run into 11 or 23 articles, and those articles deal with fundamental rights such as freedom of speech, freedom to own property, freedom of association, freedom of religion, and also freedom to get remedy from the I court, and other things also. Following them there are directive principles. I do not think I have got adequate time to go into the entire gamut of the Constitution and the various provisions contained therein. I can only throw out some illustrative suggestions thereby allowing other Members to supplement or even controvert what I have stated.

SHRI S. S. MARISWAMY (Tamil Nadu) : Do you think that Parliament has got any power to amend fundamental rights ?

' SHRI N. R. MUNISVVAMY: I will presently answer this question because I cannot claim better wisdom than the Supreme Court Judges. They have stated in the Golaknath case that so far as the fundamental rights are concerned the present Parliament has no right to amend them. That is the reason why Mr. Nath Pai's Bill has com . Still the Bill has not seen the light of day, though I happened to be in the Joint Committee and I too have given a diss, nting note. That is a different aspect al ogether. I cannot claim better wisdom thai those Judges. I can only bring forwar 1 before the House the Judges' verdict so far as the fundamental rights are concern d.

This question l.as been agitating the minds of people ir our country during the last hundred year, and even during the national Struggle 1 iev have been insisting upon fundamental ights being established. Why? Because ii Fritish rule they have been interning us, they have been curbing the press, and so many other things the Britishers were do ig. We have been subjected to suppress on in various ways by which they could ; rrest all progress. That is the reason for its jenesis. It had its genesis in the forces that pi rated in the national struggle. I am s. yiig that fundamental rights are not a n w thing wich has come into being. Even ii early days this has been agitating the mint's of leaders, for the last 150 years. They \ ere able to frame them the moment they got freedom.

Even before 935 India was not a small country. In lia is now a truncated country. We had Pakistan then and also Burma. These th ee put together formed India before 1935 Due to various difficulties and so many 0 her things Burma, which consists of Buddh it?, has gone out. Then we were having Islam and Hinduism. Somehow or otlier we had partition of our country. I ne'd not repeat the events that have contributed towards this. Pakistan has gone. Tl at belongs to Muslims. Now this is pure and simple India which has been truncate 1 i no such a small portion. In the earl; days it was a very big continent. Even low we call it a subcontinent. Our India has got a secular nolicy. I would Ii e 1.0 say a few words on the genesis. Here they say: "The inclusion of a set of fun Lamental rights in India's constitution had ts genesis in the forces that operated in 1 le national struggle during the British ru ;. With the resort by the British executive to such arbitrary acts as internment a id deportation without trial and curbs 0 f eedom of the press in the early decades of the century it became an article of faiti with the leaders of the freedom raovemi it". That is how the fundamental righs have come into being. In 1927 when Shri Jawaharlal Nehru was asked to constitu e а Committee just to

frame what the fundamental rights should be, having submitted his report, he says this which you may kindly note:

"It is obvious that our first care should be to have our fundamental rights guaranteed in a manner which will not permit their withdrawal under any circumstances."

Therefore, this is in conformity with the verdict given by the Spreme Court that this ought not to be amended. Now, we are attempting to amend the fundamental rights. There are various ways. It may be in the form of the abolition of the privy purses, it may be in the form of the abolition of the rights an privileges of the other sections of the people. It may be that Mr. Nath Pai's Bill may also figure in that, and it may come in various other forms also. Analogous to that and coming from that, there are the Directive Principles of State Policy. They say here

"The formulation of social and economic objectives in national constitutions owes its origin essentially to the realization that the content of political freedom is impaired by the absence of social justice, and that without adequate protection for social and economic rights, coastitutional guarantees of what are known as 'classical individual liberties' such as the right to equality, liberty of person and freedom of speech and association may lose much of their significance."

This is in essence what I wanted to bring to the notice of this House. It has been stated that these fundamental rights should not be withdrawn. But we are now trying to do that. Not only that. There are various other ways in which we are thinking of amending the Constitution. Instead of doing piece-meal, I only suggest that the opinion which I may now give by way of my observations and the suggestions that might be thrown out by other hon. Members may be taken together, collected together, and we can see that it is done in a very peaceful way, instead of having a Constituent Assembly as adumbrated in my Resolution. And my Resolution, as I have already stated, is of a limited purpose. The words 'new Constituent Assembly' have been thought of by me.

The law and order position is very important so far as the running *of* the Constitution is concerned. Now, we know that the position of law and order is in the doldrums.

# concerting of a new Constituent Assembly

## [Shri N. R. Muniswamy]

Resolution re

When Mr. Chavan <-ook charge as Defence Minister, luckily the Chinese had withdrawn. I thought that he is a lucky man because the moment he loo\* charge, rightly or wrongly, they had withdrawn, though some portions are yet in their occupation. But unfortunately, when he took charge as Minister, what Home happened? I he is a very weak Home should say. Minister. He is not able to enforce his writ; his writ does not even run beyond the premises of his own Secretariat. He is in a way bewildered. He has been circumscribed in various ways by which he cannot exercise his right. During his period, we see that the law and order position is in the doldrums. FOR example, there was a good deal of inhibition when the UF was ruling West For example, there was a good deal Bengal and he could not do anything. It has now come under his hand. Now it is ruled by a Governor under his very nose. And even now, we find that he is not able to enforce law and order there. Unless law and order is effectively enforced, the fundamental rights cannot be exercised. And the Naxalice activities are such that they are not confined to one place, they have spread far and wide, to every nook and corner of entire India. And we do not know whether we will be safe. Tomorrow, I do not know, even your bungalow may be circumscribed and invaded by people. And you have no right and the police would not come to your rescue. That is the position that is going to happen. If there is any vacant plot, they will put up a shed or a hutment, and you have no right. You have no remedy except through the process of law and you have to do it through the process of law. If people do not respect law and order, if they have developed an attitude of contempt for law and order, it is because we are weak, we are not in a position to enforce law and order. So the basic principle in the entire running of the show-depends upon keeping law and order. If you want to have fundamental rights really, you must have law and order intact. Otherwise, it is impossible for the fundamental rights to be exercised by anybody. If any of the fundamental rights are invaded, for example, the freedom of speech, we cannot go to the court. Even the courts are afraid of giving a verdict. They take their own time. The reason is very They will be circumscribed by clear. several conditions under which they have to deliver the judgment. They have to see not only to the question of law but also to the social changes, the political

changes and the economic changes. When the Naxalites have started this trouble, the Government itself comes forward and says, no, no, it is all due to the socio-economic changes. Anything we can take under these things, economic changes, social changes, political changes. Everything comes under these three. We cannot think of anything else. You take any problem. It must come within anyone of these three items. These are the three pillars. If law and order is kept intact, these things could not happen. It is not intact. That is the reason why people have developed contempt for law and order. I need not say much because it will be taking much of my time. I am running short of time. I have got various other things to say.

So, I want to suggest that so far as the verdict of the Supreme Court is concerned, we cannot touch the fundamental rights. Now we are thinking of doing it and also thinking of amendment of the Constitution. Instead of doing it piece-meal year after year, we can cull them together and do it at one stroke sitting here, even for months together and finish it off. In the US they have not had as many amendments as we have had. They have fallen back in the race with us as regards the amendments of the Constitution. Rightly or wrongly, on an average every year we are having one amendment of the Constitution. Nowdays it is difficult even to have an amendment of the Constitution carried with the present political sst-up. Therefore, I would say that so far as the fundamental rights are concerned, the question of their abridgment should be set aside. that cannot be taken in'io consideration so far as the amendment is concerned.

As regards the reorientation of the Centre-State relations with particular reference to the Legislature, Judiciary and the Executive, I may be permitted to suggest some of the points in a very compendious manner so that I can raise some of the comments which I have prepared. There is a provision in article 263 Constitution which refers to the constitution of an Inter-State Council. That Inter-State Council has not been so far resorted to ever since the Constitution has come into existence. We had thought at the time of the reorganisation of the States of a Zonal Council. This was brought to the notice of the then Home Minister, Mr. Pant, also at that time and he was not convinced. Article 263 is a very salient feature; the Inter-State Council is a

## very important org nisation and I suggest that an Inter-S la 2 Council under that article should be s t up. It should become the exclusive orgai sa-.ion for dealing with all maners of comi on interest to the State. This body should eplace all other bodies and councils at pr sent dealing with such issues.

Of late, anothi r thing has cropped up. That is the Gent e-ilate trouble. The States want mor power. The Centre has a unitary c >vernment though it is federal in chara\* ter, and they want to have their own i n\er. In the context of 'the present troul le between the Centre and the States, some suggestions might be taken from h < i. Members and we can see whether they could not be considered to solve this probi m The need to eliminate infiuen e in the sanction political of productive scheme > and loans for the States is as much impor mt as in the case of the grants. It is onl when a non-political financial institu ion like a wing of the Reserve Bank >r a separate bank is entrusted with tl icrutiny of the projects and the issue of f ar.s for them that inter-State bickerings o complaints of partiality on the part of th Government can be eliminated. ' Union 'he entire of financial relation ---Plan and system non-Plan— requires radical r  $\pi$ ; anisation.

The other asp. ct is with regard to the powers of the 'resident, the Governor, the Prime Minis \*r and the Chief Minister. In this connect on, I have to state that so far as the pres. nt powers are concerned, I do not want to say anything because already his positi\* n is under the supervision of the Supreme }ojrt. Any observation that I may mal 3 might possibly prejudice this way or that 'av. I should net do that. I can only say hii much. About the discretionary powe of the President, even his discretion is discretion, guided discretio i. He regulated cannot even refer to the Supreme Court any of the issues referred to him because he is, again, guided by the (ouncil of Ministers. He has no independent discretion at all; his  $P_{M}$ discreti in is guided discretion. And it has been regulated in such a way as to satis y only his own Council of Ministers. Why said that is that the five-year period is given as the term of the President. After the President's death or resignation during his tenure the next President is elei ted for five years. I only

## convening of anew Constituent Assembly

want that instead of five years it must be through a bye-election for the unexpired portion of the tenure. What I want is that the President's tenure should also run along with the tenure of the Government. Now the election in case of death or resignation does not tally with the general election and it tempers with our other things and we have got ample time to do any of the methods that can be followed in a decent way. That is why it should be like that.

Here I will say a word about the Vice-President. The Vice-President acts during the absence of the President. But here the Vice-President is the *ex-officio* Chairman of this honourable House, and we see from day to day the precarious position, the embarrassing situation in which he is placed. He is not able to assert his right becaus e as Chairman of this House he is put to great embarrassment. Therefore, instead of having the Vice-President as the *ex-officio* Chairman of this House, have another Chairman, *pucca* Chairman to run the whole show. The Vice-President should not be put in this awkward position

So far as the Governor is concerned, a person should not be appointed as Gover nor for more than one term. More often than not I find a Governor's period cither extended or he is reappointed. Again, Judges, on retirement, should not be appointed as Governors. The principle of judicial independence requires that a retired Judge would not be eligible for any office of profit and it is not desirable to hold out the prospect of Governorship made under any circumstances. The President's, discretion in the appointment of Governors should not be fettered by the likes and dislikes of Chief Ministers of States. While every care should be taken to appoint only persons of high calibre and free from political partisanship, powers should be regulated by the conventions suggested by the inter-State body or any other suitable body, as I have already suggested, which the Government may think fit.

After the appointment of the Govcmor the Chief Minister and other Ministers in the State must co-operate with him and the question of appointment of the President should not be discussed even m private conversation-

Recent events have made it necessary that the powers of the Governor, m relation to the appointment of the Ohiet

#### convemng of a new Constituent Assembly

[Shri N. R. Muniswamy] Ministers and A bout their financial requirements, more often Ministers when there is no majority in the the States want more money and they even Assembly, his power of dissolution, prorogation and summoning of the Assembly have to be defined by a Constitutional amendment or a clearly formulated convention. The guide-line on the mariner in which the discretionary powers sould be exercised by the Governor should be formulated by the Inter-State Council which I have referred to before-band

MR. DEPUTY CHAIRMAN: You should The scope of discretionary powers has to be ttled by a special Committie settled by a special Commission of Constitutional experts and, if necessary, finishing very shortly,

The protection of the Central property\* including the Railways, should not be left to the sweetwill of the State Governments and the Centre should be entitled to use its military and armed police for safeguarding them. When the Central Reserve Police was discussed here, there was much resentment. I am sorry this was a misguided one.

We have oflate seen legislative conflicts. Legislative conflict arises because of conscious encroachment, legislative imprecision, drafting incompetence or negligence. The State Legislatures should keep to their respective domain. Drafting departments should be manned by experts. Executive conflicts arise in the matter of giving directions by the Centre to the States in discharging the duties of the Centre to protect States against external aggression and internal disturbances in issuing proclamation of Emergency and in exercise of the powers of the Governors.

Sir. in all these matters the President should act as a neutral power and in exercise of his functions under articles 352, 356, 360 and 365. the Governor should act as the agent of the Central Government but should act impartially as the Head of the State in terms of the Constitution- What I refer to is the failure of the Constitutional machinery in a State, the provision as to Emergency and the effect of the failure of the States to comply with the direction of the Centre. These are the things which I referred to by way of these articles. The Governor should act as an agent of the Central Government, but should act impartially as the Head of the State in terms of the Constitution.

Ministers when there is no majority in the the States want more money and they even

SHRI N. R. MUNISWAMY: I am endorsed by an amendment of the Constitution. regards the Legislature and the Judiciary, kindly excuse me-As the conflict be minimised if the privileges of the Legislature were codified-But more often it is said that it could not be codified because it might probably minimise the prestige of the Legislature and it would prevent the development of conventions. Therefore, I do not think these two objections are valid. Judicial validation enhanced the prestige of the Legislature in the public eye and noncodification prevented them from evolving convention contrarv to the fossilised of the House of Commons. On privileges the other hand, Sir, the law may reserve an area for the development of conventions. had a Dsmocle's Sword Non-codification hanging on the people and the press. The demand for greater autonomy for States will gather momentum in the years to come. Each State mighj begin to adopt policies in its dealings with the Centre analogous to foreign policies of Native States.

#### (Tine bell rings)

Sir, I may be given five minutes and I am done. So far as the official language of India is concerned I have to say only this much with regard to the States. Official language has caused a good deal of controversy even in the past. An official language is said to be the Rash-trabhasha. I have to say with great respect that not only Hindi is Rashtrabhasha, there are several other languages which are all put in the same category of Rashtrabhasha. Hindi may utmost be called as the Sarkari language, but it cannot be called Rashtrabhasha. To call it Rashtrabhasha is a misnomer. I would only say, Sir, that this language has come in for great controversy. Pandit Jawaharlal Nehru came to the rescue of

he South and said jnless the people from \* he non-Hindi speaki ng regions also concede •he view that Hindi is the official language. English will he cou inued side by side as the Associate languge. Even the amendment to the Official Language Act has not recognised this posit an. As a matter of fact, the position has worsened. It has put extra burden on tl ; non-Hindi speaking people. Not only th I official language has to be recast, the sc ipt should be Roman instead of Devanai an. I know it will create some sort of eart-burning to some. Still I take the risl so that it can bring every language urn er this category of Roman script. TJ erofore, the Roman script should be ad < >t(d)

As regards mul plicity of parties, before the Fourth General Election, the single party, I le Indian National Congress had been ruling both at the Centre and in the S ates. It was inevitable in such a context hat there would be pressure on the Ce tral and State Governments which w uld expose to public scrutiny the functio ing of "the constituent unit and the party i a power at any level. Today the position has changed and we all know it, a d the position has changed to such an extent that it is very difficult even to rej Jate these things.

The multi-party ystem of democracy has now begun to e le ge in a responsible way after the Foun i General Election-There must be an ai thority to ensure that there is equity and air play between the political parties. I he corollary follows that the President o the Union and Governors at the State 1. vel willhave hereafter to play a totally d fferent role from the one played by then heretofore. When a common party ru es at the Centre and in the States, the party and the Government become \ rtually one. If the party chiefs and tl leaders in Government pull togethei :he President and i he Governors are r duced to mere constitutional figure-head . But in the changed situation of today strssses and strains are bound to develi p, no matter what measures are taken and what wisdom is brought to bear 1\*tween the Centre and the States.

MR. DEPUTY CHAIRMAN: You must wind up no /. You have already, taken a long time.

SHRI N. R. MUMSWAMY: I wanted to say that the multi-party system should I

be abandoned because there is no alternative Government to which we can look for. A minority Government is ruling the country now. Because it is a minority Government, it will have to depend upon other parties for support and help ...

MR- DEPUTY CHAIRMAN: You must finish now. Only the last sentence now.

SHRI N. R. MUNISWAMY: Instead of having a hundred parties, it is better to have only two or chree major pai ties. When there are so many parties, when the Government is in minority, even the President is not in a position to call for a new leader. That is the trouble now.

DEPUTY CHAIRMAN: Please MR finish. Please sit down. That is enough

SHRI N. R. MUNISWAMY: I am only saying that this multi-party system is of no use. Lastly, Sir, I will be failing in my duty if I do not pay my tributes to those great statesmen who had framed this Constitution for the wisdom and toresight they had shown for the future of our country, but the politician look to the next election. Thank you.

SHRI LAL K. ADVANI (Delhį) Sir , I move —

<sup>new</sup> Constituent Assembly be convened',

the words 'a Commission on the Constitution be constituted' be substituted."

3- "That in lines 6-19 of the resolution, for the words commencing with «a view to strengthen with and ending with <u>iart.es</u> and allied matters', the following be substituted, namely :

'with a view \_\_\_\_\_

(a) to strengthen the unity and integrity of the country, and the democratic values enshrined ĺ. the Constitution ;

(b) to ensure early implementation of the Direct.ve Principles of the Constitution and to give effect to the solemn resolve made in the preamble to the Constitution about securing to all citizens justice, social, economic and political; and

(c) to invest our parliamentary institutions with a greater measure ot political stability'."

The questions were Proposed.

SHRI

Resolution re

MIRDHA

# convening of a new Constituent Assembly

RAM NIWAS (Rajasthan): Sir, we are very grateful to the Member who has moved this honourable bringing forward this Resolution for before this House not because it Resolution may result in the establishment of a new Constituent, Assembly, but that it will provide an opportunity to us to discuss some basic and fundamental matters very connected with the working of our Constitution. The Resolution says that there have been unprecedented social, political and economic changes that have come about in the country and therefore, it is necessary that a new Constituent Assembly be convened to frame a new Constitution, etc. etc. Well, Sir, our Constitution is a very detailed one. The framers of the Constitution, wise and able they were, took note of all the possible difficulties that could arise and then framed the Constitution and its various institutions in a very detailed way. In a way that is one of the defects of our Constitution also. An attsmpt was made to cover as many things as possible and not much was left for the- interpretation of the Constitution and its consequent evolution looking 10 the changed circumstances the country would be in at a particular time. And the rigidity that w-s imparted into our Constitution by so many detailed clauses about so many tnings is, in a way, coming in the path of a proper evolution of our Constitution in consonance with our present circumstances. One thing that has been said a number of times in this House and outside is that our Constitution had to be amended so many times. This argument is used to show that we do not respect our and therefore, the Legislature Constitution to amending the Constitution has resorted in a very light-hearted way. Sir, I would like to repudiate this contention and would urge upon honourable Members seriously to consider what typj of amendments there have been and why they have been necessitated. It is true that we have had twenty odd amendments during the twenty odd years of the exis tence of our Constitution- But the main reason why amendments had to be made was the failure on the part of our supreme judiciary in rising to the occasion and interpreting the Constitution in a proper and progressive way which would be in the land reforms and consonance with other reforms that were sought to be brought about through legislation...,

श्री जगदम्बी प्रसाद यादव (बिहार) : आप कहते हैं कि ज्युडिशिएरी आज तो सोशियो इकोनोमिक प्रोग्नस हुई है उसके संदर्भ में काम नहीं करती है। मेरा कहना है कि कांस्टी-ट्यूशन जो है उसमें शब्द, वाक्य निश्चित किये हैं और उसका अर्थ भी निष्चित है। वह तो उसका सिर्फ इन्टरप्रिटेशन माल करता है। फिर आप कैसा चोहते हैं कि ज्युडिशिएरी आज के बदलते हुए युग के हिसाब से काम करे।

SHRI MAN SINGH VARMA (Uttar Pradesh): They want that they should interpret the Constitution according to their wishes.

SHRI RAM NIWAS MIRDHA: What I mean to say is that questions of higher judicial interpretation are not questions of juridical knowledge or juridical experience, but questions of higher judicial interpretation are basically connected with one's socioeconomic outlook ...

SHRI R. T. PARTHASARATHY (Tamil Nadu") : Basically connected not with the legality or the constitutionality, but only with the social progress is that the interpretation

SHRI RAM NIWAS MIRDHA : I would repeat what 1 said in order to make my point clear. When questions of higher judicipl interpretation of the Constitution are involved. what matters mt st is not the judicial erudition of the person interpreting, i t, but his personal socia 1 ov tlot K ...

## SHRI R. T. PARTHASARATHY . No.

SHRI RAM NIWAS MIRDHA: I will illustrate it. There have been times when at a certain stage of our evolution in this country as well as outside certain basic labour laws were evolved for say miners working in mines" these laws were regarded and as unconstitutional. But some time after that in America and elsewhere in the world the same code was considered to be all right. They said, 'No, these are all legal and such restrictions should be put on the industry and on human freedom". What happened during these years ? The society had developed in a particular way which had thrown out certain problems for the solution of which those laws were enacted and the judiciary at that time interpreted the needs of

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the society and tie ends of the law in a particular way aiid said, "These labour laws are constitu ional and consistent with our Gonstit ition." So, the law has been evolving. An 1 law and the Gonstituion have to be mad' iristruments of social progress in a pea eful manner. If this is not accepted, I t tink we are in for a lot of trouble. If ou cannot use the law and the Const tut ion for the peaceful evolution anc p -ogress of the society, it means you condone or incite actual violence or other extra-judicial means so that the society night advance in a parti-1 cular direction. What I mean to say is it is not a quesfio i of who does it or what he does; these imendments were made because of cert iin basic land reforms which we, sitting here or anyone sitting anywhere, wou' 1 rhink, are the basic minimum needs t< reform our society, and because the Suf -erne Court said, "No, these legislations about land reforms are against the Con titution and we strike them down"...

SHRI K. 3HANDRASEKHARAN (Kerala): So d< you not think that we should adopt ant v pattern, a new method, in the matter of 1 iie appointment of judges to the Supreme Court and the High Courts ?

SHRI RAM I IWAS MIRDHA: Well I will come to t tat. But since you raised it now, I shall ay it right now that the method of app >intments of judges has a lot to do wi h this type of judicial interpretation. V hat are the qualifications of the judges of a High Court? You have to be an advocate of ten years' Standing and so c *a* and so forth. But so far as the Supreme < !ourt is concerned, there is a clause that a distinguished jurist could also be appointe\* a Supreme Court Judge.

I would qu 'St ion the Government why they have i >t appointed any person under that clausi till now. It is only people who have risen n a particular profession, legal profession, that are appointed. By the time they go to the Bench their ideas are fossilised, tl-eir contacts have become what they are a id it is impossible to expect this type of udiciary to give progressive interpretati >n of our laws. An eminent lawyer s appointed to the High Court, but who is an eminent lawyer if you break < own the constituents? Either he is a C( -poration lawyer who has a big practice or who is a lawyer who earns a lot and he can earn only from 6—25 R. S./ 0

people who have money which mean lawyers who have connections with a particular class of people, rich and super-rich people and this type of lawyers is called eminent lawyers because only they can afford such lawyers and if they, by definition, are regarded as eminent lawyers fit to be appointed in the highest tribunals, you can imagine what sort of judicial interpretation we will have at that level. So we have to seriously look into this. All I say is that an amendment of the Constitution is not necessary. The Constitution, as at present framed, has enough guidelines even for the interpretation of the Constitution. Our Directive Principles of state Policy-ours is a unique Constitution in the sense that it has this- arenotjusticeable or enfovceable but they are there and act as guidelines not only to the legislatures but to the judiciary also as to the direction in which the Constitution-framers wanted the country to go and progress. If a certain class of people or if people belonging to a certain group or coterie or who have certain association with certain people cannot get out of this, it is not the fault of the Constitution but the way we have worked it. So we should seriously think of people who are in tune with the national aspirations. I do not say that they should be politicians. They may be anyone. So the qualification of judges even as at present prescribed, gives us some scope and the Government refuse to exercise it. I give one example of the distinguished jurist or legal expert. Apart from lawyers and judges, they can also be appointed to the Supreme Court and such people would bring fresh air to the musty outlook of our present judges and help in the progressive interpretation of our Constitution. This is my reply to the charge why we amend our Constitution. It is not that we like to amend the Constitution which we regard as sacred but because the Legislature which represents the wish of the people was compelled to do so because of the absolutely unresponsive and lack of progressive outlook on the part of the judges. If they cannot countenance even the basic land reforms and cannot regard them as within the framework of the Constitution. I do not think there can be much hope from a judiciary af that nature. In the same context, I would again like to expand on the question of judiciary because I feel that proper interpretation on the part of the judiciary would solve all our problems. The society changes and if the changes are taken note of a progressive outlook is adopted by the

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# [Shri Ram Nivvas Mirdha]

judges and they would inlerpret the Constitution in consonance with the spirit of the times. That is what judicial interpretation is, any way. Than there is the judiciary and the legislature. In that sphere the judiciary is trying to exceed its limits and is seeking a confrontation with the legislature. I do not want to go into the details. We know of so many instances. Even the day-to-day proceedings of the legislatures, of which we are our own masters, a~e sought to be questioned in the courts with the result naf needlejs flict is being created between the elected representatives in the legislatures and the judiciary. This is a most unfortunate development and the earlier this is put an end to, the better it will be for tho working of the Constitution and the progress of our country. A healthy outlook is very much necessary on our part. In the legislatures we sometimes tend to view our privileges in a super selfrighteous Way whether it concerns the journalists or judges or others. We also have to take a realistic view of our rights and privileges but on the other hand if the judiciary seeks to do this, they will always be at a disadvantage compared with the elected representatives. To seek a confrontation with the elected representatives of the people is neither in judiciary's interest nor in the interest of the country. Therefore, these difficulties as they arise, should be tackled in a very wise way and I think wisdom would prevail at both ends and no more things about this would be necessary and there will be no confrontation between the judiciary and the legislature.

Then we really want in this country that we should have respect for the judiciary because that is one institution which should be a balancing factor in the working of our political and social system and that throws a very great responsibility on the judiciary but I am sorry to say that the judiciary, as an institution, has not risen up to the occasion. They have not come forward to meet the problems and the challenges of the country and help in its solutions. We see that: there is a lot of arrears in the High Courts. What we need is a fresh outlook because their methods of working, their dress, their methods, their rules, etc. were all framed in the last century and they are still sticking to them. That is one branch which has not deen reformed, where no attempt has been made till now to reform the working, procedures and methods and will that is the judiciary. I give an example.

Take writ petitions. There are thousands of them, and almost from all sides of the country writ petitions come. If an officer is transferred from Delhi, he goes to the High Court and has it stopped. If some businessman gets a notice for tax, be goes to the High Court and gets a stay order and that lies there for years and years. So I would make this fervent request that these methods of work should be changed; otherwise, if the tax collections were to be disrupted by such writ petitions, the whole system and outlook of people against the judiciary would also change. If you want respect, they should work in a way which would be in consonance with the times and the judiciary should not work as a protector of the vested interests or the rich people or the status quo but it should join in the dynamic process that is going on in the country of taking the country forward and it has, in its possession and wisdom a lot of opportunity of doing that and taking the country in the right direction.

I will end by making a plea that what is needed is reform of our judicial system, methods of appointment of judges and the methods of working or the procedures in the High Courts and the subordinate courts. The whole matter should be seriously discussed as it has never been thought of till now. If our higher judiciary and the subordinate courts work in a proper way, I do not think the necessity for this Resolution or any other Resolution will arise because our Constitution says that the judiciary will interpret the Constitution and it depends on their wisdom as to how they interpret and work the Constitution so that they can give a progressive outlook to the functioning of the Constitution and no amendment is necessary. Even if you frame a new Constitution, it may have to be changed after a few years because of changed circumstances. Nothing is a substitute for sagacity and wisdom of the people who are working this Constitution. No amendment will do the trick. It is we here, outside, in the High Court and the Supreme Court who are responsible for the working of this Constitution and it is only when there is a certain amount of sagacity and wisdom in all of us that we can make the Constitution work and obviate the necessity for any amendment.

थी राजनारायणः (उत्तर प्रदेश) : श्रीमन्, मैं अपने कुछ सुझावों के साथ श्री एन० आर० मनिस्वामी जी के संकल्प का समर्थन कहंगा। सर्वप्रथम सदन के सम्मानित सदस्य अवगत होंगे कि 6 अप्रैल को जिस प्रदर्शन को लेकर संसोपा यहां आयी थी उसकी पहली मांग थी नव विश्वान-निर्माती परिषद का गठन । तो हमारी उस मांग को त्री मुनिस्वामी ने अपने संकल्प में रखा है ।

# [THE VICE-CHATUMAN (SHRI RAM NIWAS MIRDH.) i > the Chair]

और इसलिये आज इस सदन में विज्ञेष रूप से में आया कि जब तमारे प्रदर्शन की एक प्रमख मांग आज सदन में चर्वा का विषय है तो उस पर हम को अपनी नम्मलि रखने के लिए अवश्य आना चाहिये। में पहले कह दं, कही भल न जाऊं इसलिए चाहना हूं श्रीमन कि आप के तकों का उत्तर पहने दे दे । आप जब बोल रहे थे तो मुझे कुछ आक्त्रयं हो रहा था क्योंकि आज के पूर्व ऐसा तर्क निर्धा साहब के मुखारविन्द से हम ने नहीं सुनः । आज कारण क्या है कि न्यायपालिका पर गरकारी पक्ष के लोगों का तीक्ष्ण प्रहार हो रता है। इस का कारण क्या है इस के लिए जरा घटना चक्र को देखा जाय । डाक्टर राम मनोहर जोहिया लखनऊ जेल में थे । एक मैजिस्टेट जबरदस्ती उन को कुर्सी से उठवाता है और जवरदस्ती उन के जंगठे का निणान लेता है : उस समय मिर्घा साहब या ट्रेजरी वेंच में तह ताकत नहीं थी कि वह कहें कि यह मैजिस्टेट इस तरह की कार्यवाही कैसे कर सकता 🕆 । कहीं से ऐसी आवाज नहीं आयी । लगानार हम लोग, थींमन, आप की पार्टी के जासन जाल में 36 बार से कम जेल नहीं काटे। बार बार सजावें हई । कहीं भी टेजरी बेच के लोगों ने एक मर्तवा भी स्वायपालिका के लिए एक जब्द नहीं कहा कि यह न्यायपालिला अन्चित ढंग से चल रही है । मगर इधर में देख रहा हं कि न्यायणलिका बराबर कुछ तथानधित प्रगतिवादी तत्वों के आजमण का जियय बनी हुई है। चाहते क्या हैं आप ? आप चाहते हैं कि जैसा सरकारी पक कहे उसी के मताबिक कानून का भाष्य स्याय-पालिका करे ? या सरकारी पक्ष यह चाहता

है कि अब न्यायपालिका का अलग अस्तित्व न रह जाय ? न्यायपालिका सरकारपालिका के संरक्षण में रहे और जो उस की भ्रकृटिविला-सिता हो उस के अनरूप ही न्यायपालिका अपना भाव्य करे ? इस का उत्तर मिलना चाहिए और मैं मिर्धा साहब से जानना चाहता हं कि थी मध लिमये का संविधान के अनच्छेद 314 को परिवर्तित करने के लिए एक संविधान संशो-धन विद्वेयक आया था । उस संविधान संजो-धन दिखेयक के लिए किसी न्यायपालिका न कहा कि हमारी पालियामेंट वह संशोधन नहीं कर सकती ? किसी न्यायपालिका ने कहा था ? एक कहावत है 'अटके पहाड और फोडे घर की सील '। मैं आज जानना चाहता हं कि ईमानदारी हमारी कहां है । केवल लम्बी चौडी बात सदन में कह कर हम अपने को काल्ति-कारी बनायें और यह कहते जायें कि हम तो सही तरीके से संविधान को ठीक रख सकते हैं यह उचित बात नहीं है। सरकारी पक्ष के जितने लोग थे उन में से करीब 60 फीसवी उस दिन आये। सरकारी पक्ष ने कहा था कि मध लिमये के इस विधेयक का हम समर्थन करेंगे । बया यह सरकारी पक्ष के लिए गर्म की बात नहीं है कि जिस विधेयक का समयंन करने की बात सरकार कहती हो उस को वह स्वयं पास करने की जिम्मेदारी न ले ? एक छोटा सा उत्तर आया कि सरकार की जिम्मे-दारी नहीं थी क्योंकि वह तो प्राइवेट मेम्बस बिल था।

अी महावीर त्यागी (उत्तर प्रदेश) : यह डिप्लोमैटिक बात है ।

श्री राजनारायण : मैं ऐसी डिप्लोमेसी को नीचता लमझता हूं, मैं इस को डिप्लोमेसी कहता नहीं । अगर वह डिप्लोमेसी है तो बहुत निम्न रेट की डिप्लोमेसी है, वह किसी राजनीतिज्ञ की डिप्लोमेसी नहीं है । मैं जानना चाहता हूं कि मिर्घा साहब कहां खड़े हैं ? जरा वे उस जगह को टटोलें । इतनी वाक्चातुरी जनतंत्र

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# [श्री राजनारायण]

और समाजवाद से द्रोह करना है। वाक्-चात्री समाजवादी गुण नहीं है, वाक्चात्री जनतंत्रीय गुण नहीं है । वाक्चात्ररी पूंजीवादी गण है, साम्प्राज्यवादी गण है, अधिनायकवादी गण है। उस वाक्चातुरी की पट्ता में आम जनता को फंसा कर हर अधिनायकशाह, हर साम्प्राज्यशाह, हर पूंजीशाह अपना काम बनाता रहा है । इस तरह की वाकचात्ररी से मिर्धा साहब अलग रहें यह हमारी इच्छा है। एक शब्द भी मिर्घा साहब ने नहीं कहा यहां पर कि लोक सभा में इतने निम्न स्तर की घटना हो गयी जो कि मध लिमये का विधेयक फेल हो गया । संविधान के मताबिक आधे से ज्यादा सदस्य सदन में उपस्थित नहीं हए इसलिए वह विधेयक पास नहीं हुआ । फेल हुआ और क्या विधेयक था कि जो सरकारी सेवा में पूराने लगे हुए लोग हैं उन के लिए जो विशेष सहू-लियतें हैं वह समाप्त हों । मिर्धा साहब की पार्टी के कितने लोगों ने इस पर वोट नहीं किया इस को मिर्घा साहब ने नहीं बताया है । एक शब्द भी बोला होता-सारा भाषण 20 मिनट का दे डाला जजों के बारे में । जजों ने कहीं नहीं कहा कि इस पर वोट मत करना । मैं जानता हं और ऐसे जजों को भी जानता हं कि जिन्होंने शासन के दबाव में न आ कर सही फैसले किये ह ऐसे जजों को भी जानता हं कि जिन्होंने शासन के दबाव में आ कर गलत फैसले लिए हैं। मैं जानता हं यहां पर एक अग्रवाल साहब जज है। जब नहर का आन्दोलन 1954 में चला था और स्पेशल पावर्स ऐक्ट में डाक्टर लोहिया गिरफ्तार हए थे तो उन्होंने यह कह दिया था कि इस नियम के अंदर डाक्टर लोहिया को गिरफ्तार करना जनतंत्र की और संविधान की हत्या है। इस के अंतर्गत एक पल के लिए भी डाक्टर लोहिया जेल के अंदर नहीं रखे जा सकते । मेरी जानकारी है कि किस तरह से सरकार चाहती थी कि वह उन को प्रभावित करे। मैं जानता हं 1952 का अपना केस ऐलेक्शन का जो श्री गोविन्द वल्लभ पंत ने

हमारे खिलाफ कराया था और जजेज के ऊपर दबाव था कि राजन.रायण का एलेक्शन वायड किया जाय, लेकिन जस्टिस ओक, जो आज भी इलाहाबाद में हैं, उन्होंने तनिक भी उन का दबाव नहीं माना और उन्होंने ईमानदारी के साथ अपना फैसला दिया और उस के कारण हमारा एलेक्शन रह नहीं हुआ । मगर ऐसे लोगों को भी जानता हं और उन का नाम मैं यहां नहीं लंगा कि जिन्होंने सरकार के दबाव में अं कर गलत फैसले लिए हैं। फिर भी जिस ढंग का हमला आज कुछ तथाकथित प्रगतिवादी कर रहे हैं जुडिशियरी पर उस तरह के हमले को मैं निन्दनीय मानता हं। अगर जनतंत्र है और उस में न्यायपालिका का और सरकारपालिका का अलग अस्तित्व है तो न्यायपालिका के अस्तित्व के लिए हम को विशेष प्रबंध करना ही है। उन का भाष्य कानून की रक्षा ही करेगा ।

अब जहां गलती है उस को देखा जाना चाहिए । मिर्घा साहब इस समय चेयर पर बैठे हैं । शायद आप को न मालम हो । 1948 में जबकि हम लोग कांग्रेस से अलग हए आचार्य नरेन्द्र देव के साथ. 12 असेम्वली के मेम्बर उत्तर प्रदेश की विधान सभा से अलग हए थे। उस समय दस्तखत किया था 72 ने. मगर जब अलग होना पड़ा तो केवल 12 अलग हए । कहां यह लिखा हआ था कि आचार्य नरेन्द्र देव असेम्बली की मेम्बरी से इस्तीफा देंदे, मगर आचार्य नरेन्द्र देव ने कहा कि मैं असेम्बली की मेम्बरी से इस्तीफा दंगा, हमारे साथ जो चलना चाहते हों वह आयें और उन को भी इस्तीफा देना होगा । इसी लिए 72 नहीं आये, केवल 12 आये । वरना अगर आज की सी चक-ल्लसबाजी उस समय की सोशलिस्ट पार्टी करती तो 72 ही नहीं और ज्यादा आ सकते थे और गोविन्द बल्लभ पंत की सरकार को गिरा सकते थे । मगर हम ने एक नैतिक मर्यादा अख्ति-यार की । उन 12 सदस्यों ने आचार्य जी के साथ इस्तीफा दिया । उन्होंने उत्तर प्रदेश विधान सभा में कहा कि मैं कांग्रेस के टिकट पर चुना

हआ हं, हम ने कांग्रेस से अपने को अलग किया है इसलिय हमारी राजनैतिक नैतिकता हम से कहती है कि हम फिर से चुनाव लडें और इस के लिए जनता के बीच में जायें। बैठें हैं श्रीमन. यदि आप इतिहास के विद्यार्थी होंगे तो आप को पता होगा कि वहीं आचार्य नरेन्द्र देव जी चनाव में हार गये । लेकिन आचार्य नरेन्द्र देव लडे, अलग हो कर लडे, सोशलिस्ट पार्टी के टिकट पर लडे और उनको श्री गोविन्द बल्लभ पंत और समाजवादी जवाहरलाल नेहरू ने हराया । यह छोटे मुंह बड़ी बात आज सरकारी पक्ष के लोग करने लगते हैं तो मझे गस्सा आता है । आखिर वह कहां खड़े हैं, वह तीसमारखां बनते हैं, बहत लब्बा जनतंत्र और समाजवाद का राग अलापते हैं कि उनसे बढ कर कोई जनतंत्री और समाजवादी है ही नहीं । इसलिये अनावश्यक ढंग से, अनगंल तरीके से, अपने पापों को छिपाने के लियें न्यायपालिका पर प्रहार करते हैं। आपका यह प्रहार न्याय-पालिका को धमकी दे रहा है इसलिये कि प्रेसि-डेंट का इलेक्शन पेटीशन है, इसलिये न्यायपालिका पर प्रहार हो रहा है कि इलेक्शन पेटीशन का सही फैसला न हो ! मैं इसको अन्चित सम-झता हं । मैं इसको न्यायपालिका को, सुप्रीम कोर्ट के जजों को प्रभावित करने की चालवाजी समझता हं । इसलिये मैं कहना चाहता हं कि सरकारी पक्ष के लोग सावधान । अगर इस ढंग से तिकडम की बातें होंगी तो समाजवाद. जनतंव मर जायगा ।

अब मैं दूसरे पहलू पर आता हूं । हमने क्यों चाहा कि नव-तिर्माती-विधान परिषद् बने । श्रीमन्, आप इस नात से भी अवगत होंगे और यदि न हों तो हो जायें कि सोशलिस्ट पार्टी ने 1946 में जब कास्टीटुएंट असेम्बली बनी तो उस कांस्टीटुएंट असेम्बली का बहिष्कार किया था । हमने उसका बहिष्कार किया था । हमारे बहुत से लोग उस असेम्बली में चुन कर आ सकते थे लेकिन नहीं आये । श्री लाल बहादुर शास्त्री. भारत के प्रक्यात भतपर्व प्रधान मंदी.

# convening of a new 170 Constituent Assembly

डा० लोहिया को समझाने गये हमारे सामने । डा० लोहिया ने कहा कि ब्रिटिश साम्राज्यवाद की छन्नछाया में यह संविधान निर्माती परिषद काम करेगी इसलिये हम इसमें नहीं आयेंगे । हमने उसका बहिष्कार किया । फिर भी जितने कांस्टीटएंट असेम्बली के सदस्य ये उनको हमने एक डाफ्ट कांस्टीटचशन को बनवा कर भिज-वाया । हमें मालम है कि इस संविधान में कहीं कहीं असंगतियां हैं जो कि जनतंत्र के मार्ग में बाधक हैं, समाजवाद के मार्ग में बाधक हैं। उनका परिवर्तन शीघ्रातिशीघ्र होना चाहिये । जैसे मैं इस बात को कतई पसन्द नहीं करता कि मौलिक अधिकारों में सम्पत्ति अर्जन करने का अधिकार हो । सम्पत्ति अर्जन करना, उसे बिना सीमा के रखना, यह समाजवाद और जनतंत्र का निषेध है। मैं जरूर चाहंगा कि शीझातिशीघ्र विधान-निर्माती परिषद बने जो कि विधान के मौलिक अधिकारों के बीच से इस पापी धारा को, इस अनुच्छेद को हटा दे। इतना तो मैं समझ सकता हं कि एक सामान्य जीवन व्यतीत करने के लिये अगर कोई सम्पत्ति रखे तो उसको रखने का हक हो मगर एक तरफ तो भख से अंतड़ियां तिलमिला रही हों और दूसरी तरफ ऐशो-इश्रत की जिन्दगी बितायी जाती हो, एक तरफ अभाव की खाई हो और दूसरी ओर धन का, सम्पदा का कैलाश पर्वत ऊंचा ही होता जाय । इस संविधान के दारा इस सरकार के पापी नियमों के अधीन, इस सरकार की औद्योगिक नीति के अधीन ऐसी बातें हो रही हैं। इसलिये में चाहंगा कि मौलिक अधिकार की परिधि में सम्पत्ति रखने का अधिकार हर्गिज हर्गिज न रहे क्योंकि यह समाजवाद और जनतंत्र के मार्ग में बाधक है, इससे दिक्कत पैदा होती है और हई है। यह कहीं लिखा हआ है कि जमींदारी खत्म न हो ? किस संविधान में लिखा है ? यह कहीं लिखा हुआ है कि अधिक-तम जोत की सीमा निर्धारित न हो ? संविधान में कहीं यह लिखा हुआ है ? अधिकतम जोत की सीमा उत्तर प्रदेश में निर्धारित हई । किसने किया ? कांग्रेस सरकार ने किया, पापी सरकार

# [श्री राजनारायण]

ने किया । हमारे सुझावों को नहीं माना । आप यहां न्यायपालिका की बात कहते हैं । हमने कहा कि अधिकतम जोत की सीमा सवा छ: एकड के तिगने से ज्यादा न हो मगर 40 एकड़ कर दी और इसके अतिरिक्त मर्गी पालन, कुक्कुट पालन, पश् पालन, वाग वगैरह सब की छट। यह कहां संविधान में है। किस न्यायपालिका ने इसका भाष्य किया है । मौलान। साहब, कानन उपमंत्री जी, किसी न्यायपालिका ने इसका भाष्य नहीं किया । यह भाष्य कांग्रेस-पालिका ने किया, कांग्रेसपालिका ने यह हक दिया । फिर न्यायपालिका के ऊपर अंगुली उठाते हैं । यह पायी हैं, अपने पापों को छिपाना चाहते हैं। हगिज नहीं। कहीं संविधान में है कि 18 एकड या 20 एकड या 15-16 एकड जोत की अधिकतम सीमा न बन्धे । कहीं नहीं है ।

अब देखिये, इंडस्ट्रियल डेवलपमेंट का कानून बना हुआ है। इंडस्टियल डेवलपमेंट की एक पालिसी है। सरकार की पालिसी इस ढंग की नहीं हो कि एकाधिकार कुछ हाथों में सन्नि-हित हो जाय, मगर सरकार की पालिसी क्या है। सन् 1952 से यह संविधान चला और यह आ गया है। 1970, 18 साल हो गये न, 18 साल के बाद हम लोगों की आंख खुल रही है, हम देखते हैं कि जो हमारी इंडस्ट्रियल पालिसी है वह चल नहीं रही है । संविधान के अन-चछेद में लिखा है कि औद्योगिक नीति इस ढंग से संचालित हो जिससे कि चन्द व्यक्तियों के हाथ में आर्थिक सत्ता का केन्द्रीयकरण न हो । संविधान की हत्या किसने की । कांग्रेस सरकार ने की है, नेहरू सरकार ने की है, इन्दिरा सरकार ने की है और फिर इसके लिये न्यायपालिका पर अंगुली उठाते हो, वह उठाते हैं जो कि आज कुछ समय के लिये यहां चेयर पर बैठे हैं। मुझे अफसोस होता है, यह भाषण दे रहे थे, हम सुन रहे थे, कहां से कहां पहुंच गये, कहां का ईट कहां का रोडा भानमती का

कुनवा जोड़ा, इस तरह से मिर्घा स।हब ने कर दिया जिनकी हमारे दिल में बड़ी इज्जत है ।

# (Time bell rings.)

एक बात और कहना चाहता हं कि इस संवि-धान में लिखा हआ है कि दस साल के अन्दर सभी को शिक्षित कर दिया जायगा । किसको शिका दी सरकार ने । कहीं शिक्षा प्रसारित की सरकार ने । यह सरकार का पापाचार है। न्यायपालिका ने इसको कहां रोका । लिखा है कि 14 वर्ष तक की आय के बालकों से काम नहीं लिया जायेगा लेकिन क्या आज बारह साल तक के लडके रिक्शा नहीं खीच रहे है ? 12 साल के लडके रिक्शा खींच रहे है । क्या किसी न्यायालय ने कहा कि इनसे रिक्शा खिचवाओ । तो यह सरकार आंख बन्द किये हये हैं, इसकी अपनी विलासिता के सामने, अपने एश्वर्य के सामने. इस देश की आम जनता पर दण्टि नहीं है । इसलिये सारा दोष न्याय-पालिका के मत्थे मढ कर सरकारी पक्ष अपने गनाहों पर पर्दा डालने की साजिश न करे।

हमारे मुनिस्वामी ने अपने संकल्प में अपनी बात ठीक रखी है लेकिन कुछ बातों को रखने की आवश्यकता में नहीं समझता जैसे कि भारत की राजभाषा की बात । संविधान का सतहवां चैप्टर पढें, 343 से 351 अनच्छेद तक पढें । उसमें राष्ट्रमाषा केवल हिन्दी है यह नहीं लिखा हआ है। कहां लिखा है। पता नहीं उनको किसने बता दिया कि राष्ट्रभाषा केवल हिन्दी कही जाती है । हमारी राष्ट्रभाषा जैसे हिन्दी है वैसे ही तेलग है, वैसे ही तामिल है, वैसे ही उड़िया है, वैसे ही बंगाली है, वैसे ही मराठी है, वैसे ही कन्नड है । सब हैं, जितनी भाषायें हमारे राष्ट्र में हैं सब राष्ट्रभाषायें है । अन्-च्छेद 343 हिन्दी को केवल राजभाषा कहता है। राजभाषा । राजभाषा और राष्ट्रभाषा इन दोनों के बारे में भ्रान्ति में, बुध्दि विभ्रम में नहीं विचरण करना चाहिये मैं यह मनिस्वामी से कहंगा । इसलिये भाषा के सवाल को अना-वश्यक ढंग से इस संविधान निर्माती परिषद

के लियें जो उन्होंने बता दिया, इसके ऊपर भी वह विचार करें इसकी मैं अरूरत नहीं सम-झता। मैं चाहता हूं कि सफाई के साथ इसको कहा जाय कि जो अनुच्छद आज समता और समृढि लाने के जामें में बाधक हैं उनको हटाने के लिये प्रयत्न करना हमारा परम पुनीत कर्तव्य होना चाहिये और उसी कर्तव्य के पालन हेतु नव-निर्माती-विधान-परिषद का गठन हो ।

# (Fime bell rings)

श्रीमन, में बहत जल्दी जल्दी चल रहा हं, आप घवडाइये नहीं । जब भाई, मेरी समझ में यह बात नहीं आती । मझे बहत आश्चर्य होता है, दूख होता है. पीडा होती है, कि यह हमारा देश है, हमारा ाष्ट्र है, हेम राष्ट्र के नागरिक हैं । इसको भारतवर्य कहो या हिन्दुस्तान कहो, क्या यहां कभी भी रोमन लिपि रही है। क्यों देवनागरी लिपि से इतनी चिट है, क्यों देवनागरी लिपि से इतनी नफरत है । अगर कोई यह कहे कि तामिल लिपि हो मैं समझ सकता हूं, कोई कहे तेलग लिपि हो मैं समझ सकता हूं । मंगर देवनागरी लिपि से इतनी नफरत क्यों, इतनी चिढ क्यों ? हा, मैं यह मान सकता हं कि देवनागरी लिपि को भी इस ढंग से संशोधित किया जाये कि जिससे हमारे राष्ट्र के अन्दर जितनी लिपियां हैं वे करीब करीब सब उसमें शामिल कर दी जायें। उसमें हर पांच सात तान बाद थोडी वहत तबदीली होती रहती है । हिन्दी को इस तरह से संस्कृता-इज्ड न किया आये, क्लिष्ट न किया आये, कि उसको समजना कठिन हो जाय । मैं सफायी के साथ श्री मुनिस्वामी को बता देना चाहता हं कि दिल्ली में कुछ कुझल चतुर सरकारी आफिसरान बैठे हैं जो चाहते हैं कि हिन्दी इस ढंग की बना दी जाय कि हिन्दी भाषाभाषी लोगों को उसको सीखना ज्यादा मशकिल हो बनिस्बत बंगला, तमिल, तेलगु, उड़िया भाषा, वगैरह से । मैं आपसे कहना चाहता हं कि हमने बी० ए० तक हिन्दी साहित्य लेकर पढा है।

है और जो हिन्दी लिखी रहती है वह मेरी समझ में नहीं आती है । मुझे मुझकिल होती है, मुझे दिक्कत होती है । मैं गांधी जी की हिन्दी चाहता हूं । गांधी जी ने कहा हमारी हिन्दी वह है जो देवनागरी में लिखी जाये तो हिन्दी, जरवी फारसी लिपि में लिखी जाये तो हिन्दी, जरवी फारसी लिपि में लिखी जाये तो उर्दू । वहीं हमारी हिन्दी भाषा है, उसी हिन्दी को हम हिन्दी कहते हैं और पंडिताऊ हिन्दी को हम हिन्दी कहते हैं और पंडिताऊ हिन्दी को जन-तंव और समाजवाद के बिरोध में जाती है । इसलिये पंडिताऊ हिन्दी को सरकारी पक्ष के लोग ध्यान से सुनें और उसे सरकारी कारोबार से हटाए ।

एक बात इस प्रस्ताव में है कि विधान मंडल, त्यायपालिका और कार्यपालिका के विणेष सन्दर्भ से केन्द्र तथा राज्यों के सम्बन्धों के पुनः अनस्थापन 1. ठीक है, देखिये मिरधा साहब, चाहे कोई भी संविधान वने, वह क, ख, ग तक पूर्ण नहीं होता । एक कुछ सामान्य बुद्धि से भी बातें तय होती रहती है, कुछ परम्पराओं से बातें तय होती. रहती हैं, कुछ मान्यताएं प्रति-फित होती रहती हैं। उनको मानकर के और व्यवहार में लाने से चलना होगा तो होगा । हर कोई कहने के लिये कहता है, लेकिन आदमी की कथनी और करनी में फर्क नहीं होना चाहिये । हमने इस सदन में कई बार कहा है, हमने एक एलोक भी यहां पढा था : यानी, जो लोक स्थिति का यथास्थिति वर्णन न करें, उसे मर्खी का चक्रवर्ती राजा ही समझना चाहिये । इसलिये लोक स्थिति का सच्चा वर्णन होना चाहिये, मर्खों के राजा की मंडली में जाने की कोशिय नहीं होनी चाहिये । यह मैं कहना चाहता हं ।

हूं कि दिल्ली में कुछ कुशल चतुर सरकारी आफिसरान बैठे हैं जो चाहते हैं कि हिन्दी इस डंग की बना दी जाय कि हिन्दी भाषाभाषी लोगों को उसको सीखना ज्यादा मुशकिल हो बनिस्बत बंगला, तमिल, तेलगू, उड़िया भाषा, बनिस्बत बंगला, तमिल, तेलगू, उड़िया भाषा, बनिस्बत वंगला, तमिल, तेलगू, उड़िया भाषा, बनिस्बन वंगला, तमिल, तेलगू, उड़िया भाषा, बनिस्वन वंगला, तमिल, तेलगू, उड़िया भाषा, बने खत्म नहीं कर दिया जायेगा तब तक दलों आज जो हिन्दी सरकारी किताबों में चल रही

# [श्री राजनारायण]

सदन में चर्चा हई, इसी सदन में लोग बोले हैं। इसकी तरफ आपका ध्यान गया था कि नहीं, इस सदन में बोले हैं लोग । तो मैं यह कहना चाहंगा कि दलों की बाहल्यता का आचरण शदता से, साधता से करो । दलों की बाहल्यता को कानून की परिधि में बांध कर चलने की बात अगर की जायेगी तो वह जनतंत्र का निषेध हो जायेगा । वह आचरण की साधता क्या है कि अपना आचरण बनाओ । इसने उदाहरण के लिये आचार्य नरेन्द्र देव को यहां प्रतिष्ठित कर दिया । उनसे सीखा, उनको देखो । मगर जितना पाप किया है, जितना दूराचार हआ है, जितना देश का राष्ट्र का हनन हआ है उसकी जिम्मेदारी अगर जायेगी तो पं० जवाहरलाल नेहरू पर जायेगी जिस पं० जवाहरलाल नेहरू को आज भी बहुत से लोग अपना नेता मानते हैं। कहते हैं नेता है। अरे, आज तुम्हारी हालत यह हो गई है कि एक दल को छोड़कर आए तो उसको मख्य मंत्री का पद हो जिर है। ऐसा कहीं हमारे जनतंत्रीय आचरण में, या किसी जनतंत्र में बताया है । इसकी तरफ भी जनाबे सद्र मैं आपसे अर्ज करूंगा आप देखें और अपने दल को दिखावें, हम सब लोगों को दिखावें क्योंकि आप एक ऊंचे पद पर हैं।

मैं अब राजाओं के प्रिवी पर्स के बारे में कहना चाहता हूं । राजाओं का जो निजी कोष है, जो उनको विशेष सहूलियतें दी हैं, उसके बारे में इसी सदन में प्रस्ताव पास हुआ है कि उसको समाप्त होना चाहिये, बजट अधिवेशन के आरम्भ होते होते उसको समाप्त होना चाहिये मंगर आज मैं आपके द्वारा सदन के सम्मानित सदस्यों को बताना चाहता हूं, श्रीमती इन्दिरा नेहरू गांधी का आचरण, राजनैतिक, क्या है । राजाओं के पास लोग भेजे जाते हैं, उनको आश्वासन दिया जाता है, काहे को विद्रोह करते हो, कौन कहता है कि तुम्हारा निजी कोष समाप्त कर दिया जायेगा ।

श्री महाबीर त्यागी : प्राइवेट बात है।

convening of a new 1 Constituent Assembly

श्वी राजनारायण : यह प्राइवेट बात अब नहीं रह गई है । अब तो जन जन के मुक्त कंठ से निकल रही है । आज ढारिका प्रसाद मिश्र नियुक्त हुए हैं, वह ढारिका प्रसाद मिश्र जो चरण सिंह को लुभाने के लिये लखनऊ भेजे गये थे, अब राजाओं को मोहित करने के लिये उनको नियुक्त किया जाता है । वह ढारिका प्रसाद मिश्र जिनके राजनैतिक आचरण की गाथा उच्च न्यायालय और उच्चतम न्याया-लय दोनों कहते हैं, और आज वह प्रधान मंती इन्दिरा नेहरू की नाक के बाल हैं । उनको यह जिम्मेदारी दी गई है कि राजाओं को पास जाकर किसी तरह से समझाओ बुझाओ ।

उपसमाध्यक्ष (भी रामनिवास मिर्धा) आप संक्षेप में बोर्ले ।

श्वी राजनारायण : हां बहुत संक्षे में बोल रहा हूं । अगर विशद व्याख्या हो तो चार, पांच घंटे लग जायें । हमारा खुद ही पैर दर्द कर रहा है । हम जल्दी से जल्दी यहां से जाना चाहते हैं ।

इसलिये मैं कहना चाहता हूं, इन तथ्यों और इन सुझाओं पर हमको चलना पढेगा । मैं आज कहना चाहता हं : अगर इन्दिरा नेहरू गांधी प्रधान मंत्री के पद पर से निकल जायेंगी तो हमारे राष्ट्र का क्या अहित हो जायेगा, क्यों यह डर है, क्यों आज इतने दिनों के बहचर्चित प्रिवी पर्स को समाप्त करने का विधेयक नहीं आया । कारण क्या है ? तमाम विघेयक आ गये अनाप शनाप । यह विधेयक क्यों नहीं आया. इसके बारे में रोज चर्चा है, रोज गान है और वह 10 पौइन्ट 8 पौइन्ट का प्रोग्राम हम सब को कहा करती हैं, रोज चर्चा करती हैं । उसमें भी कहते कहां वह प्रोग्राम घस गया । यह एक डर है कि प्रधान मंत्री का पद कहीं छिन न जाये । जाज कहीं राजे लोग विद्रोह न कर दें। राजाओं को विद्रोह करना है तो करने दो । अगर प्रिवी पर्स के सवाल को लेकर तुम्हारा प्रधान मंत्री पद छिन जाता है तो डर काहे का है । मगर प्रधान मंत्री के पद पर रहते हुए हटने के बाद

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नुम्हारा कोई नाम नहीं लेगा । अगर अच्छे ढंग से हटती हो रानी, तो तुम्हारा नाम अमर हो । लेकिन रानी की सवझ में नहीं आयेगा ।

हमें बड़ी इसमें कभी कभी हंसी भी आती है जब कहा जाता है कि संविधान का संशोधन इस ढंग पर हो कि राष्ट्रीय एकता कायम हो, सम्प्रदायवाद का नाण हो । मगर मैं कहना चाहता हूं : क्या जिस ढंग की सरकार आज केन्द्र में है वह उक्षमें सफल हो जायगी । यह तो सम्प्रदायवादिता को बढ़ावा दे रही है, सम्प्र-दायवादिता को उक्षसाती है, कभी बहुमत सम्प्र-दायवादिता को उक्षसाती है, कभी बहुमत सम्प्र-दायवादिता को उक्षसाती है, कभी बहुमत सम्प्र-दाय के नाम पर, कमी अल्पमत सम्प्रदायवाद के नाम पर । आज हिन्दू मुसलमानों का सिर-फुटोव्वल हो रहा है । इसके लिये कहीं नहीं लिखा है कि हिन्दू मुसलमान एक दूसरे का सर काटें । मगर आज जिस ढंग से सरकार चल रही है, जिस ढंग से गदी की ललक है, वह ज्यादा दिन नहीं रहेगी ।

में पूछना चाहता हं आपसे कि किस न्याय-पालिका ने कहा कि 6 अप्रैल को संसोपा का प्रदर्शन आए उन मांगों को लेकर, तो उन पर 4 ₽.м. लाठियां चलेंगी? उन पर अश्रु गैस चली, तो इसके बारे में किस न्यायपालिका ने कहा था। हम इसके शिकार हुए हैं, मुक्तभोगी हैं और इस तरह से वो हजार आदमियों को उस दिन चोटें आई तो क्यों । फिर भी हमारे सर-कारी पक्ष के लोग जब बोलने के लिए खडे होते हैं तो कहते हैं कि न्यायपालिका ने यह कर दिया. वह कर दिया । न्नायपालिकाओं को देश की मर्यादा का ख्याल रखना चाहिये और जजों को निष्पक्ष होना चाहिये, और जजों में नई मान्यता प्रतिष्ठित होनी चाहिये । मगर जो कानून है, जो कानून की भाषा है वह ठोस है। अगर कानन की भाषा के अनेक अर्थ दे दिये जा सके, तो न्यायपालिका को कहां पर खींच कर लाया जा सकता है । जो कानून की भाषा है वही पद्धति चलती है और इसीलिए कानून के जंगल को साफ करो और उसको साफ करके

देश में समाजवाद को लाओ । जो कानून की बारीकियां हैं उनमें भोली भाली जनता को फंसा कर अपने स्वार्थ को पूरा करने की चेष्टा मत करो । आज इस कानून के जंगल में इतने अनुच्छेद हैं । आज इसमें सी० आइ० पी०, सी० आर० पी० सी०, ये तमाम लागू हैं । विधान भी बन गया फिर भी किस न्यायपालिका ने कहा कि इस संविधान की तह में इंडियन पीनल कोड को तबदील मत करो । किस संविधान ने कहा था कि सी० आर० पी० सी० को तब-दील मत करो । किस न्यायपालिका ने कहा कि 110, 117, 109 और 101 इनकी दफाओं को कायम रखो । किस न्यायपालिका ने कहा कि धारा 144 को बर,वर लागू रखो ।

आज सब पर सरकारी पद का भूत हावी है। मैं यहां पर गांधी जी का एक वाक्य कहना चाहता हं । उन्होंने कहा था "लैयट अस सिट लाइट नौट टाइट ।" आज यह लॉनग नहीं है, आज यह सीख नहीं है। आज मंत्री पदों पर आसीन रहने के लिये बडे बडे पाप और बड़े बड़े कुकर्म खुद भी कर रहे हैं और प्रधान मंत्री की तरफ से करने को उकसाये जा रहे हैं। इस-लिए मैं जरूर इस निश्चित मत का हं कि संवि-धान निर्माती परिषद बने और बनकर ऐसे विधान की रचना करे जिससे हमारे सम्पूर्ण राष्ट्र में समानता आ जाय, जिससे हमारे सम्पूर्ण राष्ट्र में नागरिक नागरिक के अन्दर भेदभाव मिटे, जिससे हमारे सम्पूर्ण राष्ट में हिन्द, मसल-मान, बनियां, चमार, भंगी के बीच जो भेदभाव है वह सब मिट जाय हमारे देश में नर नारी के वीच में जो भेदभाव है वह भी मिट जाय और इसलिये ऐसी संविधान सभा बने ।

पूंजीपति, मालिक और मजदूरों के बीच में जो भेदभाव है वह मिटे । जमींदार, किसान और दूसरे वर्गों के बीच का भेदभाव मिटे । उपनिवेशवाद का नाश हो और तब जाकर काम होगा और इस तरह के संविधान बनाने की आज हमें आवश्यकता है । हम चाहते [श्री राजनारायण]

हैं कि गीझातिगीझ, तत्काल, फीरन और अबि-लम्ब नव निर्माती संविधान परिषद बने जो रंग भेद को मिटाने का दर्शन दुनिया को दे। चमडी पर रची जो रंगों पर भेद खेला जा रहा है, उस भेद को मिटाने के लिए संविधान की रचना की जाय तब जाकर काम होगा वरना केवल तिकड़मबाजी रह जायेगी । फिर खड़े होकर मिर्घा साहब की तरह चार लात मार वी । मैं समझता हं कि अगर जरूरत पड़ी तो न्यायपालिका को मार दी और फिर कभी जरू-रत पही तो सरकार पालिका को मार दी। इस तरह से काम नहीं बनता है । जो सोचो वहीं कहो । जो कही वहीं करो । सोच, कह और कर, जब तक इन तीनों का तारतम्य नहीं होगा तबतक समाज थतन की गतें में तीव गति से चलता ही जायेगा ।

इन जब्दों के साथ श्री मुनिस्वामी ढारा प्रस्तुत प्रस्ताव जो पेश किया गया है नव निर्मावी परिषद की रचना के संबंध में, मैं उसका समर्थन करता हूं । इसमें जो डिटेल्स हैं, उनमें से कुछ के बारे में मैं सहमत नहीं हूं । थोडा सा मैंने कह दिया है और फिर मैं आप से छुट्टी लेकर इस समय जाना चाहता हूं ।

SHRI R. T. PARTHASARATHY: Mr.

Vice Chairman, it is my painful duty to differ from the Mover of the Resolution, Mr. Muniswamy, as it is equally my painful duty to differ from the expressions and ideas of the hon. Mr. Ram Niwas Mirdha, who spoke from behind the Treasury Benches. The Resolution as put forward before the House by the hon. Mr. Muniswamy is, according to me, historically unwise, constitutionally unsound and politically dangerous. I do not propose to go into the various details put forth by the Mover of the Resolution. As a matter of fact, as mentioned by Mr. Ram Niwas Mirdha and Mr. Rajnarain, I propose to take the broad concept of the Constituent Assembly to empiasise the fact that tie Constituent Assembly 01' India which gave to us a Republican Constitution has done its job exceedingly well and according to me, no better Constitution can be found, and it has been acknowledged by almost all the greatest constitutional experts

of the world. There can be no doubt about it. And 1 would like to take this opportunity of paying my humble tribute, however, humble it might be, to the framers and founders of our Constitution.

Sir, a little while ago, I said that I would like to deal with the broad concept of the entire issue of the Constituent Assembly. My learned friend, sitting on my own bench, put forth the demand that a new Constituent Assembly should be convened to work out another Constitution, if not wholly, but at least in the five parts which he has enunciated in his Resolution. May I take your mind and also the minds of the hon. Members of this hon. House to the case of France ? In a space of three hundred years, France constituted five Constituent Assemblies and one by one, from the First Republic to the Fifth Republic, it changed its Constitution every time, and there was no stability in the political field in France as a result of it. Take the case of Germany also. There was the first Reich and the second and on to the fifth Reich, and five constitutions were framed by the different Constituent Assemblies and with what result? We all know how the last one was over-run by Hitler and his men, and even there, how Germany suffered, if not through three hundred years, but in a much shorter, time-it may be 150 or 180 years.

Sir, the success of a Constitution very much depended upon the foundations laid down by the Constitution-makers. May I also invite your attention that the American Constitution even today is functioning as well as any other Constitution in the democratic world? People might complain that there had to be 23 amendments. And my learned friend, Mr. Ram Niwas Mirdha, substantiated the case that in every case a ceitain amendment was formulated out of necessity as the Supreme Court set aside a particular piece of legislation. And it was in the course of thinking that we found that we could make suitable amendments considering the political situation provided we did not basically affect or endanger the basic principles of the Constitution or the policy that the Constitution envisaged.

So, Sir, I say that there is no case which the hon. Mover of the Resolution has made for bringing into existence another Constituent Assembly. And if we had the powers—and I feel that we have

### no powers under the Constitution to con vene a new Const tuent Assembly-to bring forward one, w< aid it give a Constitution that is acceptabl to India? Will it be a better one tha the one under which we are now working ! 1 have my own doubts and I am sm : many of the eminent constitutional e> >ei ts would agree with me when I say tha it would be impossible to produce funda nentally a better Constitution than tht one which we have given unto ourselves a >.d which we have worked right through 20 years. There is another aspect of the v\* 10 e question. Would it also be possible that we will stick to the democratic pre; nble, to the democratic principles of tie Constitution ? If we have the power o elect a new Constituent Assembly. . . the e is also the possibility that a Constitut n > based on dictatorship might come in to vi ich I would never subscribe, come wh< may. I would oppose it from whichev! q uirter. it might come because I am wedded to democracy. That is why a evt Constituent Assembly should never be hought of. I would only invite your fatten k>a to a famous sentence by that great ma ., whom we all call the Father of the C institution, Dr. B. R. Ambedkar. I ai c nly reading from an extract from Di Ambedkar's speech on the Draft Consti ution in the Constituent Assembly on No ember 4, 1948. Moving the Resolution, ie said :

"I feel that th C mstitution is workable, it is flexible ai I it is strong enough to hold the count y together both in peace time and in w; r time. Indeed, if I may say so, if thin rs go wrong under the new Constitut m. the reason will not be that we had a bad Constitution. What we will have to say is that Man was vile".

That goes a Ion ; way to substantiate my point.

I agree that certain changes have to be effected in 01 r Constitution. I entirely agree with sor e of the Members, including the mov ;r, that there are certain things which sh wild be thought of that would not basii ally change the Constitution but wo k out the Constitution, bringing forwarc certain legislations and certain amendi ients to align ourselves with the progre nve trend in the country. I do not objec to that. All that we shou'd do should be within the four corners of the Constitution. Let us put the question to ourselves. Have we utilised the various

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clauses and articles in the Constitution to the best of our knowledge as to how and what the Constitution-makers intended those articles to be? May I invite your attention to article 208(2) which is more abused today by the Government than any other article ? This is with reference to the financial grants to the States. I would also invite your attention to the Finance Commission's report. The Finance Commission was headed by the former Chief Justice of Madras, Mr. P.V. Rajamannar, in 1964. This is what he says in one sentence :

"We have not invoked the powers of the Constitution as per the intentions of the makers."

What better authority can I quote to substantiate that we have not worked the Constitution as it was intended to be ? There is so much of room within the four corners of the Constitution. We can bring forward amendments to suit the circumstances and yet we can successfully work out the Constitution.

Sir, the trouble here is with reference to the emergency powers. There is some fight between the States and the Centre. But let us remember one thing, that the sovereignty of the people is inalienable and indivisible, and if we accept that theory, and I am sure nobody can deny it that it is the sovereignty of the people of India that cannot be nullified. If that is so, all the States do not share that particular responsibility or the powers of a sovereign body. If at all in a restricted way, from the Constitution, power devolves from the people to this Parliament of India, to the Council of States, to the House of the People, and to nobody else. That is why the Constitution-makers have definitely given certain powers to the States so that uninterruptedly they can work out the power. But when they tried to work out the power, not in consonance with the Constitution but, I regret, all the time defying the Centre, defying the sovereign powers of the Union of India, then the trouble arose. So the Constitution-makers very rightly gave us five or six clauses, that is, under the emergency powers under articles 352 to 356, with one article in between having gone obsolete.

I would like to basically emphasise that the Constitution, as we have today, may be federal in structure but it is unitary in essence, in spirit, in war, in famine and in emergency. It is all to safeguard the

[Shri R. T. Parthasarathy] national interest, to safeguard the national unity and integrity. It is our prime duty that we should invoke the provisions and the powers of the Constitution to protect the national interest. We have not done it and when we have failed to invoke the provisions of the Constitution, what is the use of finding fault with the Constitution ? I personally feel, Sir, that the time has come when a high power Committee of Constitutional experts should be summoned by the two Houses of Parliament. It should be a very small body. They must be asked to sit, and they can even record evidence of Members of both the Houses of Parliament, Jurists and lawyers among others people in other walks of life and find out what are the loopholes in the Constitution, how we can plug those loopholes within the four corners of the Constitution or make effective changes in the Constitution and ultimately deliver the goods to the people of India. If an expert Constitution Committee could be formed, I am sure it will, in essence and in purpose, satisfy all the requirements which my friend, the mover of the Resolution wanted us to do this tfternoon.

Sir, as I was dealii.g with the emergency provisions, I was saying that the prime factor should be to protect national sovereignty and also the intergity of the whole nation. Here again, I would like to emphasise, not in my own words but in the words of that great man, Dr. B. R. Ambedkar, in a few-sentences to substantiate my argument that we have failed miserably in standing by India, in standing by the nation; we have been only encouraging parochialism, regionalism and the like. In the course of the Third Reading of the Constitution on the 17-11-49 he said:

"The solution of this problem depends upon one's answer to this question which is thf crux of the problem. There can be no doubt that in the opinion of the vast majority of the people, the residual loyalty of the citizen in an emergency must be to the Centre and not to the constituent States. For it is only the Centre which can work for a common end and for the general interests of the country as a whole. Herein lies the justification for giving to the Centre certain overriding powers to be used in an emergency. And, after all. what is the obligation imposed upon the constituent States by these emergency powers? No more

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than this—that in an emergency, they should take into consideration alongside their own local interests, the opinions and interests of the nation as a whole. Only those who have not understood the problem, can complain against it."

Today that is the crux of the whole problem. Wherever we have failed we tried to put the blame squarely and roundly upon others' shoulders. What is required is a little selfintrospection. We will have to share that blame, every one of us, irrespective of party affiliation. In this I would make an appeal that unless and until and in the interests of the nation as a whole we make the Centre a very strong unit with the States as subordinate bodies, we shall not be going forward. I am very confident and firm in my belief that there is no question of partnership between the States and the Centre. That the Centre has superior authority can never, and must never be questioned. If India is to live, I would like to emphasise that this Resolution will be politically dangerous if accepted by this honourable House, and I appeal to you and the hon'ble Members that this Resolution will have to be turned down. Thank vou.

श्री लाल आडवाणी : उपसभाध्यक्ष जो, श्री मनिस्वामी जी ने जिस बात से प्रेरित हो कर यह प्रस्ताव रखा है, मैं उसका समर्थन करते हुए भी उन्होंने जो उपचार बताया है उससे सहमत नहीं हूं । उनकी पष्ठभूमि यह है-जैसा उन्होंने अपने भाषण में जिक भी किया-कि गत 20 वर्षों में 1950 से लेकर 1970 तक 23 संशोधन संविधान में हो चुके हैं । यह संशोधन बारबार करने के बजाय हम फिर से एक बार संविधान की ओर देखें और उसमें जो जो संशोधन आवश्यक हों उनको करें, इसी आशय से उन्होंने यह सुझाव दिया है कि संविधान सभा बुलाई जाय । मेरा इतना ही निवदन है कि संविधान सभा बलाने की अ।वश्यकता तब होती जब बह स्वयं पहले पहल इस बात को मानते कि आज का संविधान मौलिक रूप से अशद है, मौलिक रूप से गलत है, बुनियादी तौर पर उसको बदलने की जरूरत है। ऐसा कोई केस उनका होता तो णायद संविधान सभा का जो उपचार उन्होंने बताया है उसकी आवश्यकता

स्वीकार की जा सलती थी। लेकिन यह तो। उन्होंने स्वयं भी नहीं कहा । आज का जो हमाराँ संविधान है उसमें मौलिक रूप से परिवर्तन करने की आवश्यकता नहीं है, कम से कम उसके सार में परिवर्तन करने की आवश्यकता नहीं है। हमारी पार्टी वह अवश्य मानती है कि संविधान का जो ढांच। है, इसका जो रूप है वह अधिक उपयुक्त होता, अधिक लाभकारक होता देश की एकता के लिए अगर वह एकात्मक होता । लेकिन संविधान के सार में परिवर्तन के हम पक्षपाती नहीं । अभी हमारे पूर्व वक्ता बोल रहे थे कि संविधान निर्माताओं में संविधान बनाते समय संविधान को सार रूप में एकात्मक रखा है । यह सही है In essence and in content this Constitution is unitary. उसका केवल स्वरूप फेडरल है, नामनक्लेचर फेडरल है। केन्द्र को यशियन कहा गया है, और प्रान्तों को स्टेट्स । अगर उसके नामनक्लेचर को बदलकर, युनियन की जगह सेंट्ल गवर्नमेंट और स्टेट गवर्नमेंट 👘 जगह प्राविशियल गवर्न-मेंट कर दिया जाय और बाकी कोई परिवर्तन न भी किया जाय, तो भी उसमें बहुत लाभ होगा। संभवतः इस विषय पर आगे कभी हम लोग विस्तार से चर्चा कर सकते हैं। इस अवसर पर इतना ही कहना चाहंगा कि केवल नामनक्लेचर बदलने से ही बहुत बड़ा परिवर्तन हो सकता है। और बहत बढा योगदान हो सकता है देश की एकता को मज़बत करने में।

इस प्रस्ताव पर जब मैं आपका भाषण सून रहा या तो मुझे आश्वर्य हुआ, कुछ दु:ख भी हुआ । आपकी भाष। बहत सौम्य थी, बहत मधर थी, और वह कई लोगों को कन्विसिंग लग सकती है, लेकिन उससे निष्कर्ष यही निकलता था कि गत 20 वर्षों में अगर कोई दोष दिखाई दिए हैं संविधान के कार्यान्वयन में, काम करने में, तो उसका दायिता केवल पुर्णतः न्यायपालिका पर है। राज्यतंत्र के जो तीन विभाग हैं-न्यायपालिका, कार्यप लिका और विधान पालिका, में समझता हं कि इन तीनों में से सबसे अधिक

प्रभावी रूप से, सबसे अधिक उत्कृष्ट रूप से अगर किसी ने अपने कत्त्वय का पालन किया है न्यायपालिका ने किया है। वैसे सब में तो थोडी थोडी कमी रही होगी । आज अगर संवि-धान के कार्यान्वयन में कमियां हैं तो उसके लिए सम्पूर्ण समाज दोषी है । यह तीनों अंग दोषी होंगे । लेकिन उसमें अगर कम से कम दोष किसी पर डाला जा सकता है तो न्याय-पालिका पर डाला जा सकता है और अधिक से अधिक दोष डाला जा सकता है तो कार्य-पालिका पर डाला जा सकता है । अत्यन्त खेद की बात है कि इस कम को बदलकर यह कहा जा रहा है कि सब से ज्यादा दोष न्यायपालिका का है जिसने बराबर संविधान का इन्टरप्रिटेशन, संविधान का भाष्य इस प्रकार किया है कि जिसके कारण देश की प्रगति में बाधा हई है और इस कारण न्यायपालिका को बदलना पड़गा। मुझे इस कारण भी खेद होता है एक प्रकार का कैम्पेन छेड़ दिया गया है। लगातार इस तरह की बातें हो रही हैं। कोई मौका आये, और उस मौके का न्यायपालिका पर अटैक करने. उस पर आकमण करने और उसके दोष निकालने में उपयोग किया जा रहा है। मुझे नहीं लगता कि जो लोग न्यायपालिका में दोष निकालते हैं उनको इस बात का आभास होता है कि न्याय-पालिका में इस प्रकार से दोष निकालने का लाभ उन लोगों को ही होता है जो मलरूप से संविधान से असहमत हैं और संविधान को तोडना चाहते हैं।

में पिछले दिनों एक सम्पादकीय पढ रहा था अंग्रेजी पविका 'मेंनस्टीम' का सम्पादकीय था. और उसमें इस बात पर आपत्ति की गई थी कि जजों पर आक्रमण क्यों किया जा रहा है । जुडिशियरी पर इतना आघात क्यों किया जा रहा है। पत्निका ने कहा कि ऐसा करने वाले यह क्यों नहीं समझते कि जब तक हमारा यहा संविधान रहेगा तब तक जजेज को यही इन्टर-प्रिटेशन देना होगा जो उन्होंने पहले भी दिया है। अर्थात्, दोष अगर निकालना है तो, [श्री लाल आडवाणी]

उन्होंने कहा कि रिएक्शनियरी और कंजर-बेटिव डा० अम्बेडकर जैसे लोगों, जिन्होंने उसको बनाया, उनको निकालना चाहिए । जब डा० अम्बेडकर जैसे रिएक्शनियरी और प्रतिक्रियावादी लोगों ने इस कांस्टीट्चूणन को बनाया है तो अगर उसका इन्टरप्रिटेशन प्रगति-शील नहीं है तो इसमें न्यायपा(लक) का क्या दोष है। इस युक्ति को पड़कर मेरा मन पुष्ट हआ (क न्यायपा(लिका पर जो लोग आक्रमण कर रहे हैं, और जायद उनमें आप भी हैं, इस बात को समझ नहीं पा रहे कि न्यायपालिका की प्रसिष्टा को कम करने का लाभ उन लोगों को ही होता है जो इस संविधान को मूल रूप से नष्ट करना चाहते हैं और जिनमें से कुछ स्पष्ट रूप से भी घोषणा करते हैं कि हम विधान मंडल में इसलिए जा रहे हैं कि हमें संविधान को नष्ट करना है। "...in order to wreck the

SHRI BANKA BEHARY DAS (Orissa): Does the honourable Member say that the Constitution remains the same even if the interpretation of it ...

### (Interruptions)

### SHRI LAL K. ADVANI: I do not.

SHRI BANKA BEHARY DAS: You see, from the beginning of the Constitution till the Golaknath case the interpretation given by the Supreme Court was always that Fundamental Rights can be amended by an amendment of the Constitution. But the same Supreme Court one fine morning now interprets the same Constitution by saying that Fundamental Rights cannot be amended. So it will be wrong to say the Constitution remains the same, whatever be its interpretation.

# SHRI LAL K. ADVANI: I do not

say that. I say, आज से पूर्व, गोलकनाय केस के पूर्व जितने सारे जजमेंट थे उन्होंने किसी में यह नहीं कहा कि यह संसद् मौलिक अधिकारों को बदल नहीं सकती । किसी ने नहीं कहा । इस जजमेंट में कहा है । आग चल कर दूसरा सुप्रीम कोर्ट आ सकता है जो सम्मव है इसको भी बदल दे । कोई आग्च्य

की बात न होगी । लेकिन मेरा निवेदन यह है कि

SHRI BANKA BEHARI DAS: Then the interpretation becomes subjective, not objective.

SHRI LAL K. ADVANI: My humble submission is that it is wrong to attack the judiciary as a whole . . .

SHRI BANKA BHARY DAS: I am only showing you how the judiciary can give contradicting interpretations of the Constitution.

SHRI LAL K. ADVANI: That is entirely true . . .

SHRI K. CHANDRASEKHARAN: The honourable Vice-Chairman, while he was speaking, did not condemn the judiciary as a whole. He only said that if a different mode of appointment to the judgeship had been there, a different approach to the decision could have been there.

SHRI LAL K. ADVANI: No, he did not use the word "condemn"- He did not use strong language, any strong word, in his entire speech.

और इसीलिए मैंने कहा कि उन्होंने बड़ी सौम्य भाषा का प्रयोग करते हुए भी निष्कर्ष यह निकाला कि संविधान की वर्किंग में अगर कोई जपराधी है तो वह न्यायपालिका है । उन्होंने कहा कि न्यायपालिका के जितने सारे भाष्य हुए हैं, इस संविधान के जितने इन्टर-प्रिटेशन हुए हैं वे प्रगति में बाधका रहें हैं । That was the only point that he made out during his twenty-minute speech.

मेरा इससे विनम्न किन्तु तीव मतभेद है । मैं आग्रह पूर्वक कहना चाहूंगा कि इस प्रकार के तकों से जुडिशियरी की जो प्रतिष्ठा कम होती है उसके परिणामस्वरूप इस संविधान की भी प्रतिष्ठा कम होती है । मैंने इसीलिए अपने संगोधन में जो बात अभी श्री पार्थंसारथी जी कह रहे थे उसको लाने का प्रयत्न किया है । मैंने कहा है कि कांस्टीट्येन्ट असेम्बली की बात तभी उचित होगी जब हम मूल रूप से संविधान को अनु-चेत मानते हो और मल रूप से उसको बदलने

की बात सोचें। जम्युनिस्ट पार्टी के लोग यह बात करते हैं, क्योंकि वे संविधान को सर्वथा गलत मानते हैं। उनके अनुसार संविधान बुर्जुआ है, कैपिटलिस्टिक है। ढांचे की बात हम ने भी कही हैं कि संविधान का ढांचा एकात्मक होनां चाहिए, यनिटरी गवनैमेंट होना चाहिए । किन्तु संविधान का कन्टेक्स्ट आज भी यनिटरी है। यह संविधान सार तत्वों में एकात्मक है और यदि उसकी इस भावना को, इस सार को, कम करने का प्रयास होगा तो उसका हमको विरोध करना चाहिए । उसका मुकाबला होना चाहिए, सामना होना चाहिए, संविधान की इस भावना को कम नहीं होने देना च। हिए । कुछ लोग कहते हैं कि आल इंडिया सविसेज खत्म होनी चाहिएं । हम समझते हैं कि आल इंडिया सर्वि-सेज को मजबत क ना च। हिए । उन्हें और भी व्यापक करना चाहिये। इसके बारे में कई आयोग, जैसे एस॰ आर॰ सी॰, पहले भी सुझाव दे चुके 10

अपने संशोधन में मैंने क[मशन की बात कही है. 'कमिशन आन दि कांस्टीट्घुशन' । वह कमि-शन जिस वक्त बैठेगा तो वह एडहाक प्रेशर्स के अन्तर्गत काम नहीं करेगा । आपने सही कहा कि बहत सारे संशोधन इस कारण करने पडते - हैं कि कोर्ट के कुछ निर्णय हुये जिन निर्णयों के बारे में संसद को लगा कि ये निर्णय तो संविधान की भावना के अनुरूप नहीं है, या यह संसद जो कुछ करना चाहती है, जो कुछ देश में परि-वर्तन लाना चाहती है, उसके अनरूप नहीं है। जैसे कि लैंड रिफामेस की बात थी। लैंड रिफा-मेंस करते हुए हमने कोई कानून बनाया और अगर सुप्रीम कोर्ट या हाई कोर्ट उसको अवैध कर दे तो फिर लैंड रिफार्मंस की भावना को व्यक्त करने के लिये, उसको कार्यान्वित करने के लिये हमें संशोधन करना पड़े तो मुझे कोई आपत्ति नहीं है। आखिर तो हमने जो लैंड रिफार्मन के लिये अपना संकल्प किया वह भी

#### 190 convening of a new Constituent Assembly

समय मैंने यह 'कमिशन आन दि कांस्टीट्युशन' का संशोधन दिया तो कमिशन के लिए मैंने तीन मानदंड सुझाय हैं। सब से पहले मैंने कहा कि उसको देश की एकता और अखंडता को पुष्ट करने और देश के जो जनतांत्रिक, लोक-तंत्रीय मूल्य हैं, उनको सम्पुष्ट करने के लिये कोई रास्ता निकालना चाहिये । इस सम्बन्ध में जहां तक हमारा अपना सुझाव है, मैं सम-झता हूं कि अगर संविधान के एकात्मक सार के साथ उसका ढांचा भी एकात्मक हो जाय, संघा-त्मक के स्थान पर, तो उससे एकता और अखंडता मजबूत होगी, और उससे डेमोकेटिक वैल्यूज भी सम्पूष्ट होंगे ।

दूसरी वात जो मैंने कहो और जिस पर मैं आग्रह करूंगा वह यह कि जितने हमारे संवि धान के निर्देशक सिद्धांत हैं, उन सिद्धांतों को कार्यान्वित करने के लिये यह कमिशन सोचे । Directive Principles are not justifiable Fundamental Rights are justifiable. इनमें कभी परस्पर विरोध भी होता है। कभी कभी जो चीज संसद् करना चाहता है, जनता के प्रतिनिधि करना चाहते हैं वह कर नहीं पाते । यह बाधा आती है । यह सोचने की बात अवश्य है कि अब उस बाधा को किस तरह से दूर किया जाय? नारों के आधार पर नहीं वरन सुविचारित रूप से बैठ कर उस पर सोंचें ।

मुझे इसमें कोई आपत्ति नहीं है कि नाथ पाई साहब का जो बिल है वह आये, अगर नाथ पाई साहब के बिल में कोई ऐसा घारा जोड़ दी जाय जिसके कारण यदि] हम मौलिक अधि-कारों में परिवर्तन करना चाहें तो मौलिक अधि-कारों में वह परिवर्तन रेफरेंडम के आधार पर हो सके । ऐसी कोई व्यवस्था हो जाय तो व्यक्तिगत रूप से उसमें मुझे कोई आपत्ति नहीं होगी । इसी प्रकार का कोई सुझाव यह कमिशन सोच सकता है क्योंकि आखिर यह समस्या सच-तो संविधान में से निकलता है, डाइरेक्टिव मुच विचारणीय है कि डाइरेक्टिव प्रिसिपिल्<sub>स</sub> प्रिंसिपिल्स में से निकलता है । इसीलिये जिस कैसे कार्यान्वित करें । डाइरेक्टिव प्रिंसिपिल्म

# श्री लाल आडवाणी

को उठा कर हम देखें, 36 से ले कर 51 अनु-च्छेदों को मैं गिनाने लगूं और एक एक के बारे में बताऊं, तो स्पष्ट हो जायगा कि इनके बारे में हमने कुछ नहीं किया है, देश की प्रगति उस दिशा में बहत कम हई है। उदाहरणार्थ, हमने कहा है कि 10 साल के अन्दर प्राथमिक शिक्षा को, एलिमेंटरी एजुकेशन को, सब लोगों तक पहंचायेंगे, फार जाल चिल्ड्रेन अपटु दि एज आफ फोटींन । मगर कुछ दिन पहले मैं समाचार पढ रहा था, प्लानिंग कमिशन का एक पैनेल था उसका समाचार था जिस मे उसने अंदाजा लगाया है कि चार स्टेटस में, उत्तर प्रदेश, बिहार, मध्य प्रदेश और एक कोई और स्टेट में, इन चार स्टेटस में यह जो निर्देशांक सिद्धांत वह 2020 तक कार्यान्वित नहीं हो सकते है, 2020 ए० डी० तक वह निदेश कार्यान्वित हो सकेगा जिसके लिये संविधान ने कहा कि 1960 तक, 10 साल के अन्दर, होना चाहिये । उसी प्रकार से बाकी और निर्देशक सिद्धांत प्रोहिबिज्ञन का है, गोरक्षण का है और प्रत्येक आदमी को काम दिलाने का है। although right to work is not a Fundamental Right in our Constitution, it is certainly indicated in so many words in the Directive Principals. हमारी संविधान निर्मात्री परिषद् ने जो निर्दे-शक सिद्धांत बनाये हैं उनको कैसे कार्यान्वित किया जा सकता है इस बात की अवश्य ही चिन्ता करने की आवश्यकता है और मैं समझता हं कि इस प्रकार का जो कोई एक्सपर्ट आयोग होगा तो वह एक्सपर्ट आयोग इस वारे में सोच कर के कोई अच्छा तरीका निकाल सकता है। यह जो पोलिटिकल रैंगलिग्स चल रही है, स्लोगंस की होड़ चल रही है, इस नारेवाजी के दायरे से दूर हो कर यह कमिशन उसमें से अच्छी बात निकालेगा ।

तीसरी बात जो मैंने जोड़ी है वह यह है कि हमने लोकतंत्र को स्वीकार किया है लेकिन जो लोकतंत्री संस्थायें हैं, जिस रूप में आज हमने इनको स्वीकार किया है, उस सम्बन्ध

हआ है उस वीस साल के प्रयोग से प्राप्त अनुभव के आधार पर हम इस बारे में भी चिन्तन कर सकते हैं कि इन संस्थाओं में, इन डेमोकेटिक इंस्टीट्चुशंस में अधिक स्टैबिलिटी कैसे लाई जा सकती है ।

सन् 1967 तक ऐसी कोई समस्या नही थी । 1967 तक यहां युनी-पार्टी पालिटिक्स थी, एकदलीय राजनोति थीं। लेकिन 1967 के TTT are we have come into the phase of multi-party politics. एकदलीय राजनीति से निकल कर के हम सीधे ही बहदलीय राज-नीति में प्रविष्ट कर चुके हैं, 1967 के बाद इसके कारण जो अस्थिरता आई उसका सब को जनुभव हुआ है। 1969 में यह अस्थिरता विशेष रूप से अधिक हो गई। 1969 की बात में इसलिये कर रहा हं कि दलीय राज-नीति में स्थिरता रखने का जो सब से बडा अधिष्ठान है वह है पार्टी डिसिपलिन, और दलीय अनुकासन पर जो भी आघात करेगा जो भी प्रहार करेगा वह एक प्रकार से डेमोकेटिक इंस्टीट्युशंस की स्टैबिलिटी पर प्रहार करता हैं। प्रेसिडेंशल इलेक्शन को लेकर राष्ट्रपति के चुनाव को ले कर जो इस पर आघात हआ। है, दलीय अनुशासन के अधिष्ठान पर जो आचात हआ है वह लगातार बढ़ता गया है और आज शायद दो तीन दल ही हैं जिसमें हमारा जनसंघ भी है जो कि इस प्रहार से कुछ अछते रहे हैं। इससे हमें भी बहुत चिन्ता होती है । यह सब के लिये चिन्ता की बात है। हमें कोई इस वात से संतोष नहीं होता है अगर कांग्रेस पार्टी में कास-वोटिंग होती है, या कांग्रेस पार्टी से षिफेक्ट कर के लोग इघर उधर जाते हैं। मैं समझता हूं कि जो भी जनतंत्रीय संस्थाओं को उन्नति चाहते हैं, जो हिन्दुस्तान में जनतंत्र को बढ़ाना चाहते हैं, जो चाहते हैं कि हिन्दस्तान में जनतंत्र को बढ़ना चाहिये, फलना फुलना चाहिये, पल्लवित होना चाहिये, विकसित होना चाहिये, उनको कभी भी इस बात पर संतोष में कुछ करना चाहिए । 20 साल में जो प्रयोग और समाधान नहीं हो सकता, चाहे तात्कालिक रूप से कुछ थोड़ा बहुत उस दल को लाभ भी पहुंचता हो । लेकिन कुल मिला कर ये सारे जितने डिफेक्शंस हुए हैं, यह जो कास वोटिंग होती है या किसी प्रकार से अनुशासनहीनता का प्रदर्शन होता है वह हिन्दुस्तान में डेमोकेसी को कमजोर करता है, डेमोकेटिक इंस्टीट्युशंस को अस्थिर करता है, डेमोकेटिक इंस्टीट्युशंस को अस्थिर करता है क्योंकि डेमोकेटिक इंस्टी-ट्युशंस का प्रमुख आधार है पार्टी डिसिपलिन । इसी कारण से जब मैने इस आयोग की बात कही है तो मैंने यह तीसरा मानदंड, तीसरी गाइडलाइन, यह भी इसमें जोड़ दी है कि वह आयोग इस बात पर भी विचार करे कि क्या संविधान में ऐसा कुछ होना चाहिये जिसके कारण हमारी जो लोकतंत्रीय संस्थायें हैं वे अधिक स्थिर रूप से चलें ।

मैं पसंनली ऐसा सोचता हं कि आज हमारी जो चुनाव प्रणाली है, वह एक प्रकार से दलीय अनझासन को और दलीय संगठनों को मजबुत नहीं बनाती, उनको कमजोर करती है । इस कारण मेरा मत है कि चुनाव प्रणाली के बारे में भी आमलचल परिवर्तन लाने के बारे में विचार करें और इस प्रकार की योजना स्वीकार करें जिसके द्वारा कि दलीय संगठन मजब्त हो, दलीय अनुशासन मजबूत हो । ऐसा करने से कुल मिला कर देश के अन्दर लोकतंत्र को बल मिलेगा। पिछले साल हमारे नेता श्री वाजपेयीजी ने लोक सभा में यह सुझाव दिया था कि जिस प्रकार ते इंगलैंड में स्पीकर्स कांफ्रेंस हआ करती है और उस स्पीकर्स कांफ्रेंस का प्रमुख कार्य यह होता है कि समय समय पर इसेक्टोरल रिफार्मस के बारे में चिन्तंन करें वैसा ही एक समवाब, कोई संगठन, कोई इंस्टी-टचशन, कोई निकाय हिन्दुस्तान में भी निर्माण किया जाय और लोक सभा के अध्यक्ष की अध्य-क्षता में वह कार्य करे। उस समय जो विधि भंत्री थे, श्री गोबिन्द मेनन, उन्होंने उसको स्वीकार किया । मैंने वह सारी कार्यवाही पढी है । और उन्होंने बिल्कूल स्पष्ट रूप से स्वीकार

है, उचित है, उत्तम है और हम स्पीकर की अध्यक्षता में इस प्रकार का कोई निकाय बनायेंगे । यह बात गत मार्च की है । पिछले वजट अधिवेशन में उन्होंने यह स्वीकार किया था। उसको एक साल हो गया है और इस साल भर में मैंने देखा कि इस बात पर वहां पर इस विषय पर प्रक्र भी हये हैं और एक आध घंटे की चर्चाभी हुई है। इन बाद की चर्चाओं को पढ़कर मुझे यह आभास हुआ। कि वहां मार्च में जो आश्वासन दिया गया था, उस आश्वासन में से बैंक आऊट करने का प्रयत्न चल रहा है। उन्होंने कहा कि चीफ इलेक्शन कमिशनर ने कुछ सुझाव दिये हैं, जो संसद सदस्यों के सामने आएंगे और फिर सेलेक्ट कमेटी में विचार होगा | The Speakers' Conference that was suggested and this select committee are fundamentally different things. After all, the Select Committee can cons.der only the Bill that is placed before the House and then has a limited scope. मेरा निवेदन तो यह है कि 20 साल के अनभव के बाद, 4 आम चुनावों के अनुभव के बाद, 4 नहीं साढे 4 आम चुनावों के अनुभव के बाद, हमें आज बिल-

कुल मौलिक रूप से चुनाव पढति पर विचार करना चाहिये, कि क्या यह जो मैजारिटी सिस्टम है, सिंग्ल मेम्बर, मैजारिटी सिस्टम आफ इलेक्शन है, यह क्या हिन्दुस्तान में लोक-तंत्र को मजबूत करने में सहायक है या इसके कारण जातिवाद की बढ़ोधरी होती है, क्या इसके कारण मनो पावर बढ़ता होता है, इसके कारण सारे दोष एक्सेन्चुएट होते हैं । मेरा सुझाव यह है कि हम सूची पढति को यहां स्वीकार करें, लिस्ट सिस्टम को स्वीकार करें कि जिसमें मुख्य रूप से the elector has to choose between parties not between the castes of the individuals; he is then compelled to become a political being. Now he is essen-

क्षता में वह कार्य करे । उस समय जो विधि <sup>tially a casteist being.</sup> वह जात को देखकर भंत्री थे, श्री गोकिन्द मेनन, उन्होंने उसको बोट देगा, भाषा को देखकर वोट देता है, हिन्दु स्वीकार किया । मैंने वह सारी कार्यवाही पढ़ी है । और उन्होंने किल्कुल स्पष्ट रूप से स्वीकार सारा दृष्टिकोण मूलत: बदलना है । हमें इस किया था कि उनका यह सझाव बहत अच्छा इ**लेक्टो**रल सिस्टम के बारे में विचार करना श्वी लाल आडवाणी

है, लोकतंत्रीय इंस्टीट्च्यूशन में अधिक स्टेबि-लिटी कैसे आनी चाहिये, इस सुझाव के पीछे एक प्रमुख भाव मेरा यह था कि मैं समझता हं कि यह जो कमीशन बनेगा वह कमीशन इलेक्शन सिस्टम पर भी कुछ विचार कर सकता है।

मुझे यह पत। नहीं कि आज की यह जो डिवेट हई है वह डिवेटिंग एक्सर्साइज के अलावा कुछ और भी होने वाली है। संविधान में एक धारा की संविधान में व्यवस्था हमारे संविधान निर्मा-ताओं ने बहत सोच विचार कर की थी । उन्होंने सोचा था कि एक समय आ सकता है जब सेन्टर में एक पार्टी का राज्य होगा, बाको राज्यों में दूसरी पार्टियों का राज्य होगा, और उस समय केन्द्र और राज्यों के बीच संबंधों में तनाव आयेंगे । उन तनावों को दूर करने के लिये एक इंटर-स्टेट कौंसिल की उन्होंने व्यवस्था की । जब इस इन्टर कौंसिल की कल्पना की गई थी उस समय सब स्थानों पर कांग्रेंस पार्टी का ही बहमत था, सब स्थानों पर कांग्रेस पार्टी का ही प्रभाव था । लेकिन जब उन्होंने स्टेट्स बनाए और सेन्टर बनाया तो यह स्वाभाविक रूप से वह देख सकते थे कि एक समय जरूर आयेगा जब अलग अलग पार्टियां सब स्थानों पर आयेंगी और फिर स्ट्रेन्स उनमें होंगे और उन स्टेन्स में हर पार्टी अपने अपने एंगुल से देखेंगी । उन स्ट्रेन्स को दूर करने के लिये एक इन्टर स्टेट कौंसिल प्रेसीडेन्ट बन सकशा है, यह अधिकार उन्होंने राष्ट्रपति को दे दिया । 1967 से लेकर गये. और 3 साल में मैं समझता हं कि अनेक पक्षों से और अनेक मंचों से इस मांग को किया गया है। मझे स्वयं स्मरण है कि सभापति जी. आप एक स्थान पर थे कि जहां पर सभी पार्टियों के प्रतिनिधि उपस्थित थे, बाब जयप्रकाश नार। यण भी थे। वहां पर हमने फार्मल रूप से प्रस्ताव किया या और उसमें स्वयं जाप भी उपस्थित थे, सत्तारूढ़ दल के प्रतिनिधि के नाते से, जिसमें आदरपूर्वंक कहा गया था कि कम से

कम यह इन्टर स्टेट कौंसिल जरूर बननी चाहिये । पड़ेगा । यह जो तीसरा मानदंड इसमें सुझाय<sup>ा</sup> खेद है कि एक बहुत बढ़िया डिवाइस जो कांस्टी-ट्यू शन में दी हुई है उसका भी उपयोग हम नहीं कर रहे हैं। यह बडो आश्च्यं की बात है। The Government has not cared even to explain why this device has not been taken recourse to. मैं समझता हूं यह आवश्यक रूप से करनी चाहिये। इसके द्वारा मैं समझता हं कि विश्वेषकर 1967 के बाद जो तनाव पैदा हए हैं, सारे ढांचे में, उन तनावों को दूर करने का एक मार्ग मिल सकता है। इस छोटे से सुझाव के बाद आपको धन्यवाद देते हुए मैं अपना भाषण समाप्त करता हं ।

> SHRI A. P. CHATTERJfiE (West Bengal) : Mr. Vice-Chairman, Sir, this Resolution and also the speeches on the floor of the House as well as the different statements that we have been listening to outside the House by public bodies as well as by public men are proof of the fact that the social conditions are now outgrowing the limitations 01 the Constitution. Now it is true tht when we attained independence in 1947 we attained it of course after a tremendous struggle against the British imperialists, a tremendous struggle which simmered now, perhaps flared up again, then went underground and so on. From the first war 01 independence of 1857 onwards the independence struggle went in on the soil of India and utlimately just before the British Government was compelled to transfer power to us. We know how discontent spread once again on a larger scale on a more political level among the army and the navy and you will remember that on that occasion even the Gurkhas on whom the British Government always relied raised the banner of rebellion; the RIN at Bombay harbour raised the banner of rebellion; everywhere among the police rorces, among the naval ratings, among the soldiers, rebellion against the British Government was daily gaining ground and intensity. I have to say this bluntly that when this revolutionary movement was going on and the British Government were finding that their palace of imperialism was falling around them in bits and latters it and they were not being able to keep it together then . they naturally wanted to save whatever they could save and it is common knowledge that at that very moment when the Indian struggle

#### for independenci would haverbeen brought to its logical c inclusion, that is to say complete elimin; h n of British rule both economic and r ilitical from India, we found that ther was a deal struck between certain leaders of India and the British Govern nent and then this deal gave rise to t ie Indian Independence Act of a foreig i Parliament, namely, the British Pai iaraent. Now when this deal was struck between certain Indian leaders and the British Government for whom did thes Indian leaders work? Sir, I belong to a party which believes in nd Marxism Marxism teaches us that is we wan' to assess a situation that situation has t i be assessed on the basis of conflict of cl ss forces, the inter-relation between he class forces and that is the only stands d or criterion by which you have to assi ss a situation objectively. On the basis o this Marxist standard of class forces an< the inter-relation between class fo-;es we have to see that at the moment wl ta the Indian leaders came to a deal with the Government these In( ian leaders British were representing the na: cent Indian bourgeois of that time, I ie Indian capitalists of that time. In fi ct, even before 1947 when the second wor d war was going on the Birlas had dra' en up that notorious or famous Birla pi n. The Birlas were trying to build up tl; ir own empire and to see how tbey couli invest money in different industries, h< «v to build up industries, how to carry >ut their own schemes and enrich their rr mopoly interests. That was the famous or i 1 famous Birlas plan which was there even long before 1947 when the second w rid war going on. It was clear that whei the Indian leaders struck the deal with the Birtish Government the Indian le-.ders were talking on behalf of the monopc y interests of India who were trying t have an India free from political don nation not because they wanted to do tny good to the common-people but bei iuse they wanted to have a field in which to roam about freely so that the pe pie could be exploited, so that their inc istries could grow, so that their riches coi Id grow, so that they could do all these th igs free from the shackles of imperialisn which shackles were not only for the c moion people but also for the Indian capitalists. The Indian capitalists wai ted to put off their own shackles but they were not very eager that the shackles from the common people should go. B it when the shackles were to go from hem politically naturally

# convening of a new Constituent Assembly

the common people also became politically independent. But then when this deal was struck and when these Indian leaders did it on behalf of the Indian bourgeois one thing happened and it is this that they had a Constitution made out. You know the Constituent Assembly began its sitting in 1947 or nearabout it and it finished its deliberations in 1949-For two years or more they sat in deliberation on what should be the Constitution of India and if we look at the Constitution а little carefully and analyse it, we will find in it the imprint of the needs of the bourgeois. the needs of the Indian capitalists. That is the hallmark of the Indian Constitution. That is why we find there the mark of the Indian bourgeois, its hesitancy, its militancy also. This Constitution, while it bears, on the one hand, the mark of progressiveness, the other hand it bears the mark on of obscurantism. If you go through the Constitution and the Chapter relating to Rights, you will find that Fundamental there are laid down articles relating to liability of being detained fundamental without trial. That also has been put down in the Indian Constitution. That only shows the clay feet of the Indian bourgeois. Soon after independence they found a situation, in an themselves in which they could see imatmosphere, in mediately that it would not be possible for them to have a smooth development of capitalism as, foi example, England saw in the 19th century. They, therefore, hedged the freedoms that they gave to the people with all kinds of common restrictions. In regard to Fundamental Rights, you see articles 19 and 14. You will find that, on the one hand, certain freedoms are given, but on the other hand, the restrictions are there. Where any freedom has there is also restriction, been given, Indian bourgeois wanted a because the Constitution of that kind. They wanted a Therefore, they free field for exploitation. strangled the Indian independence movement in its infancy, when the independence movement was growing daily intensity, when there was the Royal in Indian Navy mutiny.

SHRI MAHITOSH PURAKAYAS-THA (Assam) : You were supporting the Pakistani invaders.

SHRI A. P. CHATTERJEE: I know. Sir, thmt I am provoking them, but I

# [ Shri A. P. Ghatterji, ] cannot help it. When the Royal Indian Navy raised its banner of rebellion, then Sardar Patel went to Bombay and rebuked the ratings saying: "Why are you revolting against the British Government? This is absolutely wrong on your part." That is how the Indian buourgeois and their leaders were looking at the ndian independence movement. When the Indian independence struggle was going out of their clutches, when the Indian independence struggle in its acuteness was going out of their reach and the bourgeois and their leaders felt that they could not sit on the throne in Delhi if the movement went beyond their depth, these leaders, stabbed the Indian independence movement in the back. Then: was a reaction and political independence was born in the midst of bloodshed, tears and agony which we saw in 1947 and 1948 during those days of communal riots when people killed each other like beasts. People forgot that they were human beings and they became beasts so to say in different parts of India. In this atmosphere the bourgeois leaders brought forth this Constitution and this Constitution bears the hallmark of the betrayal of the Indian people. Therefore, we find that the Indian Constitution has been, all these twenty years or more than that, an instrument of exploitation in the hands of the bourgeois, an instrument for the exploitation of the people. Now, we find, for example lamentation...

SHRI SHEEL BHADRA YAJEE (Bihar) : You supported the two-nation theory.

SHRI A. P. CHATTERJEE: Let me finish. I am coming to that. We find lamentations on the Treasury Benches that the Judges are not behaving properly. Now, I am not an apologist for the Judges, but I am submitting that the Judges are behaving in this fashion, the Constitution is behaving in this fashion, the law is be having in this fashion, because vou

yourself in your interests made the Judges like thir, made the Constitution like this and made the law like this. Therefore, the ruling class is now driven with contra dictions. They are crying out in the midst of contradictions. Are they crying foi the people of India and are they showing genuine sympathy for the masses ? No It is a cry because they are riven by contradictions and tf e contradictions are. such that they find that they are

## convening of a new 200 Constituent Assembly

between two -worlds. One is dead and the other is yet to be born. The struggle is beginning to make itself felt upon them. They are trying to get out of the crisis, but capitalism is in such a position that it can never come out of the crisis. And in this position the question of class relations has again come to the fore in 1969 and in 1970 and it will come to the fore more and more in the years to come. What is the position? The position is this that in 1947 the bourgeois betrayed the people and got their independence and got the Constitution of a prticular variety, of a particular type, but now the working class is on the march. The contradictions and the conflicts between the working-class and the bourgeois are so acute, now that the acuteness is being felt and it is being expressed.

## SHRI MAH1TOSH PRAKAYASHTA:

What was your party doing in those days? What were your party representatives doing in the Constituent Assembly ?

SHRI A. P. CHATTERJEE: Youcan see the record and see what we saidat that time. At that time ours was aunited party and our representative inthe Constituent Assembly saidat that time the that Constitutent Assemblywas a bourgeois Constitutent Assemblyand it was drafting a Constitution as wanted and in which thebourgeois thebourgeois would have the largest shareof benefit. (Time bell-rings) lam concluding-Therefore, the position has come to this. The Constitution has now become tosmall and to rigid. The different classesare now in struggle. I am not here togive a solution in the way in which Mr.Muniswamy has done. Mr. Muniswamyhas again given a solution in a waywhich shows that he wants to save thebourgeois, which is on the way out. This Resolution itself is only an evidenceof the desparate situation in which asection of the bourgeois finds itself today. Therefore, our suggestion is this. As faras the Constitution is concerned, we havesaid every time and always that this is a Constitution which is a capitalistoriented

,  $_{\rm p}$  M one. It is meant to serve the capitalist. This Constitution of course is on theway out, but not on the way out through aresolution, not on the way out through nConstituent Assembly which will beanothej fake Constituent Assembly like that which sat from 1948 to I.1950-A

real Constitute: it Assembly is required and that real Constituent Assembly can come only I n the crest of a wave of popular revolutio i. Of course that popular revolution is ct ning. The steps of that revolution can >e heard perhaps even in the aircondition- d chambers of Rajya Sabha. That is /hy my friends here are so restive and I stless. But the steps are being heard anc: on the crest of that revolution a ree Constituent Assembly or the toilers aril the people will arise, and that Cons ituent Assemby will give a real d mocratic Constitution, a Constitution by virtue of which the people will hav< their gains, will retain their gains, and .vill know how to advance forward to the goal of welfare for all, benefit for all.

# ANNOUNCEM INT RE ALLOCATION OF TIME FO I GOVERNMENT LE-GISLATIVE \ND OTHER BUSINESS

THE VIC 5-CHAIRMAN (SHRI RAM NIWAS MIRDHA): I have to inform Membei I that the Business Advisory Committee at i s meeting held today recommended allt cation of time for Government Legislat ve and other business as follows:—

	Business	Time allotted	1
(1)	Consideration and return of the Appropriatio (No. 2) Bill, 1970	on	

(2) Consideration and return of the Finance Bill, 1970 . 2 days
(3) The Architects Bill, 1968, as reported by the Joint Committee
(4) Discussion on the present international situation and the policy of the Go- vernment of India in rela- tion thereto 1 day
(5) The Indian Medicine and Homocopathy Cen- tral Council Bill, 1968,

allocation of time

Business

tral Council Bill, 1968, as reported by the Joint Committee . . . 3 hours.

The Committee also recommended that the House should sit every day til<sup>1</sup> 6.00 P. M.

The House stands adjourned till 11.00 A.M. on Monday.

> The House then adjourned at two minutes past five of the clock till eleven of the clock on Monday, the 4th May, 1970.

Time allotted