

religion, and the reference to Hindu religious institutions shall be construed accordingly."

What is the difficulty and why should not the word "Jaina" be omitted from here? It should be included in (a) so that they are also Hindus. Then, (a) and (b) very clearly define that Jains or Sikhs are not Hindus by religion but by themselves they are separate religions. Moreover, the discussion that we had in the House very amply reflected the views of the Members of the different Parties and different sections and in the circumstances I do feel that by circulating the Bill for eliciting public opinion it will be a good step. I have got with me letters received from several organisations including an organisation from Bombay, which has got 35 affiliated organisations. They have mentioned that this is a very welcome measure and if the hon. Minister agrees, I do feel that that it should be circulated for eliciting public opinion. No harm will be done. In a legislation of this nature, where opinions might vary and opinions might differ, it would be advisable, in the interests of having a very firm social legislation, to have this. It appears that the hon. Deputy Minister is more worried about anomalies. I personally feel that anomalies are part of life, but in this particular case, anomalies do not appear to be there at all and I do not think it is a good piece of legislation.

So far as section 10 is concerned, as I have already said earlier, after all the legal process is so cumbersome and so difficult. My hon. friend, the Deputy Law Minister, is an eminent lawyer and he has certainly tried to argue the case well, but nevertheless lawyers in the courts may not be very happy about it. With all respect to everyone here, I do believe in the sense of justice, but justice delayed is justice denied. There are a number of cases lying pending for a long time and very heavy expenses are involved. If the two relations of the two sides are present, it may

mean that the private affairs may not become much public. The expenses may be less. These two relations might be able to persuade them to have a better compromise and to have life of a peaceful nature. I, therefore, would insist that this Bill may be circulated for eliciting public opinion.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND IN THE DEPARTMENT OF SOCIAL SECURITY (SHRI R. M. HAJARNAVIS): In the meantime, will you, Madam Vice-Chairman, ask the hon. Member to send me information as to how the question has arisen and whether there is any doubt about interpretation? If there is any serious controversy which has arisen because there is some ambiguity left, we shall certainly try to correct it, if necessary.

THE VICE-CHAIRMAN (SHRI-MATI TARA RAMCHANDRA SATHE): The question is:

"That the Bill further to amend the Hindu Marriage Act, 1955, be circulated for eliciting opinion thereon by the 30th April, 1966."

The motion was negatived.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 1964 (to omit section 87B)

SHRI J. C. CHATTERJI (Uttar Pradesh): Madam Vice-Chairman, I beg to move:

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

Let me go to the Bengal Partition days, because the British Government at that time were a bit upset due to the Bengal Partition agitation and its effect on the country. It was in 1905. But the very next year the British Government instigated some Muslims, particularly the Nawab of Dacca, to start the Muslim League. It was

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done in 1906. Shortly after that, that very year, the Prince of Wales, who later became King George V of England, wrote from India to his father suggesting a Council of all the Chiefs, presided over by the Viceroy. Then

we see that soon after Minto 4 P.M. suggested to Morley a Council of Princes as a possible counterpoise to the Congress aims. The Chamber of Princes was created long after this in 1921. The Princes were irritated over the Political Department and wanted to be free from it. Politically they did not like to join the Federal Government under the Government of India Act of 1935, nor were they willing to introduce democracy in their States.

Now, if we compare the two things, the Muslim League and the Chamber of Princes, we find that the Muslim League was very, very active, but it was not so with the case of the Chamber of Princes. Why? The Muslim League was ever active, and eventually it got the Muslim homeland, Pakistan, as we all know. But the inactive Princes were wiped out after independence. The Political Department was at the root of their ruination. These who have studied this will be convinced that the Princes were inactive or they had no spirit to do anything like that only because of this fact that they were being controlled by the Political Department. They were the peasants of the Political Department in every State, and the Political Department were the masters over the Indian Princes. This the Princes did not at all like. Therefore, this gradually led to their becoming inactive, and gradually they lost everything.

But now what is the position? The Princes have vast personal properties, and over and above that they do not deserve any extra territorial right over the citizens of independent India after 26th January, 1950. The Princes were the absolute masters of their States and their properties. Other

family members could only get a maintenance allowance, and that too at the discretion of the Prince himself. This created bad blood among family members, but they were kept silent as they had no legal right to fight against this. But the new Constitution of independent India gave them new hope of placing a *prima facie* case before the court of law. But in this, section 87B of the Code of Civil Procedure stands in their way blocking all avenues because they cannot sue a Prince without the sanction of the Union Government. Article 14 of the Constitution guarantees legal equality to all the citizens of India, but section 87B of the Civil Procedure Code retains the privilege of former Princes. This distinctly goes against the notion of democracy. Therefore, my contention is that it should be amended. The Congress pledge of abolition of zamindari has been an accomplished fact after independence, and the credit goes to Sardar Vallabhbhai Patel, the then Deputy Prime Minister in charge of Home Affairs, that he succeeded in liquidating the Princes as well. These were strongholds of the foreign Government to keep the Indian masses under their subjugation. We know that the Britishers were not only foreigners but they were a quite different people coming from a great distance of something like six thousand miles. In those days it was a long, long distance in this sense that there was no development of the means of communication, and to come from England to India they took nearly six months in the beginning. Their number in India was very, very limited. That is why it was necessary for them to keep such a vast country and vast population under subjugation, to have some means, Indian means, by which the vast number of people could be kept under subjugation. That is why they encouraged these zamindars. There was the permanent right of the zamindars and the Princes.

The Princes had their rights, but when any Prince revolted against

them, he was subdued. For that even they made a Regulation which is Regulation III of 1818. Up to 1818 the British Government was not well established throughout the country and some Princes were revolting, and as a result of that that Regulation was brought into being. We know that in subsequent years the British Government used that Regulation III of 1818 against the political leaders of India. I was myself kept in jail during the First World War, from 1916 to 1920, in a Bengal jail, under Regulation III of 1818. So these were devices of the foreign rulers to keep the country under subjugation. That is why they encouraged the zemindars and the Princes. They were in great necessity of developing vested interests in order to keep their position intact so that there might not be any rising against them anywhere. I can quote in this connection the words used as regards these vested interests. They were the worst watch-dogs of British Imperialism in India". These are not my words but they were used by a big authority.

There were the zamindars and the native States presided over by the Princes with absolute powers. Independent India should be grateful to the Political Department because its activities made the Princes damp in spirit. We, Indians, should be grateful to this Political Department because they made the Princes what they were later on when they were liquidated. They made the greatest contribution by their misbehaviour with the Princes because they were kept in the States with great powers. The Princes could not do anything without their sanction. So when people get absolute power, that power is often abused and that was the case here also—the Political Department abused its power. And thereby India gained because had the Princes been very powerful, it would have been very difficult to eliminate them in this country after our independence.

The Muslim League was created and developed under British instigation and eventually it succeeded in dividing India into two countries. The Princes were also equally instigated but they were slow and lukewarm and took a long period of 15 years to form the Chamber of Princes in 1921 and again, they had neither the courage nor the initiative to join the Federation envisaged by the Government of India Act, 1935. However, they have got vast properties, as I have said already, and they are unjustly getting privileges over and above all. They do not deserve any extra territorial right over other citizens of independent India. There is a *prima facie* case that the citizen of India should have a free right to sue a prince in a court of law. Our Union Government is a democratic government, and naturally, they should not allow any privilege to any class of people over and above the general masses. Therefore there is no other alternative than to abrogate the obnoxious section 87B of the Civil Procedure Code. It is rather bad that this has continued for so many long years after our independence. We must give due respect and importance to article 14 of our Constitution which guarantees legal equality to all citizens of India. But this privilege of the former Princes is definitely against the notion of democracy and any such discriminatory procedure abridging the fundamental rights should be cut down even if there had been some agreement or understanding with them before independence. Therefore, it is my earnest appeal to our Government that this obnoxious section of the Civil Procedure Code be amended and omitted.

Now, I would place before the House some points from a judgment of the Supreme Court in which the hon Chief Justice and other four Judges had given a very serious judgment over the case. The case was a writ petition submitted by eight members of Tripura to sue the Maharaja of Tripura for their mainten-

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ance, etc. Now, my Bill has been on the basis of this judgment which was passed last year and I have placed this Bill before the House. It is a long judgment but I will not quote many things, only the essential things I would put before the House. They say on page 9:

"Before we part with this matter, however, we would like to invite the Central Government to consider seriously whether it is necessary to allow s. 87B to operate prospectively for all time. The agreements made with the Rulers of Indian States may, no doubt, have to be accepted and the assurances given to them may have to be observed. But considered broadly in the light of the basic principle of the equality before law, it seems somewhat odd that s. 87B should continue to operate for all time. For past dealings and transactions, protection may justifiably be given to Rulers of Former Indian States; but the Central Government may examine the question as to whether for transactions subsequent to the 26th of January, 1950, this protection need or should be continued. If under the Constitution all citizens are equal, it may be desirable to confine the operation of s. 87B to past transactions and not to perpetuate the anomaly of the distinction between the rest of the citizens and Rulers of former Indian States. With the passage of time the validity of historical considerations on which s. 87B is founded will wear out and the continuance of the said section in the Code of Civil Procedure may later be open to serious challenge."

They say:

"There is also another aspect of the matter to which we must refer in this connection. In considering the question as to whether sanction should be granted to a person who intends to sue a Ruler of a former Indian State, it is advisable that the

authority concerned should or ordinarily, if not as a matter of course, allow such sanction, because in the present set-up it does not appear very satisfactory that an intended action against the Ruler of a former Indian State should be stifled by refusing to grant the litigant sanction under s. 87B. Where frivolous claims are set up by intending litigants, refusal to give sanction may be justified; but where genuine disputes arise between a citizen and a Ruler of a former Indian State and these disputes, *prima facie*, appear to be triable in a court of law, it would not be fair or just that the said citizen should be prevented from inviting a court of competent jurisdiction to deal with his dispute. If the power to grant sanction is exercised in a sensible way and is not used for stifling claims which are not far fetched or frivolous, that may prevent the growth of discontent in the minds of litigants against the artificial provision prescribed by s. 87B."

They have used the word "artificial"—

"In the present proceedings, it does appear *prima facie*, that the petitioners have a genuine grievance against the Central Government's refusal to accord sanction to them to get a judicial decision on the dispute between them and respondent No. 2. That naturally is a matter for the Central Government to consider. However, since it is not possible to accede to the petitioners' argument that s. 87B is invalid, we see no alternative but to dismiss the writ petition. In the circumstances, there would be no order as to costs."

This shows how reluctantly the honourable Judges have passed this judgment.

Lastly, I would quote a paragraph from the latest report, Twenty-seventh Report, of the Law Commission which deals the Code of Civil Procedure of 1908. It is dated December, 1964. Evidently this came after

this judgment was passed by the Supreme Court. In para 53 of the Report, it is said:

"Section 87B extends to Rulers of former Indian States, in respect of institution of suits against them, the same protection that has been conferred by certain other provisions of the Code on Rulers of foreign States. The constitutional validity of this section came up for consideration in a recent decision of the Supreme Court."

Evidently this refers to this case.

"In that decision the Supreme Court, while upholding the validity of the section with reference to article 14 of the Constitution in the light of the historical considerations that to its enactment, expressed the opinion, that with the passage of time those historical considerations may lose their validity, and the continuance of this section may then become open to serious challenge. The Supreme Court has suggested, that the Central Government may examine the question whether, in respect of transactions subsequent to the 26th January 1950, this protection need or should be continued."

With these words, I place my Bill before the House.

The question was proposed.

श्री बिमलकुमार मन्नालाचजी चौरङ्गिया (मध्य प्रदेश) : उपसभाध्यक्ष महोदय, जो त्रिन माननीय चटर्जी ने प्रस्तुत किया है उसका समर्थन करने के लिए मैं खड़ा हुआ हूँ। एक जपाना था और यह जमाना क्या था—और एक तरह से देखा जाये वह जमाना आज भी है—कि ज़िम्मा रूल है उसका अपना जैसा राज चलता है, उसको प्रोटेक्शन मिलता है और ज़िम्मा राज समाप्त हो जाता है उसका प्रोटेक्शन भी समाप्त हो जाता है। रूलर्स गये और रूम के लिए रूल आये, परन्तु इन रूलर्स को जो रूल करने

वाले हैं, वे अपना प्रोटेक्शन बराबर बनाये रखना चाहता है। हम चाहे पार्लियामेंट में कितने ही कानून बनायें, असेम्बलीज में कितने ही कानून बनायें, इस तरह से जितने भी कानून बनते हैं उसमें हम गवर्नमेंट्स के प्रोटेक्शन की बराबर व्यवस्था रखते हैं।

"Everything done in good faith, intended to be done in good faith."

इस तरह के शब्द उसमें रख दिये जाते हैं। जिस तरह से सिविल प्रोसीजर कोड में राजा महाराजाओं को बचाने के लिए व्यवस्था है, उसी तरह से सरकारी कर्मचारियों को बचाने के लिए भी हर कानून में व्यवस्था रहती है। यदि हम प्रजातंत्र के सिद्धांत को मानते हैं और यह चाहते हैं कि समस्त नागरिक एक स्तर पर काम करें, तो कानून की दृष्टि से भी उन्हें एक ही नज़र से देखा जाना चाहिये। इसलिये मैं यह प्रार्थना करूंगा कि चटर्जी साहब के अमेन्डमेंट के साथ साथ यह भी संशोधन किया जाना चाहिये कि गवर्नमेंट सर्वेंट्स के साथ अप्रत्यक्ष रूप से जो कानूनी बचाव किया जाता है, एक नई क्लास उनकी पैदा की जाती है, उसको भी खत्म किया जाना चाहिये और उन सब को भी समान कानून के नियंत्रण में लाया जाना चाहिये। अगर आप यह नहीं करते हैं और उनको प्रोटेक्शन देते चले जाते हैं तो मैं यह कहना चाहता हूँ कि ब्रिटिश गवर्नमेंट की भी यही नीति थी कि वे भी अपने रूलर्स को प्रोटेक्शन देते रहते थे।

चटर्जी साहब जो बिल लाये हैं, वह बहुत अच्छा है कि इस समय राजा-महाराजाओं को जो प्रोटेक्शन मिला हुआ है उसको समाप्त किया जाना चाहिये और उनको भी साधारण नागरिक के स्तर पर लाया जाना चाहिये। जब हमारा देश स्वतंत्र हो गया है तो किसी को किसी तरह का प्रोटेक्शन देने की जरूरत नहीं है, सब लोग कानून की दृष्टि में समान अधिकार रखते हैं। लेकिन मैं यह कहना चाहता हूँ कि जिन लोगों को विशेष अधिकार दिये गये हैं, जिन राजाओं को आपने प्रोटेक्शन

[श्री विमलकुमार मन्नालालजी चौरड़िया]

दे रखा है, अगर वे गुनाह करते हैं या कर्ज लेते हैं और कोई उन पर केस चलाना चाहता है तो वह बगैर सरकार की परमिशन लिये कुछ नहीं कर सकता है। इस तरह की जो अपवाद की व्यवस्था उन लोगों के लिए रखी हुई है, वह ठीक मालूम नहीं देती है। इसलिये मैं यहां निवेदन करना चाहता हूं कि इस संशोधन के साथ ही साथ क्रिमिनल प्रोसीजर कोड की धारा 187 को भी संशोधन करना चाहिये, जिसमें पब्लिक सर्वेंट्स को संरक्षण मिला हुआ है। अगर कोई पब्लिक सर्वेंट किसी तरह का कोई गुनाह करना है तो उसके खिलाफ तब तक कार्यवाही नहीं की जा सकती है जब तक उसके लिए परमिशन न मिल जाये। इसका नतीजा यह हो रहा है कि हमारे पब्लिक सर्वेंट्स इस कानून की आड़ में तरह तरह की गलतियां करते हैं और इस तरह अपने अधिकारों का दुरुपयोग करते हैं। जब शासन का ध्यान इन बातों की ओर दिलाया जाता है तो इन लोगों का एप्रोच इस तरह का होता है कि शासन की तरफ से कोई जवाब नहीं आता है। शासन का रेडटेपिज्म ऐसा है कि अप्लाई, अप्लाई नो रिप्लाई। आप कितनी ही चिट्ठी भेजिये, कितने ही प्रार्थनापत्र भेजिये कि अमुक गवर्नमेंट सर्वेंट ने हमारे साथ दुर्यवहार किया है और उसके खिलाफ हमें कार्यवाही करने दीजिये, लेकिन वहां से इस तरह की कोई परमिशन नहीं मिलती है। इसका नतीजा यह होता है कि इतना समय गुजर जाता है कि जो गवाह होता है वह कहता है कि मुझे सब बातें याद नहीं हैं। इस तरह की हमारी सारी व्यवस्था है और हम कानून के द्वारा प्रोटेक्शन देते चले जा रहे हैं तथा हमारे कानून इस तरह से चलते जा रहे हैं।

इसलिये मेरा निवेदन है कि श्री चटर्जी ने जो बिल सिविल प्रोसीजर कोड में संशोधन करने के लिए रखा है उससे हमारा काम चलने वाला नहीं है। राजा-महाराजाओं को जो

प्रोटेक्शन इस समय मिला हुआ है और जिस को हम इस बिल के द्वारा खत्म करना चाहते हैं उससे देश में स्थिति में समान स्तर नहीं आ सकती है, जब तक कि हम क्रिमिनल प्रोसीजर कोड की धारा 187 का भी संशोधन न करें। मैं चाहता हूं कि हमारे माननीय मंत्री जी खड़े होकर यह कहें कि हम प्रिंसिपल में इस बात को मानते हैं कि चाहे मंत्री हों, चाहे राजा-महाराजा हों, चाहे संतरी हों, चाहे मंत्री हों, सब को कानून की दृष्टि से एक ही नजर से देखा जायेगा और किसी के लिए पक्षपात नहीं किया जायेगा। इस गवर्नमेंट में जितने मंत्री हैं, डायरेक्टर हैं, वे सब गवर्नमेंट सर्वेंट्स की परिभाषा में आते हैं, इसलिये मेरा निवेदन है इस परिभाषा में जितने लोग आते हैं उनके खिलाफ भी कार्यवाही करने की परमिशन दी जानी चाहिये। लेकिन हमारे माननीय मंत्री जी यह कहते हैं :

“Everything done in good faith or intended to be done by public servants—no prosecution will be done unless permission is sought from the Government.”

तो इस तरह के अपवाद आप सब कानूनों में करते हैं, क्योंकि कानून बनाने की जो मशीनरी है हमारी, वह तो गवर्नमेंट सर्वेंट्स की है और वे चाहते हैं कि अपनी जानि का, अपनी सोसाइटी का, गवर्नमेंट सर्वेंट के नाम का अहित न हो और उनका प्रोटेक्शन बराबर होता रहे। प्रजातंत्र की दुहाई देने वाले हमारे मंत्री लोग जो यहां बैठे हैं उन्हें उस जंजाल में फंसना नहीं चाहिये और उन्हें इस प्रकार के विशेष प्रावधान की आवश्यकता समझनी चाहिये। मगर समय में नहीं आना है कि वे ऐसी बात क्यों नहीं करना चाहते हैं? इसलिये जितने भी कानून बनते हैं, उन सब में इस तरह की व्यवस्था होती है। मैं तो यहां तक प्रार्थना करूंगा कि जो गवर्नमेंट सर्वेंट अपनी इयूटी

बराबर नहीं करते हैं उनके खिलाफ पब्लिक को शिकायत करने का और उनके खिलाफ न्यायालय में दावा दायर करने का अधिकार दिया जाना चाहिये। मगर यह करना अभी असंभव दीखता है। फिर भी अगर क्रिमिनल प्रोसीजर कोड की धारा 187 में जो आपने प्रोटेक्शन दे रखे है उन पर कुछ व्यवस्था कर लेंगे और उनको ही हटा देंगे तो ज्यादा अच्छा रहेगा।

हमारे संविधान के आर्टिकल 14 में बहुत सी ऐसी चीजें हैं जो हमारे देश की प्रतिष्ठा को ऊंचा करने वाली हैं। उसमें बड़े अच्छे सिद्धान्तों का निरूपण किया गया है मगर अपवाद उसमें रख दिये गये हैं जिस के कारण बहुत से गलत काम भी हो सकते हैं। जैसे सत्य बोलना अच्छा है मगर अवसर पड़ने पर झूठ भी बोल सकते हैं, इस तरह के जो अपवाद किये जाते हैं उससे गड़बड़ हो जाना है। आर्टिकल 14 के अंतर्गत यदि सभी लोग एक स्तर पर आ सकें और सब के साथ एक तरीके का व्यवहार कानून की दृष्टि से हो सके तो यह बहुत ही अच्छा होगा। लेकिन आप कोई कानून उठा कर देख लीजिये, जितने भी कानून बनते हैं सब में अपवाद रहता है। इसलिये माननीय चटर्जी साहब जो बिल लाये हैं मैं उसका हार्दिक समर्थन करता हूँ। लेकिन अगर मंत्री जी को यह शंका हो कि उन्होंने जो इतने प्रोटेक्शन दे रखे हैं उनसे एकदम मुक्त कर देने से कठिनाई हो जायेगी। तो मैं यह प्रार्थना करूंगा कि गवर्नमेंट सर्वेन्ट्स के लिए या जिन के लिये भी हो वैसे ही व्यवस्था यहां पर की जाये जैसा कि युनाइटेड किंगडम में है कि वहां पर एक डाइरेक्टर आफ प्राजिक्शन् होता है, जिस का प्रमाण ले कर के जिस के खिलाफ मुकदमा चलाना हो उसके खिलाफ चलाया जा सकता है। सब को एक स्तर पर लाने के लिए यदि आप एकदम नहीं कूद सकते हैं, और एक एक

कदम ही ऊपर चढ़ा चाहते हैं, तो उसके लिये आप यह कर सकते हैं कि डाइरेक्टर आफ प्राजिक्शन् का पद आप हमारे यहां पर कायम करें और उसका प्रमाण ले कर के सारी व्यवस्था हो। अभी धारा 187 के तहत कार्ता समय लग जाता है और सुप्रीम कोर्ट ने अपने जजमेंट में इसके बारे में काफी रेफेंस दिये हैं। इस लिये इस ओर विशेष ध्यान देने की आवश्यकता है।

मैं अधिक समय सदन का लेना नहीं चाहता। मैं मंत्री जी से यहां प्रार्थना करूंगा कि इसमें जो भावना निहित है उसको यदि आप स्वीकार करते हैं, लेकिन अभी यदि सारे सिटिजन्स को आप आर्टिकल 14 के तहत एक स्तर पर लाना नहीं चाहते हैं तो डाइरेक्टर आफ प्राजिक्शन् का पद कायम करके उसके माध्यम से काम करने की व्यवस्था कीजिये। यही आपसे निवेदन है और आशा है कि श्री चटर्जी मजबूती से अपना बिल वापस नहीं लेंगे और सदन इस को स्वीकार करेगा।

DR. SHRIMATI PHULRENU GUHA (West Bengal): I support the Code of Civil Procedure the (Amendment) Bill, 1964 wholeheartedly. The amendment is long overdue and I feel that it is better to be late than never. I congratulate Shri Chatterji for bringing this Bill to this House. In a democratic country all people must have equal rights and equal privileges. The Constitution of India gives equal fundamental rights to all. Section 87B of the Code of Civil Procedure, 1908 is against the fundamental rights. We are all looking forward to a society where all people will get equal rights and equal privileges. How can we go forward to achieve our objective if this type of section still exists in the Civil Code and certain people have special privileges under the Civil Code or in the Constitution or anywhere? The Rulers have been given special privi-

[Dr Shrimati Phulrenu Guha] leges for reasons with which we may not agree but they were given, but now the circumstances have changed. We are in a free India and our Constitution gives equal rights to all people. So this type of section should not exist any more. In this connection, I would like to bring before the Government that not only this privilege exists but there are other privileges given to the Rulers or Princes. Some of them enjoy the fruits of their unearned money. In this connection, I would request the Government not only to accept this amendment but also to bring forward rules or Bills, whatever may be necessary, to deal with all the people of India on an equal footing. These people should not be allowed any more to get the benefit of unearned money. I request the Government to pass this Bill which is necessary to achieve the basic principle for which India stands to-day.

With these words, I support this Bill wholeheartedly and I request the Government to accept it.

Thank you.

SHRI LOKANATH MISRA (Orissa). Madam, I was really surprised when the argument that was given by the sponsor of this Bill was the judgment of the Supreme Court in favour of sponsoring the Bill. He has the privilege of belonging to the distinguished party that has amended the Constitution because certain Acts were struck down by the Supreme Court, and what were those Acts? Those were Acts that made an inroad into the fundamental rights of the citizens of this country. A party that has the credit of annulling the judgments of the Supreme Court because they did not suit them, now, one of their distinguished members comes forward using a Supreme Court judgment as a plea for sponsoring this Bill. It sounds ridiculous to me really. He could have used any other argument in favour of his speech but this particular argument of having got the judgment of

the Supreme Court in favour of an amendment looks ridiculous for a party that has amended the Constitution itself because the Supreme Court struck down certain Acts.

SHRI CHANDRA SHEKHAR (Uttar Pradesh). For greater objectives to be achieved.

SHRI LOKANATH MISRA. The socialistic pattern of society which did not become fruitful?

Coming to the Bill, I tried to go through it to see if there was really something which needed the amendment.

Now sub-section 86(1) says:

"No Ruler of a foreign State may be sued in any court otherwise competent to try the suit except with the consent of the Central Government certified in writing by a Secretary to that Government."

Then sub-section 86 (3) says

"No Ruler of a foreign State shall be arrested under this Code and, except with the consent of the Central Government certified in writing by a Secretary to that Government, no decree shall be executed against the property of any such Ruler."

So the safeguards are there in the Act and there is also the solemn guarantee given by this very same ruling party to the former Rulers before their accession. There are the safeguards and a gentleman's honour is considered quite sacred. I won't call all Congressmen non-gentlemen, but there is the distinction between Congressmen and gentlemen. I have said already in this House that if they consider themselves to be Congressmen alone, they will not honour a gentleman's word of honour.

SHRI JOSEPH MATHEN (Kerala): It applies to the Swatantra Party also.

SHRI LOKANATH MISRA: It does not apply to me at all, because Congressmen are distinct from gentlemen.

THE VICE-CHAIRMAN (SHRIMATI TARA RAMCHANDRA SATHE): Do not get into arguments.

SHRI JOSEPH MATHEN: Ignorance is bliss.

THE VICE-CHAIRMAN (SHRIMATI TARA RAMCHANDRA SATHE): You come to the point, Mr. Misra.

SHRI LOKANATH MISRA: Ignorance always lies on the other side; it is wisdom that is coming from this side, whether you accept it or not.

SHRI NAFISUL HASAN (Uttar Pradesh): You have the monopoly in wisdom then.

SHRI LOKANATH MISRA: At one time Congress people had the monopoly over us, but they have lost it completely.

SHRI CHANDRA SHEKHAR: If particular bird cannot see the light of the sun, it is not the fault of the sun.

SHRI LOKANATH MISRA: Madam, he interrupted me and said something; he needs a retort.

श्री महावीर प्रसाद भार्गव (उत्तर प्रदेश) : वे कहते हैं कि एक ऐसी चिड़िया है जिसको दिन में सूरज की रोशनी में दिखाई नहीं देता ।

SHRI JOSEPH MATHEN: You are incapable of retort.

SHRI LOKANATH MISRA: If you take an electric bulb to your son, I have nothing to say about it you are in a compartment where you don't see others.

THE VICE-CHAIRMAN (SHRIMATI TARA RAMCHANDRA SATHE): Mr. Misra, you come to the point.

SHRI JOSEPH MATHEN: You are arguing for your masters; you do it.

SHRI LOKANATH MISRA: I am arguing for people, for justice, and you know your masters, and you serve your masters; I don't serve any master.

Naturally, Madam, when a solemn guarantee has been given, it must be respected, and I hope this Government, which gave this guarantee to these Rulers before their accession to the Republic of India, would definitely honour it, or else, if they are going back on their words, they would also look as if they are people who are undependable.

SHRI M. P. BHARGAVA: The difficulty is that we are dealing with undependable people.

SHRI LOKANATH MISRA: Because your difficulty is that you have yourselves become undependable enough.

THE VICE-CHAIRMAN (SHRIMATI TARA RAMCHANDRA SATHE): I think you have no point perhaps.

SHRI LOKANATH MISRA: Madam, I have points enough, but in these interruptions from all sides of the House, one gets lost.

SHRI NAFISUL HASAN: You always throw that temptation.

SHRI M. P. BHARGAVA: This is our misfortune.

SHRI LOKANATH MISRA: I am prepared for a retort always provided the Chair allows it, and if the Chair does not allow it, how can I go on?

THE VICE-CHAIRMAN (SHRIMATI TARA RAMCHANDRA SATHE): The Chair is not against anybody; you come to the point.

SHRI LOKANATH MISRA: I did not mean it against me.

SHRI JOSEPH MATHEN: The hon. Member's views are always clouded.

SHRI LOKANATH MISRA: I am trying to dispel the cloud that is over your heads.

(Interruptions)

THE VICE-CHAIRMAN (SHRI-MATI TARA RAMCHANDRA SATHE): You have already taken seven minutes.

SHRI LOKANATH MISRA: I will finish up within ten minutes.

THE VICE-CHAIRMAN (SHRI-MATI TARA RAMCHANDRA SATHE): You won't get ten minutes from now; you have only three minutes left.

SHRI LOKANATH MISRA: I shall finish within ten minutes in all.

SHRI M. RUTHNASWAMY (Madras): Interruptions included.

THE VICE-CHAIRMAN (SHRI-MATI TARA RAMCHANDRA SATHE): Of course.

SHRI LOKANATH MISRA: Now, Madam, the Congress Party is using Parliament as a lever to threaten the ex-Rulers, and to some extent they have succeeded.

SHRI JOSEPH MATHEN: The hon. Member cannot digest the progress that we have made.

SHRI LOKANATH MISRA: You have made no progress at all. How can I digest it? You live in the air and go on changing from one ideal to the other; sometimes it is socialistic pattern of society; at other times it is socialist society; it is all hoax and nothing else but a hoax.

Now, Madam, Parliament is being used as a lever by them. Many times, on many occasions, amendments have been brought in here which, in a way, threatened the ex-Rulers, and as a result of that many are on the Congress side now. On some occasion it was brought for the privy purse; on some other occasion it was

for something else, and that has given them a fear that unless they go over to the ruling party, there is always a danger of losing their privileges, and the ruling party has, to some extent, become successful in their mission. This is another threat now being brought in here. This will not be passed, everybody knows, but they want to put up this show of threat to say that here is the lever, we would use the lever against you, unless you go over to the ruling party. (Interruptions). How can they? I am happy that Mr. Mathen has admitted it; I am very happy that at least one of you had the courage to say that. And if they go on doing it, ultimately, it is not that they would lose the confidence of the ex-Rulers only; they would lose the confidence of all the citizens of India, and the people abroad. If a solemn guarantee and an agreement entered in a covenant between the ex-Rulers and this ruling party is ignored like this, is flouted like this, can they ever get the confidence of other people in India? Everybody would begin to feel that there is also a danger to his own privileges; even into the Fundamental Rights there have been inroads, as I said. So I would respectfully, through you, Madam, request the hon. Minister not to be guided by people who shout from the housetops about the hoax of socialism and socialistic society, but to look at facts. Become a gentleman and remain a gentleman, and that would be extremely satisfactory.

Thank you.

SHRIMATI NANDINI SATPATHY (Orissa): Madam Vice-Chairman, I wholeheartedly support this amendment which has been brought by Shri Chatterji. Madam, in fact I would have been rather more pleased if this type of amendment had come much earlier. It is a very well known fact and every one of us know how the people of this country have suffered at the hands of the Rajahs and Maharajahs, these ex-Rulers. Madam,

I come from a State to greater part of which was once ruled by these Rajas and Maharajas, and we have got some experience how they exploited the people of those places, how they tortured the people and how they took away all their lands and properties for a pittance, and which lands they are now selling to some moneyed people at a much greater price. In these circumstances, Madam, people would have been happier if these Rajas and Maharajas had been punished in some other way but, in fact, we are helping them now. All of us know that these Rajas and Maharajas were once the right-hand people of the British rulers who ruled over India for so many years. We also know that whenever there was any agitation by the people in those States, these Rulers called for the British Army to come to their help. I know how in my State when there was agitation against the Raja always the British Army went there and tortured the people like anything. Unfortunately for us, we have lost one hon. friend here who came from an ex-State area, who was the ex-Ruler of that State, namely, Dhenkanal. The people of Orissa remember the torture that happened in Dhenkanal. That has become a legend there and they remember how the people suffered and how they were tortured by those Rulers. So, Madam, it is high time now that we should do something about giving privileges and so many comforts to these Rajas and Maharajas.

When in the name of democracy we are doing so many of these things, Madam, I sometimes feel that this takes us away from our right path which we have declared to be the one leading to our goal of democratic socialism. That is the goal for which we are standing. There are so many examples to show how these Rajas and Maharajas are treated and how discrimination is shown in favour of them, especially when they do some mistakes and when they have to appear before a court of law. Some-

times when there is some accident or something in which these Rajas and Maharajas are involved, they can easily flout the court, or they can easily escape from the trial, whereas the common people have to suffer a lot. So, in these circumstances, Madam, I think that the Government should consider this amendment. I do not want to take much time and I would only request the Government that they should accept this amendment and let this discrimination go.

Thank you.

SHRI M. C. SHAH (Gujarat): Madam Vice-Chairman, I am thankful to the hon. Member for highlighting this anomalous position in our country. We all know that our Constitution provides equality before the law, of all the citizens. Still this section of the Civil Procedure Code is discriminatory in favour of the Princes. If we look at the history of our freedom struggle, we find that two factors, i.e. the Muslim League and the Princes, were the bulwark of British imperialism. We have seen the result of all this. As a result of the Muslim League, the country had to be partitioned. It was only because of the foresight and wisdom of Sardar Patel that this Princely order could be done away with. Otherwise there was going to be another partition of our country. The Britishers had provided when they left India that these would be sovereign States in which these Rulers were ruling and therefore it was upto them either to join the Indian Union or to remain separate as sovereign States. Just imagine what would have happened if Sardar Patel had not been there to handle this very difficult situation in the interest of our country. All honour to Sardar Patel that he did away with that anomalous position and we have now a united country which never was in existence throughout so many centuries.

Now let us look at the work of these Princes. There was the Coun-

[Shri M. C. Shah.]
 cil of Princes. Those who have stayed under the Princely order can realise how they were treated because these Princes had the protection of the British Government. I remember Mahatma Gandhi once remarking: "We in British India are slaves of the British. But the people in the States are double slaves. They are slaves of their Rulers and of the British Government." We, who have seen the work of the Political Agents in those Agencies, known how in one respect these Princes flattered these Agents and they obeyed their orders, whatever they were, because they were permitted to deal with their subjects in a very rough and harsh manner. There was nobody to look after those people. I know how in Gujarat when people from Saurashtra area had to fight against the Princes, they had to go to those areas which were then known as British areas. They could continue their fight against the Prince only from British India. They could not do anything inside the State itself. With all this tradition, is it necessary now to give this discriminating treatment or status in favour of the Princes? Our Constitution has laid down that we are all equal before the law. That is the fundamental principle of jurisprudence. But when a person wants to sue a certain Ruler for a certain civil action, I do not know why it is necessary that he should go and seek the permission of the Central Government. There are courts of law in the land which will decide the matter in accordance with the law and justice. Otherwise than creating delay, what else can this Union Government do? They may have to ask for papers. They will refer to the Legal Department, or they may refer to the Home Department or the Political Department. As a result of all this the ultimate thing will be that in many cases there will be undue delay and in some cases we may also find that the Government may not give the permission, and thereby they will deprive the

courts of law from doing justice to the citizens of the country. The hon. Member who moved this Bill has cited the instance of the Supreme Court over-ruling the decision of the Government, and of giving permission to the plaintiff to sue.

SHRI J. C. CHATTERJI: No, no. That is not the position.

SHRI NAFISUL HASAN. It was a writ petition. The Supreme Court commented on the refusal of the Government to grant permission. They said that it was a case in which permission should have been given.

SHRI M. C. SHAH: Even so, it means that the Supreme Court criticised the action of the Central Government. I would ask the Government to consider for what this anomalous position is being continued and in whose interest. The law courts are there and we are all citizens with the same rights and the same privileges. Therefore it passes one's understanding why this section of the Civil Procedure Code should be allowed to continue. The Government may have some other reasons, but I wish that in all seriousness this question must be reconsidered by the Government. Apparently, to an ordinary citizen and to the court of law, this will appear to be a discriminatory provision and it should not be permitted to remain on the Statute Book. I therefore appeal to the Government to consider all these aspects. I do realise that in 1950 the position was different. But that does not mean that the same position should continue for ever. The world is progressing. Society is progressing and the law and the judiciary are giving new interpretation of law. Under these circumstances, I appeal to the Government that they should give fresh thought to this matter and consider whether it is necessary to continue this discriminatory section in the Civil Procedure Code. Thank you.

THE VICE-CHAIRMAN (SHRI-
MATI TARA RAMCHANDRA
SATHE): The House stands adjourned
till 11 A.M. on Monday the 15th
November, 1965.

The House then adjourned
at five of the clock till eleven
of the clock on Monday, the
15th November, 1965.