

the members of Rajya Sabha appointed to the Joint Committee may be communicated to this House."

Motion

"That the Bill further to amend the Prevention of Food Adulteration Act, 1954, be referred to a Joint Committee of the Houses consisting of 33 members, 22 from this House, namely:—

- (1) Shri K. L. Balmiki.
 - (2) Shri Sonubhau Dagadu Baswant,
 - (3) Shrimati Jyotsna Chanda.
 - (4) Shri N. C. Chatterjee.
 - (5) H. H. Maharaja Pratap Keshari Deo.
 - (6) Shri Shiv Charan Gupta.
 - (7) Shri Prabhu Dayal Himat-singha.
 - (8) Shri Tulshidas Jadhav.
 - (9) Shri Hari Vishnu Kamath.
 - (10) Shri C. M. Kedaria.
 - (11) Dr. Mahadeva Prasad.
 - (12) Shri Yamuna Prasad Mandal.
 - (13) Dr. G. S. Melkote.
 - (14) Shri Gokulananda Mohanty
 - (15) Dr. D. S. Raju.
 - (16) Sardar Ranjit Singh.
 - (17) Dr. Sarojini Mahishi.
 - (18) Dr. C. B. Singh.
 - (19) Dr. P. Srinivasan.
 - (20) Shri U. M. Trivedi.
 - (21) Shrimati V. Vimla Devi, and
 - (22) Dr. Sushila Nayar.
- and 11 from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee; that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of 11 members to be appointed by Rajya Sabha to the Joint Committee."

(2)

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith a copy of the Slum Areas (Improvement and Clearance) Amendment Bill, 1964, as passed by Lok Sabha at its sitting held on the 3rd June, 1964."

Madam I lay the Slum Areas (Improvement and Clearance) Amendment Bill, 1964, as passed by the Lok Sabha, on the Table.

THE CONSTITUTION (SEVENTEENTH AMENDMENT) BILL, 1964— Continued

SHRI K. DAMODARAN: I was saying that the land reform Acts that have been enacted so far do not go far enough and that even the small mercies granted to the tenants and peasants, small peasants, remain only on paper. Laws enacted ten years, twelve years and fourteen years back have not yet been implemented due mainly to the pressure of the land-owning classes and the feudal elements on the various State Governments and also due to the complacency of the Central Government and the Planning Commission. In many cases the reactionary land-owners took protection under some loopholes legal loopholes. These Legal-loopholes are now sought to be plugged by the Bill before us. So, in spite of the inadequacies of the land reform

[Shri K. Damodaran.]
Acts, I will support the Bill. But while supporting the Bill, I would request the Government at and the Planning Commission to see that the State Governments bring forward suitable amendments to their enactments as early as possible so that the pledges given to the agriculturists and the country are fulfilled.

Madam, when the Bill was referred to the Joint Committee there were 124 enactments to be appended to the Ninth Schedule. But one fine morning during the sitting of the Committee, 88 of these were taken out in a bulk and only 36 were retained. The reason given is that they are redundant, unnecessary or non-controversial. If this were the case, one would ask why they were first included in the Bill at all. Should I believe that the Law Minister had absolutely no idea of the contents of the various Acts when he included them in the list? I have not gone through all of them. I have just gone through some of them. There is one Act passed in Maharashtra according to which the tenant could purchase land at six times the assessment. That is not seen in this list. And another Act is there under which the tenant could purchase land only if he pays 20 to 200 times the assessment. That Act has been included. It is not fair on my part to suspect but still the suspicion remains that due to the pressure and blackmailing of the reactionary vested interests, the Government have succumbed to them and become willing to give them unnecessary and uncalled for concessions. The Minister of Law owes an explanation regarding this matter.

Madam, one of the main reasons for the introduction of this Bill was the provocation given by the courts in striking down the Kerala Agrarian Relations Act, 1960 on the ground that the meaning of the term 'estate' was limited and on the ground that in the definition of estate, ryotwari was not included. Now, thanks to this

Bill, the definition becomes applicable to all land-owning systems in the country but meanwhile, the Kerala Agrarian Relations Act, 1960, has been abandoned and a new Act brought by a new Ministry has been included in its place. This I think is not only unnecessary but against justice and fair-play, especially when the new Act takes away many of the rights conferred on the peasantry and the agricultural worker by the original Act. For example, the quantum of land has been increased. The landlords are given the right to evict the tenants. The Kodikidapukars, that is the agricultural workers who have got small homesteads on the land, get, when evicted, only three cents of land instead of 10 cents in the original Act. The right of the tenant to purchase land now vests on the sweet will of the landlords. More exemptions have been made with regard to the ceilings and so on and so forth. In short, this new Act takes away many of the rights granted to the tenants under the original Act. Why this retrograde step? Why this new concession to feudalism? I feel that the Central Government should not have given permission to the State Government to enact a new law. The Government may say that land reform laws have to be enacted by the State Governments and not by the Centre and that the Centre has no say in the matter. But the policy of land reforms is not a State policy, but an all-India policy. I think it is not too late, I hope that the Law Minister will give at least an assurance that the rights enjoyed or that were to be enjoyed by the tenants under the original Act will not be taken away and that they will ask the State Governments to bring in suitable amendments to their own Acts in conformity with the declared policy.

Now, Madam, I would like to draw your attention to another important matter and that is my last point. I do not quite understand why the Joint Committee has added a new amendment which guarantees full compensation at not less than the market

value, for lands which are under personal cultivation. Till now we have based our policy on just and equitable compensation. The Joint Committee has changed it and the Bill before us has got that clause. It says that in case any land within the ceiling limit is acquired the compensation should not be less than the market value. They have no objection if the compensation is more than the market value. Why this change in the quantum of compensation? I examined the Statement of Objects and Reasons to find out the reason, but there is no object and no reason there. The Statement of Objects and Reasons simply quotes the amendment instead of giving any explicit reason for the change.

In a country such as ours where the number of land-hungry peasants is increasing the price of land also will go on increasing and the landlords themselves find it profitable to sell their lands if they get more than the market value as compensation. Therefore, the new provision is to their advantage and not to the advantage of the millions of peasants.

Madam, if this provision is adopted, it will be impossible for any State Government to acquire on reasonable and just compensation even a portion of the land belonging to landlords for any public purpose. This is made clear from the recommendation of the Joint Committee to omit section 28 of the Bihar Land Reforms Act 1961. What does this section of the Bihar Act provide? It allows the State Governments to acquire a certain portion of land from holders. They have made it clear. Nothing is to be acquired from those holding one acre or less. That is good. There is a provision that the entire land belonging to a person should not be acquired; only a portion may be acquired. For instance only 1/20th of the total area, if the total area is below 5 acres, is to be acquired, 1/10th, if it is below 20 acres, that is, 2 acres out of 20 acres held by a landlord and 1/6th of it if it is 20 acres or more. If this provision

is taken away, the State will not be able to acquire for any public purpose even one acre of land out of 25 or 30 acres held by a land-owner except with the compensation amounting to more than the market value, not less than the market value, as it is put there. Do you think, Madam, that they have done this to protect the interests of peasants? If so, let them prove their *bona fides* by a simple thing. Let them make it clear that such concessions are not in the interest of the land-owners, big landlords, but only peasants who till their land. Let them define the term "personal cultivation" as cultivation by the person himself or any member of his family. As it is it may mean landlords also, and I think it is against the interest of the country as a whole. I, therefore, submit that the amendment recommended by the Joint Committee is unnecessary. Now at this stage a new amendment must be accepted by the Law Minister defining the term "personal cultivation". I have myself submitted such an amendment and I hope that the Government will themselves accept it.

Madam, I thank you for the opportunity given to me to make these observations.

THE VICE-CHAIRMAN (SHRIMATI TARA RAMCHANDRA SATHE): Shrimati Mohinder Kaur. Maiden speech.

श्रीमती मोहिन्दर कौर (पंजाब) :

मैडम वाइसचेयरमैन, मैं आपकी बहुत शुकृगुजार हूँ कि आपने मुझे इस बात का मौका दिया कि मैं अपने खयालात इस बिल के बारे में आपके सामने पेश कर सकूँ।

यह बिल भारत के इतिहास में सामाजिक, आर्थिक और कांस्टिट्यूशनल हिसाब से बहुत बड़ी अहमियत रखता है। इस बिल का मुद्दा यह है कि जितने भी कानून हम भूमि सुधार के इस देश में बनाते हैं,

[श्रीमती मोहिन्दर कौर]

उनको हमारे कांस्टिट्यूशन के तीन आर्टिकल १४, १६ और ३१ में चैलेंज किया जाता है और फंडामेंटल राइट्स में उनको समझा जाता है, इसलिये इस बिल को इस सदन के सामने रखने की जरूरत पड़ी। बहुत से लोगों ने बहुत से इल्जाम लगाये हैं और यहां तक कहा है कि जो हमारे फंडामेंटल राइट्स हैं, जो हमको व्यक्तिगत अधिकार शुरू में दिये गये थे, उनको वापस लिया जा रहा है। मैं तो यह समझती हूँ कि ये व्यक्तिगत अधिकार नहीं हैं। ये तो जायदाद के सम्बन्ध में अधिकार हैं और जब भी इस सदन के सामने कोई अमेंडमेंट आये या विधान में संशोधन किये गये तो आपने देखा होगा कि हमेशा ही जायदाद के सम्बन्ध में किये गये व्यक्तिगत अधिकारों को कभी हाथ नहीं लगाया गया।

यह जो बिल है, यह ज्वाइन्ट कमेटी के सामने गया और ज्वाइन्ट कमेटी की जो सबसे बड़ी रिक्मेंडेशन है और जो उन्होंने सुझाव दिया सरकार को वह यह है कि इस बिल में एक ऐसी धारा लगा दी जाय कि जो सीलिंग की लिमिट में जमीन है उसको अगर सरकार लेना चाहे तो जो बाजार भाव हो उसके हिसाब से उसका पूरा पूरा मुआवजा दिया जाय। इस सुझाव को सरकार ने मंजूर किया और बिल में एक ऐसी धारा लगा दी गई है।

अभी माननीय श्री डाह्याभाई पटेल ने कहा कि किसानों के साथ सरकार ने बहुत बड़ा जुल्म किया है। मैं तो यह कहना चाहूंगी कि जितने भी किसान हैं, छोटे या बड़े या दरमियाने दर्जे के, उनके साथ कोई ऐसा नुकसान नहीं किया गया है, बल्कि जो धारा लगाई गई है उसमें छोटे दर्जे के किसानों के हकों की पूरी रखवाली की गई है। यह मैं नहीं जानती कि वे कैसे किसानों की बात कर रहे हैं। शायद

वे उन किसानों की बात कर रहे हैं जो इस देश में सिर्फ मुट्ठी भर हैं। मैं नहीं समझती कि किसी आदमी की जमीन किस तरह से इजाजत देती है कि इस देश के करोड़ों किसानों की बेहतरी को वे भूल जाय और सिर्फ मुट्ठी भर किसानों की बेहतरी के लिये वे अपनी आवाज यहां पर उठाये।

मैं यह भी कहूंगी कि आज जब मैंने माननीय डाह्याभाई पटेल को बोलते सुना तो यहां बोलने से पहले मैंने यह कोशिश की कि मैं पुराने डिबेट्स को निकाल करके देखूँ। कांस्टिट्यूट असेम्बली में जिस वक्त हमारे कांस्टिट्यूशन में यह जो आर्टिकल है, यह फ्रेम हो रहा था और इस पर बहस हो रही थी तो स्वतंत्र पार्टी के लीडर श्री राजगोपालाचारी ने यह खयालात जाहिर किये थे कि यह जो बुनियादी या सिविल राइट्स या प्रापर्टी के राइट्स के लिये हम आर्टिकल बना रहे हैं, अगर हमने इसमें फर्क न रखा तो शायद आगे चल कर के सरकार को काम करना मुश्किल हो और जब भी सरकार की कोई तरक्की पसन्द नीति होगी या जमीन के बारे में कुछ करना होगा तो शायद सरकार उसको न कर सके। मैं नहीं जानती कि उस वक्त उन्होंने इस किस्म के अपने विचार प्रगट किये और आज जब कि किसानों का जिदगी में इतना बड़ा इनकलाब आया कि उनकी पार्टी ने बिलकुल ही दूसरी तरह के अपने खयालात जाहिर किये। उस वक्त श्री राजगोपालाचारी और बहुत से स्पीकर्स के मन में यह शंका थी और यह कहा गया था कि सोच विचार करके जो बुनियादी अधिकार हैं या व्यक्तिगत अधिकार हैं या जायदाद सम्बन्धी अधिकार हैं, उनमें कुछ न कुछ फर्क रखना चाहिये ताकि आगे काम करने में सरकार को कोई दिक्कत न आये, कांस्टिट्यूशनल दिक्कतें सरकार के

सामने पेश न हों। तो उस वक्त फर्क के खयालात को मद्देनजर रखते हुए जब यह आर्टिकल पेश हुआ तो प्रधान मंत्री ने कहा था कि यह आर्टिकल हमने चारों तरफ से खयालात को ले करके तैयार किया है और उन्होंने यह आशा प्रगट की थी कि हमारी तरक्की की जो नीति है उसके रास्ते में इससे रुकावट नहीं होगी। जब हमने भूमि सुधार की नीति को इस देश में अपनाया और समाजवाद की स्थापना का हमने लोगों से वादा किया तो उस वक्त हमारे सामने यह खयाल आया कि इसको बदलने की जरूरत है। तो उस वक्त एक दो अमेन्डमेंट्स जायदाद सम्बन्धी कांस्टीट्यूशन में की गई लेकिन उसके बावजूद भी जो कांस्टीट्यूशनल दिक्कतें हैं वह अभी भी हमारे सामने आ रही हैं। इस बिल को सामने लाने की यही वजह है, यही मुद्दा है, कि जो हमारी कांस्टीट्यूशनल दिक्कतें हैं उनको हम दूर कर दें।

भूमि सुधार कानून हमने इस देश में बनाये—मैं अपने प्रान्त का जिक्र कहूँगी कि हमारे प्रान्त में “पंजाब लैंड टेनयोर एक्ट” १९५३ में बना लेकिन आप देखेंगे कि उस एक्ट में कुछ लूपहोल्स रहे और आज भी हमारे हाई कोर्ट में कोई चार सौ केसेज अभी तक पड़े हुए हैं जिसमें उसे चैलेंज किया गया है। इतनी कोई बड़ी जमींदारियां पंजाब में नहीं थीं, पंजाब में लगभग ३४ हजार आदमी थे जिन पर सीलिंग लागू हुई और उनमें से १३०० आदमियों ने रिट-पेटिशन के जरिये से हाई-कोर्ट और सुप्रीम-कोर्ट तक इसको चैलेंज किया मैंने जैसा कि अभी कहा कि ४०० केसेज अभी तक पंजाब हाई कोर्ट में हैं और उससे साफ जाहिर होता है कि हमारे लिये यह लाजमी है कि इस बिल को पास करें, भूमिसुधार के काम में जो कांस्टीट्यूशनल दिक्कतें हैं उनको दूर करने के लिये हमारे

लिये बहुत लाजमी है कि यह जो अमेन्डमेंट आया है इसको पास करें।

आप देखेंगे कि जितने भी केसेज कोर्ट में चैलेंज होते हैं उसे छोटे मोटे जमींदार या किसान चैलेंज नहीं करते हैं, उसे बड़े बड़े लोग, बड़े बड़े जमींदार ही चैलेंज करते हैं। मैं आपसे साफ कहना चाहती वे कि उनको इससे फायदा क्या है क्योंकि वे तो यह अच्छी तरह से जानते हैं कि कभी न कभी ऐसा कानून आयेगा और उनके पास जमीन नहीं रहेगी। अभी जो ६०० केसेज का कोर्ट में फैसला हुआ उसमें से ६५ फीसदी फैसला उन जमींदारों के खिलाफ हुआ लेकिन इसके बावजूद भी वह लिटिगेशन पर, कानूनी कार्यवाही पर, बहुत सा रुपया खर्च करते हैं, इसलिये कि उनको इससे कोई फर्क नहीं पड़ता है—जिनके पास अभी भी जमीनों के बड़े बड़े टुकड़े हैं और जिनकी ४० हजार या ५० हजार रुपये सालाना की आमदनी है उनको १० या १५ हजार रुपया कानूनी कार्यवाही पर खर्च करने से तो कोई नुकसान नहीं होगा, उसका नुकसान किसको है? उस का नुकसान गरीब लोगों को, छोटे किसानों को है क्योंकि उनके पास कोई जमीन नहीं आई है और जो सरप्लस लैंड है वह अब भी उन्हीं लोगों के पास है। इसके अलावा देश में अनाज की बड़ी कमी है और हम सभी चाहते हैं कि अनाज की कमी को पूरा करें लेकिन जब तक यह कांस्टीट्यूशनल दिक्कतें हम अपने सामने से दूर नहीं करेंगे तब तक हम अपने एग्री-कलचरल प्रोडक्शन को कभी भी पूरा नहीं कर सकेंगे—क्योंकि जिन लोगों के पास जमीन के बड़े बड़े टुकड़े हैं वे अच्छी तरह से जानते हैं कि वे ज्यादा देर तक उस जमीन को रख नहीं सकेंगे, कभी न कभी वह दिन आयेगा जब कि उनके पास से जमीन चली जायेगी, वह ला प्वाइंट पर हाई कोर्ट और सुप्रीम कोर्ट तक अपने बहुत से केसेज ले जाते हैं, एक ला प्वाइंट पूरा हो जाता है तो

[श्रीमती मोहिन्दर कौर]

दूसरा ला प्वाइंट निकाल कर और आगे सुप्रीम कोर्ट तक जाते हैं, लेकिन इसी वजह से जाते हैं कि जितनी देर लगे उतना अच्छा है और उनसे वह फायदा उठावें, पर साथ ही साथ वह यह भी जानते हैं कि कभी न कभी जमीन को चला जाना है और इसलिये वह अपनी जमीन पर कुछ रुपया खर्च नहीं करते हैं। यह सभी जानते हैं कि जमीन पर जब तक रुपया न लगाया जाय, जब तक इम्प्रूव्ड मेथड आफ कल्टीवेशन न इस्तेमाल किया जाय तक तब जमीन से पैदावार, एग्रीकल्चरल प्रोडक्शन, कभी भी नहीं बढ़ सकेगा। तो इससे गरीब किसानों को नुकसान है और साथ ही देश को भी बड़ी भारी हानि है। क्योंकि देश में जो अनाज की कमी है वह इस तरह से पूरी नहीं कर सकेंगे। इसलिये हमारे लिये यह लाजमी है कि जो कांस्टीट्यूशनल दिक्कतें हैं वे दूर हों ताकि भूमिसुधार की जो नीति है, जो कानून हैं वे अच्छी तरह से लागू हों और ये दिक्कतें हमारे रास्ते से हट जाय।

इसी तरह से बहुत से ऐसे प्रान्त हैं जहाँ पर कि जो भूमिसुधार के लिये कानून बने वह लागू नहीं हो सके क्योंकि वहाँ रैयतवारी सिस्टम है। तो जो कांस्टीट्यूशनल आर्टिकल ३१ए में इस्टेट की डेफिनिशन है उस बारे में हमारे लिये लाजमी है कि इसमें कुछ तब्दीली करें, रद्दोबदल करें ताकि जहाँ रैयतवारी सिस्टम के अधीन जमीनों के बड़े बड़े टुकड़े बड़े बड़े जमींदारों के पास हैं उनसे वह निकल सके। मैं आपसे कहूँगी कि बहुत से छोटे किसान हैं, गरीब आदमी हैं और ३० से ५० परसेंट लोग ऐसे हैं जिनके पास जमीन नहीं है, तो हमारे लिये यह लाजमी बनता है कि इसमें तब्दीली करें। अगर हमें इस देश में समाजवाद लाना है गरीब किसानों के, गरीब लोगों के रहन-सहन के, जीवन के मियार को ऊँचा करना है तो हमारे लिये लाजमी है कि जहाँ पर रैयत-

वारी सिस्टम है वहाँ के लिये कांस्टीट्यूशन के आर्टिकल ३१ए में कुछ न कुछ तब्दीली करे क्योंकि जब तक रैयतवारी सिस्टम को, "इस्टेट" की इस डेफिनिशन को खत्म नहीं करेंगे तब तक वहाँ जहाँ कि रैयतवारी सिस्टम है यह अपना भूमिसुधार का कानून लागू नहीं कर सकेंगे। तो मैं यह कहूँगी कि हमारे लिये यह बहुत जरूरी है कि जो अमेंडमेंट हम करने जा रहे हैं इसको जल्दी से जल्दी करें ताकि करोड़ों किसानों के जीवन मियार को हम ऊँचा कर सकें।

जैसा कि मैंने शुरू में कहा, श्री डाह्याभाई पटेल ने कहा कि इस सरकार को इस वक्त यह बिल इस सदन के सामने पेश नहीं करना चाहिये था तो मैं फिर कहूँगी कि बहुत से लोगों ने जितनी भी सरकार की तरक्की की नीतियाँ हैं, देश में समाजवाद लाने की कोशिशें हैं, उनको नाकामयाब करने के लिये तरह तरह से कोशिश की है और उनमें से यह भी एक कोशिश है कि इस बिल को पीछे डाल दिया जाय। मेरा कहना है कि यह बिल सदन के सामने कोई ऐसी जल्दी में नहीं आया है। जायदाद सम्बन्धी कांस्टीट्यूशनल अमेंडमेंट्स पहले भी हुए हैं, १९५१ और १९५५ में हुए हैं, दो दफा हुए हैं और उस वक्त भी इसी वजह से कि पूरे लोग ब्राजिर नहीं थे एक अमेंडमेंट कामयाब नहीं हो सका लेकिन उस वक्त की रूलिंग मैं आपको बताती हूँ, उस वक्त के हमारे स्पीकर श्री मावलंकर थे उन्होंने यह कहा, यह रूलिंग दी कि बहस बहुत हो चुकी है और दुबारा बहस करने की जरूरत नहीं है, जब वह बिल दुबारा सदन के सामने गया तो उन्होंने कहा कि उस पर वोटिंग एकदम से ले ली जाय और उन्होंने उस पर बहस भी एकदम बन्द कर दी। तो जो श्री डाह्याभाई पटेल ने कहा वह ठीक नहीं है, उसी बात का जवाब मैं देती हूँ कि यह कोई नई बात नहीं हुई है। सरकार जल्दी में है और इस सरकार को इसे सदन के सामने नहीं लाना चाहिये, यह जो उन्होंने कहा उसका मैं जवाब देती-

हूँ। यह बहुत कोशिशें हैं कि हमारी तरक्की के जो रास्ते हैं उनको बन्द किया जाय। मुझे सब से बड़ा अफसोस है कि आज उस आदमी की पार्टी जो कि हमारे देश के एक बहुत बड़े नेता हैं, जिसका मैंने पहले भी जिक्र किया है श्री राजगोपालाचारी, जिनके खयालात कांस्टीट्यूएंट असेम्बली में बिल्कुल ही दूसरे थे, आज उन्हीं की पार्टी इसकी मुखालिफत कर रही है। तो इससे मुझे अफसोस है और इससे कोई और बड़ी बात अफसोस की नहीं है।

मैं आपका एक बार फिर शुक्रिया अदा करती हूँ कि आपने मुझे इस बिल पर बोलने का मौका दिया और यह आशा करती हूँ कि यह सदन इस बिल को जल्दी से जल्दी पास करके हमारे भारत के किसानों की जिन्दगी में एक इंकलाब लायेगा और उनकी जिन्दगी के मियार को ऊँचा करेगा।

PROF. M. B. LAL (Uttar Pradesh): Madam, propertied men try to equate property with human personality, try to confuse possessions with the personality. To them life without property is meaningless. They regard property rights as natural and immutable, and any modification in such rights is held by them to be unjust and immoral. But a careful scrutiny will lead us to the conclusion that these assertions of propertied men are absolutely wrong. Property cannot be equated with personality. Certain means of decent life must be available to all for living happy lives, but a man's works cannot be measured by the wealth he owns; nor can concentration of property in land and other means of production in the hands of a few landholders and capitalists be conducive to the growth of free lives and human personality.

3 P.M.

As a matter of fact, wealth much beyond the needs of a decent life tends to retard the moral growth of its owner also.

Property, Madam, is a social institution. It is defined by social customs and social laws, determined by social needs, circumstances as well as by the social will. Property rights are historically determined social rights. They are neither pre-social nor are they immutable and unchangeable. No community has ever recognised the right of property as an absolute and irrevocable one. The community has always reserved to itself the right to modify laws with respect to property in the social interest. In all countries laws of property are modified and many proprietary rights are liquidated often without any compensation. Madam, the right of property is inseparably connected with social obligations. It must satisfy the claims of social good and it cannot be allowed to be exercised to the detriment of human progress, prosperity and happiness.

In India the old proprietary rights are standing in the way of our progress, in the way of the happiness and freedom of a great many of our countrymen. Considerable liquidation of property is needed to promote progress and prosperity and to build up an equalitarian social order. As we all know, a new equalitarian social order cannot be built on the foundations of feudalism and capitalism, on the basis of such property rights as deny to the bulk of the community economic freedom and equality. An equalitarian social order demands the liquidation of both feudalism and capitalism. It demands the redistribution of land on an equitable basis to the tillers of the soil, the elimination of all intermediary interests on land and the establishment of an industrial democracy.

Madam, long before the Constitution of India was finalised by the Constituent Assembly of India, the Congress party had committed itself to the liquidation of landlordism and inter-medial interests and the redistribution of land on an equitable basis. In 1948 the Congress Government had also visualised the re-

[Prof. M. B. Lal.]

examination of the matter. In 1958 they had visualised the question of the nationalisation of private undertakings in certain basic and heavy industries such as coal, iron and steel, mineral oil, aircraft manufacture and ship building. Therefore, it could be hoped that the article of the Constitution with regard to the right of property would be so framed that these objectives could be achieved within the framework of the constitutional provisions without any difficulty. But for reasons best known to the leaders of the Congress party which dominated the Constituent Assembly, article 31 which dealt with the question of right of property was not carefully formulated. It was so formulated that none of the objectives to which the Congress had committed itself could be achieved within the framework of the constitutional provisions, with the result that article 31 of the Constitution had to be amended a number of times to enable the Government and the Legislature to proceed with the required reforms and changes in property rights, and a Ninth Schedule had to be added wherein a number of laws had to be given constitutional validity with retrospective effect. All this involved the retrospective modification of a social right guaranteed by the Constitution. As a student of the constitutions of the world, to me this procedure is clumsy and perhaps unprecedented in the history of constitutional governments of the world. It deserves to be deplored and condemned on various grounds.

Firstly it gives to the propertied people the impression of high handedness, the impression that the Government lacks respect for the sanctity of guaranteed rights. Does it not imply certain disrespect to the Constitution itself? Secondly this procedure delayed the implementation and execution of economic laws. Certain laws which are today proposed to be validated were passed in 1950, certain others in 1952 and in 1954.

Delay in the enforcement of land reform legislation is surely deplorable and condemnable. This delay has robbed land reform legislation of much of its merits and much of its utility. Some time ago, we were told by Congress leaders that due to their efforts India was passing from the age of bullock carts to the age of bicycles. It seems to me that in matters of land reforms, we are proceeding with the speed and rapidity of bullock carts which break down and need to be repaired many a time before they reach the destination. This procedure of validating laws through amendment in the Constitution compels the State Governments to approach the Union authorities and Parliament for the endorsement of their action and compels Parliament to endorse and validate policies and laws of the State authorities. To me, this procedure also does not correspond well with the federal system. It also implies the need of the support of two-thirds of the Members of Parliament for any State law involving any radical curtailment or transformation in the right of property. Madam, we are required to validate today with retrospective effect forty-four State laws. Is it possible for this Parliament or for this Rajya Sabha to scrutinise forty-four laws within the period allotted for the discussion of this particular subject? Two days are allotted to us for the consideration of this amending Bill. Is it humanly possible for any of us to review the inadequacies on merits of forty-four laws within the period which may be allowed to him to speak? Of course, we may go by the words of great experts like Mr. G. S. Pathak who feels that all of them correspond to a particular pattern and that there were only three or four mistakes which needed to be taken notice of, there were no other mistakes to be taken notice of.

SHRI G. S. PATHAK: I never said three or four mistakes were taken note of or were not taken note of, I never said that.

PROF. M. B. LAL: But he referred to the fact that while validating these forty-four laws they have excluded from validation some of the clauses in those pieces of legislation. I went through the list and found only three cases where

SHRI G. S. PATHAK: May I be permitted to repeat what I had said earlier? What I said was that they conformed generally to one pattern that the difference was only in regard to details resulting from the difference in local conditions and also due to historical reasons, different land tenures, etc., etc. They, however, conformed to the general pattern.

PROF. M. B. LAL: I have to submit, Madam, that if we go through the Reports of the Panel on Land Reforms and the Reports of the Planning Commission we will find that though they might conform to a pattern, they do not conform to the policies suggested by the Planning Commission and agreed to by the Chief Ministers of different States as members of the National Development Council. In the final Report of the Third Five Year Plan a number of suggestions were made by the Planning Commission on the recommendation of the Panel on Land Reforms with the approval of the National Development Council but the State Governments have paid no heed to these suggestions and we are required today to validate laws full of those defects and inadequacies. May I point out, Madam, that the Planning Commission in its Mid-term Appraisal has said, ".....both administrative and legislative action taken so far have fallen short of the recommendation of the Plan in several States." If we study that Report, we would find that in several States ceilings on land holdings are kept very high, no comprehensive measure is passed for ensuring the security of tenure, the landlords are granted the right to resume land for personal cultivation and so on. There are considerable variations in the maximum rents pre-

scribed in the legislation. *Mala fide* transaction in the name of voluntary surrenders of tenures are also complained of. This has been made possible by the defective land laws and yet we are required today to endorse these defective laws or shoulder the responsibility of delaying the implementation of such land reforms as are embodied in these laws. A comprehensive piece of legislation covering all aspects of land reforms cannot be expected from the Congress Governments which are in power in almost all the States. So, if we do not endorse and validate these laws, we shoulder the responsibility of depriving people of even such little reforms as are embodied in these land laws. Therefore, our Party has decided to endorse the validation of these defective land laws proposed in a very defective manner but at the same time we do so with protests and warn that we reserve to ourselves the right of agitate for and introduce comprehensive land reforms whenever it is possible for us to do so. Madam, past experience required of us to so formulate constitutional provisions in regard to the right to property that a radical transformation of proprietary rights and the liquidation of capitalism and privileges can be had with necessary speed in accordance with the wishes of the people and the basic needs of an equalitarian social order through due democratic process but no such attempt is made in this Constitution (Amendment) Bill and I fear that whenever this Government or any other Government will think of introducing radical transformation in property rights or will think of liquidating property rights again, we will have to come to this Parliament for a constitutional amendment and addition of a few more laws to the Ninth Schedule or, may I say, perhaps to the Tenth Schedule meant for dealing with laws regarding capitalism? I do not think this is a proper procedure. It is our duty to recognise that committed as we are to the establishment of an equalitarian social order which is

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possible through considerable encroachment and liquidation of existing property rights, the property rights cannot be guaranteed the way the other social rights can be guaranteed to the citizens of this country and it must not be beyond our capacity to so formulate a constitutional provision that it may be possible for us to proceed with the liquidation of feudalism and capitalism and to establish an equalitarian social order without unnecessary litigation that is generally involved in a constitutional system.

Madam, in the end I wish to say that while the Swatantra Party wishes to agitate against the so-called injustices of land reform legislation we, socialists, will continue to agitate against inadequacies of these so-called reforms and prepare the public opinion for more comprehensive land reforms and such constitutional provisions in regard to right of property as might enable the country to establish an equalitarian social order of social character speedily through democratic constitutional means. In the end I will appeal to the Congress Government that either it should cease talking of democratic socialism and socialist revolution or it should come forward with such constitutional provision in regard to the right of property with necessary changes in the economic system which may be brought about speedily and without difficulty. I would again request them that if they are serious in heralding democratic socialism they must not proceed towards it limpingly, with **hesitation, but must go ahead** with it with necessary speed. Otherwise mere professions will yield no results.

SHRI J. S. PILLAI (Madras): Madam Vice-Chairman, I support this Bill and in doing so I wish to tell this House that though this Bill is a small one in the sense that it has got only three clauses, when it is passed it will have far-reaching effects. The Government should not rest content with

the passing of this Bill; as my predecessor said they should bring forward a comprehensive Bill by which they should make throughout India uniformly the cultivator the owner of the land. You will remember, Madam, while Gandhiji was alive in season and out of season he was saying that the tiller of the soil is the owner of the land. We worship Gandhiji. In our house we have a portrait of Gandhiji and we burn camphor in front of it and offer flowers before it but when it comes to the question of following him with action we are reluctant to do so. Not only Gandhiji; in 1939 if my memory is correct, Rajaji brought a Bill in Madras Assembly for the abolition of zamindari and he said then—I do not quote his words; I am speaking from memory—‘who are these zamindars? They are only tax collectors. The real owner of the land is the tiller of the soil.’ I am surprised that he has changed so much now.

Madam, after the speech of the Maharani of Patiala I think it is impertinent on my part to support this Bill. When she has supported this Bill I consider that everyone here has supported it.

Madam, there are large tracts of *puramboke* land and the Government can utilise this land. They can give it to the poor landless Harijans. Not only that; in Madras every temple has got vast lands and those lands are auctioned every year. It is the duty of the Government to use these lands. They should give these lands to the tillers of the soil. The Government should not auction because then the poor tillers are not able to bid at the auctions. During war time under the Grow-more-food campaign the poor Harijans brought under cultivation vast areas of land but after the war they were deprived of these lands. In this connection one thing the Government should bear in mind. They should forget for the time being the petty theory of collective cultivation. They should leave it to the individuals

so that in competition they can cultivate the land and grow more food. Madam, as you know, even in spite of a number of Five Year Plans we are going every year to America with a begging bowl. This should be stopped. We should be ashamed of going to America for our food. This can be stopped only by making the tiller of the soil the owner of the land. I hope that by passing this Bill and by the new comprehensive Bill which I have proposed and which I hope the Government will bring whereby the tiller of the soil will become the owner throughout the country, we will make our country the granary of Asia. With these words, Madam, I support the Bill.

श्री गोपीकृष्ण विजयवर्गीय (मध्य प्रदेश):

उपाध्यक्ष जी, इस संविधान संशोधन बिल का समर्थन करने के लिये मैं खड़ा हुआ हूँ।

गवर्नमेंट के इरादों की वास्तव कुछ विरोधी पक्ष वाले सदस्यों ने बहुत से आक्षेप किये, मसलन जनसंघ या स्वतंत्र पार्टी वालों ने, किन्तु उनमें सत्यता कुछ नहीं है। सिर्फ चुनाव के समय के भावणों की तरह सत्य को तोड़ा मरोड़ा गया है। मैं समझता हूँ कि हमारे भारतीय कल्चर में असत्य को महान पातकों में माना गया है। हमारे यह जनसंघ और स्वतंत्र पार्टी वाले मालूम नहीं भारत के कल्चर का क्या रूप समझते हैं। चुनाव में इतने निराधार आक्षेप करत हुये भी कोई विरोधी पार्टी बहुमत में नहीं आई। इसीसे सिद्ध होता है कि इनकी असलियत को जनता काफ़ी पहचान गई है।

सीधी सी बात यह है कि लगभग इस देश में ४६ या ५० फी सदी किसान परिवार या तो भूमिहीन हैं या पांच एकड़ से कम जमीन वाले हैं और १५ या १६ फी सदी किसान परिवारों के पास ८० फी सदी जमीन है और भूमि सुधारों का विरोध करने वाली पार्टियाँ वही हैं जिन्होंने इन बड़े बड़े भूमिपतियों और बड़े बड़े पूँजीपतियों की वकालत शुरू कर दी है।

कांग्रेस अपने तीन तीन चुनाव मेनीफेस्टो में कह चुकी है कि हमें भूमि सुधार करना है। हमारी पार्टी की तरफ से किसानों के प्रति कोई विश्वासघात नहीं हुआ है। अगर किसानों को धोका होता है तो हमको वे बोट नहीं देते। हाँ, अगर कोई बड़ा धोका या भ्रम किसानों को दिया जा रहा है तो मेरे ख्याल से वह उन्हीं पार्टियों की तरफ से दिया जा रहा है जो इस कानून का विरोध कर रही हैं।

मुझे इस बात की खुशी है कि हमारे पी० एस० पी० के सदस्यों ने चाहे क्वालिफाइड ढंग से ही सही किन्तु इस बिल का उमूलन समर्थन किया है कि बिल तो ठीक है लेकिन डिटेल्स में अगर इस पर विचार किया जाय तो इसमें बहुत कमियाँ हैं।

प्रो० मुकुट बिहारी लाल : बिल गलत है, लेकिन मजबूर हैं उसको सपोर्ट करने के लिये।

श्री गोपीकृष्ण विजयवर्गीय : इसलिये यह बड़ी अच्छी बात है। कांग्रेस पार्टी का या रूलिंग पार्टी का इस बिल को लाने में कांस्टिट्यूशन का कोई अपमान करने का इरादा नहीं है और न उसने अदालतों का अपमान किया है। हाँ, अगर किसी लीगल फ्रेज़ियंलाजी के सबब से अदालतों को कोई फसला करना पड़ता है, तो हम इस बिल के द्वारा शाब्दिक संशोधन कर रहे हैं यह न कांस्टिट्यूशन का अपमान न अदालतों का अपमान है और न इससे किसान वर्ग के हित को हानि है। निशान आखिर किसको कहना चाहिये। १० या २० फीसदी जो बड़े किसान हैं उनकी या ८० या ६० फी सदी जो छोटे किसान हैं उनकी, किसकी वकालत करने की जरूरत है ? हमारे ख्याल से हमारी पार्टी छोटे किसान या भूमिहीनों की मददगार है।

[श्री गोपीकृष्ण विजयवर्गीय]

लैंड एक्विजिशन के कानून तो सभी देशों में हैं और हमारे यहां डेवलपिंग एकानार्म में लैंड एक्विजिशन की जरूरत हो सकती है। अभी हाल ही में देश की रक्षा के लिये बहुत सी जगह लेनी पड़ी कोई कारखाना खोलने के लिये, ट्रक्टर, टैंक या हवाई जहाज बनाने के लिये। तो जमीन तो चाहिये और इस बिल में कही यह नहीं लिखा है कि बिला मुआविजा दिये मुफ्त में किसान की जमीन ली जायगी। एक बड़ा झूठ जो विरोध में कहा जा रहा है वह यह है कि सरकार मुफ्त में किसानों की जमीन छीन लेना चाहती है, मुआविजा नहीं देगी, या इससे कम्युनिज्म आ जायगा। आप देखिये कि बिल के क्लॉज २ में क्या है, सलेक्ट कमेटी ने उस पर पूरा विचार करके उसको ठीक ढंग से रखा है। इसमें यह है :

"... such land as is within the ceiling limit applicable to him under any law for the time being in force...."

और रेट में बारे में लिखा है :

"...at a rate which shall not be less than the market value thereof."

तो इसका मतलब यह है कि अगर सीलिंग की सीमा के अन्दर किसान की जमीन ली जाती है तो किसान को मार्केट वैल्यू से उसका मुआविजा दिया जायगा। २५ या ३० या उन की ४० एक्ड़ की जो भी सीलिंग जिस प्रान्त में लगाई गई है उसकी रक्षा इसमें है। इसलिए जो छोटे किसानों का नाम ले कर या उनकी आड़ में शिखंडी की तरह तीर चलाना चाहते हैं वह बिल्कुल अनुचित है। "इस्टेट" शब्द की फिर से परिभाषा होने की सख्त जरूरत है क्योंकि न्यायालयों ने इसी के आधार पर अपने फैसले दिये हैं। इसलिये यह जो कानून की शाब्दिक खामियां हैं इनको दूर करना ही इस बिल का मुख्य उद्देश्य है। फिर इसके अन्त में भूमिसुधारों के बारे में

जो लम्बी लिस्ट कानूनों की लगाई गई है वह काफी लम्बी चौड़ी है और वह इसलिए लगाई गई है कि सभी रियासतों के भूमि-सुधार सम्बंधी कानूनों की फेहरिस्त को लाना है और वह भजवरन एक लम्बी चीज हो जाती है।

अन्त में भारत में जो अमेरिका के अम्बैसेडर श्री चेस्टर वाउल्स है उनके कुछ कोशिशें दना चाहता हूं कि वह लैंड रिफार्म को डेमोक्रेसी के लिये कितना जरूरी समझते हैं और भारतवर्ष में जमीन की विषमता हटाने के मामले में भी वह समझते हैं कि यह एक जरूरी काम है। उन्होंने दिल्ली युनिवर्सिटी में कुछ भाषण दिये हैं जिसमें उन्होंने यह बतलाया है। पेज ५६ पर है :

"However, the most difficult part of the task lies ahead. The zamindars were a small minority and the fact that their privileged status was created under colonial rule made them an easy political target. Even with their removal from the scene and some additional curbs on large holdings, ten per cent of India's cultivators still own more than fifty per cent of the land, while one per cent of them own nearly one-fifth."

तो यह भूमि की विषमता उन्होंने बतलाई है। फिर आगे उन्होंने बतलाया है :—

"Although this trickle-down concept rural improvement may seem appealing at first glance, I submit that it ignores the fundamental principles of rural development. The reasons for my doubts may best be explained by a conversation which I had recently with just such a 'door opener' in a village in South India."

सिर्फ थोड़ा सा और कोट करूंगा। आगे यह है :

"This cultivator was greatly pleased with the increased yields per acre which he had achieved with the help of new techniques sponsored by the Village Level Worker. As the conversation continued, however, it became evident that his personal success was unlikely to have much effect on his fellow villagers.

When I asked him how many acres he owned and how he farmed them, he told me that he controlled 150 acres and that his land was farmed not by tenants but by 'servants.' Since only thirty-seven families lived in his village I found myself wondering how many of them worked as his 'servants,' and how many had any land of their own."

आगे जा कर उन्होंने यह बतलाया है कि सर्वेड्स के द्वारा कल्टीवेशन कराना, बड़ी बड़ी जमीनें रखना, यह ठीक नहीं है। किसान की अपनी जमीन होनी चाहिये और छोटे छोटे टुकड़े होने चाहिये। उन्होंने बतलाया कि जापान के अन्दर मैकआर्थर ने जो वहाँ अमेरिका की तरफ से थे, उन्होंने भी वहाँ पर बहुत ही प्यलेसली सुधार किया और वहाँ ७ एकड़ या ३ एकड़ जमीन किसानों के पास है। तो इस तरह से जमीन का फिर से पुनर्विभाजन करना देश में डेमोक्रेसी कायम करने के लिये भी बहुत जरूरी है।

इसलिये मेरे खयाल से जो यह विरोध किया जा रहा है या यह जो कहा जा रहा है कि इससे कोई कम्युनिज्म आ जायगा या कुछ हो जायगा गलत बात है। भारतवर्ष में लैंड रिफार्म्स की बड़ी जरूरत है और इस बिल का मैं पूर्णतया समर्थन करता हूँ।

श्री उद्धवराव साहेबराव (महाराष्ट्र): मैडम डिप्टी चेयरमैन, आज हाउस में जो दस्तूर का मसविदा चर्चा के लिये आया है इसकी मुलुम में काफी चर्चा है लेकिन अगर

इसको देखा जाय तो मालुम होगा कि हुकूमत की जानिव मे, भरकार की जानिव से यह भिर्क इसलिये रखा गया है कि अदालतों ने चन्द जमीन सुधार के कायदे कानून को अल्ट्रावायर्सिग कहा है, ये दस्तूर के खिलाफ हैं ऐसे जजमेंट दिये हैं और इसलिये "इस्टेट" की डिफिनिशन को जग बसी करना पड़ा है और रैयतवारी की जमीन को "इस्टेट" की डिफिनिशन में लाना पड़ा है। इनके अलावा नाइथ शेड्यूल में कुछ कानूनों को शामिल किया है ताकि अदालत में उन्हें क्वेश्चन न किया जाय, अदालत में उन पर कोई कार्यवाही न हो—इस तरह से उनको एक संरक्षण दिया है। अगर देखा जाय तो जमीन सुधार के कितने कानून लेजिस्लेचर से पास हुए हैं—यहाँ जो बैठे हैं उन सभी को इसका तजर्बा होगा—उनसे कोई जमीन तकसीम करने के लिये नहीं मिली। जमीनदारों के पास जो जमीन है वह कानून बनने से पहले ही छिप जाती है। महाराष्ट्र में सीलिंग का कानून हुआ, हैदराबाद में १९५५ में वह हुआ, लेकिन जिनके पास जमीन नहीं है ऐसे मजदूरों को या छोटे किसानों को जमीन तकसीम होने का कोई मौका अभी तक नहीं आया है। इसलिये इस मसविदे की, यह जो दस्तूर की तरकीम करने का मसविदा है उसकी मुखालिफत क्यों की जाय यह मैं नहीं समझता।

आज तक जितने नेमी ऐक्ट पास हुए हैं उनकी वजह से कितने लगानदारों को, मजदूरों को जमीन मिली है यह हुकूमत अपनी जानिव से जाहिर करे। हुआ यह है कि मजदूरों को, लगानदारों को जमीन से तक छाड़ना पड़ा है, उनका जमीन को छोड़ कर मजदूरी करनी पड़ी है, मालिकों ने उनको निकाल दिया है। हैदराबाद में, हैदराबाद असेम्बली में जब यह कानून बनाया गया था तब मैंने कहा था कि इससे फायदा नहीं होगा। हम कानूनसज लोग जो बैठे हैं वह इतने होशियार हैं कि

[श्री उद्धवराव साहेबराव]

किसी न किसी कानून में कोई न कोई लुपहोल रख ही देते हैं, उनका प्रिम्बिल बहुत अच्छा है, जमीन तकसीम करने का बहुत बड़ा खयाल है, जेशल जस्टिस देने को उसमें काफी लिखा गया है लेकिन सिर्फ सरेंडर की एक दफा रखी गई है जिसकी वजह से उस कानून का खात्मा हो गया है। सिर्फ एक दफा रखी गई कि एक जेनविन किसान जो अपनी खुदाशत करना चाहे उसको जमीन लेने की इजाजत दे देते हैं तो उसका इम्प्लीकेशन ऐसा है कि जितने एकड़ में चाहे उतने में वह कर सकता है। तो उन लगानदारों को वहां से हटा दिया गया। गुरवत की वजह से अगर वे लगान नहीं दे सके तो भी वे अपने हक से हटाये गये। ये तीन सेक्शन्स सिर्फ थे और उन सेक्शन पर करीब करीब ६० फी सदी टेनेन्सी एक्ट नाकामयाब हुए। फिर सीलिंग की बात है। हुकूमत के पास पूरे स्टेट्स के मालूमात होंगे। जहां तक मुझे महाराष्ट्र के और हैदराबाद की मालूमात है, जाती तौर पर मैं यह कह सकता हूं कि ८, १० हजार एकाथ स्टेट में अगर तकसीम के लिये मिले तो मिले और उस पर भी एक हिच है कीन सी जमीन होंगी जो सीलिंग के लिये ली जायेंगी, यानी मालिक जमीन जो अच्छी रखनी चाहिये उसे छोड़ कर जो बंजर जमीन होगी, जो काबिले फाशत न होगी वह सीलिंग में आएगी। लेने वाला क्या उससे दालतमंद होगा। तो यह हाल है हमारे पूरे टेनेन्सी के लेजिस्लेशन का। इसके बावजूद सिर्फ एक बात में इसमें अच्छी पाया हूं वह यह कि झगड़ों में इतने आ गए कि मामूलदार से, तहसीलदार से लेकर, हाईकोर्ट तक सुप्रीम कोर्ट तक कि वे बेचारे जमीनदार व लगानदार झगड़े। लगानदार जिनको खाने को रोटी नहीं मिलती, वे कहां से वकील करेंगे, कहां अदालत का खर्चा करेंगे और फिर आखिर में आकर वे कहते हैं कि साहब अपनी जमीन

वापस ले लीजिये, मुझे अपने आराम से जीने दीजिये। यह लिटीगेशन बंद करने के लिये कि जिससे अदालतों में कानून नहीं जाना चाहिये इसी नुक्तेनज़ार से मैं इस मसौदे कानून की तारीफ करता हूं, मैं इस को सपोर्ट करता हूं। वरना यह बहुत बड़ा क्रांतिकारी बिल है ऐसा मैं नहीं मानता। हुकूमत की जानिव से तमाम किसानों के लिये एक बहुत ही रिवोल्यूशनरी काम यह उठाया जा रहा है यह भी मेरी राय नहीं और इमीनिये इस बिल के अन्दर 'इस्टेट' की डेफिनिशन में टेन्योर यानी रियायती जमीन जिस पर लैन्ड रेवेन्यू दी जाती है ऐसी जमीन लाने से ही इतना हंगामा मचाने की जरूरत है ऐसा मैं नहीं समझता। अगर आप यह देखें, जो मैं देख रहा हूं कि पहले जमाने में या अब भी जो कहा गया बहुत से लोगों ने कहा, कि किसान इसको पसंद नहीं करेंगे, तो यह हमारी खुश किस्मती है कि जो सही मानों में किसान है वह नहीं जानता हम देहली में, बम्बई में असम्बली में क्या करते हैं। वह खुद, अपनी रोटी कमाने में मशगूल है, उसे नहीं मालूम हम क्या कर रहे हैं। यह किसान जो एक एकड़ दो एकड़ या जिनकी होलिडिंग बहुत कम है, ऐसे किसानों का अभी सियासत से कोई ताल्लुक नहीं आया है। वह सिर्फ वोट देता है। इससे यह न मानिये वह हुकूमतों कर सकता है। वोट देने का वह तरीका मैं जानता हूं। तीन इलेक्शन्स का अपने को अनुभव है कि गावों के जो मुखिया ही हैं, जिनकी चलती है, वही लोग ज्यादातर आपके लिये मोविलाइज करते हैं। जो बेचारा किसान है, जिनके हुकूमत के पास स्टेटिसटिक्स हैं, जिनको एक एकड़ कम जमीन आती है, ऐसे करीब करीब ४२ परसेन्ट फेमिलिज हैं। उन के हाथ में कितनी जमीन है? शायद एक फीसदी जमीन उनके हाथ में होगी। इस तरह से

अगर पूरा आप देखें तो ५० एकड़ तक जो लोग हैं, २० और ४० एकड़ तकको जिनकी धारणा है ऐसे, चार फी सदी हैं उनके हाथों में जमीन आती है २० फी सदी। १०० एकड़ से ज्यादा जमींदार सिर्फ ०.२ परसेन्ट हैं लेकिन जमीन उनके हाथों में ६ फी सदी आती है। यह ४२ टका जो जमींदार हैं, जो बेचारे किसान हैं, जिनकी काशत में १ फीसदी जमीन है ये लोग क्या इस बिल की मुखालिफत करने वाले हैं ? यह ४२ फीसदी जिनकी कि एक एकड़ के अन्दर जमीन है उनके सामने अगर यह बिल रखा जाय और कहा जाय कि हम यह सीलिंग इससे भी कर दें और तुम्हारे लिये जिदा रहने के लिये जितने एकड़ की जरूरत है वह तुम्हें दी जायगी, तो मैं नहीं समझना इस कांस्टीट्यूशन के १७वें अमेडिंग बिल के वे कोई मुखालिफत करेंगे। इसमें इतनी बात जरूर है कि एक चीज जो इसमें कहा जाता है कि कलेक्टिव फार्मिंग या कोऑपरेटिव फार्मिंग की तरह जायेंगे या यह तो लैंड रिफार्म्स ऐक्ट की वजह से एक बेचैनी है आज किसानों में। कौन से किसानों में ? दो तरह के किसानों में बेचैनी है। एक तो जो टेनेन्ट्स हैं जिनको यह पता नहीं कि मालिक होने वाले हैं या निकाल दिये जाने वाले हैं, क्योंकि मालिक होने के प्रोसीडिंग्स दस साल हो गये अभी जारी है। वह बेचारा न उसमें काशत करता है न कुछ करता है। उसको अगर आप यह कह दें कि १ अप्रैल, १९६४ को आप मालिक हो चुके हैं, यही आपकी टाइटल दे चुके हैं तो जरूर ज्यादा काशत करेगा। यह टेनेन्सी की वजह से लगानदारों में बेचैनी जरूर है कि आया हम मालिक हैं या अभी भी मालिक की मरजी पर हैं। इसकी वजह से प्रोडक्शन पर बड़ा असर पड़ा है। जो ऊपर के मालिक लोग हैं, जो सीलिंग पर चले जाते हैं—और मैं यह कहता हूं हमारे महाराष्ट्र का जो सीलिंग ऐक्ट बना है, मैं अपने गांव का तजुर्बा दूंगा, जो महाराष्ट्र में है, वहां १,५००

लोग रहते हैं, ३००० एकड़ जमीन है सिर्फ ५० लोगों के हाथों में और १००० एकड़ यानी वन थर्ड (one-third) जमीन सिर्फ तीन, चार फैमिलिज में है लेकिन सीलिंग बिल में वे नहीं आते। उनकी एक एकड़ जमीन इस सीलिंग बिल से नहीं जायगी क्योंकि उन्होंने भाईयों में उसको तकसीम किया, बेटों को तकसीम किया, वहिन को दे दिया, बेटी को दे दिया। खत्म हो गया आपका कयदा कानून। तो यह बेकायदे जो चोजें हो रही हैं इसमें समाज भी ऐसा है कि उससे एडजस्ट हो जाता है—उसके लूपहोल्स का इस्तेमाल करेंगे, वे बड़े अकलमंद होते हैं, पैसा होता है, काफी घूमते हैं, बड़े बड़े वकीलों के पास जाते हैं। और ये लोग बेचैन क्यों हैं—जमीन जायेगी या रहेगी ? और मुझे यह तजुर्बा है कि जिन देशमुखों के पास, पटेलों के पास जमीन आज १०० और २०० एकड़ रह कर भी वे अपनी फैमिली के अखराजात बर्दाश्त नहीं कर सकते, वे और चीजों में लगे हुए थे जिनकी जमीनें आज साहूकारों के पास गई हुई हैं—यह भी मैंने देखा। सिर्फ जमीन ज्यादा रखने से आदमी दौलतमंद नहीं हो सकता। जमीन पर मिहनत करने की जिद होनी चाहिये तभी वह उसमें ज्यादा फायदा कर सकता है और अगर आप देखें तो महाराष्ट्र में कालहापुर डिसट्रिक्ट ऐसी है जो एक एकड़ पर ६०० रुपये की आमदनी निकालता है लेकिन मरठावाड़ा और विदर्भ में आकर देखें जहां होल्डिंग ज्यादा है वहां एक एकड़ पर १०० रुपये आमदनी निकालने की आज रिवाज है क्योंकि इसमें मेनेजमट करने का सवाल आता है। अगर मनेजरशिप खेती का तसव्वुर हम मान लें तो भी उसकी कुछ न कुछ मर्यादा है, लिमिटेशन है। तो अगर हमारे सामने यह सवाल है कि किसान कुछ डिसटर्ब्ड है तो मैं यह कहता हूं, टेनेन्ट डिस्टर्ब्ड है और उसमें भी मजदूरों का हाल पूछिए ही नहीं, उनके लिये रोजी मिलना या

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न मिलना यह वरसात पर मुनहसिर है। खेती बिके तो रोजी मिले, खेती न बिके तो किसान और मजदूर दोनों खुदा पर भरोसा रख कर बैठा रहे। उनको पन्द्रह साल में सिवाय छोटी मोटी चीजें देने के हम उसको... समय की घंटी... एक दो मिनट और चाहिए। तो उसके लिए यह जरूरी है कि यह जो तरमीम हुई है इसमें प्रोटेक्शन के लिहाज से कोई हिच (Hitch) है, ऐसा मैं नहीं मानता। हिच है तो दूसरी तरफ से हैं— लगान दारों की तरफ से है। मालिकों के लिये हम कहते हैं कि आप अगर जमीन पर बाकई रहना चाहते हैं, अगर पैदावार बढ़ाना चाहते हैं तो चाहिए सब फैमिलीज मिलकर अगर रात दिन मेहनत करने के लिये तैयार है तो उसमें हम किसी को भी जमीन देने के लिये तैयार हैं। लेकिन जमीन तो नाम पर रखी जाती है, कारोबार अहमदाबाद में चलता है, कारोबार बम्बई में चलता है, कारोबार देहली में चलता है और जमीन हमारी पट्टे पर रखी जाती है किसी देहात में मैं यह एन्टी नेशनल समझता हूँ क्योंकि इससे प्रोटेक्शन गिर जाता है। दूसरे, यह सवाल इसमें आ जाता कि यह छोटे छोटे टुकड़े होने के बाद, मैकेनाइजेशन कैसे किया जायगा। तो यह दो तरीके से हो सकता है कि अगर मैकेनाइजेशन से खेती करना है, कैमिकल्स अगर इस्तेमाल करना है तो आपके बड़े फार्म्स होने चाहिये, और बड़े फार्म्स के माने यह हैं कि छोटे किसान को निकाल कर दूसरे लोगों के हाथ में जमीन देना और उनसे कहना कि आप मजदूर हो जायें। यह तो इनजस्टिस होगा, सोशल इनजस्टिस। हमारे कांस्टीट्यूशन में डाइरेक्टिव प्रिन्सिपल हैं कि सोशल, इकानामिक एन्ड पोलिटिकल जस्टिस होगा, यह हमारे दस्तूर में नहीं है लेकिन अगर दस्तूर का यह प्रिम्बल, उसका इन्टेंशन हमको हासिल करना है तो आर्टिकल ३१ (ए) तो क्या आगे २० मरतबे भी तरमीम करनी पड़े तो करेगे। यह इससे-

स्पेक्ट टु कांस्टीट्यूशन है ऐसा मैं नहीं मानता क्योंकि कांस्टीट्यूशन हमारे समाज के मफाद के लिये बनाया गया है, समाज का तरक्की पर लाने के लिये कांस्टीट्यूशन बनाया है और जब कोई आर्टिकल हमारे आड़े आ जाता है तो जिस सुप्रीम वाडी ने कांस्टीट्यूशन बनाया है वही अगर तरमीम करे तो मैं कोई बुरी बात नहीं समझता हूँ।

तीसरी चीज कह कर मैं खत्म कर दूंगा। सही मानों में जो किसान है वे अभी संगठित नहीं हैं, वे किसी न किसी बहाने से समाज, जाति, जमात, पूज्य नेता मानने के तरीके, यह जो उनकी बैकवर्डनेस है उसकी वजह से वे आज बोटिंग पाते हैं। खुशकिशमत हैं आज मजदूर, इन्डस्ट्रियल मजदूर, जो कि तजीम में आ गया है। वह अपने मफाद के लिये झगड़ता है लेकिन किसान को अपने मफाद के लिये झगड़ने का अभी कोई तरीका सामने नहीं है। असल चीज, इस दस्तूर से या तरमीम से हम इसी हद तक मुतविक हैं और उसका स्वागत करते हैं कि इस सीलिंग बिल से दस हजार एकड़ सही, एक हजार एकड़ सही, जिस किसी प्रान्त में मिलने वाला है उसको हिफाजत मिले और जो अदालतों में लिटीगेशन की वजह से वीकर सेक्शन के लोगों को खास करके बहुत बड़ा नुकसान होता है, उससे प्रोटेक्शन मिले। लेकिन किसान के बारे में बाहर जो यह कहा जाता है कि उनकी आधा एकड़ जमीन भी कल्टिवेटिड फार्मिंग या कोओपरेटिव फार्मिंग में ले ली जायेगी, यह बात गलत है। यह तो मिल्कियत की भावना है उसको मैं रिएक्शनरी भावना मानता हूँ, मैं इसको प्रगति के लिए आगे आनेवाली भावना मानता हूँ और इसी वजह से किसान खेती में तरक्की नहीं कर सकता है। लेकिन उसी किसान का बेटा, उसी किसान का भाई जब अहमदाबाद या बम्बई मिल में आ जाता है तो उसकी पूरी तरह से तरक्की हो जाती है, उसके सोचने

का ढंग बदल जाता है और तमाम चीजों की सहायता उसको मिल जाती है। यही वजह है किसान और मजदूर नौकरी की तरफ बहुत ज्यादा कोशिश करते हैं क्लार्क होना पसन्द करते हैं और टीचर होना पसन्द करते हैं। अगर उममें यह कहा जाय कि तुम ५० एकड़ जमीन की मिल्कियत को रखो और खेती पर रहो तो उसको उस जमान का जहरत नहीं है क्योंकि उस जमान से उसको कोई अश्योर्ड इन्कम नहीं होती है और न उसकी चीजों के लिए कोई सही मार्केट है। तमाम पार्टीज मिलकर चले और उनके हक के लिए झगड़े क्योंकि जो किसान मेहनत करता है उसको मुआवजा नहीं मिलता है, उसको कम्पेन्सेशन नहीं मिलता है। वह जो इन्वेस्ट-मेंट करना है उसका रिटर्न नहीं मिलता है। जब कुदरत उसके खिलाफ चली जाती है तो उस किसान की फमिनी बिल्कुल बरबाद हो जाती है और स्टेट उसकी सहायता नहीं करता है। हर स्टेट में इस तरह से उसका एक्सप्लाइडेशन होता रहता है। जब किसान घर से अनाज या खेती से बन्दी निकालकर मार्केट में जाता है उस वक्त से उसका एक्सप्लाइडेशन होता है। सरकार ने जो टैक्स लगाये हैं उसकी वजह से उसका बर्डेन बढ़ा है। किसान के लिये कोई एश्योर्ड मार्केट नहीं है। किसानों की जो लूट की जाती है उसको बंद किया जाना चाहिये, तो मुझे उम्मीद है और यकीन है कि किसान इस मुल्क में ज्यादा अनाज पैदा कर सकेगा। जमीन की मिल्कियत किस की हो, इसको मैं दायिम मानता हूँ, इसको मैं अहमियत नहीं देता हूँ। अगर इण्डस्ट्रियलिस्ट्स की तरह उसकी चीजों के लिये मार्केट का बन्दोबस्त हो जाय कैपिटल और दूसरी चीजें उसे मिल जाय तो यकीनन हमारे देश का किसान भी जल्दी तरक्की कर सकता है।

SHRI PATIL PUTTAPPA (Mysore):
Madam Deputy Chairman, I rise to support this Bill which seeks to pro-

tect the various State land reform laws being invalidated by courts. This provision ought to have been embedded in the Constitution when it was adopted as a written guarantee that the actual tiller of the soil shall have a clear, complete and undisputed title to that land. The poor, forlorn peasant ought to have secured this guarantee at the dawn of independence itself. We waxed eloquent and lavished praises on the poor peasant as the sheet-anchor of our economy and the backbone of our country. But we have yet to realise that unless his lot is improved the lot of India is not going to improve. All of us are unanimous in this that for the advancement of the country agricultural production must be stepped up. In a question like the increased agricultural production the peasant appears before us as the prime factor. Unless he is properly motivated there cannot be any real progress in the field of agriculture. The agriculturist has been lacking the incentive to work not because he is unwilling to lend his hand in the field of agriculture but he has to share the fruits of his labour inequitously, the lion's share often going to the landlord. Fixity of tenure is the only permanent remedy to the ills of Indian agriculture. It is everybody's knowledge that even these small mercies shown to our peasantry through our various land reform measures have been denied to the poor cultivator for he cannot, like these rich landlords, pursue the issue to its culmination in all the courts of the land. He is being tossed about from pillar to post without any hopes of remedy. The lengthy, dilatory legal process has wearied him and he is today a thoroughly worn-out man. Vested interests have stood in the way blocking his yearning for a piece of land and technical shibboleths have shattered his hopes for an honoured existence. This Bill has been introduced with the best of motives to remove all technical obstructions in the way of agrarian reforms which aim at providing a minimum acreage of land to every tiller. Naturally, for this, the

[Shri Patil Puttappa.]

excess land possessed by some others has to be taken away. The Bill simply seeks to facilitate and expedite this process. To quote a dispatch in 'The Times of India' of today, loose terminology, dilatory procedure and vested interests have combined to defeat the legislation and even prejudice the interests of the tenants. With the adoption of this Bill, all these anomalies would be removed and the interests of the tenants would be adequately safeguarded. If this amendment had not been brought forward, it would have meant the denial of all guarantees adumbrated in the Constitution and the poor cultivator would have been a victim of the worst sort of exploitation. In a socialistic society he would still have been a serf working for his idle and absentee landlord. Ownership of land by a few to the detriment of the many is not a desirable thing. Henry George, the celebrated socialist, who lived a hundred years ago in the United States went to the extent of calling such ownership as a continuous theft. If the existing social and economic injustices and inequalities are to continue, as explosive situation would develop in the country. Ownership of property shall have to be regulated and it must be subjected to social control.

Some critics of this Bill have made fantastic claims on the sacrosanct nature of private property. If property, whether in real estate or in something else, is allowed to accumulate beyond a certain limit, it will bring in its wake inequality, closing all avenues to equal opportunities for equal growth.

SHRI LOKANATH MISRA: But your socialistic pattern of society will distribute poverty.

SHRI PATIL PUTTAPPA: We are not distributing poverty, we have left it to you. Some even have gone to the extent (*interruptions*) of characterising this Bill which is not so revolutionary as to deprive the land-

lord, the Shylock, of his pound of flesh, as an expropriatory measure. If this measure was really expropriatory as they have made it out, the sky would not fall and the ends of justice would be met to some extent. My pity is that the Bill is not an expropriatory measure. The landlords have bled the peasants white and they have already taken more than their due share. It is indeed a great travesty of truth that instead of compensating the poor cultivator, the landlords are complaining about their compensation. Among the critics of this Bill there are persons who have called it an immoral measure. It ill lies in their mouths to talk about morality on this issue. It is strange that people who have expropriated, exploited and exasperated . . .

SHRI LOKANATH MISRA: Has anybody more than the Congress . . .

SHRI PATIL PUTTAPPA: The poor cultivator is harassed in the name of morality. Indeed, it would be immoral for the House . . .

SHRI LOKANATH MISRA: When everything is immoral, how can you think of morality?

SHRI PATIL PUTTAPPA: It would be indeed immoral for this House and for this Government if the injustices perpetrated by the landed Nawabs are not removed and suitable redress offered to the victims of their exploitation.

SHRI N. M. ANWAR (Madras): What does he mean by Nawabs? There are so many Rajahs.

SHRI PATIL PUTTAPPA: Call them by the name of zamindars, we do not mind. This measure does not seek to destroy the right of the *ryotwari* system or peasant proprietorship. Instead, it seeks to restore the peasant proprietor to his original position.

Rather than weakening his proprietary rights, this measure seeks to strengthen it. I do not know whether

ever our peasants had their golden day, but I am certain that with the adoption of this measure, they will surely, as sure as sunrise itself, see their golden day. This Bill in a large measure is a humble tribute to the poor cultivator who, after years of toil, is at last going to be assured of his rightful place.

4 P.M.

Madam, there are some people who are like dead fossil. There are many of them here who want to cling to their shells; they do not want a change. They want the status quo to be maintained.

SHRI LOKANATH MISRA: We do not want a change for the worse.

SHRI PATIL PUTTAPPA: They are like debris worth being dumped into the dustbin of history. Great changes are coming over us and we must adjust and address ourselves to the tasks ahead.

SHRI LOKANATH MISRA: But are you sure you are not worth being thrown into the dustbin of history?

SHRI PATIL PUTTAPPA: We have addressed ourselves to the tasks that relate to social and economic equality. Honesty, truth and fairplay demand that we should, by the adoption of this measure, build a society of equal opportunity for all.

SHRI LOKANATH MISRA: "अर्थ-मेव जयते" instead of "मत्तमेव जयते". That is their motto now.

SHRI PATIL PUTTAPPA: There is already too much delay. But better late than never. With wisdom as our guide let us march forward with this measure.

SHRI K. V. RAGHUNATHA REDDY (Andhra Pradesh): Madam Deputy Chairman, this Constitution (Amendment) Bill that is before us is mainly meant to remedy the juristic crisis that has been created by the decisions of the Supreme Court regarding the

interpretation of article 31(a). Several Acts passed by the various State Legislatures in relation to economic changes have been struck down by the Supreme Court. For the purpose of remedying this situation the Bill has been placed before us for the approval of the House according to the requirements of the Constitution.

Madam Deputy Chairman, we have largely accepted democratic socialism. Democratic socialism, as I understand it, means change by consent though it may imply difference as to means but it implies agreement as to ends. In other words, we want to achieve social change for the purpose of developing a socialist society through peaceful, constitutional, parliamentary methods. In such a context there is absolutely no other alternative except to come forward before this House with a Constitution (Amendment) Bill in order to change the law so as to make it suitable for the purpose of social change.

It is said, Madam, that tradition, precedents and sometimes personal prejudices of Judges make them give judgements which may not necessarily be in conformity with the spirit of the Constitution or the spirit of the law. But having accepted a judicial review of the legislation, we will have to abide by the decisions of the court, and having accepted that position, the only way, again, is to remedy the situation by amending the Constitution.

Madam, those who opposed this measure have no doubt advanced arguments that fundamental rights are getting affected, and under the Constitution rights guaranteed should not be easily meddled with. This is one, old, argument that can be advanced by any party, or any politician or leader who believes in the static character of law and the fundamental rights that are guaranteed under the Constitution. To these hon. Members I would only say that the Constitution contains not only the fundamental rights but also the Directive Princi-

[Shri K. V. Raghunatha Reddy.]
ples. No doubt the Directive Principles are only directive; still, believe me, Madam, they are not meant to be consigned to the National Archives of India so that they may be of historical interest for research scholars to make research and not for the purpose of implementation either by Parliament or by the Government. I believe, Madam, they are meant to be implemented to the extent they can be implemented in conformity with the social change and economic reforms which are desired in this country.

SHRI LOKANATH MISRA: If I may interrupt for a minute, the framers of the Constitution definitely thought that within the scope of the fundamental rights, these directives could be implemented.

SHRI K. V. RAGHUNATHA REDDY: In the context of social changes, it is a declared policy of Parliament and the Government, in conformity with the Directive Principles of the Constitution, that if a law stands in the way of progress, the Constitution itself has to be amended because the law is for man and not man for the law. If the law has to serve the ethical purpose, serve the ends of man, then the law is subordinate to the needs of man. And if the law comes into conflict with the needs of man, it is bound to be amended; otherwise it becomes retrograde.

SHRI LOKANATH MISRA: Not liquidating man himself.

PROF. M. B. LAL (Uttar Pradesh): Liquidation of property is not liquidation of man.

SHRI K. V. RAGHUNATHA REDDY: Madam, those who talk very high about Parliamentary democracy are themselves inclined to come in conflict with the views of Parliament in matters of progress. Prof. R. H. Tawney has aptly stated in one of his lectures on "Equality":—

"The lever which lifted political and religious boulders will snap

when used to move economic mountains and government by pursuasion finds its charms begin to fade, when the fate of the persuaded is, not temporary eclipse, but permanent abdication. As the strain of the conflict increases, the mask will slip, to reveal, behind the decorous manoeuvre of Parliamentary dualists, unreconciled classes locked in naked opposition. Either democracy will drop punctilio and show its teeth; or it will avoid defeat by declining battle or its claws will be clipped by constitutional changes."

We have chosen Constitutional methods to clip its claws so that the law may be adjusted in such a way that social revolution is possible.

Madam Deputy Chairman, when we read the Constitution one has to recognise the fact that the fundamental rights, though they are not meant to be preserved, they certainly represent the static concept of law, whereas the Directive Principles of the Constitution represent the dynamic aspect of law. When there is conflict between dynamism and statism we certainly choose dynamism in place of statism. And in this context wherein these enactments have been enacted by the State Legislatures and since some clause or the other has been found inconsistent with some of the fundamental rights guaranteed under the Constitution, under article 13 of the Constitution, if the law is inconsistent with any of the fundamental rights guaranteed, that law goes. That means that law becomes unconstitutional. In order to avoid this contingency created by the legal interpretation, perhaps not contemplated by the Constitution-makers, when the Supreme Court has come forward with a decision, there is no other alternative for Parliament except to amend the Constitution if we really believe in Parliamentary democracy as the means of achieving socialism. If we do not allow this social change to be visualised in Parliamentary democracy, I am certain the people will take recourse to other means if we do not act in time.

Madam Deputy Chairman, on this occasion I beg leave of this House to quote our revered leader, Pt. Jawaharlal Nehru, from one of his speeches when he moved the First (Amendment) Bill in 1951 on May the 16. He said:—

"The Directive Principles of State policy represent a dynamic approach towards a certain objective. The fundamental rights represent something static; their object is to preserve certain rights which already exist . . .

"Both again are right. But sometimes it might so happen that the dynamic movement and the static concept do not quite fit in with each other. A dynamic movement towards a certain objective necessarily mean certain changes; that is the essence of the movement; certain existing relationships are altered, varied or affected. In fact it is meant to affect those settled relationships and yet, if you come back to the Fundamental Rights, they are meant to preserve, though not always directly, certain settled relationships. There is a certain conflict between the two approaches, but I am sure it is not an inherent one. However, there is some difficulty and, naturally, when the courts of the land have to consider these matters, they have to lay stress more on the Fundamental Rights than on the Directive Principles of State Policy. The result is that the whole purpose behind the Constitution, which was meant to be a dynamic Constitution leading to a certain goal step by step, is hampered and hindered by the static element which has been emphasised a little more than the dynamic element, and we have to find a way out of the difficulty."

And the way even now, I think, lies in an amendment to the Constitution. I welcome this amendment and strongly support it.

SHRI T. V. ANANDAN (Madras): Madam Deputy Chairman, I thank you for having given me this opportunity to speak on this subject, and this is

my first occasion. This is a subject where the question of the life and death of crores and crores of our people is involved and so I appeal to the hon. Members of this House through you, Madam, to dispassionately view this fundamental subject.

Ours is a country which is predominantly agricultural. It is an inheritance of ours from days of old, from the Mauryan dynasty, I mean from Chandra Gupta Maurya, from which day history has been written, and from that we find that our country has been progressing gradually in agriculture. Even if we take the statistics, they prove that eighty per cent of our countrymen depend upon agriculture and it is only about twenty per cent that live in towns and are employed in industrial and other establishments. Therefore, on this subject we have to think very carefully as representatives of the States. Although we may be called the Council of States, we have also the name, the House of Elders, and we as elders should deal with this subject in a very very unbiased manner.

Here is a subject which has been under consideration from the days we were subjected to foreign rule and foreign domination. After we got independence of our country and freedom from foreign domination we have been preaching throughout the country, day in and day out, to the people of our country, that we will very soon bring about land reform, that we will abolish the zamindari system, that the States will be liquidated. That was the propaganda, and the force behind the speeches of our great leader, the illustrious son of India, whom we do not find here today. And the Father of the Nation also did speak, and the Bardoloi Sardar, who is not here, also expressed it at several meetings. We are today a free and independent country, and already we have done our best and have abolished the zamindari system, and the former States. And we were now confronted with this

[Shri T. V. Anandan.]

other difficulty where we could not prove worthy of our own statement; after seventeen years of experience we have only now come to realise that our Constitution has to be amended to an extent in this regard. I submit to you, Madam, that here you permit me to read the Preamble of our Constitution where it says, "JUSTICE, Social, economic and political;". This is the most important part of the Preamble, and as far as one portion of it is concerned, namely, political freedom, it is abundantly in evidence in this country. Even though the Chinese have attacked us on our northern border, yet we tolerate our people here to say that it is not aggression, and such are the representatives whom we also permit to sit in this House, and that is the liberal democracy in which we are carrying on today. Therefore I say politically we are free.

Next comes social justice. How can social justice be enforced in this country, be meted out to those who are economically down-trodden? The first thing the Parliament and the Government of the day thought was that unless there was economic justice there cannot be social justice. And we have now found that there should be an amendment of the Constitution in Article 31-A. If we read Article 31, it clearly says:

"No person shall be deprived of his property save by authority of law."

Now, law is made by the supreme body, by Parliament, the governing body of the country, in which ample faith and confidence is reposed by the people of the country. We are a supreme body and we can do things good; we are the people who have adopted this Constitution for our own governance, and we have the right to amend it when we find that some articles of the Constitution in their present form are not conducive to benefit the vast majority

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of the people. As I said, there is the provision in the Constitution:

"No person shall be deprived of his property save by authority of law."

And now we, the makers of the law, think that there should be an amendment in that article and therefore an amendment to Article 31-A is introduced, and we ought to carry it through, and in this there cannot be any difference of opinion when crores of people's destiny depends on the decision of this amendment, and the amendment is very necessary at this juncture. The amendment does not aim at any drastic change in the provisions in the Constitution. The amendment seeks that those who are doing personal cultivation—it is not the absentee landlords that we are interested in—are not deprived of their right without giving them adequate compensation; compensation at market rates is guaranteed to them. It is only those who do not care for the land they possess that will be roped in here. They get employed somewhere in the cities and they take no personal interest in the land. They are the absentee landlords and they cannot be our worry. As a matter of fact, there are some States which have enacted laws to affect the absentee landlords. We are not at all worried about the absentee landlords because, as long as the absentee landlord is allowed to own the land, there will be no incentive for the tiller of that land; the tiller will never care to exert himself to produce more. And in the matter of providing incentives I can quote an instance of the public sector where an incentive bonus has been introduced very recently, and since then every worker works very sincerely and loyally exerts himself, not beyond his capacity, at least to an extent he exerts himself and earns the incentive bonus. The incentive for bonus is in the minds of the workers. So also here, the tillers of the soil, if they are made the owners of the lands they cultivate, there will be an

improvement brought about in the entire agricultural set-up of our country. We are spending crores and crores of rupees on agriculture, and yet we see we are not reaching the production target. And what is it due to? It is because the crores and crores of rupees that we allocate do not go to induce the tiller of the soil. And as long as this intermediary, the absentee landlord, is there, it does not go to improve matters, and so we, the custodians of the interests of the people, think that it is best that we bring in this amendment to amend Article 31-A, and we are doing this after an experience of seventeen years, feeling it a necessity. There is a saying: "The old order changeth yielding place to new" and in our life, every other day, we see a new thing coming up every day is an experience to us, and every hour is also an experience to us,—human beings,—and after our experience all these years we find that this amendment is essential and must be made. There is another instance. We heard last night the broadcast concerning the will of the great leader whom we were fortunate enough to have amongst us but whom, unfortunately we do not have today.

We see him not physically, but spiritually, for his spirit is hovering over this building. In his will he has desired that from an aeroplane his ashes should be scattered over the fields where the peasants of India toil. This reference to the peasants of India was made not now but in 1954. He said: Let my ashes go to the peasants who toil", not to those who waste, not to the absentee landlords but to those who toil. This shows that our great leader had always the interests of the agriculturists of those who want to honour our great leader we want to honour our great leaders we should pass this amending Bill now without any hitch or opposition. That is my request.

Further we can also argue that no man owns the land. Land is not the property of any individual. In the

Artha Sastra, during the Mauryan days, it was stated that the king owned the land, the earth, and no other wealth. Therefore, the earth, the land belongs to the king. In those days the kingdom belonged to the king, to the crown. But today we have inherited the crown, democracy has inherited the crown and socialist democracy is the inheritor of all that belonged to the king and automatically the ownership of the land comes to us, and therefore, the people of this country who are the owners have the right to say we must have land reforms in this manner, so that, it is beneficial to the crores and crores of our people. We are within our rights. We are not doing anything *ultra vires* of any law. Nobody can say that we are transgressing the Constitution. We are in no way transgressing it. We are within our Constitution. But one thing I find. The Opposition side, those of the Swatantra party, always takes objection to whatever the Congress party does. But the founder of the Swatantra party Shri Rajagopalachari was once propagating, as I said before, that the tiller would very soon be the owner of the land, very soon after the attainment of independence. But the same leader today has started this party which finds fault with every thing that is done. At the same time they say that Communism should not prevail here, that Communism should be buried fathoms deep. How can you bury Communism fathoms deep unless you distribute the land among the tillers by evolution and not by revolution?

SHRI LOKANATH MISRA: And so you actually bring in Communism even before the Communists come here.

SHRI T. V. ANANDAN: We can do so only by a process of evolution and not by any revolution.

SHRI LOKANATH MISRA: In his maiden speech he brings in subjects which invite interruptions. How can I help it?

SHRI T. V. ANANDAN: Right, my friend. But my hon. friend must understand that if we want to do away with Communism, we must have another plan and that plan is to have an evolution and thus distribute the land when such property ownership will be done away with. We will be doing it gradually and by constitutional and statutory laws and rules, not by revolution. Saying that Communists should not be here and also preventing the growth of evolution is no good argument on the part of the Opposition parties. Of course, Opposition is necessary in a democracy, but the Opposition should be helpful and it is healthy criticism that we require. One should not see all things with a jaundiced eye. A man suffering from the disease of jaundice always sees things yellow and nothing else. Here also some who are in the Opposition, when we are trying to solve the problems, when this Government is gradually introducing reforms for the benefit of the people, to the mass of our people, should be more helpful. Therefore, Madam, I say that this amendment should be automatically and without any hitch or division be adopted. Thank you. Madam.

श्री के० सी० वघल (मध्य प्रदेश) : माननीय उपसभापति महोदया, मैं इस बिल का समर्थन करने के लिये खड़ा हुआ हूँ। मैंने आज जितने वक्ताओं की स्पीच सुनी है उससे मुझे यह लगा कि जो छोटे किसान हैं, जिनकी जोत की जमीन बहुत कम है, उनको इससे बहुत ज्यादा फायदा होने वाला है और चूँकि मैं भी एक किसान वर्ग से आता हूँ इसलिये मुझ को उनके साथ सहानुभूति है, दर्द है और मैं चाहता हूँ कि यह बिल जल्द पास हो। लेकिन इसके साथ साथ, इसमें कुछ बातें ऐसी हैं जिनकी गहराई से समझने की आवश्यकता है।

यह जो अमेडमेंट आया है, अगर हम यह सोचें कि इससे किसानों की हालत

सुधर जायेगी तो मुझे ऐसा शक होता है कि जिन प्राप्त जमीनों को हमें बटवारे में देना है वह जमीनें अगर लैन्डलैस लोगों को दी जायँगी तो इकानामिक होल्डिंग होगी कि नहीं होगी। इसको मैं आज जहाँ तक संचित हूँ, तो मुझे अपर्याप्त लगता है, वह नहीं हो सकेगी। अब ऐसी हालत में हमारा उद्देश्य सफल होगा कि नहीं होगा इसमें मुझे कुछ शंका है।

दूसरी बात यह है कि यह बात सही है कि हम लोग उन लोगों को जो लोग जोतते हैं उनको जमीन दें, लेकिन साथ ही साथ जो लोग जमीन जोतने के लिये तैयार हैं, केवल जमीन पाने से ही उसमें उत्पादन बढ़ जायेगा, ऐसी बात नहीं है। उसके लिये सेवक स्पोर्टिंग बनने के लिये जिस चीज की आवश्यकता होती है उसमें सरकार की तरफ से काफी सब्सिडाइज करना पड़ेगा, तभी यह सफल हो सकेगा, ऐसा मुझे दिखता है। और अंत में यह कोऑपरेटिव फार्मिंग की ओर हमको ले जायगा ऐसा हमें दिखाई देता है और कोऑपरेटिव फार्मिंग कोई खराब चीज है ऐसा मैं नहीं मानता हूँ। मैं मानता हूँ कि उस देश की तरक्की होने वाली है। मौजूदा हालत में जब कि एक ढाँचा बिगड़ा हुआ है उस वक्त यह साफ दिखता है कि कोऑपरेटिव ठीक से वर्क नहीं कर रही हैं, हम इस मामले में फेल होते जा रहे हैं। तो धीरे धीरे हमको आशा करनी चाहिये कि जितना हम अभी दिशा में कदम उठा रहे हैं उतना हम आगे चल कर इन सब मामलों में सफलता प्राप्त कर सकेंगे।

इस आशा के साथ मैं समझता हूँ कि आगे या पीछे अभी दिक्कतें हल हो जायँगी। यहाँ यह बात कही जाती है कि जो जोते उसका जमीन, यह तो बिल्कुल सही बात है। मैं भी इस बात को मानता हूँ। लेकिन अगर हम इसको आगे बढ़ायें तो हम यह कह सकते हैं कि जो जिस मकान में रहे उसका मकान हो, हम कह सकते हैं

जो मिल का काम करे उसकी मिल हो और हम यह कह सकते हैं कि जो मोटर की देखभाल करे, उसको चलावें, वह उसका मालिक हो अगर इस दिशा की ओर हम कदम बढ़ा रहे हैं तो यह बिल स्वागत करने योग्य है और इसी मानी में मैं इस बिल का स्वागत करता हूँ ।

SHRI T. CHENGALVAOYAN (Madras): Madam Deputy Chairman, I would like to support this Bill for various reasons, particularly because we of the Congress have inaugurated very early, even earlier than we started our struggle for political emancipation the campaign that land reforms must form an integral part of the entire scheme for the elevation of our country to the full stature of political and national manhood. In that gigantic movement of the land reforms policy, several States have undertaken stupendous legislation for land reforms but unfortunately, Madam Deputy Chairman, with reference to certain constitutional validity of those important land reform legislations there has been severe attack that certain legislative measures undertaken by the States were repugnant to the provisions of Article 13. In view of the judicial pronouncements of the constitutional incompetence of the State legislation as violative of Article 13, it has become necessary in the very first instance to amend certain provisions of our Constitution. Madam Deputy Chairman, the whole culminating process of this judicial interpretation of the limitation of the State legislature with regard to initiative of land reforms legislation was that Article 13 gives an inhibition against the State legislature which will be violative of certain Fundamental Rights as embodied in Article 14 or Article 19 or Article 32. In the light of such a discussion, Madam Deputy Chairman, the Kerala Agrarian legislation spotlighted the limitation of the State legislative competency which was otherwise to be valid but for certain prohibitions contained in our Constitution.

If we go through the judgement of the Supreme Court with regard to that legislation, the argument that was contented against that legislation was that it was violative of article 13, it was infringing Article 14 and it was contravening Article 19. There was a counter-argument, Madam Deputy Chairman, on behalf of the State, that Article 31A would undoubtedly give protection against such violations but, Madam Deputy Chairman. Their Lordships of the Supreme Court tried very much to find out whether such a protection under Article 31A existed and they were upset with this limitation that the word "estate" in Article 31A had a meaning that was given to it by the Constitution. They had to find out that the same would have been the meaning given in the law in force and the law in force then within the meaning of Article 31A was the law of the legislature of a State passed in the year of Grace 1950, 1951. Several legislative measures, Madam Deputy Chairman, initiated by the respective State had carried the definition of "estate" and there was no possibility of extension of that meaning to some of the land tenures that were covered by the State legislatures. There were, I think, two respective State legislations which were immune even without this amendment of the Constitution and which had the protection under Article 31A. The Bombay Land Revenue Code of 1879 had its meaning extended to all kinds of tenure and, therefore, even without this constitutional amendment that we are now proposing, that legislation could not be struck down as violative of Article 13 or Article 14 or outside the scope of Article 31A. There is another legislation, Madam Deputy Chairman namely, the Punjab security of the Land Tenure which also was considered by the Supreme Court and the Supreme Court was of the view that even under the existing provisions of Article 31A, the Punjab Security of Land Tenure would not be violative of Article 13. Therefore, Madam Deputy Chairman, we

are faced with this awkward situation, if I may say so, that while we consider the land legislation inaugurated by several States to be in keeping and in consonance with the spirit of the march of the time, yet we find that the meaning that we could give to the word "estate" under Article 31A could not possibly cover those land tenures. That is why, Madam Deputy Chairman, the Government today has come forward with a proposal to amend Article 31A. In this context, Madam Deputy Chairman, may I be permitted to state and answer certain criticism? The first criticism that is levelled against this Bill is that we are tinkering and tampering with the Constitution every time and turn. May I most respectfully answer that criticism by saying that we are not tinkering or tampering with the Constitution. It is neither fun nor frolic on our part that we want to attempt to amend the Constitution just, if I may say so, for fancy. We are faced with a situation; as one hon. Member has said, we are faced with a crisis—that while on the one hand we are to march forward and onward with a tremendous surfeit of land legislation, we are faced with judicial pronouncements that certain legislations could not take in the meaning of the word "estate". Therefore, Madam Deputy Chairman, when we come for the exercise of the amending power that Article 368 confers upon this Parliament, we are obliged to amend Article 31A. The amending power, as all constitutional writers have been always saying, should not be exercised for the purpose of uprooting the constitutional provision itself. If we examine the amendment, the proposed amendment, we would find that it is not uprooting any Article at all. It is only grafting of a certain provision and, therefore, Madam Deputy Chairman, the criticism that we are tinkering with the Constitution too often is certainly not with any force. Moreover, Madam Deputy Chairman, the provision for amendment of the Constitution is a plenary exercise of the

parliamentary power and whenever certain judicial pronouncements are made and we want to amend the Constitution, the Constitution lends itself such an amendment. There is the second criticism, Madam Chairman, that this Bill is stultifying the decision of the Supreme Court. I have the greatest respect for the courts of our country. They are the guardians and interpreters of our Constitution. They are the upholders of the rule of law but may I with all respect and reverence point out, Madam Deputy Chairman, that we are not stultifying the decision of the Supreme Court? The Supreme Court has pointed out the defect in the Constitution and what we are attempting to do is not to stultify the decision of the Supreme Court but we are only rectifying the defects pointed out by the Supreme Court. May I most respectfully submit that we are making obedience to the Supreme Court and the Supreme Court, in one of the important cases that came up before it has said this: The argument was that the legislation attempted by a particular State was a fraud upon the Constitution and the most eminent Judge, the Chief Justice of the Supreme Court as he then was, Mr. Patanjali Sastri, said in the most emphatic and classical terms that if ever a constitutional law was declared to be constitutionally invalid, it was the function, nay the duty, of the Parliament to bring it in line with the Constitution. That is the power, that is the duty and that is the function of the Parliament and, therefore, Madam Deputy Chairman, the criticism that we are stultifying the decision of the Supreme Court with regard to the scope and ambit of Article 31A is certainly not fair and certainly not correct. There is the third criticism, Madam Deputy Chairman, that we are undermining the Fundamental Rights guaranteed in the Constitution. May I most respectfully bring to the kind notice of those critics that Article 13 implies an inhibition against State legislation, not against Parliamentary legislation? Article 13 starts with the most signi-

ficant works that no State can pass a law which will be violative of the provisions of that particular chapter. It is not, cannot and should not be an inhibition against parliamentary legislation. Secondly, Madam Deputy Chairman.....

SHRI M. RUTHNASWAMY (Madras): Does not the word "State" in the Constitution mean Government, Parliament or any Legislature, not merely a State legislature?

SHRI T. CHENGALVAROYAN: I am much obliged to my esteemed Professor but in the interpretation that has been given to Article 13 by the decisions of our courts in many places, it is only an inhibition against State legislatures because Article 13 read with the Schedule and the list enumerated in the Schedule goes to point out one significant fact that it is an inhibition against the State legislature. Therefore, Madam Deputy Chairman, my most respectful answer to that criticism is that we are not undermining the Fundamental Rights. Moreover, if we just examine the provisions of the Constitution, Article 13 is a protection and guarantee for the infallibility of the Fundamental Rights. But if we just examine Article 31 it gives the right to hold property and it also guarantees against deprivation and acquisition but what about Article 31A? Article 31A carries within itself the concept of a dilution of the Fundamental Right but under certain conditions and safeguards. This Bill, Madam Deputy Chairman, I submit has to be considered in the combined context of Articles 31 and 31A. One thing must be certainly clear to those critics who say that we are undermining the Fundamental Right. We are not undermining the Fundamental Right. Now under Article 31A an estate is said to include all ryotwari tenures, and Article 31 states what should be the land or the property that could be covered. Article 31 is there and article 31A is sought to be amended. It says, 'Notwithstanding anything contained in article 13....' It does not dispense with Article 31.

Therefore my contention before you, Madam Deputy Chairman, is that Article 31 must be read with Article 31A and if Article 31 is read with Article 31A it is a sufficient and complete guarantee for the protection of the Fundamental Right. Article 31, as you all know, says that no person shall be deprived of his property and no property shall be acquired without the due process of law and without paying sufficient compensation. Therefore the argument that this Bill is undermining the Fundamental Right equally has no force.

There is the last criticism, Madam Deputy Chairman, which I shall deal with and that is that this Bill is expropriatory in nature. May I most respectfully point out to those people who feel like that, that this Bill as has been amended by the Lok Sabha says that a certain minimum land is not to be affected by the provisions of this Bill. Now, that must be a sufficient guarantee against any question of expropriation.

SHRI LOKANATH MISRA: But are you prepared to fix now a ceiling not to be altered further?

SHRI T. CHENGALVAROYAN: My friend must have a little patience. I am sure this proviso that is put in here in the Bill gives a sufficient guarantee and elasticity to the State Legislatures for fixing the ceiling. Whatever the ceiling that is fixed, in whatever form it may be fixed, that ceiling will not be affected by the provisions of this Bill. Can there be a greater guarantee than this proviso? After all, Madam Deputy Chairman, expropriation is considered even in Article 31A as it now stands. Article 31 itself is expropriatory. When the concept of acquisition is there, when the question of deprivation is there already in the Constitution, the country has accepted the concept of expropriation but under limited circumstances, namely, that it must be for a public purpose.

SHRI M. RUTHNASWAMY: That is also the result of an amendment.

SHRI T. CHENGALVAROYAN: Exactly. Amendment is always the result of a sensible realisation of the defects of the present. Amendment is always a result of a progressive outlook on the inadequacies of the present. We always take up amendments because something is inadequate, something is ineffective, something is abortive, something is atrophic, something is anaemic. That is why we take up amendments. Otherwise the Constitution becomes a dead letter. There must be a dynamic movement with the times and its spirit. May I therefore most respectfully submit, Madam Deputy Chairman, that this Bill is very timely and very necessary? Otherwise the whole magnificent movement of land reforms initiated by several States will go to pieces and the millions of peasants who look forward to the millennium of emancipation, who look forward to the salvation of their lives, who look forward to the solution of their difficulties, will be deeply disappointed. Let it not be said therefore that we the representatives of the people failed them in their hour of distress.

One word more and I have done. This Bill, Madam Deputy Chairman, is more sinned against than sinning. With these words I have very great pleasure in lending my wholehearted support to this Bill.

SHRI M. RUTHNASWAMY (Madras): Madam Deputy Chairman, the Government seems to have had second thoughts in regard to the numbering of this amendment. Originally we were told that it was going to be the 19th Amendment. Evidently the Government believes in adding to the score of its amendments. The Seventeenth Amendment was originally defeated in the other House and its successor the Eighteenth Amendment was withdrawn by the Government. Still the Government at first thought that they were all amendments and therefore this was called the Nineteenth Amendment, as if in cricket no-balls are also considered to be part of

the over. Anyhow, I am glad that the real number has been given to this amendment.

Now there have been amendments to Constitutions elsewhere too. The United States Constitution has had eighteen amendments but in 200 years. We have had seventeen amendments in seventeen years, one amendment per year. The difference between the amendments to the U.S.A. Constitution and the amendments to our Constitution is that the amendments to the U. S. A. Constitution increased the rights and liberties of the citizens—the first ten or twelve amendments constituted a declaration of the rights of citizens of the United States of America—whereas the amendment to our Constitution progressively reduce the rights that were guaranteed in the original Constitution. These amendments seem to be almost physical reactions against the decisions of courts of law, against the decisions of the Supreme Court. The Supreme Court makes a decision and a week or two afterwards the Government announces an amendment of the Constitution. It is a case of action followed by reaction and the reaction is so precipitate that it follows the action almost immediately. It reminds one of Hamlet complaining that the death of his father was followed immediately by the marriage of his mother to his uncle, the meats for the funeral feast being used as meats for the marriage feast.

One hon. Member supporting the amendment said that this amendment aimed at immunizing the legislation of Parliament against the courts of law. 'Immunizing' is hardly the word to be used in this connection as if the decisions of the Supreme Court constituted contamination.

SHRI G. S. PATHAK: I am sorry I am not being correctly quoted. The expression was 'immunized' against attacks based on articles 14, 19 and 31' and not against courts.

SHRI M. RUTHNASWAMY: A better word might have been used; protection rather than immunization.

Then, Madam Deputy Chairman, I would like to ask the question, how fundamental are our Fundamental Rights? Are they fundamental at all if they are going to be amended whenever the Government thinks it necessary? Why is the title 'Fundamental Rights' given to the III Part of the Constitution? Was it not because they were meant to be the foundation of the rights and liberties, of the constitutional and political life of the people. Does one disturb the foundations of the house in order to improve the house? If any article under Fundamental Rights can be amended then nothing is certain.

SHRI P. N. SAPRU (Uttar Pradesh): I would like to ask Mr. Ruthnaswamy, who is a great constitutional authority, this question. Why are Fundamental Rights more easily changeable under the Constitution than certain other Parts of the Constitution? If the notion of Fundamental Rights was that they were inalienable rights then the process of change should have been more difficult but the process of change in their case is less difficult.

SHRI M. RUTHNASWAMY: Fundamental Rights constitute the foundations of the Constitution, the foundations of the political and constitutional life of the people.

PROF. M. B. LAL: He is not using the word 'immutable'.

SHRI M. RUTHNASWAMY: The late Prime Minister and speakers on behalf of the Government have always stated that we are committed to the free way of life. Now, if we are committed to the free way of life, are we free to disturb the foundations of that free way of life as we please?

SHRI AKBAR ALI KHAN: It is subject to this that we do not allow exploitation.

SHRI M. RUTHNASWAMY: There is enough provision in the Fundamental Rights against exploitation, for the right to property is subject to the requirements of public order and morality. Is not that protection enough?

Another Member said that our Constitution must be dynamic and not stagnant. There are certain parts of the Constitution which can be changed, but if you make the fundamental part of the Constitution also dynamic, then we are living under a fluid system. Nothing is certain. No right is certain. No liberty is certain. You can take away any right that has been guaranteed by the Constitution. Any article in the Fundamental Rights can be amended.

An hon. Member from Madras said that these amendments were meant to rectify the Constitution. Now, you can rectify a Constitution out of existence. You can improve a Constitution out of existence. You may amend the fundamental principles of the Constitution, fundamental articles in the Constitution, so that the Constitution may appear to be something opposite of what it was originally meant to be. I am reminded today of the great controversy that took place about the time the Government of India Bill, 1935, was debated both in the English Parliament and in India. The British sponsors of the Government of India Act said that there was no need for Fundamental Rights at all because under the common law of England, which was also introduced into this country, many of the rights and liberties of the individual citizen were guaranteed under it. The other argument used by the British sponsors was that if you legislate for Fundamental Rights, the Fundamental Rights which you give one day may be taken away the next day by another set of legislators. That ominous prophecy. I am afraid, has come to be realised under Congress auspices. The Fundamental Rights given by the original Constitution are being taken away today by

[Shri M. Ruthnaswamy.]
amendments to the Constitution and this particular amendment has arisen, as has already been pointed out, because the Supreme Court struck down the Agrarian Relations Act of Kerala. No doubt the Select Committee has introduced a welcome amendment to the original draft. Another proviso is to be added in article 31:—

“Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to enact any legislation which could deprive him of compensation.”

Now, why should only land which comes under personal cultivation be protected to this extent? In our country very few people can personally cultivate even the thirty or forty acres which are now allowed under the ceiling laws. On account of want of capital it is necessary that the land should be cultivated through tenants. Why should not this protection be given also to persons who allow their lands to be cultivated by tenants? But then you say, this might lead to bad cultivation, this might lead to uncertainty of tenure. But the tenancy laws introduced by Mr. Rajagopalachari in Madras show that tenants can be well protected against all these invasions of their rights by the land owners.

Another charge against this amendment is that ryotwari lands are brought down to the position of estates of zamindars. I suppose that in their feverish attempt to attain socialistic equality, the Government have found that it is one way of attaining that equality, namely, giving the dog a bad name and then maiming it for life. Never in the English language has ‘estate’ been applied to small holdings. ‘Estate’ always meant landed estate of great landlords. It is only in middle English that ‘estate’ came

to mean a bundle of rights other than the rights possessed by a great landlord. In regard to this, may I remind the House of the great debate or the great struggle that men like Sir Thomas Munro and other Collectors in Madras fought with the directors of the East India Company to acquire these individual rights for the ryots of Madras and other Southern States? The directors of the East India company were all in favour of the zamindari system, which had been introduced by Lord Cornwallis into Bengal. He based the recommendations on historical facts—and here I must controvert the contention of one Member from the Communist Party, who said that the ryotwari system was foisted on the country by the colonial imperialists. The ryotwari system, namely, individual land-holdings by individual ryots dates from times immemorial, dates from the time of Manu. It is not an introduction by the British. Sir Thomas Munro recommended it, because that was the prevailing practice in the districts in which he was the Collector and the gratitude of the Madras people is shown by the fact that a great statue was erected to him on Mount Road, a conspicuous statue, which is still held in respect and regard by the people of Madras because Sir Thomas Munro confirmed the rights of the ryots of Madras. The amendment, therefore, aims at the deprivation of a hard won right, a right that has been secured to the small land-holders of Madras.

This amendment is only the final—I do not say it is the last—terminus of a whole series of legislation which aim at eroding the property rights guaranteed under the Constitution. All this is so unnecessary because under our very existing land acquisition Acts any land can be acquired, even the land of a ryot can be acquired for public purposes. All the lands of the Railways were acquired from ryots under the existing land acquisition Acts. So, why is any constitutional amendment of this kind necessary in order to secure the rights of

the public, in order to secure the rights of the State for public purposes? This is part of a crusade or a war against property rights. And may I point out, Madam Deputy Chairman, that it is not merely property that is affected by this amendment; by all the amendments they try to deprive people of their right to property guaranteed under the Constitution. No doubt that

5 P. M. great French philosophical Anarchist; Mr. Proudhon, has said that property is theft. But that charge applies only to the origin of property. Property may have begun in theft or in conquest but the course of history has proved that property has served not only the cause of economic progress but also cause of political liberty. It is property-holders that have defended the rights of Magna Carta, that have secured the Bill of Rights. It was John Hampden, the land-owner, who refused to pay ship money and was thus able to inaugurate a rebellion that ended in the Constitution of 1688. Property means liberty. In fact in the mediaeval constitutional language property was one of the franchises, one of the liberties of free men. And peasant proprietorship in modern times is a defender of political liberty. Wherever peasant proprietorship has flourished, has been allowed to prosper it has been a safeguard of political liberty. Peasant proprietorship is a sure safeguard against the

the onrush of Communism as has been proved by the experience of France, Germany, Belgium Holland and Italy. It is only socialism that is hostile to landed property. Socialism is a town-born and a town-bred political theory. All these great socialist writers were born in towns and bred in towns like Karl Marx and onwards. But we who believe in the freeway of life must object to any attacks on the right of property. Property spells not only liberty, it spells progress, and we who believe in the maintenance of political liberty in our country should be very careful, should be opposed to any attempt that will place the holding of property under jeopardy. It is because I believe that the property of the small peasant is being threatened by this Amendment that I oppose it, and I appeal to all Members, and I am sure there are many even in the Congress, who believe in the rights and liberties of the small property-holders to do what they can, as they did on the other occasion in the other House, to defeat this Amendment.

THE DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at three minutes past five of the clock till eleven of the clock on Friday the 5th June 1964.