

SHRI BHUPESH GUPTA: Shame on this Government which keeps people in detention for 1½ years. Shame on them.

SHRIMATI SHARDA BHARGAVA (Rajasthan): It is shameful on the part of the Member who speaks like this in the House.

MR. CHAIRMAN: Now, Mr. Sen to move the Constitution (Seventeenth Amendment) Bill.

THE CONSTITUTION (SEVENTEENTH AMENDMENT) BILL, 1964

THE MINISTER OF LAW AND MINISTER OF COMMUNICATIONS (SHRI A. K. SEN): Mr. Chairman, I beg to move:

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

Sir, the object of the Bill has been set out in the Bill itself. It was decided by consultation with all the parties concerned in the States and also at the Centre that there should be a uniform pattern of land reform legislation all over the country providing for the acquisition of surplus land from intermediaries who do not till the land and distribute the same to those who are actually the tillers of the soil. Pursuant to this policy decision, land reform measures were adopted in all the States. It will be recalled that Article 31A and Article 31B have been amended for the purpose of enabling these land reform measures to be proceeded with. Unfortunately, about nine Acts were struck down by the different High Courts and also by the Supreme Court, firstly on the ground that in some areas the *ryotwari* settlements were not regarded as estates—the transferred areas of the old Madras State which now form part of Kerala

and also other areas in Andhra Pradesh, Maharashtra and Gujarat. It was therefore necessary to widen the definition of the expression 'estate' so as to make the same uniform principle of land reform legislation applicable in those areas where the *ryotwari* settlements are not according to local custom, usage and law regarded as estates. Secondly, many Acts were struck down on the ground that the ceilings imposed contravened Article 14 or Article 19 of the Constitution, like the Madras Land Reform Law, the Mysore Land Reform Law and several other laws. Article 14, as you know, has been interpreted in a particular way in regard to such matters and as it will be recalled even with regard to the zamindari abolition in Bihar, when the first Bihar Land Reform Law was passed in 1950, Article 14 was invoked to strike down the Act by the Patna High Court, and the first amendment was made for the purpose of legalising that law and other laws and the very first Act which finds a place in the Ninth Schedule is the Bihar Land Reforms Act. Our purpose is to legalise some of these Acts which have been struck down or are likely to be struck down on similar principles by including them in the Ninth Schedule so that they will be immune from being struck down on the ground that they contravene article 14 or article 19 of the Constitution. Clause 3 sets out a list of those Acts. Each and every law was scrutinised rather carefully by the Select Committee, and we took good care to see that no Act was brought into its cope which was not a measure for land reform. As a result, many Acts which were originally included in the Bill have been left out and some Acts have been partially protected, Acts like the Rajasthan Act, the Gujarat Act, etc. Some of the provisions in those Acts appear to us not to be measures relating to land reform.

This is the main purpose of the Bill. We cannot afford to allow our

land reform legislation to be kept in a state of uncertainty. In some States where the relevant laws have been struck down they have been held in abeyance. It is absolutely necessary that land reform is carried out all over India at the same pace and at the same pattern and we cannot therefore afford some areas to be kept out of the purview of land reform merely because the estates which were sought to be acquired were not specifically estates within the meaning of article 31 of the Constitution.

These are the reasons why the Bill has been introduced. It will be recalled that after it went to the Select Committee and came out of the Select Committee after a thorough scrutiny, by some unfortunate combination of circumstances . . .

SHRI BHUPESH GUPTA (West Bengal): What were they?

SHRI A. K. SEN: Elections to certain Committees being held on the same day, 51 per cent of the Members were not present on that occasion and many more were kept outside.

SHRI BHUPESH GUPTA: Don't make that . . .

SHRI DAHYABHAI V. PATEL (Gujarat): They were in favour . . .

SHRI BHUPESH GUPTA: How does the Congress Party . . .

SHRI A. K. SEN: If it pleases, I don't grudge that pleasure to Mr. Dahyabhai Patel.

SHRI BHUPESH GUPTA: You will not grudge me that pleasure. How does the Congress Party . . .

MR. CHAIRMAN: He has not yielded! . . .

SHRI A. K. SEN: Many of the Members of the Communist Party were absent.

SHRI BHUPESH GUPTA: They were all present.

SHRI A. K. SEN: No, no. Many of them came late. Mr. Homi Daji himself was outside and he came and made a statement that the bell was not heard when the voting was going on. And it is a fact that many more Members did not hear the bells ringing. Anyway we need not go into that history. After all, rules are rules, and we had to bow to the decision of the Speaker in not allowing a revoting on the matter. So, this special session has been called. The Lok Sabha has passed it. One amendment, namely . . .

SHRI BHUPESH GUPTA: Are you sure that some of the Members belonging to your party did not fall under the spell of the Swatantra Party on that day?

SHRI A. K. SEN: I am absolutely sure that . . .

MR. CHAIRMAN: Your way of . . . (Interruptions.)

SHRI LOKANATH MISRA (Orissa): May I . . .

SHRI A. K. SEN: I am delighted to see the concern felt by him for the Members of our party but some of his own Members might have been under the influence of the Swatantra Party on that occasion because I saw that their ranks were completely empty and they filled up only after the lobbies were again cleared. Anyway, we need not go into it. This is the position and I move that the motion be taken into consideration.

Sir, may I have your leave for a short time? The Deputy Minister will be here. I have a very important meeting at 12-15 to settle some important Government matter.

The question was proposed.

SHRI DAHYABHAI V. PATEL: Sir, I am rising to oppose the motion for

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introduction of the Bill. I know that it is the tradition of this House that generally, the introduction of a Bill is not opposed but in this particular case . . . (Interruptions).

SHRI BHUPESH GUPTA: It was introduced in the Lok Sabha.

MR. CHAIRMAN: Minor mistake of detail.

SHRI DAHYABHAI V. PATEL: The manner in which the Bill has been sought to be brought before the House—when it failed according to the Constitution, the manner in which it is sought to be brought again before Parliament—is, I submit, very wrong and objectionable.

The Constitution provides the manner in which Bills should normally be passed particularly Bills relating to amendment of the Constitution. This amendment to the Constitution failed.

May I also, Sir, point out that when dealing with the Constitution, the Parliament and the Lok Sabha function more like a Constituent Assembly than as Parliament. Fortunately, the Constituent Assembly of this country, due to the foresight of the Father of the Nation, was formed and it functioned under high traditions, when Members of all parties were invited to function, were invited to take part and no whip was ever issued. The Law Minister of the Government, Dr. Ambedkar, happened to be a person who was opposing the Government. He was invited to join the Constituent Assembly. He played a very prominent role. Today that tradition is being set at naught. The Congress Party wishes to pass this, not by a free vote, but by a whip vote which, to my mind, Sir, is very objectionable particularly in the case of a Constitutional amendment.

SHRI BHUPESH GUPTA: What gives you assurance that it will help you?

SHRI DAHYABHAI V. PATEL: The performance of the Lok Sabha gives me the assurance, if I may answer Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Now you understand, Sir, why I said that they fell under the spell of the Swatantra Party.

SHRI RAJENDRA PRATAP SINHA (Bihar): May I know, Sir, what percentage of votes the hon. Member thinks he would get from the Congress Party if there is a free vote?

SHRI DAHYABHAI V. PATEL: Sir, when the Constitution (Amendment) Bill was first introduced in the Lok Sabha, so many people felt that it was being rushed through in a hurry. Actually copies of the Bill were not available in remote places. This Bill concerns primarily the agrarian population of this country and at many many Government offices copies of the Bill, translations of the Bill were not available. This objection was raised in the Lok Sabha. Some little credence was given to it. Then the Select Committee invited people who wanted to give their representations. A large number of people came. I do not think any other Bill has evoked such a large number of representations, so many people coming to tender evidence before the Select Committee and pointing out why this Bill should not go on the Statute Book. Sir, in spite of that the Government have thought it fit to proceed with it. This measure tries to set at naught all the assurance that have been given by the Congress when it functioned as the Indian National Congress, an organisation that was set up to fight for the country's freedom. At the Karachi Congress in 1930, the resolution on Fundamental Rights was moved by Pandit Jawaharlal Nehru. One of the Fundamental Rights promised to be guaranteed under the Resolution that Pandit Jawaharlal Nehru moved at the Karachi Congress was the Right to acquire and hold property. And.

now, Sir, even holding half an acre of land is sought to be considered, or equalised to mean an estate. This is going back upon the promise, trying to mislead people. That is a very objectionable feature of the manner in which this is done.

Another deplorable unreasonable-ness of the Government, Sir, is not their listening to a very reasonable request. When we met, Sir, the whole country was grieved at the sudden death of the Prime Minister. And while supporting the Resolution of Condolence I, Sir, had humbly urged that in this mood neither Parliament nor the Government is ready to consider any serious legislation. I suggested that we meet after a little while when we have a Government.

Sir, technically, I submit, we have no Government because in practice, in law, when a man submits his resignation, he is out of the job. Mr. Gulzarilal Nanda, the Prime Minister, is reported to have submitted his resignation to the President. Therefore, the normal practice is to continue the practice as it exists between an employer and his employees. Mr. Nanda is out of office. And, therefore, *ipso facto* the Law Minister and the whole crowd that sits with him is out of office.

SHRI AKBAR ALI KHAN (Andhra Pradesh): On a point of order. The President has now asked him to continue in office. I am making another submission

SHRI DAHYABHAI V. PATEL: There is no point of order.

SHRI AKBAR ALI KHAN: It is a point of order. Legally unless the resignation is accepted . . .

SHRI BHUPESH GUPTA: Sir, it is a reflection on the Chair as if you allowed a stranger into this House.

SHRI AKBAR ALI KHAN: . . . the Government and the Prime Minister
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continue. The President has not accepted the resignation but he has asked him to continue. So the Government is there.

SHRI A. B. VAJPAYEE (Uttar Pradesh): It is a caretaker government.

MR. CHAIRMAN: That is the Constitutional view that Mr. Dahyabhai Patel is initiating which, I am afraid is wrong.

SHRI DAHYABHAI V. PATEL: I do not think it is a Constitutional view. I was pointing out, Sir, normally in the case of employer-employee relations when an employee submits his resignation he is no more in office. Similarly, the Prime Minister has submitted his resignation. So he should be considered as out of office. At the request of the President I know that he continues to carry on his functions. Well, my objection is that this is a mere caretaker Government looking after caretaker functions. But when a measure of this seriousness is taken in hand, I submit, a proper Cabinet, a proper Government, should be functioning. Heavens are not going to fall if this Bill was taken up normally when the August Session was called or whenever it is called. But it was not necessary to rush it through the House under such circumstances. One could have understood if the Prime Minister were here and a special Session was called for this purpose. But, I submit, the circumstances have completely changed. The Government, particularly the Cabinet, has to get accustomed to the absence of the Prime Minister. They have to take stock of the situation. Allocation of portfolios is yet to take place. Whether the Law Minister who is piloting the Bill is going to be in the Cabinet or not we do not know. So I was saying that it would have been much better if our reasonable request had been acceded to, the Parliament had been allowed to adjourn and this

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measure proceeded with when we knew definitely where the Government stood, where the Cabinet was and how Parliament would function.

Sir, the Government has not really, to my mind, settled down after the Kamaraj Plan. I do not know whether there is going to be a de-Kamaraj Plan now, whether those who have been Kamarajed are going to be de-Kamarajad, and how many of them. These are matters which certainly are matters of concern to Parliament and to the country. Therefore, it is not fair to Parliament that we should be asked to work under such circumstances.

SHRI NAFISUL HASAN (Uttar Pradesh): As far as this Bill is concerned, I may assure the hon Member that there will be no change in policy.

KUMARI SHANTA VASISHT (Delhi): The Kamaraj Plan has nothing to do with the Bill.

SHRI LOKANATH MISRA (Orissa): The present Government is to look after urgent matters. It is not expected to take up policy matters.

SHRI DAHYABHAI V. PATEL: It is unfair and immoral that such a measure Government is trying to force through in this manner. This is a Constitutional amendment and a Constitutional amendment should be undertaken in the manner in which the Constitution was framed.

Besides, the present Parliament, the majority party, has got only 45 per cent. votes. That is a very material point to be noted. A party that is in power as a result of 45 per cent. votes cannot behave as a party that has an absolute majority. That is a fundamental distinction which the Congress Party does not seem to take notice of.

SHRI ABDUL GHANI: Forty-five per cent. votes out of only fifty-five per cent. of population.

۴۵ پرسنٹ ووٹس جو مسٹر
ڈاھیا بھائی پٹیل کہتے ہیں وہ ۵۰
پرسنٹ پاپولیشن کا ۴۵ پرسنٹ ہے
جس کے معنی ہیں کہ یہ تقریباً
۲۴ پرسنٹ ہے - اولیٰ ۶۲ پرسنٹ
ہے -

†[۴۵ پرسنٹ ووٹس جو مسٹر
ڈاھیا بھائی پٹیل کہتے ہیں وہ ۵۰
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ہیں کہ یہ تقریباً ۲۴ پرسنٹ ہے—
اولیٰ ۶۲ پرسنٹ ہے۔]

SHRI DAHYABHAI V. PATEL: I am grateful to my friend for strengthening my point. Now, besides the requirements of the Constitution, justice demands that proper publicity of the intentions of the Congress Government, of the Congress Party, what they mean by land reforms, should have been given; due notice of it should have been given to the people, to the voters, that they would be introducing such a measure; it should have been announced at the time of elections. Such an intention should have been publicised by them at that time, and the people told of their intentions. Land reform is one thing; expropriation is another thing, and this is clearly an expropriatory measure; to call half an acre of land an estate and take action on it under this measure is nothing but expropriation. One can understand a ceiling on land—this country has reconciled itself to the idea of a ceiling—but the question of that ceiling is yet in a fluid state, and every State goes its own way on the ceiling itself, and the Centre, instead of trying to concentrate on and prescribe a uniform type of ceiling, instead of dealing with the surplus lands that they have got as a result of the application of the ceiling laws, have embarked on something very much greater, which is going to lead to greater disaster.

Agricultural production has been falling in this country. Why? Be-

†[] Hindi transliteration.

cause the agriculturist does not know where he stands: Agriculture is a long-term operation; it is not a matter of one year or two years. The agriculturist looks after his land properly if he knows that he is going to remain the owner, that he can work on it, that he can spend money on and improve it with a view to getting better crops and better return. And if he does not know that this land is going to remain with him, he will not pay that much attention, invest that much capital. Therefore I submit agricultural production is falling. In the name of trying to take away the land from absentee landlords—I am not pleading for them—this measure is depriving genuine agriculturists of their vocation, which, I submit, is wrong under the Constitution where in every citizen of India has been guaranteed his right to freedom, right to pursue any vocation that he likes, and also the right to own property, to own land. Therefore I consider this Bill illegal and immoral. The attempts of the Congress Governments in the various States at fixing a ceiling had been made with such haste that the courts have struck down—the High Courts as well as the Supreme Court—these attempts. They have been branded unjust; they have been described as not consistent with our Constitution, and the freedom that is guaranteed under the Constitution. And this Bill attempted a blank legalisation of all these irregularities. I would refer Members of this House to the statement, rather the assurance, that was given by Dr. Ambedkar when the Constituent Assembly was formed. No attempt would be made, he said, to use the powers under this Constitution to deprive the genuine agriculturist of his land. But this is what this Government is doing today, and that is the most objectionable feature, and that is what we are opposed to.

The Select Committee, on a consideration of the Bill, dropped some eighty-eight Acts out of the large

number of Acts that this measure originally sought to legalise. But is that enough? The measure was considered in a hurry; no standard system was devised. The agrarian situation should have been assessed. Statistics should have been collected. But no statistics have been collected and no data have been collected by the Select Committee, as the Select Committee was more anxious to legalise these illegal Acts than to bring forward a measure that would help to uphold the Constitution, that would help to increase agricultural production and protect genuine agriculturists, that the Law Minister repeatedly goes on saying is his objective. I do not find it in the Bill anywhere; nor does the operation of the existing ceiling laws in several States indicate that this is going to be the position. The agriculturists will now be at the mercy of the small village official. If the agriculturist offends him, he will be threatened with his land being taken away. Sir, I am making this charge in all seriousness. I know of places where small lands, small homes of agriculturists, have been marked out for constructing school buildings, right in the midst of crowded localities, where there is no open space. And how can a school function without an open space? It is a vendetta for opposing the ruling party at the time of elections, or for doing things which does not please the little village official. Now this is a very serious objection of this Bill, more so with the coming of the *panchayati raj* and this makes life in the villages difficult; this penalises the little agriculturist who has not the protection of a big party, who is all by himself, makes him utterly helpless, because the legal protection that was available to him normally is also being taken away. After the passing of this Bill can any agriculturist, any owner of small property, go to a court of law and say that he has been illegally deprived because the purpose for which the land is taken is not a genuine public purpose, or that he has not been paid proper compensation? These are the two fundamental objections to this

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measure, and therefore we cannot support this measure. Many representations were made to the Joint Select Committee, and among the many legislative enactments placed before them were The Gujarat Surviving Alienations Abolition Act, 1963, and The Mysore Village Offices Abolition Act, 1961. Now these two have really no relevance to the land reform that the Government proposes to bring about. Yet, in spite of the pleas made and representations made before the Select Committee, and in spite of the representations made to the Law Minister—I know some of the representatives have personally seen the Law Minister and explained the position to him—no relief has been given to them.

SHRI G. S. PATHAK (Uttar Pradesh): Kindly give the two names of the Acts which you have just mentioned. I am sorry to trouble you.

SHRI DAHYABHAI V. PATEL: One is The Gujarat Surviving Alienations Abolition Act, 1963 . . .

SHRI G. S. PATHAK: What is its number?

SHRI DAHYABHAI V. PATEL: I am afraid I have not got it with me just here. And the other is The Mysore Village Offices Abolition Act, 1961. These are the two Acts I mentioned. I shall give you the other details in a few minutes.

I was saying, Sir, it is because of these measures and the uncertainty created in the minds of the agriculturists that agricultural production has been falling. The fear of being dispossessed, the fear of losing his field, prevents the agriculturist from taking interest. This country used to be one of the first-ranking producers. The farmers of this country, at least wherever the ryatwari system of agriculture prevailed, were some of the best farmers. But now you see the position. Why is it that agricultural production is falling all over? With the coming of independence it was expected that the manner in

which the rayatwari farmer would behave even after a ceiling has been fixed, would be an example for the other farmers to copy and they would, on their own, improve their lands so that production would rise. But the Government took no measures to restore confidence in the minds of the agriculturists. It may be a matter of debate as to what is an appropriate ceiling. It may be 15 acres, it may be 30 acres or it may be 2 acres. We know there are countries where they function on a ceiling of 2 acres and yet their agricultural production is very much higher than in this country. They do not have any such measure as this. On the other hand we have the example of the Soviets before us where they have gone in for collectivisation. With more than 50 acres being collectivised, has the production in that country risen as high as the production has risen under free enterprise, and free enterprise even with a ceiling? That is the question that should engage anyone who has seriously the progress and the prosperity of the country at heart. Let us not be caught by idle phrases. Let us not be caught in this idea of distributing land. Supposing we take all the wealth that everybody has got and distribute it to the people, what will be the result? We will merely have uniform poverty. We are fast going to be a nation of paupers. Is it going to help us? Is this reform in the matter of agriculture going to result in increased production? Is it going to strengthen our country? What we should do today is to set an example to the people in the matter of cultivation, to show them what the government farms have been able to do. But what have these farms been able to do? The Government has established so many farms, and at what cost? Of course, cost is no concern anywhere to the Government. Unfortunately the example set by the public sector undertakings has been very bad, because there is no one to be taken to task. If the targets are not reached, if production does not come up to the required figure, if the capital invested does not even earn

the interest that it should, there is no one to be asked. That unfortunately is the situation in the public sector projects and perhaps, certain of the State farms instead of being models of production, instead of being models of efficiency where the ordinary farmer should be taken to and taught improved methods of cultivation, methods of intensive cultivation, methods of cultivating small farms and proper cultivation, so that production may be higher, they are the opposite and we are wasting time and wasting money on theories and we are going by theories, theories of distribution of land. These theories are not going to take us anywhere. This measure, therefore, is objectionable from all these points of view and I hope, even though there is a Congress whip, hon. Members of the other side will apply their minds seriously to the matter and think of what good this measure is going to do if put on the Statute Book. Is it going to serve the purpose which it is supposed to serve? The Law Minister in the other House and in this House has said that this is meant to protect the small farmer, that he is seeking to protect the small farmer. I do not find any protection being given to the small farmer in this Bill. This is going to make this country into a completely despotic Soviet. No free person will be allowed to exist after a few years because the essence of democratic government is the presence of free agriculturists, of farmers whose right to property and person is respected. If we do away with that as this measure seeks to do, we will be striking at the very root of democratic government, unless of course, we consider that the Soviet system of government is democratic, which is a different matter. I do not think so, Sir, and therefore, I oppose this measure.

SHRI G. S. PATHAK: Mr. Chairman, I support this Bill and I submit that this Bill is before us not a day too soon. It is a step in the implementation of the land reform policy which Parliament has approved of repeatedly on more than one occasion. Mr.

Chairman, when the first amendment of the Constitution was passed by this Parliament, the principle of land reform on which this Bill is founded was approved of by this House. When the fourth amendment to the Constitution was passed, that principle was reaffirmed by this House.

Mr. Chairman, our leaders realised even during the British period that the feudalism which prevailed in this land should not exist and should not be allowed to exist, because it resulted in many injustices. And in order to bring in social and economic justice it was essential that there should be land reform in the country. The Congress Party had accepted the principles of land reform even before the Constitution was enacted. When the Constitution came into force, the principle, this basic principle, was incorporated in the Constitution and we find in Part IV of the Constitution a directive that property shall be redistributed so that the public purpose or the public good may be subserved. It is, therefore, not correct to say that there was some assurance given at the time the Constitution was being framed which is opposed to the principle of this Bill. At that very time the principle underlying this Bill was made a part of the Constitution itself. It was a directive policy incorporated in the Constitution and without this policy it was not possible to secure economic and social justice. Mr. Chairman, in order to implement this policy, in order to secure this redistribution of wealth in the agricultural areas, three or four things were considered essential. One was that the relationship between the actual tiller and the State must be direct, and all zamindars and intermediaries should be eliminated. Then, a ceiling should be fixed so that each individual can have a particular area under his cultivation. There should be consolidation where consolidation is necessary and the surplus land must go to the needy, must go to the landlord himself when he has lost his zamindari and is in need of land. Now, all these principles were obser-

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ved in the legislations which followed the commencement of the Constitution. It was a matter of great urgency, it was a matter connected with or related to the very existence of the nation. There was the growth of population, there was a serious food problem which we had to face and it could not be denied that urgent and immediate action had to be taken. Now, Sir, when three States, those of Uttar Pradesh, Bihar and Madhya Pradesh, passed laws in order to implement this policy, those laws were challenged in courts of law with varying results. The matter was in the Supreme Court. It was at that stage felt that the necessity for land reforms was so urgent that there should be no delay. Generally speaking, the main principles were upheld by the courts of law. It was only that the progress of land reforms was retarded by resort to courts of law. It was in this situation that the Parliament enacted the First Amendment and Article 31A was introduced and 31B was also introduced with the Ninth Schedule. Article 31A immunised the Acts against attacks based on Articles 14, 19 and 31. Article 31B made the Acts safe against enforcement of all fundamental rights. Therefore, it was considered important by this Parliament that there should be no litigation about the acts dealing with land reforms and that the rights of individuals should be subordinated—the matter was so vital to the nation that such rights should be subordinated—to the needs of the nation itself. Now, that was the principle which was upheld. The pace could not be kept up by all the States. There were varying conditions; on account of historical reasons, land tenures and the zamindari systems were different in different States. They could not all take action at the same time. The task was stupendous and the country vast and so laws were passed from time to time; they could not be passed at one and the same time and in 1955 it was realised that there were certain laws which were passed after

the First Amendment which were of the same character, of the same pattern and based on the same principles, only differing in details. Experience had shown that there were some loopholes which had to be plugged; experience had shown that there were some deficiencies that had to be filled up. Now, all this resulted in new laws and new amending laws. Now, what had been done earlier was not sufficient. There was again in 1955 an amendment. More laws were put in the Ninth Schedule which, therefore, attracted article 31B and they were rendered safe against attacks based on the rights of individuals. Now, all this was done in the interests of the general public, in the interests of the whole nation, to meet the urgency of the problem with which the nation was faced. Now, when new legislations cannot receive security from the Ninth Schedule as it existed in 1955, when new legislations were not immune from attacks which were rendered ineffective by the First and the Fourth Amendments, it then becomes essential to amend the Constitution so that those laws which not having been incorporated in the Ninth Schedule earlier could be so incorporated and this made it necessary that there should be a further amendment to the Constitution. Now, Mr. Chairman, this Bill contains Acts which are of the same character, of the same nature, as the Acts which already exist in the Ninth Schedule. I have very carefully gone through this list. I have examined all the Acts with the exception of one or two which were not available—some recent Acts—and I find, Sir, that they fully follow the same pattern. Some of them are mere amendments of the old Acts, while others are new Acts to abolish zamindari or some other tenure which had been so far not abolished. Now, therefore, the pattern is the same and all these enactments which are to be found in this Bill are enactments which require protection; otherwise the process of the completion of land reforms would not be complete. Therefore, in order to fully implement the policy of land reforms—

which had been approved by Parliament it was essential that these laws should have been passed; it was further essential that Parliament should have immunised those legislative enactments in the same manner as the earlier ones. Now, the State legislatures are trusted to see that this policy is carried out. There is an examination at the highest level too and in this particular case, very close scrutiny has been exercised by the Select Committee and the result of that scrutiny was that many enactments do not find a place in this Bill. Further, there are some pieces of legislation passed by the Legislatures which are to be found in this Bill subject to certain exceptions. The Select Committee has not approved of certain portions of those measures passed by the State Legislatures and the Select Committee has made a reservation with regard to the offending portions. Now, this in itself shows how the Select Committee functioned. Those who were working in the Select Committee know that evidence was recorded at great length and all the representations were considered. It is not right to say that there was no proper publicity. The proceedings of the Select Committee would show that there was the fullest opportunity given to the people in the country to make representations, to give evidences and the Select Committee itself scrutinised the whole matter in great detail. Now, Sir, what are the changes that have been made in this Bill? The first provision is that where a person is in possession of land within the limits of the ceiling or of a building on that land, if for a public purpose that is to be acquired then full compensation at the market rate has to be paid. Now this secures the rights of the persons whose property may be taken or may be required by the Government for public purposes.

1 P.M.

SHRI LOKANATH MISRA: Then what is the harm in making compensation justiciable? What is wrong in it?

SHRI G. S. PATHAK: The wrong in it is delay. We cannot brook delay in the matter of food, in the matter of agriculture. That is the harm. Because the Government which is in power is responsible. . . .

PROF. M. B. LAL: An Act passed in 1952 is validated in 1964 without any delay.

SHRI G. S. PATHAK: It is validated now because there may be some provisions which may be of doubtful validity or which may be open to attack. We want to immunize all those Acts for the reason that the Government is responsible for the implementation of this policy. The food problem is very urgent. In Parliament almost every day we hear of the food problem and the Government would have failed in its duty if it had not brought this Constitution (Amendment) Bill today, because the retarding of the progress of the land reform has to be prevented at any cost. Now I may remind my friend who has spoken before me of the legislation in Gujarat and Bombay. What is the nature of that legislation? Can he raise any objection to that legislation being put in the Ninth Schedule?

[THE DEPUTY CHAIRMAN in the Chair]

I am sure he must have looked into those Acts which have been put in this Schedule. The Bombay Act I of 1955 is a mere amendment of an earlier Act of 1949 by the introduction of one section. No new principle is involved and that section was introduced because it was felt that the implementation of that policy was not complete. In Act XVIII of 1958 an Explanation was added because the Section was not quite clear in certain respects. Act XCVIII of 1958; one tenure known as *Inams* had not been abolished in certain areas. That had to be abolished so that the law of abolition might become uniform throughout the territory. Gujarat Act XVI of 1960; it was an amendment of the Tenancy Act of 1948. Now one Act

[Shri G. S. Pathak.]

is very important and that is Act XXVII of 1961. In this Act there is a provision for the allotment of surplus land to the needy, to the small holders. My distinguished friend is a votary of small holders. There is a provision in this Act for small holders getting the surplus land, for agricultural labourers getting the surplus land, for landless peasants getting the surplus land. Therefore if we look at these Acts carefully the conclusion would be apparent that they are nothing but the completion of the process of implementation of the policy of land reforms.

Madam Deputy Chairman, when those Acts become immune proper care is taken to see that the rights of the persons concerned may not be unduly restricted and it is for that reason that you will find in the list of the various statutes reservations made by the framers of this Bill and those reservations show that those parts of those Acts do not enjoy any immunity.

Now, Madam Deputy Chairman, I shall conclude by saying that this is a Bill which was urgently called for and which requires the support of the whole of the House. It is not open to any objection except objections which cannot be seriously taken, like the objection based on whip voting or that there is no Government or that there was no proper publicity.

SHRI LOKANATH MISRA: The entire argument is based on the assumption that the policy is correct but we have seen that with Rs. 2000 crores poured into the agricultural sector during the Plan period we are going on diminishing in returns of agricultural production.

SHRI G. S. PATHAK: These Acts have got nothing to do with Rs. 2,000 crores or 20,000 acres. If you examine the Acts you will find that they are nothing but a completion of the

earlier Acts by the introduction of some amendments—there were some loopholes; there were some deficiencies—and there was also introduction of new Acts in territories where there was no law. If you look at these various Acts, it cannot be said that there is no uniform pattern. Did not Parliament pass the First Amendment and the Fourth Amendment? If they did, it is too late in the day now to say, 'you reverse the process'.

SHRI M. RUTHNASWAMY: There was no Swatantra Party then.

SHRI LOKANATH MISRA: They have also stipulated certain limitations; you are transgressing them now.

SHRI K. DAMODARAN (Kerala): Madam, I rise to support the Bill although with some reservations. This Bill which seeks to amend our Constitution introduces, as the previous speaker said, no new principle at all. It only facilitates the implementation of a principle already adopted by us, by Parliament and by the country. It is an enabling Bill to protect the enactments which have been passed by the various State legislatures in the country. As everybody knows, certain enactments were struck down by the courts, by the Supreme Court in some cases and by the High Courts in some other cases on the ground that some of the provisions of those enactments were violative of certain articles of the Constitution. The validity of the land reforms Acts have been challenged. Now, what is to be done? I think there are only two alternatives before us. Either we have to give up, once and for all, the whole principle of land reforms or we have to amend the Constitution in such a way that the principle of land reforms is protected. There is no other way. Some hon. Members are vociferous about the sanctity of the Constitution; but who wants the sanctity of the Constitution to be violated? It is being argued that this Bill violates

the Fundamental Rights enshrined in the Constitution. The right to acquire and hold property guaranteed by one of the articles of the Constitution, article 19, is interpreted as the right of the landlord to exploit the peasants and amass unearned income. Of course, they do not speak for the landlords. They speak for the entire agrarian population. They speak for the small, down-trodden peasant proprietors. But does this Bill hurt the peasant proprietors? The bulk of the peasant proprietors in our country hold only very small parcels of land. According to the census of agricultural holding, 82 per cent of the agriculturists hold below 5 acres of land. The Bill does not speak to dispossess them, these millions of small peasant proprietors. Only a small number of persons owning large estates, owning large proprietary rights, only a few big landlords will be affected. In the name of ryotwari settlements, these big landlords have amassed extensive plots of land, extensive holdings. They do not cultivate the land themselves. Some of them cultivate their land with the help of hired labour and others farm them out to tenants, subtenants, tenants-at-will or share croppers, etc. and pocket sometimes fifty per cent, sometimes two-thirds of the produce created by the agriculturists. Madam, it is only just that those who till the land must get the ownership of the land they till and those who own land in excess of the ceiling should be deprived of the excess and the excess distributed to those who are willing to cultivate and who have no land. What is wrong in this? It is true that the security and the so-called Fundamental Rights of a few big landlords are taken away by the Bill. But what about the security and Fundamental Rights of millions of small peasants, down-trodden peasants, who cultivate the land and produce our food? Does the Constitution want that the bulk of the peasant masses and agricultural workers in the countryside should have no right to enjoy the property created by their own labour? That is certainly not the

spirit of our Constitution. Our Constitution provides that the ownership and control of the resources of the community are so distributed as to subserve the common good. This Directive Principle is also a Fundamental Principle, more fundamental than the right of the landlord to exploit the peasant. Those who raise the banner of Fundamental Rights, I am afraid, want the exploitation of the rural poor to continue. They want the landlord to dominate the rural scene for ever. They want to turn the clock back.

Madam, this private property in land is not an age-old institution as some people imagine. Just like the zamindari, jagirdari, talukdari, etc. the ryotwari settlements also were created and sanctified by the British imperialists, not for the good of the country but for their own benefit. It was under the British that the feudal upper stratum of the rural society became ryotwari landlords. The middle peasants, the small peasants, the poor peasants, all suffered in this process. Under the crushing colonial oppression, many tillers lost their land, lost their private property to the landlords, to the moneylenders and traders who invested their ill-gotten money in land and became ryotwari land-owners. Thus land became concentrated in the hands of a few landlords, and traders and moneylenders who turned into landlords. At the same time, millions of peasants, not only small peasants but even middle peasants, were turned into landless agricultural workers.

It is a notorious fact that the famines that stalked the land in the last quarter of the 19th century and at the beginning of the present century, the impoverishment of the bulk of our peasants, the increase in the number of landless agricultural workers, all these were the results of this process. Is it not surprising that this right of landlords created by such inhuman and oppressive colonial conditions is sought to be preserved even today in the name of Fundamental Rights?

[Shri K. Damodaran.]

Madam, some hon. Members speak about the Soviet Union and socialism. But this Bill does not seek to establish socialism at all. Abolition of intermediaries, redistribution of land by applying ceilings on landholdings, giving land to the tiller or agricultural worker and even the establishment of co-operatives under the present conditions is not socialism. These are not socialist measures, but bourgeois democratic measures. Such measures facilitate the growth of not a socialist economy but the growth of capitalism in the countryside. Yet, I support the Bill. Why? Because to a certain extent it helps to curb feudal and semi-feudal exploitation in the countryside and removes some serious obstacles in the way of the industrialisation of our country. And as long as feudal or semi-feudal relations of production remain, socialism will remain only on paper, only as a beautiful dream.

It is a widely recognised fact that a democratic solution of our agrarian problem, accompanied by the technical improvement of agriculture, is a very essential pre-condition for the economic, social and political development of our country. The object of land reforms is not only to mitigate the sufferings of the down-trodden peasants, not only to curb feudal exploitation, not only to remove impediments to agricultural production. Predominance of feudal or semi-feudal production relations stands in the way of expanding our home market and hinders industrialisation. No programme of industrialisation will succeed unless the condition of the masses of peasantry improves and agricultural production steps up. The success of industrialisation depends, to a great extent, on the speedy implementation of radical land reforms. In short, land reforms are a *sine qua non* of our entire national progress. That is why the slogans of 'land to the tiller', 'abolition of intermediaries' and 'land to the agricultural worker' became an inalienable part of our national

struggle for independence. There have been many promises and many pledges made by the Congress Party, which was in the forefront of the anti-imperialist struggle and which is now the ruling Party. I do not want to refer to their Karachi, Lucknow and Fyzpore Resolutions. As soon as the country attained independence, a committee was appointed by the Congress, an Economic Committee or something like that, and the All India Congress Committee approved the report made by that Committee. That Committee was asked to work out the directives for agrarian reforms. The report of that Committee categorically demanded, I am quoting:—

"All intermediaries between the tiller and the State should be eliminated and all middlemen should be replaced by non-profit making agencies such as co-operatives."

Again in the same report it is said:

"The maximum size of holdings should be fixed. The surplus land should be acquired and placed at the disposal of the village co-operatives. Small holdings should be consolidated and steps taken to prevent further fragmentation."

The Congress Agrarian Reforms Committee headed by the late Mr. J. C. Kumarappa, which submitted its report in 1949, was more emphatic. It declared:

"There should be no scope for exploitation of one class by another."

This Committee recommended immediate abolition of all forms of feudal exploitation of the peasantry, extension of rights to peasants and the conferment of ownership of land only on those who personally cultivated the land. It also recommended to set up agricultural producers' co-operatives after the allotment of land to the tiller. It is good that the ruling party realised the importance of land reforms. It is good that they understood that agricultural production could be increased and the backwardness of our country could be elimi-

nated only with the help of a bold programme for agrarian reforms.

It cannot be said that the Congress has completely given up its programme of land reforms. Even as late as September 1963 the Minister of Law put it correctly when he introduced the Constitution (17th Amendment) Bill in the Lok Sabha, and he said:

"Unless the peasant has a sense of ownership he cannot be an effective tiller, he cannot be an effective producer; and agriculture cannot possibly achieve the improvement or increase the productivity which we want so much to bring about unless the tiller is given the ownership of the land he tills."

It is quite correct that every tiller of the soil must have the feeling and satisfaction that the land he tills is his own and that nobody has the right to exploit the fruits of his labour. It is not only politically and economically correct but it is also morally correct that land should belong to the tiller who tills the land and there should not be any intermediary between the State and the tiller. The wealth produced by the peasant should not be allowed to be converted into an unearned income to be pocketed by somebody else.

But the adoption of a programme is one thing and its implementation is quite another thing. The programme has been fully accepted by the Congress Party, by the Government, by the Planning Commission, by almost everybody in the country. Land reforms were given a privileged position in all the three Five Year Plans, and yet at the end of the Third Plan, after 17 years of independence, we see that these agrarian reforms remain practically unimplemented. What is the result? In spite of three Five Year Plans, in spite of a substantial growth of industries, the basic structure of our country has remained practically the same. According to the 1961 census

82.2 per cent. of our population live in villages and about 70 per cent. of the people derive their basic income from agriculture, that is, India's economy is still predominantly agrarian and agriculture remains stagnant. Some hon. Members have said that it is so because of the attempt to have agrarian reforms. But the fact is that due to feudal, semi-feudal and capitalist exploitation accompanied by crippling taxation and rising prices the bulk of the peasantry remain impoverished. Their purchasing power does not increase. Agricultural production lags far behind and a substantial amount of foreign exchange is spent every year to import foodgrains. Why? Not because there is land reform but precisely because there is no land reform. The land reforms that have been carried out so far during the last sixteen years were so inadequate, were so unsatisfactory, that they have not so far led to an increase in production or adequate social justice.

SHRI LOKANATH MISRA: What has been the yield per acre from the man who tills his own land?

SHRI K. DAMODARAN: He must have the incentive. He tills but he has no incentive. He thinks that the land is not his and that whatever he produces he has to give it to somebody else. Only when he feels that the land belongs to him, the product created by his labour belongs to him, production can increase.

It is true that the zemindary system has been abolished but it was done in such a way that many undue concessions were given to the zemindars with the result that the social status of the zemindars actually increased even in the altered conditions and they were able to wield considerable influence in society.

In certain States a part of the ryotwari interests in excess of the ceilings were taken away and handed over to the tenants, but such interests in other States have not been touched at all. Even where reforms have

[Shri K. Damodaran.]
 been implemented large holdings have been allowed to be held by big proprietors under various excuses. Big landlords were allowed to escape the ceiling clauses, to divert their lands into plantations, orchards, temples, Mutts, sugarmills, etc. They were allowed extensive areas in the name of well-managed farms. They were allowed to make dubious transfers and keep their property intact.

Land reform enactments were passed in most of the States. But genuine measures to abolish all forms of feudal exploitation, of exploitation of one class by another, as the Kumarpappa Committee put it, to confer ownership of land only on those who personally cultivated land and to set up agricultural producers' co-operatives, etc., as the Agrarian Reforms Committee of the Congress itself demanded, are conspicuous by their absence in these various enactments. In most cases they are nothing but tenancy legislations and not genuine land reforms. In some cases they have even gone backward. The new Act passed by the Kerala Legislature is an example. Even the limited security of tenure won by the tenants through struggles and sacrifices during the thirties under the British Government have now been taken away, and the landlords have been given the right to evict the tenants and resume the land. Even security of tenure is denied to the peasant. Some hon. Members are not satisfied even with this. They want more right for the landlord, more fundamental right as they call it, because according to them the landlords' right to hold and acquire property is a fundamental right sanctioned by the Constitution.

Thus, Madam, the Land Reforms Acts passed by the various Legislatures cannot be said to be radical or basic because they do not go far enough. They do not seek to abolish the remnants of feudalism completely and thoroughly. Conferment of ownership on the actual tillers of the

soil is still resisted. Eviction of tenants continues. Harijans and other agricultural workers do not get land. They have not been given the land that was promised to them. It is true that the upper strata of the peasantry and even the landlords have been benefited by these Acts but the bulk of the peasantry and the agricultural workers have not been benefited.

THE DEPUTY CHAIRMAN: You may continue later. The House stands adjourned till 2.30 P.M.

The House then adjourned for lunch at thirty minutes past one of the Clock.

The House reassembled after lunch at half-past two of the Clock, THE VICE-CHAIRMAN (SHRIMATI TARA RAMCHANDRA SATHE) in the Chair.

THE VICE-CHAIRMAN (SHRIMATI TARA RAMCHANDRA SATHE): There are two Messages.

MESSAGES FROM THE LOK SABHA

(1) THE PREVENTION OF FOOD ADULTERATION (AMENDMENT) BILL, 1963.

(2) THE SLUM AREAS (IMPROVEMENT AND CLEARANCE) AMENDMENT BILL, 1964.

SECRETARY: Madam, I have to report to the House the following messages received from the Lok Sabha, signed by the Secretary of the Lok Sabha:—

(1)

"I am directed to inform Rajya Sabha that Lok Sabha, at its sitting held on Wednesday, the 3rd June, 1964, adopted the annexed motion in regard to the Prevention of Food Adulteration (Amendment) Bill, 1963.

2. I am to request that the concurrence of Rajya Sabha in the said motion, and also the names of