

## THE NAVY BILL—continued

पंडित अल्लूराय शास्त्री (उत्तर प्रदेश) : श्रीमन्, मैं निवेदन कर रहा था कि जो जातियाँ समुद्र के ऊपर अपना अधिकार रखती हैं, जिनकी नौ-शक्ति उच्चकोटि की है, उन्होंने अपने राज्य का और अपने व्यापार का विस्तार किया। रोमन साम्राज्य के इतिहास में उनका सी-कोस्ट, सागर तट, बड़ा और व्यापक होने से उनको अपने साम्राज्य का विस्तार करने में मदद मिली थी, बाद में उनकी वह प्रगति धीमी पड़ गई। “ब्रिटैनिया रुल्स दी वेव्स” हम सुनते आये हैं। अंग्रेजी जाति ने जिस प्रकार विश्व भर में अपना झंडा गाड़ दिया और अपना व्यापार फैलाया, उसका कारण यही था कि उनकी नौ-शक्ति प्रबल थी। हमारा देश सौभाग्यशाली है कि वह इतना विशाल है और उसके पीछे एक बड़ा भूभाग है और उसका एक बड़ा लम्बा चौड़ा समुद्र तट भी है। हमारा दृष्टिकोण प्राचीनकाल में ऐसा नहीं रहा है कि हमारी कोई साम्राज्य फैलाने की भावना रही हो। लेकिन समुद्र यात्रा से और समुद्र जलयान की सहायता से इस देश का व्यापार दूर-दूर देशों तक था। महाभारत में युधिष्ठिर के राजसूय यज्ञ में यूरप से भी राजा आये थे और उनके आने का भी मार्ग इसी तरह का था। अरब देश के साथ भी हमारा सम्बन्ध था। हमारी यह जलशक्ति तभी प्रबल हो सकती है जब उसमें काम करने वाले सैनिक और नाविक चरित्रवान हों, उनका अच्छा संगठन हो, उनमें नियंत्रण और आत्म-संयम की भावना हो। यह मौजूदा विधेयक इसी दृष्टिकोण से लाया गया है कि अपनी जल-सेना की शक्ति को हम प्रबल बनावें, उनमें काम करने वाले नाविकों, जलसेना के कर्मचारियों में, अधिकारियों में और साधारण कर्मचारियों में उच्च चरित्र की स्थापना की जा सके और उनको अच्छा बनाया जा सके।

इस विधेयक के ऊपर प्रवर समिति में जो विवाद हुआ है उसमें जो मतभेद सूचक टिप्पणियाँ आई हैं उनको मैंने ध्यान से पढ़ा है और जो छोटे छोटे सुझाव और संशोधन अब तक आये हैं, उनको भी देखा। इन सबको देखने से यही पता लगता है कि कुछ थोड़ी सी ऐसी बातें हैं जिन पर मतभेद प्रकट किया गया है। कुल मिलाकर दस, ग्यारह ऐसी बातें मिलती हैं जिनमें विचारों में मतभेद है ? शेष विधेयक सबको स्वीकार है।

पहला मतभेद तो यह सामने आता है कि इसमें जो शपथ की प्रणाली रखी गई है उसमें शपथ संविधान के नाम पर लिया जाता है, देश के नाम पर नहीं। लोगों का कहना यह है कि देश के नाम पर भी शपथ होनी चाहिये। मैं समझता हूँ कि मनुष्य अपने विचारों के साथ ज्यादा बंधा हुआ है। अपने देश के साथ बंधने की तुलना में। मनुष्य के सभी देश हो सकते हैं। मनुष्य की मनुष्यता उसके विचारों में, उसकी मननशीलता और मनीषिता में है। वह जहां चाहे घर बना लेता है, जहां चाहे जा सकता है। “भीठा बोलो नय चलो सभी तुम्हारा गांव” यह संतों की सूक्ति है। वे इस तरफ ध्यान दिलाते हैं कि विचार का ही “महत्व” है। विचार के महत्व से भगवान बुद्ध यहीं गोरखपुर के नन्हे से क्षेत्र में पैदा हुये और उनका साम्राज्य सब जगह फैल गया, विचारों का साम्राज्य, उनका आज भी फैला हुआ है तो हमारी जो शपथ है वह इन विचारों से घिरी होनी चाहिये—वह विचार जिनके आधार पर हम मानवता को न्याय के पथ पर ले जा सकें। इस शपथ को बमुकाबले पैट्रिओटिक स्लोगन के हमें अधिक महत्व देना है। पैट्रिओटिक स्लोगन अपना महत्व रखता है लेकिन वह कभी पैरोकियलिज्म में बदल जाता है और फिर एक संकुचित भावना पैदा करता है। “वसुधैव कुटुम्बकम्” का भाव देशवादिता, जातीयता या राष्ट्रीयता

के भाव से कभी प्रकट नहीं हो सकता । यह एक सत्य है कि हम एक देश में रहते हैं और यह भी सत्य है कि हम एक जाति के हैं । किन्तु अगर उनके बन्धनों को तोड़ना है तो शपथ हमारे विचारों की होनी चाहिये ।

हमारा संविधान का प्रिम्बुल इस तरह आरम्भ होता है : "वी दी पीपुल आफ इंडिया, दैट इज भारत" । जनता ने देश के संविधान पर अपनी मोहर दी है और उसी के ऊपर शपथ लेने का इसमें विधान है । वह शपथ समूचे राष्ट्र का नाम लेता है । अगर हम ऐसी व्यवस्था न करें तो संकुचित भावनायें पैदा हो जाती हैं और हम एक नहं से खूटे से बंध जाते हैं और उसके घेरे से बाहर नहीं जा सकते । इसमें कोई संदेह नहीं कि इसके द्वारा एक नौमना कर्मचारी अपने विभागीय कार्य के प्रति शपथ तो लेता ही है, साथ ही वह संविधान पर अपनी आस्था प्रकट करके देश के प्रति वफादारी का हलफ उठाता है—यह बात इंपलाइड है । इसमें छिपी है—निहित है । इसीलिये ओथ में यह बात रखी गई है कि हम ओथ संविधान के नाम पर लें । अतः विरोध में जो तर्क इस सम्बन्ध में दिये गये हैं उसमें हमें कोई सत्यता दिखाई नहीं पड़ती है ।

सजाओं के सम्बन्ध में कुछ यह कहा गया है कि इसमें कड़ी से कड़ी सजायें रखी गई हैं और इन सजाओं के बाद अपील की कोई व्यवस्था नहीं है । इस बात की मांग की गई है कि अपील सुप्रीम कोर्ट तक होनी चाहिये क्योंकि ऐसा न करने से न्याय का गला घुटता है । मैं समझता हूँ कि ये जो अदालतों के न्याय हैं, ये इतने विस्तृत होते हैं और इतना समय लेते हैं कि "जस्टिस डिलेड इज जस्टिस डिनाइड" वाली बात हो जाती है । जहाँ जिस संगठन में हमें संयम की आवश्यकता है, अंकुश की आवश्यकता

है वहाँ हम अगर मामले को लेकर अदालत में जाय तो काम चलने के मुकाबले अड़चन ज्यादा होंगी । इसके बावजूद धारा १६०, १६१ और १६२ में इस बात का विधान है कि जिसको दंड मिला है वह दंड में संशोधन करने की प्रार्थना कर सकता है । तो इस तरह की प्रार्थना करने का अधिकार होने से, मैं नहीं समझता कि जलसेना में काम करने वालों के ऊपर किसी तरह का अन्याय हो रहा है जिसके ऊपर विशेष आक्षेप किया जा सके एक और आक्षेप इस बात का किया गया है कि *आरट ८ में साफ तौर से यह कह दिया गया है कि जलसेना में स्त्रियाँ नहीं ली जायेंगी ।* हमारे संविधान में किसी को किसी काम के के लिये जाति, धर्म, वर्ग और लिंग के भेद के नाम पर मना नहीं किया जायगा, यह बात संविधान में लिखी हुई है । इसको सामने रखते हुये बहुत लोग समझते हैं कि स्त्रियों के प्रति यह बड़ा अन्याय है कि उनको जलसेना में नहीं लिया जाता है । जो लोग स्त्रियों के इस प्रश्न को इस तरह जोड़ देते हैं वे यह भूल जाते हैं—मैं इस विषय पर क्या कहूँ—कि बाज़ दफा अभिनयशीलता या अशिष्टता प्रकट होने की सम्भावना हो सकती है । जलसेना में स्त्रियाँ किस काम में आयेंगी ? मैं तो इस समानता का कायल नहीं हूँ कि हर काम में स्त्री और पुरुष दोनों समान रूप से आयें क्योंकि यह न प्रकृति की मांग है और न विचारशील मनुष्य की मांग है । भावुकता प्रधान, समता के अर्थ को न समझने वाले, आवेश में आ कर दोनों को बराबरी का दर्जा दे देते हैं । इन दोनों के दो प्रकार के काम हैं : एक कला है, एक लावण्य है, एक मृदुता है तो उसका सहयोगी बन कर एक प्रबल शक्ति है, नियंत्रण है, कठोर है ।

श्री रामधारी सिंह "दिनकर" (बिहार) : पुरुष में लावण्य नहीं होता, स्त्रियों में कठोरता नहीं होती ?

पंडित अलगू राय शास्त्री : वह आप कहियेगा ।

SHRI M. GOVINDA REDDY (My-sore): He is romantic.

पंडित अलगू राय शास्त्री : जो स्वरूप है हमारे शरीर की बनावट का, उसको षाट् कौषिक कहते हैं । षाट् कौषिक शरीर के माने हैं लोम लोहित मांस माता से, अस्थि मज्जा मेद पिता से । इन दोनों से मिल कर शरीर बनता है । तो जिसे लावण्य हम स्वीकार कर रहे हैं, उसमें पुरुष का लावण्य दूसरे प्रकार का है, उसमें कठोरता भी है, उसमें मृदुता भी है । लोम लोहित मांस के बिना न पुरुष बन सकता है और न लोम लोहित मांस के बिना स्त्री बन सकती है और इसी प्रकार अस्थि मज्जा मेद के बिना न पुरुष बन सकता है और न अस्थि मज्जा मेद के बिना स्त्री बन सकती है । दोनों में दोनों चीजें होती हैं । इनके अन्दर जो सामंजस्य है, इनमें जो अनुपात है, उसी अनुपात से एक स्त्री होती है और एक पुरुष होता है । उन दोनों में एक न एक विशेषता होती है—“वैशेष्यान्तु तद्वाद-स्तद्वादः” के वचन के अनुसार एक की विशेषता से, एक की अत्यधिक मात्रा से उसकी प्रधानता होती है, दूसरे से दूसरे की प्रधानता होती है । तो जिन स्त्रियों की रक्षा के लिये, जिन बच्चों की रक्षा के लिये, जिन दुर्बलों की रक्षा के लिये मेना का संगठन है, उसी सेना में स्त्रियों को मुख्य रूप से आगे बढ़ा देना कोई बहुत बुद्धिमत्ता की बात नहीं है । मैं यह बात उस बैकग्राउंड में उस परम्परा में, कह रहा हूँ जिसमें झांसी की रानी का चित्र मेरे सामने है, जिसमें दुर्गा का चित्र मेरे सामने है जिन्होंने महिषा-सुर को मारा, जिसमें कैंकेयी का चित्र मेरे सामने है जो युद्ध में दशरथ के साथ गयी थी । मैं अपनी आंखें इससे बन्द नहीं करता हूँ । किन्तु समानता के आधार पर स्त्रियों को फौज में भरती कर देने के सम्बन्ध में

जो चिल्लाते हैं, उनको मैं चेतावनी देना चाहता हूँ । स्त्रियों के और बहुत से काम हो सकते हैं । उनका सेवा शुश्रूषा का काम है । वे पाठशालाओं को देख सकती हैं, पढ़ाई का काम कर सकती हैं । इसी प्रकार बहुत से अलग अलग काम हो सकते हैं, जिनके विस्तार में मैं जाना नहीं चाहता । मगर मैं नहीं समझता कि अगर एक ही जंगी बड़े में नौजवान लड़के और लड़कियाँ सम्मिलित तरीके से रख दी जायें तो वह खतरे से खाली होगा । आज कोएजुकेशन के नाम पर या दूसरी चीजों के नाम पर बहुत सी चीजें हैं और यदि आप कोई बड़ा खाली स्त्रियों का बनायें या कोई विशेष काम करना चाहें तो मैं एतराज नहीं करूंगा क्योंकि वह बड़ा गर्क नहीं होगा, लेकिन यह बड़ा गर्क हो जायेगा जिसमें आप दोनों को भेज देंगे । इसलिये इसमें स्त्रियों को न रख कर बुद्धिमत्ता की बात की गई है और अब इस बहस को और आगे बढ़ा कर इसमें कटुता ले आना मुनासिब नहीं होगा । इसी कारण मैं इस प्राविजन का बड़ा स्वागत करता हूँ कि स्त्रियों को नेवी में भरती होने से रोका गया है ।

लोग फंडामेंटल राइट्स की बात कहने हैं कि साहब, जो मौलिक अधिकार है उससे सेना में काम करने वालों को वंचित किया गया है, वे अपनी असोसिएशन नहीं बना सकेंगे, उनको इसका मौका नहीं होगा कि वे अपनी यूनियन बना लें या इस तरह की कोई चीज बना लें । मैं समझता हूँ कि अगर हम फंडामेंटल राइट्स को सामने रख लें तो संविधान में ही आर्टिकल ३३ के शुरू में यह है कि जहां तक इन सेवाओं का सम्बन्ध है, जहां तक फौज का सवाल है, जहां तक जल सेना का सवाल है, उसमें जो मौलिक अधिकार दिये गये हैं उनमें से कितने दिये जायें, कितने न दिये जायें, कितने बिल्कुल हटा दिये जायें यह अधिकार पार्लियामेंट को कानून बनाने के समय होगा । पार्लियामेंट जब विधियां बनायेगी, तो उन विधियों के

बनाते समय उसको अधिकार होगा कि वह इस बात पर विचार करे कि जो मौलिक अधिकार दिये गये हैं उन में से कितने उनको दिये जायें, कितने हटा दिये जायें और कितनों पर प्रतिबन्ध रखा जाय। यह बड़ी बुद्धिमानी की बात की गई थी। जब हम मौलिक अधिकार की बात करते हैं तो हम यह भूल जाते हैं कि एक माइटी स्टेट है, सर्वशक्तिमान राज्यसत्ता है और उस राज्यसत्ता के मुकाबिले में एक नगण्य नागरिक है जो साधनविहीन है, शक्तिविहीन है और उस नीचे से नीचे स्तर के ऐवरेज नागरिक को सामने रख कर अधिकार दिये गये हैं। जिन फौजी आदमियों के पास हमारी दी हुई बन्दूकें हैं, हमारी दी हुई वर्दी है, हमारा दिया हुआ दूसरा सामान है, और उन बन्दूकों में भरी हुई गोलियां हैं, उन पर यदि नियंत्रण न रखा जाये तो वे जो अनाचार मचा देंगे उसकी कल्पना करना कठिन है। उनको यदि इस तरह के तफ़रीही अधिकार दिये जायें जो मामूली आदमियों को दिये गये हैं तो मेरे विचार से नागरिकता के मौलिक अधिकारों का उपहास होगा। हम इस बात को भूल जाते हैं कि हमने अधिकार किसको दिया है और किस दृष्टि से दिया है। यह जो हमारी सेना है यह कोई ऐवरेज नागरिक नहीं है। सच पूछिये तो यही राष्ट्र है, यही राज्य है, यही शासन सत्ता है। मनु ने इसीलिये कहा है कि हमारे राज्य कर्मचारियों को, राजाओं को, जो अपराध मामूली नागरिक करता है उस अपराध के लिये उसकी अपेक्षा दस गुना दण्ड देना चाहिये। तो यदि हम उन पर नियंत्रण नहीं रखेंगे तो वे बड़ा उपद्रव कर देंगे, आये दिन लड़ाई होगी, आये दिन झगड़े होंगे। यदि एक के पास एक पिस्तौल है और दूसरे मातहत के पास भी पिस्तौल है तो वहां लड़ाई हो सकती है। ऐसी दशा में यदि सेना के मामले में कड़ाई से काम न लिया जाये, अगर हम सख्ती न करे तो निस्संदेह बहुत अनाचार होंगे और बहुत कठिनाई पैदा हो जायेगी

और उससे काम नहीं चलेगा बल्कि काम बिगड़ेगा।

असोसिएशन आदि बनाने की अनुमति नहीं दी गई है, लेकिन उसी धारा में यह कहा गया है कि अगर कोई कल्चरल, रेलीजस या ऐसे ही फंक्शन हों तो परमीशन ले कर वे हो सकते हैं। इस तरह के कामों के लिये इजाजत दी जा सकती है। अब पुलिस में लोगों ने अपना संगठन बना लिया है। रोज उनके जुलूस निकलते हैं और इससे निरंकुशता फैलती जाती है। वैसे हमारे पर्वों पर, त्यौहारों पर, जन्माष्टमी के मौके पर वे गाते बजाते हैं, रमजान में रोजे रखते हैं, और उसमें कोई आपत्ति नहीं होती है। लेकिन यदि कल्चरल चीजों के नाम पर संगठन बनाने के अधिकार दे दिये जायें और फंडा-मेंटल राइट्स के नाम पर असोसिएशन बनाने के अधिकार दे दिये जायें, तो उस अधिकार से, जैसा कि मैंने कहा, बेड़ा गर्क होगा, बेड़ा तैर नहीं सकता, बेड़ा आगे चल नहीं सकता।

कुछ लोगों ने यह कहा कि साहब यह कानून तो बना दिया गया, ये कायदे तो बना दिये गये, मगर न एवीडेंस ली गई और न मत संग्रह किया गया तो इस वह से बड़ी खामियां रह सकती हैं और प्रजातंत्र में जो काम करने का ढंग है उसकी उपेक्षा की गई है। मैं यह कहना चाहता हूं कि आखिर इसमें जनमत कहां से संग्रह होता? जनमत के लिये ही इसे प्रवर समिति में भेजा गया और उसमें दोनों हाउसेज के लोग इकट्ठा हुये और उन्होंने अपनी राय दी। बाकी जो इसमें काम करने वाले कर्मचारी लोग हैं, अधिकारी लोग हैं, जो इसके विशेषज्ञ हैं उनके हिसाब से ही ये कायदे कानून बने हैं तो उनसे मत संग्रह या गवाही लेना अनावश्यक था। कुछ लोगों का यह खयाल है कि अंग्रेजी पेटर्न पर यह कानून बना है।

[पं० अलगू राय शास्त्री]

१६५४ से ये ब्रिटिश ला, नेवल ला आदि चल रहे हैं और इतने पुराने होते हुये भी आज तक चले आ रहे हैं। बहुत सी चीजों में हमने उनकी नकल ली है, अपने संविधान में भी और ये जो हमारी पार्लियामेंटरी डिमोक्रैसी अपने देश में चल रही है उसमें भी। कहा भी है :—

“उत्तम विद्या लीजिये जदपि नीच पे होय,  
परों अपावन ठौर में, कंचन तजत न कोय”

अनुभवी लोगों से शिक्षा लेने में कोई अपराध नहीं है। इतने दिनों से जो जाति समुद्र पर खेलती रही है, जिसकी पनडुब्बियां या जहाज सारे विश्व में चलते रहे हैं और जिन्हें सामुद्रिक ज्ञान में बहुत अनुभव प्राप्त है उसके मुताबिक अगर हम अपने नेवी के संगठन और उस पर नियंत्रण के कार्य को चला सकें तो यह हमारे लिये कोई लज्जा या खेद की बात नहीं है, इसमें हमारा कोई अपराध नहीं हुआ है। मैं समझता हूं कि इस विधेयक में जो अच्छाइयां आई हैं और अनुभव की बातें रखी गई हैं उसका कारण है कि हमने नमूने के लिये अंग्रेजी ला को अपने सामने रखा है।

एक बात मैं जरूर कहना चाहता हूं कि इसमें एक जगह धारा १७ के चौथे भाग में लिखा है कि जं. कर्मचारी निवाला दिया जायेगा उसको डिसचार्ज सर्टिफिकेट दिया जायेगा और जिसको डिसचार्ज सर्टिफिकेट दिया जायेगा वह अंग्रेजी भाषा में होगा और उसकी रीजनल भाषा में होगा। श्री मूलचन्द जैन ने अपने नोट आफ डिसेंट में इस बात की ओर संकेत किया है कि वह नेशनल भाषा में भी होना चाहिये।

[ उपसभाध्यक्ष (श्री मुल्लंग गोविन्द रेड्डी)  
पीठासीन हुये ]

मैं नहीं समझता कि अंग्रेजी भाषा और रीजनल भाषा को इस विधेयक में रख कर आपने हिन्दी भाषा को क्यों उड़ा दिया है जब कि संविधान के प्रति वफादारी की कसम आप उसमें दिखाते हैं और संविधान

ने हिन्दी को राज्य भाषा बनाया है। लेकिन इसमें आकर हम संविधान की उस मान्यता को ही उपेक्षित करते हैं जब हम अंग्रेजी और रीजनल भाषा को ही उसमें रखते हैं और नेशनल लैंग्वेज का जिक्र ही नहीं करते। इसलिये मैं समझता हूं कि इसमें आग्रह छोड़ कर सरकार को यह बात विधि में रख देनी चाहिये कि वह सर्टिफिकेट नेशनल लैंग्वेज में, अंग्रेजी में और रीजनल लैंग्वेज तीनों में होगा। जरा जरा से देश जैसे स्विट्जरलैंड वगैरा हैं वहां तो पांच पांच भाषाएँ चलती हैं और साथ साथ प्रयोग में आती हैं। इसलिये अंग्रेजी, रीजनल और हिन्दी—बल्कि हिन्दी पहले हा फिर बाद में रीजनल लैंग्वेज हो और फिर अंग्रेजी हो—तब ठीक रहेगा। हिन्दी को इस तरह से सम्मानित करना चाहिये उस का तिरस्कार नहीं करना चाहिये। मैं समझता हूं कि यह जो बात मूलचन्द जैन जी ने नोट आफ डिसेंट में रखी है उसे स्वीकार कर लिया जाना चाहिए।

एक बात की तरफ मैं और ध्यान दिलाना चाहता हूं और वह है क्लॉज ३ के १७वें भाग में जिसमें “पेट्री आफिसर्स” शब्द आया है। मैं समझता हूं कि इस शब्द के लिये विधेयक बनाने वालों के बारे में बाद में कहा जायेगा—आज तो नहीं, आज कौन कहेगा—लेकिन इतिहास कहेगा कि इसमें उन लोगों की जिन्हें अंगरेज लोग “काले लोग” कहा करते थे उनकी पेट्रीमाइण्डेडनेस प्रकट होती है और इसके द्वारा अंगरेजी छाप इसमें टपकती है क्योंकि एक प्रकार की इम्पीरियलिस्टिक टोन इस शब्द में पाई जाती है। मैं इस शब्द का अनुवाद “नगण्य” कर सकता हूं—हिन्दी भाषा में इसका यही अनुवाद हो सकता है। यह जो हर एक विभाग में हिन्दी का कोष बनाते हैं वह कृत्रिम हिन्दी नहीं है बल्कि स्वाभाविक हिन्दी है। जैसा कि होरेस एलेक्जेंडर ने एक जगह कहा था कि मैं अंगरेजी, अंगरेजी बोलता हूं, तो मैं

कहना चाहता हूँ कि मैं हिन्दी, हिन्दी बोलता हूँ। तो उस हिन्दी, हिन्दी के अनुसार पेट्री का अर्थ हम "नगण्य" करेंगे। किसी के लिये "नगण्य" शब्द कहना बहुत अनुचित है। क्योंकि जिनको हम नगण्य कहते हैं, जिनको हम "पेट्री" कहते हैं, काम का यह सारा बोझा उन्हीं पर निर्भर करता है। आफिसर्स नहीं चलाया करते हैं देश के बन्दोबस्त को, ये बड़े बड़े इंजीनियर पुल नहीं बनाते हैं चाहें वे डिजाइन बना कर नक्शा बना कर या तरीके बता कर आदेश दे दें लेकिन उसको कार्य रूप में परिणत करने वाले वे ही लोग हैं जो मिट्टी, ईंटें, पत्थर ढोते हैं और चुनाई करते हैं। देखने को ना वे थोड़ी तनखाह पाते हैं, उसको कहे भी जाइये "पेट्री" और काम भी लेते जाइये मौलिक। तो यह ठीक नहीं। इसलिये मैं यह समझता हूँ कि यह शब्द अच्छा नहीं है, पेट्री आफिस शब्द के लिये किसी ने "जूनियर आफिसर" सजेस्ट किया था। जो कुछ भी हो, कोई न कोई दूसरा अच्छा शब्द उसके स्थान पर लेना आवश्यक मालूम होता है।

**श्री अमोलख चन्द (उत्तर प्रदेश) :** एक बात और भी हो सकती है कि नगण्य का अर्थ नग्न भी समझा जा सकता है।

**पं० अलनू राय शास्त्री :** मैंने तो नहीं समझा, आपकी राय होगी तो कहियेगा। तो महाराज, मैं जो निवेदन कर रहा था वह यह था कि इस विधेयक में, सिवाय विरोधी दल की तरफ से, इस तरह की कोई बात नहीं मालूम होती है कि इसमें कोई मौलिक या बुनियादी भेद है। जो थोड़ी सी बातें मुझे संशोधन की दृष्टि से दिखाई देती थी उनको मैंने १०, ११ पॉइंट्स में आपके सामने रखा क्योंकि मुझे ऐसा लगता है कि उनके रहने से कुछ लोगों को थोड़ा विरोध है।

एक चीज इसमें मुझे और कहनी थी कि इस विधेयक में एक जगह कहा गया है : कंप्लेंट अगोस्ट बैड फूड। अगर अच्छा

खाना नहीं है और उसके बारे में कंप्लेंट है तो वह भी एक अपराध सा मान लिया गया है और उसके लिये सजा मिल सकती है। मैंने जब इसको पढ़ा तब मुझे खयाल आया कि जेलखाने में जब हम लोग दलिया में कोई शिकायत निकालते थे कि यह ज्यादा खराब है, गुड कम है, पकी ठीक नहीं है और सुपरिटेण्डेंट से उसके बारे में कहते थे तो बाज आकात तो इस बात पर काल कोठरी तक हम लोगों को मिली है और हमको परेशान किया गया। इसलिये कोई ऐसा ढंग होना चाहिये कि जिसमें सफोक्शन न होने पाये। खाना सचमुच बुरा है तो वह खाये जाओ, बोलो नहीं। टुक टुक दीदम दम न कशीदम, यह चीज आज के युग में चलने वाली नहीं है। बात ज़रा सी होगी, लेकिन उसकी बुनियाद पर झगड़े बहुत हो जायेंगे। जैसे खाने वाली बात है वैसे ही कोई और बात भी हो सकती है जो छोटी मोटी हो। कोई न कोई ढंग ऐसा बनाना चाहिये कि उचित तरीके पर, उचित बातों के सम्बन्ध में, उचित शिकायत उचित अधिकारियों तक जाये तो वह न दंडनीय हो और न उसके कारण वह आदमी जो कि ऐसा कर रहा है, कोप का भाजन बन जाये और दंडित होने लगे।

मुझे इस विधि से अपने देश के नौजवानों में एक संयम आता दिखाई पड़ता है और देश तरक्की करेगा, ऐसा मुझे विश्वास होता है। एक चीज और कह कर मैं बैठ जाऊंगा। कुछ लोगों का कहना है कि नेवल चीफ को बड़े अस्तित्वारात दे दिये गये हैं और वह "अल इन अल" हो गया है। ऐसा नहीं होना चाहिये। पहले एक कमेटी बनानी चाहिये जो इन चीजों को देखे क्योंकि ये जो सिविलियंस, सेक्रेटरी वगैरा हैं, आखिर मैं इन्हीं के अधिकार में सब चीजें आती हैं और ये ही सब चीजों को कंट्रोल करते हैं। तो ऐसा नहीं होना चाहिये। अभी लोक सभा में जो स्पीचें इस विधेयक पर हुई थीं उनको

[पं० अलगू राय शास्त्री]

मैंने पढ़ा तो यह देखा कि मिनिस्ट्री इस तरह की कमेटियां बनाती भी है एयर फोर्स के लिये अलग, लैंड आर्मी के लिये अलग, नेवल फोर्स के लिये अलग। तो जिस तरह की कमेटी बनाने का नोट आफ डिसेंट में जिक्र आया है—लोगों ने कहा भी है—उस तरह की कमेटी बनाने की कोई आवश्यकता नहीं मालूम देती। मैं समझता हूँ कि जो आफिसर्स हैं उनके ऊपर हमें विश्वास करना होगा, उनकी कमान को मजबूत करना होगा, उनके आदेशों को जगह जगह चैलेंज नहीं करना चाहिये, तभी यह शासन व्यवस्था भी चल सकती है और तभी हमारी जल सेना मजबूत हो सकती है। उस कमान को कमजोर करने की कतई आवश्यकता नहीं है। लेकिन डिफेंस मिनिस्ट्री ऐसी योजनाएँ जरूर बना सकती है जिनमें जो शिकायतें हो वे ठीक से सुनी जाये। ठीक से उचित शिकायतों को करने का अधिकार सबको होना चाहिये, सहानुभूति के साथ उनको सुनना चाहिये। ये चीजें आवश्यकतानुसार अपनी अपनी जगह पर हो जहाँ भी हम नियंत्रण कायम करना चाहते हैं और लोगों में अनुशासन डालना चाहते हैं। दंड की व्यवस्था कड़ी होने में कोई आपत्ति नहीं, लेकिन उतना ही पुचकार और प्यार भी होना चाहिये। जिनसे काम लेना है उनके प्रति निष्ठुरता नहीं होनी चाहिये और न दंड की कठोरता होनी चाहिये। इस-साथ ही साथ उदारता के साथ अपराधों को सुनने और उनमें न्याय देने की व्यवस्था होनी चाहिये।

इन शब्दों के साथ मैं इस विधेयक का स्वागत करता हूँ और इसका समर्थन करता हूँ।

SHRI P. N. SARU (Uttar Pradesh).  
Mr. Vice-Chairman, the Bill before us has been subjected to a close scrutiny by the Joint Select Committee. It has come to us after having been

thoroughly examined by the other place, and I think on the whole it has come to us in an improved form. It follows, Mr. Vice-Chairman, the pattern of many Navy Bills and I am not disposed to quarrel with its main provision. Now, there are, however, one or two matters on which I would like to make a few comments and I shall try to do so without going into matters with which I agree.

First let me say that the question of the proper set-up of the Defence Department of which the navy is a part was not a matter with which this Bill was directly concerned. I have read the Minutes of Dissent which have been appended to this Bill and I find that in some of those minutes the suggestion has been made that there should be something like the Board of Admiralty in this country. There is, as we know, this Board of Admiralty in Britain. Now we were dealing with only one arm of the defence forces; we were dealing with the navy, and it was just not possible to take a connected view of the whole organisation of the Defence Department. The Board of Admiralty has a history behind it. It is largely the result of certain historical circumstances in Britain, and it does not follow that the Board is necessary in this country also. I believe in collective leadership. I think that the Defence Minister should have a body something like the War Council or the Defence Council to advise him. The Naval Chief should be there, the Chief of the Army should be there and the Chief of the Air Services, i.e., Air Marshal should be there, and then there should be some other technical officers to help him, but it is not necessary for us to imitate in every detail the organisation of the War Office or of the Admiralty or of the Air Department in Britain. Therefore I think no case has been made out for including in this Bill provisions regarding the organisation which will be responsible for the efficient conduct of naval officers in this country. The Bill is more in the nature of a disciplinary

measure. It is intended to ensure that there shall be proper discipline in the navy, and it is from that point of view that, I think, this Bill should be examined.

Now, Mr. Vice-Chairman, I will frankly confess that I am somewhat disappointed with the provisions of this Bill regarding the right of judicial review of Court-martial decisions. May I explain what, I think, is the legal position today? I think the article 227 of the Constitution and article 136 of the Constitution have no application to Court-martials. Court-martials are not subject to the superintendence of the High Court and the appellate jurisdiction of the Supreme Court. Court-martials are not however exempt from the jurisdiction of High Courts under article 226 of the Constitution. I have not been able to discover any article which takes away the power of issuing writs under article 226 of the Constitution, from High Courts. Now this writ power, it is important to remember this, is of a limited character. The writ power can be used only in cases where there is a question of jurisdiction. Writs of prohibition or certiorari can be issued only in those cases where a court has exceeded its jurisdiction or, alternatively, failed to exercise the jurisdiction vested in it. Of course in the Northumbria land case the court of appeal has gone to the length of saying that writs of prohibition or certiorari can be issued in cases where there is an error of law apparent on the records. I think that article 226 does not meet the requirements of this situation. The position, as I visualize it, is this. The person accused shall have a trial before a Court-martial, which shall be composed of officers superior or equal in rank to him. This is the institution of the Court-martial. The Court-martial will have the power of not only pronouncing upon the guilt or otherwise, but also of pronouncing the sentence. The Court-martial differs from a jury in the sense that it not only returns verdicts of 'guilty' or otherwise, but it also passes the sentence. Now the Judge-Advocate will be there.

He will be a person familiar with the law. He will be a person who has had some legal training, whose qualifications are those of a lawyer. The Judge-Advocate will be there to explain the law to the Court-martial. In fact, it is contemplated that the Judge-Advocate will lay down the law for the Court-martials. He shall be there to help the Court-martial to arrive at its conclusions in the light of the law explained by him.

After the verdict has been pronounced and after the sentence is awarded, it will be open to the Judge-Advocate to review that judgment or advise the Government. Then, it will be open to the Judge-Advocate General also to review the judgments. They will act thereby as appellate authorities. There is concentration of authority here in one person viz., the person who initiates the proceedings, the person who advises the Court-martial and the person on whom the responsibility is cast for declaring whether the Court-martial has acted rightly. The Judge-Advocate General sits as the final court in advising the Central Government.

THE DEPUTY MINISTER OF DEFENCE (SHRI K. RAGHURAMAIAH): I do not want to interrupt my learned friend, but I just want to correct an impression, by saying that the Trial Judge Advocate is quite different from the Judge-Advocate General who reviews.

SHRI P. N. SAPRU: I did not miss that point. They belong to the same caste. The Judge-Advocate is the Adviser to the Government and so is the Judge-Advocate General. The Judge-Advocate has the function for initiating proceedings. For final advice, the ultimate responsibility is that of the Judge-Advocate General. That is something just not in consonance with the principles of jurisprudence. May I just say this? The Court Martial Appeals Act was passed in 1951. Until then, there was no right of appeal under the English law to any appellate Court—to a High Court or any other



[Shri P. N. Sapru.]  
 appellate court. For the first time, the right of a person tried by a Court-martial to go in appeal before a specially constituted court formed under the Court Martial Appeals Act was recognized in 1951. This court consists of the Lord Chief Justice as the President and other judges of the High Court. Judges of the courts of appeal may sit on it. Until 1951, the view in Britain was that the findings of the Court-martial and of the Judge-Advocate General should be final, that is to say, the Judge-Advocate General should be the final adviser of the Government and no judges of ordinary courts or municipal courts should be brought in to advise the Government or to act as courts of appeal. In 1951, as a result of the recommendations of a certain Commission which was appointed to go into the matter the opinion changed. Our Constitution was framed in 1949 and it became operative from the 26th January, 1950. Now, Mr. Vice-Chairman, I venture to suggest with some confidence that, had the Constitution-makers known on the 26th of January, 1950 that the law in Britain has changed in this respect, their attitude towards the question would have been different. We were so intent upon following the British precedent in regard to these matters that it is rather difficult for me to imagine ourselves taking a different view. Should we not in the light of the experience gained—may be that much experience has not been gained—and in the light of the general principles which were revealed to the British Parliament in 1951, reconsider this matter and make some provision for a specially constituted tribunal to hear appeals from the Judgments of the Court-martial? I have some such scheme in mind and I would empower the President to appoint any two judges of the High Court or the Supreme Court—if it is a High Court the senior judges of the High Court—and they would in an *ad hoc* capacity act as the final court of appeal. There will not be many such cases. I do not think that the normal work of the courts will suffer if two judges are placed occasionally or

special duty to hear those appeals. I do not think that the heavens will fall if accused persons are given this right.

It may be said that the proceedings of the Court-martial are of a highly confidential character. As a matter of fact, generally, it is usual for the Court-Martial to have open sittings, courts have ample powers and they can be given ample powers to hold secret sittings, if this is necessary. I do not think that it can be said that men of the stature and status of Supreme Court judges or High Court judges will not bring to bear upon their work a sense of responsibility and that, in dealing with naval officers or in cases of naval discipline, they will not take a rather serious view. The advantage that I foresee in my suggestion is that public confidence will increase in the impartiality of our Court-martials. The high reputation in which the Court-martials are held will go up. Therefore I think it is a matter for regret that this question was not looked at from a proper perspective in the Select Committee by the spokesmen of Government.

Mr. Vice-Chairman, we cannot give this right to Naval officers or ratings without giving it to Army officers and Air officers and army men and air men. I think it is yet possible for us to review the entire situation in regard to this matter by appointing a small experts committee to suggest ways and means whereby the judicial character of these Court-martials can be further strengthened.

4 P.M.

I may point out that this right of appeal exists now not only in Great Britain, but it exists in Australia, in Canada, I believe it exists in New Zealand, and in a somewhat different manner in the United States of America also. Now we pride ourselves on having a Constitution with elaborate provisions with regard to fundamental rights. We pride ourselves on a Constitution which has certain Directive Principles of State Policy. We pride ourselves on being

a State which has as its goal a socialist pattern of society; but in these small matters, matters which do not affect vitally the security of the State, we take an attitude which might have been intelligible 50 years back or 30 years back or 20 years back, but which is not intelligible to a man who believes in democracy, to a man who believes in the rule of law, to a man who believes in personal freedom and to a man who accepts as an article of faith the fundamental rights conceded to us by the founders of the Constitution. I therefore, Mr. Vice-Chairman, would make an earnest appeal to our talented Deputy Defence Minister to approach this question in the light of what I have said. Of course, I quite appreciate that he cannot take decisions himself. He will have to consult his chief in this matter. But I would like him to argue our case for a reform on the lines I have indicated in regard to provisions for judicial review with his chief. Then in the next session or the one thereafter we can have a Bill dealing with all the three Armed Forces and providing some machinery for a judicial review of Court Martial proceedings.

Mr. Vice-Chairman, may I just be permitted to narrate an experience in this connection? This was my experience at the United Nations. I think in 1955, when I was representing this country at a special committee regarding appeals from administrative tribunals at the United Nations, the suggestion was put forward by me that we should provide for some judicial review, by a tribunal which would be superior to the administrative tribunal, of cases which were dealt with by the administrative tribunal under certain conditions. The idea was that *inter alia*, the services of the International Court of Justice in its advisory capacity should be utilised for that purpose. The question arose as to who would give leave to appeal. You know that under our procedure, before a party can appeal, he has to

obtain leave to appeal, and particularly in cases of special leave this leave to appeal is, Mr. Vice-Chairman, a rather important thing, and leave to appeal is not granted as a matter of course. So I said "Well, we should give that right to the tribunal itself." And we have that system in our courts, because single Judges can give leave to appeal, if they think that the case is a fit one, to a division court. It happens every day in our High Courts. I said, why should it not be so? Believe me, Mr. Vice-Chairman, that the French delegate who was a very distinguished lawyer got horrified at that suggestion. He said that leave by the court which had decided the matter was an unheard of thing in his country. He said "we don't do it; it is against our concepts of jurisprudence." It is not against British concepts of jurisprudence. It is against French and continental concepts of jurisprudence, because the French view in this matter is that the court which decides the matter must not be the court which gives leave also. The court's judgment, they say, is likely to be of a biased character, or at any rate the average man will think that the court has not brought to bear upon this matter an unbiased mind. That is the strength of feeling which continental jurists have in regard to this matter. Now, Mr. Vice-Chairman, I mention this just in order to indicate how horrified a person trained in continental concepts of jurisprudence would be when he was told that the Judge Advocate-General who was responsible for the initiation of all prosecutions and who was responsible for advice at one stage or another of the appeal, and who was finally the Adviser of the Central Government in regard to sentences and convictions by the Court Martial, was the final authority to decide appeals which might involve a man's life. These courts martial can sentence an officer to death. Under the system of jurisprudence in our country—it is different in judicial commissioner's

[Shri P. N. Sapru.]

courts—but in High Courts capital cases are invariably heard by a Bench of two judges. I therefore think that the distinguished Members of the Joint Select Committee have not distinguished themselves—shall I put it like that?—for their judicial acumen by agreeing meekly to the proposals originally embodied in this Bill regarding the position of judicial review.

So far as qualifications of Judge Advocates and Judge Advocate Generals are concerned, I think they seem to be all right. The Judge Advocate General will be normally a person of the status of a High Court Judge, but I would like him to be made independent of Naval Chiefs. I won't like him to be too closely associated with Naval Chiefs. I do not mind his close association with the Defence Minister. Let him be appointed by the President on the advice of the Defence Minister and let him be answerable to the Defence Minister but not in his judicial capacity but otherwise, as there can be no answerability to an executive head in judicial matters. But I would not like him to be too closely associated with Naval Chiefs. I say this without meaning any disrespect to our Naval Chiefs, or Army Chiefs or Air Chiefs. I think they are men of high integrity and the nation is indebted to them for maintaining the morale of our Armed Forces. But I think that on principle it is wrong that the Naval Chief should be looked upon by the Judge Advocate General as his boss or superior. I would therefore suggest that in appointing the Judge Advocate General, the Defence Minister should consult the Law Ministry or should consult the Attorney General—I think it is the Attorney General who is the proper person to be consulted—in regard to these matters, and it should be regarded as a matter of convention for the Judge Advocate General to have direct relations with the Defence Minister.

Now, I do not think that I have anything more to say except this that I too have a dislike for the word 'petty officer', but it is a technical term used in the British Navy for a long time, and people have come to know what a petty officer is, and it may perhaps therefore not be wise to disturb it. I have read the dissenting minute of Mr. Dhage, Mr. Warior, Mr. Menon and Mr. Prasad Rao and I cannot say that I agree with much that they have said. I do not know how to democratise the armed forces. I would certainly like a certain proportion of the officer ranks to go to our Naval ratings, but I do not believe in too many reservations for various sections of the community. What I think should be aimed at is that an officer or a rating should have a chance of rising to the position of an Admiral if he has ability, and we should not make it impossible for a man to reach the highest position just because he has had a low start.

Then, Mrs. Savitry Nigam's presence here reminds me of the question of discrimination against women. I have a partiality for the rights of the other sex—I would not say I have a partiality for the other sex, because that would be a dangerous statement to make—and one of the reasons why I feel particularly proud of our Constitution is that it makes no distinction between man and woman in the matter of civic rights, political rights, economic rights and social rights. I do not think we were fair to our women in the past and I do not think that we are completely fair to them even now, but I do not like clause 9(2) which says—

"No woman shall be eligible for appointment or enrolment in the Indian Navy or the Indian Naval Reserve Forces except in such department, branch or other body forming part thereof or attached thereto and subject to such conditions as the Central Government

may, by notification in the Official Gazette, specify in this behalf"

I do not think it is necessary to put it down in black and white in the Statute that women shall not be eligible for particular types of appointments in the Navy. This can be achieved by administrative practice. I suppose you will have Selection Boards and the Selection Boards will look to the merits of the candidates, physical fitness, capacity to endure hardship, etc.

[THE VICE-CHAIRMAN (SHRIMATI SAVITRY DEVI NIGAM) in the Chair]

And therefore, Madam Vice-Chairman, I agree that your sex should not be discriminated against in this manner.

SHRI AMOLAKH CHAND: The Chair has no sex.

SHRI P. N. SAPRU: I do not think it is necessary to put it in black and white. It does not mean that, if I were on the Selection Boards, I would necessarily select women, but I would reject them on the ground that they are physically not fit or they do not have the capacity to endure hardship. But I would not rule them out altogether. That is all that I have got to say in regard to this important Bill, and I congratulate Mr. Raghuramaiah for the able speech that he delivered.

SHRI KISHEN CHAND (Andhra Pradesh): Madam Vice-Chairman, I have gone through this Navy Bill and I beg to submit that, after going through this Bill consisting of over 200 clauses, I find that over 170 clauses are penal ones. This is really a military penal Bill. The first few clauses refer to recruitment, another few to promotion, etc., and such clauses end with clause 28. From clause 28 onwards, we find, if such and such offence is committed such and such will be the punishment, such and such will be the procedure adopted for the awarding of that punishment, such and such will be the mode

of appeal, such and such will be the tribunals and so on and so forth till right up to the end excepting possibly the last one or two clauses giving certain powers of making regulations. Therefore, it should really not be called a Naval Bill but a military penal Bill. I suppose the hon. Deputy Defence Minister subsequently will bring forward an Army Bill and still later an Air Force Bill. At least in the case of the Army Bill, it will be a more voluminous Bill probably consisting of 300 clauses and there will be about 250 clauses of a penal nature. During the course of the discussion, Mr. Algu Rai Shastri pointed out that these Bills are made on the model of the British Bill, our whole Parliamentary system is modelled on the British system, that they have an experience of 300 or 400 years, that they have a similar Bill and that, therefore, there will be no harm in our having a similar Bill. I beg to submit, Madam, that it is not correct because in England so many things are decided by convention, by tradition which they have built up in the long period of 300 years. Our Navy is a new thing and our Navy Bill is a new Bill. We are enacting this Bill in the year 1957, not in the year 1657, some three hundred years ago when conditions were quite different, when conditions of warfare were different, when conditions for the arrangement of the Navy, the sense of discipline, the gradations, etc. were all different. I shall try to point out in the few remarks that I am going to make on this Bill how I think they differ from the conditions which existed 300 years ago when possibly the nucleus of the Navy Bill of U.K. was formed. When we were discussing this question of the reference of this Bill to a Joint Committee, I tried to point out in a cursory manner how the whole outlook on war has changed, how our notions of war have changed. I think, about two thousand years ago when human beings had no weapons except human hands and possibly some clubs and big swords to fight their wars, bravery was everything and discipline played an

[Shri Kishen Chand ]

important part Wars were won and lost by one single action fought on a day between two opposing armies There, bravery was everything, there discipline, the complete obedience to the orders of a commander, were everything In such circumstances, by natural genius or the limited knowledge of war strategy, big Generals used to rise out of nothing It is a well-known fact that Alexander the Great, the greatest of Generals 2,300 years ago probably had no training because the art of warfare was so simple

SHRI SHEEL BHADRA YAJEE (Bihar) Some are born Generals also in Nepal

SHRI KISHEN CHAND That was possible 2,000 years ago but if anybody today says that there are born Generals, that without very intensive training, without a long tradition of service of nearly forty years in the Army or the Navy any person can claim to lead an Army or to direct an Army, it will be suicidal Things have changed completely and, therefore, when you read this Bill and find that undue importance has been attached to the commission or omission of certain acts by the so-called petty officers or by the ratings or the junior officers and the series of court-martials, the tribunals, which will go into their omissions and the punishments that will be awarded, etc, you get the impression that we are still living in the 15th or the 16th Century and that we are going to guide and control our Navy on the principles that were laid down some four hundred years ago I would have liked such provisions to be separated You could have two parts I do admit that there is need for such clauses and we can have a military penal code for all the three Services That can be a separate measure Let there be a military penal code prescribing all these things and our hon Members, well-versed in the judicial intricacies, will go through the Bill in detail and find out whether the punishments meted

out are in proportion to the crime committed, whether the procedure adopted is proper or not but I would have liked in the Navy Bill, as we have in the Civil Service Regulations, a series of regulations, rights and privileges, etc, regarding pay, pensions, promotions, seniority, etc All such things that would go for regulating their service conditions should be brought within the scope of this Bill I should have thought that that will form the basic part of the Navy Bill, but, as I said earlier, such a thing does not exist here Some hon Members, Mr Algu Rai Shastri in particular, have laid particular stress on discipline They have said that discipline is everything I am not advocating a trade-union movement in the Armed Forces I do not want that they should form trade-unions but I do believe that if we have a different outlook on our Army and Navy, they may adopt certain methods of representing their just grievances and their just rights before the higher authorities It does not mean that you have two extremes, either you have no rights and privileges or you must have the trade-unions and that there should be no intermediate step to be taken I do not agree to that I think there is an intermediate method of doing this thing As I said, modern warfare is different As a matter of fact retreating has become a fine art You know about the Dunkirk affair The British nation is very proud of the way the Dunkirk retreat was achieved In modern warfare, if you must have it, going back or retreating is more important than fighting a foolish war or a foolish battle

DIWAN CHAMAN LALL (Punjab) All battles are foolish, aren't they?

SHRI KISHEN CHAND I gave the example of Dunkirk Take the case of Korea The American Army went on withdrawing till it reached the very last stretch of a few square miles The point I am trying to impress is that on account of the technological advances, modern wars are fought not

on the particular battle field but in the scientific training of the ratings, in the better management of the equipment that is at their disposal, etc. Even more than that, wars are won by the industrial potential of the nation, which is supplying the armed forces with the weapons of war. Therefore I would have very much liked that great stress had been laid on the technical training of the ratings in our war ships. Instead of that all stress is laid on some old-fashioned ideas of discipline. Of course discipline is very important and an indisciplined army cannot fight a war. But equally important is the technical training, the scientific knowledge. I would have liked that amongst our ratings at least 50 per cent. of them should be science graduates, and you are seeing in the modern world that those nations which are training their young men in scientific knowledge are advancing. We do not think about it; we only think about the old-fashioned ideas of discipline; they are all in all for us. Unless we completely change our outlook with regard to the composition of our armed forces, and take to the type of training that would go to make them, the imparting of scientific knowledge, training in the use of modern weapons, etc., they will not have that realisation that they are fighting wars not because their commanders or their higher officers are ordering them but because they feel that they are units and members of a force which is created for the protection of the country and the realisation of the just rights of human beings. If they have that feeling, their outlook will be quite different. You know that, during the last War some nations tried to carry on false propaganda about the victories of their armies, and that they wanted to build up the morale of their forces on the basis of that propaganda. You also know that, during the early years of the Second World War the German Navy was given the impression that sinkings of British and American ships were on such a gigantic scale that within a few months the entire British Navy and the Ame-

rican Navy would be at the bottom of the sea. That sort of propaganda can be carried on only for a few months, sometimes up to a year or two. But it has very bad repercussions, and so now-a-days the other nations give complete information to their armies. As a matter of fact, Sir Winston Churchill during the last War every time used to come to the House of Commons to tell them that "we have lost this", "we have to retreat there" "and yet we are going to fight it out." To the last moment that spirit should pervade our Army and Navy, that spirit of doggedness, that spirit of *faith to the last, which can only come* from a full realisation and full knowledge that it is a national army, it is a patriotic army fighting a patriotic war, fighting for a just cause, and all that can come only if in our navy and our army we take the necessary steps to give them the proper training, not just morning and evening forcing them to go through a discipline of drills and the exercise of marching forward and marching behind holding the rifle in a particular way. That is of course important to some extent. These are my general observations and I do not want to go into the details whether the punishment that has been prescribed in the various clauses is too harsh or too little or whether the words, "petty officer" are a little degrading to them. They are points which the hon. Defence Minister will carefully examine, and there are other hon. Members in this House who are very well versed in judicial matters, and they are better qualified to say whether these punishments are right or not. But I would certainly separate this Bill into two parts, enlarge the first part where their rights and privileges are given in full, where their entire service conditions are given in detail and proper avenues of promotion, proper avenues of care for their families, for their wives and children are given so that when a man is fighting for his country he should feel that his hearths and homes are safe and secure in the custody of the nation, that if he has to sacrifice his life for

[Shri Kishen Chand]  
the cause of his country, his wife and children will be properly looked after. Here also, Madam, I feel that the rewards that we give to the dependents of these members of the armed forces who sacrifice their lives are not of a standard which will inspire the men of our armed forces to offer supreme sacrifice in the service of their motherland. Perhaps the hon. Defence Minister cannot do much here, but he may bring forward, in the next session or the session after that, an Army Bill and an Air Force Bill, and if he can keep this in mind—provided he agrees with me—and make suitable amendments in the Bills, I think we would have laid the sure foundations of a better armed force.

Thank you.

**SHRI AMOLAKH CHAND:** Madam Vice-Chairman, I am very grateful to you for giving me the opportunity to speak again on the Navy Bill. Equally I am grateful to the Joint Select Committee for agreeing to many of my suggestions, and I find that the other suggestions which could not commend themselves to the Joint Select Committee have been referred to in the various Minutes of Dissent.

Madam Vice-Chairman, I would not like to detain the House for long, but there are some points to which I would like to refer specifically, and without wasting the time of the House I would come straight to clause 4. Now, Madam, the Constitution has given Fundamental Rights and this Navy Bill is going to abrogate so many of the Fundamental Rights given in Part III of the Constitution. I have no legal objection to that because Parliament being sovereign has been authorised by the Constitution to abrogate even the Fundamental Rights in proper cases. But, Madam, I do feel that there are such Fundamental Rights which are so common to criminal jurisprudence that their abrogation might in some cases, if not in all

cases, cut at the root of the very fundamentals of the Constitution. I would like to refer to them when they would occur.

Then I come straight to clause 13 of the Bill which says, "Every officer and every seaman" has to take the oath of allegiance. I tried to go through the Minute of Dissent in which it has been impressed that loyalty to country should also be included. I was rather thinking that this is a suggestion which the Deputy Defence Minister ought to consider. Now I have no objection to the last lines in the clause where it is stated in the Form of Oath of Allegiance "that I will observe and obey all commands of the President." The President is also the Supreme Commander of all the three Services. Now I come to the other portion following, "and the commands of any superior officer set over me, even to the peril of my life." Now I do not know much English. But does "setting over" mean as we in colloquial language say, "setting a dog on a cat"? I do not know what the idea is. The very fact that the commands are of "any superior officer set over me" gives an idea that the person who is taking the oath is rather compelled to even follow the dictates of the superior officer, which might result in an inferiority complex setting in after taking the oath. I do not know how far it would be possible now to change the wording, and I hope that Deputy Defence Minister would look into it again. As has been pointed out by my friend, Mr. Sapru, it is quite possible, as he envisages, that there may be an amendment to this Bill, and if such an occasion arises, I would request the Minister in-charge who-soever may be then, either the Defence Minister himself or the Deputy Defence Minister, to look into these matters. Madam, the Bill was considered by the Lok Sabha. What I find is that only two marginal changes have been made as would appear in clause 43—"Mutiny punishable with death" has been changed to "Punishment for mutiny."

I now come to sub-clause (4) of clause 19—"No person subject to naval law shall whilst he is so subject practise any profession or carry on any occupation, trade or business without the previous sanction of the Chief of the Naval Staff" I attempted to point out, when the Bill was being referred to the Joint Select Committee, that the general practice these days should be that those who are in the service and particularly in the Armed Forces or in the Navy should be permitted by the Central Government to carry on their own profession, trade and all that I think probably by an oversight this has been left over and this can now be remedied by omitting clause 4

Clause 26 says "The rights and privileges specified in the preceding sections of this Chapter shall be in addition to, and not in derogation of, any other rights and privileges conferred on persons in the naval service while subject to naval law or on members of the regular Army, Navy and Air Force generally by any other law for the time being in force" If we go just to any other law which is also applicable to the Navy, Army, etc I would refer to section 131 of the Indian Penal Code Madam, you will recollect that we were talking about the probation of offenders and that Bill was referred to a Joint Select Committee I do not know whether the other provisions enumerated there—section 131 onwards—are going to be abrogated or not and whether after the passing of that Probation of Offenders Bill, this penalty imposed under the Navy Bill would also be subject to that or not, because the word used in the Probation of Offenders Bill is "any court" and "court" does include the court-martial So, I have a doubt in my mind when even persons sentenced to death or transportation for life may become eligible under that Bill for probation and not be kept under confinement or in jail, whether that would be applicable here or not

Then I come to clause 31 I suggested then that the maintenance of wife and children was the primary duty of a citizen—whether he be a citizen of the Indian republic or of any other nationality The maintenance of wife and children has a special significance in India Proviso to sub-clause (4) says "Provided that such service shall not be valid unless there is sent along with the process such sum of money as may be prescribed to enable that person to attend the hearing of the proceeding and to return to his ship or quarters after such attendance" The marginal note of clause 31 is "Liability for maintenance of wife and children" As I pointed out previously, the whole idea is that when a seaman or a person serving in the Naval Forces has to go to a court of law to defend himself on the summons, as a defendant, it should be the duty of the plaintiff to provide for all his expenses, so that he may go and attend the court Now, I envisage a case where the wife and children are neglected and they go to a court of law to claim maintenance against the Naval Officer The position would be that the wife and the children have no means of maintenance and she wants maintenance from her husband She will be compelled to deposit all the expenses of the defendant, so that her husband may come to the court and defend himself I think, Madam, you will agree that this is a fit case where the wife and the children should not be asked to deposit all those expenses

Then I come to clause 42 which deals with mutiny Mutiny is an offence under the Indian Penal Code I am referring to Section 131 of the Indian Penal Code under Chapter VII which deals with offences relating to the Army, the Navy and the Air Force It reads

'Whoever abets the committing of mutiny by an officer soldier, sailor or airman in the Army, Navy or Air Force of the Government of India or attempts to



[Shri Amolakh Chand]

seduce and such officer, soldier, sailor or airman from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

'Mutiny', as we know, is neither defined in the Indian Penal Code nor in this Navy Bill. If we just scrutinise the definition of 'Mutiny' given in clause 42, it says that every person who joins two or more persons and does anything from very trivial to very serious offences would be guilty of mutiny. Now, mutiny, as I tried to point out earlier, is a very serious offence and particularly, in the Navy or in the Army. Madam, it may be that two persons in the Navy, who are own brothers may have a grouse against an officer and if they consult to protest against the act of that superior officer to any third person or between themselves, they would be guilty of mutiny. This would be a very dangerous thing and it appears that it should be looked into.

Coming to the other provisions, I would like to bring to the notice of the Minister again that the President who happens to be the Supreme Commander—should have a right to review the cases in which sentences have been passed either by the court-martial or by the disciplinary court. Now, the provision as it stands now is that, in such cases, the review will be done by the Central Government. So, if the name of the President came in, that would give more confidence to the officers and petty officers and seamen whose Supreme Commander the President happens to be.

Now, Madam, I would refer to the use of the word 'Petty Officer'. There are two opinions whether this word should continue or not. Having given my full consideration, I feel that this does need some change 'Petty Officer', as Mr Algu Rai Shastri translated it, meant 'Naganya'

Another translation of 'Petty' would be 'Tuchh'. If we use the word 'Naganya' it might become 'Naganya', and that does not look decent. Now 'Tuchh' also is very contemptuous. I do not know what the nomenclature of this 'Petty Officer' would be in Hindi. If it can be 'Chhota Officer', why not then 'Junior Officer', as has been suggested in some of the amendments? I think this does require some consideration.

Now another point which troubles me is this. If a naval officer, while in active service, commits a civil offence or an offence with which he is not connected, would he be tried by Court Martial or in an ordinary court as an accused? This is a fundamental question, Madam, and I think the Deputy Defence Minister who is a Barrister also would like to enlighten the House on this subject, because if I remember aright, some naval officer has been charged with smuggling of gold or something like that and that trial is probably in an ordinary court of law. I would like to understand, if an officer commits an offence under the Indian Penal Code or any other criminal law of the land, what would be the position? And certainly I would like to know whether in such cases the new Probation Act or section 562 of the Criminal Procedure Code would apply or not. With these remarks, Madam, I thank you.

**SHRI MAHABIR PRASAD** (Uttar Pradesh): Madam Vice-Chairman, I rise to support the Navy Bill as it has emerged out of the Joint Select Committee. The Joint Select Committee gave its attention to various clauses, and I must thank the Draftsman here for helping us in drafting. I personally feel that the Navy Bill, as it has now emerged, meets most of the requirements for which it is meant.

In the other House a reference was made about the 1946 naval rising and supply of bad food, and that no provision has been made in the present Bill for making one's complaints to senior officers. I had the opportunity of visiting naval establishments in Bom-

bay recently and I was very much satisfied to find the quality of the food which was being supplied to the naval ratings and to the officers. In fact, they are given food of 4,000 calories, which is of a very high nutritive value.

**SHRI V PRASAD RAO** (Andhra Pradesh) Perhaps you were given some special food which was not the ordinary food supplied to them

**SHRI MAHABIR PRASAD** Well, we had the opportunity to visit all kinds of ships, the flagship, the mine-sweepers, the destroyers and the survey ships, almost all kinds of ships, and we made it a point to see what kind of food was being supplied to them. We talked to officers as well as to ratings especially on this subject to find out if they had any sort of grievances about their food, and I have pleasure in informing the House that not one of them had a word to say against the quality of the food supplied there. Well, a few years back, of course, they were being supplied only non-vegetarian food, and there was difficulty for the vegetarians, and that might have been one of the causes at that time, but now about 30 per cent of the naval ratings and the officers are vegetarians, and vegetarian food as well as non-vegetarian food is catered to those people. There are separate kitchens for vegetarian food and non-vegetarian food, and on that account there can be no complaint. But as far as the bringing of any complaints to the notice of the authorities is concerned, I would refer the House to clause 23 in which a procedure has been laid down by which an aggrieved person can bring his grievances to the notice of the higher authorities. And further, if he is not satisfied with the decision of those higher authorities, there is a further provision by which his complaint will have to be sent to the Defence Ministry of the Central Government for being looked into and proper action taken. I think with all these provisions there should be no apprehension about these kinds of complaints being suppressed.

Now, Madam, much has been said about the word 'Petty Officer'. In the Joint Select Committee also we spent a good deal of time over this word 'Petty'. In the other House also I find so many references made to this word. The previous speakers in this House have also made references to it. Madam, I may point out that I had the opportunity of talking to over a hundred ratings in various ships, and not one of them had a word of complaint about this word 'Petty'. In fact, all the ratings look forward to being made 'Petty Officers' because that gives them a chance to become officers, although it might only be 'Petty Officers'. And from 'Petty Officers' and 'Chief Petty Officers' they go to the higher degree. Now, Madam, to me it looks as if we have been pleading a cause for which we have not been briefed. We have drafted the Bill in the English language, and this word 'Petty Officer' is known all over the world. It has a definite significance in the navy. Everybody knows and understands what it means. In the English language 'Petty' may be having a meaning which may not appeal to us, but in the navy it is not so. This word has been in use and it is commonly known. And moreover I may inform the House that it is not that always people are called 'Petty Officers'. Mostly they are called 'P Os', and it is only when an individual officer is to be called that he is called 'Petty Officer such and such'. That is the way they look upon 'Petty Officers' in the navy. And when the people whom it might affect do not mind it, I see no reason why the Members here should be so meticulous about using or not using this word 'Petty Officer'.

**SHRI SHEEL BHADRA YAJEE** Well Parliament is the guardian of the Nation and its rights.

**SHRI MAHABIR PRASAD** Madam, at least they must consult those whose cause they want to plead. I would request those Members to visit naval establishments and get first-hand information for themselves about what

[Shri Mahabir Prasad]  
significance this word has and why they have no hatred for this word. It is we who are creating a sort of prejudice against this word, and I do not know whether in the time to come we might start getting complaints to that effect. Moreover, Madam, when the Bill is to be translated in Hindi, we can think of some suitable word. And I may suggest 'Prarambhik Officer' in that case for consideration.

SHRI AMOLAKH CHAND: That is 'Primary'.

THE VICE-CHAIRMAN (SHRIMATI SAVITRY DEVI NIGAM): Mr. Bhargava, you may continue your speech tomorrow.

The House stands adjourned till 11 A.M. tomorrow, the 3rd December.

The House then adjourned at five of the clock till eleven of the clock on Tuesday, the 3rd December 1957.