

[Mr. Chairman.] the Lok Sabha, be taken into consideration"

Does anybody wish to speak?

DR. P. C. MITRA (Bihar): I should like to know why the Government was sleeping all the time.

SHRI B. N. DATAR: We were not sleeping at all. The Government was wide awake. The hon. Member will find that the Hyderabad High Court gave their decision only in September last. Then the legal aspect had to be considered and it is after all that that this Bill has been brought forward.

MR. CHAIRMAN: The question is:

"That the Bill to validate the levy and collection of certain duties on the export of goods from the State of Hyderabad, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: Now, clause by clause consideration.

Clause 2 was added to the Bill.

Clause 1, the Title and the Enacting Formula were added to the Bill.

SHRI B. N. DATAR: Sir, I move:

"That the Bill be returned."

MR. CHAIRMAN: Motion moved:

"That the Bill be returned."

Anybody wanting to speak? On such innocent measures you do not say anything.

SHRI B. C. GHOSE (West Bengal): When the Government brings forward a good measure we have nothing to say. It is only when they do not.....

MR. CHAIRMAN: The question is;

"That the Bill be returned." The motion was adopted.

## **THE UNTOUCHABILITY (OFFENCES) BILL, 1955**

THE DEPUTY MINISTER FOR HOME AFFAIRS (SHRI B. N. DATAR): Sir, I beg to move:

"That the Bill to prescribe punishment for the practice of 'Un-touchability', for the enforcement of any disability arising therefrom and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

Sir, this Bill was brought forward before Parliament for the purpose of taking action as laid down in article 17 of the Constitution. That article lays down, as everyone is aware, that untouchability has been abolished and if untouchability in any form is practised or will be practised then the violation of this law will be met by punishment by a law which is to be made by Parliament. Article 35 points out that the law that has to be made in respect of making the various forms or aspects of untouchability to be offences has to be passed only by Parliament. So when the Constitution came into force on 26th January 1950, the Government of India immediately took up this question because especially between 1937 and 1950 there were a number of laws in various States of India. Some of these laws have been mentioned in the Schedule. Now, they dealt with different aspects of this question but it was considered advisable, naturally as laid down in the Constitution, that there ought to be a uniform law in this respect. For that purpose, the Government of India called for the views of the various State Governments in February 1950 -s to whether untouchability in any form, and in any community, in the State is practised and if so in what manner. They were also asked as to whether any disability in any form arising out of untouchability is enforced by any person or community in the State and if so in

what manner and also what punishments were prescribed for the enforcement of such disabilities arising out of untouchability. A good deal of information was received from the various State Governments and after it was scanned, the Government prepared a draft Bill for the information not only of the State Governments but also of certain all-India organisations which were carrying on work for the welfare of the Scheduled Castes. Copies of the draft Bill were furnished to all these and their opinions called for. After the receipt of their opinions the Government improved the draft with a view to embody a number of very good suggestions made by the various State Governments and the all India organisations carrying on work in the interests of the Scheduled Castes or Harijans. This improved draft was published in the Central Government Gazette for the purpose of eliciting the opinion of the public in general. Again we received a considerable amount of opinion from various quarters and ultimately the final draft of the Bill was prepared and presented to the Lok Sabha on 15th March 1954. The Lok Sabha found it necessary to have this Bill referred to a Joint Select Committee and so this matter came before this House also in the form of a motion for the appointment of certain Members of this House to the Joint Select Committee. That was in September 1954. Then the Joint Select Committee met on a number of days between September and November 1954 and submitted a Report. This Report, it may be noticed, has recast the original Bill in certain very material particulars. A number of very important questions, to which, I shall be making a reference shortly, had to be considered and a decision had to be reached in the light of the views expressed in the Joint Select Committee, where as I said the Bill was revised thoroughly. Certain new provisions were added so as to make the Bill as effective as possible. The Lok Sabha took up the consideration of the Report during last

week. A few amendments were accepted and the Bill was passed by the Lok Sabha and it is now before this House for your kind consideration.

So far as this Bill is concerned, certain very important facts have to be taken into account. A question arose at a very early stage of the consideration as to whether there ought to be a definition of the expression 'untouchability'. Then a constitutional objection—and a right objection—was taken that inasmuch as under the Constitution by article 17 we had abolished untouchability, no such definition was necessary at all and so the definition was removed but the wording is such that it has been made as comprehensive as possible. Then another question might arise and that also has to be considered here when we take this Bill into consideration. That is this. What exactly is the nature of this Bill? Certain amendments were proposed in the other House and there are some amendments given notice of here also. We have to take into account the fundamental principle or the real character of this Bill. The real character of this Bill is that it is a penal measure. It is a measure not for the purpose of giving certain rights as such because those rights are already given by the Constitution. The Constitution has given a number of rights to the different classes of people including the untouchables and the Constitution has also declared that untouchability has been abolished; not that it has to be abolished but that it has been abolished. So under these circumstances the question to be borne in mind is that this Bill has been brought for-yv<sup>a</sup>d as a penal measure for the purpose of removing certain disabilities MI an indirect way namely, by prescribing punishments whenever certain forms of disabilities are enforced by the offending members of the Hindu community or other communities, so far as this canker of

[Shri B. N. Datar.]  
 untouchability is concerned. If we take this into account then we have to make a further note of the fact that this Bill should not be considered as one giving certain rights or giving a charter of rights to the Scheduled Castes. They have already been given a charter of rights. What we have now to do is this; in spite of those rights that have been given by the Constitution, the fact unfortunately remains that untouchability is still there.

There are a number of disabilities from which these poor brethren of ours have been suffering for centuries together. Now, there are a number of ways in which this evil can be eradicated. Gandhiji was one of the earliest who took up this question and it is almost mainly due to his labours that this received prominent attention before the Constitution and has been receiving proper attention so far as the disabilities of the Harijans and also their very low condition are concerned. So far as the other aspects are concerned, educational aspects or say, economic aspects, etc. are concerned, the Central Government as also the State Governments have to carry on certain ameliorative measures in the interests of the Scheduled Castes. But here it has been found that this is a social disability. It is almost a tyranny and these people are suffering from the effects of untouchability in a number of ways. They are not allowed in some parts even now to enter temples. As citizens of India they are entitled to certain fundamental rights, but they are denied to them on account of the fact that formerly the practice of untouchability was considered and certain courts also found that this practice cannot be removed except by a new piece of legislation. After all, custom also had a force and the courts also had to come to the conclusion that as this practice was there and until it was removed by law, they had to give

effect or they had to condone certain acts which were done by certain members. Therefore, the first thing that was done was a clear declaration that untouchability has to completely go.

Then, Sir, another question arose: how is this untouchability to go? So far as legislation is concerned, what ought to be the nature of the legislation? On this question, it might be found that there are two entirely opposing schools of thought. One is that inasmuch as this is an extremely bad practice, a highly pernicious practice and inhuman practice, any person who commits an offence so far as untouchability is concerned ought to be punished as severely as possible. In other words, there is a school of thought which believes that the practice of untouchability should be met with severest punishment. And, therefore, in the other House, a number of amendments were proposed so as to enhance punishment, either the amount of fine or imprisonment to as high a figure as possible. That was one school. So far as this school is concerned, though in principle or in spirit what they have stated is correct—because after all this is a very grave, almost heinous offence because it is an offence against humanity itself, we are making a distinction between man and man—the offenders have to be punished as severely as possible. But as against this, we have to take into account the facts as they are, so far as the Scheduled Caste people are concerned. They are naturally in a minority and their number is confined only to a few families in the rural areas where untouchability, unfortunately, is practised in very bad forms even now.

Now there is also another aspect. Those who are following untouchability are under a wrong notion, but still that notion is there that untouchability had been sanctified by custom or by religion. Even now in the year of Grace 1955, unfortunately,

there are certain people who think that untouchability is a part of the religion. Nothing can be farther from truth, but these people are there. The question is whether they can be converted to a feeling, that what they were doing was wrong by recourse to processes under which this offence should be punished very severely; or whether there can be another approach because after all even a sinner has to be converted if that can be done. If, for example, we do not do it, if we follow the advocates of those who are in favour of very strong measures in this respect or very severe punishment, then it is likely to have certain repercussions, especially undesirable repercussions, so far as the poor Harijan families in the various villages or rural areas of India are concerned. They are likely to be subjected to greater tyranny, to economic pressure and to a number of other things, because after all these people have to depend upon the mercy and the goodwill and some sort of help direct or indirect from the other members not only of the Hindu community but of other communities as well. And, therefore, it was considered by the other school of thought that inasmuch as untouchability has been abolished, untouchability has to be declared as an offence. The various aspects of untouchability have to be considered as constituting an offence, about that there is no doubt at all. But the best way would be to make it an offence.

When the question of punishment has to be considered, then the punishment ought not to be very severe or very high because the very object of the Bill would be frustrated if we have recourse to very heavy punishment. Take, for example, a small case where a Harijan has been treated with a certain form of untouchability. Suppose, for example, the case is under this Bill which will be passed into law very soon—suppose a case has been filed and then the man has been duly punished. Then, the man will surely have a natural feeling

that he was brought to court and he was convicted on account of the efforts made by this particular man. It is quite likely that he would try to take revenge not only upon the particular member of the Harijan community, but upon the Harijan community as a whole. In the villages sometimes conditions are very bad. There it becomes very difficult or almost impossible for these poor people to carry on their already uncomfortable or miserable existence. If, for example, they are subjected to such social tyranny, social boycott and a number of other pressures, from which it would be very difficult for these persons to recover or to carry on their existence. Therefore, it was proposed that so far as the principle was concerned, there was no doubt, there was no compromise at all, namely, the various forms of untouchability have to be considered as offences and punishments have to be provided for.

Then, we looked into the various Acts passed by the State Legislatures, Now, there also it will be found that the punishment that had been provided for was not so high as it has been proposed in certain amendments made in the other House or is likely to be proposed in this House. There also the punishment was about two hundred rupees fine and about three months imprisonment, that is the highest, by way of punishment. Then, Government also had decided that we might follow the same principle so far as the infliction of punishment was concerned. But it was considered that three months imprisonment or two hundred rupees fine would not be sufficient to meet the ends of justice. And, therefore, what has been done now by way of a compromise, after a full consideration of all the facts of the case, is that the highest punishment ought to be five hundred rupees by way of fine and by way of imprisonment\* ent it should be six months. Then, it has also been provided that if for example a

[Shri B. N. Datar.] particular offender has been once punished, or after he has been found to be convicted he commits the same offence, then he has to be punished with both imprisonment and fine. Ordinarily under the Penal Code or penal measures there may be fine, there may be imprisonment, or there may be both, but here the measure has been made strict to a certain extent. Therefore, this was the principle that we followed.

Then, there is also one special feature which also has to be noted. It deals with what is known under the Law of Evidence as the burden of proof. Ordinarily, in all cases whenever an offence has to be proved, it is naturally for the prosecution to prove all the circumstances leading to the commission of a particular crime. But there might be circumstances, Sir, where, if certain facts are proved, then it would be open to a court of law to come to a passing conclusion that the other party has to prove innocence, because innocence could not be proved in view of certain facts which have been duly proved. And from the facts which have been proved, the ordinary presumption is that the proof of these circumstances, or the proof of the commission of these acts is proof of the commission of offences. Therefore it was considered that if, for example, the proof was made legally or technically very strict, then it would be difficult to prove the commission of offences under this Bill or under this measure. Therefore, what has been done is that a provision has been introduced according to which if, for example, certain facts have been proved, from which you can ultimately infer that an offence has been committed, then the burden of proof shifts from the prosecution to the accused, and it is for the accused to prove that he practised these forms of untouchability, not by way of disability, not by way of any custom of untouchability, but for certain other reasons, certain other legitimate reasons. Therefore, what has been done

is that there is a change in the burden of proof. It is not a conclusive proof, but it is what can be stated to be a presumption which might be rebutted by leading certain evidence to show in that particular case that the inference to which ordinarily we would come, is not the right inference, because in that case, certain explanations or elucidations would be placed before the court, and the court might hold that even though the burden of proof has shifted to the accused, he has proved certain circumstances, on the basis of which it can go back to the original presumption of innocence in his favour. So, that also is a new provision which has been introduced.

Then, Sir, I would not go into the details of the various clauses, but very briefly, I would make reference to certain forms or certain aspects of untouchability which have been made penal by the various provisions here. You will find, Sir, that we have defined the place of public worship, and we have stated that so far as the religious places of worship are concerned, all the persons are entitled to go there to worship, and they are also entitled to carry on the worship in the way in which a member of the community to which he belongs is entitled to do.

Then, Sir, in clause 3, we have provided punishment for enforcing religious disabilities. We know, Sir, how certain persons were not allowed, or are not allowed, not only to enter the temple, but they are not also allowed to carry on any worship, and they are not allowed to carry on the religious services to which they are entitled. Therefore, the various subtle forms in which this disability would be practised have been dealt with as strongly as possible under clause 3. And then, Sir, the name of one sect known as Swaminarayan Sampraday had to be added here, because there was a ruling of a trial court, a civil court, I believe in

Ahmedabad, because most of these persons are either in Gujarat or in Saurashtra. There a question arose as to whether the members of the Swaminarayan Sampraday cult were Hindus or they were not Hindus. You are aware, Sir, that in a number of cases, very strange pleas are taken in the courts of law, and I remember cases where the matter had gone up to the High Court as to whether the Lingayats were Hindus, or whether certain other persons were Hindus. In fact, there ought to be no doubt about these things, about the profession that they carry on, about the principles that they follow, as also about the rites they observe. But sometimes, in a court of law, such extreme pleas are taken, and in one case, Sir, I remember, it was stated that, although according to the various rulings of the High Court, Jains were held, for the purpose of law, as being Hindus, still a certain plea was taken that Jains were not Hindus at all, say, for the purpose of one Act, according to which certain rights were given to Hindu widows. Ultimately the matter went to the High Court, and the High Court came to the conclusion that Jains have to be held as Hindus for the purposes of law. Therefore, Sir, in this particular case, so far as this Swaminarayan Sampraday sect was concerned, there also, a certain plea was taken that they were not Hindus at all. From the name "Swaminarayan", as also from the forms of worship that they were carrying on, it was impossible to believe that they were anything but Hindus. But still a plea was taken, and surprisingly enough, Sir, that plea was accepted by a Civil Judge. The matter is now pending in the High Court. But in such a case, it would not be proper, nor advisable, to take any risk. Therefore, we have added that name also.

SHRI H. C. DASAPPA (Mysore): May I know the difference between Virashaivas and Lingayats?

SHRI B. N. DATAR: That was my difficulty also. But in Kashmir there were certain communities, I was told, that were Virashaivas, but they were not called Lingayats. And for that reason, it is better to mention certain words rather than not to mention a particular community. As I know, in the South, Virashaivas and Lingayats are naturally one and the same community. And in fact, I myself raised this question in the Joint Select Committee. And there I was told that there were certain communities known as Virashaivas, but "they were not Lingayats in the popular sense of the term. And therefore, we considered it better to keep the two words as they are, though ordinarily, the two words are synonyms with each other.

Then, Sir, there are other social disabilities, a number of them. You may be aware, Sir, that in certain parts of India, at least till very recently, even on the public roads, a member of an untouchable caste, or of the Scheduled Caste, could not go at all. In fact, that was one of the reasons why Gandhiji wrote a very strong article in "Young India" long long ago. And he stated that that was not the way in which human beings were to be treated. While he was passing along a certain road in Orissa—at Jagannath Puri—a certain Harijan was coming. He did not know that he was Gandhiji. The moment he found that there was a caste Hindu, what that man did was that he tried to hide himself, and he just held a blade of grass in his mouth to show.....

SHRI S. N. DWIVEDY (Orissa): Where? Is he sure, Sir, that it was in Orissa? Or in Madras?

SHRI B. N. DATAR: It is immaterial where it is. Possibly, he was offended by the expression about Orissa.

SHRI S. N. DWIVEDY: No question of being offended. It is not to that extent in Orissa.

SHRI B. N. DATAR: But I shall quote one more instance. So, he held a blade of grass and he wanted to hide himself within a safe distance of 36 yards or 36 feet, or whatever it was. And, Sir, that upset Gandhiji. And so far as Orissa is concerned, I remember that Gandhiji stated that "If before the Lord of Universe, these things are to go on, then what is going to be the fate of these people? And, what is going to happen to us?" I remember it fully. He said that if these acts of inhumanity are to go on, and if we are considering them as acts of religion, then certainly we are not human beings at all. That is how he put it.

Apart from it, there are certain other disabilities, *e.g.*, there may be shops where they would not sell to or serve Harijans in the way in which they serve other people. In some cases they are not allowed even to go to a river on the plea that thereby the sanctity of the river will be polluted. In fact, God is known as *Patita pavana* and all these *tirthas* are meant for the purpose of purifying people. The highest epithet that you can give to God is the purifier of all impurities. Still the fact remains that there are watering places, rivers, streams, etc. where Harijans are not allowed to go and not allowed to take water from or allowed to bathe. In the South even some tanks are considered sacred and the sacredness of the tanks is likely to be lost or spoilt, it is said, *d* a Harijan—a human being—goes there and bathes there. So, we have tried to meet all these cases here. In some cases, they are not allowed to have the use of even public conveyances. So, all these cases are referred to in clause *t*.

Then, there were unfortunately certain hospitals, dispensaries or educational institutions where admission was refused. In some cases what is done is that admission is given, but

there also they lay down certain principles of segregation. Now, untouchability is practised in very subtle forms. The Harijans are admitted to hospitals but kept in segregated places. All these things also have been provided for in clause 5.

So far as clause 6 is concerned, provision has been made here for refusing to sell goods or render services to Harijans which they are bound to do. Then a general clause has been put in clause 7. You will find that this whole clause has been recast because, as is often pointed out, human ingenuity works also in the wrong direction; perhaps it works more in the wrong direction than in the right direction. Therefore, with regard to the practice of untouchability, certain things may be done which may not come within the letter of the law. Therefore, general words have been used here, so that all such cases would come within the mischief of the offences under this Act. You will find that clause 7 says:

"Whoever—

(a) prevents my person from exercising any right accruing to him by reason of the abolition of "untouchability" under article 17 of the Constitution; or

(b) molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right;".

All these have been duly provided for in clause 7.

Then, clause 8 and the subsequent clause deal with giving additional punishments. A man, for example, denies to a Harijan the right to take

to a certain profession, while he himself practises it. Then, if he is punished or if he is convicted, then certain further provisions have been made according to which the permission or licence under which he was carrying on the profession might be cancelled. This is a more effective way of awarding punishment than merely giving a few rupees by way of fine or spending a couple of weeks or more behind prison bars. Therefore this effective but unusual way of giving punishment has also been provided for in clause 8:

"When a person who is convicted of an offence under section 6 holds any licence under any law for the time being in force in respect of any profession, trade, etc ....."

then that licence also shall stand cancelled or shall stand suspended.

Then in the next clause we have provided that, if for example he repents, then it would be open to the authority concerned to consider whether there are any special circumstances according to which the order of suspension or cancellation may be removed and the licence or permission restored to him.

Then clause 10 is in general terms. It says that any person who abets any offence under this Act shall be punished with the same measure of punishment as the man who actually commits the offence. In fact, in the Indian Penal Code we have got a provision for abetment, but it was considered advisable that we should make abetment a substantive offence so far as the offences under this Act are concerned.

Then clause 11 says that, Whenever an offence under this Act is repeated, the subsequent punishment shall be both imprisonment and fine.

Then, there are also certain judgments or decrees or orders of the

court, according to which in a direct or an indirect manner untouchability has been upheld. There are certain rulings in certain cases where *on* the ground of custom, the practice of untouchability in certain forms has been either acquiesced in or not objected to, because after all the courts also have to carry on their work on certain principles. You are aware that so far as the Hindu Law is concerned, there are a number of matters which are governed by custom, and if a certain custom is proved, whatever it may be, then in that case that custom has to be maintained. I<sup>7</sup> was considered that something has to be done so far as such judgments or decrees are concerned. It has been definitely stated in clause 13 that:

"No civil court shall entertain or continue any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act."

All these judgements or orders or decrees would be entirely unexecut-able, provided it is proved at any stage of the proceeding either in the suit itself or in the execution proceedings or in any other proceeding before a court of law that the terms of that judgment or decree or order are contrary to the provisions of this Act; then the court has the authority to refuse to grant that decree or refuse to execute that decree or order.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): May I know whether, after the passing of the Constitution, any court in India has recognised untouchability as custom?

SHRI B. N. DATAR: The Constitution deals with this question in a certain way. As you are aware, just now we have got a suit pending, so far as



[Shri B. N. Datar J the Vishwanath Temple of Banaras is concerned. If I remember the facts aright, some attempts were made by the Harijans to enter the temple; then a temporary injunction was obtained. I am not sure at what stage that proceeding is now, but the fact remains.....

SHRI K. S. HEGDE (Madras): In Udipi Sri Krishna Temple also.

SHRI B. N. DATAR: I am not sure whether this comes directly within the terms of the Constitution. But the fact remains that even now suits are carried on and interim injunctions are passed. Even today unfortunately the scheduled caste people are not allowed to enter the most sacred temple in India, so far as the Hindus are concerned. Now, all these disabilities will be removed, because this general provision is enough to discourage all such litigations and the passing of such orders whether they are of an absolute nature or of ?\*n interim nature. It is clearly stated in sub-clause (2):

"No court shall in adjudicating any matter or executing any decree or order recognise any custom or usage imposing any disability on any person on the ground of 'untouchability'."

Then, there might be offences committed by members of companies also. They have been provided for in clause 14. Defence also has been provided for. If, for example, they prove that their conduct was *bona fide*, that the enforcement of that disability by the members of the company was without the knowledge of the persons concerned, then in that case, they can make a successful defence.

Lastly, clause 15 is important. It says that every offence under this Bill- shall be cognizable. The second clause has been introduced here which is to a certain extent a modification on the principles that we had proposed to accept. In this very House

I when there was a debate on this very [ question, it was suggested that the offence should be made non-compoundable. It was pointed out to this House that generally under the Criminal Procedure Code all offences were presumed to be non-compounded unless they came within the special reservations or provisos in section 345 of the Criminal Procedure Code according to which an offence was ordinarily non-compoundable. Then it can be made compoundable without the permission of the court, or it can be made compoundable with the permission of the court. That is, you will find that so far as composition of offence is concerned, they are divided under the Criminal Procedure Code into three classes—(1) non-compoundable, (2) compoundable between the parties and (3) compoundable with the permission of the court. When this question came before the Joint Select Committee it was considered that in a proper case it ought to be open to the parties to compromise and come to certain terms. The objection was raised that here the position was rather unequal. It was contended that after all the Harijan or the aggrieved party, the *de facto* complainant in the case was a poor man, was a helpless man and must have been under the pressure or influence of the community to which the offender belongs. Therefore it was quite likely that peace might be purchased by giving a few rupees or by compelling the other man not to prosecute. This was one view. The other was that in such cases, if for example, a man commits an offence and then the matter has to be heard but before that hearing, if the parties come to a compromise, if there is an amicable settlement, then it will be found that cordial relations are restored between the parties and thereby the future law and order situation is likely to be avoided. Therefore it is felt that in proper cases, subject to supervision of the court—the court is there as the protector of the rights of the complainant in particular and if in a proper case the terms of the composition or compromise are placed

before the court and in all such cases whenever there is a compromise under the civil law or whenever there is a compromise or composition under the criminal law, and court's permission is necessary, then the court has to find out whether the compromise or composition was a voluntary one in the sense that it was not caused by either pressure or by undue influence. That is the function of the court and therefore in such cases the criminal court will consider whether it was a spontaneous act or compromise between the parties, whether it is fair to the aggrieved party *viz.*, the *de facto* complainant and if it is satisfied that the composition of the offence was quite voluntary and was not against the interests of the complainant or aggrieved party, then only the court will agree.

Therefore it was considered that in such a case the offence under this Bill Dr Act should be.....

SHRI BHUPESH GUPTA (West Bengal): Under the existing law, it would be impossible for the court to find out that undue influence had not been exerted on the aggrieved party in arriving at what is called a compromise.

SHRI B. N. DATAR: Now in all such cases whenever an application for a compromise or composition is filed before the court, the court has the right to consider whether the compromise has been rightly arrived at. The burden is on the person who shows that it is rightly arrived at and it is open to the court to refuse to compromise the matter. Therefore, we have got here a third agency *viz.*, a court, and the court is the protector of all such persons—that has to be taken into account—and therefore after considering all the circumstances, the court might sanction .....

SHRI BHUPESH GUPTA: A court in Madras City cannot be a protector in certain incidents that may have

happened in a remote village. It would not be possible for the court to go into that matter, however much you may wish it.

SHRI B. N. DATAR: All these case\* will not be heard only in the urban areas and there are a number of places round about a particular village that the hon. Member refers to where he goes. The court is there and they would consider all the circumstances .....

SHRI BHUPESH GUPTA: The court does not follow wherever I go. Certain other locations are there .....

SHRI B. N. DATAR: My submission is that in such cases, the court is a third party and is the protector of all such disabled persons and therefore it would be open to a court to reject an application for composition of this offence and if the court finds that it was a voluntary act of compromise, that it will advance the restoration of cordial feelings between the parties, then only the court will allow a compromise or to compound the offence. Therefore the Joint Select Committee came to the conclusion that the offence should neither be completely non-compoundable nor should it be compoundable only between the parties *inter se*. So all the fears or misgivings that the hon. Member has have been provided for by making it possible for the composition to be recorded only with the permission of the court. So my submission is that the *via media* that has been found out by the Joint Select Committee is fairly reasonable and if for example a man comes to the conclusion that whatever he has done is wrong, there must always be a scope for repentance and locus *penitentie* as they say in law. If for example, the man came to the conclusion that what he did was wrong, and then if he is prepared to make some reparation to the aggrieved party, it is only then that the matter can be duly compounded.

SHRI BHUPESH GUPTA: Does it apply to cases of robbery and theft?

SHRI B. N. DATAR: My submission is that the Joint Select Committee's opinion on this question is perfectly reasonable. The last point .....

SHRI K. S. HEGDE: What do you mean by "religious denominations or any sections thereof"? I find the expression used in a number of places. I see that you have borrowed it from other Acts.

SHRI B. N. DATAR: It is borrowed from some other Acts and we have used the word "religion". Within the religion itself there might be certain categories of persons—Vaishnavaites, Saivaites, Arya Samajists.....

SHRI K. S. HEGDE: Have they those denominations.....

SHRI B. N. DATAR: We have the general expression "religion". Now Harijans are Hindus. There might be a particular community in the Arya Samajists. A question was raised some time ago whether Arya Samajists were Hindus at all. Then the matter went up to the High Court and I believe it came also before the then Legislative Assembly and a separate Act was passed called the Arya Marriages Revalidation Act. Now the generic term "Hindu" is always there and if, for example, there are Arya Samajists and they have a temple and if they enforce certain disabilities and then they just say that "He is a Hindu—the particular Harijan or Scheduled Caste man is a Hindu—but he is not a member of our community and our community is an autonomous body by itself though within the general Hindu fold", what to do? So in order to meet such objections we have used this expression.

SHRI K. S. HEGDE: Is this an enlarging clause as it is or is it a limiting clause?

SHRI B. N. DATAR: It is an enlarging clause. We shall come to it when

we take up that clause. What we have done is, we have used more words though sometimes they might appear redundant, or superfluous for the purpose of meeting all possible objections that might be raised before a court of law with a view to defeating the provisions of this Bill.

So far as the last repealing clause ii concerned, what has been done is, there are some Acts. In fact we have made a reference to 21 State Acts which do not deal only with the penal provisions but some of them positively deal with certain aspects of welfare so far as Scheduled Castes are concerned. Therefore what we had originally decided was that the enactments specified in the Schedule should be repealed. Then we accepted an amendment to the extent to which they or any of the provisions contained therein correspond or are repugnant to this Act or to any of the provisions of this Act. Now the principle is that so far as the pertinent provisions of this Bill and the object of this Bill is concerned, this is supreme. This is a Parliamentary piece of legislation and this will have an over-riding authority over all State Acts. If for example there

are any provisions which are inconsistent with the provisions of this Bill, then naturally those provisions will have to yield, because under the Constitution, as you are aware, the provision has been made that if there is an Act of Parliament and there is an Act of a State also on the same subject, then the Act of the State has to yield to the Act of Parliament. The same principle has been followed here. If in any of the 21 Acts there is a provision which is not consistent with this measure now before Parliament, then that provision will have no effect at all and it is this Parliamentary Act that will have effect. Apart from this, if there are any other provisions, for example in the Removal of Civil Disabilities Act, The Temple Entry Authorisation Act, the Madhya Bharat Harijan Ayogta Nivaran Vidhan etc. there it is possible that there are

certain provisions which do not deal with the prescribing of punishment of defiling the offences. Therefore, this particular clause was accepted as an amendment when it was moved in the Lok Sabha, because what we desire is that if there are any provisions in any of these 21 Acts, they ought to be saved to the extent that they can be saved, in the interest of the Scheduled Castes, but so far as the provisions of this Act are concerned, they ought to be supreme and the others will have to yield.

Sir, I have explained the whole position and I hope the Bill will meet with the approval of the House.

MR. CHAIRMAN: Motion moved:

"That the Bill to prescribe punishment for the practice of "Untouchability", for the enforcement of any disability arising therefrom and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

Yes, Mr. Mazumdar.

*(Shri R. U. Agnibhoj stood up)*

SHRI S. M. HEMROM (Orissa): Sir, before we discuss this Bill further, I would like to get a little clarification on a particular point. I find that in our Constitution nowhere is there any mention about the exact significance of the words "Harijan" and "Adibasi". But in this Bill these words occur in many places. The term "Harijan", in the sense that Mahatma Gandhi used it, included not only the Scheduled Castes but also the backward classes and the Scheduled Tribes and the term "Adibasi" is used to include all Hindus or non-Hindus and other aborigines. I would therefore like the hon. Minister to make the point clear what the exact significance of the terms "Harijan" and "Adibasi" is in this Bill, because there is no recognition of these terms in our Constitution.

SHRI B. N. DATAR: So far as the expression "Harijan" is concerned, it has not been used anywhere in this Bill. Of course, it is the term by

which the Scheduled Castes were ordinarily understood, and it would have been a very good term to be used. But then certain difficulties were raised and therefore, we have not used that expression at all in this Bill.

So far as the term "Adibasi" is concerned, Adibasi are the tribal people and they are members of the Hindu religion and therefore that expression has been used. If in a particular case any person proves that he is not a Scheduled Caste man it is perfectly open to him to make that plea.

So far as public places of worship are concerned, it would not be proper to use the expression "Harijans" as it is, or even the term "Scheduled Castes". Therefore, the matter has been kept as it is. In certain parts, especially in the South it was said—I do not know if the conditions are the same now or have changed—that even within a church there were different portions assigned to Scheduled Caste Christians. In one case, I remember,—probably it was in Madura—proceedings under section 144 had to be started. So Harijans, even after they embraced Christianity, continued to see this untouchability practised against them. So that also is proceeded against here so far as the general provisions are concerned.

SHRI S. N. MAZUMDAR (West Bengal): Mr. Chairman, I can well appreciate my hon. friend Agnibhoj's anxiety to speak on this Bill; but, *he* will of course, get his chance, but if I may anticipate his arguments, from what he said earlier, I think he will find appreciation for them in what I say also. So I would request him to wait for his chance.

Coming to this Bill, I think it is a non-controversial measure and as such it will be welcomed by all sections of the House, including ours. In such a Bill as this, the implementation of its various provisions is the most important factor.

Regarding some provisions of this Bill, there may be a little controversy,

[Shri S. N. Mazumdar.] particularly regarding the question of compoundability and I am joining that controversy. I am against that provision for compounding offences under this Act. I shall give my reasons later on. I would however say now that to understand this question of compound-ability correctly, we must approach the question from correct premises and in my speech I shall try to deal with what, in my opinion, are the correct premises.

As regards the implementation of such a measure as this, it is very well known that the Constitution has abolished untouchability long ago, but still the curse persists in our country. There are still these unfortunate brethren who are being discriminated against in various ways. I remember that on a previous occasion, when we were discussing the motion for reference of the Bill to the Joint Select Committee, Mr. Leuva gave us some examples from his own personal experience, to show how this curse persists in our country. That greatly moved the House, because when a Member of Parliament is subjected to such disabilities, then we can very well understand how the poor illiterate and economically dependant people are being subjected to such social disabilities. Still we know that on the implementation side, very little has been done. There were several legislations in several States dealing with this subject, but we know from the Report of the Commissioner for the Scheduled Tribes and Scheduled Castes that very little has been done in this direction of implementation, and he has given the reasons also. The reason is that though this offence is cognizable, according to these legislations, there have been very few cases and one of the reasons according to the Commissioner for Scheduled Tribes and Scheduled Castes is that the people who are called untouchables, being economically dependant on their better placed brethren, are afraid of launching the cases or of filing police reports. That is the reason why there have been only few

cases. Even where there have been cases, the disposal of those cases has taken a very long time. I have here, some figures collected from a booklet published by the Publications Division of the Government, designated "Harijans" in which some figures have been given relating to the number of cases which came up before the courts in Bombay. In 1947-48 there were 262 cases sent up for prosecution under the Removal of Social Disabilities Act and only 91 cases were decided. Out of these 91 there were 43 convictions. In 1948-49 there were 162 cases for prosecution and of these 81 cases were decided of which 54 resulted in convictions. In the year 1949-50, there were 85 cases sent for prosecution of which 33 were decided. Out of these 14 resulted in convictions. This shows that even where cases are brought before the courts, proper action is not taken.

In order to understand the proper implication of these offences and also in order to evolve a correct measure as I said earlier, there must be correct approach, otherwise in all these questions we are sure to land ourselves into an error. As is well-known to students who have studied this question of untouchability from the sociological point of view, there are two aspects to this problem, one economic and the other social. It would be wrong to isolate one from the other, or to over-emphasise one in isolation from the other and also to forget that one of the aspects is dependent on the other.

Sir, the conclusion which comes forward automatically from the studies of students of sociology is that the practice of untouchability is mostly the result of economic dependence of these people on the higher classes. It arose as a part and parcel of feudal exploitation. Most of the untouchables either belong to the category of agricultural labourers, land-less peasants or are engaged in such occupations as flaying dead animals or they are scavengers. From the economic exploitation arose the social stigma

which bears on them. Many eminent students and scholars of this problem have rightly pointed out these things. Dr. Hutton also made a study of this subject, and, as I mentioned once, on an earlier occasion in this House, he gave some very interesting examples. Take the case of the *Adi Dravidas*. In regard to them he says, as late as 1930, the landlords of the villages imposed certain conditions on them. There are some conditions which we can characterise as social stigma but there are other conditions *viz.*, that they will have to work at a wage of four annas per day in the land of the landlords: that they will not hire themselves to other landlords or to other people, and so on. In his book, "Caste in India", in relation to the practice of untouchability in the eastern part of India, he says that dispensation of social justice being in the hands of the upper classes, the landlords, matters could not progress much. Similarly, there are various examples. I do not like to take much time of the House by citing examples after examples but some crucial examples must be submitted. If we refer to the Report of the Commissioner for Scheduled Castes and Scheduled Tribes, we shall find very interesting examples. In the year 1953, the Report cites of a case in a village in the district of Morena in Madhya Bharat. There was a breach of peace in that village and the authorities had to intervene. How the incident arose is, though very short, a very illuminating story. The *Chamars* of that village called Bhind in the district of Morena in Madhya Bharat gave up their traditional occupation of flaying dead animals. The Thakurs and the Rajput landlords of the village were very angry with them when action for the abolition of forced *begar* was taken up and legislation was passed by the Madhya Bharat Assembly. At that time, steps were also taken for the abolition of *zamin-dari*. All these things gave provocation to the landlords. The *chamars* combined together and, as a result of their unity, succeeded in defeating the

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landlords in the village panchayat DBS. That was the last provocation, if I may say so, to the landlords and they organised dacoit gangs. These dacoit gangs used to hide in the ravines of Chambal and other inaccessible places and used to go and raid the places where these untouchables were living. They raided these villages not for the purpose of any monetary gain; they did not rob the belongings—even though small—of the villagers but the dacoits are reported to have said that they were doing all this in order to teach them a lesson so that they may not revolt against the landlord class. So, Sir, the problem has also to be tackled from that angle. I was expecting that, after going through the Report of the Commissioner for Scheduled Castes and Scheduled Tribes, for which department my hon. friend Mr. Datar is also responsible, he would touch that aspect of the problem. I am sorely disappointed and, if I may say so, I find that even though Dr. Katju has gone over from the Home Ministry, still the shadow of Dr. Katju is hovering over my hon. friend Mr. Datar, in the sense that he is looking at the whole thing from a strictly legalistic and formalistic point of view. That is why, from a strictly legalistic and formalistic point of view, he is unable to evolve a better approach to this problem and that is why, coming to the clauses of the Bill, I find he fails lamentably. Take, for example, the examples which he gave. He said that there are few untouchable families in the villages. The problem is not that of numbers; that is not the principal consideration here but the question is of their occupation. As I said, they are mostly engaged in agricultural labour and allied occupations, occupations which are no less important for the society. They have to be dependent on the landlords mainly and the landlords, taking advantage of their economic and social position, continue to exercise the stigma against the untouchables and the whole thing arose out of the social history and not from religion. The religious aspect of it was evolved as a part and parcel of

[Shri S. N. Mazumdar.] the feudal classes' device to perpetuate their domination. If we go into the history of some of the untouchables we find that there was a time when these classes were not untouchables. Take the case of the *Doms*. I quoted Dr. Hutton earlier and shall again quote what he says in this connection. He says that they were once part of a tribe or community and they held sway over the whole of North India. You may call that a tribe, community or whatever it is but they held sway over the whole of North India but later on, they were conquered subjugated, pushed to the background and were subjected to economic exploitation. In addition to this economic exploitation, this theory or this stigma of untouchability was also hurled on them. Take the case of the *Chandals*. As is known, according to some scholars, the *Chandals* were originally *Shramans* of the Buddhist period and when there was a Brahmin counterrevolution, if I may say so,, ilic.se people were driven from various positions; they were driven to various extremities; they could not even profess their religious practices in the open. There grew secret religious sects. In the study of the history of Bengali language and literature, the religious sayings of these *Doms* occupy a very important position. It is on the basis of their *Dohas* that the early samples of Bengali language have been collected by eminent scholars.

In short, my submission is that this exploitation is mainly based on economic exploitation. My hon. friend Mr. Datar may argue that we are dealing here only with the social aspect and with the legal aspect. I need not go into all this but I am not surely prepared to agree with him if he says so. Unless we have a correct perspective of the whole thing, we cannot deal with the whole thing, in a proper manner. Untouchability is practised by two sets of people. We may broadly divide them into two categories, one is the category to which he has referred, namely, small people, • people who are not vesity big and who

are in the lower rungs of society. They think, somehow or other, that it is part of their religion or their custom. They have been taught that very thing by the upper classes. There are also other people, numerically they may be small but socially and economically they are predominant. These people practise this as a part and parcel of their attempt to perpetuate their domination. So, there must be differentiation between these two categories. If an ordinary illiterate peasant or an illiterate villager who is himself exploited practises untouchability that case is surely to be treated on a different footing than the case of the Thakurs and Rajput landlords who organised dacoities and raids in order to teach the *Chamars* a lesson. Unless we approach the whole thing from that point of view, we cannot really come to any correct conclusion. So, while giving effect to the several provisions of this Bill of course these very things should be taken into consideration. It is true, Sir, that simply by passing a legislation or simply by sending a larger number of cases for prosecution before the court or even having a larger number of convictions, this evil cannot be eradicated. There should be an all-out manysided attack on this evil, and one of the sides of the attack on this evil is also the organisation of public opinion, organisation of opinion predominantly among those sections of the people who suffer from the same exploitation. The untouchables and the touchables who are agricultural labourers, who are poor peasants, suffer from the same feudal exploitation from the landlords and if that sense can dawn on the different sections of the poor toiling people, then the evil of untouchability can be removed from those different sections. I shall give you one example. Now there is this practice of untouchability prevalent in various parts among the Nepalis.

[THE VICE-CHAIRMAN (SHRI V. K. DHAGE)  
in the Chair.]

Among them there are some castes who are known as untouchables and particularly there is a class called *Damis* and people from this caste are

also to be found among the tea garden labourers. There is another class called *Kamis* and they are also known as untouchables. Now these *Damis* and *Kamis* are not allowed to enter the houses of other labourers though they suffer from the same difficulties but where there was an organised movement among the tea garden labourers of fighting against the same exploitation and fighting shoulder to shoulder they realised that if they allowed these relics of the past which were imposed on them by the exploiting classes to continue then it would defeat their own struggle. That is why I found in my own experience that in the tea gardens where the labourers were organised and had some experience of a united struggle, this practice of untouchability was more and more made into thing of the past; it was only a memory. That is also another aspect.

Then in order to really eradicate this evil not only education of public opinion, not only education among those sections who are affected by it is necessary, some other steps are also necessary, and particularly when the Home Minister and the Deputy Home Minister are piloting this Bill, I like to emphasise another point. When the agricultural labourers, whether they start their movement as untouchables or not, whether they start their movement for economic demands or for the end of social oppression, it is the custom of the Home Ministry and the police under the Home Ministry to frown upon such movements. I do not know as yet how the hon. Mr. Pant will behave in these matters but the experience we had of his predecessors was not a very pleasant one, and from that I can say, Sir, that the Home Ministry frowns upon these movements. So in this case if the *Chamars*, if they had taken steps to defend themselves against the attacks organised by the landlords, the Home Ministry or the police officials under them, they surely would not have taken the proper stand on behalf of the *Chamars*, who were the worst sufferers.

As regards the implementation, it is necessary not only to have a correct perspective, not only to have a reorientated outlook but also effect some drastic changes in the machinery of implementation.

Sir, on an earlier occasion, when we discussed this question, several examples were cited by hon. Members who took part in that discussion, how the officials treated these problems or these cases or the reports about the practice of untouchability with scant respect and I can even say, with contempt. Surely they cannot be expected to look with favour upon the movement for the eradication of this evil of social oppression. So, Sir, the question of overhauling the administration is also necessary if we want to take proper steps in this connection.

Now, Sir, coming to the question of this Bill and its provisions. I have not been able to appreciate all the arguments advanced by my friend Mr. Datar in this connection. He said: Suppose after coming to the court there is a genuine repentance, why should not there be the chance given to the parties to come to a compromise. Sir, if we do not like to blind ourselves to reality, then let us look at this question from an objective point of view. The repentance to which my friend Mr. Datar has referred is repentance which comes at a very late hour. The repentance comes not from a consciousness of wrongdoing, but from the consciousness of being faced with the legal consequences of this, and in that case to say that there is spontaneous compromise and so, let the offence be compounded, I think, will defeat the very purpose of the measure which you are going to pass.

Secondly, Sir, it is very difficult to find out where there has been undue pressure because the reality, as we know, is this. There are cases of undue indirect pressure even where there is no direct pressure. If this provision is there they will not dare to come forward to launch prosecu-



[Shri S. N. Mazumdar.] tion or to report the cases to the police.

Then, Sir, I have reterred to the speed with which cases have been disposed of, though I have figures only for a particular State. So taking all these facts into consideration I think if the provision for the compound-ability of offences is retained, it will defeat the very purpose of this piece of legislation. Secondly, Sir, as I have pointed out, if at all it is to be retain- I ed then there must be a clear-cut distinction, but I do not know how the legal requirements of that distinction will be fulfilled. I also of course do not believe that social evils ' can be eradicated only by drastic or draconian punishments. As I have submitted, Sir, my approach to the whole thing is comprehensive. It goes to the root of the problem and looks at it from all angles. I think, Sir, that there should be an all-out, all-sided, many-pronged attack against this problem and one of the most important prongs of attack is radical reform in land laws. If the lot of agricultural labourers is improved, if the lot of peasants is improved because we know that mostly the Scheduled Caste people are either agricultural labourers or poor peasants or uprooted peasants who work in fields and factories, and if they are given security of land and such other necessary facilities, that will provide | a sure footing for fighting successfully I against this scourge of untouchability. I

[Mn. DEPUTY CHAIRMAN in the Chair.]

My friend may argue and I think he will surely argue that we have been passing several land reform legislations in different States and that we are making good progress in that direction. I do not like to go into all those things now but as I have said earlier I find that in his whole approach to the question that aspect is conspicuously absent. How and through which measures we shall attack that aspect of the problem is a different question. But we must be clear about the whole problem.

Secondly, as I have said we should make a distinction between others and the poor illiterate and ignorant people who practise untouchability not so much from a consciousness of wrong doing but because of their being themselves the victims of social and economic oppression and even, if I may say so, of ideological oppression, ideological oppression in the sense that they were all taught through centuries by those very people who have been exploiting them that this untouchability is a part of religion. If cases connected with such people come up we should take a lenient attitude towards them but when it is a case of direct or indirect practice of untouchability on the part of landlords or such other classes of persons, I think some drastic steps will be justified. That is why I say distinction is absolutely necessary.

Now, I think my friend Mr. Agnibhoj also thinks in similar terms. I am trying to have allies. I think this is not a party question. Let us approach this from the point of view of service to those people whom we want to serve and so there is no harm. So the hon. Minister need not be anxious if I try to persuade my friend Mr. Agnibhoj to press his amendment. That is why I am strongly against the retention of this provision about compoundability in this Bill.

Lastly, before I resume my seat I think I should mention another question which has come up in connection with this Bill. I am not fully clear about the question which has been raised about Jainism but I hope in the discussions that point will be clarified. In this connection I would like to submit that there should not be an overemphasis on this religious aspect and religious divisions. I heard some hon. friends saying that Jainism is a different religion from Hinduism but I would very respectfully submit to those friends to study the history of their own faith. Jainism arose not so much as a religion but as a revolt against *karma kanda*, against the Brahmin domination of that period and against the social forces which

were thwarting the progress of society. That is why Jainism in its first phase did not lay so much emphasis on religion as on other aspects. As I said on an earlier occasion, they devoted their energies to justifying the theory that the whole world is a process of continuous change. Motion is a characteristic of matter which is *Pudgala* in Jainistic terms. Society is changing; it cannot remain hidebound. There must be change; there must be scope for change and they lay emphasis not so much on religion as on *sadachar*, *sadgyan* and *zaddharam*. The interpretation of *dharma* was also different. All these different faiths. Jainism. Buddhism Sikhism etc., which arose in India were the products of specific historical conditions. They all had their special contributions to make to the treasure-house of Indian thought and Indian culture. One may not fully agree with the tenets of this or that faith but one can say with emphasis that we can enrich our knowledge, our outlook and our practice if we draw upon that treasure-house of our thought and culture which were enriched by the different sects and different philosophical ideas. So I would respectfully submit to those friends of mine who this controversy that it would be better not to lay over-emphasis on the differences between the different sects but to grapple with the real problem which is the curse of our Indian society, namely, the curse of untouchability. With these words, I extend my support to the measure.

MR. DEPUTY CHAIRMAN: Before I call on the next speaker, I have to inform lion. Members that there are eleven names before me and if all of them have to speak they will not get more than 10 to 12 minutes each. Hon. Members will please confine their remarks to 10 to 12 minutes. Other wise, we will have to sit through the lunch hour. If the House is prepared to sit through the lunch hour .....

HON. MEMBERS: Yes; we can sit through the lunch hour.

MR. DEPUTY CHAIRMAN: All right. Mr. Surendra Ram.

SHRI V. M. SURENDRA RAM (Madras): Mr. Deputy Chairman, the Government deserves the warmest congratulations for bringing this Bill before the Parliament. Though I am fully conscious of the fact that change of heart is essential for the removal of untouchability, yet this legislation will serve as a correcting rod who refuse to recognise the sign of the times.

Untouchability is unknown to the original Hinduism of the purest type that existed in Rig Vedic times. Learned Pandits like Pandit Madan Mohan Malaviya have proved that it has no sanction of the scriptures. Somewhere it slowly crept in and like cancer began to eat into the vitals of our great religion. Fortunately, great leaders like Shankara, Ramanuja, Dayanand Saraswati and Vivekananda intervened and declared that untouchability has neither basis nor sanction of the Vedas. In spite of these spiritual leaders untouchability got deeply entrenched in villages and amongst the illiterate masses who were lost on the tangle of casteism. Then came to the arena the Father of the Nation, Mahatma Gandhi, who made it a political issue. If the untouchables not only shed their inferiority but also progressed remarkably in all spheres, it is due to this one great individual. He gave us not only a new place in society but also named us as "Harijans"—children of God. The country, the great religion of Hinduism and the Harijans can never forget Gandhiji for saving the religion and rescuing millions from social and economic degradation. To Bapuji there can be no greater monument than the absolute eradication of untouchability in any form in our country.

This Bill contains many provisions which seek to penalise those persons who still refuse to treat human being as human beings. I have the fullest confidence that the provisions of this Bill will remain dead and unused because I hope there will be ne

[Shri V. M. Surendra Ram.] occasion for the same. In this Atomic age when time and distance does' not" matter much, discrimination between human beings is a mockery of human rights guaranteed by the United Nations. It is gratifying to note that untouchability is a thing of the past amongst the educated and urban population. It still exists in rural areas purely because of the economic backwardness and dependency of the Harijans. With the industrial, agricultural and economic progress of the country especially of the rural areas by the implementation of the Five Year Plans the position of Harijans is bound to improve. I also appeal to the Government to issue instructions to those engaged in the Community Projects and National Extension Schemes to take special care of these 'downtrodden people.

Finally, Sir, I have an appeal to my own brethren. Salvation and advancement cannot be mere gifts to be conferred on us by outsiders. It is a known proverb that God helps those who help themselves. We must rise to the occasion and prove equal to the new life and new status that are offered to us. Hinduism is a great religion and the cancerous growth of untouchability has been checked. I totally disagree with those persons who advocate change of religion as a solution for all our ills. To cut away from our moorings and drift into unknown religions will be a dangerous adventure. We shall be losing all the privileges and rights that have been guaranteed by the Constitution. After centuries of hardship, endurance and fighting, our day of liberation is dawning and the horizon is clearing. To run away now from Hinduism will be an act of cowardice and confession of our failure. Those who advise us to change religion are certainly not our well-wishers. Therefore, with the removal of the last blot by this legislation we have become equals in all spheres and new pastures are before us to utilise. Let us follow the great Bapuji and let his teachings be the light that will guide us and success will be ours.

With these words, I extend my support to the Bill.

श्री डी० नारायण (बम्बई) : उपसभापति महोदय, इस विधेयक का मैं अन्तःकरण से समर्थन करता हूँ हालाँकि, "Better late than never". अच्छा होता कि स्वतंत्र होते ही इस तरह का विधेयक यहाँ लाया जाता। अभी मंत्री महोदय ने कहा कि १९५० में प्रदर्श राज्यों से यह सवाल पूछा गया था लेकिन उसने पाँच वर्ष के बाद इस तरह का विधेयक यहाँ लाया गया है। आपको मालूम होगा कि १९३१ में जिस वक्त महात्मा गांधी हिन्दुस्तान के एक प्रतिनिधि के नाते राउंड टेबल कांग्रेस में गये थे उस वक्त उन्होंने मायनारिटीज कमिटी के सामने कहा था :

"I would far rather that Hinduism died than that untouchability lived."

उसके बाद १९३२ में यवदा मंदिर में महात्मा गांधी के प्रत्यक्ष स्वर्गीय महामना मालवीयजी के नेतृत्व में हिन्दुस्तान के लोगों ने यह प्रतिज्ञा की थी कि हम इस अस्पृश्यता को जल्दी से जल्दी हिन्दुस्तान से निकालेंगे। आज उस बात को करीब २२ वर्ष हो गये हैं। तो यह स्वाभाविक है कि इस विधेयक को दस कर खुशी होती है परन्तु साथ में कुछ आश्चर्य भी मालूम होता है। कुछ राज्यों ने इस तरह के विधेयक बनाये और आज वे काम कर रहे हैं। मैं बम्बई राज्य से आ रहा हूँ, बम्बई राज्य में इस तरह का कानून १९४६ में पास किया गया और तब से यह कानून चल रहा है परन्तु दखा जाता है कि शहरों में तो उस कानून से कुछ लाभ मरे भाइयों को, अछूतों को, पहुँच है परन्तु दहातों में हालत कोई सुधरी हो ऐसी निगाह नहीं होती। दो वर्ष पहले जब कि महाराष्ट्र में और मरे जिले में अकाल पड़ा था तब मैंने बहुत से दहातों में दखा कि कुत्ते सूख गये थे और सबर्ण हिन्दू भाइयों ने अपने कुत्ते से अछूतों को पानी तक नहीं लने दिया। यहाँ तक कि अपने खेत के कुत्ते से भी पानी नहीं लने दते थे और उन्हें

पानी के लिये कोसों दूर जाना होता था। कानून माँजू था लेकिन कानून कोई खास सहायता नहीं पहुँचा सका क्योंकि बात यह है कि दहातों में कानून कोई खास सहायता पहुँचा नहीं सकता इसीलिये कि सवर्ण हिन्दू मालदार हैं उनके हाथ में सत्ता है और बंचार हरिजन सब तरह से उनके ऊपर निर्भर हैं। किसी कानून के जरिये अगर वह अपना हक साबित करना चाहें और यह साबित करना चाहें कि उन्हें नुकसान पहुँचा है, तो उन्हें उलटी आफत उठानी पड़ती है। उसे साबित कर नहीं सकते, इसीलिये वे बेहतर समझते हैं कि किसी कानून का लाभ उठाने के बजाय वे उसी तरह से रहें जैसे कि रहते आये हैं। मीने दहातों में घूम कर दंखा है कि अछूत भाई उस कानून से लाभ नहीं उठा रहे हैं, यहां तक कि जब कोई अछूत उस कानून से लाभ उठाना चाहता है तो उसको पीटा जाता है, उसके ऊपर जुल्म डाला जाता है और मीने तो यहां तक दंखा है कि उनके घर जला दिये जाते हैं। उनको धंधे से, रोजगार से वंचित किया जाता है। तो आवश्यकता इस बात की है कि इस तरह के कानून को कामयाब करने के लिये आप क्या कोशिशें करने वाले हैं। जब तक आप इस बात को गिश्चित नहीं करेंगे और इस कानून को कामयाब करने की जिम्मेदारी किसी के ऊपर नहीं डालेंगे तब तक यह बात चलने वाली नहीं है। इसीलिये मेरा तो यह सुझाव था कि इस कानून को कामयाब बनाने की जिम्मेदारी ग्रामपंचायतों के ऊपर डाली जाय, ग्राम के मुखियों पर डाली जाय, ग्राम के पटलों के ऊपर डाली जाय और जिस तरह से आजादी की लड़ाई के जमाने में यदि कहीं कोई उथम हो जाता था तो एक तरह का प्युनिटिव फाइन लगाया जाता था उसी तरह से मैं चाहूंगा कि यह एक ऐसा अमानुषिक काम है कि अगर किसी अछूत भाई के प्रति दहात में कोई अन्याय हो, दहात में यदि कोई अछूत किसी कारण से पीटा जाय, उसका घर जलाया जाय और उसके ऊपर अन्याय हो तो उस दहात के ऊपर प्युनिटिव फाइन लगाया जाय। जब तक यह नहीं किया

जायेगा और ग्राम के मुखिया को इसके लिये जिम्मेदार नहीं बनाया जायेगा तब तक कुछ होने वाला नहीं है। दहात में अगर अछूतों पर अत्याचार होता है, जुल्म होता है, तो उसके लिये उस बंचार को कोर्ट में बुलाने से कोई काम नहीं चलेंगा क्योंकि उस अछूत बंचार को गवाह ही नहीं मिलेंगे। किस की हिम्मत है कि दहात में एक अछूत की तरफ से कोई गवाही द, तो उसको गवाही नहीं मिलेगी। इसीलिये आवश्यकता इस बात की है कि इस कानून की जिम्मेदारी गांव के मुखिया के ऊपर डाली जाय, ग्राम पंचायतों के ऊपर डाली जाय और अगर कोई गम्भीर स्वरूप का जुर्म हो तो मैं समझता हूं कि उस गांव के ऊपर, उस दहात के ऊपर प्युनिटिव फाइन लगाया जाना चाहिये।

आपने दंखा होगा कि इस विधेयक में एक जगह कनवेएंस वर्गरेह का सवाल है। पता नहीं कि मंत्री महोदय को मालूम है या नहीं, परन्तु मीने राजपूताना में, या उत्तर प्रदेश के कुछ जिलों में, दंखा है कि अगर कोई अछूत घोड़े पर बैठ कर जाय, पालकी पर जाय, रथ पर बैठ कर जाय या इस तरह से शादी विवाह करे कि उसका बहुत बड़ा जलूस निकले तो बंचार को भास पीटा जाता है और उसको हर तरह से तंग किया जाता है। सिर्फ कनवेएंस का सवाल नहीं है, सवाल यह है कि जो सवर्णों की निगाह के सामने बड़ा बनना चाहेगा, जो अपना किसी तरह से बढ़प्पन दिखायेगा तो उसके ऊपर जुल्म होगा। जहां कहीं वह बराबरी का नाता सवर्ण हिन्दुओं से दिखलाते हैं तो उनके ऊपर जुल्म हुआ करता है, तो सिर्फ कनवेएंस का ही सवाल नहीं है। उनको आज हाथी पर चढ़ने नहीं दिया जाता है, घोड़े पर चढ़ने नहीं दिया जाता है और किसी खास कीमती पोशाक में चलने नहीं दिया जाता है जो अंगूजी बाजा हम लोग शादियों में लाते हैं, वह अंगूजी बाजा भी उनके लिये मना कर दिया जाता है। आप कहां तक जायेंगे, यह बीमारी तो इतनी गहरी जड़ पकड़ चुकी है कि सिर्फ कानून से इसका इलाज नहीं हो सकता। इसके लिये आपको सवर्ण

[श्री डी० नारायण]

हिन्दुओं को जिम्मेदार बनाना होगा और उनके लिये आपको कानून बनाना होगा।

डा० श्रीमती सीता परमानन्द (मध्य प्रदेश) : बाजा लाना कौन मना करता है ?

श्री डी० नारायण : लाना नहीं मना करता है। दहात में जो स्थिति है वह मैं कह रहा हूँ। कानून से कोई चीज लाना मना नहीं है। किसी दहात में कोई बीमारी फैल जाय, चंचक की बीमारी फैल जाय या प्लेग की बीमारी फैल जाय, तो यह समझा जाता है कि यह बीमारी खासकर अछूतों के कारण आई है। आपने बैकपर्ट क्लास की उस रिपोर्ट में देखा है कि इस प्रकार सांच समझकर जो आफत आई जाती है वह बेचार अछूतों पर आई जाती है। इस तरह से यदि आप इन बातों को देखेंगे तो आपको पता चलेंगा कि यह जो छुआछूत की बीमारी है, इसमें कानून से कुछ मदद हो सकती है, परन्तु हमें कानून केवल उनके लिये ही नहीं लाना चाहिये जो आमने सामने कुछ गुनाह करते हैं क्योंकि इसमें सारा समाज और खासकर दहात के बड़े लोग शामिल रहते हैं।

कुछ ऐसे रोजगार हैं कि उन रोजगारों को यदि वे छोड़ना भी चाहें तो नहीं छोड़ सकते। दहातों में एक रिवाज है कि मर जानवर को चमार को उठाना ही चाहिये। क्यों उसके ऊपर यह जुल्म लाया जाय ? यह मैं नहीं समझ सका कि चमार ही क्यों उस जानवर को उठावें। मुझे पता है कई दहातों का कि जहाँ चमारों ने यह पंचायत की कि हम मर हुये जानवर को नहीं उठावेंगे, तो उनके ऊपर बहिष्कार डाला गया, उनको पीटा गया, उनको वहाँ रहने नहीं दिया गया। तो यह सोचने की बात है कि इस तरह का रोजगार करने के लिये भी किसी तरह की जबरदस्ती नहीं की जानी चाहिये और जो कोई जबरदस्ती कर उसको सजा होनी चाहिये।

इसी तरह से भंगी का काम लीजिये। उससे बदतर काम किसी से लिया नहीं जाता होगा।

और कुछ नहीं तो इतना तो आप कानून में कर दें कि सिर पर मैले का ढोना कानूनन गुनाह समझा जायगा। कम से कम इतना तो आप कर दें कि कोई म्युनििसिपैलिटी या कोई ग्राम पंचायत या कोई लोकल बोर्ड किसी भंगी से सिर पर मैला उठाने का काम न ले। मर हुये जानवर का उठाना और सिर पर मैले का टोकम उठाना ही दो ऐसी वज्रहात हैं जिन के कारण अछूतों को नीच समझा जाता है और उनको दूर रखा जाता है। इस प्रकार जो घृणास्पद चुरी बातें उनसे कराई जाती हैं, उनको बन्द कर दिया जाय। खासकर सिर पर मैले का उठाना एक ऐसा काम है कि इससे अमानुषिक, हीन और चुरा कोई दूसरा काम नहीं हो सकता जो कि हमारे गांव गांव और शहर में कराया जाता है और जिसके लिये हमें लज्जा आनी चाहिये।

जो हरिजन भाइयों के प्रतिनिधि यहाँ हैं वे मुझे माफ करेंगे, मुझे उनसे भी एक दो शब्द कहने हैं कि इस कानून को कामयाब करने की जितनी जिम्मेदारी सवर्ण हिन्दुओं की है उससे ज्यादा जो यहाँ अछूतों के प्रतिनिधि बन कर आये हुये हैं और जो अछूतों में पढ़ लिखे हैं, उनकी है।

श्री किशोरी राम (बिहार) : लेकिन अदालत में मुकदमा लड़ने के लिये पैसा नहीं है।

श्री डी० नारायण : पैसे की कोई खास जरूरत नहीं हुआ करती। परन्तु यह देखा गया है कि हमारे पढ़ लिखे भाई जो अछूतों का प्रतिनिधित्व करते हैं और लाभ उठाते हैं, माफ कीजिये, उनको अपने गरीब अछूत भाइयों की जितनी सहायता करनी चाहिये, उतनी नहीं कर रहे हैं। इसी वजह से यह होता है कि दहातों में जब ये गुनाह हो जाते हैं, जब कोई अत्याय हो जाते हैं तो हमारे अछूत भाइयों को जो मदद शहर से मिलनी चाहिये वह नहीं मिल पाती है। इस लिये मैं अपने हरिजन नेताओं से यह कहूँगा कि उन्हें यदि इस कानून को कामयाब करना है तो उन्हें अपने अछूत भाइयों की पूरी तरह से मदद करनी चाहिये। अछूतों के ऊपर जो जुल्म दहातों में होता है

उसको यदि आप मिटाना चाहते हैं तो वह इस तरह से नहीं मिटगा क्योंकि वहाँ उसको कोई मदद मिलने वाली है नहीं, उसे कोई गवाह मिलेगा नहीं, उसकी ओर से कोई कहने वाला है नहीं। मुझे कई जगहों का पता है, मैं खुद अछूत भाइयों के पास गया हूँ और मैंने उनसे कहा है कि यह जाँ आपके ऊपर जुल्म हुआ है, इसकी आप नालिश क्यों नहीं करते हैं, मुकदमा क्यों नहीं करते हैं। इस पर उन्होंने कहा कि यदि हम ऐसा करें तो इस दहशत में रहना मुश्किल हो जायेगा, काम नहीं मिलेगा, मजदूरी नहीं मिलेगी, घर नहीं रहेगा। इस तरह की उनकी दृष्टि है। वह किस तरह से हिम्मत पकड़ सकता है कि वह किसी के ऊपर नालिश करे। तो आप यह बतलाइये कि इस कानून के जरिये आप उसकी हिम्मत किस तरह से बढ़ायेंगे? जब तक आप उसकी हिम्मत नहीं बढ़ायेंगे तब तक इस कानून से उसको कोई लाभ नहीं होने वाला है। मैं यह मानता हूँ कि कानून से सब काम नहीं हुआ करता है। पब्लिक ओपिनियन जिस का कहते हैं जब वह पैदा होती है तो बहुत से काम हो जाये करते हैं। यह बात सही है और यह जाँ अस्पृश्यता की बीमारी है उसकी सारी जिम्मेदारी मैं मानता हूँ कि सवर्णों के ऊपर है और सवर्ण उसका फल पा रहे हैं, उसका परिणाम भोग रहे हैं और आज जाँ ब्राह्मण और अंबाह्मण, धर्म और अधर्म, जाति भेद और वर्ण भेद की तमाम बीमारियाँ हैं, उन सब का मूल अस्पृश्यता है। यदि आप इन तमाम बीमारियों को इस देश से निकालना चाहते हैं तो सब से पहले यह आवश्यक है कि इस अस्पृश्यता को, इस छुआ छूत की बीमारी को हमारे इस मुल्क से निकालना चाहिये, हमारे दिलों से निकालना चाहिये। यह एक सामाजिक सवाल होते हुये भी, इसका आर्थिक परिस्थिति से बहुत सम्बन्ध है जैसा कि हमारे एक कम्युनिस्ट भाई ने अभी कहा है। यदि आर्थिक हालत सुधरती है तो इसमें कुछ तब्दीली जरूर होगी, परन्तु उस तब्दीली के हाने के पहले हमें कुछ वर्ष तक समाज में काम करने की जिम्मेदारी उठानी होगी। इन्हें

लिये हम सवर्णों को कमर बांधनी चाहिये और इस अन्याय को दूर करने के लिये गांव गांव और शहर शहर में हमें इस तरह की कमेटीयाँ कायम करनी चाहियें जो इस कानून के मातहत होने वाले गुनाहों को दुनिया के सामने लायें, कोर्ट में पहुँचायें, योग्य वकील पैदा करें और बयान करायें। जब तक सवर्णों की कमेटीयाँ अछूतों को मदद करने के लिये इस कानून के मातहत पैदा नहीं होंगी तब तक इस कानून का फायदा, जहाँ तक मैं समझता हूँ, बेचारे गरीबों को प्राप्त नहीं होगा। इस लिये मेरी सलाह यह है कि हर जगह इस कानून को कामयाब करने के लिये और अछूतों को मदद करने के लिये कमेटीयाँ कायम होनी चाहियें।

आखिर मैं मैं राष्ट्रपिता महात्मा गांधी के शब्दों को कह कर और इस विधेयक का समर्थन करके बैठ जाना चाहता हूँ। यह बात सत्य है कि कानून से सब कुछ नहीं होता :

"Untouchability will not be removed by the force even of law. It can only be removed, when the majority of Hindus realise that it is a crime against God and man, and are ashamed of it."

श्री आर० बू० अग्निभोज (मध्य प्रदेश) :  
उपाध्यक्ष महोदय, सब से पहले मैं संयुक्त समिति को बधाई दूँगा जिसने अपेक्षा से पहले इतने शीघ्र इस विधेयक को पास करके फिर से सदन के सम्मुख पेश किया। इस स्थिति में जब कि द्वाइं तीन महीने के लिये सब समाप्त होने जा रहा है, मुझे बहुत ही कम उम्मीद थी कि यह बिल इस सब में हमारे सामने आ सकेगा और कानून बन सकेगा। परन्तु मैं यह कहूँगा कि गृह मंत्रालय में अब जरा सजगता पैदा हुई है और इस लिये मैं उस सजगता के लिये गृह मंत्रालय, पुराने गृह मंत्री और विशेषकर नये आयें हुये गृह मंत्री जी का स्वागत करने हुये उन्हें इस बात की बधाई दूँगा कि उन्होंने इस दिशा में जरा तीव्रता से कदम बढ़ाया है और उनके आने से उन जातियों में, जिनके कि वे संरक्षक हैं, अधिक विश्वास, आदर और आशा उत्पन्न हुई है।

[THE VICE-CHAIRMAN (SHRIMATI PARVATHI KRISHNAN) in the Chair.]

आज जो हमारे सामने अस्पृश्यता निवारण बिल आया है, यह निर्विवाद सत्य है कि हमारे कई सालों के प्रयत्नों के परिणाम स्वरूप और हमारे संविधान में इस सम्बन्ध में जो धारा दी हुई है उसके अनुसार यह हमारा अंतिम कदम है जिस कदम को उठा कर हम इस अस्पृश्यता रूपी राक्षसी का सदा के लिये बर्ध कर देना चाहते हैं, उसे नष्ट कर देना चाहते हैं। परन्तु जैसा कि मेरे माननीय आदरणीय मित्र द्रवकी-  
1 P.M. नन्दन नारायण जी ने सदन के समक्ष कहा, यह बुराई केवल कानून के द्वारा नष्ट नहीं होगी, समाज के अंदर जो बुराई है वह प्रचार से और समाज में आगूहपूर्वक प्रयत्न करने से दूर होगी, इसे मैं मानता हूँ। कानून व्यक्ति को केवल शब्दों से कुछ दूर तक पकड़ सकता है। परन्तु किसी बीमारी को नष्ट करने के लिए पहले कीटाणुओं को नष्ट करना पड़ता है, जिस प्रकार कि मलैरिया को नष्ट करने के लिए हमें मलैरिया के उद्गम स्थान पर डी० डी० टी० डालना पड़ता है ताकि उसके कीटाणु नष्ट हो जायें। इसीलिए यदि हमें अस्पृश्यता को मिटाना है तो सब से पहले हमारे अपने हृदय में, अपने मस्तिष्क में और अपने विचारों में जो अस्पृश्यता के कीटाणु हैं उनका डी० डी० टी० से मारना पड़ेगा। आखिर हमारे देश में यह अस्पृश्यता उत्पन्न कैसे हुई। हमारे भारत के लोग एक ओर तो यह कह रहे हैं कि अफ्रीका में जो जातिभेद है, जो वर्णभेद है वह मानवता के खिलाफ है "इट इज अगेस्ट ह्यूमैनिटी", और दूसरी ओर हमारे ही देश में हम देखते हैं कि अभी भी अपनी ही जाति के, अपने ही धर्म के और अपने ही देश के नागरिकों और भाइयों को अस्पृश्य समझ कर उनके कटोरे से पानी लेने से, धर्म मंदिरों में प्रवेश करने से, पाठशाला या होस्टल में रहने से, एक साथ भोजन करने से एतराज करते हैं और उनके छुए पानी को दूर फेंक देते हैं। मैं आपसे यह कहूँ कि भारतवर्ष संसार में सर्वश्रेष्ठ और प्राचीन देश है, इसकी संस्कृति संसार की सब संस्कृतियों से बढ़ी चढ़ी और गहन है। इसी भारतवर्ष ने

भगवान राम को पैदा किया, भगवान कृष्ण को पैदा किया, भगवान बुद्ध को पैदा किया, महावीर को पैदा किया, और गुरु नानक और ऐसे ही उन्हीं की श्रेणी के अगणित महापुरुष और व्यक्ति पैदा किये, जिन्होंने न केवल भारतवर्ष के लोगों को किन्तु संसार के एक-तिहाई हिस्से को अपने धर्मों का उपदेश देकर अपने कदमों पर चलने वाला बनाया। आज भी चीन में, इंडो-चीन में, स्याम में, सीलोन में और दूसरे देशों में भी भारतीय संस्कृति, सभ्यता और धर्म का प्रचार है और वह इसीलिए है कि भारतीय विचारक, भारतीय संत, भारतीय महापुरुष और भारतीय नेता यहाँ पर उत्पन्न हुए, उन्होंने इन सब चीजों का प्रचार किया। परन्तु "अहम् ब्रह्मास्मि" और "वसुधैव कुटुम्बकम्" के आदर्श जिसका अर्थ है समस्त संसार में मैं हूँ और मनुष्य से कीड़े तक मैं ईश्वर का अस्तित्व और ईश्वर की आत्मा है, उस आदर्श का उपदेश जहाँ हमारे भारतवर्ष के तत्वज्ञानियों ने, हमारे भारतवर्ष की संस्कृति ने, हमारे भारतवर्ष की सभ्यता ने सब को दिया वहाँ हमें अस्पृश्यता जैसी चीज भी देखने को मिली। आखिर यह मनुष्य को पशु समझने की, किसी मनुष्य को दूसरे मनुष्य से ऊँचा या नीचा समझने की भावना कहां से और कैसे पैदा हुई? यह उसी तरह से पैदा हुई जैसे कि गर्द पानी में कीटाणु पैदा हो जाते हैं, जो कि हमें वर्ण व्यवस्था के रूप में दिखाई देती हैं। उस वर्ण व्यवस्था के आधार पर जब लोगों ने अपने अपने वर्णों को ऊँचा और नीचा मानना शुरू कर दिया तब एक वर्ण दूसरे वर्ण को छोटा समझने लगा, छोटा समझते समझते उसे बस्त समझने लगा, बस्त समझते समझते उसे घृणित समझने लगा, और घृणित समझने के बाद उसे एक ऐसा वर्ग बना दिया जिसे अस्पृश्य या अछूत कहा जाता है। इसीलिए यदि इस सामाजिक बुराई को जड़ से उखाड़ कर फेंक देना है, इस अस्पृश्यता रूपी राक्षसी को सदा के लिए नष्ट कर देना है, तो यह आवश्यक है कि हिन्दू धर्म में जो वर्ण-व्यवस्था है उसको भी नष्ट कर दिया जाय, और जब तक यह वर्ण-व्यवस्था नष्ट नहीं होती तब तक मैं आपसे



कहता हूँ कि कोई कानून ऐसा हिन्दुस्तान में नहीं होगा जो कि इस अस्पृश्यता को नष्ट कर सके। इसका कारण यह है कि वर्ण व्यवस्था का मतलब ही छोट और बड़ को पैदा करना है। वर्ण व्यवस्था के अन्तर्गत चारों वर्णों में भी आप देखिये तो उसमें भी यह भावना पायेंगे कि कौन ऊंचा है, कौन नीचा है, कौन ब्राह्मण है, कौन शूद्र है। यह परम्परा उस प्रकार है जिस प्रकार कि वंश-वृद्ध होता है जिसकी हाल और पत्तियाँ फैलती रहती हैं। यह वर्ण व्यवस्था उसी वृद्ध की तरह है जिसके पत्ते फूल फल कर हमारे देश में अस्पृश्यता फैला रहे हैं, और इसीलिये मेरा आपसे विनम्र निवेदन है कि इस बुराई को जिससे हम लोग ईसाइयों में भी पाते हैं, सिखों में भी पाते हैं और मुसलमान भाइयों में भी पाते हैं, जिस बुराई की जड़ हमारे देश में सभी धर्म और जाति के लोगों में चली गई है, उसको हमें उखाड़ फेंकना चाहिए। जैन धर्म में, जैसा कि मजूमदार जी ने जिक्र किया, महावीर स्वामी ने जाति भेद को कोई स्थान नहीं दिया है, वर्ण-व्यवस्था, जाति-पाति और छुआछूत जैन धर्म में नहीं है। परन्तु दुर्भाग्य की बात है कि जैन लोग कहते हैं कि हम हिन्दू नहीं हैं और यह कि हमारे मंदिर में अछूत नहीं आ सकते। बुद्ध धर्म में देखिए, वहाँ जाति-पाति का कोई भेदभाव नहीं है, लेकिन बौद्ध लोगों में भी ऐसे लोग हैं जो छुआछूत को मानते हैं। सिख धर्म ज्ञान धर्म है, गुरु नानक के शिष्यों का धर्म है, परन्तु उनमें भी भेदभाव बरता जाता है कि यह लोहार सिख है, ये अक्का सिख हैं, यह खत्री सिख है। इसी प्रकार ईसाइयों में भी देखने को मिलता है। इसलिए मैं कहता हूँ कि यह सब बुराई यदि कहीं से आई या उसका इन्फ्लूएस हुआ हमारी जाति में तो मेरी समझ में यह जो हमारी वर्ण-व्यवस्था है वह उसके लिए उत्तरदायी है। जैसा कि माननीय डिप्टी होम मिनिस्टर ने एक बार कहा था—“महाजनो येन गतः स पन्थाः” अर्थात् जिस रास्ते से महापुरुष जाते हैं उसी पंथ से सब लोग चलते हैं। तो सभानेत्री जी, मैं प्रार्थना करूँ कि एक तो वर्ण-व्यवस्था है

और फिर उसको चलाने वाले लोगों में भी एक गुट है, एक संस्था है और उसके कार्यकर्त्ताओं और नेताओं में एक ही भावना काम करती है। इस सम्बन्ध में मैं आपको बतलाऊँ कि जब महात्मा गान्धी ने अस्पृश्यता निवारण का आन्दोलन चलाया और उसके लिए सम्पूर्ण भारतवर्ष का भ्रमण किया था उस समय यदि उन्हें सबसे अधिक विरोध कहीं से मिला तो काशी जी में मिला था। उन दिनों मैं भी वहीं था। वहाँ एक लाल शास्त्री थे जो डक की चाँट पर कहते थे कि हम छुआछूत को मानते हैं, हम अस्पृश्यता को नष्ट नहीं होने देंगे, हम उसे जिंदा बनाये रखेंगे क्योंकि नहीं तो हमारी वर्ण-व्यवस्था खतरा में पड़ जायगी। तो इस तरह से वे कहते थे और उन्हीं की विचारधारा की एक संस्था थी जिसका नाम था “ब्राह्मण महा-सम्मेलन” जिसके नाम एक अखबार भी निकलता था और अब भी वह चालू है। इस ब्राह्मण महा-सम्मेलन ने गान्धी जी के खिलाफ और अस्पृश्यता निवारण के खिलाफ काफी आन्दोलन किया और आज भी उनका आन्दोलन चल रहा है।

इसलिए मेरी प्रार्थना है कि ब्राह्मण महा-सम्मेलन की जो यह साइकलॉजी, मनोवृत्ति, स्वभाव और विचार हैं, उसको उनके दिल व दिमाग से, मस्तिष्क से निकालना पड़ेगा। ऐसे विचारों को, ऐसे सिद्धान्तों को, चाहे वे राम राज्य परिषद् के हों, चाहे ब्राह्मण महासम्मेलन के हों, आपको गैर कानूनी घोषित करना पड़ेगा। उन लोगों से आपको कह देना पड़ेगा कि यदि आपके सिद्धान्तों में “छुआछूत” का नाम रहेगा तो ऐसी संस्थाएँ जिन्दा नहीं रहने दी जायेंगी। जो संस्थाएँ इन सिद्धान्तों की पूर्ति का पालन करती हैं और छुआछूत को कायम रखती और अस्पृश्यता को बढ़ावा देती हैं, उन्हें भी कानून के अनुसार सजा दी जानी चाहिये।

मेरे कहने का तात्पर्य यह है कि अगर हम अस्पृश्यता को दूर करना चाहते हैं तो हमें यह ध्यान रखना होगा कि इस सम्बन्ध में जितने भी कानून बनाये जाते हैं, उनका पूर्ण रूप से पालन किया जाय। मैं श्री डी० नारायण जी के उन सुझावों का पूर्ण रूप से समर्थन



[श्री आर० यू० अग्निभाज]

करता हूँ जो उन्होंने व्यक्तिगत रूप से, सामाजिक रूप से बहुत सबल शब्दों में इस बिल के सम्बन्ध में दिये हैं। मैं इस बात को मानता हूँ कि जब तक सरकार की ओर से कुछ कदम नहीं उठाये जायेंगे तब तक यह बुराई दूर होने वाली नहीं है। मैं इस सम्बन्ध में आपको यह बतलाना चाहता हूँ कि मेरे मित्र डॉ० बार्लिंग ने इस तरह का एक विधेयक पास किया था और स्वयं डिप्टी कमिशनर, डी० एस० पी०, सामाजिक कार्यकर्ताओं, कांग्रेस कार्यकर्ताओं, हरिजनों और दूसरे लोगों का एक जलूस नागपुर में निकाला। यह जलूस प्रत्येक एसे मंदिर, कुएं और तालाब पर गया जो हरिजनों के लिए खुले हुए नहीं थे। इस तरह से हम सब लोगों के परिश्रम से नागपुर शहर में कम से कम पचास प्रतिशत अस्पृश्यता की भावना कम हो गई। मेरा यह उदाहरण देने का अभिप्राय यह है कि यदि अस्पृश्यता का निवारण करना है तो हम सब को मिलकर इस तरह का प्रयत्न करना होगा। केवल कानून पास कर देने से हम सौ साल तक अस्पृश्यता का निवारण इस देश से दूर नहीं कर सकेंगे। यदि हमें सचमुच इस बीमारी को दूर करना है तो हमें चाहिये कि गांव के पटवारी, गांव के पटल, गांव के पंच, सामाजिक कार्यकर्ता, सरकारी पुलिस का एक अप्रसर, एक मजिस्ट्रेट, हरिजन संघ के लोग अथवा दूसरे राजनीतिक दल के लोग, एम० एल० ए०, एम० पी०, लोकल बाडीज के सदस्य, ये सब एक जलूस बनाकर एक एक गांव में जायें, गांव के एक छोर से दूसरे छोर तक जायें। वं इस बात को देखें कि गांव में जिन कुओं या तालाबों में हरिजनों को पानी नहीं भरने दिया जाता है अपने सामने पानी भरने की इजाजत दें। जिन स्कूलों में और होटलों में हरिजनों के लिए दाखलबन्द हैं, वे अपने सामने उनके लिए खुलवायें और उनके साथ सहभाज करें। जिन मंदिरों में हरिजनों के लिए प्रवेश बन्द है, सामाजिक कार्यकर्ता लोग उनके लिए द्वार खुलवायें। मैं आप से कहता हूँ कि यदि लगन से इस कार्य को करेंगे तो

एक गांव में अस्पृश्यता को दूर करने में एक दिन से ज्यादा नहीं लगेगा। किन्तु इस बीज के लिए सब से मुख्य चीज यह है कि हमें लगन और ईमानदारी के साथ इस कार्य को करना होगा। केवल कानून बना देने से यह कार्य पूरा नहीं होगा। आज अगर हम जिला मजिस्ट्रेट को यह काम दे देंगे हैं, जिसके पास पहले से ही काफी कार्य हैं, तो हम किस तरह से यह आशा कर सकते हैं कि वह इस कार्य को पूर्ण लगन के साथ करेगा। इस बिल के सम्बन्ध में उस भवन में श्री एन० सी० चटर्जी जी ने कई अच्छे सुझाव दिये थे और उन्होंने कहा था कि इस महान कार्य को पूरा करने के लिए एक अलग मिनिस्ट्री की स्थापना की जानी चाहिये। जब हम अपने रिफ्यूजी भाइयों को फिर से बसाने के लिए एक अलग मुहकमा खोल सकते हैं और करोड़ों रुपया खर्च कर सकते हैं तो एक इस कार्य के लिए भी एक अलग मंत्रालय खोला जा सकता है। जब आप एक ही मंत्रालय में दो तीन मंत्री रख सकते हैं तो क्या कारण है कि होम मिनिस्ट्री में इस कार्य के लिए एक अलग विभाग नहीं खोला जाता। मैं सरकार के और विभागों को छोड़कर होम मिनिस्ट्री के विभाग में परिवर्तन चाहता हूँ। अगर होम मिनिस्ट्री यह चाहती है कि वह अस्पृश्यता की बीमारी जल्द से जल्द देश से दूर हो जाय तो वह एक महीने के अन्दर इस कार्य को कर सकती है किन्तु इसके लिए ईमानदारी और लगन की जरूरत है। अगर आप लगन और ईमानदारी से इस कार्य को नहीं करेंगे तो वह अस्पृश्यता कभी भी हमारे देश से दूर न हो सकेगी।

THE VICE-CHAIRMAN (SHRIMATI PARVATHI KEISHNAN) : I would request you to be brief.

SHRI R. U. AGNIBHOJ: I may inform you that in the whole House there are only four or five people from the depressed classes. All of them were in the Select Committee. I was the only person left out of it. Because this\*is the final Bill on the subject, therefore, you would agree that I should be the person who should be given at least that much

time which Mr. Mazumdar or Shri D. Narayan or other friends took.

DR. W. S. BARLINGAY (Madhya Pradesh): You should be given no time at all! It is those who have sinned against you that ought to be given time to speak and atone for their sins and not those who like you are sinned against.

THE VICE-CHAIRMAN (SHRIMATI PARVATHI KRISHNAN): YOU are not getting any less time than Mr. Narayan. You have already taken more time than him. I would request you to be brief.

SHRI R. U. AGNIBHOJ: I have a few more points.

THE VICE-CHAIRMAN (SHRIMATI PARVATHI KRISHNAN): Another five minutes you can take.

SHRI R. U. AGNIBHOJ: Give me ten minu<sup>ts</sup> please.

तां में आप से कह रहा था कि होम मिनिस्ट्री के दृष्टिकोण में परिवर्तन होना चाहिये। केन्द्रीय और प्रान्तीय सरकारों ने हरिजनों के लिए कुछ जगहें सुरक्षित रखी हैं किन्तु, देखने में यह आता है कि हरिजनों को वे जगहें नहीं मिलती हैं। हमारे विद्वान बुजुर्ग होम मिनिस्टर डा० काटजू ने कहा कि हम क्या करें पब्लिक सर्विस कमिशन कहता है कि हरिजन भाई इम्तहान में बाँटम में चले जाते हैं और एफिशेंसी की वजह से अयोग्य हरिजनों को नौकरी में नहीं रख सकते। मैं आप से कहता हूँ कि यह सिद्धान्त तो बच्चा भी जानता है कि जब तक कोई पानी में पैर नहीं रखता तब तक उसको तैरना नहीं आयेगा। यदि आप हरिजनों के लिए रिजर्वेशन रखते हैं तो उसका मतलब यह होना चाहिये कि वह बगैर कम्पीटिशन के उनको लिया जाय। किन्तु आप कम्पीटिशन और इन-एफिशेंसी लगा कर उनको नौकरी से अलग कर रहे हैं। इसीलिए मेरी प्रार्थना यह है कि हरिजनों के लिए जितनी भी जगहें आप सुरक्षित रखना चाहते हैं उनके बीच ही कम्पीटिशन कराकर उनको दी जाय। अगर आप ऐसा नहीं करते हैं तो आप ने जो रिजर्वेशन हरिजनों के लिए दिया है वह आप

वापस ले लें। इस समय आप जिस नीति से कार्य कर रहे हैं उससे हरिजनों का किसी तरह से भी फायदा नहीं हो रहा है। यदि आप सचमुच रिजर्वेशन को कार्य रूप देना चाहते हैं तो उनको जगहें भी देंगी होंगी। मुझे पूर्ण आशा है कि होम मिनिस्ट्री इस चीज पर अवश्य ध्यान देगी और अयोग्यता का जो बहाना किया जाता है उसको दूर करेगी।

इसके अलावा मैं यह भी कहना चाहता हूँ कि हमारे सरकारी अफसर यह चाहते हैं कि जो भी चपरासी हो वह इस तरह का हो कि वह उनका खाना बना दे, बिस्तर लगा दे बच्चों को स्कूल पहुँचा दे और दूसरे जितने घरलू कार्य होते हैं, वे सब कर दे। किन्तु जब कोई हरिजन चपरासी आ जाता है तो उसको किसी न किसी बहाने या उसके विरुद्ध कोई शिकायत करके निकाल दिया जाता है। वह चपरासी १५ दिन भी अच्छी तरह से उस अफसर के वहाँ काम नहीं कर पाता। इसका मुख्य कारण यह है कि अफसर की भावना छूआछूत से भरी रहती है, वह नहीं चाहता है कि वह इस तरह के चपरासी को अपने यहाँ रखे जो कि उसका कार्य न कर सके। इसी तरह से और दूसरी जगह भी यही होता है। तो मैं आपसे यह कहूँगा कि सरकारी दफ्तरों में जो पानी पिलाने वालों की जगहें हैं, जो चपरासियों की जगहें हैं और सरकारी दफ्तरों में जहाँ पर भोजनालय हैं वहाँ जितनी जगहें हैं, उन सब के लिये आप यह कर दें कि इन जगहों पर कुछ सालों के लिये सिवाय हरिजनों के और कोई दूसरा नहीं रखा जायेगा। यदि आप ने ऐसा किया तो जो भेदभाव की भावना है, लोगों को दूर रखने की भावना है वह भावना नष्ट हो जायेगी। मैं इसलिये यह नहीं कह रहा हूँ कि यह कानून पास हो रहा है इसलिये हम किसी से प्रीतिशोध या बदला लेना चाहते हैं। बदला लेना भी एक अन्याय है। हमें तो बुराई से नफरत है न कि बुराई करने वाले से। महात्मा गांधी का भी यही सिद्धांत था। इसलिये हमारी उनसे प्रार्थना है कि वे इस क्षेत्र में ऐसी बुराई को निकालने के लिये प्रयत्न करें और इसी लिये

[श्री आर० यू० अग्निभाँज]

मैं इसको अनटचैबिलिटी (आफेंसेज) बिल न कह कर इसको सोशल इक्वालिटी बिल कहना चाहता हूँ। वालंटियर और रूसों ने लिबर्टी, फ्रैंटीनिटी और इक्वालिटी के लिये संसार में आन्दोलन किया, तो उस समय उन्होंने वह आन्दोलन इसीलिये नहीं किया कि वे टचैबल थे या अनटचैबल थे but they wanted equality. उन्होंने अपनी अपनी क्रान्तियों में इस बात की घोषणा की कि हम लिबर्टी, फ्रैंटीनिटी और इक्वालिटी चाहते हैं परन्तु लिबर्टी और फ्रैंटीनिटी उसी समय कामचुप रह सकती हैं जब कि समाज में इक्वालिटी हो, बराबरी हो, समता हो और तभी हम बंधुत्व स्थापित कर सकते हैं और जनता को सम्पूर्ण स्वतंत्रता दे सकते हैं। इसीलिये यह जो सामाजिक अधिकार कानून से मिल रहा है उसको इम्प्लीमेंट करने के लिये अधिक सजग हो और जागृति रूप से अधिक तत्परता से काम लें और साथ ही समाज के लोगों और नेताओं को भी इस तरह से तैयार करें कि यह जो हमारे अंतिम कदम उठाया है वह सफल हो और हमारे देश से अस्पृश्यता इस तरह से गायब हो जाय जैसे कि गंधे के सिर से सींग। मैं फिर इस बिल का समर्थन करते हुये समिति को बधाई देता हूँ और होम मिनिस्ट्री से यह प्रार्थना करता हूँ कि आज उन्होंने जिस तत्परता से इस बिल को पास करने के लिये कदम उठाया है उसी तत्परता से कदम का आगे बढ़ा कर मानवता के ऊपर जो यह कलंक है उसको हमारे देश से नष्ट कर दें।

Constitution came into force in 1950— this measure is brought forward only in the sixth year of the Indian Republic. Madam, I do not think the question of untouchability is a question of any particular society for I regard it as a question affecting human dignity as a whole. Therefore, while I say that the Government have not come forward with this measure earlier, I do not blame the Government alone. I want to impress the importance of the entire attitude of society as a whole. It is the obligation of society as a whole. In this connection, the Government must give guidance, they must make a move so that the entire society may act so as to eradicate this evil.

Madam, references have been made to Mahatma Gandhi and speeches have been made to the effect that we are here fulfilling the desire of Mahatma Gandhi. But I would point out that the approach of Mahatma Gandhi to this problem was not piece-meal at all. He wanted that this problem should be approached and dealt with in such a way as to remove the root of the evil. I will just quote one small passage where he says:

"We must not throw a few miserable schools at them. We must not adopt an air of superiority towards them. We must treat them as our blood brethren, as they are in fact. We must return to them the inheritance of which we have robbed them; and this must not be an act of a few English-knowing reformers merely, but it must be a conscious, voluntary effort on the part of the masses."

So, how are we going to achieve this? That is the main purpose and that is the outlook from which we must look at this problem. If we do that, then we will find that our achievements in this connection are very meagre. Even the Home Minister will agree with me that from the information that they have supplied so far, the executive in different States in the whole of India

have not fulfilled its task creditably. The Report of the Commissioner for Scheduled Castes and Scheduled Tribes says:

"The information collected from the State Governments shows that there has been no appreciable improvement in regard to the practice of untouchability."

Therefore, what I want to know from the Deputy Home Minister is this. Is it the intention of the Government, or do they feel that by enacting this legislation, they would fulfil the obligations laid on them? My complaint is that that is not likely to happen. I do agree that mere legislation would not solve the problem. But I did not appreciate the remark of the hon. Deputy Minister when he said that if we had in this Bill provided for heavier punishment, then probably the sufferings of the Scheduled Castes would have been much more than what they are today. And the reason that he gave was that these people are economically dependent on certain influential persons and these latter would come upon them very heavily. I disagree with this viewpoint, because I feel that that attitude is not scientific. That approach to the problem is not quite logical. Even if we believe in persuasive influence eradicating this evil, the Government and we as Members of Parliament, have to discharge our duty and have to see that no person in this country offends this provision of the Constitution. I do not think in this country there could have been a greater persuasive influence than what was exerted by Mahatma Gandhi and Thakkar Bapa, but that phase is passed. Even today, I think my hon. friends will agree with me that even political parties who also stand for social improvement and social progress, they have not devoted their attention sufficiently to this very important aspect of the problem, not as much attention to it as they are doing to matters of politics—and I include all the political parties in this matter. I would just remind the Government that when Mahatma Gandhi

was on a fast, when the Congress was the National Congress and not a party, and was boycotting the Legislatures, I think in the year 1933 or 1932, Shri Rajagopalachari had to run up to Delhi to persuade the Members of the then Central Legislative Assembly to pass a Bill for temple entry. So it will be obvious that even Mahatma Gandhi did not rule out the possibility and the force of legislation, to eradicate this evil. I would, therefore, submit that in this legislation you should have provided deterrent punishment so that anybody, however light the offence may be, however minor the offence he may commit, is punished in such a way that nobody would be encouraged to offend the provision again. That is where I do not agree with the hon. Minister. I would, therefore, have been happy if in this Bill itself, it had been very clearly stated and provision made for very severe and heavy punishment.

In fact, I gave notice of amendments in the Select Committee but I failed to convert my colleagues in that Committee. Friends here have also talked about the implementation part of it. It is a known fact that the officers, police and executive, are not very serious about executing or about carrying out the provisions of the Bill. I would have liked, therefore, if a provision had been made in this very Bill, to the effect that the State Governments would be asked to form some advisory body which will sit with the District Superintendent of Police or with the District Magistrate from time to time so that there could be a review of the offences committed against the provisions. There are instances happening in remoter parts of the villages and people there are afraid to go to the police; even if they go, the cases are not entered in the diary and are simply dismissed. If we associate some kind of popular organisations or social organisations who may be doing such work, if we associate somehow or other such organisations with the administration of this enactment then they would be in a better position to see that the provisions of this Bill are carried out. Therefore, this Bill, as it

[Shri S. N. Dwivedy.] is, does not fulfil the entire purpose and will not really be able to do what we intend to do. I would like the Deputy Home Minister to tell us one thing. It was felt unanimously in the Select Committee that there must be some provision by which the executive would be compelled to do certain things but the Select Committee left it altogether to the Government and here is what they say: "The Committee would, however, like to recommend that adequate steps should be taken by the Central Government and the State Governments on the administrative side of the Act to see that the spirit of the Act is fully implemented". I want to know from the Deputy Home Minister what has been done in this respect, whether they have made any move in this matter or not. I would only cite one example. We cannot simply say that there is no public opinion and that this need not be done. Is it too much to expect of the Home Ministry to issue an order that nobody would be admitted into Government service if any member of his family observes untouchability; nobody would be given any licence if it is found that anyone in the family observes untouchability? Has some such step been taken by the Government? It is not very difficult for the Government to do it. When such things are done then only, the entire attention, not only of the personnel who are running the Government—the Government servants—but of the entire country would be focussed on this question of untouchability removal within a fixed period of time. Therefore, what I would suggest is that this is an evil which has its roots not only in the social sphere but also in the economic and political sphere. If you want to remove this social aspect, the caste system has also to go. I fully agree with my friend Mr. Agnibhoj when he said that if you really want untouchability to go, you must take steps to see that the caste system also goes. At the same time, I would stress upon this Government that they should direct the executive in such a manner

that within a fixed period of time this evil is eradicated. We are talking of peace in the world; we are going to attend international conferences and we are accusing South Africa but this evil must be removed from the country. Therefore, let us fix the period of time that, within a year or two, we would not allow anybody to offend and to do things which are against the very conscience of the Nation.

I extend my support to the Bill.

DR. SHHIMATI SEETA PARMA-NAND: Madam Vice-Chairman, it is with great pleasure that I rise to support this Bill. The Bill, Madam, has not come a day too early. In fact, it is already late; it should have been before the Central Legislature much earlier. You are aware, from the Schedule given in this Bill, that so many States had started taking steps, some steps, from 1938. The State from which I come, Madhya Pradesh, has had two enactments of this type, the Central Provinces and Berar Scheduled Castes (Removal of Civil Disabilities) Act, 1947 and the Central Provinces and Berar Temple Entry Authorisation Act, 1947, but as was rightly pointed out by Mr. Narayan and some other speakers, legal remedies alone do not help to remove the evil. When, after the lapse of so many years in these States in rural areas in particular, the conditions have not changed, it is necessary for the Centre to see that an Act is passed which will be applicable to all the States in the country because, some States have not done anything in this respect. By having attention focussed on the subject in the Central Legislature, Members of State Legislature and others can divert their energies to see that social awakening is also brought about. It has been said that the State should not step in in regard to social legislation and that that matter should be left entirely for the social workers for bringing about an awakening but when conditions in our country, through lack of education and on account of other things like not having enough of social workers to do the

work, are not favourable to bringing about a state of affairs which will not put us to shame with regard to untouchability and making distinctions about certain classes, Government has to step in and introduce legislation. When we are pointing a finger at South Africa, for instance, and when we have been blaming even America over the treatment of the Negroes, we have first to see that we do not have anything in our country which is present in those countries. Similarly, Madam, we are aware that there is an amount of consciousness of these unsatisfactory conditions amongst the Scheduled Castes and the Scheduled Tribes to ask for their separate States etc.; that is only because they feel that they are not going to have better conditions given to them without a separate State. In order to take a step in that direction, Government has to bring about a Bill of this type. Government today stands in the place, I should say, where in the old days religious leaders stood. This may sound odd, but it is a fact. I would try to explain this point. In the olden days when there was tyranny from the Brahminical sect or from religious dogmas, some leaders, for instance, like Buddha or Mahavir, came and gave a new lead and tried to give social justice to the people. Today, that necessity is not there. Government can redress these grievances by legislation and by other means also at their command, *e.g.*, by giving facilities for education and trying to do away with other inequities by reservation of seats, Government posts, and give social justice. For that reason, it is not necessary, in my opinion, for anyone like Dr. Ambedkar, who has recently declared that he would himself embrace Buddhism, to do so. This is more or less as a gesture of resentment against the conditions that are prevailing, of injustice to the Scheduled Castes and the untouchables. It is no longer necessary for any sect to embrace another religion in order to have these inequalities removed. For our Gita also has declared:

श्रेयान्स्वधर्माच्चिगुण, परधर्मास्तत्पुण्यसात्  
स्वधर्मो नित्यधर्मः, परधर्मो भयावहः ॥

39 RSD-3.

We need not go to that extent and ask people to even suffer inequities which would more or less be equivalent to death, but we can certainly ask them to keep to their own religion and yet have no fear of any inequities in a modern Welfare State. Moreover, Madam, to-day the concept of religion has changed and what was in old days the function of religion is not to-day necessarily the same. Religion to-day is more of a personal aspect, which is really for one's spiritual benefit, whereas in old-days religion was more or less for regulating the social order or mode of life and that is why some people to-day, people who are not given to deep thinking, mix up religious modes of life with social habits and social order. So from that point of view also it is not necessary for anybody to change religion, which has a different use and should have different use in the modern concept of one's relation to God and there is no longer any reason to look for the redress of social grievances to religion but one should look to the State, and if, Madam, any movement to change religion is sponsored by anybody, it is calculated it will have only one meaning and that is to create again a separatist bloc in the country more or less for personal reasons and which is not calculated to be in the interests of the country.

I would like to touch, Madam, on another aspect of the question. Our people to-day who speak loudly about social reforms have themselves to see that by their example they bring about in practice what they preach, that they close the wide gap that is to be found between their speeches and their performance. Many a speaker who would address a meeting in favour of removal of untouchability or perhaps speak here in the House and bring amendments even would, when he goes home, not worry to see whether in his house his wife or other family members are not unwilling to take food at the hands of — not to speak of untouchable-s—any other caste Hindus different from their

[Dr. Shrimati Seeta Parmanand.] own and unless such things are removed they are going to come in the way of any real change which this Untouchability (Offences) Bill really wants to bring about.

SHRI J ASP AT ROY KAPOOR: Must the husbands coerce their wives to submit to such things?

DR. SHRIMATI SEETA PARMANAND: I am glad the question has been raised and I would reply to that. Women are called conveniently by men as the custodians of their religion and all good things that are associated with religion and when in their speeches men declare that certain other things are good for the religion, it becomes they think the duty to keep their women confined within the four walls of their houses, women who did not usually have either the time or the opportunity to read literature or modern papers and to know what is happening in the country, women who do not have the learning to know the relation between practice and the actual principles, but if women who do not know how the nature of religion is -changing are taught by their menfolk in the house by giving the necessary time to change these things, they will certainly learn and will not have to be coerced. I have known of women who only because their husbands had invited some untouchables to tea in their houses and as the servants would not wash their cups nor their husbands who wanted to look in the eyes of the public as reformers did not go and wash the tea cups, then they themselves with tears in their eyes did wash them.

THE VICE-CHAIRMAN (SHRIMATI PARVATHI KRISHNAN) : That means, the women should teach the husbands.

DR. SHRIMATI SEETA PARMANAND: No, it is the men who should teach them. If they had taught them what they preached, they would have done it without any tears, and they themselves should be prepared to do it and set an example. Mr. Kapoor asked what if the women objected to

it. I am only trying to point out that if men explain things properly, there would be no difficulty and they would do such things gladly if they had a gesture from their husbands who want to pose as social reformers that they really meant it and explained it to their wives. In those cases I referred to, the women had done the thing against their conviction.

SHRI J ASP AT ROY KAPOOR: Let the women Members of Parliament undertake this work.

DR. SHRIMATI SEETA PARMANAND: Well, we expect the men who want to come here in greater numbers and become the leaders and representatives of the people to do it. How do they expect the women to undertake a greater burden, a burden also in this respect? Anyhow let them send more women Members to Parliament and Legislatures by surrendering their own seats to women candidates and they will take greater share in this respect also.

The instance of what Gandhiji did in Africa can be given. When certain sweepers struck work there and his servants would not do it, he expected his wife Kasturba to do it. When he saw Kasturba hesitant he himself showed in practice what he was preaching by doing the work. What is required here is an actual example in our homes by our educated men and by particularly our reformers also to make this change permeate into our homes and not merely to make it confined to public places, hotels, restaurants, hospitals, etc. in urban areas as was pointed out by Mr. Deokinandan Narayan. I quite agree with the speaker who preceded me that in order to have this evil of untouchability removed, we will have to do away with the caste system also. But that of course cannot come in a day. It will come, but everyone who tries to take interest or pose as a champion of Harijans has, at every step, to put these things into practice and wherever possible if the cultural difference does not come in the way to

have beti vyavahars, as they say, they should take to beti vyavahars also and have their sons and daughters given in marriage to daughters and sons in Harijan families if cultural level is the same. If that could be done, it would be a very great thing.

Madam, I would like to point out that it was rather unfortunate that one of our own speakers like Mr. Agnibhoj should have charged Government with *chhalaki*. I do not think there is any question of Government wanting to do *chhalaki* about giving representation to the Scheduled Castes, etc., in the services. I am referring to the question of admission to the services against the wishes of the Public Service Commission as suggested by Shri Agnibhoj. There is the question of standards in administration and if the Public Service Commission finds that a candidate is not up to the standard and is not suitable for a post, there is nothing to charge the Government with, and I feel that a person of Mr. Agnibhoj's standing who was once a Minister in Madhya Pradesh should understand the principles of administration better than anybody else rather than blame Government for *chhalaki* and all that. After all a Government has to think of the principles of administration, ability and other points in making appointments to administrative posts.

Madam, I would like to point out in the end that untouchability in India today is like an ancient monument of Hindu culture and we have to see that this ancient monument is not preserved. Here I am speaking in an ironical sense and in that sense it is a bad monument, this caste system and untouchability remain as a stigma on our otherwise beautiful Hindu culture and we have to see how they have come in. All over the world also this untouchability is practised in one form or another and wherever the ruling classes have come to rule the economically backward people who have been often the original inhabitants of the country, they have kept aloof from them, and though the caste system is supposed to be

the special feature of India, the practice of untouchability is there in other countries also in some form or other. In America even today in some of the Southern States on account of the cultural differences and economic differences that exist between the rulers and the ruled, the latter are not allowed to attend the same class, the Negroes are not allowed to enter some trains, they are not allowed to go to the same hostels, and though there is legislation to prevent this, in actual practice, these things still continue. So we need not feel that this is the case only in India, but for that reason we need not be the last people to wipe it out. We should set an example to America and Africa and especially to Africa where there is the danger of its coming in with greater force now. They are trying to see that Indians are segregated as untouchables and they are being kept in one part of the country so that the question of touchability would not come in. So we should set an example to these countries by having this canker of untouchability removed from us. The Hindu Sabhaites, who call themselves 'champions of the Hindu religion, should come forward as they do every time whenever there is any social legislation, as for instance the Hindu Code etc., to show that nobody has greater concern for the Hindu religion than they. It is up to them to have this canker of untouchability removed by going into the real history of untouchability, as to how it came in, etc. In the modern age, in this age of equality and democracy, if they understand the meaning of these terms, there is no place for untouchability at all. The question is felt keenly in the case of temple entry where the sentiments of the people are supposed to be affected and it is for the Hindu Sabhaites themselves to come forward in this connection. People like Shankaracharya have given the real meaning of religion and the place of religion in society. Even for Shri Ramachandra there was no question of untouchability, because he ate those plums tasted by Shabari earlier.



[Dr. Shrimati Seeta Parmanand.] They should know the meaning of such examples given in our Ramayana and other religious books and they should not allow anybody to reduce himself to a state that even a *Mlechcha*, that is, a Muslim or even a Christian because they are all *mlechcha* according to Hindu religion, is considered higher than the untouchable. It is a very strange thing that if a Harijan becomes a Christian he is not considered as an untouchable, or as heinous a specimen of humanity as he was considered when he was an untouchable. When he becomes a Christian you allow him into your house; you allow him to sit at your table, but while he was a Hindu and counted as one belonging to your own religion, you considered him to be unfit to be associated with socially and otherwise. There are several anomalies of this type and it is not necessary for me to put them before a learned House like this. Madam, I am very glad that this Bill has been brought forward. I hope it will focus people's attention sufficiently so that within a year or two, or let us say, five years, with concentrated efforts particularly by members of this House, it would not be necessary to take resort to the penal provisions of this Bill.

श्री जसपत राय कपूर : सभानेत्री जी, मैं इस विधेयक का हृदय से समर्थन और स्वागत करता हूँ और मंत्रिमंडल को इस प्रयत्न के लिए बधाई देना चाहता हूँ कि यह विधेयक इसी अधिवेशन में कानून के रूप में स्वीकृत हो जायेगा। जैसा कि माननीय सदस्यों ने कहा है कि इस विधेयक को लाने में काफी विलम्ब हो चुका है और यह ठीक ही है कि इसके स्वीकार होने में विलम्ब नहीं होना चाहिये था क्योंकि हमारे विधान के अनुच्छेद ३५ के अनुसार इस प्रकार का कानून विधान के लागू होने के पश्चात् यथा सम्भव शीघ्र ही स्वीकार हो जाना चाहिये था। लेकिन खैर, जितना विलम्ब हुआ सो हुआ, किन्तु अब अधिक विलम्ब नहीं होना चाहिये।

आज का दिन हमारे देश के लिए, विशेषकर हरिजन भाइयों के लिए सुनहरा अक्षरों में लिखे जाने वाला दिन है। इसी प्रकार का पहला दिन वह था जब कि विधान का अनुच्छेद १७ स्वीकार किया गया, जिस के अनुसार अछूतपन को इस देश से निकाल दिया गया, जिस के अन्तर्गत आज कोई भी अछूतपन रखना चाहे तो वह एक अपराध समझा जाता है।

डा० श्रीमती सीता परमानन्द : केवल हरिजन भाइयों के लिए ही क्यों सारे देश के लिए सुनहरा अक्षरों में लिखा जाना चाहिये।

श्री जसपत राय कपूर : मैंने भी यही कहा था, अगर आप मुझे ठीक तरह से सुनतीं तो आप समझ जातीं। मैंने कहा था कि हमारे देश के लिए यह सुनहरा दिन है और विशेषकर हरिजन भाइयों के लिए सुनहरा दिन है। सभानेत्री जी, यह कलंक हमारे समाज के ऊपर सैकड़ों वर्षों से चला आ रहा है। केवल हिन्दू समाज के ऊपर ही नहीं बल्कि सारे हिन्दुस्तानी समाज के ऊपर। जैसा कि माननीय सदस्यों ने बताया कि ईसाई धर्मवलम्बियों के ऊपर और अन्य लोगों के ऊपर भी यह कलंक लगा हुआ है। हमारे देश में अछूत कहे जाने वाले भाइयों के ऊपर भी यह कलंक लगा हुआ है क्योंकि एक अछूत भाई दूसरे अछूत भाई को अछूत समझता है। अतः सारे समाज के ऊपर यह कलंक लगा हुआ है और हमें इस कलंक को जल्द से जल्द अपने ऊपर से धो डालना चाहिये।

यह अछूतपन किसी धर्म, हिन्दू धर्म या किसी दूसरे धर्म में वंश परम्परागत नहीं है बल्कि इसके प्रचलित होने के मुख्य कारण सामाजिक और आर्थिक हैं। यदि सामाजिक और आर्थिक कारणों को दूर कर दिया जाय तो यह बुराई हमारे समाज से दूर हो जायेगी। हमारे जो अछूत भाई हैं, मैं उनकी प्रशंसा करूंगा क्योंकि उनके ऊपर सदियों से अत्याचार होने पर भी उन्होंने इस अत्याचार को साहस और संतोष के साथ सहा और प्रत्यक्ष दिखा दिया कि वे हिन्दू धर्म के कट्टर अवलम्बी हैं। वास्तविकता यह है कि उनके ऊपर सदियों से अत्याचार होते चले आ रहे हैं। उनके सामने

तरह तरह के प्रलाभन विधीर्मियों द्वारा दिये गये किन्तु उन्होंने अपने धर्म को नहीं छोड़ा और हिन्दू धर्म पर कायम रहे। इस कार्य के लिए उनकी जितनी प्रशंसा की जाय उतनी कम है। इस कार्य के लिए हमें उनको बधाई देना चाहिये। सभानेत्री जी, इस समय जब कि हम इस बिल का कानूनी रूप देने जा रहे हैं तो हमारा ध्यान उन महापुरुषों के प्रति चला जाता है जिन्होंने बड़े प्रयत्न इस कलंक को दूर करने के लिए किए जैसे कि स्वर्गीय स्वामी दयानन्द सरस्वती और हमारे राष्ट्रपिता महात्मा गांधी। स्वामी दयानन्द सरस्वती ने जन्म भर निरन्तर प्रयत्न किये कि हमारे देश से अछूतपन चला जाये, उन्होंने आर्य समाज जैसी संस्था स्थापित करके उसके द्वारा इस ओर खूब प्रयत्न किया। महात्मा गांधी जी ने तो इस कलंक को दूर करने के लिए जान की बाजी तक लगा दी। उन्होंने अपने यहां एक हरिजन लड़की को गोद लिया था। वे यहां तक कहा करते थे कि वे खुश होंगे अगर हमारे देश का प्रथम राष्ट्रपति एक हरिजन हो। यह हर्ष और संतोष की बात है कि यदि हमारे प्रथम राष्ट्रपति हरिजन नहीं हैं, तब वे ऐसे सज्जन पुरुष हैं जिनकी हरिजनों के साथ विशेष सहानुभूति है और जो इस बात के कटु प्रचारक हैं कि अछूतपन को देश से बिल्कुल निकाल दिया जाय।

सभानेत्री जी, महात्मा गांधी और स्वामी दयानन्द सरस्वती के प्रयत्नों का फल बहुत अच्छा हुआ। उनके प्रयत्नों का ही यह फल है कि आज हमारे देश में अछूतपन इतनी कटुता से नहीं बरता जाता है जैसा कि वह पहले करता जाता था। उनके प्रयत्नों के फल-स्वरूप ही आज बहुत से मंदिरों के दरवाजे हरिजन भाइयों के लिए खुल गये और अनेक प्रकार की सुविधाएं उनको मिल गई हैं। आजकल समाज में अछूतपन के प्रति इतनी श्रद्धा नहीं है जितनी कि पहले थी। हमारे देश के जो हिन्दू महासभाई लोग हैं और उनके नेता श्री एन० सी० घटर्जी भी इस बिल का हृदय से समर्थन करने लगे हैं। यहां तक कि

इस बिल के सुधार करने में उन्होंने बहुत कुछ प्रयत्न किये हैं। इस विधेयक की जो १७ वीं धारा है वह उन्हीं के विषय प्रयत्नों का फल है जोकि इस बिल में लगा दी गई है। सभानेत्री जी, इतना होने पर भी यह मानना पड़ेगा कि अभी सारे देश से पूर्णतया अछूतपन दूर नहीं है।

1 P.M.  
हुआ है। और हमें निरन्तर इस बात का प्रयत्न करना चाहिये कि वह जल्दी से जल्दी दूर हो और इसीलिये इस प्रकार के कानून बनाने की आवश्यकता है। लेकिन जैसा कि मैं सदस्यों ने कहा है, मैं भी उसे दूर करना चाहता हूं कि केवल कानून बनाने से ही अछूतपन दूर नहीं होगा, उसके लिये हृदय परिवर्तन होना अति-आवश्यक है और केवल हृदय परिवर्तन से ही काम नहीं चलेगा बल्कि यह भी अत्यंत आवश्यक है कि हरिजन भाइयों की आर्थिक स्थिति को सुधारा जाय और ऊंची जाति कहलाने वाले हिन्दू भाइयों का, उन्हीं का क्या बल्कि सारे देश का, यह परम कर्तव्य होना चाहिये कि हरिजन भाइयों की आर्थिक स्थिति को सुधारें। जितनी जितनी उनकी आर्थिक स्थिति सुधरती जायगी उतना उतना अछूतपन भी देश से दूर होता चला जायेगा। इस सम्बन्ध में विनावा भावे जो कार्य कर रहे हैं वह अछूतपन को दूर करने में हमें बहुत ही सहायक होंगे। अतः मैं सब लोगों से प्रार्थना करूंगा और विशेषकर इस सदन के सदस्यों से कि विनावा भावे जी का जो कार्यक्रम है उसमें जितना अधिक से अधिक सहयोग दे सकते हैं वह दें क्योंकि उसमें सहयोग देने से अछूतपन को दूर करने में बहुत अधिक सहायता मिलेगी।

सभानेत्री जी, मुझे यह देख कर बड़ी खुशी हुई है कि जब शुरू में यह विधेयक प्रस्तुत किया गया था उस समय इसमें लिखा था कि यह कानून सारे देश में लागू होगा, सिवाय काश्मीर और जम्मू को छोड़ कर परन्तु इस समय जिस रूप में यह विधेयक हमारे सम्मुख प्रस्तुत है उसमें यह स्पष्ट कर दिया गया है कि यह कानून सारे देश में लागू होगा, यानी जम्मू और काश्मीर में भी लागू होगा। इससे मुझे बड़ी खुशी और संतोष हो रहा है।

[श्री जसपत राय कपूर]

सभानेत्री जी, जैसा कि और भाइयों ने कहा कि केवल इस कानून के पास करने से ही यह बात नहीं हो जाती कि इसके अनुसार कार्य भी होगा। इस सम्बन्ध में मैं सुझाव रखना चाहता हूँ और मैं आशा करता हूँ कि माननीय मंत्री महोदय उन सुझावों पर विशेष रूप से ध्यान देंगे।

सब से प्रथम मैं चाहूँगा कि इस विधेयक के स्वीकार हो जाने के बाद रीढ़ियों द्वारा इसका प्रचार किया जाय। दश भर में जितने रीढ़ियाँ स्टेशंस हैं उन सब जगहों से, सभी भाषाओं में, सप्ताह में एक बार, कम से कम तीन महीने तक इसका प्रचार किया जाय और लोगों को बताया जाय कि इस प्रकार का कानून हमने बना दिया है और कानून ही नहीं बनाया है बल्कि दश के हित में यही उचित है कि दश से छुआछूत दूर हो जाय।

दूसरा सुझाव मैं यह रखूँगा कि जितनी भी दश में म्यूनििसिपैलिटियाँ हैं उन सब को यह आदेश दिया जाय कि वे डोल पीट कर कम से कम एक बार लोगों को यह बता दें कि इस प्रकार का कानून अब बन गया है और यदि कोई भी इस कानून का उल्लंघन करेगा तो वह अपराधी समझा जायेगा।

तीसरा सुझाव यह है कि दश की हर एक भाषा में एक छोटा सा पम्फलेट निकाल दिया जाय जिसमें इस कानून का सारांश लिख दिया जाय और उसके अलावा और भी क्या अछूतपन दूर करने की आवश्यकता है वह लिख दिया जाय। वह पत्रिका छोटी सी हो और उसको हर एक पुलिस स्टेशन पर भेज दिया जाय और विशेष कर गांवों में जितनी पाठशालायें हैं उनके अध्यापकों के पास भेज दी जायें और उनसे यह आशा की जाय कि उस पत्रिका में जो लिखा हुआ है उसको गांव के लोगों को वे समझा दें।

मैं यह भी चाहूँगा कि केन्द्रीय सरकार की ओर से यह आदेश निकाला जाय कि दश में जितने सबडिवीजनल आफिसर्स हैं वे अपने

अपने क्षेत्र में पटवारियों को बुला कर इस चीज को अच्छी तरह से समझा दें कि इस प्रकार का कानून बन गया है। वे उस पम्फलेट को भी पटवारी को दें और उनको विशेष रूप से यह आदेश दें कि वे देखें कि यह कानून अमल में लाया जा रहा है या नहीं। इसी प्रकार मैं चाहूँगा कि दश में जितने भी सबइंस्पेक्टर पुलिस हैं वे अपने अपने पुलिस स्टेशन में अपने आधीन कांस्टेबलों को इस कानून का सारांश बता दें।

अंत में विशेष रूप से मैं यह चाहूँगा कि दश में जितने भी डिस्ट्रिक्ट मॅजिस्ट्रेट्स हैं वे अपने जिले के हेडक्वार्टर पर जितने मुख्य मुख्य मंदिर हैं, मस्जिद हैं, गिर्जे हैं उनके पुजारियों, मुल्लाओं और पादरियों की एक रोज एक मीटिंग जरूर बुलायें और उनको विशेष रूप से बतायें कि इस प्रकार का कानून पास हो गया है और उनसे इसमें सहयोग देने के लिये प्रार्थना करें। मैं समझता हूँ कि यदि डिस्ट्रिक्ट मॅजिस्ट्रेट इस प्रकार से पुजारियों, मुल्लाओं और पादरियों को बुला कर एक मीटिंग में यह बात कहेंगे तो इसका बहुत बड़ा असर होगा क्योंकि डिस्ट्रिक्ट मॅजिस्ट्रेट जा भी बात किसी से कहते हैं उसको लोग बड़ी इज्जत के साथ सुनते हैं और उसके अनुसार कार्य करने के लिये तैयार हो जाते हैं।

ये बातें तो रहीं सरकार की ओर से करने की और जो ऊंची जाति के जाने वाले लोग हैं उनकी ओर से करने की। अब इसके साथ साथ हरिजन भाइयों से भी मैं कुछ प्रार्थना करता हूँ और वह यह है कि इस कानून के पास होने के बाद वे थोड़ी नम्रता से काम लें। उनके अन्दर ये अभिमान नहीं आना चाहिये, उन्हें उद्दंडता नहीं दिखानी चाहिये कि अब तो इस प्रकार का कानून पास हो गया और वह कहें कि देखें किसकी हिम्मत है, कौन माई का लाल है, जो इस कानून को तोड़ता है। यदि इस प्रकार की मनोवृत्ति उनकी हुई तो यह उनके हित में नहीं होगा। इसीलिये मेरी प्रार्थना है कि वे नम्रता से काम लें। सैकड़ों

वर्षों से उन्होंने ये यातनायें भेलीं, हजारों वर्षों तक, हजारों वर्ष तो नहीं कहूंगा क्योंकि हजारों वर्ष का तो पता नहीं लेकिन सैकड़ों वर्षों तक, उन्होंने बड़े साहस और धैर्य के साथ इन असुविधाओं को सहा, तो यदि इस कानून के स्वीकार हो जाने के बाद भी वे थोड़ा सा धैर्य रखेंगे, थोड़ा सा संतोष और नम्रता से काम लेंगे तो यह चीज उनके हित में होगी क्योंकि यह बात अब लोगों के दिलों में आती जा रही है कि हरिजन भाई हमारे खून का खून हैं, हमारी हड्डी की हड्डी हैं और हमारे भाई हैं। यह बात लोगों के दिलों में धीरे धीरे बैठती जा रही है और यदि हमारे हरिजन भाई इस समय धैर्य और नम्रता से काम लेंगे तो यह बहुत कुछ उनके हित में होगा।

THE VICE-CHAIRMAN (SHRIMATI PARVATHI KRISHNAN) : I would request you to conclude your speech, because you will be moving amendments and then you will have an opportunity to speak on the amendments.

SHRI JASPAT ROY KAPOOR: All right. I will be finishing in a few minutes, though I had hope that under your generous Chairmanship perhaps I will be getting more time, because ladies are more generous and considerate.

THE VICE-CHAIRMAN (SHRIMATI PARVATHI KRISHNAN) : This is on the advice of the Business Advisory Committee.

SHRI JASPAT ROY KAPOOR: I will try to finish in two minutes, Madam, and cut short my remarks.

सभानेत्री जी, इस बिल में दो एक बातें ऐसी हैं जिनको मैं उचित नहीं समझता हूँ। एक खास बात जो मुझे अनुचित प्रतीत होती है वह यह है कि इस विधेयक में यह रखा गया है कि यह अपराध कागनीजीबिल समझा जायेगा। यह एक बड़ी गंभीर बात है और मैं चाहूंगा कि बड़ी गंभीरता से माननीय मंत्री महोदय इस पर

विचार करें क्योंकि मैं समझता हूँ कि यह हमारे हरिजन कहने वाले भाइयों के हित में नहीं है। इस विधेयक का उद्देश्य यह है कि हरिजन भाइयों का हित हो और यदि इसमें कोई धारा ऐसी प्रतीत हो कि हरिजन भाइयों के हित में नहीं है, उनके हित के विरुद्ध है, तो उसको इस विधेयक में न रखा जाय। इस विधेयक में यह रखा गया है कि इस अपराध को कागनीजीबिल समझा जायगा। इसका अर्थ यह होगा कि पुलिस वाला जिस को अपराधी समझे, उसको बिना वारंट हथकड़ी डाल कर पुलिस स्टेशन में ले जाकर कम से कम २४ घंटे तक रख ले। उसके लिये वारंट की आवश्यकता नहीं होगी। यह एक बड़ी भारी बात है। दो प्रकार के केंसेज में आपके सामने रखूंगा जिन से यह सिद्ध हो जायगा कि हरिजन भाइयों के हित में यह नहीं है। मान लीजिये कुएँ के ऊपर एक हैकड़ ठाकुर साहब नहीं धोकर संध्या करने के लिये बैठे हुये हैं और कोई मोहतर कुएँ से पानी भरता है और वह हैकड़ ठाकुर साहब उसको पीट दते हैं। इस पर पुलिस का सिपाही उनको पकड़ कर, हथकड़ी डाल कर थाने पर ले जाता है, तो उस समय क्या स्थिति होगी। फॉरन एक बलवा सा पैदा हो जायगा। इसमें कोई सन्देह नहीं है कि ठाकुर साहब ने बहुत बुरा काम किया, उनको सजा मिलनी चाहिये और उनको निश्चित ही जेलखाना भी होना चाहिये। लेकिन वहाँ ला एंड आर्डर की स्थिति को देखते हुये क्या यह उचित होगा कि उसी समय पुलिस का सिपाही उन ठाकुर साहब को पकड़ कर और हथकड़ी डाल कर २४ घंटे के लिये बन्द कर दे। इसका नतीजा यह होगा कि इस कानून के विरोध में और हरिजन भाइयों के विरोध में एक वातावरण पैदा हो जायगा। इससे अधिक अच्छा यह होगा कि वह पुलिस का सिपाही थाने में जाकर रिपोर्ट कर दे और सब इन्स्पेक्टर साहब उनका चालान कर दें, लेकिन गिरफ्तार न करें। कागनीजीबिल अफेंस का मानते हुये यह भी हो सकता है कि इस प्रकार का आदेश सरकार की ओर से चला जाय कि पुलिस वाले किसी को गिरफ्तार न करें बल्कि केवल चालान कर

[श्री जसपत राय कपूर]

दें। यदि कागनीजीबिल का अर्थ केवल यह रखा जाय, तो जहाँ तक इस विधेयक का ताल्लुक है, मुझे कोई आपत्ति नहीं है। पुलिस को अधिकार होना चाहिये मुकदमा चलाने का, लेकिन उसे बिना वारंट के किसी को गिरफ्तार करने का अधिकार नहीं होना चाहिये। अगर इस प्रकार के आदर्श चले जायें तो उचित होगा। दूसरे प्रकार का मुकदमा यह भी हो सकता है कि अगर किसी से किसी सब इंस्पेक्टर या कांस्टेबिल की दुश्मनी हो तब भी वह उसको ऐसा अपराध लगा कर गिरफ्तार करके २४ घंटे तक हवालात में रख सकता है। इन कारणों से मैं यह उचित समझता हूँ कि इस विधेयक में यह संशोधन कर दिया जाय कि इस प्रकार का अपराध कागनीजीबिल न हो, अथवा सरकार की ओर से इस प्रकार का आदर्श पुलिस के पास चला जाय कि वे बिना वारंट के किसी को गिरफ्तार न करें।

इस विधेयक के सम्बन्ध में दो एक बातें जो मुझे और कहनी हैं उनको मैं उस समय कहूँगा जब कि धाराओं के ऊपर वादविवाद होगा।

इन शब्दों के साथ अन्त में मैं फिर इस विधेयक का हृदय से समर्थन और स्वागत करता हूँ और सभानेत्री जी मैं आपको भी इसके लिये धन्यवाद देता हूँ कि आपने मुझे एक दो मिनट अधिक दे दिये।

**श्रीमती चन्द्रवती लखनपाल** (उत्तर प्रदेश): सभानेत्री जी, आज कौन ऐसा होगा जो कि इस महत्वपूर्ण और आवश्यक बिल का समर्थन न करेगा? यह बिल सिलेक्ट कमेटी से गुजर कर आया है और सिलेक्ट कमेटी ने इसमें जो भी कीमियाँ थीं उनको दूर कर दिया है, उसके पश्चात् जो कुछ बाकी बचा उसमें दूसरे सदन, लोक सभा, ने सुधार कर दिया और इतनी मजिदारी से गुजर कर आज जब कि यह बिल हमारे सामने उपस्थित है तो यह बिलकुल

अपने परिष्कृत और परिमार्जित रूप में है बिलकुल सम्पूर्ण रूप में है।

इस बिल के डिटेल्स के बारे में, बारीकियों के बारे में न जाकर मैं केवल यही कहना चाहती हूँ कि जहाँ तक यह बिल जाता है वहाँ तक यह बिलकुल ठीक है। किन्तु इसका क्षेत्र बड़ा सीमित है। आज जिस अछूतपन को यह दूर करना चाहता है, वह तो केवल एक छोटा सा क्षेत्र है। किन्तु हमारे देश के अन्दर यह कठोर सत्य है कि आज हर जाति के अन्दर, हर क्षेत्र के अन्दर अछूतपन हमारी रंग रंग में बसा हुआ है। हमारे देश में यह जो उंची जातियाँ हैं जैसे ब्राह्मण, क्षत्रिय, वैश्य, इन सभी में अछूतपन की प्रथा प्रचलित है। यहाँ तक कि जो अछूत कहे जाने वाले भाई हैं उनके अन्दर भी अछूतपन आज पाया जाता है। इस प्रकार जो सब से ज्यादा अछूतपन बरतता है, जो सब से ज्यादा परहेज दूसरों से करता है, वही सब से ज्यादा श्रेष्ठ माना जाता है। आज ब्राह्मण जाति के लिये क्षत्रिय, वैश्य और शूद्र सभी अछूत हैं, इसी लिये वह सब से श्रेष्ठ जाति मानी जाती है। ब्राह्मणों में भी एक ऐसी जाति है और उस जाति में होने का सौभाग्य कहिये या दुर्भाग्य कहिये, मुझे भी प्राप्त है, जिस को कान्यकुब्ज जाति कहते हैं। कान्यकुब्जों के लिये यह कहावत प्रचलित है कि ८ कनौजिया और ६ चूल्हे।

[MR, DEPUTY CHAIRMAN in the Chair]

वे अपनी बिरादरी और संगी सम्बन्धियों तक से परहेज करते हैं। मेरे कहने का आशय यह है कि आज यह अछूतपन हमारे देश की रंग रंग में व्याप्त है। इसमें केवल डिग्री का फर्क है, केवल मात्रा का फर्क है, भिन्न भिन्न क्षेत्रों में, भिन्न भिन्न रूपों में आज अछूतपन हमारे यहाँ है। कुछ लोग ऐसे हैं जिनके साथ हम केवल विवाह-सम्बन्ध—उनके साथ बंटी का सम्बन्ध—ही नहीं कर सकते, लेकिन उनके साथ खान पीने और मिलने जुलने का सम्बन्ध रहता है। इसके बाद कुछ लोग ऐसे हैं जिनके साथ

न हम बंदी का सम्बन्ध रखते हैं और न रोटी का सम्बन्ध रखते हैं। इससे आगे चलने पर एक ऐसा द्वेष है जहाँ पर न हमारा रोटी का सम्बन्ध होता है, न बंदी का सम्बन्ध होता है, और न हम उनके हाथ का पानी पीते हैं यानी चालू भाषा में उनके साथ टुकड़ा पानी भी बन्द होता है। इससे भी आगे चलने पर एक ऐसा संक्लेशन आता है जिसे हम छूना भी नहीं पसन्द करते बल्कि उसकी छाया तक से परहेज करते हैं। श्रीमन् इस प्रकार जो मैंने पहले तीन भेद बतलाये वे अछूतपन के ही भेद हैं, अछूतपन का ही दूसरा रूप है। इस अछूतपन का सब से उग्र रूप वही है जब कि एक इंसान दूसरे इंसान को इंसान नहीं मानता है बल्कि उसको पशु की श्रेणी में मानने लगता है। आज उसी कुत्सित और घृणित रूप का इस देश में अन्त करने के लिये यह आज का विधेयक लाया जा रहा है। इसका जितना स्वागत किया जाय उतना ही थोड़ा है। आज जब कि हमको आजाद हुये सात साल हो गये हैं और जब कि हमारे संविधान ने "अछूतपन" शब्द तक को निकाल दिया है, तो हमारे लिये यह बहुत ही आश्चर्य की और लज्जाजनक बात होती यदि आज हम ऐसा बिल न लाते। आज का बिल संविधान की धाराओं को क्रियात्मक रूप देने के लिये है। इसके अलावा एक कास्टलेस सोसाइटी के निर्माण करने का और एक नवीन समाज की स्थापना करने का जो हमारा स्वप्न है वह तो तभी पूरा हो सकता है जब कि हम अपने देश के अन्दर से इस अछूतपन के कलंक को निकाल दें। इसके अतिरिक्त आज अंतर्राष्ट्रीय स्तर में हम दूसरों को सामाजिक न्याय और समता का पाठ पढ़ाते हैं, किन्तु जब कि हम अपने करोड़ों भाइयों को इंसानियत से नीचे समझ रहे हैं, पशुओं के समान उनके साथ व्यवहार कर रहे हैं, तो कैसे हम दूसरों के सामने उंचा मस्तक करके खड़े हो सकते हैं। आज जब हमारे घर के अन्दर ही अन्धरा है तो हम दूसरों को कैसे प्रकाश दिखा सकते हैं। क्या बुझा हुआ दीपक भी कहीं प्रकाश दिखा सकता है? इसीलिये आज जो बिल रदन के अन्दर

लाया जा रहा है वह अत्यन्त आवश्यक और बड़ा महत्वपूर्ण है। उसका चारों तरफ स्वागत हो रहा है, सदन के अन्दर भी हो रहा है और बाहर भी होगा। दूसरे सदन ने भी इसका खुले हाथों से स्वागत किया है। यहाँ तक कि हिन्दू सभा के लोगों ने भी इसकी मुक्त कंठ से प्रशंसा की है, इसके अन्दर परिवर्तन किये हैं। लेकिन आज जो यह स्वागत हो रहा है वह इस कारण से हो रहा है कि आज अपने देश का वातावरण बदल चुका है। इस वातावरण को बदलने की जिम्मेदारी जिन के ऊपर है, आज उनको हमें श्रद्धांजलि अर्पित करनी चाहिये। हमारे पूर्व वक्ता भी इस दिशा में बतला चुके हैं। माननीय उपागृह मंत्री जी ने भी उसका जिक्र किया है। इस तन्वीली का श्रय कृषि दयानन्द जैसे समाज सुधारकों को है जिन्होंने अब से ७५ वर्ष पहले अछूतपन के खिलाफ आवाज उठाई जब कि कोई ऐसा करने का साहस भी नहीं करता था। उन्होंने अछूतपन के खिलाफ केवल अपनी आवाज ही नहीं उठाई बल्कि उन्होंने इसको अपने कार्यक्रम का एक आवश्यक अंग बनाया। उन्होंने आर्य समाज की स्थापना की जो कि पिछले ७५ वर्ष से इस दिशा में बड़ा महत्वपूर्ण और आवश्यक कार्य करता चला आ रहा है। श्रीमन् आर्यसमाज के अतिरिक्त दूसरे समाजों ने भी, जैसे कि ब्रह्म समाज है, बड़ा कार्य किया। राष्ट्रीयता महात्मा गान्धी ने तो इस बुराई की जड़ उखाड़ने के लिए ऐतिहासिक अनशन कर डाला था। सन् १९३२ की बात है जब कि कम्यूनल अवार्ड के माँके में महात्मा गान्धी ने प्राणों की बाजी लगा दी थी, वह इसलिए क्योंकि उस वक्त के हमारे विदेशी शासक अछूतपन को कम्यूनल अवार्ड के द्वारा हिन्दू जाति का एक स्थायी भाग बना देना चाहते थे।

अभी कहा गया है कि इस बिल का जो महत्वपूर्ण भाग है वह इसके इंप्लिमेंटेशन का, इसकी क्रियान्विति का है। मैं यह कहना चाहती हूँ कि अगर हम देखना चाहते हैं कि इस बिल को स्थायी और क्रियात्मक रूप दे सकें



[श्रीमती चन्द्रवती लखनपाल]

तो हमें आज अपने इस बिल से ही संतुष्ट नहीं हो जाना चाहिए। हमें उन समाजसेवी संस्थाओं को जो समाज सुधार के क्षेत्र में काम करती हैं और उनके जो सोशल वर्कर्स हैं उनको हर एक स्टेप पर, हर कदम पर, हर स्तर पर सहायता और सहयोग देने की आवश्यकता पड़ेगी क्योंकि, श्रीमन्, यह तो एक मानी हुई बात है कि आज इस बिल को केवल कानून के आधार पर ही क्रियान्वित नहीं किया जा सकता। आज हमें देश का वातावरण बदलना है, और वातावरण कानूनों के द्वारा ही नहीं बदलता। कानूनों का आधार भय होता है और वातावरण को बदलने के लिए प्रेम और एक दूसरे को समझने की आवश्यकता होती है। आज जो कुछ हमारी व्यवस्था है, तो हमारे सिद्धियों से चले आए हुए विश्वास हैं, जो सिद्धियों से चली आई हुई हमारी परंपराएं हैं, रस्मों रिवाज हैं, नियम हैं, उनको हम सबको बदलना है। हमें पुराने विश्वासों को, कविवशंस को बदलना है और यह चीज भय के द्वारा नहीं हो सकती, कानून बना कर नहीं हो सकती, वह तो हृदय परिवर्तन से और प्रेम के द्वारा हो सकती है। इसीलिए मैं यह कहती हूँ कि हमें हमेशा ही उन लोगों को जो समाज सुधारक हैं, सोशल वर्कर्स हैं, और समाजसेवी संस्थाएं हैं, उनको साथ लेकर चलना पड़ेगा, और साथ लेकर ही नहीं चलना पड़ेगा बल्कि उन्हें आगे बढ़ाने के लिए हमें हर प्रकार का प्रोत्साहन भी देना पड़ेगा।

श्रीमन्, मैं यह कह रही थी कि आज जब कि हम इस बिल को ला रहे हैं तो हमें एक बात और यह देखना चाहिए कि इसको स्थायी रूप से क्रियात्मक रूप दिया जाय, और इस उद्देश्य के लिए हमें यह भी देखना चाहिए कि हम सरकारी स्तर पर ऐसी कमेटीज नियुक्त करें जो कि इसके इंप्लीमेंटेशन को, इसकी क्रियान्विति को हर जगह पर जाकर देखें, जिस प्रकार कि आज सोशल वेलफेयर बोर्ड की तरफ से जो प्लान्स बने हुए हैं वे देख रहे हैं कि उनकी योजनाओं पर कैसे काम हो रहा है। इस बिल की क्रियान्विति को देखने के लिए

हमें छोटी छोटी कमेटीयां बनानी चाहिए जो कि हर जगह जा कर देखें कि इस बिल का किस हद तक पालन किया जा रहा है, किस हद तक समाजसेवी संस्थाओं के द्वारा जनमत तैयार किया जा रहा है।

एक और बात मैं कहना चाहती हूँ और उसके बाद भाषण समाप्त कर दूंगी, और वह यह है कि मैं यह समझती हूँ, जैसा कि मैंने पहले कहा, कि यह बिल बहुत ठीक रूप में है, लेकिन केवल यह बिल ही उस व्याधि को, वह जो रोग है उसको उखाड़ फेंकने के लिए काफी नहीं है, क्योंकि असली में अछूतपन तो एक सिस्टम है, असली रोग तो दूसरा ही है और वह है कास्ट सिस्टम, वह है हमारी जाति प्रथा, वह है कास्टिज्म। जब तक जाति प्रथा को हम अपने देश से बाहर निकाल कर नहीं फेंकेंगे, अछूतपन जा नहीं सकता। श्रीमन् जब तक जाति प्रथा रहती है तब तक अछूतपन जीवित रहेगा, यह दूसरी बात है कि वह अपना रूप बदल ले, उसका स्वरूप बदल जाय, उसका आधार बदल जाय। कभी उसका आधार दूसरा हो सकता है जैसे कि आज प्रॉविशलिज्म है, सम्प्रदायवाद है, भाषावाद है, प्रान्तवाद है, ये सब उसी जाति प्रथा के मॉनिफेस्टेशन हैं, उसी के ये दूसरे रूप हैं। इसीलिए तो आप देखते हैं कि हमारे प्रधान मंत्री जहां भी जाते हैं, जहां भी उन्हें अवसर मिलता है, वे कास्टिज्म के ऊपर, जाति प्रथा के ऊपर चोट करते हैं क्योंकि, श्रीमन्, जाति प्रथा एक ऐसी भयंकर व्याधि है जो हमारे देश की नस नस में और हमारे खून में समायी हुई है और जब तक यह रोग हम अपने देश के अंदर से निकाल नहीं सकते, हम अछूतपन को नष्ट नहीं कर सकेंगे। श्रीमन्, आप यह देखेंगे कि जाति प्रथा हमारे धर्म के अनुसार कोई ऐसी चीज नहीं है जैसा कि माना जाता है और जैसा कि इस सम्बन्ध में कहा जाता है कि अछूतपन हमारे धर्म का भाग है। यह कथन ठीक नहीं है। हमारे धर्मशास्त्र तो एकना का उपदेश करते हैं। वेदों का कहना है—

“शृण्वन्तु सर्वे अमृतस्य पत्राः” अर्थात्

जीतने भी सारं मनुष्य हैं, वे अमृत के पुत्र हैं, वे उस भगवान के पुत्र हैं। इसी प्रकार, श्रीमन्, हमारे धर्मशास्त्रों के अनुसार—“आत्मवत्सर्वभूतेषु यः पश्यति स पश्यति”। हमारे धर्मशास्त्र यह उपदेश देते हैं कि हम न केवल मानव को, न केवल मनुष्य को बल्कि प्राणी मात्र को अपने ही समान समझें। तो इसलिए हमारे धर्मशास्त्र कभी भी हमें अछूतपन को जीवित रखने का उपदेश नहीं दे सकते। हां, आश्चर्य यह है कि हमारे धर्मशास्त्र हमें एकता का उपदेश देते हैं, और सिद्धान्त रूप से हम एकता को मानते हैं, लेकिन व्यवहार में हमारे अनेकता हैं। श्रीमान्, सिद्धान्त हमें समता की ओर ले जाते हैं, लेकिन हमारे व्यवहार में असमानता हैं। आज हमें अपने देश के अंदर एक ऐसा वातावरण तैयार करना है जिसमें धर्मशास्त्रों के अंदर जो आदर्श हैं समता के और मनुष्य को ही नहीं प्राणी मात्र को एक समझने के, उनका हम पालन कर सकें और वे हमारी रंग रंग में व्याप्त हो जायें और केवल विचारों में ही न रह कर हमारी क्रिया में आ जायें। आज देश के अंदर हमारे विचारों में क्रान्ति आ चुकी है। अब हमें क्रिया में, व्यवहार में क्रान्ति लाने की आवश्यकता है। क्रिया में क्रान्ति लाने की वजह से आज हमने इस बिल का स्वागत किया है। हमारे सिद्धान्त और आदर्श हमारे व्यवहार का अंग बन जायें, वह हमारे जीवन का अंग बन जायें, आज हमें यही प्रयत्न करना है, और इस प्रयत्न को साकार और सफल बनाने के लिए, श्रीमन्, यह बिल ही काफी नहीं हो सकता। हमें इससे भी ज्यादा व्यापक और कंप्रिहेंसिव एक बिल कांस्टीज्म को दूर करने के लिये, जाति प्रथा को समूल, आमूल चूल नष्ट कर देने के लिए लाना होगा, और मेरा उपगृह मंत्री जी से यह निवेदन है कि वे शीघ्र ही एक ऐसा बिल सदन के अंदर लायें जिससे कि हमारे अंदर आज जो जाति प्रथा है, और जाति प्रथा ही एक ऐसी चीज है जो कि अछूतपन को पाँपित कर रही है और उसे हमेशा जीवित रखेगी इस फार्म में, इस रूप में नहीं तो

उस रूप में, तो उसे खत्म करने में हम समर्थ हो सकें। बस, यही मेरा कहना है।

डा० डब्लू० एस० बार्लिंग: उपसभापति महोदय, मैं इस विधेयक का समर्थन करने के लिये खड़ा हुआ हूँ। अभी इस सदन में जो भाषण हुए उनमें बहुतेरी अच्छी अच्छी बातें कही गईं। मैं उनको नहीं दोहराऊंगा। मैं तो इस विधेयक के बारे में जो मुझे चंद संशय मालूम होते हैं उनको ही मंत्री महोदय के सामने व्यक्त करना चाहता हूँ।

पहली बात जो मैं कहना चाहता हूँ वह यह है कि क्लॉज २ में “place” यह जो शब्द है इसकी व्याख्या बहुत व्यापक सी मालूम होती है। विधेयक में यह कहा गया है कि “place” includes a house, a building a tent, and a vessel.” मुझे तो यह व्याख्या बहुत ही अच्छी लगती है, और यदि मुझसे पूछा जाय तो इस पर मैं आपत्ति नहीं करना चाहता हूँ। लेकिन मुझे भय है कि यह जो व्याख्या है, यह शायद बहुत ही ज्यादा व्यापक हो जायगी, इतनी व्यापक होगी कि उससे हर एक सिटीजन को, हर एक नागरिक को कांस्टिट्यूशन ने जो कुछ अधिकार दिये हुए हैं, शायद उनके अधिकारों के ऊपर इससे आक्रमण हो जायगा। मैं इस सम्बन्ध में यह कहना चाहता हूँ कि अस्पृश्यता को हमको नष्ट करना ही चाहिए। इतना ही नहीं, बल्कि जैसा कि अभी श्रीमती लखनपाल ने कहा इस देश में जो जाति भेद है उसका भी हमें विनाश करना चाहिए, मैं उनसे पूर्णतया सहमत हूँ। लेकिन फिर भी मैं यह जरूर चाहूंगा कि कोई भी कायदा, कोई भी कानून ऐसा न हो कि जिससे जो अधिकार कांस्टिट्यूशन में नागरिकों को दिये हुए हैं उनके ऊपर आक्रमण हो।

मुझे भय है कि यह व्याख्या इतनी व्यापक है कि कहीं उसमें नागरिकों के अधिकार पर आक्रमण न हो जाय। उदाहरण के लिए मैं यह



[डा० डब्लू० एस० बार्लिंगे]

कहना चाहता हूँ कि एक कुटुम्ब हैं जो कि बहुत दिनों से अपने घर में आर्थोडाक्स तरीके से व्यवहार करता हैं। जब तक उस कुटुम्ब के व्यक्ति इस देश के नागरिक हैं तब तक उन्हें हक है कि वह जैसा चाहें घर के अंदर व्यवहार करें। चाहे सार्वजनिक कमरे में वैसा न करें। अगर वे घर में इस तरह का व्यवहार करते हैं (यह दूसरी बात है कि हम उसे पसन्द नहीं करते), लेकिन चूंकि वह नागरिक हैं, इसलिए वह घर में जिस तरह का व्यवहार करना चाहता हैं, वैसा करने की उनका फ्रीडम दी जानी चाहिये। मैंने यह एक उदाहरण आप को दिया, लेकिन मेहरबानी करके आप यह न समझें कि मैं इस चीज के पक्ष में हूँ या उसे पसन्द कर रहा हूँ क्योंकि मुझे तो इस तरह का व्यवहार पसन्द नहीं है।

श्री जसपत राय कपूर : इस विधेयक में आगे जो धाराएं हैं उनमें इस तरह का कोई अधिकार नहीं दिया गया है कि कोई आदमी निजी घर में इस तरह का व्यवहार करता है तो वह अपराधी होगा।

डा० डब्लू० एस० बार्लिंगे : वही तो मैं आप से कह रहा हूँ कि इसमें जो व्याख्या दी गई है वह बहुत ही व्यापक है : "place includes a house, a building, a tent and a vessel" मैं इस सम्बन्ध में जो भय व्यक्त कर रहा हूँ, मुझे आशा है माननीय मंत्री जी उसको अपने उत्तर में दूर कर देंगे। मैं सुझा रहा हूँ कि "प्लेस" की जो व्याख्या इस बिल में दी गई है वह इतनी व्यापक है कि उसमें "प्राइवेट हाउसेज" भी आ जाते हैं।

SHRI H. C. DASAPPA: Which penal provision in the Bill is the hon. Member referring to? It is only for my enlightenment that I am asking him. I follow his Hindi all right. How does the mere fact that 'place' also includes a house or a building bring within its scope a penal offence?

What are the provisions which relate to that?

DR. W. S. BAR7JNGAY: My friend has not really followed my point. I agree with him generally. What I am suggesting is that the definition of the word 'place' is so wide that it may include a private house also and ultimately, when taken along with one of the penal provisions of this Bill, it may encroach upon the right which has been given to individuals in this country by the Constitution. I was only expressing my doubt. I am not clear in my own mind about this point. I will not be able to point out to you a provision according to which, when this definition of the word 'place' is taken along with the penal provision, it may encroach on any right. But I have a fear in my own mind. I don't know. I am only expressing a fear. However I will go on to another point.

दूसरी जो बात मैं कहना चाहता हूँ वह क्लाज २ के बारे में है। जब मैं मध्य प्रदेश में था तब दो हरिजन कानून बनाये गये जिनका नम्बर शेड्यूल में चार और पांच हैं। ये हैं : The Central Provinces and Berar Scheduled Castes Act, 1947 and the Central Provinces and Berar Temple Entry Authorisation Act, 1947. इन एक्टों के बनाने की कुछ हद तक जिम्मेदारी मेरे ऊपर आती है। जब मैंने ये एक्ट्स बनाने की कोशिश की तब मुझे यह बताया गया और कुछ जैनियों के रिप्रेजेंटेशन भी मेरे पास आये जिनमें कहा गया था कि इस वक्त जो टेंपल इंट्री ऑथराइजेशन बिल हैं, वह जैन मंदिरों पर लागू नहीं होना चाहिये। मैंने उस वक्त उसका ऊपर एतराज किया और कहा कि यह एक्ट उन पर भी लागू होता है। लेकिन आप जानते हैं कि कानूनी मत एक दूसरी बात है। मेरा मत और कोर्ट का मत, इनमें अन्तर हो सकता है। लेकिन इस बिल में जो प्राविजन किया गया है उससे मुझे जो भय होता है वह यह है कि अगर कोई जैन अस्पृश्यता को मानता

हैं तो उसके ऊपर तो यह प्रतिबन्ध है। मैं यह बात भी मानता हूँ कि कोई भी जैन ऐसी चीज नहीं करेगा। लेकिन मुझे भय यह है कि जैनियों के जो मंदिर हैं, उनको यह बिल लागू नहीं होता। आप इस बिल को गौर से देख लें। इसमें यह दिया हुआ है :

*"Explanation.—For the purposes, of this section and section 4 persons professing the Buddhist, Sikh or Jain religion or persons professing the Hindu religion in any of its forms or developments including Virashaivas, Lingayats, Adivasis, followers of Brahmo, Prarlhana, Arya Samaj and the Swaminarayan Sampraday shall be deemed to be Hindus."*

लेकिन इसमें जैन टम्पल के बारे में कहीं भी जिक्र नहीं है। अगर कोई जैनी किसी हिन्दू को हिन्दुओं के मंदिर में जाना से रोकता है तो उसे इस बिल के अधीन सजा मिल जायेगी किन्तु इसका अर्थ यह नहीं होगा कि जैन मंदिर अस्पृश्य लोगों के लिए खुले होंगे। दोनों चीजों में फर्क है। इसलिए मुझे सुझाना है कि यह जाँ बलाज है अगर इसका बदले दूसरा बलाज बनाया जाता तो शायद अच्छा होता और मंत्री महोदय के मन में जो उद्देश्य है वह भी पूरा हो जाता।

तीसरी बात जो मैं आपके सामने रखना चाहता हूँ वह यह है कि आपने यह कानून तो जरूर बना दिया है। लेकिन केवल कानून बना देने से ही हम अस्पृश्यता को नष्ट नहीं कर सकते हैं। जैसा कि आप सब लोग जानते हैं कि हम लोगों ने प्रोहिबिशन के बारे में कुछ कदम उठाये हैं, लेकिन प्रोहिबिशन की वजह से इस देश से दारू या शराबबन्दी नष्ट नहीं हो गई। हमें इस सम्बन्ध में जनता का हृदय परिवर्तन करना होगा। कानून बना देने से इस तरह की चीजें एकदम दूर नहीं होती, यह बात भी माननीय मंत्री जी जानते हैं। इसके साथ ही साथ हमें रचनात्मक कार्य भी करना होगा। परन्तु मैं एक चीज मंत्री महोदय की

नजर में जरूर लाना चाहता हूँ। वह यह है कि यद्यपि हम एक कानून बना दें और अस्पृश्यता को मानना एक गुनाह बना दें लेकिन सवाल यह पैदा होता है कि अगर कोई ऐसा गुनाह करता है तो उसको कोर्ट के सामने, अदालत के सामने, कैसे खींचा जाय और खींचने के बाद जो गुनाह वह करता है उसको सिद्ध कैसे करें। यह कोई सामान्य बात नहीं है। यह कोई सामान्य बात है ऐसा मुझे नहीं लगता। हमारे मंत्री महोदय जानते हैं कि आज हमारे समाज की क्या हालत है। मैं यह स्वानुभव से कहता हूँ क्योंकि शायद हमारे मंत्री महोदय जानते होंगे कि मध्यप्रदेश में यह विभाग मेरे स्वाधीन था और मैं अनुभव से जानता हूँ कि इसमें कितनी दिक्कतें आती हैं। आज आप एक सामान्य दहात में चले जाइयें, बहुतों लोग गुनाह करते हैं लेकिन सवाल यह होता है कि उनको पकड़ें कैसे और पकड़ने के बाद कोर्ट में खींचें कैसे और कोर्ट में खींचने के बाद उस गुनाह को साबित कैसे किया जाय ? यह सब से बड़ी बात है।

एक चीज मंत्री महोदय ने बहुत अच्छी की है और मैं समझता हूँ कि मध्यप्रदेश का जाँ एक्ट है उसमें भी यह चीज थी, वह यह है कि यह गुनाह कागानिजबुल है। कागानिजबुल का मतलब यह है कि समाज के लोग उसको मानें या न मानें, कम्प्लेंट करें या न करें फिर भी जाँ पुलिस के अफसर हैं वं गुनाह के बारे में कुछ कदम उठा सकते हैं। लेकिन मैं मंत्री महोदय को एक चीज जरूर बताऊंगा कि यद्यपि पुलिस के जरिये एक कम्प्लेंट दायर की जा सकती है फिर भी कोर्ट के सामने जब गुनाह को साबित करने का सवाल आता है तो, मैं क्या कहूँ, इतनी दिक्कतें होती हैं कि उसका कोई ठिकाना नहीं है। उस गांव के सब लोग इकट्ठा हो जाते हैं और जो गवाह हैं उससे साफ साफ कहते हैं कि अगर भाई तुम कोर्ट में गये और गवाही दी तो हम मार पीट करेंगे। ये बिल्कुल सीधी सीधी बात कहते हैं। तो मैं आपसे कहना चाहता हूँ कि सामान्यतः ऐसे मुकदमों में गवाहियां मिलना बड़ा ही मुश्किल

[डा० डब्लू० एस० बार्लिंग]

हो जाता है। चन्द दिन पहले आप क्रिमिनल प्रोसीजर कोड अमेंडमेंट बिल लाये और उसके बाद यह बिल लाये हैं। मैं मंत्री महोदय से यह जरूर पूछूंगा कि क्या उस क्रिमिनल प्रोसीजर कोड में इस विषय के बारे में कोई ऐसी बात है जिससे कि यह जो अड़चन आपके सामने रखा करती है उसका कुछ बन्दोबस्त हो। मैं यह जरूर पूछूंगा कि इन अड़चनों को दूर करने के लिये उसमें क्या बन्दोबस्त है।

एक बहुत अच्छी चीज हमारे मंत्री महोदय ने और की है और उसके लिये भी उनको बधाई देना चाहता हूं, वह चीज यह है कि क्लॉज १२ में जो प्रिजम्पशन की बात कही है वह बहुत अच्छी चीज है। आपने यह कानून कर दिया है कि अगर ऐसा गुनाह कोई करता है तो उसके खिलाफ प्रिजम्पशन हो सकेगा लेकिन मैं समझता हूं कि इससे भी काम नहीं चलेगा। जब तक आप प्रोसीजर में उचित परिवर्तन नहीं करते हैं तब तक जो गुनाह होते हैं उनका साबित करना बहुत ही कठिन चीज होने वाली है। क्रिमिनल प्रोसीजर कोड में भी इस सम्बन्ध में कुछ परिवर्तन जरूर करना चाहिये और अगर क्रिमिनल प्रोसीजर कोड में नहीं करते हैं तो इस बिल में ही कुछ इस तरीके के अमेंडिंग क्लॉजेज जरूर रखने चाहिये।

(समय की घंटी)

मैं केवल दो मिनट और लूंगा। मैं अब आपके सामने सोशल आस्ट्रीसिजम की बात रखना चाहता हूं। सोशल आस्ट्रीसिजम, सोशल बायकाट करना, आस्ट्रसाइज करना, ऐसी चीज है कि अगर १० लोगों ने मिल कर तय कर लिया कि किसी आदमी को आस्ट्रसाइज कर दें तो उनको एकड़ना सामान्य बात नहीं होती है और उनके ऊपर आस्ट्रीसिजम का गुनाह साबित करना भी बहुत ही मुश्किल होता है। दातार साहब खुद एक वकील हैं और वे जानते हैं कि अगर गुनाह करने वाले का बीफ उनको दे दिया जाय तो वे उसे मंजूर कर लेंगे और कहेंगे कि उसको एक्विट कराना चन्द

मिनटों का खेल है और वह एक्विट हो जायेगा। उसमें बहुत कठिनाई नहीं है। तो मेरी आपसे जो प्रार्थना है वह यह है कि गुनाह का जो यह टाइप है वह ऐसा पिक्चुरियर टाइप है कि उसके लिये क्रिमिनल प्रोसीजर कोड और एक्विट्स एक्ट और जो दूसरे आनुषंगिक कानून हैं उनमें उचित परिवर्तन करना आवश्यक है।

मुझे इस विधेयक के सम्बन्ध में और ज्यादा बातें नहीं करनी हैं। हमारे आनरीबल मंत्री श्री मजूमदार ने इस सम्बन्ध में बहुत अच्छी तर्करी की है। मैं उनको बहुत धन्यवाद देता हूं लेकिन साथ ही साथ एक बात जरूर कहना चाहता हूं कि हमारे दातार साहब के ऊपर उन्होंने जो चोट की और यह जो हमेशा लेकर बाजी हुआ करती है कि मंत्री महोदय ने यह नहीं किया, वह नहीं किया, उनको यह मालूम नहीं है वह मालूम नहीं है, इससे मैं बिल्कुल सहमत नहीं हूं। सब चीजें हमारे दातार साहब को पूर्णतः मालूम हैं और जो चीजें वह चाहते हैं उन सब को वह करना भी चाहते हैं लेकिन उनके रास्ते में जो अड़चनें हैं वे बहुत हैं। जो घर बनाना चाहता है उसको मालूम होता है कि उसमें कितनी अड़चनें हैं लेकिन जो घर नष्ट करना चाहता है उसके सामने तो कोई अड़चन होती नहीं। इसलिये यह जो सामान्यतः हमारे मंत्री महोदय के ऊपर क्रिटीसिजम हुआ करता है, यह जो व्याख्यानबाजी हुआ करती है उससे मैं बिल्कुल सहमत नहीं हूं। बाकी जितनी चीजें मजूमदार साहब ने कहीं उन सब से मैं पूर्णतः सहमत हूं। धन्यवाद।

श्रीमती सावित्री निगम (उत्तर प्रदेश) : उपसभापति महोदय, मैं भी इस बिल का हार्दिक समर्थन करने के लिये खड़ी हुई हूं। सदियों से चली आई इस अमान्य कुरीति तथा शोषणकारी प्रथा का विनाश करने के लिये जो विधेयक लाया गया है वह अत्यंत प्रभावशाली है तथा अत्यंत लाभप्रद है और ऐसा प्रतीत होता है कि समय की मांग के अनुसार आवश्यकता को पूरी तरह से पूरा करने के लिये ही इस विधेयक को इतना अधिक उपयुक्त बनाया गया है।

श्रीमन्, पिछले वर्ष इसी सम्बन्ध में जो विधेयक पास हुआ था उसकी मौजूदगी में भी लोगों को अनुचित छुआछूत, पाखंड तथा अंधविश्वास के काम करने का मौका मिल जाता था। कभी कस्टम और युसेज के बहाने से और कभी दूसरे तरीकों से लोग अपने को कानून की निगाह से बचा लेते थे और समाज की निगाह में भी उस पुराने शोषण को बराबर आगे बढ़ाते और पनपाते जाते थे। श्रीमन्, ऐसा लगता है कि सवर्णों की सगुणों की जिम्मेदारी शायद इस विधेयक के द्वारा किसी मात्रा में दूर हो जाय। आज भी हमें आये दिन ऐसी घटनाएं सुनने और देखने को मिलती हैं जिन्हें देख कर ऐसा प्रतीत होता है कि अभी हम लोग सोलहवीं सदी में ही रह रहे हैं। पवित्रता की रक्षा के लिये यह पवित्रता के तथाकथित पुजारी कहीं अपवित्र काम करते हैं। अभी कुछ दिन पहले हमने अखबारों में पढ़ा था कि एक मंदिर में चले जाने के कारण राजस्थान के एक गांव में कुछ लोगों ने एक हरिजन बच्चे को इतना पीटा कि वह तीन दिन तक बेहोश रहा। तालाब और कुएं अब भी हर गांव में अलग अलग हैं जैसा कि अनेक सदस्यों ने अभी पहले कहा है। यह कानून भी जब तक पूरी तरह से इम्प्लीमेंट न हो इस सदियों के पुराने पाप को मिटाने के लिये काफी न होगा क्योंकि आज भी अनेक गांव ऐसे हैं जहां यही नहीं कि हरिजन भाई बहनों को अलग कुएं और तालाब में पानी भरने और पीने पर विवश किया जाता है बल्कि उनकी छाया से लोग उसी तरह से भयभीत होते हैं और उनको दूर दूर रखते हैं जैसे कि सदियों पहले उनको रखते थे। और बेचार हरिजन भाइयों में इतनी शक्ति नहीं है, इतना साहस नहीं है और उनमें इतनी हीनता की भावना होती है कि वे इतना साहस ही नहीं कर सकते कि वे स्वयं कोई आवाज उठावें। उनके पास इतना पैसा भी नहीं होता है कि वे अदालत में जा सकें और यह सर्वव्यक्ति बात है कि बिना पैसे के आजकल अदालत में न्याय मिलना मुश्किल होता है। इस लिये, श्रीमन्, यदि सचमुच हमारे डिप्टी होम

मिनिस्टर महोदय यह चाहते हैं कि यह बिल इम्प्लीमेंट किया जाय तो मैं उनसे अनुरोध करूंगी कि वे कुछ ऐसी व्यवस्था करें कि हर क्षेत्र में, हर जगह में, हर ग्रामीण क्षेत्र में एक विजिलेंस आफिसर नियुक्त किया जाय, चाहे वह शंङ्खलुह कास्ट का हो, चाहे हरिजन वर्ग का हो, और वह वहां रह कर केवल यही न करें कि मंदिरों, तालाबों और कुओं में हरिजनों को बराबरी का हक दिलाये, बल्कि अगर कहीं ऐसे मामले हों कि सवर्ण हरिजनों पर अत्याचार करें, तो वहां वह स्वयं आगे बढ़कर उन भाइयों को सहारा दें और अत्याचार करने वालों को अदालत के सुपुर्द कर दें। इस लिये मेरा ऐसा अनुमान है कि बिना विजिलेंस आफिसर के रखे हुये इस बिल का पूरा पूरा उपयोग होना मुश्किल हो जायगा।

श्रीमन्, अब यह बीसवीं सदी है। सारी दुनिया में रंग भेद तथा तमाम तरह के शोषणों के खिलाफ हमारा दृश बड़े बड़े स्तरों और बड़े बड़े देशों से दुश्मनी ले कर भी उनकी खिलाफत करता है और उनके खिलाफ आवाज उठाता है जो किसी प्रकार का रंग भेद मानते हैं या किसी प्रकार का शोषण करते हैं। इस लिये इस थुग में इस बिल का नाम "अनट्रिबल्टी" (अफेंसिबल) बिल" न रख कर यदि 'सोशल इक्विटी बिल' रखा जाय तो अधिक उचित होगा। जैसा कि इस सम्बन्ध में एक अमेडमेंट हमारे एक भाई ने पेश किया है, यदि उसको स्वीकार कर लिया जाय तो वह एक पुरानी कहानी को स्मरण करने से बचाने वाला होगा और लोगों को एक हीनत्व की भावना से बचाने वाला होगा।

श्रीमन्, अभी कुछ भाइयों ने कहा कि यह जो नया कानून बना है इसकी कुछ धाराएं ऐसी हैं जो बहुत दूर तक जाती हैं और लोगों की व्यक्तिगत स्वतंत्रता में बाधा पड़ने की संभावना है। मैं तो यहां तक कहना चाहती हूं कि इससे भी सौ गुना अधिक बाधाओं और कष्टों का सामना सवर्णों को क्यों न करना

[श्रीमती सावित्री निगम]

पहले, लेकिन इस विधेयक की धाराओं को और भी अधिक प्रभावशाली बनाया जाना चाहिये और तब ही इस सद्दियों के पुराने पाप का प्रायश्चित्त हो सकेगा।

जाति भेद के सम्बन्ध में हमारे हरिजन भाइयों ने बहुत कुछ कहा कि हमारा तिरस्कार होता है और मैं भी जानती हूँ कि तिरस्कार होता है, लेकिन मैं उनको यह बताना चाहती हूँ कि केवल यही नहीं है कि हरिजनों के साथ ऐसा होता है बल्कि उत्तर प्रदेश और बिहार में ऐसे गांव हैं जहां पर ब्राह्मण और ठाकुर लोग जयसवाल, खरी, कुमी, काछी और दूसरी जातियों के हाथ का छुआ पानी नहीं पीते हैं।

श्री किशोरी राम : ऐसा बिहार में नहीं होता है।

श्रीमती सावित्री निगम : मैं ग्रामीण क्षेत्रों की बात कह रही हूँ। उनको अपने बर्तनों में खाना नहीं दते, या तो खाना मिट्टी के बर्तनों में दते हैं या पत्तल में दते हैं। यह भी जाति भेद का एक अंग है और इस पर भी हर तरह से विचार किया जाना चाहिये। यदि उन जातियों में, जिन की असवर्ण में गिनती होती है, भेद भाव पाये जायें तो उनको भी अवश्य दीर्घित किया जाना चाहिये।

श्रीमन्, आज भी मेरी निगाह में ऐसे दो चार मामले लाये गये कि जहां बेचार भूमिहीन हरिजन मजदूर हैं उनको और मजदूरों की बनिस्बत बहुत कम मजदूरी दी जाती है और दबा दबा कर उनसे तरह तरह की बंगार भी ली जाती है। हालांकि अब जमींदारी खत्म हो चुकी है लेकिन सवर्णों के लिये अब भी जमींदारी उसी तरह अक्षुण्ण बनी हुई है। मुझे बड़ी प्रसन्नता है कि शायद वह भी इस नये विधेयक के द्वारा किसी हद तक दूर होगी।

बहुत से लोग यह बात कहते हैं कि यह कानून पास करने के बाद, कुछ संविधान देने के बाद और थोड़ा सा रिजर्वेशन देने के बाद हमने हरिजनों के लिये बहुत काफी किया है।

आज भी कुछ ऐसी चर्चा हमने यहां सुनी। जो ऐसा समझते हैं कि हमने हरिजनों के लिये बहुत कुछ किया है, उनसे मैं यह कहना चाहती हूँ कि हरिजन भाइयों के लिये जितना किया जाना चाहिये उसका अभी साँचा हिस्सा भी नहीं किया गया है। जो इतने समय से दूसरों का शोषण करता रहा है उससे यदि यह आशा की जाय कि वह शोषण करना भूल जायगा तो वह आशा दुराशामाव है। आज हमारे हरिजन भाई इतने पिछड़े हुए हैं, उनमें इतनी कमजाँरियां हैं, उनमें इतनी हीनत्व की भावना है कि आगे वाले पचास वर्षों तक हमें उन्हें पूरी पूरी मदद देनी होगी तब कहीं वे इस योग्य होंगे कि अपने पैरों पर खड़े हों।

यह कानून पास हो रहा है, लेकिन इसके इम्प्लीमेंटेशन के लिये सरकार को कुछ ऐसी व्यवस्था करनी चाहिये कि हर स्थान पर तीन तीन अच्छे वकीलों की एक कमेटी बना दी जाय और सरकार उनको थोड़ा बहुत एलाउंस देने लगे ताकि जहां कहीं हरिजनों के ऊपर अत्याचार के मामले हों वहां वे वकील उनको कानूनी सलाह दे सकें। इस लिये तीन तीन आदमियों की कमेटीयां सरकारी तौर से हर स्थान पर नियुक्त करनी चाहियें और उनको कुछ एलाउंस दे देना चाहिये। यह मेरा दूसरा अनुरोध और सुझाव है।

श्रीमन्, मैं यह भी चाहती हूँ कि जिस प्रकार पार्लियामेंट, असेम्बलीज और विधान सभाओं में हरिजन भाइयों के लिये कुछ सीटें रखी गई हैं, उसी प्रकार यदि ग्राम पंचायतों में भी हरिजन भाइयों के लिये २५ या ३० प्रतिशत स्थान सुरक्षित कर दिये जायें तो बहुत से मामले वे स्वयं सुलझा लेंगे। इस लिये यह बहुत आवश्यक है कि हर जगह प्रान्तीय स्तर से लेकर ग्रामीण स्तर तक हमारे हरिजन भाइयों को पूरा पूरा रिप्रजेंटेशन और रिजर्वेशन मिलना चाहिये। अभी ऐसी हालत नहीं है कि वे सब जगह स्वयं आ जायेंगे। यदि कोई ऐसा नियम नहीं बनाया जायगा तो उनको पंचायत में सीटें मिलना मुश्किल हो जायगा। जब उनको कुछ

से पानी नहीं भरने दिया जाता है तो गांवों में इतना उदार कौन हो जायगा जो उनको पंचायत में स्थान दे देगा ?

श्रीमन्, मैं थोड़ा सा अनुरोध अपने हरिजन भाइयों से भी करना चाहती हूँ कि उन्हें अब इस कानून का ऐसा सहारा मिल गया है कि अब इसे लेकर वे शीघ्रता से आगे बढ़ सकते हैं और इसका पूरा पूरा उपयोग कर सकते हैं । खास तौर से इस कानूनी सहारे को पूरा पूरा उपयोग में लाने के लिये दो तीन बातें अवश्य करनी चाहियें । एक तो उन्हें हरिजन भाइयों को यह बताना चाहिये कि जो ऐसी अपमानजनक चीजें हैं जैसे रोटी लेना या भेंट के रूप में फट्टे पुराने कपड़े स्वीकार करना, इनको तुरन्त बन्द कर देना चाहिये क्योंकि इससे उनके हृदय में हीनत्व की भावना उत्पन्न होती है । इसके अतिरिक्त सिर पर टोकरी में विष्टा लेकर चलने की जो प्रथा है उसको हरिजन भाई बहनों को एक दिन भी नहीं स्वीकार करना चाहिये । उनको चाहिये कि वे इसके लिये तुरन्त सत्याग्रह कर दें और म्युनिसिपल बोर्डों को इसके लिये मजबूर करना चाहिये कि उनके लिये लाहें की गाड़ियों की व्यवस्था की जाय । मैं यह नहीं कहती कि सेवा का कार्य बुरा होता है । सेवा हम भी करते हैं और उनको भी करना चाहिये । परन्तु उसका ऐसा मानवीय तरीका होना चाहिये जिससे घृणा न उत्पन्न हो ।

3 P.M.

मैं चाहती थी कि यदि कानून के अंदर कुछ ऐसी व्यवस्था की जा सकी होती तो और भी अच्छा होता कि हर म्युनिसिपल बोर्ड और डिस्ट्रिक्ट बोर्ड को इस बात के लिए मजबूर होना पड़ता कि जितने भी ऐसे गंदगी के काम हैं उनको होने के लिए हर एक भाई और बहिन को एक एक गाड़ी दी जाय, तो शायद ज्यादा जल्दी काम होता ।

श्रीमन्, एक बात मुझे और कहनी है । मुझे कुछ सुनने में आया है—मैंने इस बात की कुछ थोड़ी तहकीकात भी की है—कि पर्वतीय

39 RSD.-4.

क्षेत्रों से ६०, ७० हरिजन बहिनें ऐसे लोगों के चंगुल में आकर फंस चुकी हैं और बिक चुकी हैं जो कि उनके द्वारा अनुरोधित तरीके से धन कमाना चाहते हैं । ऐसी रिपोर्ट मेरे पास आई थी, मैंने उसको होम मिनिस्टर महोदय के पास भेज भी दी है । जब मैंने उस बात का पता लगाया तो मुझे पूरा पूरा पता चला कि वे हरिजन बहिनें पर्वतीय क्षेत्र की हैं और उनके मां-बापों ने अपने को कर्ज से मुक्त कराने के लिए उन्हें विक्रीत कर दिया है । इस प्रकार ऐसे खराब लोगों के हाथ में पड़कर वे निकृष्ट जीवन बिता रही हैं । यदि यह मामला सही है तो इसकी तहकीकात तुरन्त की जानी चाहिए और उनको मुक्ति दिलाने का प्रयत्न तुरन्त किया जाना चाहिए ।

(Time bell rings.)

MR. DEPUTY CHAIRMAN: Madam, you should wind up. I have still got six names.

श्रीमती सावित्री निगम : वैसे तो जो सोशल वेलफेयर स्टैंड हैं उसमें प्राइमरी एजुकेशन और सभी तरह के एजुकेशन हर एक के लिए कंपलसरी होने चाहिये, लेकिन अगर हम सबके लिए कंपलसरी नहीं कर सकते तो कोई बात नहीं, वे अपने आप अपने पैरों पर स्वयं खड़े हो कर अपने बच्चों को शिक्षित कर सकते हैं । लेकिन मेरा अंतिम सुझाव है और वह इतना महत्वपूर्ण है कि अगर उसको मान लिया जाय तो शायद वह इस कानून से भी ज्यादा फायदेमंद होगा .....

श्री उपसभापति : वह तो कांस्टिट्यूशन में लिखा है ।

श्रीमती सावित्री निगम : कि कम से कम हरिजन भाइयों और बहिनों के लिए हमें हर स्तर पर एजुकेशन कंपलसरी कर देनी चाहिए ।

श्री उपसभापति : इसके बारे में कांस्टिट्यूशन में लिखा है । अब खत्म कीजिए । डा० अन्पूर्सिंह ।

DR. ANUP SINGH (Punjab): Mr. Deputy Chairman, I associate myself wholeheartedly with all the observa-

[Dr. Anup Singh.] tions that have been made in favour of this Bill. I think it was overdue, but I am very glad that it has been very carefully planned and conceived. I think this is the first time when we will have an opportunity, if we are really earnest about it, to implement the provisions of this Bill. I would like to say, Sir, that in this age, it is rather very strange that we in India should continue to treat a very large section of our population the way we have been treating them, and I am sure hon. Members will agree with me when I say that even now there is a yawning gap and gulf and a discrepancy between our professions and our real practice and as one of the Members remarked this morning, untouchability is still being practised in the rural areas. That is perfectly true. But I do not think that it is any less practised in the cities also and I regret to note that even some of the Members of Parliament to my knowledge still practise that. It will be rather unfair to name any one, but I have come across many cases of people who say that it is due to some family traditions and some old habits. Though they fully subscribe to the idea that untouchability is a repugnant institution and should be done away with, when it comes to actual practice, they still find it very difficult to reconcile themselves to the new ideas and to the new spirit. During many discussions on the South African problem in the U.N.O. when our Government opposed the racial discrimination practised in South Africa and rightly so, I happened to be there once or twice, and I know that many Members of the U.N.O., of course in their lobby talks, used to remind us that we in India also practised discrimination and I recall very vividly and almost as a matter of great regret that one of the Members from South Africa told me that whereas they practised racial discrimination against people of another race, so far as he knew, we in India practised racial discrimination against our own people. And I think that in order that

our moral protest against discrimination of any sort anywhere should have a greater potency and more force, we should try to set our own house in order. I know it is always easy to pass a legislation but to actually put it into practice is not so easy, and even after this Bill we will have to do many things, will have to educate the people by all sorts of means and make them realise that this system must end once for ever. We must also reorientate the outlook of the officials who are in charge of and who ultimately will be responsible for enforcing it. As a member of the Backward Classes Commission I had the opportunity to go to different parts of the country and I am not revealing any contents of the Report when I tell you that it was really a great shock to me to find that not only the uneducated people but the educated people also, people of some status, and people of culture, were still trying not only to practise untouchability but to justify it and rationalise it by all kinds of camouflage, and the members of not only the Scheduled Castes but those of other backward classes also, I regret to say, are treated with contempt and discrimination is practised right now in this day and age of 1955, and we have to go a long way still. I fully agree with the ideas expressed by my friend Mr. Mazumdar that, although the roots of these institutions are sociological and religious, they are very intimately tied up with the economic situation and unless the economic status and the position of these so-called backward classes and the neglected classes and the Harijans are raised, it will not be very easy to enforce the provisions of this Bill and to make it a reality.

I do not think that I need speak at length on the merits of the Bill because I do not think there is any controversy and I find that the Members are fully agreed that this Bill is eminently desirable, and, as I said in the beginning, it is almost overdue. Through the great and inspiring leadership of Mahatmaji, we as a nation have achieved our political

freedom and today we are busy and engaged in gigantic economic problems and projects to raise the economic standard of our people, and I think it is only just and fair that we voluntarily and with grace initiate a social revolution and give social freedom to our submerged classes and neglected people. Only then can we claim to have come up to some of the modern standards.

I fully support the Bill with these very brief observations.

SHRI T. BODRA (Bihar): Mr. Deputy Chairman, I support this Untouchability Bill wholeheartedly. Today the Scheduled Caste people do not need segregation, but what they need today is integration.

I regret very much when a colony is known as a Harijan colony or a hostel is called a Harijan hostel. There is nothing in the Untouchability Bill which I can criticise and I wholeheartedly welcome the spirit of it. To my mind it is really the economic conditions of the people, especially their land alienations. I come from the State of Bihar and there I have found from my own experience that mostly the Harijans and the Scheduled Caste people who owned lands and very good lands too, had to part with them because of their ignorance, illiteracy and bad habits like drinking of wine. For all these it is not the Scheduled Castes that are responsible but the higher classes like Bhumihars, Rajputs, Kayasths, Brahmins etc. These are the people in Bihar who exploit the ignorance, the illiteracy and the backwardness of the Scheduled Caste people so much that today the Scheduled Caste people have not got even six square yards of land on which they can build their huts. And what is the result? The result is that they have become landless labourers. They have to depend upon the capitalists, upon the Bhumihars, upon the Kayasths who have got large tracts of land and whenever driven away from that occupation of hired labourers, they have become criminals, dacoits, and thieves. So to

my mind the rise and fall of the Scheduled Caste people depend on their lands. Of course, his abolition of untouchability will also go a long way to improve their conditions but I would suggest very seriously that if Parliament could enact a law for the restoration of the lands alienated since the year 1908, then the Scheduled Caste people could be brought back to the status of other much lucky brethren of India and then they would be able to look after themselves not only in the field of education, economic field etc. but also in spirits, health and mind. This Bill will certainly enable the Scheduled Caste people to go and worship in the temples and in other places of worship which were closed to them for centuries but if the lands which have been alienated, which have been taken away from the Scheduled Caste people, are restored to them, certainly I would say they will become so wealthy that it will not be incumbent upon the State and the Parliament to throw open the gates of the temples to them for worship but they can themselves make very good temples and places of worship in their own colonies.

Lastly, I disagree with the Deputy Minister for Home Affairs when he says that the Adivasis are Hindus. Very fortunately, they are not Hindus. Had they been Hindus in the past, they would have become untouchables by now. The Adivasis are neither Hindus nor Muslims. They are worshippers of Nature. They worship serpents; they worship the moon; they worship the clouds; they worship the trees; they worship the seasons—all the year round.

SHRI R. U. AGNIBHOJ: The Hindus also worship them.

SHRI T. BODRA: Adivasis are not Hindus and I would submit that this Bill should not be applicable to them.

SHRI M. GOVINDA REDDY (Mysore): Sir, I am very happy to note that this Bill has been welcomed universally. Sir, untouchability has been here since ages. There were days



(Shri M. Govinda Reddy.) •when one had to argue with a large section of the people of this country that untouchability was a sin, ungodly, unholy and inhuman. But those days are gone. Now, nobody need be told these things and if there are some people who still believe in it, they are people who are themselves untouchable, whom reason and knowledge can never touch. But they are very few and we need not mind them. In spite of all these things, untouchability still remains. Though several seers and saints of Hinduism and different founders of different religions have come up from time to time preaching against untouchability and though reformed Hindus took untouchables and integrated them with Caste Hindu society, still this has remained. And if it has : emained in spite of all these, it has remained no; because of any religious conviction. Unfortunately, in India we do not have strong religious convictions. We have religious scruples; we have superstitious beliefs but we have no religious convictions. So long as anything is convenient for us to believe in, we believe in it and practise it but as soon as it becomes inconvenient, as soon as we feel that we are likely to get into trouble by following a ^articular practice, then we give it up. So if untouchability has remained, it has remained because there has not been sufficient force to make people believe that belief in untouchability and the practice of untouchability would entail penalties. If only there were penalties, nobody would have believed in untouchability and it would have been dead long long ago. Histo:y shows that we have not given up our religious scruples and blind religious practices by mere appeal <o reason, or by mere appeal ;o sentiment or by our own sense cf humanity and if at all we have given up such bad practices—and we have given up a number of superstitious and evil practices—it was because there were penalties prescribed. For example, *sati* was very widely practised, at least in North India and nobody was willing to give it up in spite of the

fact that a vigorous propaganda against that was going on right from the time of Ram Mohan Roy. But as soon as it was made a penal offence, it was given up. So, that is the justification for a Bill like this. I agree with Dr. Anup Singh that this is a belated measure. The Government should have thought it wise and thought it fit to have brought this measure long ago, at least as soon as we had people's government here. It was not done but I am glad that at least now they have come forward, very boldly I should say, to bring such a measure and I have no doubt that they will also uphold it with equal faith.

Sir, with regard to the BiTI itself, I have very few observations to make. I have some observations on the clauses but this is not the time to make them and as I have not got much time now, I would like to make a few general observations. Firstly, it is not very easy to work this Bill. Knowing our society as we do, there are difficulties in the way. The first difficulty as I see is that those who implement the Bill are Caste Hindus. Most of them—99 per cent of them— are Caste Hindus and it is conceivable that most of them have belief in untouchability. Either by habit or because of the social structure they come to believe in it involuntarily. So if an offence is committed the success of the prosecution depends upon the zeal of the man or upon the straightforwardness of the prosecutor, • upon his ability to get witnesses to prove the offence and upon the courts themselves. If the Government want to make this measure a success—and I have no doubt in their intentions—they must take extra precautions to draw the attention of the officers to this aspect and to see that without fear or favour the officers do discharge their duties in pursuance of this Bill. But at the same time overzeal has to be avoided As we all know, any false case or any false prosecution is likely to result in social tension. We had social tensions and it is very unfortunate that we had

to invite some foreign experts to study social tensions in the country. When this is unfortunately the case, we should see that proper care is taken to impress upon the officers the gravity of the situation that while not fearing anybody in implementing this Bill, they should also see that they do not yield to pressure, legal pressure or party pressure. By party pressure I mean the party spirit prevalent in the villages. There are many factions in villages. Because this Bill has many provisions under which anybody could be drawn into and got punished, it may be that one party out of spite may try to rope in somebody under the operation of this law and get him punished. So the officers who are the guardians of this Bill must take care to see that they do not indulge in overzeal. Sir, as many have observed, the success of this Bill does not depend upon this law alone. The extent to which we will be able to remove untouchability does not depend upon this measure itself, because law, as we all know, will be effective if the majority of the people are willing to obey. But, however strongly we may try to enforce it, if the majority refuse to obey—however strong the Government may be, however strong the judiciary may be, however strong the police force may be, it will not be successful. So, the Government must take care to see that along with the implementation of this Bill, they also pursue other measures. And it has been urged on the floor of this House that the roots of untouchability are not so deep in religion but they are deep in the economy of the country. I was carefully listening to the speech of the Deputy Home Minister when he moved this Bill and he made an observation that untouchability unfortunately is still persisting in rural areas. It is so, but I would not have taken very strong exception if it had persisted only in rural areas. It is bad enough, but it has persisted in white collar society, in the official class, in the educated class, in the class of legislators. It is very significant to note that in the budget of

1934 a large portion of the sum set apart for the upliftment of the Scheduled Castes have lapsed. What does it mean? It means that those who had the power to spend the money, who had the money with them, did not want to spend it or care to spend it. Sir, it is very, very painful to note that our officials, our Services, have not yet realised the gravity of the offence. They have not yet realised the importance of the attempts that we should make to remove this untouchability. The figure of lapse runs into nearly a crore. For the moment I do not remember the exact amount, but it is a startling figure to which the Finance Minister himself had to make a reference. That means the State Governments have not got the zeal to remove untouchability; they are not making even any little attempt to remove this untouchability; and the Union Government itself has not thought of any economic programme.

Sir, a Government which has got social welfare for its ideal, which has got a "socialistic pattern of society" as its objective, should have, to begin with, as the first step, launched a purposeful, directive economic programme to remove this untouchability. I see that even today the Government has not such a programme. Merely saying that we have provided sums for scholarships, we have provided sums for sending scholars abroad would not do. They may point to such reliefs as these: but a pointed planned, directive programme calculated to remove untouchability, I do not see even today. Well, Sir, the Government should note that fact. If an untouchable dresses as decently as ourselves; if an untouchable lives in a brick house or stone house; if an untouchable has got enough to fill his stomach; nobody minds, in spite of any religious scruple, mixing with him, to keep him by his side. We have seen people belonging to the untouchable class living well and nobody makes any distinction or difference. But those people who have no clothes to wear; those people who look sickly, who are dirty, dressed—such peoples

[Shri M. Govinda Reddy.] are being kept away. The lesson is that because they are economically backward, people kick them off. So, the Government should try to elevate them economically and uplift them. In this connection, as you know, Sir, Mysore has set a very noble example. I must make a reference to the noble efforts that they have made for several decades to remove the economic disabilities of these untouchables. They have made grants for housebuilding. They make grants of two hundred rupees, four hundred rupees and five hundred rupees to each householder; and they help him to build a house. They build as decent a house as the houses of Caste Hindus in the village. Such houses have come up by the thousand and that has improved their lot a good deal. Why don't the Union Government follow this example? Why don't the Union Government think of recruiting Harijans into the police, into the military? Why don't they think of establishing colonies, train them in mechanical work and make them industrial labourers? An Industrial labourer today is economically much better, much higher than an average middle-class peasant. So, it is a very good way of elevating the untouchables economically. We can bring them here; build houses for them; maintain them as long as they get themselves trained in a particular industry; and then ask our industrial magnates to employ them, or employ them in Government industries. We can instruct the State Governments to take them in the Police in larger numbers; to take them in the offices in *Daftri's* posts, where much literacy, much education is not required. We can ask the State Governments, persuade them to take them as forest guards, in the reserve service, etc. There are a hundred ways if the Government wants to do these things. Untouchability can be removed, can be effaced within a period of five years if only the Government intends to do it.

So, Sir, I wish to urge on the Government that they should not rely

upon this Bill alone to remove untouchability. This Bill has its limitations. In spite of its very well-knit and strong nature, this Bill may not be successful if the Government do not take care to see that other measures also are enforced. I am very glad that Mr. Jaspat Roy Kapoor gave a good number of suggestions. They are all very good. So, the Government must be reinforced in their armoury against this fight and they must take the officers who are in charge of spending those moneys to task, if they do not spend their moneys. I do not see anything wrong even if the Government takes those States who have not spent the allotted money, and those officers whose duty it was, to task • for not having spent the money.

Well, Sir, the Report of the Backward Classes Commission is awaited. We learn from the papers that it has submitted its report to the Government, but we have also fears that there are attempts made to water down the recommendations. I cannot make any remark, I will not be right in making any remark until I see what their recommendations are and until I see what the Government's decisions thereon are. But I would like to say that the fears of the untouchables, of the scheduled classes, are increasing instead of decreasing day by day; as we progress in our administration, as we make progress in our Independent India's career, these fears of the scheduled classes are increasing. There were in some villages in Mysore some fights between untouchables and caste Hindus in trying to enter a hotel. Some caste Hindus assaulted them. They wanted to launch prosecutions. The Police was unwilling to launch the prosecution; and then they were made to launch prosecutions, but then witnesses were not forthcoming. Such cases are happening in good numbers. The other day I was horrified to know that in Saurashtra somewhere some of the Harijans were branded, because some cattle were suffering from disease and that branding untouchables would eradicate the disease. Whenever such

a thing occurs, the Government must deal with the situation mercilessly; let it be a deterrent punishment so that people elsewhere should at least be afraid of taking such inhuman steps.

I wish that the Government have a separate Department for this and I would urge that the Government have a separate Ministry for the purpose of removing untouchability and for launching measures for the upliftment of untouchables and Scheduled classes. I wish the Bill every success.

SHRI H. C. MATHUR (Rajasthan): Mr. Deputy Chairman, I welcome this opportunity to speak on this measure, firstly because it is one of those very few occasions when I find myself very much in agreement with my hon. friend, the Deputy Home Minister, and secondly because I have got a suggestion to offer.

As we all know, Mr. Deputy Chairman, constitutionally, we had ceased to think of untouchability, and we had removed untouchability. But all the same, as we all know, matters have not improved in the least during all these six years. And therefore, it is very necessary for us to have a measure like this. It is not only the untouchables that have been suffering, but also those social reformers who have been wanting to be of assistance and help to them have found themselves very much handicapped. It is only last week that I received a very strong letter from my constituency showing how handicapped some of those people felt who wanted to assist and help the untouchables, and who wanted to take certain very necessary steps in this direction. The excommunication of these people, and all such things are being wrought. So, it is very necessary for us to have a measure like this. Apart from this, I feel that this is a very comprehensive measure, and I find that it is really all-embracing, and it will be able to cover all sorts of cases.

The only suggestion that I want to make is about the implementation of

the enactments. So far as the enactment of this measure is concerned. I repeat that nothing better could have been done. And confining myself only to the provisions of this Bill, I wish to submit that in implementing this measure there is a likelihood of some bitterness being produced at many places. Harijans or the untouchables, as we know, are in a very weak position, and therefore, I wish to suggest that instead of the people who are offended against taking any initiative in the matter, the Government should set up an organisation, so that the initiative could be taken by the Government itself. We have made this a cognizable offence. When we have made it a cognizable offence. Sir, the responsibility certainly lies with the police department. But as we all know, what happens in the administration of criminal justice is that the initiative is always taken by the aggrieved person. He has got to go to the police, and then only the machinery moves. But in this matter, I wish we could issue certain instructions, or we could set up the machinery, so that instead of the aggrieved party having to go to the police and moving the machinery, the State itself could move the machinery by taking the initiative. Thus there will be no occasion for the untouchables being made any victims of the wrath by the person against whom the proceedings are taken. This direct action, I feel, is very necessary in the circumstances in which we find ourselves today.

DR. ANUP SINGH: May I ask one question? How is the State to take the initiative unless certain specific cases are brought to its attention?

SHRI H. C. MATHUR: Well, Sir, the State machinery should be in a position to know all these things, because there is nothing which is being done in a hidden manner. We all know how the untouchables are being treated, and we all know how in a particular place they are not allowed to enter—where they want *to go*. What I wish to say is that they should

[Shri H. C. Mathur.] not be brought to the forefront. We know that in many places cognizable offences are committed. And it is the police that takes the initiative in many cases. Suppose, we hear of a robbery having been committed. The police will not wait for the person, in whose house the burglary or the robbery has been committed, to come and lodge a complaint. The police itself goes there and starts investigations. I am suggesting all this because of the very special circumstances in which we find ourselves. The Harijans are in a very weak position; the untouchables are in a very weak position. And in spite of whatever we may say here, I have no hesitation in confessing that it will be very difficult for me even to reconcile myself to the abolition of untouchability, in the real sense of the word, in my own life. It is so ingrained in our habits, in our social structure. We have to take into consideration the way in which we have been leading our lives, the way in which we have been adjusting our relations with these people. And not only they are economically so dependent, but in most of the cases we know how untouchability is being perpetuated. There are many organisations in every town which are engaged in helping people in this matter. These organisations will no doubt come forward. That is true. But I wish that the State itself should set up some machinery which should help these people and take upon itself the entire brunt of the trouble that is always very likely to come about, because of some action being taken in these matters.

Sir, I also have a word to commend that it is very wise and shrewd, and it is practical wisdom, to have kept these offences as compoundable, because it is only through that process of compounding these offences that we would be able to bring about the change which we want very much to bring about. And, if we want to come with a particular vengeance, it

will not help matters; it will certainly complicate matters. And in such a measure, particularly where we want more of a change of heart to come about, the compounding of offences will have a more far-reaching effect than the mere punishment. Mere punishment will leave a trail of bitterness behind, and nothing very good can come out of it. Of course, the Magistrate is there to exercise his discretion. He knows how to proceed in a particular manner. He also knows that if the compounding of a particular offence\* is not going to further the cause for which this enactment has been introduced, it is certainly open to him to refuse the compromise which has been done in so many other cases. We, who have any experience of the working of the judiciary, know that there are Magistrates who certainly refuse any complaint. And there is no reason for us to think that any pressure from the private individuals can force the magistracy to act in a different way. At least so far as I am concerned, it is only when the pressure is from the executive side of the Government itself that the Magistrates are likely to yield to such pressure. But knowing as we do, at the present moment, the Magistrate would think twice before acting against the spirit and the purpose of this legislation, because of the Governments that are in power today. And I give that credit to the Congress Government certainly, because they feel very strongly that this untouchability should be done away with, and that the persons who offend against it should be dealt with properly. So, there is very little fear of our thinking that the Magistrates would be unduly influenced. The Magistrates are very likely to be influenced only when they think that the Administration and the Ministries pitch the other way round. It would, therefore, not be very correct to think that most of our Magistrates would yield to pressure because of the accused persons wielding any amount of influence in this matter. They will think twice before they do anything.

As I submitted, Sir, what is most essential is that we should set up a special machinery. At present, as we have it mostly in the police itself, so also in the magistracy, in the executive, most of the offices are manned by caste Hindus and non-Harijans. So, in order to inspire confidence in the minds of these people, it would be much better if we have a special officer appointed, who is not over-enthusiastic, but who is an officer who takes a balanced view of things and implements the actual spirit of the enactment before us. By overemphasising it, we are going to make matters worse. We have got to move very cautiously in this matter. I listened very carefully to the speech of my hon. friend, Mr. Mazumdar, for whom I have very great respect. He spoke very truly and correctly when he gave the entire background, but I was wanting to know what suggestions in that perspective he had got to make, so far as the provisions of this Bill were concerned. So far as the provisions of this Bill are concerned, I accept the perspective he gave, but in the light of that perspective I would like to know as to how we are going to improve the provisions of this Bill. From this point of view, there was very little or nothing in what my hon. friend said, and if we wish to proceed in this matter in the proper way, I do think that the provisions as contained in this Bill are almost the best.

SHRI R. P. TAMTA (Uttar Pradesh) : Sir, the Preamble of the Constitution speaks of—

"LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

FRATERNITY assuring the dignity of the individual and the unity of the Nation."

This Preamble constituted the essence of the famous Objectives Resolution which was moved in the Constituent Assembly on the 13th December 1946

by Pandit Nehru, which among other things stated:

"WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation association and action, subject to law and public morality."

Sir, we cannot have brotherhood and fraternity and equality as long as there remains this curse of untouchability in the country. It is the object of India to develop into an ideal State, to develop into a Welfare State, starting with equality of status and of opportunity for all its citizens. If we look at this Bill with the ideal of providing complete social and economic and political justice to all the different sections of the population, then we will realise that this Bill is a Milestone in the march of the Nation towards a truly Welfare State. It is true that our Constitution, as far back as the 26th January 1950, abolished untouchability by enacting article 17, once for all. But it is equally true that this practice of untouchability and the various disabilities arising from it have found a place in the country as will be borne out by the report of the Commissioner for Scheduled Castes and Scheduled Tribes also. The Commissioner in his report for 1953 tells us that untouchability is practised in various forms in various places throughout the length and breadth of this country, more particularly in rural areas. If we see the report of the Commissioner for 1953, it will be evident that the total number of enactments passed in the various States of India at the instance of the Father of the Nation, who thought that untouchability was a slur on the good name of this nation, was about 28. All the States in India barring the States of Assam, PEPSU, Rajas-than and Manipur, enacted laws by different names prescribing the punishment of imprisonment of various terms and fine for the practice of untouchability. The Report shows that

[Shri R. P. Tamta.] in the year 1953 in India 362 cases were registered of which 146 resulted in conviction. The nature of the offences for which prosecutions were launched were as follows: —

(1) refusal to allow entry into shops, public restaurants, hotels and places of public entertainment;

(2) refusal to allow the use of wells, tanks and bathing ghats;

(3) refusal to allow entry in temples and other religious places;

(4) refusal to allow the use of ornaments, good clothes, etc., and eating of ghee, sweets, etc.

(5) refusal to allow the use of public conveyances, etc.

etc. Sir, such is the nature of the offences that are practised in different parts of the country in the name of untouchability. If any foreigner were to go through this list, it will cast a slur on the good name of our country and lower its status and reputation which have risen so high now under the leadership of Pandit Nehru. It is really painful to see such things happening in the country. It is true that there have been various enactments in the country for this purpose, but if you take into consideration the economic condition of the people who are the victims of the practice of untouchability, you will find that it is too poor and that these people are economically dependent on the so-called caste Hindus. That is why very few cases were registered, but from this it should not be concluded that the offence is not widely prevalent. The magnitude of the disease is not very great. I submit that untouchability is practised in various forms in various places, but this has not come to light. So, the Government has brought forward this piece of legislation to completely put an end to the curse of untouchability and the social disabilities arising out of it. So, I welcome this Bill most. When this Bill was introduced for the first time, it contained the word "untouchable" in not less than 23 places.

When the Bill went to the Select Committee, it underwent a great welcome change and I think that the Select Committee has improved it tremendously. To me, this word "untouchable" was repugnant. It is true that now the Bill contains the words "on the ground of untouchability, etc." and I personally would have very much preferred if the language of article 15 (2) had been used in this Bill. The Bill should have said some such words as follows: —

"No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public."

Personally, I would have liked that in place of "untouchability", some such word like "casteism" or "on the ground of caste" were used. After all what is untouchability? There is no definition of the word. But from that word we understand that it is the idea of looking down on another person only because of the fact that he belongs to another caste which is regarded as a low caste. So if in the place of 'untouchability' the word 'caste' had been used, I think it would have been much better. It is also in the Directive Principles of the Constitution which says that no citizen, no matter whether of the Scheduled Caste or any other caste, shall be prevented from exercising those rights which are guaranteed as Fundamental Rights under Article 15 of the Constitution. But this has not been done. And the word "untouchability" has been maintained.

Another redeeming feature of the Bill is that the offences under this Act

have been made compoundable with the permission of the Court? Personally speaking, I welcome this provision in the Bill. I like this and I have pressed this also in the Select Committee. It is true that some of my friends—who are also Harijans—did not like the idea that the offences under this Bill be made compoundable. On the other hand, I strongly feel that it is in the interests of the Harijans that the offences under this Bill are made compoundable. I have said that it should be made compoundable as it is there, with the permission of the court. Of course in cases of heinous crimes, the court will consider and not grant permission but now under this Bill we have taken all the different kinds of offences coming under the purview of this Act. The offences might be of a petty nature. So if the parties are allowed to compound the offences, it will be better and it will not leave bitterness in any sphere. Personally I had experience of fighting such kind of cases and I have myself seen that in those cases where offences were compounded with the permission of the court, *i.e.*, where there were riots etc. in the exercise of the rights by the untouchables, and where the offences were compounded, I have seen it myself that after compounding of the cases the parties lived amicably, and cordial relations existed between the parties. There have been also cases where there were riots, where the parties were not allowed to march in Dandi and Dolapalki and the cases were challaned. The accused were fined and civil suits for damages were decreed. This happened about 12 years back but still I know that where there were fines and convictions, there existed between the parties discord and animosity and the parties—the Harijans and the Caste Hindus—have not been living well in those parts. So I submit that this section is very important which makes the offences compoundable.

MR. DEPUTY CHAIRMAN: It is time, Mr. Tamta.

SHRI R. P. TAMTA: I also welcome the provision by which the burden of proof has been shifted to the accused and for this, I think the Harijan Community will be grateful to our hon. Deputy Minister who was responsible for this change.

I entirely agree with those hon. Members who suggested that merely passing all this legislation would not do. On the other hand it requires the necessary change of heart. It is only by persuasion and by propaganda that the change of heart can take place. I would request all the hon. Members who are here or who want to bring social reform, who believe in the eradication of untouchability, to set an example before the country. I know of social reformers. With the permission of the Chairman I will take one minute. I know the case of an orthodox Gurkha—Gurkhas are very orthodox people—who was a Doctor by name Dr. Thapa. Once he wanted to do social reform among the Harijans. He called a meeting. He said "Let us take a vow that we will not take meat from today". Gurkhas naturally take meat every day. This man took the vow in their presence to give up meat from that day and the result was that all the other people—the Caste Hindus and all the Harijans—followed the example that was set by him. If we similarly set an example before these people, it will have a very good effect. With these words, I commend the Bill.

#### PAPER LAID ON THE TABLE

##### REPORT OF THE JOINT COMMITTEE OF THE HOUSES ON THE COMPANIES BILL, 1953.

THE MINISTER IN THE MINISTRY OF LAW (SHRI H. V. PATASKAR) : Sir, on behalf of my colleague, Shri M. C. Shah, I beg to lay on the Table a copy of the Report of the Joint Committee of the Houses on the Bill to consolidate and amend the law relating to companies and certain other associations