

(b) if so, where this school is proposed to be established?

THE MINISTER FOR COMMERCE AND INDUSTRY (SHRI T. T. KRISHNAMACHARI) : (a) and (b). A proposal from the Handicrafts Board to set up Regional Designs Centres is under the consideration of the Government.

POWER ALCOHOL MIXED WITH PETROL

156. SHRI M. VALIULLA: Will the Minister for COMMERCE AND INDUSTRY be pleased to state the quantity of power alcohol mixed with petrol during the years 1953 and 1954 (answer may be given State-wise)?

THE MINISTER FOR COMMERCE AND INDUSTRY (SHRI T. T. KRISHNAMACHARI) :

(In gallons)

Name of the State	1953	1954
Uttar Pradesh	3,994,198	3,492,120
Bihar	1,081,290	982,211
Delhi	2,439,586	1,287,061
Punjab	379,881	1,295,713
Pepau	13,200	129,516
Vindhya Pradesh	43,339	131,635
Hyderabad	515,700	182,555
TOTAL	8,457,194	7,500,811

HINDI TEACHING SCHOOLS IN NEFA AREA

157. SHRI M. VALIULLA: Will the PRIME MINISTER be pleased to state:

(a) whether there are any schools in the North East Frontier Agency Area where Hindi is taught;

(b) if so, what is the number of such schools, and what is the number of (i) boy students and (ii) girl students therein; and

(c) what is the script used in these schools?

4 R.S.D.— 2.

THE PRIME MINISTER AND MINISTER FOR EXTERNAL AFFAIRS (SHRI JAWAHARLAL NEHRU): (a) to (c). There are 2 High Schools and 6 Middle Schools in NEFA where Hindi is being taught. The total number of students is 275. In addition there is a training institute where tribal and non-tribal teachers are being given a course for learning and teaching Hindi. Information as to how many are boys and how many are girls is being collected and will be laid on the Table of the House. The script used is Devanagari.

THE CONSTITUTION (FOURTH AMENDMENT) BILL, 1954

MR. CHAIRMAN: Mr. Pant. If it is more convenient to you to sit down and speak, with the permission of the House, you may do so.

THE MINISTER FOR HOME AFFAIRS (SHRI GOVIND BALLABH PANT) : Thank you.

SHRI V. K. DHAGE (Hyderabad): A special mike may be provided.

SHRI GOVIND BALLABH PANT: Sir, I thank you and the hon. Members of the House for permitting me to speak while sitting. I move:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Constitution of India, and resolves that the following Members of the Rajya Sabha be nominated to serve on the said Joint Committee:

- Diwan Chaman Lal Shri Sri
- Narayan Mahtha Shri Jasud
- Singh Bisht Kazi Karimuddin
- Shrimati Violet Alva Shri K.
- Madhava Menon

[Shri Govind Ballabh Pant.]

Shri N. R. Malkani
 Shri M. Govinda Reddy
 Shri S. Chattanatha Karayalar
 Shri G. Ranga
 Dr. B. R. Ambedkar
 Shri Surendranath Dwivedy
 Shri Surendra Mahanty
 Shri S. N. Mazumdar and
 Shri Govind Ballabh Pant (the
 mover)."

Sir, I consider it a privilege to place this recommendation of the Lok Sabha before the hon. Members of this House. The motion for reference of the Constitution Amendment Bill was adopted almost unanimously by the Lok Sabha. So this recommendation has the backing of more than 97 per cent, of the Members of the Lok Sabha. The motion for reference of this Bill which is of more than ordinary importance was made by the Prime Minister himself. He dealt with this subject in his own lucid and inimitable way in his opening and concluding speeches. I do not think it is necessary for me to go into matters of detail. Here, even ordinarily at this stage we would be concerned only with the broad principles of the Bill. It has already been discussed at great length in the other House. I only hope that it will be viewed in a similar spirit of understanding and sympathy by the hon. Members of the Rajya Sabha. They are perhaps reputed for greater sobriety and wisdom. Sir, I fully realise that the amendment of the Constitution stands entirely on a different footing from any alteration of the municipal or domestic laws of administration. Here we are concerned with matters of a basic and vital character and it is necessary to weigh every proposition dispassionately in an objective manner so that our decisions may be sound. Our Constitution was framed by the choicest of the chosen in our land. So it has to be treated with tenderness, with profound respect and so far as possible, it should not be disturbed ex-

cept for very adequate and even for only compelling reasons. I feel that the amending Bill satisfies these tests and that is why I am making this motion. Our Constitution enshrines the main purpose and objective of our national policy. Our society is to *be* based on the twin pillars of social and economic justice. The Preamble embodies the main objective for which the Parliament is designed and intended to function. It has, besides the Preamble, the Directive Principles which in a way chalk out the road which will lead to the goal which has been denned in the Constitution. Still in greater detail we have also certain Fundamental Rights which are equally entitled to every consideration and regard. Besides, the Constitution provides for an independent judiciary and the Supreme Court. The function of the Parliament is the most important. It has an unlimited scope and it can, if it so chooses and if circumstances so require, make far-reaching changes in the Constitution. The Parliament alone is capable of making a comprehensive and all-round survey of things and events and after assessing them in their proper value and aspect, it alone is in a position to decide authoritatively as to what steps should be taken to give effect to the central purpose for which it exists. The events of the last few years including the decisions taken by the Parliament, by the Legislatures in other places and those by the Supreme Court have made it imperative that a Bill of this type should be placed before the Parliament. The Supreme Court deserves every respect. Its decisions have to be carried out but according to the formal rules governing the process and the procedure of a court its orbit is circumscribed. Sometimes perhaps it is not expected even to look at the debates that are held in Parliament or even at the Preamble or the Directive Principles. According to the formal rules of interpretation, it has to construe the articles that come before it. It is, from the very nature of its Constitutional composition and the method of work prescribed for it,

limited to the wording of the clauses which come under review before it. So it takes its decisions and those decisions have to be carried out by us. Occasions, however, are bound to arise and have arisen, when the decisions of the Supreme Court have not been in conformity with the declared verdict of the Legislatures in the land. It is embarrassing to the Supreme Court that it should have to declare the laws passed by Parliament or by State Legislatures *ultra vires*; but it has to act according to its judgment and howsoever unpalatable the duty may be, it has to discharge it. But when there is a conflict between the main central objective of our social reconstruction policy, the Fundamental Rights, the Directive Principles and Parliamentary legislation on the one hand and the decisions of the Supreme Court on the other, some way has to be found out to establish harmony between all these, especially between the Legislature and the Supreme Court. It is with a view to resolving that conflict that amendment of the Constitution has to be made. While in every way upholding the dignity and respect that is due to the Supreme Court, it becomes the duty of the executive to devise suitable means in order to bring the two together, so that the main purpose for which the *two* exist, may be fulfilled. The course of legislation during the last few years has revealed defects in article 31 of our Constitution. It is with a view to cure that defect that this Bill has been placed before this House.

Article 31 is concerned with a vital matter. The original clause in the Draft Constitution was, I think, clause 24. That by itself was the subject of a prolonged controversy and, some of us happened to be concerned with that controversy even then. Some basic fundamentals were accepted and are accepted even today. We have no desire to indulge in the game of expropriation wantonly. We do not want to deprive

anyone of his property unnecessarily or to acquire any property except on the payment of such compensation as may be appropriate. There are different purposes for which properties have to be acquired. Sometimes, we have to acquire a piece of land for an isolated administrative purpose, such as the building of a post office or a railway station. In such cases we pay adequate compensation, the market value and something in addition. That law is not in any way varied. It is, in fact, re-affirmed by this clause. But it deals with matters of much greater moment. Social legislation affecting the community in general or large sections of it stands on a different footing and it has to be viewed from a different angle. It is here that article 31 comes in. Even when article 31 was framed, while accepting that compensation for acquisition should be paid, and also that all factors bearing on the determination of such compensation should be taken into account, some felt that perhaps, if possible, it would be better to devise some other agency than that of litigation in the courts for dealing with such complex problems. But it was not found possible; not because they were of the opinion that compensation should not be paid, but they wanted to avoid the tortuous course of law courts, if I may say so, and to reach decisions on such vital matters in a simple way and in a straightforward manner. However, that could not be done. Then this article 31 was framed. It was by itself, a sort of a compromise article. That article, however, laid down that compensation would be paid for acquisition, but the quantum of it or the principles and the manner in which, or in accordance with which, such compensation was to be given, should be determined by Parliament. It was then the view of very eminent jurists like Shri Alladi Kishnaswami Ayyar and also others, that the Parliament would be the final authority in the matter. Only when a fraud on the Constitution was conclusively and demonstrably established, would the courts

[Shri Govind Ballabh Pant.]

intervene. And we thought that it would not be otherwise, for when principles are laid down and the methods also are prescribed, the court can ordinarily only act according to the principles, interpret the principles that are prescribed and also see if the method laid down by the Legislature has been complied with faithfully. But the hopes have been belied. It has been found that the courts did not agree with the interpretation which the authors of the Constitution thought it bore and it would convey. They have construed the article differently .

12 NOON

If hon. Members wish to look at article 31 they will find that it has two parts, clauses (1) and (2). Clause (1) deals with deprivation of property and it guarantees that no one will be deprived of his property except by law, that is, the executive will not be free to meddle with anybody's rights except with the sanction, support and approval of the Parliament. That is one safeguard that was provided here. The other is the one in clause (2) and that says that wherever acquisition of property is made for public purposes, then the quantum of compensation will be fixed or the principles will be laid down. Now, we find that in fact many things have happened which were altogether beyond the range of imagination of the authors of the Constitution. It has been found that the guarantees that they had given have been interpreted in a manner which comes in the way of social legislation, and which does not allow even very modest steps to be taken in the direction of social welfare. We have decided to work for a welfare State of a socialistic pattern in our country; well, that may call for big changes but here today we are concerned with matters of a relatively minor character.

The Supreme Court has latterly held the view that the two clauses of article 31 are interlinked and whenever any person is deprived of any

property, even though this property is not acquired, compensation should be paid. We are all committed to the nationalisation of road transport but an Act intended for that purpose was declared invalid. The Supreme Court held that when a licence had been given to a person to ply his bus on the road we could not nationalise that route and if we had done so, then we must pay compensation. Well, the owner retains his motor bus or vehicle, whatever it be; he is free to ply it in other places but still it was held that compensation should be paid. That makes the nationalisation of road transport, which is the objective not only of a socialist State but even of conservative States today, difficult. It raises many embarrassing issues. If you give a licence for the possession or manufacture of fire arms to a person then you cannot cancel it, though he retains the fire arms or sells them away, without paying compensation. A person is found in possession of ten maunds of opium and you take it away from him; perhaps it may be said that he has been deprived of his property; whether it be in accordance with law or not does not matter but the property is taken away and compensation may have to be paid. I do not know whether these things will be interpreted in this way but when it is said that no property can be taken away unless you pay compensation for it, we cannot be sure as to the approach towards these matters. One may hold one view and the other a different one. In fact, even to ensure reasonable certainty in these matters, it had become necessary to amend the law. The Supreme Court, in the earlier stages, was of the view that action taken under clause (1) for deprivation of property did not in any way involve any question of payment of compensation. It held that it is only when acquisition of property is made that the question of compensation arises. That view has been changed since and it now holds that those opinions expressed by the Judges call for revision and have been accordingly revised. Similarly,

there were other cases where some laws were passed under which compensation was to be paid, for land acquired for the rehabilitation of refugees, at the market rate that property possessed in a previous year, say in 1939 or 1948. The prices of land had gone up because of the influx of the refugees themselves. It was thought perfectly fair and reasonable to give them such price as they would have got in the normal and ordinary course but the Supreme Court held that those laws were ultra vires, that the people were entitled to the equivalent for the property. Equivalent for this property may be a prohibitive amount. Similarly, there have been other pieces of legislation. While determining the compensation to be paid in such cases of social legislation, we have to take into account the nature of the property; the history of its enjoyment, the number of people that are to be benefited by it and the extent and magnitude of the problem that is sought to be solved. In such cases, we have to take a very broad view and howsoever well-placed the courts may be, they have no yardstick by which to measure it. Only Parliament, which is seized of matters of policy, can take, within its comprehensive compass, all these things and then reach a correct, fair and equitable conclusion. Equity, as some people have said, varied with the foot of the Chancellor. So, wherever matters of this type, of such great magnitude are concerned, it is only Parliament that can, in a right manner, decide the questions to the satisfaction of the community in general.

We regard the community as the supreme arbiter of all things. In a democratic State it is the people who are the masters. But, as I said, we do recognise private rights even in property. But it should not be forgotten that all private rights in property are the creatures of society. Such rights exist because the State is able to maintain order and to follow certain policies. Even if one were to say that compensation should be determined by the market value, the

State could always order things in such a way that the value might almost be diminished and reduced to zero. The State could impose taxation to the extent of 99.5 per cent, on the income from the property. There is nothing to prevent it from doing so. There is no constitutional bar. It could say that the rent to be paid would be such as would be even less than the cost of repair of the property. So various devices could be adopted which would altogether nullify even a provision about the payment of a price on the basis of the market rate. And even apart from these things, where the properties to be acquired are spread over the entire territory of a State, if payment were to be made at market rate, there would be such an inundation of currency that the value of a rupee would go down to a point that the actual real amount received would after a short time appear to have only an illusory value. So from whatever aspect one may look at it, it is to be accepted that it is only through the straightforward assessment of the various factors bearing on such questions that a just award can be given and the Parliament is in the best position to do so. But yet the text of clause (1) or clause (2) of article 31 remains unaltered. That is because we have to handle the Constitution very tenderly and we do not want to be rough with it. So even though a change of that type could well have been suggested, we have followed a very modest course. According to this Bill it has been clarified that clause (1) does not apply to cases of deprivation of property according to law except where the property is acquired for public purposes. So that clarifies the position.

Hon. Members may be aware of other decisions that were taken by the court in the Sholapur case which is well known. They held that the law which enable the Government to take charge of a factory which had been mismanaged or closed, *terminaril* in order to set matters right and to convert it into a going and

[Shri Govind Ballabh Pant.] profitable concern was *ultra vires*. This goes against the social purpose. At a time like this when we are striving for the promotion and establishment of a Welfare State, we have to see that production is increased and unemployment is diminished. If those in charge of any undertaking are unable to discharge their responsibility, then the State steps in in order to serve the needs of the community and also to save them against themselves. I do not think that there can be any question of payment of compensation in such cases. Again, according to these interpretations, I think, perhaps if a person who was unable to look after his property well, were required to make over his property to the court of wards so that he may have the full benefit of it, then that notification too might be regarded as being *ultra vires* so that you cannot even save people who are extravagant, who are stupid and who have fallen in bad ways, even for their own benefit. So from whichever aspect one may see, it has become essential to amend this article. We have not in any way interfered with the original scheme. It remains as it is, but we have sought protection for these demonstrably useful and necessary measures for the good of the community, for the alleviation of suffering and for the elevation of the suppressed by making a few exceptions. Again I say it does not follow therefrom that no compensation will be paid where property is actually acquired even for these purposes, but the Supreme Court will not be put to the worry of having to adjudicate over these matters. Things will move on without attracting their attention and without interfering with their normal day to day work which is sufficiently exacting by itself. So we have sought this.

I may also say that in our country we have a written Constitution; we have Fundamental Rights. But in other countries, say, the United

Kingdom, they have no Fundamental Rights. The Parliament there is supreme. The Parliament represents the will of the people, and whatever be the written Constitution it is to provide for its own growth; otherwise it would be utterly lacking in vitality. Anything that is incapable of adjusting itself to its environment goes into the background and then dies. So our Constitution which is live and vital provides for such adjustment whenever necessary and we have to make such adjustment. In the United Kingdom, as I said, it is open to the Parliament to say that all property will be acquired by the State and not a farthing will be paid by way of compensation to anyone. No court can step in. Nobody can find any other forum anywhere else. So it is to be accepted that ultimately the authority vests in Parliament and no one else can arrogate it and it is the duty of Parliament to see that the various wings of the State act in harmony by maintaining their independence so that the integrated growth of the whole may not be impeded by any part of it.

In America they have, as hon. Members may be knowing, some safeguards. "The process of law" is one of the important things which has been interpreted in many ways there and their Constitution provides for just compensation but still such a rigid view has not been taken. If you were to pay full value for property acquired for the benefit of those who have nothing and who deserve every sympathy and support, then it is impossible to pay the market value. So either we allow the progress to be arrested or we should apply our collective intelligence to the finding of effective and appropriate solutions so that the caravan may move on and nobody may be able to impede it. It is with this purpose that this Bill has been placed before the House. I do not think it is necessary for me to take more time. I expect that the motion that I have made will be adopted unanimously and for that I will remain grateful¹

MR. CHAIRMAN: Motion moved:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Constitution of India, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

Dh^an Chaman Lall Shri Sri Narayan Mahtha Shri Jasud Singh Bisht Kazi Karimuddin Shrimati Violet Alva Shri K. Madhava Menon Shri N. R. Malkani Shri M. Govinda Reddy Shri S. Chattanatha Karayalar Shri G. Ranga Dr. B. R. Ambedkar Shri Surendranath Dwivedy Shri Surendra Mahanty Shri S. N. Mazumdar and Shri Govind Ballabh Pant (the mover)."

It has been represented to me that those who are serving in the Select Committee also if they find it necessary may be allowed to speak at this stage only on this motion We adopt that course.

SHRI S. MAHANTY (Orissa): Mr. Chairman, in spite of its inadequacy, its inherent contradictions and its inequity, here is a piece of legislation which is after the nation's heart. I welcome it; even I adore it. I yield to none in my support to the underlying principles of the Bill. Now, what are the underlying principles of the Bill? That has to be analysed; that has to be examined.

[MR. DEPUTY CHAIRMAN in the Chair]

Sir, I do hold and maintain that all concentration of property is theft. Therefore, payment of compensation for properties acquired by theft * some kind of social injustice or other has no merit to deserve our consideration. Having said that much, if I do not approve of this Bill, if I do

not support the Bill, if I raised my voice of dissent against the Bill, it is merely because of the fact that this Bill is not adequate enough, it does not go far enough, it is apologetic, it is halting and it makes a confusing situation worse confounded.

At this stage, I invite the attention of the House to the genesis of the amendment to article 31 of the Constitution which enshrines and sanctifies the concept of private property. The *raison d'etre* for amendment of article 31 of the Constitution by the addition of two new articles 31A and 31B in the year 1951 was said to be to facilitate the speedy land reforms in the country. It is strange that the Government today, three years after article 31 was amended, comes again to this House with the same purpose, namely, to facilitate the speedy land reforms in this country. This time the Government only lays the blame at the door of the Supreme Court and the lawyers; but it refuses to recognise the inadequacy of its own measure, the inherent imperfections of its own handiwork. Now coming to the genesis, the House might recollect that, all State legislations for abolition of estates or all kinds of intermediary rights vested therein, floundered against two main contentions; firstly that the compensation was not the just equivalent of the property acquired and secondly that it violated the Fundamental Rights in regard to the enjoyment of private property. Therefore, in the year 1951, article 31 was amended for the first time by the addition of two new articles, 31A and 31B.

If at the time of enacting article 31 of the Constitution, the hard reality of paying Rs. 450 crores as compensation to the estate holders had been taken into account, then probably we could have been spared the necessity of amending article 31 just after a year of its enactment. But that hard reality was not taken into account. Sir, that is a very big 'if' in our constitutional history. I am aware of my own limitations here on the floor of the House, having taken

[Shri S. Mahanty.] oath to that Constitution. Therefore, I am not going to dilate upon that but it is a very big 'if and some day or other before the tribunal of public opinion the Constitution-makers will have to account for it. Again if the Government had a clear picture of the land reforms before them in the year 1951, probably they could have made provisions for acquisition of all lands surplus over a ceiling with compensation if possible, otherwise without compensation by all means. Once again, that was not done. Therefore, three years after the amendment of one article of the Indian Constitution, the Prime Minister comes here with all his eloquence, with all his goodwill to amend that very same article for the second time. So within four years one article is going to be amended for the second time. I ask this House to consider dispassionately, as to what kind of impression we are creating thereby before the students of constitutional history all over the world. It is because the Government refuses to see beyond the ken of its narrow dogmatism.

Sir, I venture to urge before the Select Committee as well as the hon. the mover of the Bill to consider dispassionately whether this piece of legislation is going to solve problem, or come to create more problems. As for example, the present Bill contemplates four kinds of abolition of property, (1) acquisition, (2) requisition, (3) extinguishment and (4) possession. I do admit that these words have got very precise shades of meaning in legal lexicography which have to be interpreted. Again the Supreme Court comes in and the lawyers come in, lawyers whom the hon. the mover wants to avoid. This is just an example which I have given. I hope that this piece of legislation will be so simplified as to give a clear indication of its intention, so that the people may know what actually the Government wants of them and what actually they should do. However, that is a minor point.

Now, I wish to invite the attention of the Joint Committee to one of the most important aspects—acquisition of landed estates and other intermediary rights vested therein. It may interest the House to learn that the abolition of intermediaries of land is now in various stages of implementation all over India. As for example, it is fully implemented in Madhya Pradesh, Punjab, Hyderabad, PEPSU and Bhopal. It is substantially implemented in Andhra, Bombay, Madras, Uttar Pradesh, Madhya Bharat and Saurashtra. And it is partially implemented in Bihar, Orissa, Rajasthan and Vindhya Pradesh. Now, all the estates in Uttar Pradesh, if my information is correct, have been acquired except the estate of Rampur. In Bihar, estates with an annual income of Rs. 50,000 or more have been acquired and 1812 *zamin-daris* in the districts of Dharbanga, Hazaribagh, Monghyr and Gaya have, so far, been acquired by the Government. In Bombay, intermediary rights exist only in a limited area. In Assam and Orissa, the complete abolition of intermediary rights is yet to take place. That means a considerable portion of the intermediaries and the estates are yet to be acquired by the Government. That is the position today. Now, this fact I wish to bring to the notice of the hon. the mover and the Select Committee. The estates which have been abolished before the enactment of the Constitution (Fourth Amendment) Bill would have been paid a compensation which was justiciable—it was not merely a condensation, it was a just compensation, it was an adequate compensation. That fact has also to be noted by this House. Then, again, this rate of compensation is not uniform. It varies from State to State, as for example compensation represents a multiple of either the net revenue or the net assets. Now, this multiple is eight in Uttar Pradesh; it is seven in Rajasthan; and ten in Madhya Pradesh. In Madhya Bharat it is eight for the *zamindari* areas and it is seven for *jagir* areas. In these States, in addition—

tion to compensation,—I congratulate the Government of Uttar Pradesh, because they have provided for a kind of rehabilitation grant to be paid for the intermediaries whose rights or whose *zamindaris* have been abolished

KAZI KARIMUDDIN (Madhya Pradesh): Even in Madhya Pradesh.

SHRI S. MAHANTY: Thank you for the correction a rehabilitation grant is also paid. In Assam the compensation is 2 to 10 times of the net income; in Bihar it is 13 to 20; in Madras it is 12J to 30 times; In Orissa 3 to 15 times; in West Bengal it is 2 to 20 times. In some States like Orissa, even interest is being paid for that portion of compensation which remains unpaid.

My purpose in bothering the House with these details is simply to bring out this fact that prior to the enactment of the Constitution (Fourth Amendment) Bill, a considerable portion of landed estates and intermediaries would have been acquired by payment of compensation which is justiciable, the quantum of which has been fixed by the Government in some cases and by the courts in the rest. This compensation is not only just, but is adequate, is equivalent to the market value. Now, this brings us to a very important aspect, a very inequitable aspect of this piece of legislation and that is this. Assuming that the appointed day for the purpose of this Bill is 1st April, 1955

KAZI KARIMUDDIN: Let it not be first April.

SHRI H. C. MATHUR (Rajasthan): All the things are done by the Government of India on the 1st of April. Rajasthan was created on 1st of April.

SHRI S. MAHANTY: Let us say, the appointed day is the 2nd of April 1955

SHRI V. K. DHAGE: But our financial year begins on the 1st of April.

SHRI S. MAHANTY: So, all the remaining portions of the estates—which let us compute at 30 per cent.—will be acquired under this piece of legislation, and will be given compensation which will not be justiciable. I am grateful to the hon. the mover for his sympathy. He says: "We will not expropriate; we will give them some compensation." But I ask: "Does it not introduce an inequity? How is he going to resolve this problem?" The compensation which will be paid to these intermediary right owners or to the estate owners will not be justiciable. That is No. 1. I do not dispute the fact that the Legislatures may be quite fair, but that is a completely different thing. It may be that the courts may also take into account the various points which have been urged here on the floor of the House and also in the Lok Sabha, but they shall have to finally interpret this Act as it is before them. According to this, the doors of the courts are closed so far as compensation is concerned. That is No. 2. The quantum of compensation will be fixed but not by the judiciary. It will not be examined by the judiciary", but it will be done by the Legislature. That is No. 3. In most cases, a token compensation will have to be paid because I can tell you that with the Government as it is constituted today, the position as we are in today it will be immoral if we give Rs. 450 crores compensation to the *zamindars* who have no locus standi, who according to the Prime Minister are merely a fifth wheel in the coach. That is completely a different thing. I yield to none in that respect, but my question is, how the above inequity is going to be resolved.

Then, in my own way, if I am asked: "How do you resolve?", I would say: "Do away with the provision for compensation." Now, "compensation" as a word, has got a very precise meaning in the dictionary. Compensation cannot be compensation unless the amount compensated is a just equivalent of the property ac-

[Shri S. Mahanty.] quired. Therefore, token compensation cannot be compensation. Why have the eight airlines which have been acquired this kind of fraud? Why dangle this kind of carrots by the Government. And there, payment of before the gullible asses? Why not do away with the full compensation is being made and that is provision of compensation in the year 1955, if you according to the established tenets of social are going to prove your *bona fides* of a socialistic engineering, but when it comes to landed estates, pattern before the starving and the injured millions? well, the haves would remain haves and the have-

Then, that brings me to another important question not would remain have-nots, if just compensation relating to compensation. The hon. Prime Minister is paid. I am not going to impute any kind of in the course of his very impassioned plea in the Lok opportunistic thinking into it. It might be a Sabha said—I would invite the attention of this case of the Damocles' sword forged out of the House to listen to this very carefully: smithy of the party in power to keep on

"If full compensation is paid the haves would remain haves and the have-nots would remain have-nots." According to published reports, a cheer applauded this statement. Now, Sir, his whole objection is against compensation. If it is paid to persons enumerated in the categories of (o), I (b), (c) and (d) of proposed clause (1) in clause 3 of this Bill. His whole argument against compensation is that the haves would remain haves and the have-nots would remain have-nots. Now, we all accept that principle. That is, again, another matter. Now, this House might remember that with the nationalisation of the Indian airlines, eight operators are going to be paid a total amount of about ten crores of rupees. I would not go into the shady history of one of the operators, because that will be unfair, but this House knows, this Government knows how the offices of certain operators were raided not only in Delhi but in Calcutta, Bombay and elsewhere by the Special Police Establishment, because the suspicion was that false accounts were being bolstered up by false vouchers, false invoices and so forth. So, a total amount of ten crores of rupees will be paid. This is not an exact figure. Some cases are still before the Tribunal and the exact figure is yet to be determined. But roughly ten crores, of rupees are going to be paid to eight operators as compensation for hanging over the heads of the industrialists and commercial classes to raise all their election fund, but, in all humility I shall repeat that this does not stand the scrutiny of any rational, scientific or logical thinking. If the Government want to prove its *bona fides* of a socialistic pattern, let it not pay that compensation to the operators of the airlines. If full compensation, if justiciable compensation holds good in the industrial sector, why should it not hold good in the agricultural sector? If we are going to rob the Supreme Court, the judiciary, of its inherent right to test, to examine, a decision of the legislature, why is the same principle not being applied in the case of the industrialists? That is one of the reasons why I have thought it fit to record my protest against this iniquitous-measure. Sir, again the Prime Minister has said in the course of his speech that, firstly, compensation should not be paid, because you cannot do it, secondly, it would be improper and unjust to do it even if you could do it, and thirdly, it should not be done even if you could do it. In all seriousness, and with all humility, I would like you to point out the thread of consistency that runs through these three statements made by the Prime Minister. With all respect, I might say that this is not a socialistic pattern, but this is a confusing pattern. This may be a very progressive piece of legislation, according to the hon. Members of the Congress, but according to me, this is a fine piece of muddled thinking.

Then, Sir, I would invite the attention of this House to the year 1946, when in England, a highly industrialised country, industries were going to be nationalised. When the compensation figures reached astronomical proportions, what had Harold Laski, one of the greatest founders of the socialistic thought, not alone in the United Kingdom, but also in India and all over Europe, said? Sir, Harold Laski, in his speech at Kelty in Fifeshire on January 6, 1946, said as follows:

"I have never been worried about compensation. So long as there is a Labour Chancellor of the Exchequer who can fix the limits of taxation, especially death duties, estate duties and legacy duties, compensation is a book-keeping transaction in which the last word remains with the Chancellor."

Now, this fact has been referred to by the hon. mover in his extremely impressive and lucid speech this morning on the floor of this House. He said, "If we pay full compensation, then we can also mop away a considerable portion of it by taxation." I ask, "Why is it that he considers that this principle is unjust?" After all, taxation is the only way in the hands of a democratic Government to resolve the differences between the haves and the have-nots. Therefore my argument, my humble submission is this. Why not completely do away with the provision of compensation from the scheme of article 31 of the Constitution?

Then, Sir, I come to industries. As you will find, this Bill is completely silent about the industrial sector. In the Statement of Objects and Reasons, you will find that only sub-para (iv) of para 3 has a very apologetic reference to "the industrial sector. Now, as I have said earlier, it is intended to be a Damocles' sword. It is going only to deprave our political thinking and our political morals in this country.

Having said that much, Sir, I am going to ask one question. What did happen, after all, about the Sholapur Mills? The House might have well known that this was the second biggest textile mill in Asia with a total work force of 10,000 labourers.

SHRI GULSHER AHMED (Vindhya Pradesh): 13,000.

SHRI S. MAHANTY: Yes, thank you. So it employed a total labour force of 13,000. It was the second biggest mill in Asia in which the Government of Bombay, if my information is correct, had an invested capital of Rs. 35 lakhs.....

SHRI GULSHER AHMED: Rs. 46 lakhs.

SHRI S. MAHANTY: Again thank-you for your second correction. Whatever that may be, I am not very much concerned with the accuracy of figures, and I do not know if my hon. friend's correction is also correct. So, the fact remains to be said that Sholapur Mills was the second biggest mill in Asia with a total work force of 13,000. While all over India cloth was in extreme scarcity and all the textile mills were declaring profits, this blessed mill was incurring a loss. So, the Government, with all their good intentions, wanted to take over the management of this concern, which was ultimately held *ultra vires* by the Supreme Court. So now what the Government is seeking is to take more power in its hands to take over under State management, for a temporary period a commercial or industrial undertaking. But I ask in all seriousness: What has happened about the sugar industry? Sugar industry was next to the textile industry in this country. It has got a long record of establishment in this country. Once this country was self-sufficient in sugar production. Now, this sugar industry has completely sabotaged all our stipulations of the Five Year Plan. As this House might have known, we are importing Rs. 5 crores worth of sugar from foreign countries. Now I am glad that the hon. mover, while he was expounding the principles of the

[Shri S. Mahanty.] Bill, said, "Our aim is to provide gainful employment to every citizen of India should be a justiciable right. My suggestion No. 3 is that the scope of this Bill which was self-sufficient in sugar, today should be extended so as to include all industries importing crores of rupees worth of sugar where the Government feels that it is in the public interest and is for the fulfilment of a public purpose. With these words, I beg to resume my seat.

With all respect to the hon. mover, I will say how, before the elections, it was given out in the press that Rs. 11 lakhs were raised from the sugar magnates of this country for the Congress Election Fund. That report went uncontradicted. And if that report went uncontradicted, it is too late now in the day to contradict that report. Sir, if I go into all these things, it will be hitting the belt, which I have no intention to do.

SHRI GULSHER AHMED: Mr. Deputy Chairman, before I say anything, I would like to remove the misunderstanding that most of the people outside this House are likely to fall in. The trouble in this country is that nearly 90 per cent, of the people cannot read and write, and even those who can read and write sometimes cannot understand the intricacies of law. By talking to friends and others, I have got the impression that people feel that by this amendment the Government is taking power in its hands to take away the property of anybody it likes and is going to reserve discretion to itself industrial and commercial magnates. Sir, I will not whether to pay any compensation or not. Apart from this, the general impression among the public is that the Government is going to curtail the powers of the High Court and the Supreme Court, but this is not the fact. Actually, there have been some decisions the Government will revise their Bill to a great extent, beyond any recognition. I, therefore, suggest that in the case of private property, let a limit be fixed beyond which expropriation will be made without compensation. My suggestion No. 2 is that the Constitution should be further amended to make the Directive Principle regarding gainful employment to every citizen a justiciable right. The Government is every day taking more and more power in its hands in the interests of having a Welfare State which now has acquired a new appendage "of a socialistic pattern", but this is nowhere to be seen. Therefore, as a corollary to this amendment for the expropriation of private property without compensation, the Government should refer to the Shola-pur Mill case. After that, another case of Bengal was mentioned by the hon. mover. The mover has, although he did not mention it by name, mentioned the facts of the case and the decision in that case. What actually happened is that the Supreme Court has held that mere taking of possession or taking control of any property amounts to deprivation of the right to property of an individual citizen. So, according to article 31, clause (1)

and clause (2) Government cannot deprive a citizen of his property without paying compensation. In this connection, I would like to say that the Supreme Court has assumed jurisdiction and rightly so because they have got their own notion of compensation. They are not guided by the policy of the State. They are simply to interpret the law which is made by Parliament. Actually the intention of the framers of the Constitution was not that the court should be given the right or discretion to decide the reasonableness of the compensation. It was for the Parliament or the State Legislatures to decide the quantum of compensation and the manner in which or the principles under which compensation would be given, but simply because the word 'compensation' has occurred in clause (2) of article 31, the Supreme Court has assumed jurisdiction to say that compensation means what is just equivalent to what has been taken from the owner. This is how they have come to assume jurisdiction and they have held that they can go into the matter and decide the reasonableness of the compensation paid by the Government. Sir, in this connection, I would like to take this House back to the time when this article 31 was under discussion in the Constituent Assembly. In the Draft Constitution, in fact, the language of section 299 of the Government of India Act, 1935 was incorporated. In the Draft Constitution it was article 24, clauses (1) and (2). Nearly the whole wording of section 299 of the Government of India Act, 1935 was incorporated in the Draft Constitution. I will read out for the information of the hon. Members what actually was the position under the Act of 1935 and in the Draft Constitution. It runs like this. That is, article 24 of the Draft Constitution, clauses (1) and (2):

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

(2) No property, movable or immovable, including any interest in,

or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for the payment of compensation for the property taken possession of or acquired and either fixes the amount of compensation, or specifies the principles on which and the manner in which, the compensation is to be determined."

This was the position when the Constitution was going to be framed, but later on the leaders of this country found that, if they incorporated section 299 of the Government of India Act, 1935 in the Constitution, they would face great difficulty in regard to those Acts and Bills which were then before the State Legislatures by which the State Governments wanted to abolish the 'zamindari' system. They felt that if they kept section 299 of the Government of India Act, 1935, as it was, then, they would have to pay the compensation; not only will they have to pay the compensation, but they will have to pay the full compensation at the rate or at the price existing at the time of taking. So there was great controversy about this matter. Some were of the opinion that it should be incorporated as it was but some felt that it was not advisable to do so. So later on an amendment was moved by the hon. the Prime Minister to article 24 of the Draft Constitution in the following terms.....

MH. DEPUTY CHAIRMAN: You can continue in the afternoon. The House stands adjourned till half past two.

The House then adjourned for lunch at two minutes past one of the clock.

The House reassembled after lunch; at half past two of the clock, MF. DEPUTY CHAIRMAN in the Chair

SHRI GULSHER AHMED: Before the House rose for lunch, I was saying that an amendment was moved to the Draft Constitution by the Prime Minister and while moving that amendment he said this:

"..... in spite of the great argument that has taken place, not in this House, but outside among Members over this article, the questions involved are relatively simple. It is true that there are two approaches to those questions, the two approaches being the individual right to property and the community's interest in that property, or the community's right. There is no conflict necessarily between these two: sometimes the two may overlap and sometimes there might be, if you like, some petty conflict. This amendment that I have moved, tries to remove or to avoid that conflict and also tries to take into consideration fully both these rights—the right of the individual and the right of the community."

Another great man, a great jurist and a great constitutional lawyer also spoke on this occasion when this amendment was moved and this is what he said. I am referring to Shri Alladi Krishnaswami Ayyar, the great constitutional lawyer. He said:

"It is an accepted principle of constitutional law that when a Legislature, be it the Parliament at the Centre or a Provincial Legislature, is invested with the power to pass the law in regard to a particular subject matter under the provisions of the Constitution, it is not for the court to sit in judgement over the Act of the Legislature. The court is not to regard itself as a super-legislature and sit in judgment over that Act of the Legislature as a Court of Appeal or Review. The Legislature may act wisely or unwisely. The principles formulated by the Legislature may commend themselves to the court or they may not. The province of the court is normally to administer

the law as enacted by the Legislature within the limit of its power. Of course, if the legislation is a colourable device, a contrivance to outstep the limits of the legislative power or, to use the language of private law, is a fraudulent exercise of the power, the court may pronounce the legislation to be invalid or *ultra vires*."

Mr. Deputy Chairman, as I said before, by amending this article 24 of the Draft Constitution, what the framers of the Constitution wanted to do was to give exclusive right to Parliament or the State Legislature, to fix the quantum of compensation and the manner in which that compensation would be given. That was made quite clear when this amendment was moved and agreed to. The present article that we have got in our Constitution runs thus. I have already read out what was the article in the Draft Constitution and now I will read out what the present article in the Constitution is. It is as follows. "Right to Property" is the heading:

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

This has not been amended at all. Sub-clause (2) of article 24 was amended to this effect:

"31. (2) No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which and the manner in which, the compensation is to be determined and given."

This is the present provision of the Constitution and this clause (2) of

article 31 is going to be amended. Besides this clause (2), clause (1) of article 31A is also going to be amended. These are the two clauses of article 31 and article 31A that are going to be amended and this amendment of the Constitution is now under discussion.

As I started by saying, some people have got some apprehension that by amending the Constitution the Government is going to take away the power by which they are not going to pay any compensation when they will take the property of any citizen in this country. That is not the case. Actually, they have specified in the amendment, what are the objects for which if the Government takes or acquires property, the quantum of compensation will not be challenged in a court of law. These objects are mentioned in clause S of this Bill and it reads thus:

"Notwithstanding anything contained in article 13, no law providing for—"

and it gives a list as (a), (b), (c) and (d) and so on, and says:

"shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by, article 14, article 19 or article 31."

These articles mentioned above in clause 3 deal with the Fundamental Rights. So what the amendment intends to do is only to specify the purposes, for example, the purpose of acquiring land to resettle the refugees, the purpose of giving to companies good management or having the control of certain companies if there is danger of stopping of work. All these purposes are mentioned in the sub-clauses. Only for these purposes the Legislature is going to have exclusive jurisdiction for the acquiring of the property. The court still will have the right to judge whether the payment made by the Government is reasonable or not. You will see that in the amendment, clause (1) has not been

touched at all. Only clause (2) of article 31 has been amended, not materially, but just a little change of words here and there to make it a little simpler. The material change is made in article 31A clause (1) by which those very things or properties which in the opinion of the Government are going to help the larger social interests of the community may be acquired. We are to have a Welfare State and a socialistic pattern of society and it may be necessary in the future, for the Government to acquire them partly or fully for the public good.

When dealing with article 31, I would like to discuss some of the cases that have already been discussed. The first case that came under article 31 was a case which has been referred to by the hon. the mover—the case from West Bengal where an Act was passed by which the Government was authorised to acquire land for the purpose of resettling the refugees. The Act said that any land which would be acquired under this Act would be for the public use or for a public purpose. The Act also said that the price of the land would be the price which was prevalent in the year 1946 or 1948. This provision of the Act was challenged before the Calcutta High Court and the Calcutta High Court held that a provision like the above was *ultra-vires*. Ultimately the case came before the Supreme Court and the Supreme Court agreed with the judgment and the decision of the Calcutta High Court and also held that these two particular sections of that Act were *ultra-vires* and were unconstitutional.

The next important case in which article 31 came up for discussion before the Supreme Court was the Sholapur Mill case. Actually this case came twice before the Supreme Court; once it came in the form of a writ which was moved by one of the shareholders and the prayer there was that the action taken by the Government was unconstitutional and that it should be stopped. The Supreme Court decided that the action that the Government had taken was taken

[Shri Gulsher Ahmed.] after careful consideration, after taking into consideration the interests of the community as a whole, after taking into consideration the fact that if the four or six Directors of the company were allowed to liquidate the company nearly 13,000 people would be thrown out of job and a huge sum of money in addition to a very essential commodity, essential for the good of the community, would be lost. So, the court held that the taking over of the management of the mill amounted only to a sort of regulatory control and that it was not acquisition or deprivation of the property rights of the shareholders. In the present case, which came in a different form—it was a regular suit filed by the preferential shareholders after the Government had asked them to pay the remaining unpaid shares—the Supreme court came to a different conclusion. In this case they said that the previous case could be distinguished from this case and that the taking over by Government of the management of the company amounted to deprivation of property as clauses (1) and (2) of article 31 meant the same thing; they added that they were not two different clauses giving different meanings but that both of them were meant simply to protect the right of the individual to property. In the first case they held that clauses (1) and (2) were exclusive and that they had no relation with each other. They said that one was a general clause which laid down that no property could be taken over by the Government except by authority of law and the second clause was the one which give a right to the State to take over property but under certain conditions. I will just draw your attention, Mr. Deputy Chairman, to the fact that even in the minds of the Supreme Court Judges these two clauses of article 31 were not very very clear because, in the previous case Mr. Justice C. R. Das said

SHRI BHUPESH GUPTA (West Bengal): S. R., not C. R.

SHRI GULSHER AHMED: I quote what he said: "Clause (1) formulates the Fundamental Right in a negative form prohibiting the deprivation of property except by authority of law. It implies that a person can be deprived of his property by authority of law. Clause (2) prohibits the acquisition or taking possession of property for a public purpose under any law unless such law provides the payment of compensation. It is suggested that clause (1) and clause (2) of article 31 deal with the same topic, namely, compulsory acquisition or taking over possession of property, clause (2) being only an elaboration of clause (1). There appears to me to be two objections to this suggestion. If that were the correct view, clause (1) must be held to be wholly redundant and clause (2) by itself would have been sufficient." That is what Mr. Justice-C. R. Das said.

SHRI BHUPESH GUPTA: S. R.

SHRI GULSHER AHMED: S. R., I am sorry.

In the second case they have held the view that the two clauses have the same meaning and by holding this view, they have come to the conclusion that the mere control and supervision of the mill amounted to a total destruction of the right of the shareholders. If there is total destruction of the right of enjoyment and control of the property, there must be some compensation; if there is no compensation then the whole thing falls flat and is *ultra vires* of the Constitution. So, this amendment has been brought not for misusing the powers, as most of the people think. Most of the people think that any property now can be taken over by the Government and the Government can fix any amount as compensation and that compensation is not subject to challenge by any person in a court of law. That is not the case. As I have just said, only for those purposes and only for those objects properties can be acquired, which are mentioned in the Bill and

in those cases the legislature can fix either the amount of compensation or the principle or the manner in which the compensation is to be paid and this will not be challenged in a court of law. Leaving aside these few subjects, for acquisition of property, the courts still have the power to declare whether a particular sum paid as compensation is reasonable or not because, as the courts have said, whether it is a public purpose or not is to be decided objectively. By merely saying "public purpose" in an enactment will not do. Even now, in some of the cases which have necessitated this amendment of the Constitution, the phrase "public purpose" has been used. These words have a different meaning in the courts of law. Those meanings are different from the ordinary dictionary meaning. It may mean a certain thing for the ordinary layman but in the courts of law it may mean so many different things. Courts have come to assume jurisdiction for deciding the reasonableness of the compensation by the simple word "compensation" which they think should mean just equivalent of the value they acquired. This is what the law courts in other countries as well as in our country have understood by the word "compensation". Whenever we talk of compensation, we say that if a man has lost his property, he should be re-imbur--ed to the extent as if he has not lost anything. What I am suggesting, Mr. Deputy Chairman, is that even now the courts can say that a particular property which has been acquired is not for the public purpose, and that compensation is not just compensation and therefore the act is against the Constitution. To presume that Government is curtailing the rights of the Supreme Court or that Government wants to take away the powers of the Supreme Court is, I think not correct. The only thing is that Government is very anxious and keen to fulfil these obligations which it had undertaken under the Constitution. *As you* know, Mr. Deputy Chairman, in the Constitution there is something

known as the Directive Principles of State Policy. The framers of the Constitution have assumed upon themselves the duty that in the future they will see that justice, equality, etc., in economic, social and other spheres of life are given equally to every citizen in this country. That duty has got to be fulfilled. It is a difficult job with which the Government is faced at the moment; they have to have respect for the judiciary and they want the judiciary to function independently without any interference from outside, at the same time, they have the Directive Principles in the Constitution which they want to implement because they feel that this is the only way by which they can solve the different problems facing this country. This was in the minds of the framers of the Constitution and that is why, in spite of the fact that they have enumerated all those Fundamental Rights to the person, property, liberty, religion and all other things, they have subsequently adopted these Directive Principles in the Constitution. If necessity arises in the future—some kind of a provision should be made in the Constitution for curtailing the fundamental rights. The Government now feels that that situation has come when they should abridge, modify or take away some of the rights and freedom which had been given in the Constitution under the Fundamental Rights. So that is why the framers of the Constitution had put the Directive Principles in the Constitution; otherwise there was no necessity of putting them in. So what the Government is doing by amending the Constitution is to implement those Directive Principles of the Constitution, and only motivated by this idea, they have taken the task of making this reference for a Joint Select Committee.

Mr. Deputy Chairman, I have got my apprehensions about certain things. Even now there are some kinds of estates which have not been taken by the States and nothing has been decided as to how they are going to be taken and how much

[Shri Gulsher Ahmed.] compensation is going to be given them. Now after this amendment, what will happen? The Government will pass an Act and they will either fix the amount of compensation or they will just lay down the principle under which compensation will be paid. Suppose in the Act the State Legislature provides compensation which is different from the compensation which had already been paid to some of the estates in that State, what will be their position? Suppose those people come before the court and say: "It is a clear case of injustice and discrimination against us. We are one as a class. We are all owners of estates. So why this discrimination? One group had been dealt with under one law and we are going to be dealt with under a different law." That will create a very difficult situation and I hope the Select Committee will keep this in mind while discussing about these amendments.

Then, there is another thing, which I think most of the Members of this House and some members of the public outside this House will naturally ask. Why is it that all these legislations and Acts are being passed for the sake of abolishing the intermediaries i.e. the *zamindars* and *talukdars* and *jagirdars* and nothing is being done about other kinds of properties that the people have got?

SHRI S. MAHANTY: Hear, hear.

SHRI GULSHEB AHMED: Thank you very much.

SHRI SATYAPEIYA BANEEJEE : (West Bengal): You corrected him »nd he is now applauding you.

SHRI GULSHEB AHMED: And I think there may be some occasion in future and if you really want to have a Welfare State, a socialistic pattern of society, you may require to take over the property of certain people and it will be really difficult for you to do it. So I feel that if some kind of a provision is made in the amendment giving power to Parliament or

the State Legislatures to acquire properties of certain classes of people who have got properties above a certain limit then I think in future the Government will not have to amend the Constitution again. If at the time of the framing of the Constitution, the framers would have given a little thought to the word "compensation", I do not think there would have been any necessity of amending the Constitution in this way for the second time. As you know, Mr. Deputy Chairman, this article 31 has been once amended before; this is the second time that this very article is going to be amended.

SHRI S. MAHANTY: Within four years.

SHRI GULSHEB AHMED: Four years is a long time; never mind. So I hope the Select Committee will keep in mind these things and would find some *via media* for providing for all kinds of exigencies or contingencies, so that in future we may not have to come and ask this House or the other House for amending the same article and the same very clauses again.

Thank you very much.

SHRI BHUPESH GUPTA: Mr. Deputy Chairman, since we have been here in this House, we have been trying to impress upon the Government that it is necessary in certain respects at least to drastically amend our Constitution. In fact in the year 1953 Shri Satyapriya Banerjee from our side moved precisely an amendment to this particular article, namely, article 31, in order that the rights and liberties of the people could be enlarged and at the same time the rights of the vested interests could be curtailed. That proposed amendment, then called the Constitution (Third Amendment) Bill was not given much attention to by the Government and was in fact talked out. We are glad today that the Congress Government has taken advice from us even though it is late and has come here with its-fourth amendment Bill and naturally we are interested in welcoming it. We welcome it not because they have

taken our advice but because they have taken a step in the right direction and it is precisely to take that step that our Bill some two years ago advised them.

Sir, we are aware that this Bill is being very stubbornly opposed by the lords of wealth and the champions of reaction. We find the Indian Chambers of Commerce and Industry speaking against this proposed amendment Bill and also we find that many lawyers of this country, wealthy lawyers, are arguing their lungs out against this Bill. Only what these gentlemen of wealth, what these moneyed people, the multi-millionaires are speaking, if I may use an expression with the expropriatory vulgarity, the lawyers are speaking with meaningless legal refinement.

KAZI KARIMUDDIN: Not all.

SHRI BHUPESH GUPTA: They all seem to forget that there are the people and their paramount interests. Sir, a million times more supreme than all Supreme Courts in the world is the supreme will of the people and I think the sooner our lawyers and judges understand this simple truism the better for them and the better for the country.

Sir, this Bill is not at all a revolutionary measure. This is a very liberal dose of amendment taken in a halting manner with a lot of mental reservation and with a faltering voice, and if you had listened to the speech of the Prime Minister of India made in the other House, you would have felt that there was no revolutionary gesture in it. He said very noble and fine things. I agree with him there. But when he felt that the moneyed people at the top might misunderstand him, in his second speech he came out with all manner of assurances and made it known to the world that the expropriators of India had no reason to fear, that their wealth and property will never never be expropriated under this regime. I think all that assurance and apology was unnecessary.

I say, because it is understood by them as well as by us that this Government has certain fundamental affiliations and those affiliations are that they are determined to maintain the power and privilege of the ruling class of the country. Therefore, I say that those people who are just shouting about this measure need not be so apprehensive as they are, but at the same time I am quite conscious as to why they are so apprehensive. It is not because they feel that this Government will immediately go out against them and expropriate all properties and bring all exploitation to an end and all that sort of thing. Nothing of the sort. They are apprehensive because they do not like the very idea of their power and privilege being touched even theoretically in a constitutional provision. That is why they are angry. That is why they are screeching. That is why they have put all their lawyers to argue their case both in Parliament and in the courts of law. That is the

reason. Sir. Therefore, we
3P.M. need not take them
seriously. We know what their arguments are and we know why they are afraid today.

As far as we are concerned, we want bolder measures; we want bolder changes, in our Constitution so that the steps that are urgently needed for the development and well-being of our people are taken and so that no obstacle can be put in the way of taking such steps. Let us not understand the whole business as if the Supreme Court has not understood the intentions of the framers of the Constitution, as if there is a domestic trouble between the two arms of the State, namely, the Judiciary and the Legislature. This is only an apparent aspect of it but the real trouble arises because our Constitution and its provisions and what is more the manner in which it is being administered, come into conflict with the social realities of our times. The social realities and the requirements of the life of our people have begun to tell so that it has become necessary even for the great Prime Minister and the Supreme Court at times to yield. We know this thing

[Shri Bhupesh Gupta.] is a great victory of the people and this is nothing new either. If you recall the American Constitution, you would remember that immediately after the Constitution was passed, they had to put in a number of amendments embodying the Bill of Rights. Then in the days of Jefferson and Lincoln you found the judges of the American courts interpreting the Constitution of that land not for protecting the colonial regime or the privileged classes <as they existed at that time or the reactionaries of that time but in expanding and enlarging the rights and liberties so that the United States of that day could stand on its own feet as an independent country free from all exploitation of colonial bondage. Today the story is different. You find now the same courts with different set of judges are interpreting the Constitution and the Bill of Rights in a different way so that the rights and liberties of the American people could be curtailed and Macarthyism enshrined as the principle of Constitution and Fundamental Law. Therefore, when we talk about legal interpretation and judicial pronouncements, we must bear in mind that the judges and lawyers do function in the social surroundings where grim conflicts take place and it is in the context of those conflicts that they interpret the law in order either to oust certain sections from power or to retain certain vested interests in power. That is how the Constitutional history is to be explained.

The same thing you will find if you take the Constitutional history of England. Reference has been made to *Magna Carta*; reference has been made to many other things but I would like the hon. Members to think as to how it is that even the chopping of the head of a King was found to be constitutionally valid when it was necessary for the well-being of the people, for the advance of that class of English Bourgeoisie which wanted to oust certain other class of men. We find all these things. So let us not get into a jumble of constitutional argu-

mentation and legal casuistry. That does not offer us the real answer.

Today, therefore, we find that the same thing is happening. You have declared your aim as socialistic pattern. Heaven alone knows what you mean by it. For each of you, it seems to mean differently. Shri T. T. Krishnamachari means one thing; Shri C. D. Deshmukh means another thing and Pandit Jawaharlal Nehru may mean some other thing. Between them I do not know what will be left by way of meaning as far as this is concerned. I find that the very acceptance of a certain phraseology has made it necessary for you to look into your Constitution and see how that fits in with that kind of professions. At the same time you have your planning and you have your projects and various other things and you find that you cannot proceed a step further until and unless some of your own mischief is undone. We welcome it. I do not bother as to who is taking the initiative but as long as you are prepared to change for the better you have our full support. We only wish that you would advance in longer strides and in a bolder way. Therefore, this is the real story. We are told by the framers of the Constitution—and some of them are amongst us today—that they meant some other thing and that the Supreme Court has not quite understood what they meant. I sometimes feel, why all this .ing-song here? If they had meant that sort of thing, they could have found proper language to incorporate their beliefs in the Constitution. Language at least is something which was not lacking on the side of the Congress at that time. There are very eminent men whose command over language is very good and they are people there who can easily formulate things in order to give the clearest possible expression to their thoughts and ideas. I concede that the Congress side has such people; but even so it was not possible for them to do so because the whole thing

was conceived in a spirit of compromise. There was mutual accommodation between them and the Princes, the landlords, the British and the Indian monopolists all of whom flocked together to make the Indian Constitution and it was necessary for even literary men like Pandit Jawaharlal Nehru to find a different type of language than what he would have found if these people had not been present at that time. So I find, the framers of the Constitution failed to find a proper language. If I were to go by their language we may as well say that their intention was not what is made out today. Therefore, you see, Sir, their language and intention are also in conflict. Therefore, there is no use trying to tell us that the Supreme Court is all wrong and that they were all right. Nothing of that sort. I do not support the line that the Supreme Court has taken. I should have thought that the Supreme Court would take lessons from those lawyers of the mid-nineteenth century of the United States of America who used their jurisprudential powers and legal powers in order to so interpret the American Constitution as to make it impossible for American reactionaries to prevail upon the principles which were upheld by Abraham Lincoln, Jefferson and others. Unfortunately, our Supreme Court took a different line. Let us not go into that. But let it not be understood that I stand for what the Supreme Court has said or for the line of argument adopted by the Supreme Court. Nothing of that sort. All that I want to say here is: Do not try to explain away the whole business by trying to parade your intentions against the decisions of the Supreme Court. This may sound very nice, this may sound very brave and gallant on the part of some speakers on that side but that will not explain the real state of affairs.

Sir, as you know, we have a Constitution which promises many things. We have got here the Preamble which announces to the world. The

ideals of justice, liberty, equality and fraternity—I suppose taken from the ideals of the French Revolution—and then we have got in Chapter IV of the Constitution, Directive Principles. There it is said:

"The State shall, in particular, direct its policy towards securing—(a) that the citizens, men and women equally, have the right to an adequate means of livelihood"—mark the words "adequate means of livelihood" and "(b) that the ownership and control of the material resource;— of the community are so distributed as best to subserve the common good, (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment"—here again there is the principle against concentration of wealth in the hands of a few—and so on it goes.

May I ask in this sixth year of our Constitution in what direction are we moving? Are we moving in the direction where adequate means of livelihood have been opened to the people? Or are we moving in the direction where unemployment and growing unemployment stares us in the face? Are we moving in the direction where the material resources of the country have been evenly and justly distributed among the people; or are we moving in the direction in which the peasants, in their thousands, are being thrown out of lands, when the destitutes in the country are queuing up in the streets of cities and villages, when millions of people are starving without any material resources, not even with the avenues to work and earn their livelihood? Are we moving in the direction where the operation of the economic system has resulted in lesser and lesser concentration of wealth in the hands of a few; or are we moving in the direction where the material resources of the country are being concentrated in the hands of fewer and fewer persons? These are very pertinent questions for any sensible man to ask in the sixth year of the Constitution when we are about to amend a particular article in the

[Shri Bhupesh Gupta.] Constitution. Therefore, your Directive Principles remain here a dead letter to the eternal shame of the entire country. I wish that these Directive Principles had been acted upon with courage, with vision, with selfless vigour, so that at least the direction would have been along the lines set forth in the Directive Principles. Therefore, let us not talk about glibly as if the whole thing has been necessary in order to fulfil the achievement of the Directive Principles. If you were to translate into life these principles which are novel in so far as they go, you would require not merely an amendment to the Constitution—I concede it is important—what you would require most is a change of your policy, change of your mentality, because it is the deeds and actions that will decide the fundamental issues of life, not the constitutional wrangles in which we are engaged. Therefore, what is of paramount importance today is to formulate a policy in consonance with the principle and if that policy requires changes in the existing law of the land, including the Constitution, by all means have that. Yes, we shall be only too willing to support the Government. Here it is good. We take it that you are doing it for the better, but at the same time I think it is no use trying to hide your past and shine in certain phrases that you may utter. The time has come for a little self-critical review of your past, for understanding as to why things had failed, for understanding as to why even the limited opportunities under the Constitution had not been utilised for advancing the cause of the people, for curbing the power of those who come in the way of the progress of the nation. I think a little self-criticism on the part of the Government and especially on the part of the Prime Minister would do them good and would augur well for all. Therefore, my advice would be, do a little self-criticism and leave it to the Supreme Court to do their re-thinking and self-criticism.

Sir, as we have been told *hrrre* by the hon. speakers from that side, it does not after all mean much change, many of the old things are left as they are and certain changes have been made; only in respect of certain categories of property, this amendment will apply, that is to say, the Government can take away this property, can extinguish certain rights and all that and the compensation paid for that will not be justiciable in a court of law. But as has been pointed out by hon. speakers it will be for the court to decide whether the property has been taken for a public purpose and there is no knowing what the court will decide. What may seem public purpose for the Government may not seem so for the Supreme Court; what may seem public purpose for the Supreme Court may not seem public purpose for the Government. And there will, again, be controversy and conflict. That is what we can foresee. Even so, it is good, but at the same time one must remember the limitations of this measure.

The hon. leader of the Jan Sangh speaking in the other House said that this law would destroy private property holders. I tried to understand what he was driving at, because he is an eminent lawyer. He should have seen that the mere passing of the Act or the proposed amendment does not take away the properties even of the multi-millionaire friends of his, let alone the small property holders. It is only at best an enabling measure which could be utilised by the Government if it so wished. It does not extinguish anything or curtail anything. It only empowers the Government to do certain things if the situation so requires. Naturally, it creates a situation when certain rights available to the property holders of a particular class would not be available and they would not be able to rush to the court as easily as they have been rushing there. That is about all. For

instance, if the Government remains in its present frame of mind, not much use of this measure, this amending Bill, will be made and, therefore, we say that by this measure itself you cannot get very far. And I think the hon. leader of the Jan Sangh' does realise this point while he tries to speak in the name of the property holders. I say, it will not destroy the property holders. After all, this proposed amendment does, not deal with the question of private property or the property relations in the country. Not at all. It only deals with certain cases where property rights may be interfered with in the interests of the people of the country, for the well-being of the people. Now, I can ask him what happened to the sanctity of law. When hundreds of thousands of peasants had been thrown out of their land, where was the leader of the Jan Sangh at that time? Why did he not speak loudly in defence of those people who were being thrown out of their land at that time? Why did he not speak when small men were driven out of their slums and thrown in the streets? Why did he not speak when the small properties were taken away by multi-millionaires, sometimes in the name of law and also sometimes by force? Therefore, it is no use trying to shed crocodile tears for the small property holders. We know that the small property holder's name has to be taken by him in order to protect the vested interests. Certain types of property relations have come in the way of our country. Let me make it clear that we do stand, in the present phase of our social development, for private property. In fact, even in socialism, as you know, certain type of properties are allowed. Only there you cannot have property in order to exploit others. But here in this country, we do stand for property relations under certain limitations. For instance, we are saying: Give land to the tillers and make them the masters of the land. When we make that demand we also make it clear that we stand for private property.

We want that the rights of the small property holders—whether they live in the countryside or in the town— should be protected and they are guaranteed by the Constitution. Now, you may say: What happens if the State requires certain properties even from the small owner? I know if the State plans are beneficial, for the well-being of the people, the people themselves will come forward and offer their properties and will be satisfied with the compensation that is given to them after mutual consultation. After all, what is the history of our people? They lost their properties and even lives they lost their near and dear ones. They went to jail for no financial or material return. But they went to jail and endured suffering so that India could be free. This is the history of our nation. We did not hear such things as what the property holders would feel or not. We find the Congress supporters of that time, patriots of all descriptions, facing the situation when the British Government seized properties. They confronted such situations. They never said that they would not take all this trouble because their properties were being taken away by the Government. Such is the history of our people. If really we embark upon the rebuilding of India, if we really want to introduce plan, and plans which serve the interests of the people and raise the material and cultural well-being of the people, then I believe that the people will not just indulge in this kind of talk about properties and other things. We can say this with confidence.

Then, certain other property relations come in the way. We are against those relations. What are those relations? In our country, we have our history of property relations. We have got, on the one hand, the Princes and the landlords. The property relations come in the way

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of the development of our country. And this is something which is recognised, though in a different way, even by the Congress Government. That is why they were obliged to pass certain measures with regard to land, although these measures are not at all satisfactory in our view. But the fact remains that they had to recognise that these relations came in the way. Then, we have got the British and the Indian monopolists who have concentrated wealth in their hands and are frustrating the development of the country. Their property is coming in the way. Their vested interests come in the way of the development of the country. Therefore, it becomes essential for the development of the country, for the well-being of the people of this country, to do away with those property relations, or at least curtail such property relations. Therefore, it is not a question of dealing with property relations as such. It is a question of dealing with certain types of properties which have come in the way of the development of the economy of our country for the national progress, and for the progress of the people as a whole. That is the main point. Now, it looks as if property is so divine that you cannot touch it. We have heard about the divinity of king—the divine right of king. Now we are told about the divine right of property, and the great and eminent lawyers of certain parties speak up on the floor of the House and outside in support of such property relations. I come from a State Where landlordism has been entrenched, and there you find that these landlords acquired these properties not by fair means, not by their own intellect, not by their labour, but they acquired these properties by supporting the British, by plunder and loot, by* unbelievable tyranny and oppression carried on against the people. That is how they got all those properties about which the leader of the Jan Sangh waxes so eloquently..... (Interruptions.)

MR. DEPUTY CHAIRMAN: Mr.

Bhupesh Gupta, do not criticise those persons who are not in this House.

SHRI BHUPESH GUPTA: I have not named any one, Sir. And it is my misfortune that the leader..... (Interruptions.) I know that these interruptions will be there, the moment I talk of vested interests. I knew that, the interruptions would come. Any way

MR. DEPUTY CHAIRMAN: The moment you get irrelevant.

SHRI BHUPESH GUPTA: Now I have spoken about the vested interests without being interrupted (Interruptions.) I take it, Sir, that, when I am interrupted, it has something to do with the vested interests. So, these people came to possess properties in a manner which is socially objectionable, and one might say, reprehensible. These properties have to be taken back by the Government, and they have to be divested of these properties, and these properties should be made over to the service of the people. Then, we have got British people in our country. They too have got certain properties. But we have to see how they came to possess such properties. They were not here to get these properties by doing some service to the people, and if you read the British history written by some Britishers, you will find that these properties were obtained by them by sheer banditry and loot, and this is there in their own book. I remember having read in a book a letter which a British civil servant wrote to his friend in England before he left for India to join the service here. He wrote "I am going to join the grand loot, called the British Empire." That is what he wrote. It is even they who admit such things. Now, these are the properties that are coming in the way of the development of the country. And not only that, these properties have become an engine of oppression and exploitation"

oi' our people, of our material resources, of the labour of our people. And this is something which is admitted on all hands, and by all men. Therefore I think that it is very right to demand that such properties should be taken over from their present holders.

We are told by the hon. the Prime Minister that to demand confiscation of the British properties would be defaming our own country in the eyes of the world. I do not know what he thinks of the world. If the world means the Mountbattens and others, then, of course, our country would be defamed. But if the world means the millions of the proletariat that live even in those countries, if the world means the common people who want to live as free men, Englishmen, Americans, Frenchmen, the men who live by the sweat of their brow, then certainly our country will never, never be defamed, because they know that they would not themselves like the Indians to go to their country to exploit the material and the human resources of their land. That is why we say that it will not be defaming our people at all. On the contrary, it will be adding to the glory and the prestige of our country if we could tell the world that we have eliminated the inheritors of Warren Hastings, the inheritors of Clive and Dalhousie, who still sit on our shoulders and carry on depredations and plunder in the name of law and order, in the name of justice and good neighbourliness, and all that. I think that will add to the honour and the glory of our country.

SHRI H. C. DASAPPA: (Mysore): May I know who supported them during the last War?

SHRI BHUPESH GUPTA: Sir, I was very happy that the ex-Finance Minister was *not* on his feet. But anyway, he can speak later, I think the interruption brings out its elements. It is very good. We should know each other very well. Therefore, I

say that it is not as the Prime Minister said in the other House, as if we are supporting the argument that he should snatch the people's property. Not at all. We are not asking any body to commit larceny or to get hold of an Englishman in a street and take over whatever property he has got. That is not our view at all. Let Englishmen travel in this country, go about in this country as decent people, as decent human beings. We have no objection to that. But what we want you to do is to take away those jute mills and plantations which they have captured. We want you to take-away those properties which are not their properties, but the properties of the Indian people. They should be taken over. It is not snatching some property from an individual. It is not larceny on the part of an individual. It is not a theft or a robbery. If Mossadeq could think of taking away the Anglo-Iranian Oil Company, why should not our Prime Minister think of taking away the British jute mills of Calcutta? This is a very pertinent question to ask. Let us not confuse issues. We are very decent human beings, very fine and cultured human beings. We do not believe in maltreatment of people, or in ill or rude behaviour towards them. But at the same time, we want to take in our possession the material resources of our country which have been exploited by certain foreigners who came to plunder and loot our country. That is why we say that such properties have got to be brought within the purview of this measure, and if our Constitution for this purpose has to be amended still further, we shall be fully supporting the Government, so that we can take away such properties.

SHRI H. C. DASAPPA: May I know who freed this country from the Britishers? Is it my hon. friend's party or the Prime Minister's party?

SHRI S. N. MAZUMDAR (West Bengal): It is the people of India.

SHRI BHUPESH GUPTA: I do realise that if I were to try to bring sense to my hon. friend, I will take a little more time than is required in the case of others.

SHM H. C. DASAPPA: This is the only contribution that he makes to the debate.

SHRI BHUPESH GUPTA: I hope you will kindly take to me and save me the pain of spending the rest of my time in trying to bring sense to you, but I know I will fail.

Now, that is my point. I say it is not a question of snatching away anybody's property or doing something very rude to anybody. It is a question of settling the past accounts. The past accounts are dismal accounts. They are not to our credit. They are to our debit. It is to somebody else's credit. That credit was accumulated not by serving the people of our country, not in a fair way, but in the most unfair way. Therefore, we want to settle the past accounts. I think the Prime Minister would be agreeable to accepting this view. He said, speaking about confiscation of property; that to talk of confiscation of property was merely to indulge in slogan-mongering.

Sir, I would only remind the Prime Minister that it was he who at one time was being called as the greatest slogan-monger in the country. No doubt at that time the Mountbatten settlement had not taken place. Therefore, it is no use saying that we are slogan-mongers. There was a time when we were all slogan-mongers, and the Prime Minister was perhaps one of the loudest slogan-mongers in the country. I recall to my mind the pamphlet which he wrote, 'The Parting of the Ways', in which he said clearly that the domination of the City of London should be abolished in India. That book was published in 1940. We know we

have become slogan-mongers and we know we are being called slogan-mongers because of the parting of the ways in another field which has taken place now. There is no use trying to avoid the issue by calling people names and by talking about high philosophy. The time has come when the supreme decision must be taken in the name of the people, for the welfare of the people to do away with all such property relations which come in the way of the development of the country.

DR. EAGHUBIR SINH: Was not a definite verdict given by the people in Andhra only recently?

SHRI BHUPESH GUPTA: He is a Cinderella prince, I know. May I tell him and the other Cinderella princes that it is necessary also to take over the idle money from the princes so that it can be turned over to the national use, for the advancement of the cultural and material well-being of the country? Constitution or no Constitution, such properties have to be got hold of, because the paramount interests of the people require such a step. Therefore, I say that it is necessary to take such steps against them. It is also necessary to get hold of all property that is coming in the way of our progress.

Sir, if you look back on the past few years, you will find the same story.

MR. DEPUTY CHAIRMAN: Mr. Gupta, you have already taken 40 minutes.

SHRI BHUPESH GUPTA: It is not forty minutes, but if the Chair says it is forty minutes, it is forty minutes. Anyhow, I would like to have some more time.

MR. DEPUTY CHAIRMAN: You may use the remaining portion of your time in making useful suggestions

about the measure before the House. Do not go into past history.

SHRI BHUPESH GUPTA: I was saying that during the past years we had seen how the vested interests went to the court whenever the Government came forward with any measure for doing something good, at a number of cases have been cited, least what they thought to be good. I can mention the case of Bengal. Take for instance the lands that are under the occupation of the refugees. Government acquired these lands and was ready to pay compensation at the 1946-48 rates, which would be very high. The refugees said that it should be fixed at the 1938-39 level, because most of the lands had been bought by the landlords at that time by paying comparatively low prices. The landholders demanded compensation at the 1951-52 rates which were very high, so that thereby they could collect the maximum amount of compensation. The High Court decided that they were right. The landlords were right under the law and not the refugees. Then you have got the Shola-pur case, into which I need not go. You have the example of the Bihar *zamindari* Bill. There again because of a certain flaw in the Bill, which was seized upon by the landholding classes, a decree was obtained from the High Court in which the compensation to be paid was declared to be illusory. In that way, a number of measures were declared to be *ultra vires* of the Constitution. I think we should set such matters at rest. We should see that such interpretations are not possible to give even by the Supreme Court. The Supreme Court is there to interpret the law and in interpreting the law, it should certainly examine whether a certain law goes against the provisions of the Constitution, but beyond that we are not prepared to give any power to the Supreme Court. The law should be framed by the representatives of the people, although sometimes there

are some misrepresentatives and they are numerous on the other side of the House, but still I would say what it is the Parliament, the Legislature, of the country which should formulate laws, which should decide what should or should not be done. When such decisions are embodied in the enactments which it makes, it will be the task of the Supreme Court to enforce these laws and not detract from them. In case they find that such decisions or enactments are against the Constitution, certainly they can make suggestions, but in doing so, I think they will keep in mind the interests of the community, the interests of the people, the broader interests of the nation rather than certain factional interests. It is not for me to advise the Supreme Court, but nonetheless it becomes necessary for me to say how I view matters. Legal interpretations should not frustrate our social objectives. That is why it becomes necessary from time to time to take the Constitution into consideration, to review the various Constitutional provisions in the light of the experience of life. After all, life is only green. Therefore it becomes necessary from time to time that we should review these provisions and make such amendments of the Constitution as are called for in order to achieve our social objectives, the various other objectives that we have set before ourselves. I know that there will be turmoil, there will be conflict, there will be tussle, over such matters; yet I think it is quite possible as has been seen here in the course of this debate to make amendment, to the Constitution in the interests of the people. You should not think that the Constitution is something sacred and should not be touched. Some people think that the Constitution is a document which should not be touched, that the Constitution is something divine. I think, that these people are encouraged to offer such arguments because the Congress Government itself has been very much slow in the matter of reshaping and amend-

[Shri Bhupesh Gupta.] ing the Constitution with a view to serving the interests of the people. Therefore, they are encouraging some people to come out with this fatuous suggestion that the Constitution should not be amended at all. The Constitution is not something which is got by divine revelation. The Constitution has been framed by men, and men shall change it whenever the interests of the country require it. That is how we should approach this matter. That is the only right approach because no Constitution, no legal enactment, no legal decision, not even the judiciary, is infallible. They are all liable to mistakes. They are liable to commit errors. Therefore, whenever we find that any law is contrary to life, then it becomes our bounden duty to make suitable alterations in it, whether in the field of Constitution or whether in the judiciary or in any other field, so that our progress is not held up, so that our society can march along the path of progress, so that the objectives which we all share, at least in words, are achieved in the shortest possible time.

Constitutional amendments should be understood in that context because we know that in all countries the Constitution makers and those who came after them had taken such view of the matter. A dogmatic view in the matter of Constitution is extremely harmful. Our Constitution has a bias in favour of the privileged class, in favour of those people who are wealthy, who are rich, who are in possession of the wealth of the country. That bias has to be eliminated. Let our Constitution undergo a popular reorientation in which the sentiments, aspirations and the will of the people do not find expression merely in the preamble or Directive Principles but in the mandatory and positive enactments of the Constitution becoming an operative part of the Constitution.

thereby opening a new road for the State to advance. This is how we view such matters. Therefore, it is not a question of legal controversy for us. It is a social question for us. We view the Constitution in that social context, we want to change Constitution with this social outlook— the outlook that is paramount for our purpose. I hope that the Prime-minister will realise that he is only encouraging those people when he accuses us of saying things which, he thinks, should not be said— of slogan-mongering and all that.

MR. DEPUTY CHAIRMAN: Don't repeat yourself, please. You should, close now.

SHRI BHUPESH GUPTA: If really we proceed along the path of social progress, it will be found, time and time again, that the Constitution has got to be changed and I hope that we shall not fail by the people and we shall revise and change the Constitution. There are many articles or clauses in the Constitution which require to be changed. I wish we had a Constitution Committee of Parliament to go into this matter and to see as to how the Constitution has to be revised in the light of the experience of the people and the requirements of our time. I wish that we had taken that bold and decisive step even at this hour. Unless we do so, it may be too late and when I say late, I have in mind the vested interests who will try still to frustrate the measures that are proposed to be taken. My last word is this that the vested interests have not given up their game. They have not taken everything for lost. They will fight tooth and nail even the amendments that are being made. They will fight it in the Court of law, they will fight it politically, they will fight it wherever they function. Therefore, it is necessary to rally the people to such measures and you can rally the people only when you implement the measures in

actual life, in directing the attack against the vested interests, the princes, the landlords and the monopolist class, and in making it known to the people that such measures are being implemented for the well-being of the people. The moment you correlate such measures with their gradual material and cultural pros-

...ity, people will support you and it will be impossible for the vested interests and the monopolist class to resist such measures and frustrate whatever good thing that you may propose to do. With these words, I support this measure. I only hope that what is being passed in the shape of law would be translated into actual life so that the people may know that measure was passed not for the luxury of debate nor for constitutional acrobatics but for serving the paramount interests, for hitting those vested interests, unpatriotic elements in the country, who stand in the way of India's march to progress and prosperity.

श्रीमती सावित्री निगम (उत्तर प्रदेश): उपरोक्त महोदय, इसमें कोई सन्देह नहीं कि यह विधेयक सामाजिक क्रान्ति के अग्रदूत के रूप में ही हमारे सामने प्रकट हुआ है, इसलिए मैं इसका हार्दिक स्वागत करती हूँ और साथ ही साथ मुद्र महोदय तथा सरकार का बधाइयाँ देती हूँ।

और तो और, श्रीमान्, यह विधेयक श्री भूपेश गुप्ता को भी इतना अधिक पसन्द आया है कि वे इस लाने का सारा श्रेय स्वयं पर लाना चाहते हैं। हम लोग बड़ी प्रसन्नता से उन्हें इसका पूरा श्रेय देने के लिए तैयार हैं और हम चाहते हैं कि वे कांग्रेस की उदारता का पूरा पूरा फायदा उठावें और इस श्रेय का मुकुट अपने सिर पर रखें, लेकिन, कम से कम उनको इस बात से यह सबक लेना चाहिए कि यह विश्वास उनको अपने हृदय में पैदा करना चाहिए कि हम लोग भी सही बात सही माँका देख कर धर्मशा करते हैं और करते रहेंगे। बस फर्क इतना

ही है कि श्री भूपेश गुप्ता अत्यन्त हड़बड़ा कर चलना चाहते हैं आंधी की तरह। उनकी तरह न चल कर हम लोग बड़ी समझदारी के साथ, समय देख कर, और जमाने की माँग का समझते हुए ही, ऐसा काम करते हैं जो देश की परिस्थितियों के अनुकूल हो।

श्री गुप्ता ने एक सवाल किया। उन्होंने कहा, क्यों नहीं कॉन्स्टीट्यूशन बनाते वक्त ही उसको लैंग्वेज इस तरह की रखी गई थी। मंस उनसे कहना है, बल्कि मैं उनसे पूछना चाहती हूँ कि क्या उनको आज की स्थिति में और सात वर्ष पूर्व की स्थिति में कोई अन्तर प्रतीत होता है या नहीं? सच तो यह है कि उस स्थिति में जिस समय कॉन्स्टीट्यूशन बना था और अब की स्थिति में जमीन आसमान का फर्क है और उसी फर्क का यह नतीजा है कि आज हमने इस आवश्यकता को समझा है, और पूरे विश्वास और पूरी दृढ़ता के साथ हम लोग इस विधेयक को लाने का प्रयत्न कर रहे हैं। यदि हमारे विरोधी भाई तनिक इंसफ़ की आँखों से देखना प्रारम्भ कर दें तो उन्हें यह जानने में शक न लगनी कि हम लोग भी देश की उन्नति के लिए, देश की तरक्की और बहबूदी के लिए, ज्यादा से ज्यादा क्रान्ति लाने के लिए, ज्यादा से ज्यादा त्याग करने के लिए हर समय प्रस्तुत हैं। यही कारण है कि हमारा देश तरक्की के रास्ते पर यथेष्ट कदम से बराबर बढ़ता जा रहा है। मुझे विश्वास है कि इस विधेयक द्वारा हम एक समाजवादी सर्वोदय समाज की स्थापना अर्थात् पूर्ण ढंग से कर सकेंगे। जिस पूँजीवादी तांडव का अभिशाप हम बराबर सहते आए हैं और सदियों से एक वर्ग बराबर दूसरे वर्ग का शोषण करता रहा है और एक दूसरे की कमजोरियों का बँजा फायदा उठा कर उसे तरह तरह से शोषित करता रहा है, उसका अब अंत होने जा रहा है। पूँजी का विषम बटवारा जब दयनीयता की चरम सीमा को छू चुका, जब इन्सान इन्सान का गुलाम बन गया और चांदी के तालों से प्रकृति माता का सारा वैभव बन्द कर दिया गया जो कि चंद लोगों को ही सूलभ था, तब उस गरीबी और अमीरी के भयानक अन्तर को दूर करने के

[श्रीमती सावित्री निगम]

लिए आज यह विधेयक लाया गया है। मंत्र खयाल है कि इस विधेयक का चन्द लोग ही नहीं बल्कि दश का एक एक व्यक्ति पूरा पूरा समर्थन करेगा।

कॉन नहीं जानता कि कभी कभी उत्पादकों को एंजीपतियाँ और व्यवसायियों के चंगुल में इस तरह फंस जाना पड़ता था कि उनको अपनी ही उत्पादित की हुई सम्पत्ति का द्रुगुन और चाँगुन मूल्यों में खरीदना पड़ता था क्योंकि नियम ही ऐसे बने हुए थे? अभी थोड़े दिन की बात है कि मंत्र गून्डफादर की प्रॉपर्टी का एक हिस्सा उनके बूदर ने बेच दिया, बगैर किसी का बताए हुए। जब दूसरे लोगों को मालूम हुआ तो उन्होंने चाहा कि उस हिस्से को फिर खरीद लें और बर्पाती जायदाद की रद्दा करें। लेकिन रजिस्ट्री हो जाने के बाद जब उन्होंने उस जायदाद को फिर से खरीदना चाहा तो १५ हजार की जायदाद के लिए, ४५ हजार २० देने पड़े और इस प्रकार ३० हजार का मुनाफा उस व्यक्ति ने उठा लिया जिसने उस जायदाद को खरीदा था। इस प्रकार के अनीतिपूर्ण व्यवहार और रीति को दूर करने के लिए जो यह विधेयक लाया गया है, मुझे यकीन है कि यह समाज में कल्याण और नई क्रान्ति लाने वाला सिद्ध होगा। मैंने आदि से अन्त तक इस विधेयक को पढ़ा और एक भी बात मुझे इसमें एंसी नहीं प्रतीत हुई जिससे किसी भी इमानदार और सच्चं दश-प्रेमी को कोई एंतराज हो सके। जहां तक मुआविजा देने की बात है, इसमें बिलकुल साफ साफ लिखा गया है कि सरकार कोई भी जायदाद किसी किस्म से कभी नहीं लेगी जिसका कि वह मुआविजा न दे। लेकिन हमारे कुछ भांल भाडयों को यह चिंता हो जाती है कि जब पूरा पूरा मुआविजा देना ही है, जब पूरा पूरा मुआविजा देने की बात इसमें लिखी हुई है तो उससे "हैव एंड हैव-नाट्स", अर्थात् धनी और निर्धन के बीच में कोई फर्क नहीं पड़ेगा क्योंकि उनको जायदाद का पूरा पूरा मुआविजा

दिया जाएगा। मंत्र उनसे अनुरोध है कि वे ध्यान से इस विधेयक को देखें। इसमें बार बार लिखा हुआ है कि वाजिब मुआविजा दिया जाएगा। यह "वाजिब" शब्द बड़ा महत्वपूर्ण है और यह उन सब बातों को पूरी तौर से कंट्रोल करता है जिनके द्वारा एक चीज के दाम चाँगुना बढ़ा दिए जाते हैं या आवश्यकता पड़ने पर बाजार में दाम बढ़ा कर लाभ उठाया जाता है। यह समझी हुई बात है कि अगर हमें पूरा पूरा मुआविजा देना ही होता तो हमें इस विधेयक की क्या आवश्यकता थी और अगर हम पूरा पूरा मुआविजा दे सकते तो फिर हमें यह विधेयक लाने की आवश्यकता ही नहीं रह जाती।

श्रीमन्, सुप्रीम कोर्ट के विषय में यह बात कही जाती है कि हम लोग किसी प्रकार में सुप्रीम कोर्ट के अधिकारों को छीनना चाहते हैं, हमें उस पर यकीन नहीं है। हम पूरी श्रद्धा के साथ अब तक सुप्रीम कोर्ट के निर्णयों को स्वीकार करते आए हैं और करेंगे। मुझे पूरा पूरा यकीन है कि इस विधेयक का न सिर्फ दश की जनता बल्कि सुप्रीम कोर्ट के बड़े बड़े जजेज भी पूरा पूरा स्वागत करेंगे क्योंकि जनतन्त्र के प्रति उनके हृदय में भी पूरा पूरा सम्मान है। वे जानते हैं कि वे भी इसी महान् जनतन्त्र के सदस्य हैं जिससे यह थोड़ा सा नया अधिकार दिया जा रहा है और उसका जो लाभ हांगा उसके वे भी हिस्सेदार होंगे। इसलिए, एंसी गलतफहमी इतनी बड़ी जमात, इतनी बड़ी संस्था के प्रति पैदा करने से कोई लाभ नहीं है। मुझे यकीन है कि इस विधेयक के बन जाने के बाद सुप्रीम कोर्ट को अपने निर्णय देने में और अधिक सुविधा और स्वतंत्रता हांगी और वे दश हित के लिए अपने निर्णयों को और अधिक सुचारु रूप से दे सकेंगे। अभी हालात कुछ ऐसे हैं कि जिनमें बड़ी बड़ी कठिनाइयाँ और संघर्ष पैदा हो जाते हैं और मौजूदा परिस्थितियों में कोर्ट्स के निर्णयों के आधार पर हम बड़े धर्म-संकेत में पड़े जाते हैं। अभी कुछ दिन पूर्व मैं सांशलाजी की एक पुस्तक पढ़ रही थी।

उसमें एक बयान दिया था "The traffic in women and children" के बारे में। बम्बई सरकार ने एक कानून द्वारा इस चीज को इल्लैगल करार दे दिया था। फिर भी थोड़े ही दिन हुए, वहां पर कोर्ट का यह फैसला हुआ कि यह बाँधल कीर्पिंग जा है यह एक प्रकार का फंडामेंटल राइट है। इस प्रकार के निर्णयों से हम लोग बड़े धर्म-संकट में पड़े जाते हैं क्योंकि एक ओर दंड में फेली हुई कृत्तियों से छूट-कारा पाने की भावना है तो दूसरी ओर दंड के बर्बर समाज का कायाकल्प करने के रास्ते में रुकावट आ जाती है। शांलापुर की मिल के बारे में कौन नहीं जानता? उसे दोहराना बंद कर दें। हम लोग यह जानते ही हैं कि जो बोर्ड आफ डाइरेक्टर्स है वह ठीक ठीक उन मिलों का निरीक्षण नहीं कर रहा था। अन्त में हमें मजबूरी पड़े उनके कानून में बंध कर, उनकी मिलों का जो ताला था वह उन्हें डाइरेक्टर्स के हाथ में सौंपना पड़ा।

श्रीमन्, मुझे पूर्ण रूप से विश्वास है कि इस विधेयक द्वारा हम उन भ्रष्टाचारों से सर्वथा मुक्ति पा जाएंगे जो कि समाजवादी ढंग के समाज की स्थापना करने के रास्ते में आ रहे हैं। हमें दंड की उन्नति करने में, दंड की कृत्तियों को दूर करने में और दंड की आर्थिक विषमता को दूर करने में इस बिल द्वारा पूरी पूरी सहायता मिलेगी। मैं इस सम्बन्ध में एक सुभाव भी देना चाहती हूँ, यदि उचित समझा जाए तो एक एमेंडमेंट के द्वारा यह लाया जा सकता है कि यह निर्णय करने का अधिकार भी संसद् को मिल जाए कि अमुक जायदाद पब्लिक के लिए हस्तगत करने पर क्या उचित मुआविजा दिया जाएगा। अगर हम ऐसा नहीं करेंगे तो हम फिर कानूनी पेचीदागियों में पड़े जाएंगे, हमारे जो कोर्ट हैं वे भी तरह तरह के निर्णय या अर्थ इस कानून का लगाएंगे। इसीलिए अगर मंत्री यह अमेंडमेंट मान लिया जाता है तो इससे हम कानूनी भ्रष्टाचारों से बच जाएंगे और हमारा कार्य भी सहज हो जाएगा।

हमारे दंड ने त्याग की जिस ज्योति को जलाया, जिस पर भारत को गर्व है, मुझे विश्वास

है कि हमारे व्यवसाय भाई, जमीन और मकानों के स्वामी भी उसी त्याग की परम्परा को, उस अमर ज्योति को सदा प्रज्वलित करते रहेंगे। हमारे जमींदार भाइयों ने जमींदारी उन्मूलन के सम्बन्ध में दंड के सामने दिखा दिया कि वे दंड की सर्वांगीण उन्नति के लिए हर तरह का न्याय करने को तैयार हैं। उन्होंने इसके लिए हर तरह का त्याग किया। कभी कभी तो उनके बच्चों के लिए यह नौबत आ गई कि शिक्षा दीक्षा के भी लाल पड़े गए। पुराने कांग्रेसी जमींदारों ने बड़ी खूबी से जमींदारी उन्मूलन के अपने सब कुछ त्याग किया, उन्होंने दंड के हित के लिए अनेकों प्रकार के कष्ट सहे, यहां तक कि विधान सभाओं में जमींदारी उन्मूलन के लिए अपना मत भी दिया। फिर भी हमारे मित्र श्री भूपेश गुप्ता को यह शंका होती है कि हमारे कांग्रेस में जो कुछ व्यवसायी लोग हैं, वे इस में रोड़ा अटकाएंगे। मुझे इस बात पर दुःख होता है कि श्री भूपेश गुप्ता को इस तरह की शंका होती है। हमारे यहां जो त्याग की परम्परा चली आ रही है, उसको हमारे व्यवसायी वर्ग और हमारे पूज्यपति सर्वदा आगे बढ़ाते रहेंगे। वे राष्ट्र के हित के लिए हमेशा बड़ी प्रसन्नता के साथ अपनी सारी जायदाद, जब कभी दंड के आवश्यकता होगी, देने को तैयार हो जाएंगे।

श्रीमन्, मुझे जो अन्तिम बात कहनी है वह यह है कि जब कभी हमारे विरोधी भाई इस तरह के विधेयकों का समर्थन करते हैं तो वे पुरानी बातों को सामने रख कर कुछ न कुछ नुकस दिखाने की चेष्टा करते हैं। मंत्री उन से यह निवेदन है कि जिस तरह से और पार्टी के लोग हृदय से विधेयक का समर्थन करते हैं उसी तरह से वे भी इस बिल का समर्थन करें क्योंकि यह विधेयक उस जनतंत्र का अधिकार, सम्मान और उसकी ताकत बढ़ाने वाला है जिसके कि वे स्वयं सदस्य हैं। मुझे विश्वास है कि इस विधेयक को संसद् के एक एक व्यक्ति का आशीर्वाद प्राप्त होगा। इतना कहने के बाद मैं फिर एक बार अपनी शुभकामनाएं देती हूँ और आशा करती हूँ कि इस विधेयक के द्वारा हम

[श्रीमती सावित्री निगम]
 देश में एक नवीन समाज की स्थापना करने में
 सब का सहयोग प्राप्त कर सकेंगे। अन्त में,
 मैं हार्दिक शुभकामनाएं देकर इस विधेयक का
 समर्थन करती हूँ।

SHRI B. M. GUPTE (Bombay): Mr. Deputy
 Chairman, I rise to support this Bill. At the
 same time I want to make certain suggestions
 and also to take this opportunity to answer
 some criticisms which have been widely
 levelled both in Parliament and outside
 Parliament whenever any Bill dealing with an
 amendment of the Constitution is brought
 forward.

First of all, with regard to the suggestion.
 There were a series of decisions of the
 Supreme Court and from them I think four
 points of divergence of opinion have arisen.
 The first question is whether the judiciary has
 any right to determine the amount of
 compensation. That was the first point. The
 second point was whether clauses (1) and (2)
 of article 31 should be read together. The
 third was whether the temporary control of
 property amounted to acquisition and,
 therefore, entitled the owner to compensation.
 And the fourth point was whether
 compensation necessarily meant the market
 value at the time of acquisition. All these four
 points have arisen and it is said that they have
 arisen because the interpretations were not in
 consonance with the intentions or the
 expectations of the Constituent Assembly.

I submit that if we look at the Bill, we will
 find that the difference of opinion on all these
 four points has not been resolved. Only one
 point has been completely resolved, namely,
 that about temporary control of an industrial
 undertaking; that it does not amount to
 acquisition and does not entitle the owner to
 compensation. But the other points have not
 yet

been resolved. Only one of the remaining has
 been touched partially, and some additional
 property is taken out of the jurisdiction of the
 court, as far as compensation is concerned.
 The competence of the court to inquire into
 this matter is only restricted, as the Prime
 Minister pointed out, it is not ousted
 altogether. It is a right decision and I have no
 quarrel about it. But I do not see why our
 intention should not be made clear with
 regard to the market price. I suggest the
 Select Committee should make it plain that
 compensation may not necessarily amount to
 market value. Perhaps "compensation" is not
 the proper word in this context because
 compensation means equivalent value and as
 long as we keep the word "compensation"
 there and still say that the market price
 may

not be there, it would
 4 P.M. , be a misnomer. I would
 say that the Joint Committee should see
 whether it could introduce some other
 phraseology, such as "the recouping of loss"
 or the "reimbursement of loss" which need
 not necessarily be full but may be something
 less. An attempt, I think, should be made at
 clarifying this point. I know the matter is
 bristling with difficulties but there is no
 reason why we should not, now that the
 opportunity has come, try to make our
 meaning clear. There is also this point about
 reading article 31, clauses (1) and (2)
 together. In my opinion the position today
 remains the same as it was; that point has not
 been resolved. If we really want that these
 two clauses should be read separately, then it
 should be made clear. An attempt should be
 made in that direction.

THE MINISTER FOR COMMERCE AND
 INDUSTRY (SHRI T. T. KRISHNAMACHARI) :
 That has been done.

SHRI B. M. GUPTE: Perhaps my point of
 view may not be acceptable but I am putting
 it forward for whatever it is worth.

Then about the criticism. Criticism has been widely made about repeated amendments. A comparison is also made with the American Constitution and people have asked as to Why, within five years, there should be four amendments in our Constitution whereas the American Constitution has stood the test of time for one hundred and fifty years. A reflection is cast upon the Government which initiated these amendments; and reflection is also cast upon the Constitution itself. I had a part in the Constitution making; I was a member of the Constituent Assembly and, I therefore, this reflection upon the Constitution picks me. I also feel the reflection on the Government as I have the honour to belong to the party which forms the Government. I think that this criticism is not justified. There are certain reasons why amendments are necessary here and they were not necessary in the case of America. The economic conditions were different. At that time, a small number of colonists had occupied a vast and virgin land and there were no internal conflicts thrown up by the expanding economy. There was room for all but that is not the case in our country. We have not sufficient resources and naturally, conflict arises and somebody takes the matter to the Supreme Court. In that situation an amendment of the Constitution becomes necessary. In another way also, I might say that the word generally has grown more complex and complicated and naturally the art of drafting has become very difficult. I do not wish to withhold from the draftsmen of the American Constitution the need of praise which is due to them; the Constitution certainly is a very competent document but at the same time I must say that drafting has become very difficult thereafter because the world has grown very complicated and complex. However careful or however imaginative a draftsman may be, he cannot visualise all the situations that may arise in the present day world and make 4 R.S.D.—4.

provision for them in advance. As I said in the Constituent Assembly and outside, there is a perpetual race between the draftsman and the lawyer and the ingenuity of the lawyer will always outpace the assiduity of the draftsman. Therefore, in these days it is impossible to draft any Constitution or any law which can withstand all the subsequent assaults of the ingenious lawyers on it and, therefore these amendments become necessary. There is another point also and that is most important. We are accused of certain things because of these amendments. It is said that we are bringing forward these amendments because we have no respect for the judiciary, we have no respect for the Supreme Court or because we have no respect for the Constitution. On the contrary, these amendments prove the reverse. It is because we have got respect for the judiciary, because we have got respect for the Constitution, we amend the Constitution only to the extent that is absolutely necessary and, therefore, it is that we have to come again and again before the Legislature. If we were to make sweeping changes then naturally these cases would not arise at all. Even now, as the Prime Minister has said, it is quite possible for us, having the majority completely to exclude the judicial review and to oust the supremacy of the courts in these matters; but we did not do that; we just do what is absolutely necessary. Because the Sholapur Mills case arose in which it was held that compensation had to be paid even for temporary management we amend the Constitution and even there only to the extent that is necessary. We have respect for the Constitution and that is why we have to come here again and again with changes; we do not wish to touch the Constitution more than is necessary. We wish to respect and retain the jurisdiction of the judiciary and, therefore, we do not oust it completely. Because of all this we have to come again and again before the Legislature. This shows not only our respect for the judiciary, not only

LSHri B. M. Gupte.] our re^wd for the Constitution but it also proves our faith in peaceful methods and well ordered progress. If we sweep away the right to compensation, as the Prime Minister said, there may be trouble, there may be conflict. I am not afraid of them because I am quite sure that this Government supported as it is by an overwhelming section of the population, will be able to suppress the vested interests creating disorder. But it must be remembered that even the successful suppression of disorder entails certain destruction of property, entails certain loss of life and, therefore in the interests of peaceful and well-ordered progress, we do not wish to follow that method. We have faith in the path of peace and, therefore, we are making these amendments only to the extent that is absolutely necessary. Therefore, it is not correct to say that we have no faith in the Constitution, that we have no faith in the judiciary, or that we are incompetent and therefore we are making all these repeated amendments. After all, public interest is paramount and we are determined to do whatever is necessary for the public interest and I am quite su - that all persons who are interested in the peaceful and well-ordered progress of the country will support our measures.

With these words, Sir, I support the Bill.

SHRI S. N. DWIVEDY (Orissa): Sir, I rise to give general support to the motion before the House. I do not regard this as a radical or a revolutionary measure but I feel it is an improvement on the present article of the Constitution. I have heard speeches of friends who have advocated more radical changes in the Bill and at the same time have opposed it. I would only appeal to such friends to note that the present Government, which we have often said is actually working to maintain the status quo

and is very much afraid of disturbing the vested interests in the country has, after all, on account of the pressure of circumstances, come forward with a measure which is being opposed by persons who are supporting the same Government and therefore, it would not be proper on our part to give any support to forces which jvant to stand in the way of this very measure. When a good step is taken, whatever little it may give by way of help to the people, we must all support it. I would have been happy— the Prime Minister himself said so in the other House while moving this motion—if it were possible for the Government to put forward a comprehensive measure amending the Constitution as a whole; in that case, the mind of the Prime Minister and tha mind of the Government would have been devoted at least to these articles of the Constitution more fully.

I would have liked that we could have along with this also touched the entire section, I mean articles 31, 31A and 31B of Part III of the Constitution of India. And I would also plead that while you make some amendments to make the quantum of compensation non-justiciable you should also have made herp provisions for acquisition of property with or without compensation. Sir, when I say this "without compensation" I know at once it will be said that it would be expropriatory, and the Prime Minister and the mover of the motion have repeatedly told us Here in this House that they are against any expropriatory measure. This feeling is created in this country because we have always confused the entire issue. I will just quote you what Mahatma Gandhi said. Nobody can say that Mahatma Gandhi was in favour of expropriation. But Mahatma Gandhi said in a talk with Mr. Louis Fischer when the latter asked him what would be his plan of reform in this country and whether he would like to pay com ensation. he said categorically.

"No, that would be fiscally impossible." And after saying this he added, smilingly, "Our gratitude to our millionaire friends does not prevent us from saying such things." Not only that, he made it very clear on another occasion. He said, "If the National Government comes to the conclusion that that place is necessary, no matter what interests are concerned, they will be dispossessed and they will be dispossessed, I may tell you, without any compensation because if you want the Government to pay compensation, it will have to rob Peter to pay Paul, and that would be impossible."

That is what Gandhiji said and if really today we are pledged to a peaceful transformation of the society, for a peaceful revolution so far as our social and economic conditions are concerned, this Government would not have hesitated to amend the section and bring forward a measure providing for this aspect also. The real difficulty is not because you had aimed at something, you were going to do something and in your way something stood but because the wording of your Constitution was so faulty that it was pointed out by some other authority.

I may just tell the House that when the present article 31 was under discussion in the Constituent Assembly, this was pointed out by many Members that unless you made it very clear and unambiguous, it would be challenged in the court, and ultimately the very purpose which you wanted to serve by adopting this article would not be served. You did not listen to that. The Supreme Court interpreted the Constitution in such a manner that the article failed to serve its purpose and the Supreme Court held that if the rights of a private owner were substantially interfered with by law, compensation must be paid notwithstanding that the property in question was not itself taken possession of or acquired by the State. In other

words actual transfer of possession or ownership was not a *sine qua non* for the applicability of clause (2) of article 31.

Then, Sir, there have been other judgements about which reference has already been made. But the Supreme Court, I would submit, has said nothing new, has not pointed out anything new. What I am concerned with is, after hearing the discussion both in this House and the other House, that an impression is being created as if a tussle is going on between the Supreme Court and the Legislature of this country. I am glad, Sir, that the mover of the motion at the beginning has made it perfectly clear that "we" have ever respect for the Supreme Court and "we" will obey its decision. I would think that it would really be an evil day for Indian democracy if the prestige of the judiciary in this country is undermined. In these days of regimentation and totalitarianism the judiciary is our greatest safeguard and we must preserve and maintain its honour, I also feel that in a democratic set-up there is no conflict between the judiciary and the legislature, but judiciary, legislature and executive are component parts of our democracy. We must, therefore, create conditions when all these three component parts must move in a clear direction, and one direction, I would also say. But that has not been so. And why? The difficulty arises not because of this article or that article, not because of some words here and there but because we are not very clear regarding our goal. Even in regard to these amendments, although I accept them and I admit this is an improvement, I would ask the hon. mover to tell me whether even this Act, this Bill itself when it is passed into law would not be challenged in the court. It is true that the quantum of compensation may not be challenged. But I am afraid lawyers in this country are many, vested interests are very much active and they will find some loophole here and

[Shri S. N. Dwivedy.] there to see that the purpose of this Bill is not fulfilled. Therefore, what I would submit is this. It is not a question of law alone; it is not a question of mere legal interpretations, but it has a much deeper and far-reaching significance. Parliament we hold to be supreme and really a sovereign Parliament in a democracy is supreme authority, there is no doubt about that. But Parliament itself should give the direction, the signal for onward march, the direction in which we want really to make changes. In this connection I will refer you to the speech of Pandit Jawaharlal Nehru when he moved this amendment, an amendment to article 24 of the Constitution on 10th September 1949 in the Constituent Assembly.

SHRI GULSHER AHMED: You mean the Draft Constitution?

SHRI S. N. DWIVEDY: Yes, Draft Constitution. He said: "It is true that there are two approaches to those questions, the two approaches being the individual right to property and the community's interest in that property or the community's right..... This amendment that I have moved tries to remove or to avoid that conflict and also tries to take into consideration fully both these rights—the right of the individual and the right of the community." And the mover also while moving this amendment told us that that was to resolve some conflict. But my point is: Have you been able to introduce that element in this Bill? What is your purpose after all? Do you want to lay it down quite seriously and clearly that you want to remove it and do you want to announce from this august House to the entire nation that the interest of the community is supreme and all individual interests have to subserve the common good of the community? Have we provided any such thing in this Bill? Sir, we have to create favourable conditions so that actually all our legal enactments would be directed eventually fo. the

replacement of capitalist ownership by the ownership of the whole people. The Government should have no hesitation in declaring that now in the year 1955. The Government might have had hesitation and might not have been bold enough to come forward with some such declaration when the Draft Constitution was being discussed; but now in this year, when they have already declared in favour of a socialistic pattern, when Parliament itself has voted in favour of a socialist economy, and when, as the mover himself has already admitted, about 97 per cent. of the membership of the other House supported this motion when it was discussed there, I do not know, why in this matter they are so hesitant. And I think almost the entire Rajya Sabha today is giving its support to this measure That shows, Sir, that almost all who stand for broadbased progress, who stand for socialist economy, are in favour of this amendment and are giving you full support. The feeble voice of opposition or murmur comes from the quarters which have never stood for progress or worked for progress. Therefore, it shows very clearly—at least the discussion on this Bill not only in these two Houses but outside in the country as well—that conservatism in this country is fast crumbling and that in this mid-twentieth century the ideas propounded in the eighteenth and nineteenth centuries would not get any support from any quarter whatsoever.

Much is being said about our Fundamental Rights and about the Constitution itself. I do not want to go into details of all those things but I can tell you this much that we do not regard the Constitution or the Fundamental Rights as static in a dynamic and fast-moving world. I would even say— because the Prime Minister has declared that it will be impossible «o give full compensation and that has | been repeated by the mover also—that I even partial compensation will havp

no justification when a general transformation of the economic structure is taking place on socialist lines. In such a case all that the persons with vested interests can claim in a socialist economy is an opportunity and share on a par with all other citizens of the State. Compensation should be determined according to social will and prevailing social conditions. Our attitude should always be towards protection to the common man and justice to all concerned, even I would say, to vested interests, because we stand for peaceful and democratic change. I say because of this whenever we discuss any such thing, the authority of the law is always invoked. We always talk about the authority of law. When it is a question of acquisition of property either with or without compensation, we make it perfectly clear that it must be done through the authority of the law. So my demand is that you must give justice to all without discrimination but we cannot at the same time allow the wider and bigger expressions of private property to get the better of it. That is the crux of the problem. We attach sanctity to private property—I would even go so far as to say, in a Communist State there is bound to be some sort of private property—but the entire question is whether in a socialist society this right of private property is to be restricted or not; whether this right of private property should be suspended for public good or not and whether it could be acquired for public purpose, either with or without compensation. That is the problem that we have to face. Therefore, I say that we have to curtail the property rights. No doubt, people must be given the right of property. They must have houses to live in, tools to work with, but we cannot guarantee the wider expressions of private property because we feel that it will be an obstacle in the path of social progress. As much is being said about this property I will only quote one authority of constitutional law on this definition of property. It says:

"Whatever man produces by the labour of his hand or his brain, whatever he obtains in exchange for something of his own, whatever is given to him, the law will protect him in use, enjoyment and disposition of it." Again it has been said in the Theory of Legislation that "Nothing can be the subject of property which is not recognised by the law to be such and when law withdraws such recognition, the thing ceases to have the attribute of property."

Is this definition of property going to be our guide, I ask. Hence I will appeal to the mover of the motion, because we are not deciding the fate of this Bill here and now as this is being referred to a Select Committee, that the provisions of the law should be made very clear in this matter. Since we aim at a basic change in the social structure, they must be aimed primarily at capitalist private property and whatever lacuna is there in this Bill—we do not touch industrial property holders and other things that were pointed out by previous speakers—that ought to be removed and I hope that the Government will take a helpful attitude in the Joint Committee to see that the present Bill is improved in favour of social control of property for speedy social and economic changes. Thank you, Sir.

مولانا ایم - فاروقی (اتر پردیش):

جناب دہلی چیئرمین صاحب - یہ کوئی ایسا بل نہیں تھا جس پر بہت زیادہ تقریریں کی جاتیں - میرے خیال میں کافی لوگوں نے اس پر روشنی ڈالی ہے - آج میں صرف چند چیزوں کی جانب آپکی توجہ دلانے کے لئے کہتا ہوں اور اس سلسلہ میں آپکو تھوڑی سی پہلے کی تاریخ کی یاد دلاتا ہوں - متوجہ افسوس ہے کہ اب تک اس ذات کی

[مولانا ایم فاروقی]

یاد کسی نے اس ہاؤس میں نہیں کی جس کی وجہ سے ہمارا دماغ جو کئی ہزار برس سے کھیٹلیم کی جانب مائل تھا جس میں جنتا کی پرواہ نہیں کی جتنی تھی اور پبلک پراپرٹی کا کوئی سوال نہیں تھا صرف ذاتی پراپرٹی کا سوال تھا۔ آج اس اہم اور ضروری ام کی طرف متوجہ ہوا۔ اس ذات نے جس کا نام مہاتما گاندھی تھا ساتھ برس کی سومنٹ کے بعد طرح طرح کی قربانیاں کر کے آپکے سامنے ایک راہ ایسی بنا دی جس پر آپ جتنا چلتے گئے اتنا ہی آگے بڑھے وہ آپکو شوسلزم کی جانب لیتجاتی ہے۔ اس وقت تمام دنیا میں سرمایہ داری کی چرچا تھی اور غریب طبقے کے آدمیوں کی بات سننے کے لئے کوئی شخص تیار نہیں تھا۔ یہ اسی شخص کی تعلیم تھی کہ آج آپ یہ دیکھ رہے ہیں کہ اتنے دنوں سے برابر جو قدم آپکا بڑھتا ہے وہ آگے کی جانب بڑھتا ہے پیچھے نہیں جاتا۔

کہنے کو لوگ کہیں کہ یہاں شوسلزم نہیں ہے اور یہاں سرمایہ داری ہے لیکن اگر آپ غور فرمائیں تو یہ بالکل غلط ہے۔ میں یو۔ پی کی ہی مثال آپکے سامنے رکھتا ہوں۔ وہاں زمینداروں کا تمام چیزوں پر کنٹرول تھا۔ ہر سیاست انہی سے چلتی

ہی اور وہاں زمینداری کا مسئلہ ایک بہت بڑا مسئلہ تھا۔ آج جو ہمارے ہوم منسٹر صاحب یہاں بیٹھے ہوئے ہیں ان ہی کے ہاتھوں وہاں کی زمینداری پورے طور پر ختم کی گئی ہے۔ میں آپکو یقین دلانا ہوں کہ اسکا کمپینیشن بھی پورا پورا دیا گیا ہے اور اس کے لئے میں خاص طور پر ہوم منسٹر کو مبارکباد دیتا ہوں کہ آج بھی یو۔ پی کا بچت بیلنسڈ ہے اور وہاں کمپینیشن بھی دیا جا رہا ہے۔ مگر اس میں کوئی چیز ایسی پیش نہیں آئی جو کسی اقتصادی خرابی کا باعث ہو۔

جب سے ہمارے ملک نے سنہ ۱۹۴۷ سے آزادی حاصل کی ہے تب سے اس کے قدم برابر ترقی کی طرف بڑھتے رہے ہیں۔ اس عرصے میں ہم نے بہت سی چیزوں کو نیشنلائز کیا اور آگے بھی کرنے کی توقع رکھتے ہیں۔ یہ سوال آج سے نہیں بلکہ بہت دنوں سے چل رہا تھا یعنی اس وقت سے چل رہا تھا جبکہ ہم نے کانگریس میں ایک نیا قدم رکھا اور اس کی بھیاں رکھی۔ مخالف لوگوں کا یہ کہنا ہے کہ ہم نے سرمایہ داری کی بنیادیں مضبوط کی ہیں یہ بالکل غلط ہے۔ لیکن کسی ملک میں جب کوئی انقلاب ہوتا ہے تو وہ اس وقت تک کامیاب نہیں ہوتا

جب تک کہ چنتا اس میں مدد نہ دے۔ ہم نے جس حد تک ۸ سالوں کے اندر کامیابی حاصل کی ہے وہ ایک غور طلب بات ہے۔ ہمیں آپکو یقین دلانا چاہتا ہوں کہ جن اصولوں کی بنا پر ہم نے اتنی کامیابی حاصل کی ہے اتنی کامیابی کسی بھی ملک نے اپنے قومی سفر میں نہیں کی۔

آرتی کانگریس میں ہم نے جو صدا بلند کی وہ وہی تھی جو ایک زمانہ سے بلند کرتے آئے تھے۔ کوئی نئی بات نہ تھی کہ ہم چنتا کو برابر کا حق دینگے۔ ملک کے تمام مفاد کو ہر طرح سے پورا کریں گے۔ ہم نے جو یہ آواز بلند کی ہے وہ بیکار نہیں کی ہے۔ اور نہ کوئی نئی ہے۔ ہم اس چیز کو عمل میں لانے کے لئے پہلے سے ہی کام کرتے آ رہے ہیں۔ چنانچہ ہم نے اس سلسلہ میں زمینداری کو ختم کر دیا ہے اور سٹیٹوں انڈسٹریاں قائم کر چکے ہیں، ہزاروں کونسلڈیشن کیا ہے اور کپٹلسٹوں کے اوپر قبضہ حاصل کرنے کے لئے طرح طرح کے کنٹرول ان کے اوپر عائد کر رہے ہیں اور عوام کی حالت کو بہتر بنانے کے لئے جو بھی مناسب چیز ہوتی ہے وہ ہم کر رہے ہیں۔ آج اسی آواز کو ہم پھر بلند کر رہے ہیں

اسی قدیم مقصد کو پورا کرنے کے لئے آج ہمارے سامنے یہ امانت بل آیا ہے۔ یہ بل کوئی معمولی بل نہیں ہے اس میں دو باتیں اہم ہیں۔ پبلک پراپرٹی اور سٹیٹ پراپرٹی کا جو سوال ہے تو یہ چیز ہزاروں سال سے چلی آ رہی ہے۔ ایک زمانہ تھا جبکہ ساری جائیدادیں بادشاہ کی سمجھی جاتی تھی۔ لیکن جیسے جیسے زمانہ بدلنا جاتا ہے حالت تبدیل ہوتی جاتی ہے۔ اسی اصول کے مطابق حالات بدلتے گئے۔ یہ دو چیزیں ہمارے سامنے ہیں کہ آیا ذاتی پراپرٹی ہونی چاہیئے یا عام ملکیت ہونی چاہیئے جسے آپ سٹیٹ ملکیت کہیئے یا جسکو آپ یوں کہئے کہ لوگوں کے فائدے کے لئے ایک ایسی چیز ہونی چاہیئے جو کہ تمام لوگوں کی ذاتی پراپرٹی ہو۔ اور وہ پبلک کے اور عوام کے فائدے کے لئے استعمال کی جائے تو یہی ایک چیز ہے۔ مگر جو ہم یہاں تجویز کر رہے ہیں اس میں یہ نہیں کہا گیا ہے کہ ذاتی پراپرٹی ختم کر دی گئی ہے بلکہ اس میں یہ کہا گیا ہے کہ ذاتی پراپرٹی بھی بنی رہے گی۔ اس کے ساتھ ساتھ اگر ذاتی پراپرٹی کے مقابلہ میں کوئی سوال عام لوگوں کے فائدے کے لئے ہے تو اس وقت ذاتی پراپرٹی خیال نہ کیا جائے۔ مخالفین کا یہ کہنا ہے کہ تاوان

[مولانا ایم - فاروقی]

بالکل ہی بھٹ کو دیا جائے
یعنی عوام کے فائدے کے لئے کوئی
ذاتی پراپرٹی جو لی جائے تو اس
کے لئے کوئی معاوضہ نہ دیا جائے۔
لیکن میں آپ لوگوں کی خدمت
میں یہ عرض کرنا چاہتا ہوں کہ
ہماری کانگریس کی شروع سے لیکر
آخر تک یہی پالیسی رہی ہے کہ
ہم جو بھی تبدیلی کریں، جو بھی
اصلاح کریں یا جو بھی انقلاب کریں
وہ امن کے ساتھ کریں جس سے
لوگوں کو تکلیف نہ ہو۔ کچھ لوگوں
نے یہاں پر یہ بھی فرمایا ہے کہ
دیگر ملکوں میں جب اس طرح
کی اصلاحات کی گئیں تو کسی
طرح کا معاوضہ نہیں دیا گیا۔ مگر
میں ان سے یہ کہنا چاہتا ہوں
کہ جہاں پر اس طرح کی انقلابی
اصلاحات ہوئی ہیں وہاں کی حالت
الگ تھی وہاں کی زندگی بسر کرنے
کا طریقہ الگ تھا۔ لیکن ہمارے
یہاں کی حالت دوسری ہے اور ہم
نے ایک پالیسی کو سامنے رکھا ہے
جس پر ہم پہلے سے عمل کرتے آئے
ہیں اور اس وقت بھی وہی عمل
کو رہے ہیں۔ جب اس کی بنا پر
ہم نے اتنی ترقی و کامیابی حاصل
کی ہے تو کوئی وجہ نہیں ہے کہ
ہم اس پالیسی کے تحت جو کہ
دہ آہستہ آہستہ اور رفتہ رفتہ کی
پالیسی ہے ہم کامیابی حاصل نہ کریں۔

ہاری جو پالیسی ہے وہ سہانا گاندھی
جی کی پالیسی ہے اسی اصول کو سامنے
رکھ کر ہم نے یہ بل پیش کیا ہے۔
اپنی ابتدائی تقریر میں شری پنڈت
جی نے بھی ان ہی اصولوں کو بیان
کیا تھا۔ انہوں نے یہ تسلیم کیا تھا
کہ جہاں تک ذاتی پراپرٹی ہے اسکو
ہم مانتے ہیں لیکن جہاں تک
پبلک کے فائدے کے لئے ہم ذاتی
پراپرٹی کو استعمال کرنا چاہیں تو
ہم پبلک کے تعاون کے ساتھ اور
معقول معاوضہ دے کر اس کا استعمال
کریں گے۔ یہ بالکل ٹھیک ہے یہ
ایک پالیسی کا سوال ہے۔
بعض لوگ یہ کہتے ہیں کہ بغیر
کوئی معاوضہ دئے لوگوں کی ذاتی
پراپرٹی پبلک کے فائدے کے لئے لے
لی جائے۔ تو دل تو یہ کہتا ہے کہ
یہ بڑی اچھی چیز ہے۔ ۳۳ کروڑ
آدمیوں کے فائدے کے لئے اگر لاکھ
دو لاکھ آدمیوں کو نقصان بھی پہنچ
جائے یعنی انکی پراپرٹی لیکر اسے
پبلک کے فائدے کے لئے استعمال
کیا جائے اور کسی طرح کا کوئی
معاوضہ انہیں نہ دیا جائے تو کوئی
حرج نہیں۔ یہ دیکھنے میں بڑی
آسان چیز معلوم ہوتی ہے۔ لیکن
جہاں پر اصول کا سوال آ جاتا ہے
پالیسی کا سوال آ جاتا ہے وہاں پر
اس طرح کی چیز نہیں کی جا
سکتی۔ گاندھی جی نے جب سے اس

ملک میں انقلاب کی تحریک ہمارے سامنے رکھی ہے اور جو اصول انہوں نے ہم نے سامنے رکھا اور جسکی بنا پر ہم آج تک کامیابی حاصل کرتے چلے آئے ہیں۔ اگر ہم اس چیز کو ختم کر دیتے ہیں تو یہ ہمارے لئے کسی طرح مناسب نہ ہوگا۔ یہی چیز ہے جسے مدنظر رکھتے ہوئے ہم نے یہ بل رکھا ہے۔ جس طرح سے ہم نے آج تک اپنی اس پالیسی کی بنا پر کامیابی حاصل کی ہے اسی طرح آپکو آئیندہ ہی یہ معلوم ہو جائے گا کہ ہم نے اس وقت جو قدم اٹھایا ہے وہ بالکل مناسب قدم اٹھایا ہے۔

اس سلسلہ میں ایک خاص چیز کے بارے میں میں آپکی توجہ مہذول کرنا چاہتا ہوں اور وہ یہ ہے کہ بعض پرائیٹیز ایسی ہیں جو پہلے سے ہی پبلک منافع میں مشغول ہیں۔ اور بعض پرائیٹیز ایسی ہیں مثلاً کسی آرہینج کے لئے وقف ہیں یا کسی اسکول کے لئے وقف ہیں۔ اس طرح کا قانون آ رہا ہے تو اس صورت میں ہوتا ہے کہ اگر ایک شخص نے اپنی جائیداد کسی مدرسہ، اسکول، دہرم شالہ یا مسجد وغیرہ کے لئے وقف کی ہے تو آپ اس جائیداد کو پبلک کے منافع کے لئے یہ کہہ کر کہ یہ پبلک منافع کے لئے چاہیئے قبضہ نہ کریں۔ لہذا میری

اپ سے درخواست ہے کہ آپ اس بل میں اس طرح کی کوئی چیز رکھ دیں کہ جس سے اس طرح کی وقف کی ہوئی چیزوں کی حفاظت ہو سکے۔ اس طرح کا ایک سوال بمبئی اسٹیٹ میں بھی اٹھ رہا ہے۔

دوسری چیز جسکی طرف مجھے آپکی توجہ دلانی ہے وہ یہ ہے کہ اس پر عمل کرتے وقت جو بھی آرگنائزیشن ہو وہ کم سے کم اس بات کا پورا پورا خیال کرے کہ جو پرائیٹری پبلک منافع کے لئے لی جا رہی ہے وہ مناسب طور پر استعمال ہو سکتی ہے یا نہیں۔ ایسا نہ ہو کہ کسی بہانے یا غلط طریقے سے کسی ذاتی پرائیٹری لے لی جائے۔ اس چیز کے لئے کوئی مضبوط اصول ہونا چاہیئے اور ایک بورڈ ہو جو یہ خیال کرے کہ جو بھی قبضہ کیا جائے وہ سلیقہ سے ہو اور واقعی پبلک منافع کے مدنظر ہو۔

اس سلسلہ میں اس سے زیادہ میں اور کچھ عرض نہیں کرنا چاہتا آخر میں میں اس پارٹی سے جو کہ اس وقت برسراقتدار ہے اور حکومت کر رہی ہے پوری طرح پر اُمید کروں گا کہ ایک وہ زمانہ آئے گا جب کہ ہم پورے طور پر جلتا کے منافع کو سامنے رکھ کر ہندوستان میں پورے طور پر شو سلزم لائیں گے۔ یا یوں کہیں کہ تمام جائیدادوں کی

[मौलाना ایم فاروقی]

پورے طور پر برابر کی تقسیم کریں گے - میں یقینی طور پر کہتا ہوں کہ پوری تقسیم کر کے اس ہلدوستان کو جلت بنا دیں گے اور اس کے ساتھ ساتھ ہم یہ بھی دیکھیں گے کہ صرف تقسیم ہی نہیں ہوتی بلکہ جن لوگوں کی جائیدادیں تقسیم ہونگی یا جو چڑنا ہوگی اسکے پورے مفاد کو پوری ضرورت کو اور زندگی کی جتنی حاجتیں ہیں ان سب کو پوری کرینگے -

[مौलانا ایم فاروقی (उत्तर प्रदेश): जनाब हिट्टी चेंबरमैन साहब, यह कोई ऐसा बिल नहीं था जिस पर बहुत ज्यादा तकरीर की जातीं। मंत्र खयाल में काफी लोगों ने इस पर रोशनी डाली हैं। आज मैं सिर्फ चन्द चीजों की जानिब आप की तवज्जा दिलाने के लिए खड़ा हुआ हूँ और इस सिलसिले में आप को थोड़ी सी पहले की तारीखी याद दिलाता हूँ। मुझे अफसोस है कि अब तक उस जात की याद किसी ने इस हाउस में नहीं की जिसकी वजह से हमारा दिमाग, जो कई हजार बरस से कौण्टिलिज्म की जानिब मायल था, जिसमें जनता की परवाह नहीं की जाती थी और पब्लिक प्रापर्टी का कोई खयाल नहीं था, सिर्फ जाती प्रापर्टी का खयाल था, आज इस अहम और जरूरी काम की तरफ मुतवज्जा हुआ। उस जात ने जिसका नाम महात्मा गांधी था, साठ बरस की मूवमेंट के बाद, तरह तरह की कुरबानियां करके आपके सामने एक राह एंसी बना दी जिस पर आप जितना चलते गए उतना ही आगे बढ़ें। वह आप को सोशलिज्म की जानिब ले जाती हैं। उस वक्त तमाम दुनिया में सरमायदारी की चर्चा थी और गरीब तबके के आदीमियों की बात सुनने के लिए कोई शख्स तयार नहीं था। यह उसी शख्स की तालीम थी कि आज आप यह दाँव रहे हैं कि इतने दिनों से बराबर जो कदम

†Transliteration in Devanagari script.

आपका बढ़ता है वह आगे की जानिब बढ़ता है, पीछे नहीं जाता।

कहने को लोग कह दें कि यहां सोशलिज्म नहीं है और यहां सरमायदारी है। लेकिन अगर आप गौर फरमाएं तो यह बिलकुल गलत है। मैं ५० पी० की ही मिसाल आपके सामने रखता हूँ, वहां जर्मींदारों का तमाम चीजों पर कंट्रोल था। हर सियासत उन ही से चलती थी और वहां जर्मींदारी का मसला एक बहुत बड़ा मसला था। आज जो हमारे होम मिनिस्टर साहब यहां बैठे हुए हैं उन ही के हाथों वहां की जर्मींदारी पर तौर पर खतम की गई। मैं आपको यकीन दिलाता हूँ कि उसका कम्पेनसेशन भी पूरा पूरा दिया गया है और इसके लिए मैं खास तौर पर होम मिनिस्टर साहब को मुबारकबाद देता हूँ कि आज भी ५० पी० का बजट बैलेंस है और वहां कम्पेनसेशन भी दिया जा रहा है। मगर इस में कोई चीज एंसी पेश नहीं आई जाँ किसी इक्विसादी खराबी का बाइस हो।

जब से हमारे मुल्क ने सन् १९४७ से आजादी हासिल की है तब से उसके कदम बराबर तरक्की की तरफ बढ़ते रहे हैं। इस अरसे में हम ने बहुत सी चीजों को नेशनलाइज किया और आगे भी करने की तवज्जा रखते हैं। यह खयाल आज से नहीं बल्कि बहुत दिनों से चल रहा था, यानी उस वक्त से चल रहा था जब कि हमने कांग्रेस में एक नया कदम रखा और उसकी बुनियाद रखी। मुस्लिम लोगों का यह कहना कि हम ने सरमायदारी की बुनियाद मजबूत की है बिलकुल गलत है। लेकिन किसी मुल्क में जब कोई इनीक्लाब होता है तो वह उस वक्त तक कामयाब नहीं होता जब तक कि जनता उस में मदद न दे। हम ने जिस हद तक ५ सालों के अन्दर कामयाबी हासिल की है वह एक गौर तलब बात है। मैं आपको यकीन दिलाता चाहता हूँ कि जिन उस्लों की बिना पर हम ने इतनी कामयाबी हासिल की है उतनी कामयाबी किसी भी मुल्क ने अपने कॉमि सफर में नहीं की।

आवड़ी कांग्रेस में हम ने जो सदा बुलन्द की वह वही थी जो एक जमाने से बुलन्द करती आये थी—यह कोई नई बात न थी—कि हम जनता को बराबर का हक देंगे, मुल्क के तमाम मिफाद को हर तरह से पूरा करेंगे। हम ने जो यह आवाज बुलन्द की है वह बेकार नहीं की है और न कोई नई है। हम इस चीज को अमल में लाने के लिए पहले से ही काम करते आ रहे हैं। चुनाव हम ने इस सिलसिले में जमींदारी को खतम कर दिया है, सैकड़ों इंडस्ट्रियां कायम कर चुके हैं, हजारों को नेशनलाइज किया है, कंपिटलस्टों के ऊपर कब्जा हासिल करने के लिए तरह तरह के कंट्रोल उनके ऊपर आयद कर रहे हैं। और अवाम की हालत को बेहतर बनाने के लिए जो भी मुनासब चीज होती है वह हम कर रहे हैं। आज उसी आवाज को हम फिर बुलन्द कर रहे हैं जो हम ने शुरू में की थी।

उसी कदीम मकसद को पूरा करने के लिए आज हमारे सामने यह अमेंडमेंट बिल आया है। यह बिल कोई मामूली बिल नहीं है। इस में दो बातें अहम हैं। पब्लिक प्रापर्टी और स्टेट प्रापर्टी का जो सवाल है, तां यह चीज हजारों साल से चली आ रही है। एक जमाना था जब कि सारी जायदाद बादशाह की समझी जाती थी। लेकिन जैसे जैसे जमाना बदलता जाता है हालत तबदील होती जाती है। इस उस्ल के मुताबिक हालात बदलते गए। यह दो चीजें हमारे सामने हैं कि आया जाती प्रापर्टी होनी चाहिए या आम मिल्कियत होनी चाहिए जिससे आप स्टेट मिल्कियत कोहए या जिसको आप खूँ कोहए कि लोगों के फायद के लिए एक एंसी चीज होनी चाहिए जो कि तमाम लोगों की जाती प्रापर्टी हो और वह पब्लिक के और अवाम के फायद के लिए इस्तेमाल की जाए। तो यही एक भगई की चीज है। मगर जो हम यहां तजवीज ला रहे हैं उसमें यह नहीं कहा गया है कि जाती प्रापर्टी खतम कर दी गई है, बल्कि इसमें यह कहा गया है कि जाती प्रापर्टी भी बनी रहेगी। इसके साथ साथ अगर जाती प्रापर्टी के मुकाबल

में कोई सवाल आम लोगों के फायद के लिए है तां उसे जाती प्रापर्टी खयाल न किया जाए। मुखालिफ बँचों का यह कहना है कि तावान बिल्कुल ही बन्द कर दिया जाए यानी अवाम के फायद के लिए कोई जाती प्रापर्टी जो ली जाए तां उसके लिए कोई मुआविजा न दिया जाए। लेकिन मैं आप लोगों की खिदमत में यह अर्ज करना चाहता हूँ कि कांग्रेस की शुरू से लेकर आखिर तक यही पालिसी रही है कि हम जो भी तब्दीली करें जो भी इस्लाह करें या जो भी इनाकिलाब करें वह अमन के साथ करें जिससे लोगों का तकलीफ न हो। कुछ लोगों ने यहां पर यह भी फरमाया है कि दीगर मुल्कों में जब इस तरह की इस्लाहात की गई तो किसी तरह का मुआविजा नहीं दिया गया। मगर मैं उन से यह कहना चाहता हूँ कि जहां पर इस तरह की इनाकिलाबी इस्लाहात हुई है वहां की हालात अलग थी। वहां की जिन्दगी बसर करने का तरीका अलग था। लेकिन हमारे यहां की हालात दूसरी हैं और हम ने एक पालिसी को सामने रखा है जिस पर हम पहले से अमल करते आए हैं और इस वक्त भी अमल कर रहे हैं और जब उसकी बिना पर हम ने आज तक इतनी तरक्की और कामयाबी हासिल की है तो कोई बजह नहीं है कि हम उसी पालिसी के तहत जो कि आहिस्ता-आहिस्ता और रफता-रफता चलने की पालिसी है, हम कामयाबी हासिल न करें। हमारी जो पालिसी है वह महात्मा गांधी जी की पालिसी है। इसी उस्ल को सामने रख कर हम ने यह बिल पेश किया है। अपनी इन्तिदाई तकरीर में श्री पंत जी ने भी इसी उस्ल का बयान किया था। उन्होंने यह तसलीम किया था कि जहां तक जाती प्रापर्टी है उसको हम मानते हैं, लेकिन जहां पब्लिक के फायद के लिए हम जाती प्रापर्टी को इस्तेमाल करना चाहें तां हम पब्लिक के तआबुन के साथ और माकूल मुआविजा देकर उसका इस्तेमाल करेंगे। ठीक है, यह एक पालिसी का सवाल है। बाज लोग यह कहते हैं कि बगैर कोई मुआविजा दिए हुए लोगों की जाती प्रापर्टी पब्लिक के फायद के लिए ले ली जाए, तां दिल तां यह

[मॉलाना एम० फारुकी]

कहता है कि यह बड़ी अच्छी चीज है, २२ करोड़ आदिमियों के फायदे के लिए अगर लाखों लाख आदिमियों को नुकसान भी पहुंच जाए, यानी उनकी प्रायर्टी ले कर उसे पब्लिक के फायदे के लिए इस्तेमाल किया जाए और किसी तरह का कोई मुआवजा उन्हें न दिया जाए तो कोई हर्ज नहीं। यह देखने में बड़ी आसान चीज मालूम होती है। लेकिन जहां पर उसूल का सवाल आ जाता है पार्लिसी का सवाल आ जाता है, वहां पर इस तरह की चीज नहीं की जा सकती। गांधी जी ने जब से इस मुद्दे में इनाकलाब की तहरीक हमारे सामने रखी है और जो उसूल उन्होंने हमारे सामने रखा और जिसकी बिना पर हम आज तक कामयाबी हासिल करते चले आए हैं, अगर हम उस चीज को खतम कर देंगे तो यह हमारे लिए किसी तरह मुनासिब न होगा। यही चीज है जिस मद्दे नजर रखते हुए, हम ने यह बिल रखा है। जिस तरह से हम ने आज तक अपनी इस पार्लिसी की बिना पर कामयाबी हासिल की है उसी तरह आपको आइन्दा भी यह मालूम हो जाएगा कि हम ने इस वक्त जो कदम उठाया है वह बिल्कुल मुनासिब कदम उठाया है।

इस सिलसिले में एक खास चीज के बारे में मैं आपकी तबज्जो मबजूल करना चाहता हूँ और वह यह है कि बाज प्रायर्टीज एंसी हैं जो पहले से ही पब्लिक मिफाद में मशगूल हैं और बाज प्रायर्टीज एंसी हैं, जो किसी जारफनेज के लिए बक्फ हैं, या किसी स्कूल के लिए बक्फ हैं। इस तरह का कानून आ रहा है तो इस सूरत में होता यह है कि अगर एक शख्स ने अपनी जायदाद किसी मदरसा, स्कूल, धर्मशाला या मस्जिद वगैरे के लिए बक्फ की है तो आप उस जायदाद पर पब्लिक के मिफाद के लिए यह कह कर कि यह पब्लिक मिफाद के लिए चाहिए, कब्जा न करें। लिहाजा मंत्री आप से दुःखास्त हैं कि आप इस बिल में इस तरह की कोई चीज रख दें, जिससे इस तरह की बक्फ की हुई चीजों की हिफाजत हो सके। इसी तरह का एक सवाल बम्बई स्टेट में भी उठ रहा है।

दूसरी चीज जिसकी तरफ मुझे आपकी तबज्जो दिलानी है वह यह है कि इस पर अमल करते वक्त जो भी ऑरगनाइजेशन हो वह कम से कम इस बात का पूरा पूरा ख्याल करे कि जो प्रायर्टी पब्लिक मिफाद के लिए ली जा रही है वह मुनासिब तौर पर इस्तेमाल हो सकती है या नहीं। ऐसा न हो कि किसी ब्रहाने या गलत तरीके से किसी की प्रायर्टी ले ली जाए। इस चीज के लिए कोई मजबूत उसूल होना चाहिए और एक बोर्ड हो जो यह ख्याल करे कि जो भी कब्जा किया जाए वह सलीके से हो और वाकई पब्लिक मिफाद के मद्दे नजर हो।

इस सिलसिले में इस से ज्यादा मैं और कुछ अर्ज नहीं करना चाहता। आखिर मैं मैं इस पार्टी से जो कि इस वक्त बरसर इक्तदार हैं और हुकूमत कर रही हैं, पूरी तरह पर उम्मीद करूंगा कि एक वह जमाना आएगा जब कि हम पूरे तौर पर जनता के मिफाद का सामने रख कर हिन्दुस्तान में पूरे तौर पर सोशलिज्म लाएंगे, या य् कहें कि तमाम जायदादों की पूरे तौर पर बराबर की तकसीम करेंगे। मैं यकीनी तौर पर कहता हूँ कि पूरी तकसीम करके हिन्दुस्तान को जन्नत बना देंगे और इसके साथ साथ हम यह भी देखेंगे कि सिर्फ तकसीम ही नहीं होती बल्कि जिन लोगों की जायदादें तकसीम होंगी या जो जनता होगी उसके पूरे मिफाद का, पूरी जरूरत को, और जिन्दगी की जितनी हाजतें हैं उन सब को पूरी करेंगे।]

SHRI SUMAT PRASAD (Uttar Pradesh): Mr. Deputy Chairman, I rise to support the motion which has been so ably moved by the worthy Home Minister. Our objective has been defined in the Directive Principles, and now it has been made more specific by the resolution passed at the Avadi Congress. Formerly, it was known as "Co-operative Commonwealth". But to make it more clear and more specific, it has been named as "Socialistic Pattern". It has been said that there is a conflict between the Supreme Court and Parliament. I do not see any conflict. The fact is

that the scope of Parliament is entirely different from that of the judiciary. Parliament frames laws, and it is the business of the judiciary to interpret them. If it is found that the interpretation of a particular enactment is different from what the framers of the Act intended, then the Parliament is perfectly entitled to change it, *BO* that it may serve the objective. Even before the coming of independence, it was realised that the *zamindari* system should end, and if I am not mistaken, U. P. was the first State where steps were taken to remove the *zamindari* system. The removal of the *zamindari* system was necessary with a view to achieving a more equitable distribution of land. Land cannot be increased. At present, there is a great disparity. There are farms measuring thousands of bighas, and there are also farms measuring only two *bighas* or three *bighas*. Then, there is a class of landless labour. So, such a system was not equitable. Besides being inequitable, it was hampering the progress and development of the country. Soon after independence, this question was raised before the country in a dynamic way by Shri Vinobha Bhave, and he appealed to the good sense of the people, just as our *pujya* Gandhiji used to do, and he went from place to place saying "Give me a share of your land." And now this question has come to the forefront. When the question of *zamindari* abolition was taken in hand, certain difficulties came in the way, and the necessary amendment was made in the Constitution. Now there is some apprehension that if equitable distribution of land is to be made and landless labour is to be provided with land, there may be legal difficulties. But on account of legal difficulties, the reform which is overdue and which is necessary for the development of the country, cannot be delayed. Therefore, it became necessary to change the law in that connection.

Then there was another question which was referred to by the hon. mover, which came up in connection with the nationalisation of roadways. Nobody took possession of the buses. But it was interpreted that it amounted to the creation of monopoly, and therefore, compensation was due to the bus owners. It was within their rights to interpret the law, but certainly, in the face of that interpretation, the law has to be modified. And whenever it becomes necessary to nationalise anything in the interests of the country, the Constitution cannot be allowed to stand in the way. It was argued that this Constitution was based upon compromise. This is a fact because Gandhiji always proceeded on the basis of compromise. He never wanted conflict. Gandhiji thought that the society progressed by a peaceful and a democratic way. We are moving in the footsteps of Gandhiji, and we want to avoid conflicts, because conflicts are bound to retard the progress of the country. This motion has been welcomed by all shades of opinion. A suggestion was made that it should cover industries also. When we are out to increase production in the country, then every source has to be tackled, and all the sections of the society have to be made enthusiastic so that they may be able to contribute their best. Our Prime Minister made it perfectly clear to our industrialists that there was sufficient room for private enterprise and for private sector, but they have got to fit themselves in the socialistic-pattern of society. The private enterprise is entitled to its legitimate share of the profit, so long as it serves the needs of the society. This is not the time when we should enter into conflicts, which are bound to affect our production adversely. At present, our production has to be increased, of course, keeping in view the distribution side also. If all the industries are taken over, then I wonder whether it will be possible for the Government to manage all of them. It is difficult to find suitable persons

[Shri Sumat Prasad.] amongst Government servants, who will be capable of running industries successfully. The Government is not however unmindful of industries run by private individuals. If an industry is found to be badly managed or its production is retarded then the Government has got powers to take control of that industry, so that it might serve the needs of the society.

Necessary amendment is going to be made in the Constitution so that the case of Sholapur Mills may not be repeated. When other textile mills were showing very good returns, Sholapur Mills was running at a loss. Certainly, there must be some defect in the management. Where is the harm if in these circumstances a particular industrial undertaking is taken possession of by the Government, not for ever, but temporarily with a view to setting the management in order so that it may serve the needs of the society? Nowadays, nobody can say that he alone is responsible for the successful running of a particular industry or a particular business. One has to depend upon the Government, upon the society, for the successful working of an industry. Therefore, it is perfectly legitimate for the Government to temporarily take possession of an industry, if it becomes necessary for its efficient working.

In the Bill which is to be considered by the Select Committee, I would suggest that the question of "public purpose" should also be solved once and for all. Otherwise there may be trouble. The Government may think that it is for a public purpose that a particular concern is being taken possession of, but the Supreme Court and the High Court may take a different view. So, if it is decided by the Government in accordance with certain principles, to be embodied in the Constitution, that the judiciary should have no say in the matter, it will facilitate matters; It is not on account of any disrespect to the judiciary

that this amendment is going to be introduced, in the Constitution. As has been suggested by so many other speakers, it is with great respect that we bow to the verdict of the judiciary, but it becomes necessary to change the Constitution if the progress and development of the country demands it. These are the various principles which are embodied in the amendment which is going to be introduced. Of course the Select Committee will consider them clause by clause so that the underlying principles of the Bill may be achieved. This Bill will be another step towards the achievement of the socialistic pattern of society which we all want. With these few words, I support the motion.

سید مظہر املم (بہار): جناب

ذہنی چہرہ میں صاحب - یہ جو کانسٹی ٹیوشن امانڈمنٹ بل آج عمارے سامنے پیش ہے اس پر ہمارے دوستوں نے کافی بحث کی ہے - میں کوئی زیادہ وقت ہائیس کا لینا نہیں چاہتا - مگر میں بھی جلد باتیں عرض کرنا چاہتا ہوں - قبل اس کے کہ میں اس بل پر کچھ کہوں میں یہ ضروری سمجھتا ہوں کہ میں حکومت کو اس بل کے لئے مبارکباد دوں - اس سے پہلے جو امانڈمنٹ اس آرٹیکل ۳۱ میں حکومت نے کیا تھا وہ صرف ایک پارٹی کولر کلاس کے خلاف تھا یعنی زمینداروں کے خلاف - لیکن جو امانڈمنٹ اس بل میں کئے گئے ہیں وہ بہت سی چیزوں کو کور کرتے ہیں - اس لئے میں سمجھتا ہوں کہ جو امانڈمنٹ پہلے ایک پارٹی کولر کلاس کے لئے تھے وہ اب تمام لوگوں کے لئے گئے ہیں جن سے ہر شخص کو زیادہ سے زیادہ فائدہ ہونے والا ہے - ایسی حالت میں کانسٹی ٹیوشن میں جو ایک کمی تھی وہ اس

امنڈمنٹ کے بعد ختم ہو جائے گی - اس لئے میں حکومت کو اس بات کیلئے مبارکبادیں دینا چاہتا ہوں - انہوں نے جو یہ قدم اٹھایا ہے اس میں کوئی دو رائیں نہیں ہو سکتیں کہ اگر ملک میں زیادہ سے زیادہ لوگوں کو فائدہ ہوتا ہو اور کچھ تھوڑے لوگوں کو نقصان ہوتا ہو تو ہمیں اسے برداشت کرنا چاہیئے - اور یہی پرنسپل ہے جسکی بنا پر حکومت یہ بل لائی ہے - اس لئے خواہ کوئی کسی کلاس کا آدمی ہو اور اسکو نہ ایفکٹ، بھی کرنا ہو تو بھی میں سمجھتا ہوں کہ اسکی یہ تیسری ہے کہ وہ اس بل کو سپورٹ کرے -

یہ بل سلیکٹ کمیٹی میں جانے والا ہے اور اس سے پہلے کہ میں کچھ اپنے سرجیشنز رکھوں میں یہ کہنا چاہتا ہوں کہ ہمارے کمیونسٹ دوست مسٹر بھویش کپتا کی ہمیشہ یہ عادت رہی ہے کہ اگر وہ کسی چیز کی سپورٹ بھی کریں گے تب بھی وہ حکومت پر کچھ نہ کچھ بوجھا کر دیں گے - گو کہ اب زمینداریاں ختم ہوگئے ہیں پھر بھی ان کے دماغ میں یہ چیز اب تک ہے کہ جتنے بھی لینڈ لارڈز ہیں خواہ وہ مہاراجہ درہندے ہوں یا مہاراجہ برطانوی یا کوئی دوسروں کا لینڈ لارڈ ہو وہ سب کے سب لوٹرس ہیں، ڈکیت ہیں - میں کہہ سکتا ہوں کہ زمینداری رکھنے والے کسی

کمیونٹی سے کم پیٹریٹ نہیں رہے ہیں اور اس ملک میں وہ کسی سے بھی پیچھے نہیں رہے ہیں - یہ کہنا غلط ہے کہ جو زمینداری رکھتے تھے وہ لوٹس تھے ڈکیت تھے - اگر آپکے پاس زمینداری نہیں ہے، مکانات نہیں ہیں اس لئے آپ زیادہ پیٹریٹ ہیں اور دوسرے لوگ پیٹریٹ نہیں ہیں تو میں یہ کہنا چاہتا ہوں کہ آخر ہندوستان کی آزادی میں کس نے حصہ لیا ہے - کیا آزادی کی لڑائی میں زمینداروں کا ہاتھ کم رہا ہے - کیا جو لوگ زمینداری سے پرورش پائے ہیں یا جو زمینداری کرتے تھے وہ جیل نہیں گئے ہیں انکی تباہی و بربادی نہیں ہوئی ہے یا انہوں نے قربانیاں نہیں کی ہیں - اس لئے میرے خیال میں پورے ایک کلاس کے خلاف ایسی بات کہنا ٹھیک نہیں ہے - ہمارے دوست کسی چیز کو برداشت نہیں کر سکتے جب تک انکا کمیونزم یہاں ہندوستان میں جاری نہ ہو جائے - میں اپنے دوستوں سے پوچھنا چاہتا ہوں کہ جس کلاس لیس سوسائٹی کا خواب مارکس نے دیکھا تھا کیا وہ آج ۳۵ سال کے بعد بھی روس میں قائم ہو سکی ہے یا نہیں - آج بھی وہاں فوج موجود ہے آج بھی وہاں پولیٹریٹ ڈکٹیٹر شپ موجود ہے - مارکس نے خواب دیکھا تھا کہ ایک ایسی کلاس لیس سوسائٹی ہوگی جس میں نہ منگری ہوگی نہ فوج ہوگی لیکن آج ۳۵ سال

[سید مظہر امام]

کا زمانہ گذر گیا اور وہ خواب پورا نہیں ہوا۔ اس لئے کانگریس گورنمنٹ سے یہ کہنا کہیں تک ٹھیک ہے کہ تم نے کیا کیا۔ آپکو دیکھنا یہ ہے کہ ہم نے زمینداری ختم کی یا نہیں۔ ہم تمام چیزوں کو اگے بڑھا رہے ہیں یا نہیں۔ ہم ترقی کر رہے ہیں یا نہیں۔ ہم نے اینکریکلچر میں ترقی کی یا نہیں۔ ہم نے پانی کا انتظام کیا یا نہیں۔ ہم نے قوت میں ترقی کی یا نہیں۔ انفا دیکھنے کے بعد اگر آپ گورنمنٹ کو کرتیسائو کریں تو چھوٹ کی انتہا نہیں دھتی۔ ابھی آتھہ برس ہوئے ہیں آزادی کو۔ اتنے کم وقت میں ہماری گورنمنٹ نے جو ترقی کی ہے وہ قابل مبارکباد ہے۔ ہمارا آپکا مطمع نظر دوسرا ہے۔ ہماری آپکی بالکل الگ دو راہیں ہیں۔ ہم نے لینڈ ریڈارم کیا اور ان ہی زمینداروں نے جو منسٹر تھے ایم۔ ایل۔ اے تھے ایسے ہاتھ سے زمینداری ختم کرنے کا قانون خوشی خوشی بنایا اور اس پر عمل کوا۔ جس طرح چین اور روس میں زمینداری ختم کی گئی اور وہاں کے زمینداروں کی جو حالت ہوئی وہ دنیا کو معلوم ہے۔ اور انکے ساتھ جو سختی ہوئی وہ پوشیدہ نہیں ہے۔ اس طرح جو روس میں طریقہ اختیار کیا گیا وہ بہتر صورت ہے یا جو ہم نے اپنے ملک میں اختیار کیا ہے کہ ہم سب کی دستوں اور مصیبت کے ساتھ چل رہے

ہیں وہ بہتر صورت ہے۔

شری एस० एन० मजूमदार : अगर कम्पैसेशन भी छोड़ दंत तां बहततर हांता ।

سید مظہر امام : بہت صحیح

ہے۔ جو کمپنیشن ریپرنٹنٹو آف پیپل نے دینا طے کیا اس کو زمینداروں نے قبول کیا۔ اگر وہ دو روپیہ ایک روپیہ یا آتھہ آنے بھی طے کر دیتے تو اس کو زمیندار منظور کر لیتے۔ اس قانون میں ہے کہ ریپرنٹنٹو آف دی پیپل یعنی آپ اور ہم سب بیٹھ کر اس بات کا فیصلہ کریں گے کہ کتنا دینا چاہیے۔

[सँयद मजहर इमाम (बिहार): जनाब छिटी चंयरमैन साहब, यह जाँ काँस्टिचुशन अमँडमेंट बिल आज हमार सामने पेश है इस पर हमार दोस्तों ने काफी बहस की है। मैं कोई ज्यादा वक्त हाउस का नहीं लेना चाहता। मगर मैं भी चन्द बातें अर्ज करना चाहता हूँ। कल्ल इसके कि मैं इस बिल पर कुछ कहूँ मैं यह जरूरी समझता हूँ कि मैं हुकूमत को इस बिल के लिए मुबारकबाद दूँ। इस से पहले जाँ अमँडमेंट इस आर्टिकल ३१ में हुकूमत ने किया था वह सिर्फ एक पार्टिकुलर क्लास के खिलाफ था यानी जमींदारों के। लेकिन जाँ अमँडमेंट इस बिल में किए गए हैं वह बहुत सी चीजों को कवर करते हैं। इस लिए मैं समझता हूँ कि जाँ अमँडमेंट पहले एक पार्टिकुलर क्लास के लिए था वह अब तमाम लोगों के लिए लाए गए हैं, जिन से हर शरूस को ज्यादा से ज्यादा फायदा होने वाला है। ऐसी हालत में काँस्टिचुशन में जाँ एक कमी थी वह इस अमँडमेंट के बाद खतम हो जाएगी। इसीलिए मैं हुकूमत को इस बात के लिए मुबारकबाद देना चाहता हूँ। उन्होंने जाँ

-[Translation in Devanagari script, script.]

वह कदम उठाया है इस में कोई दो रायें नहीं हो सकतीं। अगर मुल्क में ज्यादा से ज्यादा लोगों को पग्यदा होता हो और कुछ थोड़े लोगों को नुकसान होता हो तो हमें बरदाश्त करना चाहिए। और यही प्रिंसिपल है जिसकी बिना पर हुक्मत यह बिल लाई है। इसीलिए स्वाह कोई किसी क्लास का आदमी हो और उसको यह इफेक्ट भी करता हो तो भी मैं समझता हूँ कि उसकी घबहूटी है कि वह इस बिल को सपोर्ट करे।

यह बिल सलेक्ट कमेटी में जाने वाला है और इससे पहले कि मैं कुछ सजेन्स रखूँ, मैं यह कहना चाहता हूँ कि हमारे कम्युनिस्ट दोस्त मिस्टर भूपेश गुप्ता की हमेशा यह आदत रही है कि अगर वह किसी चीज को सपोर्ट भी करेंगे तब भी यह हुक्मत पर कुछ न कुछ बाँझार कर देंगे। गो कि अब जर्मीदारियां खतम हो गई हैं, फिर भी उनके दिमाग में यह चीज अभी तक है कि जितने भी लैंडलार्ड्स हैं, स्वाह वह महाराजा दरभंगा हों या महाराजा वर्दवान, या कोई दो सौ रुपए का लैंडलार्ड हो, वह सब के सब लूटर्स हैं डकैत हैं। मैं कह सकता हूँ कि जर्मीदारी रखने वाले किसी कम्युनिस्ट से कम पेट्रियट नहीं रहे हैं और इस मुल्क में वह किसी से भी पीछे नहीं रहे हैं। यह कहना गलत है कि जो जर्मीदारी रखते थे वह लूटर्स थे, डकैत थे। अगर आप के पास जर्मीदारी नहीं है, मकानात नहीं हैं, इसलिए आप ज्यादा पेट्रियट हैं और दूसरे लोग पेट्रियट नहीं हैं तो मैं यह कहना चाहता हूँ कि आखिर हिन्दुस्तान की आजादी में किसने हिस्सा लिया है? क्या आजादी की लड़ाई में जर्मीदारों का हाथ कम रहा है? क्या जो लोग जर्मीदारी से परवरिश पाए हैं या जो जर्मीदारी करते थे वह जेल नहीं गए हैं, उनकी तबाही व बरबादी नहीं हुई, या उन्होंने कुरबानियां नहीं की हैं? इस लिए मैं ख्याल में पूरे एक क्लास के खिलाफ ऐसी बात कहना ठीक नहीं है। हमारे दोस्त किसी चीज को बरदाश्त नहीं कर सकते, जब तक उनका कम्युनिज्म यहां हिन्दुस्तान में जारी न हो जाए। मैं अपने दोस्तों से पूछना चाहता हूँ कि जिस क्लासलेस सांसायटी

का स्वाब मार्क्स ने देखा था क्या वह आज ३५ साल के बाद भी रूस में कायम हो सकी है या नहीं? आज भी वहां फौज मौजूद है, आज भी वहां प्रोलैटैरियट डिक्टेटरीशिप मौजूद है। मार्क्स ने स्वाब देखा था कि एक ऐसी क्लासलेस सांसायटी होगी जिसमें न मिलिट्री होगी न फौज होगी। लेकिन आज ३५ साल का जमाना गुजर गया और वह स्वाब पूरा नहीं हुआ। इस लिए कांग्रेस गवर्नमेंट से यह कहना कहां तक ठीक है कि तुमने क्या किया? आपको देखना यह है कि हम ने जर्मीदारी खतम की या नहीं, हम तमाम चीजों को आगे बढ़ा रहे हैं या नहीं, हम तरक्की कर रहे हैं या नहीं, हम ने एग्जिकल्टर में तरक्की की या नहीं, हम ने पानी का इन्तजाम किया या नहीं, हम ने फूड में तरक्की की या नहीं। इतना देखने के बाद अगर आप गवर्नमेंट को क्रिटिसाइज करें तो हैरत की इतिहा नहीं रहती। अभी आठ बरस हुए हैं आजादी को, इतने कम वक्त में हमारी गवर्नमेंट ने जो तरक्की की है वह काबिल मुबारकबाद है। हमारा आपका मतमाए नजर दूसरा है। हमारी आपकी बिल्कुल अलग दो राहें हैं। हम ने लैंड रिफार्म किया और उन्हीं जर्मीदारों ने जो मिनिस्टर थे, एम० एल० ए० थे, अपने हाथ से जर्मीदारी खतम करने का कानून खुशी खुशी बनाया और उस पर अमल किया। जिस तरह चीन और रूस में जर्मीदारी खतम की गई और वहां के जर्मीदारों की जो हालत हुई वह दुनिया को मालूम है और उनके साथ जो सख्ती हुई, वह पोशीदा नहीं है। इस तरह जो रूस में तरीका अखतियार किया गया वह बेहतर सूरत है या जो हम ने अपने मुल्क में अखतियार किया है कि हम सब की दोस्ती और मुहब्बत के साथ चल रहे हैं वह बेहतर सूरत है?

श्री एस० एन० मजूमदार: अगर कम्पेन्सेशन भी छोड़ दूँ तो बेहतर होता।

श्री खैरुद्दीन मजहर इस्लाम: बहुत सही है। जो कम्पेन्सेशन रिप्रेजेंटेटिव्स आफ दी पिपुल ने देना तै किया उसी को जर्मीदारों ने कब्ज किया। अगर वह दो रुपया, एक प्यया या आठ

[श्री सय्यद मजहर इमाम]
आना भी तें कर दते तां उसको जर्मादर मंजूर
कर लेंते। इस कानून में हैं कि रिप्रेजेंटेटिव्स
आफ दी पिपुल, यानी आप और हम, सब बैठ
कर इस बात का फैसला करेंगे कि कितना देना
चाहिए।]

5 P.M.

MR. DEPUTY CHAIRMAN: Will
you **take** more time?

SYED MAZHAR IMAM: Yes, some
time more.

MR. DEPUTY CHAIRMAN: AU
right, you can continue on the next
der-

**ANNOUNCEMENT RE SITTING ON
SATURDAY, THE 19TH MARCH
1955**

MR. DEPUTY CHAIRMAN: I have to
inform hon. Members that the House will
also sit on Saturday, the 19th instant to
consider the motion for reference to a
Joint Committee of the Constitution
(Fourth Amendment) Bill.

The House stands adjourned till eleven
tomorrow.

The House then adjourned at
two minutes past five of the
clock till eleven of the clock on
Friday, the 18th March 1955.