

RAJYA SABHA

Saturday, 19th March 1955

The House met at eleven of the clock,
MR. CHAIRMAN in the Chair.

LEAVE OF ABSENCE TO SHRI K. L. NARASIMHAM

MR. CHAIRMAN: I have to inform Members that the following letter has been received from Shri K. L. Narasimham:

"I beg to submit that I have been continuously absent from the meetings of the Rajya Sabha during the eighth and the current session. I request you to excuse me for this continued absence. As I intend to start from this place on the 20th March 1955, I seek the permission of the House to condone my previous absence and permit me to remain absent* till the 18th March 1955."

Is it the pleasure of the House that permission be granted to Shri K. L. Narasimham for remaining absent from all meetings of the House from the 25th November to 24th December 1954 and from 21st February to 18th March 1955?

(No hon. Member dissented.)

MR. CHAIRMAN: Permission is granted.

THE CONSTITUTION (FOURTH AMENDMENT) BILL, 1954—continued

MR. CHAIRMAN: Syed Mazhar Imam.

سید مظہر امام (بہار) : مسٹر
چندرسین - میں اس دن یہ عرض
کر رہا تھا کہ یہ جو کانستٹیوٹیشن
امندمنٹ بل ہاؤس کے سامنے لایا

6 R.S.D.—1

کیا ہے اسکو منظور کرنا کیوں ضروری
ہے - اس سلسلہ میں ہمارے دوست
مسٹر بیوپیش نے جو کچھ اعتراضات
کئے تھے انکا میں نے اس دن جواب
دینے کی کوشش کی تھی - میں
نے یہ بھی بتلائے تھے کوشش کی تھی
کہ ہماری اور آپکی دو الگ الگ
مستقل رائے ہیں - ہم جو کچھ
اس ملک میں کرنا چاہتے ہیں
میل جول سے کرنا چاہتے ہیں اور
جس کلاس سے ہم یہ چیزیں لینا
چاہتے ہیں اسکی بھی دوستی کو
قائم رکھ کر نہ کہ زبردستی یا بائی
فورس ایسی چیزیں کرنا چاہتے
ہیں - اس لئے آپ ہمارے طریقے
کو کبھی پسند نہیں کر سکتے - یہ
یقین جان لیجئے کہ جب دنیا کی
تاریخ لکھی جائے گی تو اس وقت
دنیا یہ دیکھے گی کہ ہندوستان کے
اندر کانگریس پارٹی نے لیڈر
زمینداروں کے ہاتھوں سے کیا انکی
دوستی سے کیا محبت کے ساتھ کیا -
اسکے برعکس جب روس اور چین
کی دوستی پڑھی جائیگی تو یہ
معلوم ہوگا کہ وہاں دو پارٹیاں تھیں
دونوں نے اپنے داور استعمال کئے ایک
پارٹی برسرِ اقتدار رہی اور اس نے
دوسری پر کامیابی حاصل کی -
اس طرح دونوں جگہوں کی تاریخیں
پڑھی جائیگی - میں سمجھتا ہوں
کہ ہمارے پوائنٹ منسٹر صاحب کی یہ

(سید مظہر امام)

خواہش ہے کہ پیس فل طریقے سے ہم اس ملک کو آگے لیٹ جائیں۔

بعض لوگوں کا یہ خیال ہے کہ اس طرح سے کانسٹی ٹیوشن میں امدت منٹس ہمیشہ نہیں ہونے چاہئیں۔ اس طرح سے کانسٹی ٹیوشن ہمیشہ نہیں بدلنا چاہئے۔ بعض لوگوں کا یہ خیال ہے کہ ہمیں جتنا کے سامنے جانا چاہئے اور ان سے یہ رائے لینی چاہئے کہ کانسٹی ٹیوشن میں امدت منٹ کیا جائے یا نہیں۔ میں یہ عرض کرنا چاہتا ہوں کہ کوئی کانسٹی ٹیوشن دنیا میں پرفیکٹ نہیں ہو سکتا۔ کانسٹی ٹیوشن کا مطلب صرف یہ ہے کہ اس ملک کی جگہ کی ترقی کیلئے وہ ایک فائدہ مند چیز ثابت ہو۔ اگر کوئی کانسٹی ٹیوشن ایسا ہو جس سے ملک کی ترقی میں یا عام پبلک کی ترقی میں رکاوٹ پڑ رہی ہو تو اسکا بدلنا ضروری ہے۔ یہی ہندوستان کے کانسٹی ٹیوشن کا مطلب ہے اور اس کے مطابق یہ امدت منٹس کئے جا رہے ہیں۔

اب رہا سوال یہ کہ کانسٹی ٹیوشن میں کیوں بار بار امدت منٹس کئے جاتے ہیں۔ کیوں نہیں ایک دفعہ ایسی چیز بنا دی جائے جسے آئندہ تبدیل کرنے کی ضرورت نہ پڑے اس طرح کونٹیسٹ کرنا آسان ہے مگر زمانہ جس تیزی سے آگے جا رہا ہے کسوقت کہا

موقع ہوگا، کس وقت کیا ضرورت ہوگی اسکو دیکھتے ہوئے کوئی یہ نہیں کہہ سکتا کہ کس وقت کس قانون کی بدلتی کی ضرورت پڑے۔ جیسا موقع ہوگا جیسی ضرورت ہوگی، جیسا زمانہ ہمکو متجہور کرے گا اسی حساب سے قوانین بدلتے رہیں گے۔ یہ کانسٹی ٹیوشن خدا کی بنائی ہوئی کتاب نہیں ہے کہ ایک دفعہ جیسی بن گئی ہمیشہ ایسی صورت میں چلتی رہیگی اس میں بعد میں تبدیلی کرنے کی ضرورت نہیں ہوگی۔ یہ کانسٹی ٹیوشن تو ہمارے اور آپ کے دماغوں کا نتیجہ ہے ممکن ہے کہ ہمارے اور آپ کے بعد آئندہ دوسرے دماغ دوسری طرح سے سوچیں اور دوسرے طرح کے امدت منٹس اس میں لائیں۔ ہمارے جن دوستوں نے اور بڑے بڑے لائبرس نے یہ فرمایا ہے کہ ہمیں جتنا کے سامنے جانا چاہئے، ان سے میں یہ غرور عرض کروں گا کہ اگر ہماری گورنمنٹ یا ہماری پارٹی اس قانون کے اصول کو بدلتی ہے جیسے ڈیموکریسی پر یہ کانسٹی ٹیوشن بیس کرتا ہے اور اگر ہم ڈیموکریسی کو چیلنج کر کے ڈکٹیٹر شپ اس ملک میں قائم کرنا چاہیں تو یقیناً یہ ہمارا فرض ہو جاتا ہے کہ ہم جتنا کے سامنے جائیں اور جتنا سے یہ پوچھیں کہ تم اس اصول کو مانتے ہو یا نہیں اور تم

اس کی اجازت دیتے ہو یا نہیں - لیکن اگر ہم عام جفتا کی ترقی کھلنے کوئی قانون بدلتے ہیں تو میں یہ سمجھتا ہوں کہ جفتا اس رائے کے سامنے ہے - اس لئے اس طرح کی باتیں کر کے ایسی ضروری چیز کو ڈالنے اور اس میں دیر کرنے کی صورت پیدا کرنی نہیں چاہئے -

اسکے بعد میں ایک چیز اور کہہ کر بیٹھ جانا چاہتا ہوں اور وہ یہ ہے کہ جہاں پر اس قانون کے اندر کلاز ۳ (ای) میں کہا گیا ہے کہ

"The acquisition or requisitioning for a public purpose of any land, building or huts declared in pursuance of law to constitute a slum or of any vacant or waste land."

اس کا مطلب میرے خیال میں یہ ہوتا ہے کہ اس قانون کے پاس ہونے کے بعد شاید کوئی ویکٹ لیلڈ نہیں رہیگی - ایسی حالت میں اگر کسی وقت ضرورت ہوگی تب بھی کسی اربن ایریا میں یا کسی ٹاؤن میں اس طرح کی جگہوں میں بلڈنگ یا دوسری چیزیں لینے میں رکاوٹ پڑیگی - اس لئے میں یہ سمجھتا ہوں کہ اگر حکومت کو ٹاؤنس میں مارکیٹس یا بلڈنگس بھی لینے کی ضرورت ہو تو اسکے لئے قانون میں گنجائش رکھنی چاہئے - ورنہ ایسی جگہوں پر معمولی سی چھوٹی سی یا ہت کھوا کر دیا جاسکتا ہے اور پھر ان جگہوں کے لینے میں

قانونی مجبوری پیدا ہو جائیگی - میں آنریبل ہوم منسٹر صاحب سے یہ عرض کروں گا کہ اربن ایریا میں آج یہ بڑی بھاری شکایت ہے کہ مکانات کا کرایہ اس طرح سے بڑھا چڑھا دیا گیا ہے کہ کوئی مڈل کلاس کا آدمی یا کوئی غریب آدمی اتنا کرایہ دیکر مکان نہیں لے سکتا - وہاں دوکانوں کا کرایہ بھی اتنا بڑھا دیا گیا ہے کہ اتنا کرایہ دیکر کوئی معمولی آدمی تجارت نہیں کر سکتا - آج صورت یہ ہے کہ اگر کوئی مکان خالی ہوتا ہے یا کوئی دوکان خالی ہوتی ہے تو وہ اسوقت تک نہیں مل سکتی جب تک کہ ایک یا دو سال کا کرایہ پگڑی کے طور پر نہ دیا جائے - اگر آپ دریافت کریں تو آپ کو معلوم ہوگا کہ آج تقریباً سب ہی جگہ پگڑی سسٹم قائم ہو گیا ہے - اس کے علاوہ جب ہم نے لیلڈ لارنس کی مارکیٹس کو دیہاتوں میں لے لیا ہے تو پھر اسی اصول کی بنا پر کوئی وجہ نہیں ہے کہ ہم اربن ایریا میں مارکیٹس کو نہ لیں تاکہ معمولی کرایہ لیا جاسکے اور چھوٹے چھوٹے بزنس میں کرایہ پر حاصل کر کے فائدہ اٹھا سکیں - میں یہ بھی کہتا ہوں کہ تمام مکانات کو آپ لے لیں - مگر جہاں ایسی ضرورت آن پڑے، ایسی دقتیں جس شہر میں ہوں وہاں زمین ایکواڈر کی جائے اور اس کے لئے اس بل میں

[सिद्द मظهر امام]

ضروری امتد ممت کیا جائے - میری یہ گزارش ہے کہ سلیکٹ کمیٹی کے سامنے میرا یہ سنجیدگی رکھا جائے اور اگر مناسب ہو تو اس کو منظور کیا جائے - ان الفاظ کے ساتھ میں اس بل کو سپورٹ کرتا ہوں -

† [संयद् मजहर इमाम (बिहार) : मिस्टर चेंबरमैन, मैं उस दिन यह अर्ज कर रहा था कि यह जो कान्स्टीट्यूशन अमेंडमेंट बिल हाउस के सामने लाया गया है उसको मंजूर करना क्यों जरूरी है। इस सिलसिले में हमारे दोस्त मिस्टर भूपेश ने जो कुछ एतराजात किए थे उनका मैं ने उस दिन जवाब देने की कोशिश की थी। मैंने यह भी बतलाने की कोशिश की थी कि हमारी और आपकी दो अलग अलग मूलतकिल राहें हैं। हम जो कुछ इस मुल्क में करना चाहते हैं मेल जोल से करना चाहते हैं और जिस क्लास से हम यह चीजें लेना चाहते हैं उसकी भी दोस्ती को कायम रख कर न कि जबरदस्ती या बाई फोर्स ऐसी चीजें करना चाहते हैं। इसलिए आप हमारे तरीके को कभी पसन्द नहीं कर सकते। यह यकीन जान लीजिए कि जब दुनिया की तारीख लिखी जाएगी तो उस वक्त दुनिया यह देखेगी कि हिन्दुस्तान के अन्दर कांग्रेस पार्टी ने लैंड रिफार्म जमींदारों के हाथों से किया उनकी दोस्ती से किया, मुहब्बत के साथ किया। इसके बरअक्स जब रूस और चीन की हिस्ट्री पढ़ी जाएगी तो यह मालूम होगा कि वहां दो पार्टियां थीं दोनों ने अपने पावर्स इस्तेमाल किए एक पार्टी बरसर इक्तिदार रही और उसने दूसरी पर कामयाबी हासिल की। इतने तरह दोनों जगहों की तारीखें पढ़ी जाएंगी। मैं समझता हूँ कि हमारे प्राइम मिनिस्टर साहब की यह स्वाहिश है कि पीसफुल तरीके से हम इस मुल्क को आगे ले जाएं।

बाज लोगों का यह ख्याल है कि इस तरह से कांस्टीट्यूशन में अमेंडमेंट हमेशा नहीं होंगे

चाहिए। इस तरह से कांस्टीट्यूशन हमेशा नहीं बदलना चाहिए। बाज लोगों का यह ख्याल है कि हमें जनता के सामने जाना चाहिए और उन से राय लेनी चाहिए कि कांस्टीट्यूशन में अमेंडमेंट किया जाए या नहीं। मैं यह अर्ज करना चाहता हूँ कि कोई कांस्टीट्यूशन दुनिया में पर्फेक्ट नहीं हो सकता। कांस्टीट्यूशन का मतलब सिर्फ यह है कि इस मुल्क की जनता की तरक्की के लिए वह एक फायदामंद चीज साबित हो। अगर कोई कांस्टीट्यूशन ऐसा हो जिससे मुल्क की तरक्की में या आम पीपल की तरक्की में रुकावट पड़े रही हो तो उसका बदलना जरूरी है। यही हिन्दुस्तान के कांस्टीट्यूशन का मतलब है और इसीके मुताबिक यह अमेंडमेंट्स किए जा रहे हैं।

अब रहा सवाल यह कि कांस्टीट्यूशन में क्यों बार बार अमेंडमेंट्स किए जाते हैं, क्यों न एक दफा ऐसी चीज बना दी जाए जिससे आइन्दा तबदील करने की जरूरत न पड़े, इस तरह क्रीटि-साइज करना आसान है मगर जमाना जिस तेजी से आगे जा रहा है किस वक्त क्या मौका होगा किस वक्त क्या जरूरत होगी उसको देखते हुए कोई यह नहीं कह सकता कि किस वक्त किस कानून को बदलने की जरूरत पड़े। जैसा मौका होगा, जैसी जरूरत होगी, जैसा जमाना हमको मजबूर करेगा उसो हिसाब से कवानीन बदलते रहेंगे। यह कांस्टीट्यूशन खुदा की बनाई हुई किताब नहीं है कि एक दफा जैसी बन गई हमेशा उसी सूरत में चलती रहेगी, इस में बाद में तबदीली करने की जरूरत नहीं होगी। यह कांस्टीट्यूशन हमारे और आप के दिमागों का नतीजा है। मुमकिन है हमारे और आप के बाद आइन्दा दूसरे दिमाग दूसरी तरह से सोचें और दूसरे तरह के अमेंडमेंट्स इसमें लाएं। हमारे जिन दोस्तों ने और बड़े बड़े लायर्स ने यह फरमाया है कि हमें जनता के सामने जाना चाहिए उनसे मैं यह जरूर अर्ज करूंगा कि अगर हमारी गवर्नमेंट या हमारी पार्टी इस कानून के उम्ल को बदलती है जैसा डिमोक्रेसी पर यह कांस्टीट्यूशन बेस करता है और अगर हम डिमोक्रेसी को चेंज करके डिक्टेटरीशिप इस मुल्क में कायम करना

† Transliteration in Devanagari Script.

चाहें तो यकीनन हमारा यह फर्ज हो जाता है कि हम जनता के सामने जाएं और जनता से यह पूछें कि तुम इस उसूल को मानते हो या नहीं और तुम इसकी इजाजत दते हो या नहीं। लेकिन अगर हम आम जनता की तरक्की के लिए कोई कानून बदलते हैं तो मैं यह समझता हूं कि जनता इस राय के साथ है। इसलिए इस तरह की बातें करके ऐसी जरूरी चीज को टालने और इसमें देर करने की सूरत पैदा नहीं करनी चाहिए।

इसके बाद मैं एक चीज और कह कर बैठ जाना चाहता हूं और वह यह है कि जहां पर इस कानून के अन्दर क्लाज २ (ई) में कहा गया है कि :

"The acquisition or requisitioning for a public purpose of any land, building or huts declared in pursuance of law to constitute a slum or of any vacant or waste land."

इसका मतलब मेरे ख्याल में यह होता है कि इस कानून के पास होने के बाद शायद कोई बंकाट लैण्ड नहीं रहेगी। ऐसी हालत में अगर किसी वक्त जरूरत होगी तब भी किसी अर्बन एरिया में या किसी टाउन में इस तरह की जगहों में बिल्डिंग्स या दूसरी चीजें लेने में रुकावट पड़ेगी। इसलिए मैं यह समझता हूं कि अगर हुकूमत को टाउन्स में मार्केट्स या बिल्डिंग्स भी लेने की जरूरत हो तो उसके लिए कानून में गुंजाइश रखनी चाहिए। वरना ऐसी जगहों पर मामूली सी भाँपड़ी या हट खड़ा कर दिया जा सकता है और फिर उन जगहों के लेने में कानूनी मजबूरी पैदा हो जाएगी। मैं आन-रीबल होम मिनिस्टर साहब से यह अर्ज करूंगा कि अर्बन एरियाज में आज यह बड़ी भारी शिकायत है कि मकानात का किराया इस तरह से बढ़ा चढ़ा दिया गया है कि कोई मिडिल क्लास का आदमी या कोई गरीब आदमी इतना किराया दे कर मकान नहीं ले सकता। वहां दुकानों का किराया भी इतना बढ़ा दिया गया है कि इतना किराया दे कर कोई मामूली आदमी तैयार नहीं कर सकता। आज सूरत यह है कि अगर कोई मकान खाली होता है या कोई

दुकान खाली होती है तो वह उस वक्त तक नहीं मिल सकती जब तक कि एक या दो साल का किराया पगड़ी के तौर पर न दिया जाए। अगर आप दरयापत्त करें तो आपको मालूम होगा कि आज तकरीबन सब ही जगह पगड़ी सिस्टम कायम हो गया है। इसके अलावा जब हमने लैंड लार्ड्स की मार्केट्स को दिहातों में ले लिया है तो फिर उसी उसूल की बिना पर कोई बजह नहीं है कि हम अर्बन एरिया में मार्केट्स को न लें ताकि मामूली किराया लिया जा सके। और छोटे छोटे बिजनेसमें किराया पर हासिल करके फायदा उठा सकें। मैं यह नहीं कहता कि तमाम मकानात को आप ले लें। मगर जहां ऐसी जरूरत आन पड़े ऐसी दिक्कतों जिस शहर में हो वहां जमीन एक्वायर की जाए और उसके लिए इस बिल में जरूरी अमेंडमेंट किया जाए। मेरी यह गुंजाइश है कि सिलेक्ट कमिटी के सामने मेरा यह सजेशन रखा जाए और अगर म्यूनीसिब हो तो इसको मंजूर किया जाए।

इन अलफाज के साथ मैं इस बिल को सपोर्ट करता हूं।]

DR. B. R. AMBEDKAR (Bombay): Mr. Chairman, those who are familiar with the British Parliamentary system will know that there is a dogma in the working of the British Constitution that all parties in England accept. That dogma is that the King can do no wrong. If any wrong is done in the working of the Constitution, the person responsible for the wrong is the Prime Minister and his colleagues. But the King can never be wrong and can never do wrong. We too in this country have adopted practically, with slight modifications, the British Constitution. But unfortunately the working of our Constitution is governed by a dogma, which is just the opposite of the dogma adopted by the British people. In our country the dogma on which we proceed is that the Prime Minister can do no wrong and that he will do no wrong. Therefore, anything that the Prime Minister proposes to do must be accepted.

[Dr. B. R. Ambedkar.] as correct and without question. This devotion in politics to a personality may be excusable in some cases, but it does not seem to me excusable where the fundamental rights *are* being invaded. The fundamental rights are the very basis of the Preamble to the Constitution. The Preamble says that this Constitution will have as its basis liberty, equality and fraternity. These objectives of the Constitution are carried out by the fundamental rights. And it is, therefore, the duty, I should have thought, of every Member of Parliament, apart from personal loyalty, to be critical when any invasion is made of the fundamental rights. Unfortunately, one does not find this kind of critical attitude. The history of fundamental rights in this country is very interesting. In olden times under the Hindu kings there were fundamental rights only for two—the Brahmin and the cow—and the Puranas described the king as "*Go Brahmana Pratipala*." That was the duty of a king; whether the other sections of his subjects received any consideration at his hands or not, or whether animals other than the 'Go' had any consideration was a matter of no moment at all. So long as the Brahmin and the cow were protected, the king was destined to go to heaven.

When the Muslims came, they took away these fundamental rights which the Hindu kings had granted to the Brahmin and the cow. The cow unfortunately not only lost its right to live, but became the victim of everybody. So was the case of the Brahmin. What the Muslims did was to give privileges to the Mussalman and no rights to the non-Muslims. After the Muslim rule ended in this country, there came upon us the rule of the British. Anyone who examines the various Government of India Acts passed from 1772 to 1935 will find that there were no such thing as fundamental rights in any of the Government of India Acts that were passed by Parliament for the administration of this country. It is in 1947 or so when Swaraj became a fact in this

country that this idea of fundamental rights emerged. It is our Constitution which for the first time contains the embodiment of what are called fundamental rights. It is a very strange thing that although the foreigners were ruling in this country, namely the British, no one ever agitated for the enactment of the fundamental rights. The Congress was in existence from 1886. Let anyone examine the annual resolutions passed by the Congress. They never asked for any fundamental rights.

B>ABU GOPINATH SINGH (Uttar Pradesh): Did you read the Karachi Congress Resolution of 1931, V

DR. B. R. AMBEDKAR: Well I have no idea about that. They said that they would have fundamental rights when they enact a Constitution. I am coming to that now. It is as I say a very strange commentary that no Indian—and the Indians who ran the Congress in the earliest times were intellectual giants: they were not ordinary people, they were most learned, they were wide awake—not one of them to my knowledge asked for any fundamental rights. But as soon as Swaraj came, there was a demand for fundamental rights. It is a matter worth consideration why this happened? Various people would no doubt give various replies, but my reply is very simple. My reply is this—the reason why Indians did not demand fundamental rights when the British were here is this. Although the British had their imperialism as one aspect of their rule, there cannot be any doubt that the administration of this country was governed by what was called the rule of justice, equity and good conscience. Sir, I remember, at least speaking for my own Province, how independent was the judiciary which wholly consisted of Europeans. How independent it was of the executive. I remember a case

DEWAN CHAMAN LALL (Punjab): Is it Tilak's case?

DR. B. R. AMBEDKAR: It is a very famous one, the case of a Mr. Justice

Knight who was the Chief Justice of the Bombay High Court during the time of the East India Company. He had issued a writ against the Government of Bombay and the Government of Bombay refused to obey. They said that the Chief Justice of the Bombay High Court had no right to issue a writ against the executive. When they informed him that they were not going to carry out that particular writ, what did Mr. Knight do? He called the Chaprassi and said: "Bring the keys of the High Court", and he asked him to lock up every room of the High Court, including his own, and next day booked a passage for himself and went back to London, saying: "If you are not going to obey my orders as the Chief Justice of the Bombay High Court, you will have no High Court, at all." Subsequently, of course, his "order was reversed by the Privy Council. But that is no matter at all. The point is that the British administered this country in a manner in which everybody felt that there was some sense of security. That is the reason why, in my judgment, nobody in this country clamoured for fundamental rights. But as soon as Swaraj presented itself, everybody thought—at least many of the minorities thought—that there was the prospect of political authority passing into the hands of a majority, which did not possess what might constitutionally be called constitutional morality. Their official doctrine was inequality of classes. Though there is inequality in every community, or whatever be the word, that inequality is a matter of practice. It is not an official dogma. But with a majority in this country, inequality, as embodied in their *Shaturvarana* is an official doctrine. Secondly, their caste system is a sword of political and administrative discrimination. The result was that the fundamental rights became inevitable. What I found—and I know this thing more than probably many do, because I had something to do with it—was that the Congress Party was so jubilant over the fundamental rights. They wanted - fundamental rights.

and they thought that fundamental rights were so necessary that if the Indian people had a constitution which did not embody fundamental rights, they would appear nude to the world. That was the reason why they clamoured for fundamental rights. In the proceedings of the Constituent Assembly, I do not find a single Member who stood up and said "We do not want fundamental rights." Fundamental rights were regarded as a kind of an ornament which the Indian people must have. Today, their attitude has undergone a complete change. Today, they look upon the fundamental rights as an iron chain which ought to be broken, whenever occasion arose for breaking it. This, I find, is a fundamental change. I am sorry to say that this attitude of treating the fundamental rights with contempt, as though they were of no consequence, that they could be trodden upon at any time with the convenience of the majority or the wishes of a Party chief, is an attitude that may easily lead to some dangerous consequences in the future. And I therefore feel very sorry that even a matter of this sort, namely, the infringement of, or the deviation from, fundamental rights, is being treated by the Party in power as though it was a matter of no moment at all.

It seems to be suggested that those who made the Constitution had no sense, that fundamental rights must be elastic, that they must leave enough room for progressive changes. I must, Sir, as the Chairman of the Drafting Committee, repudiate any such suggestion. Any one, who reads the fundamental rights as they are enacted in the Constitution, will find that every fundamental right has got an exception. It says: Notwithstanding anything contained, the State may impose reasonable restrictions on them. We were quite aware of the fact that fundamental rights could not be rigid, that there must be elasticity. And we had provided enough elasticity.

Article 31, with which we are dealing now in this amending Bill, is an

[Dr. B. R. Ambedkar] article for which I, and the Drafting Committee, can take no responsibility whatsoever. We do not take any responsibility for that. That is not our draft. The result was that the Congress Party, at the time when article 31 was being framed, was so divided within itself that we did not know what to do, what to put and what not to put. There were three sections in the Congress Party. One section was led by Sardar Vallabhbhai Patel, who stood for full compensation, full compensation in the sense in which full compensation is enacted in our Land Acquisition Act, namely, market price plus 15 per cent, solatium. That was his point of view. Our Prime Minister was against compensation. Our friend, Mr. Pant, who is here now—and I am glad to see him here—had conceived his Zamindari Abolition Bill before the Constitution was being actually framed. He wanted a very safe delivery for his baby. So he had his own proposition. There was thus this tripartite struggle, and we left the matter to them to decide in any way they liked. And they merely embodied what their decision was in article 31. This article 31, in my judgment, is a very ugly thing, something which I do not like to look at. If I may say so, and I say it with a certain amount of pride the Constitution which has been given to this country is a wonderful document. It has been said so not by myself, but by many people, many other students of the Constitution. It is the simplest and the easiest. Many, many publishers have written to me asking me to write a commentary on the Constitution, promising a good sum. But I have always told them that to write a commentary on this Constitution is to admit that the Constitution is a bad one and an un-understandable one. It is not so. Anyone who can follow English can understand the Constitution. No commentary is necessary.

DR. ANUP SINGH (Punjab): Last time when you spoke, you said that you would burn the Constitution.

DR. B. R. AMBEDKAR: Do you want a reply to that? I would give it to you right here.

My friend says that the last time when I spoke, I said that I wanted to burn the Constitution. Well, in a hurry I did not explain the reason. Now that my friend has given me the opportunity, I think I shall give the reason. The reason is this: We built a temple for a god to come in and reside, but before the god could be installed, if the devil had taken possession of it, what else could we do except to destroy the temple? We did not intend that it should be occupied by the *Asuras*. We intended it to be occupied by the *Devas*. That is the reason why I said I would rather like to burn it.

SHRI B. K. P. SINHA (Bihar): Destroy the devil rather than the temple.

DR. B. R. AMBEDKAR: You can not do it. We have not got the strength. If you will read the *Brahmana*, the *Sathapatha Brahmana*, you will see that the gods have always been defeated by the *Asuras*, and that the *Asuras* had the *Amrit* with them which the gods had to take away in order to survive in the battle. Now, Sir, I am being interrupted.....

MR. CHAIRMAN: You are being drawn into

DR. B. R. AMBEDKAR:into all sorts of things into which I do not wish to enter.

I was saying that article 31 was an article for which we were not responsible. Even then we have made that article as elastic as we possibly could in the matter of compensation. If members of the House will refer to entry 42 *a*'' the Concurrent List, and compare it with section 299 of the Government of India Act, 1935, they will find how elastic has been the provision made by the Drafting Committee. Section 299 of the Government of India Act which governed the question of compensation described the following ingredients. One was, in a mere must be full compensation

by which they, no doubt, meant compensation in accordance with the terms of the Land Acquisition Act. Secondly, it said that compensation must be paid and paid in cash before possession could be taken. That was the provision in the Government of India Act, 1935. Look at the provision that we have made in entry 42 of the Concurrent List, by which I hope Members will understand that the authority to determine compensation is given to both the State Legislatures as well as to Parliament, and the reason why we did this was simple. It was this: We thought that, if compensation was distributed in List I and List II, so that the Centre might be free to fix compensation for such acquisition as it might make, and the provinces or the States might fix such compensation as they might think fit, it would result in utter chaos in this country and that there must be some sort of uniformity in this. Therefore, while giving authority to the States to lay down rules of compensation, we also gave authority to Parliament so that Parliament might enact a general law which would be applicable to the whole of India and which might supersede any State law which might be inequitable. That was the reason why we put it in the Concurrent List. What is the provision we have made? We have said that it is not necessary that Government should actually pay compensation to acquire possession of property. We have not said that. We have said "compensation to be given" and not "paid" so that it is open to the Government at the Centre as well as in the States to acquire property without actually paying compensation.

The second distinction that we have made between section 299 of the Government of India Act, 1935 and entry 42 is that, compensation may be in any form, that either Parliament or the State Legislature might decide by law to give compensation in the form of paper bonds, cash certificates or whatever they liked to give, or that they might pay it in cash if they liked it. We have also said that, although

Parliament may not actually fix compensation, it may merely lay down the rules for compensation, so that, if a law was passed which did not contain a clause specifically saying what should be the compensation but merely laid down the rules and principles, that was enough for Government to take possession of the property and acquire it. Now, Sir, I would like to ask the Members of this House if they can point out any Constitution where the procedure for acquiring property is so easy as it is in our Constitution. Can anyone point out to me that there is some other Constitution which enables the Government with greater facility to acquire property for public purposes? Now, with all this facility, is there any necessity for the Government to come out with a proposition that there are cases where they shall not give compensation? They need not cast the whole burden, the entire burden, on the present generation. They are not asked to say that the bonds that they might issue must be redeemable. They may make them irredeemable, AH that they need do is to give some interest on the bond as every borrower agrees to do and as every creditor gets. Why at all even the most hasty socialist should say, "well, we shall not pay compensation", I do not understand. There are in my judgment three cases or three paths that one might follow. The first path would be full compensation, the second, no compensation and the third, compensation as determined by law. I am quite in agreement with those who think that it is not possible to accept full compensation in terms of the Land Acquisition Act. I am quite in agreement with that; if by full compensation is meant compensation as determined by the rules now prescribed by the Land Acquisition Act, I am quite prepared to side with the Government and say that that is an impossible proposition which we need not accept. I might at this stage draw the attention of the House to the fact that we are not the only people who are bringing about socialism. What socialism means, nobody is able to say.

[Dr. B. R. Ambedkar] There is the socialism of the Prime Minister, which he himself said that he cannot define. There is the socialism of the Praja Socialist Party; they don't know what it is. And even the Communists

SHRI S. N. DWIVEDY (Orissa): You don't know either.

DR. B. R. AMBEDKAR: I am not a socialist.

SHRI S. N. DWIVEDY: You want to criticise without knowing what it is.

MR. CHAIRMAN: Order, order; you may go on.

DR. B. R. AMBEDKAR: Even the Communists say that theirs is socialism and I want to know why they call themselves Communists if they are only Socialists. It would lose all the terrors which the word 'Communism' has for many people and they might easily have won a victory in Andhra if they had made a change in name. What I wanted to tell my friend Mr. Pant is—I hope he is listening to me

MR. CHAIRMAN: Of course he is listening with the greatest attention.

DR. B. R. AMBEDKAR: What I wanted to tell him was this, that this is quite interesting. Anyone* who has studied the legislative programme of the British Labour Party, after the close of the War, will see that the Labour Party, in accordance with the report of the Trade Union Congress, published in 1945, carried out nationalisation of various industries and various services including the Railways and even the Bank of England. X have not understood what changes have been made by the Labour Party in the working of the Bank of England by nationalisation. I am a student of currency and I know something about the Bank of England but there it is that they had it. But what I wanted to tell my friend Mr. Pant is this, that in everyone of those cases where the Labour Party has carried out nationalisation, they have paid full compen-

sation—full. That is to say, they have paid the market value for the shares that they have acquired. Payment of compensation, therefore, cannot come in the way of nationalisation but as I said, I am quite prepared for that proposition because the values of the shares are not due merely to the share capital that is invested. It is due to a variety of social circumstances. It is social causes which have brought about the rise in the value of the shares and there is no reason why a private shareholder should be entitled to appropriate to himself the social values which have become part of the values of his shares. I don't also understand how the theory of no-compensation can be supported. In Russia they paid no compensation, it is true. But it must not be forgotten that the Russian Government undertakes to give employment to people, to feed them, to clothe them, to house them, to scrub them and to provide for all the human needs. If the State can undertake to feed the population whom it has deprived of compensation, then of course, in those circumstances, the theory that no-compensation shall be paid is a valid one. Why do you want compensation? Compensation is necessary simply because the State has deprived an individual of his instruments of earning a living. You cannot deprive a man of the instruments of his earnings and at the same time say, "Go and feed yourself". That theory, in my judgment, is a very barbarous one. It is therefore not possible to accept it. But why can we not accept the theory that just compensation means compensation determined by the law of Parliament? Why not? It does not mean that Parliament shall make a law exactly in terms of the Land Acquisition Act. You can scrap the Land Acquisition Act. You have a right to do so because it is within the purview of both Parliament and the State Legislatures. It can enact a new Land Acquisition Act with a new set of principles. There is no harm in doing that and no difficulty for doing that. If you do that, well, nobody can have a right to complain because when you bring forth

such a measure for determining compensation by law, all sections of the House will have a right to say what they have to say. It would be the result of common agreement. If one Parliament finds certain principles to be good and another Parliament finds that those principles are bad, Parliament may change but it should all be done and it can be done by Parliament. Therefore my suggestion to the Government is this, that rather than bring in this kind of a Bill, a bald one and, as I am going to show later, really a very trifling thing, its corpse ought to be carried unwept, and unsung and nobody ought to cry over it. I am not going to cry over it because it is not going to do any good or going to do any harm, as I will show. Therefore, my suggestion to the Government was this that rather than keep on encroaching upon these fundamental rights from time to time, it is much better to give Parliament once for all the power to determine compensation. This tampering with the Constitution from time to time is a bad thing. I said so last time but I don't suppose the Government has cared to pay any heed. I would like to repeat the same caution again and I should like to give some reasons why the Constitution should not be amended and tampered so easily. Anyone who is familiar with what is called the interpretation of law by courts—and there are well-set rules as to how Statutes are to be interpreted—will recall that there is a famous rule of interpretation which is called *stare decisis* which means this, that when the courts have given an interpretation for a long number of years in a very uniform sense, and if after a long number of years some lawyer gets up and convinces the court that the existing interpretation is wrong and ought to be changed, the courts say that they shall not do it, although they are convinced that the Interpretation is wrong. The reason why the courts adopt this rule of *stare decisis* is very important. The court says:

"Whether the interpretation we have given is right or is wrong is

now not a matter of moment, for the simple reason that a large number of people have acted upon our interpretation as being the correct law, have incurred obligations, have secured rights. Now to say that all these obligations and rights are founded upon a mistaken view of the law would be to unsettle the society altogether. Let, therefore, the wrong continue."

That is the attitude that the courts have taken. The same reason prevails, in my judgment, why the Constitution should not be constantly amended. People know that the Constitution contains certain rules, certain obligations, and in accordance with them, they make their contracts, they make their plans for the future. It is not right, therefore, to come in every year and to disturb these values. That is the reason why I say the Constitution should not be so lightly and so frequently amended. I do not know whether the Government would listen to it, perhaps not.

SHRI TAJAMUL HUSAIN (Bihar,
Why should they?

DR. B. R. AMBEDKAR: Well, Sir, it is a habit. Once a cow gets the habit of running into the fields of another, you cannot convert her by morality. It is a habit.

MR. CHAIRMAN: Go on, go on.

DR. B. R. AMBEDKAR: In other countries wherever a clause of the Constitution has been interpreted by the judiciary in a way which the Government does not like, the Government concurs in, it does not like to upset the decision of the court. Here, in our country, we have cultivated a different mentality. Our mentality is that if the Judges of the Supreme Court do not give a judgment which is to our liking, then we can throw it out. That is what it is. I am rather glad with regard to the behaviour of our Supreme Court. In the short time that it has been in existence, I see some different phases of the Supreme Court. Being a sick person I have not been attending the Supreme Court for

[Dr. B. R. Ambedkar.] the last two or three years, but I am in contact with what is happening. I remember that 11 the very first flush of its power, the Supreme Court declared or had the courage to declare that a certain section of the Indian Penal Code was *ultra vires*. Our Government at once reacted and brought in an amendment to declare that the interpretation of the Supreme Court was wrong.

(Interruptions.)

MR. CHAIRMAN: Let us avoid comments upon the Supreme Court.

DR. B. R. AMBEDKAR: I hope that notwithstanding the constant amendments which the Government seems to be prone to bringing forth, the Supreme Court will continue to have its independent judgment, notwithstanding what the Government may have to say. I do not find that the Supreme Court has given any adgment which, any independent mar 'an say, is not in consonance with toe terms of the Constitution.

Now Sir, I will proceed to deal with the different clauses in the Bill. The first clause is clause 2. This clause 2 of the Bill divides clause (2) rf the original article 31 into two parts, clause (2) and clause (2A). With regard to clause (2) one has nothing to say, because it is merely a reproduction, probably with a certain economy of words, of the terms contained in the original clause (2). I have, therefore nothing to say about it. But clause (2A) is a new thing and it must be examined carefully. In the first place, I cannot understand the meaning of this clause. It has not been explained by the Prime Minister, nor do I find any explanation from my hon. friend the Minister for Home Affairs. What exactly is it intended to convey? It is a sort of mysterious clause; it has been shrouded in mystery. Now, let me analyse this clause (2A). What does it say? To put it in plain language, quite different from the language that is used in the clause, as embodied in the amending Bill, it seems to say this. ,

If Government buys up ownership of any property, it will amount to acquisition and Government will pay full compensation in accordance with article 31. If Government buys up ownership, that is the important point. If Government buys up ownership, then that is tantamount to acquisition and Government will be bound to pay compensation. Secondly, it means that if Government takes possession of the property, then the taking possession will also amount to acquisition and the Government will be bound to pay compensation in accordance with the terms of article 31.

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That is what the clause in the Bill says: What is it that will not amount to acquisition? What is it that is left which Government can do and wants to do and yet escape compensation? If it acquires ownership, it is said, it will pay compensation; if it takes possession, it says, it will pay compensation because that would be tantamount to acquisition.

SHRI TAJAMUL HUSAIN: What about the Sholapur Case? It was only temporary possession for improving matters.

DR. B. R. AMBEDKAR: I have got the case here; I shall come to it.

It seems that the only case which will be out of these two, acquisition of ownership and acquisition of possession, is the cancellation of a licence, because, when you canggl a licence you do not acquire ownership and ycu do not take possession and, therefore, by reason of the cancellation of the licence you do not become liable for paying compensation. That is what this clause means. I wish it had been stated in positive terms that in the following cases, Government shall not pay compensation but having been put the other way, the real meaning of this clause is very much concealed from the sight of the reader. If my interpretation is right, then, what the clause intends to do is to exempt Government from the liability for paying

compensation whenever it cancels a licence. Is that a justifiable ground for not paying compensation? I believe that the case which my hon. friend Mr. Pant has very much in mind and which I also have in mind, is the case of the bus owners. The bus owners, under the Motor Vehicles Act, have to obtain a licence for running their buses on a certain route. My friend Mr. Pant is a very covetous person and he likes to get the monopoly of running the buses in his own hand and he, therefore, does not like the bus owners. How can he prevent them from running the buses? He has got the power of cancelling their licences. He therefore, cancels their licences and sets on Government buses on the route on which they were plying and he does not want to pay them any compensation at the same time. The question that I would like to ask is this: Is this a just and fair proposition? I have no objection to the Government running their own buses. I do not know how cheap the fares in I, P. are, whether they are cheaper than in the case of the private buses.

SHRI H. P. SAKSENA (Uttar Pradesh) : Yes.

SHRI TAJAMUL HUSAIN: And better.

DR. B. R. AMBEDKAR: I am not saying anything; I do not know whether they give good service; probably they do.

SHRI TAJAMUL HUSAIN: Yes, they do; the Government buses always do.

DR. B. R. AMBEDKAR: But the point to be considered is this; here are a body of people engaged in this particular trade, who are earning their living by this trade. They have invested quite a lot of money in buying their stock-in-trade, namely, the buses, the workshops and whatever other things are necessary. You suddenly come and say, "Stop your trade. We shall not allow you to carry on". Even that I do not mind but the point that I would like to ask my friend is this; the least thing that my hon. friend could do is at least to buy their

stock-in-trade because that very stock-in-trade would be useful to bus running by the Government. If it did that and then said that it is not going to give them any more compensation because the stock-in-trade has been bought with which money they could go and practise any other trade they liked, that would be quite an equitable proposition from my point of view. But the Government does not want to do that. In running the Government buses they prefer to buy new buses. The Minister has yet to give an answer as to why he would not take the old buses from the people whose licences he has cancelled. No answer has been given for this thing.

MR. CHAIRMAN: Dr. Ambedkar, you have taken nearly an hour.

DR. B. R. AMBEDKAR: Yes, Sir, that is quite true.

MR. CHAIRMAN: Please wind up as early as possible.

DR. B. R. AMBEDKAR: Yes, Sir, what I was saying was this, that in such cases it would be wrong to deprive a man of his means of livelihood and not to compensate him for the loss of his stock-in-trade. I would like to hear some argument on this subject which would justify this kind of conduct. Therefore, my submission is that clause (2A) is a most inequitable piece of legislation. It has no relation to justice, equity and good conduct. Unless my friend is going to give some satisfactory explanation I mean to oppose that clause.

Now I will proceed to clause 3 of the amending Bill. I would like to say at the outset that the provisions contained in clause 3 are in my judgment, most insignificant, trivial and jejune and I do not know what the Government is going to achieve by incorporating this clause in the Constitution. Now, with regard to subclauses (g), (h) and (i) of proposed clause (1), in clause 3 of the amending Bill, I have not the least objection because I do not see that by taking action under these clauses, there is going to be any injury to anybody.

[Dr. B. R. Ambedkar.] The essence of acquisition is that it causes injury to the interests of anybody. I do not see that these subclauses will cause any injury to anybody and, therefore, I support the proposition that there need be no compensation in these cases.

But there is one thing that I would like to say with regard to these clauses and it is this that if any action is taken under these clauses (g), (h) & (i), it must only be on the ground that public purpose justifies it. It must not be merely an arbitrary act on the part of the Government. It must not be a whim that Government wants to amalgamate one company with another or transfer the management of one to another. These clauses must be subject to the rule of public purpose. If that is so, then there is no objection to them.

Now going back to the other clauses, to (a) I have no objection; it may stand as it is.

With regard to (b) I do not know whether the first part of (b) is very different from (a). It seems to me that both are alike, but I would like to have some explanation as to what is meant by "modification of any rights in agricultural holdings". What does that mean? There is no explanation. As far as I understand, an agriculturist requires four rights. First is security of tenure; he must not be liable to ejection by the landlord without proper cause. Secondly he should be liable to pay only what is called fair rent, as may be determined by a court if it is necessary. Thirdly he must have transferability of tenure. If he wants to sell his holding he should be free to sell it and the landlord should not stand in his way. And fourthly it must be hereditary, that is to say, if he dies, his descendants should have a right to claim the holding. Now these are the four things which I think a holder of an agricultural holding is interested in. Now Government would take power to modify these things. I do not know

what is the nature of the modification and what are the rights which they propose to modify. I think some explanation is necessary.

Then comes (c), the fixation of the maximum extend of agricultural land, etc. Well, all that I can say is this that whether this particular clause will have positive results depends upon what is the maximum that you are going to fix. This is the pet idea of the Socialist Party. They want that land should be distributed after fixing the maximum holding of a tenant.

MR. CHAIRMAN: Are not these matters to be taken up in the Joint Committee when it comes to discuss the thing?

SHRI B. R. AMBEDKAR: It may be but the point is this that it is necessary to know whether these things are really good to be incorporated in the Constitution. My friend Mr. Pant knows because he was the Chairman of the Committee on Land Tenures in U.P. which I have studied—that the maximum holding in U.P. is about two acres for a ryot and I do not know that there is any part of India where ryotwari prevails where the holding is larger than two acres. What maximum can you fix I do not understand. Therefore this seems to me quite a futile thing.

The other thing about which I wish to make some reference is this. It says that the surplus land shall be transferred to the State or otherwise. I do not know what is meant by "otherwise", whether it means that it may be given to other tenants; that might be the meaning. If so, I would like to utter a word of caution. I am of opinion that peasant proprietorship in this country is going to bring about complete ruination of the country. What we want is—although I am not a Communist—the Russian system of collective farming. That is the only way by which we can solve our agricultural problem. To create peasant proprietorship and to hand over land

to peasants who have not got means of production is in my judgment.....

SHRI TAJAMUL HUSAIN: Have they done it in Russia?

MR. CHAIRMAN: Don't bother, he takes it as an illustration.

DR. B. R. AMBEDKAR: I am prepared to pick and choose from everyone, Socialist, Communist or other. I do not claim infallibility and as Buddha says there is nothing infallible; there is nothing final and everything is liable to examination.

SHRI TAJAMUL HUSAIN: That is why we are amending, the Constitution framed by Dr. Ambedkar,

SHRI S. MAHANTY (Orissa): And voted by you.

DR. B. R. AMBEDKAR: Now with regard to vacant and waste land. That proposition is of course a welcome proposition and I support it. But I have yet to see if you take vacant land without compensation, whether the municipality which would have to exercise this right would do so because I fear a large majority of municipal councillors are friends of the slum-owners and therefore probably they will not exercise this right unless something more is done.

Now with regard to management, all that I want to say is this. Most people do not realise what is involved in this. If the Government wants to take up the management of a mill because it is badly managed, there is no harm in doing that. But the question is this. Suppose the Government management turns out to be worse than the previous management and losses are created, who is going to be responsible for those losses? I think some provision must be made. Nationalised industries so far as India is concerned do not appear to be very profitable. Our Airways Corporation, as I see from papers, has brought to us a loss of one crore of rupees within one year.

SHRI S. MAHANTY: And about Rs. 50 lakhs.

DR. B. R. AMBEDKAR: What other corporations would do I do not know.

But if you take the property of a man because it is mismanaged and because there is social purpose in it, you must also make some provision that the losses that might be incurred are made good by somebody and are not put on the head of the old man who was the owner of the property.

Now, Sir, one word with regard to clause 5. It seems to me very obnoxious. What are we asked to do by clause 5? By clause 5 we are asked to give constitutional validity to laws passed by State Legislatures. We have not seen those laws; they have not been circulated; they have not been debbed here. And yet we are asked here to exercise the constituent powers of Parliament not only to validate them but to give them constitutional immunity from the other clauses of the Act. Sir, I think it is very derogatory to the dignity of the House that it should be called upon to validate laws passed by some other State which laws it has not seen, it has not considered. The proper thing for the Government to do is to put these subjects in the concurrent field so that Parliament may at least give them validity by the powers vested in it. But it is a very wrong thing. Because we did it in the case of the first amendment where we added the Ninth Schedule to the Constitution, that is no reason why we should widen this anomaly and this ugliness in the Constitution.

That is all that I want to say.

MR. CHAIRMAN: Dr. Raghu Vira.

(The hon. Member was not present)

MR. CHAIRMAN: Hon. Members may have to sit through the lunch hour because we have many speakers. Mr. Pant will reply at 3.30. So be as brief as possible.

[MR. DEPUTY CHAIRMAN in the Chair.]

SHRI KISHEN CHAND (Hyderabad): Mr. Deputy Chairman, after the very lucid speech by Dr. Ambedkar clarifying certain defects in this Bill, I beg to say at the very start that as pointed out by the mover of the motion, the people of India are supreme and this Parliament is supreme to enact any law that it wants to pass, but when we are passing any law we have to consider whether the fundamental principle of the Constitution whereby the power of the Executive and of the Judiciary is balanced is not being upset by our laws. I am in full agreement with the desire of the people of the country to set up a socialistic pattern of society whereby inequalities of income may go away, but whether it is right to give extra powers to the Executive is a different thing. I submit, Sir, that during the last six years when the Constitution has been in force, slowly and gradually greater and greater power is being given to the Executive to the detriment of the rights of the people. There is the Preventive Detention Act by which the individuals liberty has been taken away and handed over to the Executive. There^{*1} is another Act, the Requisitioning of Property Act, which is in existence even seven years after independence, when there is no emergency. Even small flats of two rooms are requisitioned from tenants and they are thrown out because the Executive has got the power. Now, we are giving some more powers to the Executive and it is possible that the Executive may exercise its discretion to the detriment of the individual and to the detriment of the rights of the people residing in this country. I submit, Sir, that the hon. the Home Minister has based his arguments in favour of this Bill entirely on a wrong piece of logic. He started by referring to the case of Sholapur Mills that things were going on normally, but that the judgment of the Supreme Court in the Sholapur Mills case awakened the Government to the necessity of bringing forward this

amendment to the Constitution. Sir, the Industries (Development and Regulation) Act is going to be made part of the Ninth Schedule by this amending Bill. When that was passed, I raised certain fundamental objections which were overruled. If an industrial concern is running badly, the Government has every right to interfere in it and take it over, because national assets cannot be allowed to be frittered away. But as pointed out by the preceding speaker, if as has happened in the case of the Sholapur Mills, the Government management proves to be worse, who is going to pay for the loss? I will give the concrete case of Taj Glass Works Ltd., in Hyderabad. It is a limited concern in which the public has invested Rs. 30 lakhs—mostly poor people. It was badly managed and the Government took it over. But the management by the Government proved to be still worse and it has created a liability of Rs. 30 lakhs. If that concern is liquidated now the poor shareholders will not get even one anna but if four years back it had been liquidated before it was taken over by the Government, the shareholders would have got at least 50 per cent of their money. The difficulty is that in a poor country like ours where everybody, except a few hundred who may be rich, is poor, you are depriving the people of what little they have. It is the common people who have put in their small savings in some of these industrial concerns and if these people are made to suffer because of bad management by Government, is it fair and right to deprive them of their means of livelihood? I feel that often people appeal to the emotions of hon. Members by conjuring up these multi-millionaires and foreigners. As the hon. the Finance Minister has several times pointed out, there may be 300 or 400 of these multi-millionaires, but it is the common masses who are going to suffer by this type of arbitrary powers in the hands of the Executive. An hon. Member said on the day before yesterday that these foreigners are squeezing out money from the people and that they are making huge profits.

He wanted that their assets should be expropriated. I may point out to him that our Sterling balances alone are Rs. 700 crores and other investments of Indians outside India are worth about Rs. 1500 crores. The total investment of foreigners in our country would barely be about Rs. 500 crores and if you ever think of expropriating them, the nation is going to lose. After all, we cannot live in isolation in this world. We have got to carry on business and trade with other countries and therefore in our laws we should have some sort of respect for fair rights of property in industries and in investments.

The question in this case is the quantum of compensation. I agree—that whenever possible the Government should give some compensation. It is not a question as if the compensation is to be determined by an outside source. Instead of this Bill the Government should have brought a simple modification that the quantum of compensation will be determined by Parliament, then the quantum of compensation will come out of the scope of the judiciary. In that case there would have been no need of this Bill. I find that the whole argument is about the quantum of compensation. We cannot afford to give full compensation, which is absolutely out of the question. The other argument that no compensation should be paid is all right if the Government provided means of livelihood to every citizen in this country. An hon. Member pointed out that the Government has not done anything to relieve unemployment or to find means of livelihood for the majority of the people of our country. We want to take away the means of livelihood and at the same time we are not providing anything in its place. Is it fair and right? Socialisation cannot be achieved by halfhearted measures. Either we have full socialisation with provision for every individual or until the time we can do so we have got to allow him to earn his own livelihood. The result is that this type of legislation of giving extraordinary powers to the

Executive is slowly and gradually making our country poorer and poorer. Instead of better management, it is leading to bad management. I would suggest that a minor amendment should be made in the Industries (Development and Regulation) Act to the effect if a concern is not being managed properly the Government will have the right to take it over, but after taking it over if any loss is incurred that loss will not be a liability on the concern. But the Government does not want to do it. The Government wants to take over the management and yet put the liability for the loss on the concern. It is not fair. Suppose the Government takes over a house—even temporarily—worth Rs. 20,000 and then spends Rs. 30,000 on it in additions and repairs. And suppose it returns the house to the original owner with a liability of Rs. 30,000 on the property. Now, that property may not be worth that much at all. The owner will not only lose the property but will have also to met the liability on it.

Then, Sir, it has been pointed out that too frequent changes in the Constitution will bring our Constitution into a sort of lowering of prestige. There is nothing sacrosanct in the Constitution; the Constitution can be changed, but it is the usual practice to change the Constitution when there is very urgent need for it. But what do we find? Every year for petty and minor things the Constitution is being changed. If we proceed in this way, there will be no finality in our Constitution. It will become an arbitrary thing for the majority party to go on changing the Constitution to suit their likes and dislikes, to change the Constitution whenever they think that the judiciary has given a verdict against their wishes. This is not the right thing. It will create a precedent that when at a future time some other party comes into power, they will again change the Constitution to their own liking and in this way we will never have any finality about our laws. All life is really based on certain sorts of habits, certain sorts of

[Shri Kishen Chand.]

-lights, certain sorts of privileges which grow up with time. Men get used to certain ways of living because the laws of the country are directing them in that way. And, therefore, when we are changing our laws, we have got to be very careful, that things are not changed arbitrarily and too frequently, so that there is no continuity of the way of living in our society. I submit that the hon. Home Minister is trying to achieve a good object by a wrong method. The object, in so far as it is, the attainment of a socialistic pattern of society is good, but the means that he has adopted of just making a change here and there without providing for counter-balancing things is not right. And therefore, though supporting this amending Bill, I would request the hon. Home Minister that when the Select Committee is considering it, they should re-consider many of its clauses and try to lay proper stress on the crying needs of our country, that of solving unemployment and giving a fair return to the agriculturists and not fritter away its energies on this type of minor changes in our Constitution.

SHRI TAJAMUL HUSAIN: Mr. Deputy Chairman, as far as I can understand.

SHRI SATYAPRIYA BANERJEE (West Bengal): A little louder please.

SHRI TAJAMUL HUSAIN: I have been ill in bed for a long time and so I am unable to speak louder.

MR. DEPUTY CHAIRMAN: Please come before the mike.

SHRI TAJAMUL HUSAIN: I was saying that as far as I can understand, the only point at issue is whether after acquisition of property by Government, the quantum of compensation should be fixed by Parliament and the State Legislature, or by a court of law. That is the only point before us. Now, there cannot be the least doubt

that we have been under foreign rule for a number of years. Our last rulers were the British. Our rulers did nothing to improve the condition of India, to improve the lot of the people. If you see the other countries of the world which are independent and see our own country, you will find a world of difference. Although we have achieved independence, yet there are many things which remain to be done for the improvement of the country, for the improvement of the people. Now, the question is how are we going to improve our lot? It is our duty, it is the duty of every Indian to improve the status of India, to improve the social condition of India, to improve India in every possible way. We need money, without money we can do nothing. From where are we going to get money? Taxation is one source. We have high taxation. Surely we do not want to go on having more taxation. The only way we can have money is to acquire property, and especially properties which are in the hands of those people who for generations are eating the fruit of the property without any labour on their part. I mean especially the zamindars—I am one of them. Therefore, the properties have to be taken over by Government. In regard to the question of the quantum of compensation, my personal view is that for the benefit of the people of India, for the benefit of the State, for public purposes, no compensation should be paid at all. That is my personal view. But the party which I represent is very generous, they want to pay something. The question is: can they afford to pay full compensation? If they pay that amount, what is the use of acquisition? There will not be any money in the hands of the Government to make those improvements which they are very anxious to make and which every Indian, every patriotic Indian—in fact, an Indian who does not want the improvement of India is a traitor to India—is anxious to do. Therefore, they cannot pay that amount which is the market value. They know their budget. They know

how much money they require. Therefore, it should be they themselves, the Government, who should be the persons who should fix the compensation, that is, "we can pay so much and no further." A court of law—the Supreme Court for which I have got the greatest respect—cannot be the judges in this matter. How do they know as to how much money we can spare, how much money we require? It is we who know that. Therefore, my submission is that the quantum of compensation should not be fixed by the courts, the courts should not be allowed to fix that. It is Parliament which should do it. And what is Parliament? Parliament are the people. In democracy the masters of the country are the people. They have selected from among themselves to send their representatives in Parliament and State Legislatures. They are the representatives of the people. They know how much money is required. It is for them to fix the quantum of compensation and not for any other body.

Then, Sir, I would like to make one suggestion to the hon. Minister. I find, that after the Zamindari Abolition Act the scale of compensation differs very much. In Bihar there is one scale of compensation and in Uttar Pradesh there is quite a different scale of compensation. In the case of Bihar, the scale of compensation is from 20 times the net annual income, to 3 times the net annual income. But in the case of Uttar Pradesh, it is a uniform rate of 8 times the net annual income. My suggestion in this connection to the hon. Home Minister is that the scale of compensation should be uniform everywhere. It should not vary from State to State, This is my suggestion to him.

Now, Sir, I would like to say a few words about what Dr. Ambedkar has said. He has spoken about fundamental rights at great length. He has said that during the British regime not a single Indian wanted fundamental rights. But where was Dr. Ambedkar then. Why did he not care for fundamental rights, if nobody else did it? And he said that in the olden days

when there were Hindu Kingdoms, they had fundamental rights for their cows and for their Brahmins. When the Muslims came, they had their fundamental rights for the Muslims. And when the Britishers came, of course, they had fundamental rights for their own people. So, now the Indians have come into power. I think it is the first time—I am not a student of history, but it is the first time—in the history of India that Indians are the rulers of the whole India. The people are themselves the rulers of the whole of India, without exception. Of course, there is one pocket here or there, but that does not matter. It will ultimately come to us. But we find that today Indians are the rulers of the country. And as soon as they became the rulers of their own country, they gave fundamental rights to themselves. That is very obvious and very logical.

Now, Sir, there are Fundamental Rights, and there are also Directive Principles. The same Constitution gives certain directions. Now under article 45 there is a Directive Principle to the effect that there should be free compulsory and primary education for the whole of India. But the difficulty is this. From where are we going to get the money? This direction is, of course in the Constitution. The people of India have given this direction to Parliament and the State Legislatures for free education. We cannot get the money if we are to pay the full amount of compensation. Then, Sir, article 38 says that the State shall promote welfare of the people. How are we to promote the welfare of the people without money? And then, Sir, under article 44 we find that the State shall have one uniform civil code. Very good. Sir. But the moment the Law Minister brings forward a Bill to this effect, there will be some sections which will raise an objection to a uniform religious code. They will say, "why should we have this code? We have fundamental rights to have our own separate code." So these things will always be there with regard to

[Shri Tajamui Husain.]

our Fundamental Rights and Directive Principles.

Then, Sir, Dr. Ambedkar has said that in England, the dogma is that the King can do no wrong, but in this country it is the Prime Minister who can do no wrong. I do not think that is the principle. But if this be the principle, I entirely agree with it. Who is the Prime Minister? What is he? He is the people. He is the representative of the people, the sole representative of the people of India, and he can do no wrong. The people can do no wrong; therefore, he can do no wrong. That is my reply to Dr. Ambedkar.

Then, Sir, my hon. friend, Shri Kishen Chand, asked: Why change the Constitution so often? Well, Sir, the American Constitution was framed, I think, in 1789, and within two years after the framing of the Constitution, ten amendments were made to it, ten times the amendments were made to it. It is a historical fact. And, Sir, if within two years the great United States of America can have ten amendments, why can't we, within five years, have four amendments?

Lastly, Sir, a suggestion has been made for eliciting public opinion on this Bill. The latest public opinion that we have got is from Andhra. People want the Congress to rule. And I can say with confidence, Sir, that if this Bill is sent to the people, to the real people, for their opinion, the answer would be, "Don't pay any compensation at all. It is being done to safeguard the interests of the people in general." Therefore, Sir, if there is any suggestion for sending this Bill for eliciting public opinion, that is merely adopting delaying tactics and nothing else. With these few words, Sir, I entirely support the motion before the House.

श्री डी० नारायण (मुम्बई): उपसभापति महोदय, सदन के सामने जो विधेयक है उसका

मैं अन्तःकरण से स्वागत करता हूँ। यह एक खुशी की बात है कि इस विधेयक का करीब करीब चारों ओर से समर्थन किया जा रहा है। कुछ थोड़े से मालदार या पूँजीपतियों को छोड़ दीजिए, बाकी सब पक्ष के लोग इसका समर्थन कर रहे हैं। और ताँ और हमारे कम्युनिस्ट भाई भी इसका समर्थन कर चुके हैं। आज तक उन्हें कांग्रेस सरकार के कामों में कोई भलाई नहीं दिखाई दी लेकिन आज एक ऐसा मौका आया जब कि उन लोगों को भी दुनिया के सामने खड़े होकर यह बात कहनी पड़ी कि यह बिल सब के हित के लिए लाया गया है। जन लज्जा नहीं तो मन लज्जा दिखाई। इस बिल के सम्बन्ध में भागवानों का जो विरोध है, वह मेरी समझ में अभी तक नहीं आया है। उन लोगों को यह जानना चाहिए कि हमने जो आजादी प्राप्त की वह किसी मकसद से प्राप्त की। वह हमने आम लोगों की बेहतरी के लिए प्राप्त की है और स्वराज्य की जो लड़ाई लड़ी, वह केवल इस मुल्क में बेहतरी लाने के लिए लड़ी। स्वराज्य को हमने "स्वराज" के लिए नहीं चाहा, वह तो हमारा एक हीथियार था, वह हीथियार हमने इसीलिए चाहा कि हमारी बेहतरी के रास्ते में जो गुलामी थी वह दूर हो और हम अपनी बेहतरी कर सकें। आजादी प्राप्त होने के बाद गुलामी का अड़ंगा हमारे रास्ते से दूर हुआ और अब हम दूसरी मीजल तय करने के लिए कोशिश करने लगे हैं। हमने अपना एक कांस्टीट्यूशन बनाया, उसका मकसद भी यही रखा कि हम अपने इस मुल्क में ऐसा राज्य कायम करें, जिसमें सब लोगों को न्याय मिले और आर्थिक, राजकीय और सामाजिक समता प्राप्त हो। "सर्व-कल्याणकारी राज्य" हमने अपना मकसद कायम किया है और इस मकसद को प्राप्त करने के लिए हमने कांस्टीट्यूशन का एक ढाँचा बनाया। अब हमें यह देखना है कि यह कांस्टीट्यूशन हमारे उस मकसद को प्राप्त करने में मदद करता है या नहीं। यदि मदद नहीं करता तो हमें उसे तबदील करना चाहिए। हमारे सामने कांस्टीट्यूशन का हौवा नहीं खड़ा होना चाहिए, इससे हम अपने मकसद को प्राप्त न कर सकेंगे। यदि कांस्टीट्यूशन हमारे

बेहतर के रास्ते में कोई रोड़ा अटकाता है तो हमें उसको बदलने का अख्तियार है और हमें बदलना चाहिए। कांस्टीट्यूशन को बारम्बार बदलना ठीक मालूम नहीं होता परन्तु उससे भी बड़ी चीज यह है कि जब जनता की बेहतर के लिए वह अड़चन पैदा करता है तो हमें कांस्टीट्यूशन को बदलने से डरना नहीं चाहिए।

आप देखेंगे कि हमारा मकसद के साथ साथ कांस्टीट्यूशन में डाइरेक्टिव प्रिंसिपल्स लिखे हैं, परन्तु डाइरेक्टिव प्रिंसिपल्स किस तरह से कामयाब बनाए जा सकते हैं, इसकी कोई तज-चीज उसमें नहीं है। यहां तक कि डाइरेक्टिव प्रिंसिपल्स की कोई लीगल वैल्यू नहीं रखी गई है इसलिए जब कोई क्लेम कोर्ट के सामने जाता है तो हमारा कांस्टीट्यूशन का डाइरेक्टिव प्रिंसिपल कोई कीमत नहीं रखता। मेरी निगाह से हमारा कांस्टीट्यूशन का जो डाइरेक्टिव प्रिंसिपल है वह तो कांस्टीट्यूशन की आत्मा है, उसके आधार पर ही तो हम अपने देश को आगे बढ़ाना चाहते हैं, उसी में तो हमारा आगे का मार्ग निश्चित हुआ है और उसी डाइरेक्टिव प्रिंसिपल की कोई लीगल वैल्यू नहीं रखी गई है। अच्छा तो यह होता कि ऐसी कोई तजवीज पेश होती जिससे कि डाइरेक्टिव प्रिंसिपल्स को कामयाब बनाने की जिम्मेदारी कानूनी तौर पर कांस्टीट्यूशन में रखी जाती, परन्तु वह जिम्मेदारी तो रखी नहीं गई और हर वक्त हमें छोटी छोटी बातें बदलनी पड़ती हैं। एक तजवीज शुरू में ही हो जाती कि डाइरेक्टिव प्रिंसिपल्स के अनुसार पब्लिक परपज की व्याख्या की जाएगी और डाइरेक्टिव प्रिंसिपल को कामयाब करने के लिए पब्लिक परपज की हीसयत से जो कुछ करना होगा उसको करने का कानूनी अख्तियार होगा। यदि यह निश्चित कर दिया जाता तो जो बहुत सी दिक्कतें हैं, जिन्हें कि हम आज दूर करना चाहते हैं और बार बार दूर करते हैं, वे दिक्कतें और वे प्रश्न कभी खड़े ही नहीं होते।

इसके बाद, जो विरोध हमारे पूंजीपतियों की ओर से हो रहा है उसके बारे में मुझे कुछ कहना

है। पूंजीपतियों से मुझे यह कहना है कि वे इस देश की भलाई की निगाह से देखना चाहते हैं या खुद अपनी भलाई की निगाह से देखना चाहते हैं। यदि उनकी दृष्टि देश की भलाई की ओर होगी तो कोई उनके रास्ते में अड़चन पैदा नहीं करेगा परन्तु देखा यह जाता है कि जहां कहीं जनता की भलाई का सवाल आता है, जनता के कामों का सवाल आता है या कोई टैक्सेशन का सवाल आता है तो वे पूंजीपति ही सब से आगे आते हैं और उसका विरोध करते हैं। धनवान कोई अपनी ताकत से तो बनता नहीं। बिना लोगों की मदद के, सहयोग के कोई पैसा इकट्ठा नहीं कर सकता, जब तक गरीबों का सहयोग इच्छा से या अनिच्छा से न मिले तब तक कोई धनवान नहीं हो सकता। तो धनवान को यह देखना चाहिए कि जिनके सहयोग से वह बड़ा बना है उनका भी उसकी सम्पत्ति में कुछ हिस्सा है और उसे इस तरह से सम्पत्ति का उपयोग करना चाहिए कि जिनके सहयोग से उसने सम्पत्ति पैदा की है उनको किसी तरह का नुकसान नहीं पहुंचे। यही निगाह महात्मा गांधी ने हमारे सामने रखी थी, क्योंकि वह इस देश की बेहतर को चाहते थे वह शान्ति के मार्ग से चाहते थे, अहिंसा के मार्ग से चाहते थे और किसी तरह से भी विप्लव हो ऐसी उनकी इच्छा नहीं थी। इसीलिए वे कहते थे कि हर एक धनवान को खुद को एक जनता का ट्रस्टी मानना चाहिए, विश्वस्त मानना चाहिए और जो कुछ उसके पास हो उसका उपयोग गरीबों के लिए, अपने भाइयों के लिए और अपनी समाज की भलाई के लिए करना चाहिए। यह बात दूर रही। परन्तु जब कभी सरकार समाज की भलाई के लिए कोशिश करती है तब यही देखा जाता है कि वे धनवान पहले से ही उसका विरोध करने के लिए कूटते हैं। मैं अपने भाइयों से यह कहना चाहता हूं कि उन्हें यह जान लेना चाहिए कि यदि उन्होंने समय को न पहचाना, इस बात को न पहचाना कि अब इस मुल्क का राज्य जनता के हाथ में है, उस जनता के हाथ में है जो कि भले ही आज अनपढ़ हो, अज्ञानी हो परन्तु अपना हित और अहित अच्छी तरह

[श्री डी० नारायण]

से जानती हैं, तो वह कैसे समझ सकते हैं कि यह जनता धनवानों को धनवान रहने दूंगी और खुद दरिद्री रहेगी। महात्मा गांधी ने एक दफा यह ठीक ही कहा था :

“A violent and bloody revolution is a certainty one day, unless there is a voluntary abdication of riches and the power that riches give and sharing them for the common good.”

यदि हमारे मालदार और पूँजीपति इस निगाह को सामने नहीं रखेंगे तो वह इस वायलेंट रिवोल्यूशन से बच नहीं सकते हैं। हमारी सरकार की कोशिश है कि इस तरह का कोई विप्लव इस दश में पैदा न हो। सरकार शुरू से यह कोशिश करती आई है कि हमारे आपस के जो कुछ भी संघर्ष हैं उनको हम प्रेम और शान्त के मार्ग से रफा करते रहें और इसी वजह से उसने कानून के जरिए, सलाह मशीनरों के जरिए जमींदारी खत्म की, मालगुजारी खत्म की और इसी तरह से और भी जो संघर्ष की बातें हैं, जो विषमता की बातें हैं उनको दूर करना चाहती हैं।

इस विधेयक में एक खुशी की बात और है जो कि मैं दुःखता हूँ। वह यह है कि हम हर वक्त हर किसी से सुनते रहे कि दीर्क्ष साहब, सरकार जमींदारों को ही नष्ट करती है। अभी मेरे एक भाई मुझ से कह रहे थे कि जमींदारी खत्म की गई, ताल्लुकदारी खत्म की गई, यानी खेती के ही पीछे यह सरकार क्यों पड़ी हुई है, खेती वालों से ही इनकी क्या दुश्मनी है, क्या यह सरकार बड़े बड़े व्यापारियों, इंडस्ट्रियलिस्ट्स या कारखानेदारों के मार्ग में, चाहे वे कैसे भी नालायक हों, दश की दुश्मनी करते हों, कोई अड़ंगा नहीं लगाती। उनको कहीं भी रोका नहीं जाता है और हम जमीन वालों के पीछे ही यह सरकार क्यों पड़ी हुई है। आज इस विधेयक ने उनको जवाब दे दिया है कि जहाँ जहाँ बेहतरी के रास्ते में कोई अड़चन दिखाई देगा, चाहे वह साहूकारों की ओर से हो, चाहे कारखानेदारों की ओर से हो, चाहे मालदारों की

ओर से हो, वहाँ वहाँ हम उसको दूर किए बगैर नहीं रहेंगे। यह बात इस विधेयक में साफ हो गई है क्योंकि आप जानते हैं कि जहाँ मिलों में मिसमैनेजमेंट होगा वहाँ इस विधेयक के अनुसार सरकार कारखानों को अपने अधिकार में ले सकेगी। एक शोलापुर मिल का केस पैदा हुआ जिसकी वजह से यह बात निगाह में आई कि आज हिंदुस्तान में किस तरह से मिलें चल रही हैं और किस कारण से मिसमैनेजमेंट होता है। आपको पता होगा कि मैंने गत अधिवेशन में एक सवाल पूछा था कि मिसमैनेजमेंट की वजह से कितनी मिलें इस दश में लिक्विडेशन में जा चुकी हैं या कितनी के खिलाफ लिक्विडेशन प्रोसीडिंग्स चल रही हैं। जवाब में कहा गया था कि २५ मिलें हैं जिनके खिलाफ आज कार्यवाही हो रही है और वे वर्षों से बन्द हैं। भड़ौच जिले में एक ऐसी मिल है जो कि ५ वर्ष से बन्द है। ये मिलें मिसमैनेजमेंट की वजह से बन्द होती हैं और बन्द होने के बाद लिक्विडेशन में जाती हैं। लिक्विडेशन की कार्यवाही वर्षों तक चलती रहती है और बचारे मजदूर, जो कि भूखे हैं, जो कि मजदूरी चाहते हैं, जो कि काम करने के लिए तैयार हैं और जिनकी कि इस तरह से मजदूरी छीनी जाती है, वे बचारे बेरोजगार फिरते रहते हैं। मैं अपने यहाँ की बात बताता हूँ। मेरे यहाँ ऐसी दो मिलें हैं जिनके बारे में लिक्विडेशन प्रोसीडिंग्स चल रही हैं, महीनों बीत गए हैं लेकिन अभी भी कार्यवाही चल रही है। एक मिल तो ऐसी है जिसके ऊपर खूब कर्जा है। मालूम नहीं कि प्रिफरेंशल डिबेंचर्स क्या चीज होती हैं, मुझे पता नहीं है। तो हुआ यह है कि लिक्विडेशन में जब वह मिल बिक जाएगी तो पहले उस साहूकार को पैसा मिलेगा और जिन मिल वालों ने २॥ महीने तक मजदूरों को तनखाह नहीं दी है, जिन मजदूरों ने २॥ महीने तक काम किया और उनको मजदूरी नहीं मिली है, उनको नहीं मिलेगा, क्योंकि फर्स्ट क्लेम डिबेंचर वालों का है। मैं जानना चाहता हूँ कि यह कौन सा न्याय है कि जिन्होंने मजदूरी की, मेहनत की, जिनके पास खाने को उतना ही है जो कि वह रोज़ कमाते

हैं उनको न मिले और जो साहूकार हैं, जिसके पास ५० लाख रुपया हैं, क्योंकि जब १५ लाख उसका कर्ज है तो उसके पास ५० लाख तो होगा ही, उसका पहला हक रखा जाए। गरीब का कोर्ट से भी साबित न हो, क्योंकि कोर्ट से कहा गया, तो उसने कहा कि नहीं, तुमको कानून से नहीं मिलेगा। तो यह हालत कैसे पैदा होती है। मिलमालिकों के मिसमैनेजमेंट की वजह से ही ऐसी हालत होती है। इसीलिए यह जरूरी है कि ऐसी मिलों का सरकार अपने कब्जे में लें और उनको सुचारु रूप से चलाए ताकि मजदूरों को मजदूरी मिले। इसी तरह से और भी बहुत सी बातें हैं। अभी हम अम्बेडकर साहब की लैंड एक्विजिशन एक्ट के बारे में बातें सुनते रहे थे। यह लैंड एक्विजिशन एक्ट एक ऐसी बला है कि उस बला ने आज हमारे बहुत से बेहतरी के काम चाँपट कर दिए हैं। मुझे पता है कि लैंड एक्विजिशन एक्ट के मामले कोर्ट्स में दस दस वर्ष से चल रहे हैं और उनका कोई निर्णय नहीं हो पाता है। मैंने अपने जिले में देखा है कि चार मील का रास्ता झुंघर बन गया है और दो मील का रास्ता उधर बन गया है, किन्तु बीच का मील आध मील का रास्ता बाकी है। क्यों बाकी है? बाकी इसलिए है कि जमीन मिलती नहीं है, लैंड एक्विजिशन की प्रोसीजर चल रही है और इसलिए रास्ता पूरा होता नहीं है। इस तरह दुनिया के हित के लिए और खासकर दहातियों के हित के लिए जहाँ हम स्कूल बनाना चाहते हैं वहाँ हमारे मार्ग में यह एक बड़ी भारी दिक्कत है या और दूसरी बहुत सी चीजें बनाना चाहते हैं वहाँ हमारे मार्ग में यह एक बड़ी भारी दिक्कत पैदा हो जाती है और मुझे आशा है कि इस विधेयक के बाद यह दिक्कत दूर हो जाएगी।

श्री जे० एस० बिष्ट (उत्तर प्रदेश): लैंड एक्विजिशन एक्ट में कलेक्टर को एक पावर है कि अर्जेंट मामलों में वह फॉरेन क्लेज कर सकता है।

श्री उपसभापति: श्री देवी नारायण, आपके बाद सिर्फ चार आदमी और बोलेंगे। इसीलिए

लंच में बैठने की जरूरत नहीं है। आप बतलाइए कि आप कब भाषण खत्म करना चाहते हैं?

श्री डी० नारायण: मैं अभी पांच मिनट में खत्म कर दूंगा।

अभी कहा गया कि कलेक्टर को हक है, मैं इस बारे में यहाँ कुछ नहीं कहूँगा कि कलेक्टरों के जो अधिकार हैं वे किस तरह से इन मामलों में काम में लाए जाते हैं। परन्तु मुझे तो यह कहना है कि देश और समाज के हित के जो काम हैं उन कामों को हमें कोर्ट कचहरियों से बचना चाहिए क्योंकि कोर्ट कचहरियों का मामला बड़ा टढ़ा होता है। इसके साथ साथ आप जानते हैं कि हिन्दुस्तान में जो जनता बसती है, वह कोई वकील और आफिसरों की तो है नहीं जो हर प्रकार का कानून जानती हो। इसीलिए हमारा काम ऐसा सीधा और सरल होना चाहिए कि वकील और कचहरियों की वजह से जो हमारी दिक्कतें बढ़ती जा रही हैं उनमें कमी हो। मैं अपने यहाँ की जलगांव गांव की एक बात बतलाना चाहता हूँ। वहाँ चार वर्ष से म्युनि-सिपैलिटी कांशिश कर रही है कि भूमिगतों के लिए मकान बनाए जाएं। उन्होंने एक जगह भी देखा रखी है। वह जमीन है कुछ साहूकारों की। उस जगह में दो डिपो हैं। किसके? शराब के, पहले जमाने के, क्योंकि अब तो वहाँ शराब बन्द है। तो वह साहूकार उस जमीन को म्युनि-सिपैलिटी के हाथ बेचना नहीं चाहते हैं। वह दो लाख रुपया मांगते हैं और वह बेचारी म्युनि-सिपैलिटी दो लाख रुपया दे कहां से। ऐसी हालत में वहाँ भूमिगतों के क्वार्टर्स बन नहीं पा रहे हैं। यदि इस विधेयक के बाद कम्पेनसेशन का मामला कुछ सरल हो जाएगा तो बहुत सी म्यु-निसिपैलिटियाँ अपने अपने शहर में भूमिगतों के लिए, हरिजनों के लिए और मजदूरों के लिए बस्तियाँ और घर बना सकेंगी।

मैं भाग्यवानों से और एंजीपितियों से यह प्रार्थना करूँगा कि महाराज, आपने बहुत कमाया और आप मालिक भी बनें, मगर जो कुछ माल आपके पास है वह गरीबों का है, ऐसा आप समझें

[श्री डी० नारायण]
 लें। यदि आप नहीं समझेंगे तो आपको समय समझाए बगैर नहीं रहेगा। जो कुछ पूज्य, विनावा भाव जी कहते हैं कि हमें स्वयं अपने पड़ोसी का दुख समझ कर भूदान करना चाहिए, सम्यक्त दान करना चाहिए, उस पर आपको सच्चे मानों में विचार करना चाहिए। आप यह समझें कि आजकल के जमाने में लाखों आदमी बिना घर के रहें, बिना कपड़े के रहें और आप महलों में रहें तो यह होने वाली बात नहीं है। मैं आखिर में महात्मा गांधी के शब्द आपके कानों तक पहुँचाना चाहता हूँ। ये शब्द कहने के बाद मैं आप से स्तवस्त लंगा :

"It must not be difficult to them to see that the holding of millions is a crime when millions of their own kith and kin are starving or are without clothes."

MH. DEPUTY CHAIRMAN: There are only four speakers. So there is no need to sit through the lunch hour.

The House stands adjourned till 2-30. We shall meet again at 2-30.

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

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

SHRI SATYAPRIYA BANERJEE: Mr. Deputy Chairman, I think I have some claim to speak on this Constitution (Fourth Amendment) Bill, because it was my privilege to introduce the Constitution (Third Amendment) Bill about two years ago which sought to amend the very article 31 which the hon. the Prime Minister has thought fit to amend now. I do not desire to relate here the circumstances and conditions in which the Constitution was framed as a result of the transfer of power from the British rulers to the Congress hands. I will not rake up the memories of

that unpleasant past. However, Sir, let me give the House a little history. On the 10th September 1949, when the Draft Constitution of India was before the Constituent Assembly, the Prime Minister brought this article for acceptance by the Constituent Assembly which it did. It was then article 24 of the Draft Constitution. On the 15th of October 1951, that is about two years after, the Prime Minister became sadder and I may add, also wiser, when he told the Provisional Parliament of that time that the planning could not very well go on because the Constitution stood in the way. On the 4th of September 1953 I had the honour to move for consideration of my amendment referred to above, but unfortunately it was thrown out, and I am happy today that the Prime Minister himself has brought an amendment to this very article, after the House had rejected mine, and I hope, the House will not be so foolish or unwise as to reject now, this amendment proposed by the Prime Minister. Sir, I welcome this measure and I welcome it so far as it goes. I wish it had gone further—when I say "further", I mean if the Prime Minister found his way to accept my amendment in toto. He says that the only matter which is to be considered is the manner and the quantum of compensation. There is no question of expropriation. This is what he said in the other House:

"The question resolves itself to the manner and the quantum of compensation."

May I ask him now, in all humility, whether clause 2 of the amending Bill corresponds to what he said in the other House, whether the whole clause 3 of the Bill does not admit of expropriation? Let me Sir, put before you the amendment which I moved and which was unfortunately thrown out. It runs thus: I wanted, in place of article 31 of the present Constitution, to insert the following article:

"Property shall be guaranteed by Constitution.

Its nature and limits shall be provided by law.

Expropriation shall take place only for the general good and only on the basis of law.

It will be determined by law in which cases, to what extent and in what manner the owner shall be compensated.

Under the same conditions, individual branches of national economy or single enterprises may be nationalised by law, if the common interest requires it."

Sir I maintain that the present clause 3 of this amending Bill lays down certain cases in which Parliament or any of the State Legislatures can enact laws which may not provide for any compensation. It may be the individual wish or desire of the Prime Minister now to say that you should pay compensation in all cases. But Dr. Ambedkar has let the cat out of the bag when he said that in the Constituent Assembly, where three schools of thought prevailed at that time, the Prime Minister was against the payment of any compensation. I wish he were the same Prime Minister now and accepted my amendment in toto.

There are really many defects and deficiencies in the present amending Bill. Industry has been almost left untouched, only the landed estates have mostly become the concern of the powers that be now. If you want to build your society under a system of planned economy, you have to make provision of expropriation, for expropriation is more often than not necessary for establishing a society which, the Congress has accepted now, should be of the socialist pattern. I do not see what stands in the way of this simple word "expropriation" being used. Expropriation for what? Expropriation for the building up of the country. You are amending article 31, for what purpose? For the purpose of building up the country. I am sure when the Prime Minister has found it fit and

wise to bring this amendment, he will—I make that prophecy here and now—he will come round to my point of view and bring forward another amendment which will make expropriation not implicit as it is here, but explicit as I had put it in my Bill.

There is laughter and smiling, I hear.

SHEI M. GOVINDA REDDY (Mysore): Because of your prophecy.

SHRI SATYAPRIYA BANERJEE: Thank you very much; the prophecy will come to be true.

SHRI H. P. SAKSENA: It is wishful thinking.

SHRI SATYAPRIYA BANERJEE: Wishful thinking will be a fact.

Sir, there appears to be a race run between the Supreme Court and the Government of India, *i.e.*, the executive of the ruling party in Parliament. Both are supreme in their own spheres. The Supreme Court is the supreme authority in its own sphere; nobody is there to outrun it in the race. There is also a province of the Government of India or, for that matter, the Parliament which is also supreme in its own sphere. The elucidation and the declaration of policy is in the hands of Parliament, and here the Parliament is supreme. Parliament—I mean the Constituent Assembly—in 1949 thought that they had the last word of wisdom when they framed article 31 but somehow or other, in spite of the considered opinion of late Shri Alladi, one of the greatest constitutional lawyers of his day, the Supreme Court crept in and the whole edifice of the policy of the Government of India fell to the ground and in order to raise that structure again, they have brought this amending Bill. What will it do? The Prime Minister—I have always characterised him as a juggler of words—says, "so far as the acquisition of property is concerned, the old law

Shri Satyapriya Banerjee.] still holds." That means, justiciability is still there; article 31(1) remains as it is; article 31(2) is substantially the same as it is and only an additional clause (2A) has been added which, if I may use that term is no other than police power and that police power has been incorporated in (2A) as a result of the lesson taught to the Government by the Supreme Court in the Sholapur Mill case. Therefore, the Government have been very anxious this time to see to it that the Supreme Court does not come in its way but thanks to the ingenuity of lawyers of our country, I am sure they will come in by whatever means it may be, I do not know, but they will come and again stand in the way of the Government's policy of building up the country on socialistic lines. Therefore, I say again, let not the Prime Minister fight shy of the word "expropriation"; let him accept the doctrine that expropriators who have been expropriating the life and property of others need not be compensated but should be expropriated. That is the lesson which our *Shastras* also have taught us:

कृते प्रतिकृतम् कुर्यात्
हिंसितं प्रतिहिंसितम्

That is not alien and that is not foreign to us. That is in our culture and that is in our civilisation. Therefore, let not my friends on the other side fight shy whenever the word "expropriation" comes in.

I am grateful to Dr. Ambedkar when he justified expropriation by the Russians just after the Revolution. Why? Because the expropriation there meant the building up of life of every man, woman and child in that country. Let expropriation in that spirit take place here and I am sure each man, woman and child of the country will bless the Prime Minister with all their heart.

Rehabilitation is a problem that has baffled solution up to this time. It has baffled up to this time because

there was no proper law for the acquisition of property for the rehabilitation of the refugees. There was a law in West Bengal, the Development Act, which was contested in the High Court and the High Court gave judgment against the Government. Thereby all acquisitions of property for the rehabilitation of refugees were stopped. This amending Bill will perhaps help the Government in acquiring properties for the refugees.

My time is up but I have so many things to say. I would like to compare my Bill with this Bill; that is the first task that I would like to do just now. My Bill was that expropriation shall take place only within the limitations provided by law and the second was that expropriation shall take place only for the general good and only on the basis of law, of properties beyond the limit prescribed by law. What harm is there? Is that expropriation? I do not think it is in the sense it is understood by my hon. friends opposite. It will be determined by law as to in which case, in what manner and to what extent the owner shall be compensated not that expropriation shall be in every case. There are poor people whose property might be acquired. They shall have the full compensation for their property acquired; expropriation would be only in those cases where people have amassed huge properties and where it is crime to give them anything more in addition to what they have got. Regarding slums the Prime Minister has expressed it in a language which needs to be repeated before the House. "I think it is a crime to have slums, for the person who owns it and the Government that tolerates it." A Government that has tolerated so far the existence of slums, a Government which now tries to retrace its steps has our congratulations, it is never too late to mend.

One thing I would add and I will have done. I will again say that the Constitution that governs the country today was framed under circumstances in which liberty descended

upon the people of India, in which the people of India did not raise themselves up to liberty and it is because of this very single factor that the Constitution has been framed in this way. No matter how the Preamble may be high-sounding, no matter there is a chapter called the Directive Principles of State Policy which may contain many noble and pious wishes, I will say what I had said some time back, the chapter on the Directive Principles of State Policy is inconsistent with the whole Constitution.

These two things do not go and cannot go well together. I am happy that the Prime Minister has thought fit to retrace his steps, has heard the foot-steps of the coming events, events which show that the people are struggling to raise themselves up to liberty. He has taken note of this fact and therefore he has come with this amendment.

And this brings me to the fundamentals of a Constitution. What is a Constitution, Sir? I may just quote to you what I said on the 4th of September, 1953. 'What is a Constitution? A Constitution is the fundamental law of the land; nothing more, nothing less, "Grundgesetz" as the Germans call it. The spirit of the fundamental law should permeate all the ordinary laws of the land. It cannot be arbitrary; but it must reflect and correspond to the correlation of forces and power relationship operating in a given society at a given time. The questions relating to the Constitution of a country, therefore, are not questions of law nor of right alone but actually questions of the correlation of social forces and power relationships, "Machtverhältnisse", as the Germans call it, and the written Constitution of a country, in order to be of value and enduring, must necessarily reflect those correlation of forces and power relationships. Where the written Constitution does no longer do so, a conflict becomes inevitable in which the written Constitution of a country will give way to the surging tide of the rising forces in the society which were not give

due recognition and consideration in the Constitution.' And the Prime Minister has just now begun to give recognition to those forces. I again welcome the Bill and say that the Prime Minister ought to have gone further and accepted the whole of my amendment.

SHRI D. D. ITALIA (Hyderabad): Mr. Deputy Chairman, I stand to give my wholehearted support to the motion so ably moved by the hon. the Home Minister. In the beginning I had no intention to speak on this Bill, but as some of the hon. Members criticised against the capitalist group and against certain interested parties, I think it is my duty to stand and say a few words to remove the bad impression which they have in their minds against the capitalist group and the so called interested parties.

Let me, Sir, at the very outset inform the Members that capitalists are never against any social or economic reforms. Let me assure you, Sir, that the capitalists always welcome each and every social reforms. They always co-operate with all such movements which improve the status of downtrodden persons. I myself personally think it is the bounden duty of all such persons, whom the Almighty has endowed with wealth and good fortune, to be useful to such unfortunate persons and wholeheartedly give such help and support as they deserve.

I was taught in my very childhood that it blesses him who gives as well as him who receives. I am rotarian and the rotary motto is service before self. So it is the duty of every citizen of this country to serve his country in the best manner he can.

No one can deny that our Constitution was framed by the best brains of India. So if it is not superior to other Constitutions, to my mind it is as good as many Constitutions of the advanced countries. It is the bounden duty of every citizen to honour every article of the Constitution as long as it is in existence. But

[Shri D. D. Italia.] whenever we find certain lacuna or difficulty to interpret it correctly, by which majority of the people are affected, then it is our duty as Members of Legislature to amend such articles so that in future no difficulty arises in the way of implementing the social or economic reforms. Legislatures must always be fair.

Our Constitution contains the Preamble and also the Directive Principles. Our Constitution has also defined the Fundamental Rights and they are entitled to every consideration and regard. Our Constitution also provides for the constitution of an independent judiciary, and the Supreme Court. The Supreme Court deserves every right which we cannot deny. But at the same time we must not forget that the function of Parliament is the most important.

The history of why such an amendment in article 31, clause (2) is necessitated is well known to each and every Member of this House. So I do not want to repeat the same and unnecessarily waste the time. I think the Government is right in bringing certain amendments in article 31, clause (2) to remove all misunderstandings, after the Supreme Court's decision in the Sholapur Mill case. There was certain misapprehension in the minds of certain class of people that Government wants to take power in its hand to take away any property from any individual whomsoever and is going to reserve discretion to itself whether to pay compensation or not and if compensation is to be paid whether it will be just and adequate or nominal. -There is also a cry that Government is going to curtail the power of the High Court and Supreme Court, but, as was explained by my friend Gulsher Ahmed and also clarified by our beloved Prime Minister in the Other House, that is not the intention of our Government. Government always accepts the judgments of the Supreme Court. No doubt, whenever certain judgments of the Supreme

Court affect the future development of social or economic reforms or development, Government cannot sit quiet, but according to the Directive Principles amend certain articles for the benefit of the vast number of people. In accordance with this principle the amendment is suggested in article 31, clause (2). The Select Committee to whom the Bill is referred will, I am sure, thoroughly and carefully think over the pros and cons and amend it in such a manner that there will be no ground for any class of people for any hardship or injustice.

Whilst welcoming this Bill my humble suggestion to the members of the Select Committee is to fix certain ceilings up to which compensation must be paid which should be just and adequate and also to fix the minimum quantum of compensation by law and not leave it to the will and pleasure of the executives, as we have bitter experience of executives, how they misused the power bestowed upon them. This will ensure some sort of stability and confidence in the investing public which, at present, is shattered by the vague provision. It is our bounden duty to safeguard the middle class of people and therefore I suggest that property worth up to two lakhs of rupees be fixed as a ceiling. As we all know, the price of present rupee is, comparatively speaking, less than four annas. So Rs. two lakhs may not be considered to be a huge amount and a person possessing Rs. two lakhs may not be considered to be a wealthy person.

KAZI KARIMUDDIN (Madhya Pradesh): Why?

SHRI D. D. ITALIA: The value of Rs. two lakhs now is not what it was before.

So, Sir, whenever Government want to acquire such property from an individual and if the price of that property is Rs. two lakhs or below Rs. two lakhs, I think full compensation has to be given according to the price prevailing at that time. But i-

the price of the property is, say, Rs. three lakhs, then up to two lakhs he will have to be paid full compensation and over and above two lakhs upto Rs. three lakhs 50 per cent of the prevailing price.

KAZI KARIMUDDIN: How have you arrived at it?

- SHRI D. D. ITALIA: 50 per cent of a lakh comes to Rs. 50,000 and that is nothing.

Beyond three lakhs Government can fix only a nominal compensation. In this way, I think, we will safeguard the middle-class people and also the public will be benefited. The middle-class people will in their turn invest the small amount which they will realise from their property of two lakhs or whatever it may be, in the small scale industry as well as in small business. The prosperity of the country depends upon such industries and businesses. After all the middle-class people are the backbone of our country.

There is just one point. 'Public purpose' is also to be well defined so that no trouble can arise in future and it may avoid litigation. There is one more point to which I draw the attention of the hon. members of the Select Committee before I take my seat and that is that some sort of a provision has to be provided in the Bill for safeguarding the small property-holder.

3 P.M.

The executive must not misuse the power which will be vested in them and thus harm the small property-holders. With these few words, I support this motion.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Mr. Deputy Chairman, I readily subscribe to the motion that this Bill be referred to the Joint Committee, for while I have very great pleasure in supporting the principle, the object and the policy underlying this measure, I am sorry to find that the operative clauses of

this Bill are not happily worded and it is therefore necessary that the clauses of this Bill should be thoroughly and carefully examined and scrutinised in the Joint Committee and necessary modifications made therein so that our intention may be clearly and fully conveyed by the provisions of this Bill. I am afraid that these clauses as they stand at present, not only do not convey what our real intentions are but they almost seem to make confusion worse confounded and if they are allowed to remain as they are, I am afraid they will create fresh difficulties and will lead to fresh litigation. Sir, as we all know, the proposed amendment has been necessitated by the various judgments of the Supreme Court which has given article 31 an interpretation different from the one intended by the framers of the Constitution. As Dr. Ambedkar pointed out, the question of compensation was discussed at very great length in the Constituent Assembly both inside and outside, and after a very thorough discussion and debate, the Constituent Assembly had come to the conclusion that acquisition or requisition of property should be according to law and that the law must also provide either the quantum of compensation that may have to be paid or the principles according to which the quantum of compensation payable should be calculated. Everybody had thought, more particularly the eminent jurists who were parties to the framing of the article, that this intention would be clearly and correctly conveyed by article 31, as it was then framed. Dr. Ambedkar was also a party to it then, though today he says that he was not a party to it. He spoke almost in contradictory terms because though initially he said that he was not a party to it and he would not even look at article 31 as it stands, yet ultimately what he suggested was that we need only provide one thing in the Constitution and that is to the effect that the compensation payable should be specifically laid down by the Legislature in the law which it might frame, or the

[Shri Jaspat Roy Kapoor.] principle according to which compensation should be calculated be laid down therein. So that even today ultimately he has suggested what was really the intention of the framers of article 31 when it was framed in the Constituent Assembly. The very thing which he does not want to look at and the very thing to which he says he was not a party, he now specifically recommends to be done. What is unfortunate is that Dr. Ambedkar is now in a frustrated mood and he does not let any opportunity slip without having a fling at the Congress, the Prime Minister or the Congressmen, so much so that he even forgets hard facts. He went even to the length of saying things contrary to facts that the Congress and Congressmen during the British regime never insisted on having any Fundamental Rights. He conveniently forgot—I do not know whether it was deliberate on his part but I would not say deliberate—many things. When he is in an extremely frustrated mood, he forgets many things which are hard facts. He forgot that this question of Fundamental Rights was mooted by Congressmen even so far back as the Amritsar Congress. I shall, Sir, with your permission, quote a passage from the History of the Congress by Dr. Pattabi Seetharamayya. We have it mentioned therein that the question of Fundamental Rights was originally - raised by Mr. C. Vijayaraghavachari at the Amritsar Congress at dead of night in the bleak cold of the Punjab. Then it gained importance when he himself presided over the Nagpur session. The Amritsar session was held as far back as 1919, I suppose. And then a resolution on Fundamental Rights was specifically framed at the Karachi Congress and this resolution was further amended and given a final shape later on by the All India Congress Committee. Among the various Fundamental Rights we find it mentioned that the culture, language and script of the minorities and of the different linguistic areas shall be protected. Then it is said

that no disability attaches to any citizen by reason of religion etc. and then we have lastly, as item No. 14, that every citizen is free to move throughout India and to stay and settle in any part thereof, to acquire property and to follow any trade or calling and to be treated equally with regard to legal prosecution and protection in all parts of India. There are 14 items in this resolution on Fundamental Rights. Dr. Ambedkar forgot all about it.

Dr. Ambedkar further accused us of not treating the Supreme Court with due courtesy. It was very unfair on his part to do it. A lawyer of his eminence was not expected to say a thing like that.

At the same time he has made a suggestion asking us to so amend the Constitution as to ignore the court absolutely. Because he has suggested that we should amend the Constitution in such a way that the quantum of compensation to be paid must be provided in the law which Parliament or the State Legislatures may enact. That means that the question of compensation should not remain justiciable and whatever is provided by Parliament or the State Legislatures should be the final word on the subject. I myself agree with that view of his. But his accusation that Parliament and the Congress do not treat the Supreme Court with due courtesy and respect is absolutely incorrect. Because according to the proposed amendment what is suggested is not that the court's jurisdiction should be ousted altogether, but that only certain specific matters which are mentioned in clause 3 of the amending Bill should be taken out of the purview of the court and all other matters should still remain justiciable. The question before us now is whether our intention of amending the present Constitution is clearly and correctly covered by the proposed amendment. Let us see whether it is so. So far as clause 2 is concerned, we find it suggested that "In

article 31 of the Constitution, for clause (2), the following clauses shall be substituted, namely: — (2)

..... " I need not repeat it again as the time is short. But this clause (2) of the proposed article 31(2) is very much in the same terms as the existing law. The word 'compensation' is there and, therefore, according to the ruling of the Supreme Court compensation will have to be paid according to the market value. Therefore, this portion of the proposed amendment does not help us at all. My submission is that we must make it clear, the Select Committee must make it very clear that the compensation which is to be paid when property is to be acquired will be only that much compensation which is provided in the law itself. But if it be the definite view of the hon. Prime Minister and the Select Committee that the jurisdiction of the court should not be ousted altogether, then I would suggest for serious consideration that the word 'equitable' should be added to the word 'compensation,' so that the court while considering as to whether compensation is proper or not would only consider whether that is equitable or not. Because according to my view— I do not know, I am not a jurist, but the eminent lawyers have to consider it as to whether the phrase "equitable compensation" would not mean something different from 'full compensation' and 'market value'. Equitable compensation according to me would mean different from time to time, because what is equitable today may not be equitable tomorrow. The implication of this phrase 'equitable compensation' would differ from time to time according to the accepted economic, political and social theories at the relevant time. To illustrate my point, I might submit that the court will take into consideration the equity of the situation at the time of acquisition. Take the case of the law of sedition. The law of sedition though it has been the same from time immemorial in the Indian Penal Code, yet its interpretation was different in 1906 when Lokmanya

Tilak was convicted from its interpretation today. What was sedition in 1906 is certainly not sedition today. That would now be considered to be a very ordinary criticism of the Government. And what was sedition then leading to conviction for six years in 1906 would now be readily accepted as something tolerable and permissible. Therefore, I submit that the word 'equitable' must necessarily be incorporated before the word 'compensation'.

MR. DEPUTY CHAIRMAN: It is time, Mr. Kapoor. There are two more speakers.

SHRI JASPAT ROY KAPOOR: Sir, may I have a few minutes more? I will finish in five minutes and I shall hurry up.

Now, let us take the next proposed amendment, clause (2A). That, I submit, is also very unhappily worded, because it not only makes the meaning almost unintelligible, but it could also be interpreted to mean that if a property is acquired and handed over to a third party, if the possession is not retained by the State itself, then none of the protecting articles would be applicable. I am sure it is not the intention of the framers of this amending clause, but then it is likely to be interpreted differently. The Select Committee should, therefore, suitably amend it.

Coming to clause 3, of the amending Bill, I find that it overshoots the mark. It is a little too drastic. It means that for the acquisition of the property and rights mentioned in this clause, compensation need not be paid at all. I am sure that it is not the intention of the Government not to pay compensation at all in all the six or seven cases mentioned therein. But, then, according to the phraseology of this clause, law may be enacted for acquisition without providing for compensation and the courts cannot intervene. Obviously it would look absurd, it would be almost absurd to imagine that if a property is acquired for the purpose mentioned in subclause (rf), that is "the acquisition or

[Shri Jaspat Roy Kapoor.] requisitioning of any immovable property for the relief or rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan," it is surely not intended that such property should be acquired without payment of compensation at all. All that is intended, I believe, is that the court's jurisdiction should be ousted. That being so, this sub-clause should be suitably amended. Similarly, in the case of vacant waste lands and even in the case of huts of poor persons, I am sure the Legislature will never make a law to the effect that no compensation should be paid in such cases. It is no use then providing in this clause 3 that it is open to the Legislature to make such law. It is very much like the

SHRI J. S. BISHT (Uttar Pradesh): Government can act only under a law.

SHRI JASPAT ROY KAPOOR: So I say enactment of such law should not be permissible.

Sir, I must record here my appreciation in particular of clause 5 of this Bill wherein it has been specifically laid down that the Bihar Displaced Persons Rehabilitation Act; the United Provinces Land Acquisition (Rehabilitation of Refugees) Act; and the Resettlement of Displaced Persons (Land Acquisition) Act, which have been declared to be *ultra vires* of the Constitution by the High Courts concerned are being made valid retrospectively. Now there is nothing wrong about it, Sir, though Dr. Ambedkar has offered particular criticism against it. Although he has accepted sub-clause (d) of new clause (1) of article 31A proposed in clause 3 of the amending Bill, which provides that hereafter law can be enacted under which property can be acquired without payment of compensation for the benefit of displaced persons, and although that law would be out of the purview of a court of law, yet he objects to such laws already enacted being

declared valid and *intra vires* of the constitution. The displaced persons, Sir, are highly grateful for the incorporation of clause 5 in this Bill. Having offered these suggestions, Sir, I extend to this Bill my wholehearted co-operation, and I hope that the Select Committee would make suitable modifications in this Bill, so that our intention may be clearly and correctly conveyed by the amended provisions, and there may be no further litigation on the subject.

[MR. CHAIRMAN in the Chair.]

श्रीमती शारदा भार्गव (राजस्थान): अध्यक्ष महोदय, यद्यपि मुझे इस विधेयक की बहस में सब से अन्त में समय मिला है और मैं समझती हूँ कि बहुत ही कम समय मिला है अतः मैं चाहती हूँ कि मैं बहुत ज्यादा विस्तार में न जाकर संक्षेप में ही इस बिल के सम्बन्ध में अपने विचार प्रकट कर दूँ।

सबसे पहले मैं माननीय गृह मंत्री जी को इस विधेयक के लाने पर बधाई देना चाहती हूँ। बधाई मैं ही नहीं दे रही हूँ बल्कि जहाँ तक मेरा ज्ञान जाता है, देश के सभी दल और संस्थाएँ इस विधेयक का स्वागत कर रही हैं। इसका कारण यह है कि किसी भी देश में गणतंत्र व अहिंसा के सिद्धान्तों पर चलने वाली सरकार जब समाज का आर्थिक स्तर ऊँचा करना चाहती है तो जनता उसके साथ हमेशा रहती है। इस विधेयक का भी उद्देश्य यही है कि समाज के बीच से ऊँच नीच, अमीरी और गरीबी का भेदभाव मिटाकर समाज के आर्थिक स्तर को ऊँचा लाया जाए। इसलिए यह विधेयक सचमुच में बहुत ही स्वागत योग्य है। हमारे सामने सबसे बड़ा उद्घाटन आन्दोलन का चुनाव है। आन्दोलन के चुनाव ने संसार को यह बता दिया है कि अहिंसात्मक क्रान्ति में कितनी शक्ति है। अर्थात् यदि हम किसी पर जोर जबरदस्ती न करके और अहिंसात्मक तरीकों पर समाज का ढाँचा बनाना चाहें तो सचमुच उस तरीके में बहुत कुछ शक्ति होती है जिससे हम बहुत सफल हो सकते हैं।

दूसरी बात यह भी है कि जब हमारी कांग्रेस ने आबड़ी अधिवेशन में यह निश्चय कर लिया

हैं कि हमें एक सोशलिस्टिक पैटर्न पर चलना है तो सरकार को भी वही तरीका अपनाना चाहिए और उसी पर चलना चाहिए जिससे हम सचमुच में सोशलिस्टिक पैटर्न पर चलकर समाज के भेदभाव को मिटा कर देश के आर्थिक स्तर को बढ़ा सकें। मैं समझती हूँ यह विधेयक जो सामने आया है उसके माने यह नहीं है कि किसी देश के लोगों के पास कोई निजी सम्पत्ति का होना खराब चीज है। किन्तु निजी सम्पत्ति कई प्रकार की हो सकती है और उस कई प्रकार से उपयोग में लाया जा सकता है। कई प्रकार के माने यह है कि निजी सम्पत्ति सचमुच देश के हित के लिए काम में लाई जाए तो वह देश को ऊंचा उठाने में बहुत कुछ मदद दे सकती है। परन्तु कभी कभी ऐसा होता है कि निजी सम्पत्ति या कारोबार देश के लिए हानिकर भी होता है। जैसा कि हमने थोड़ा ही दिन पहले शोलापुर केंस में देखा, उसमें हमारा देश के हित के लिए काम नहीं हो रहा है बल्कि उसमें कई तरह की गड़बड़ियाँ फैल रही थीं जिनसे कि हमारा देश का अहित हो रहा था। अतः इस सम्बन्ध में हमारी सरकार ने जो भी फैसला किया है वह देश के हित को सामने रख कर ही किया। किन्तु सुप्रीम कोर्ट ने उसको अवैधानिक माना। ठीक है सुप्रीम कोर्ट ने जो निर्णय दिया है, उसे हमें मानना चाहिए था। क्योंकि हमें विधान के अनुसार ही कार्य करना है। परन्तु यदि विधान बनाने में कोई शब्द रह गए हैं जिनका अर्थ ऐसा भी हो सकता हो कि जिससे हमारा देश के लाभ में बाधा पहुंचे तो संसद का कर्तव्य है कि उसमें संशोधन करके उसे सही भावना का ही अर्थ निकालने योग्य बनावे। इसीलिए यह संशोधन हमारे सामने सदन में उपस्थित किया गया है। डा० अम्बेडकर साहब ने यह कहा था कि अंगूजों के जमाने में कोर्टों को बहुत ऊंचा माना जाता था और जो भी निर्णय उनके द्वारा किए जाते थे, सरकार उनको पूरी तरह से मान्यता देती थी। मैं उन से यह कहना चाहती हूँ कि आज तक जितने भी सुप्रीम कोर्ट द्वारा निर्णय हुए हैं, हम लोग खुद उनको बहुत ऊंचा मानते हैं और कोर्ट के निर्णय को हम परम आदर से देखते हैं। हम

जो अर्मीडिंग बिल ला रहे हैं, वह हम सुप्रीम कोर्ट के निर्णय के आदर के फलस्वरूप ही ला रहे हैं। यदि हम सुप्रीम कोर्ट के निर्णय को नहीं मानते तो आज हमें अर्मीडिंग बिल लाने की आवश्यकता ही न पड़ती। हम चाहते तो बहुत से तरीकों से उस निर्णय को इनवैलिड कर सकते थे। चूंकि हमारा विधान के अनुसार सुप्रीम कोर्ट का बहुत ऊंचा स्थान है, इसीलिए यह हमारा देश-वासियों का कर्तव्य हो जाता है उसके निर्णयों का आदर करें। आज संविधान की जिस धारा में संशोधन करने जा रहे हैं उससे हम उन बाधाओं को दूर कर रहे हैं जो कि इस समय हमारे संविधान की उस धारा में विद्यमान है जिसके द्वारा हमें अपने देश में समता की स्थापना करने में कीठनाइयां हो रही हैं। यही कारण है कि इस कीठनाई को दूर करने के लिए यह विधेयक सदन के सामने लाया जा रहा है। इस संशोधन विधेयक की भावना और सिद्धान्त से सभी लोग सहमत हैं, यह दूसरी बात है कि शब्दों के सम्बन्ध में थोड़ा बहुत मतभेद हो। कभी कभी ऐसा होता है कि हमारे विरोधी पक्ष वाले केवल विरोध के लिए ही विरोध करते हैं। जहां तक मुझे मालूम है, डा० अम्बेडकर साहब ने अपने पिछले भाषण में यह कहा कि मेरा जी चाहता है कि इस विधान को जला डालूं। इस सम्बन्ध में जो कारण उन्होंने दिये हैं उन्हें सुनकर हंसी आती है। डा० अम्बेडकर साहब विधान के पीठित हैं और ला के मास्टर हैं। उन्होंने अपने भाषण में यह कहा कि जो मंदिर देवता के लिए बनाया गया हो उसमें यदि असुर का वास होने लगे तो उस मंदिर को नष्ट कर देना चाहिए। उस समय मैंने उनसे प्रश्न किया था—शायद मेरी आवाज इतनी मंद रही हो कि वे सुन न सके या उन्होंने सुन कर भी उत्तर न देना चाहा हो—कि उस मंदिर का देवता वे किस मानते हैं?

एक माननीय सदस्य: खुद को।

श्रीमती शारदा भार्गव : यदि वे समझते हैं कि जनता उन्हें पसन्द करे या न करे, वे खुद ही

[श्रीमती शारदा भार्गव]

उसके दृढ़ता बन जाएं, तो यह उनका भूम हैं। मुझे ऐसा लगता है कि वे जो स्पीच दे रहे थे वह मानों एक इलेक्शन स्पीच हो। अगर मान भी लिया जाए कि इलेक्शन हो रहा हो और उस समय वे ऐसी स्पीच दें, तो मुझे पूर्ण विश्वास है कि चुनाव के फल में इस सदन में उससे कोई अन्तर होने वाला नहीं है। मैं यह नहीं कहती कि डा० अम्बेडकर साहब अपनी स्पीच से यहां चुन कर आ सकें या नहीं, यह प्रश्न ही दूसरा है, किन्तु जहां तक कांग्रेस पार्टी का सम्बन्ध है अथवा सरकार का सम्बन्ध है मैं नहीं समझती कि उससे कोई परिवर्तन हो सके। इसलिए मैं उनसे यही कहना है कि जब वे मिनिस्टर थे और जिस प्रकार की बातें तब सांचते थे उसी प्रकार से आज भी सांचा करें और खामखाह विरोध के लिए विरोध न करें, तो यह उनके लिए भी हितकर होगा।

समय बहुत कम है, एक एक धारा के सम्बन्ध में इस समय नहीं कह सकती हूं क्योंकि साढ़े तीन बजने वाला है, माननीय गृह मंत्री जी उत्तर देने वाले हैं और मुझ से पहले ही कह दिया गया था कि मुझे नियत समय पर अपना भाषण सत्तम करना होगा, इसलिए मैं विस्तार में न जा कर केवल इतना ही कहना चाहती हूं कि विधायक में जहां एक्विजिशन और रिक्विजिशन के अधिकार की बात है वहां मैं पूर्ण सहमत हूं कि अन्तिम अधिकार संसद के पास ही रहना चाहिए क्योंकि संसद देश की प्रतिनिधि संस्था है। संसद हर पांच छः साल बाद बदलता रहता है, और उसके प्रतिनिधि भी बदलते रहते हैं। अतः संसद जनता का पूर्ण रूप से प्रतिनिधित्व करता है।

श्री आर० यू० अग्निभोज (मध्यप्रदेश): हम नहीं बदलते हैं।

श्रीमती शारदा भार्गव : आप छः साल में बदलते हैं।

MR. CHAIRMAN: Well, that will do.

THE MINISTER FOR HOME AFFAIRS (SHRI GOVIND BALLABH PANT): Mr. Chairman, I am grateful to the hon. Members of this House for the reception that they have accorded to this Bill. It has received almost unanimous support of the Members of this House. I might perhaps even drop 'almost'. All the organised parties, through their accredited representatives, have welcomed it. So, it is not to be regarded as a party measure, but a national measure, over which all parties are agreed. I wonder if any Legislature had the good fortune of making an amendment in the Constitution with the full consensus of opinion and the unanimous support of the Members of Parliament. Both Houses have given it their blessings, and I trust that, when it emerges from the Select Committee, whatever doubts have been left will be dispelled too. It seems to have been forgotten that we are only at this stage referring the Bill to a Joint Select Committee, not a Committee of one Chamber only but a Committee in which we expect to find the joint collective wisdom of both Houses. We can trust to the ability and capability of that Committee to improve the Bill and to make any further changes that may be necessary in order to ensure the progress of the country on which the hearts of all are set.

A number of speakers have expressed their opinions. I have not been able to grapple with anything important. On the whole the core of the Bill remains unscathed and untouched. If there have been observations, they are all of a subsidiary character indicating that some of the hon. Members would have been more pleased if the Bill had gone further than it has. Some stand for confiscation of property at least in India, even though their counterparts may not be equally enthusiastic about such confiscation in other countries. Some think that we could perhaps have been a little more cautious and not gone as far as we had. I think that that itself indicates that the Bill

is going to travel on the royal road, and I had expected that the votaries of the middle path would welcome it all the more, but those hopes have not been fulfilled.

Dr. Ambedkar, whom I was glad to see here today, had delivered a very long speech. The vigour which he brought to bear on the proposition that was before the House, whether it was well-deserved or not, had given me some gratification. I feel assured about his physical recovery and I hope that in other respects too, he will be healed in no time. I look forward to his all-round recovery and I trust that he will in future handle matters with some regard for the utterances made by him previously and for the acts done by him when he occupied a position perhaps of still greater responsibility. So far as the operative part of Dr. Ambedkar's speech is concerned, I do not feel in any way dissatisfied. But I was perplexed when I heard his views about the actual provisions of the Bill which he reserved to the end. The vehemence with which he had spoken in the earlier part did not seem to fit in with what he said at the end, for the chaff had passed by that time and only the grain had remained; it was sound enough. Dr. Ambedkar is a learned man and he can speak on any subject for a pretty long time. He need not necessarily be concerned with what is strictly relevant. His observations, even if they be somewhat wide of the mark, are worth listening to, and so I listened to his speech carefully, but while giving my undivided attention to the remarks that he was making, I had occasionally to refer to his previous speeches and found that they were hardly consistent and compatible with the present one. Dr. Ambedkar said that he had not heard of Fundamental Rights till we came to frame this Constitution. Well, I think I am not mistaken when I say that the Congress at Karachi had laid down certain basic principles which amounted to Fundamental Rights. From time to time it stated its views. But I

was not surprised. Dr. Ambedkar is not a student of Congress literature, and if he is, it is more as a critic than as a student who would like to learn and to find the truth from such literature. He could well have missed what the Congress did, but I was somewhat amazed that he had forgotten what had happened at the Round Table Conference in London when the Government of India Act of 1935 was evolved. He was one of its members. I find from the report that there was considerable discussion on the subject of Fundamental Rights, but lest the provision with regard to Fundamental Rights should restrict the powers of the legislatures, the Joint Select Committee of the Parliament did not consider it advisable to introduce such a provision in their Bill.

Well, assuming that nothing had been heard about these Fundamental Rights, he welcomes the incorporation of such rights in the Constitution, for which he has great admiration, and I have still greater, and for which we all have reason to be grateful to him for the labours and pains he bestowed on it. But if Fundamental Rights have been embodied in the Constitution, whom should we thank for them? The Constitution was framed by the Constituent Assembly which was virtually dominated by Congressmen. Most of its Members owed allegiance to the Congress. So if the Fundamental Rights are there, it is because Congressmen wanted them to be there and it is because they introduced those rights in the Constitution. Dr. Ambedkar made a very bewildering sort of remark. He said there were differences over this article 31 among the leaders of the Congress and in the circumstances he was not in any way responsible for the clauses that had been incorporated in the Constitution. Of course he claims that he is entitled to all grateful admiration—and I think he is—for the shape which the Constitution took but he cannot eat the cake and yet leave a part of it. He must take it as a whole and if he were to

[Shri Govind Ballabh Pant.] disown his responsibilities for every clause or whatever is there on which there was difference of opinion before the final stage was reached, perhaps there would be nothing left for which he could take any credit. He also referred to section 299 of the Government of India Act. I can say from the little that I know that section 299 contemplated payment of compensation on a reasonable basis and not at all in accordance with the yardstick of the market rate. There will be no sense in having a clause to the effect that compensation will be paid in accordance with the principles and in the manner laid down by the Legislature. The simple thing then is to say, as is prescribed in the Land Acquisition Act, that compensation will be paid according to the market rates. The principles have to be defined and the manner has to be laid down because it was understood that in cases where large pieces and extensive tracts of land or other properties are acquired for social purposes, for the benefit of millions, no one can possibly pay compensation at the market rate. So section 299 even of the Government of India Act which was more or less like our own article did not expect full payment for the transfer of rights which come within the bundle of property where such rights were acquired for public purposes. I have a faint impression that there are also rulings on the subject and that the Privy Council at least in one case which went up to it from Oudh so far as I remember, held that no compensation was payable where rights were taken away from the zamindars and were conferred on the tenants. So even then the principle was accepted. Well, Dr. Ambedkar said that the Sovereign could do no wrong in England but here, he thought, the Prime Minister could do no wrong. I think the Prime Minister is really anxious that he should never do anything that in the remotest degree can be supposed to be wrong. He has that intention and that is his determination. But I think that Dr. Ambedkar is a law

I unto himself. Whatever he says must be accepted. I have his speech before me delivered when the First Constitution Amendment Bill was on the anvil. At that time Dr. Ambedkar ; was the Law Minister. Naturally that Bill must have been framed and approved by the Law Ministry and that amendment was made not after 5 years but within sixteen months of the promulgation of the Constitution. The scope of that amendment ; was much wider than that of the present amending Bill. The clauses that were attacked by that amending Bill were many more and they touched not only the question of private property but also that of civil liberties and like matters of vital character. Dr. Ambedkar then said that there was no alternative and they had to have recourse to such amendments when the purpose of the Constitution was not carried out. The exact words that he said were these:

"The point that I was trying to make to the House is that on account of the declaration by the Supreme Court that this Parliament has no capacity to make a law in certain Heads; the question before the House is this: Can we allow the situation to remain as it is as created by the judgments or we must endow Parliament with the authority to make a law."

Certain judgments had been pronounced by the Supreme Court. These did not seem to fulfil the purpose which the authors of the Constitution or those connected with its administration had and they considered it necessary, in the circumstances, to amend the Constitution so that whatever fetters had come in the way because of the defects in the language of the Constitution—I don't blame the Supreme Court at all—those defects should be set right. That is my attitude. But Dr. Ambedkar had then to be pulled up by the Chair for certain remarks that he made about the Supreme Court. He today told us that the Supreme Court was lacking in courage at a certain time but it had regained the lost courage. Well, I have been somewhat perplexed

whether the Supreme Court was unable to exercise its will and had lost its courage so long as Dr. Ambedkar was presiding over the Law Ministry and has it regained its courage since Dr. Ambedkar joined the Bar there and began to work before the Judges, though only occasionally as an Advocate? I do not exactly know how this transformation came about but what he said was it has come about. I personally feel that the Supreme Court has, in all stages, tried to do the right thing according to its lights. We have not been able to frame our laws in such a way as to leave no room for an interpretation different from our own intentions. After all, if the instrument through which we intended to function was not as strong and as well designed as we wanted it to be, the blame should be ours. But Dr. Ambedkar in this speech said that in the United States, the Fundamental Rights were of an absolute character. They were defined in absolute terms, still the Supreme Court there had tried to interpret them in such a way as to enlarge the authority of the Parliament or the Legislature. Here he said it had not been so. Then he made a pointed reference to the Directive Principles and I should like again to read out what he said about them:

"I take the view that there is ample scope for recognising the doctrine of implied powers, and I think our Directive Principles are nothing else than a series of provisions which contain implicitly in them, the doctrine of implied powers. I find that these Directive Principles are made a matter of fun both by judges and by lawyers appearing before them."

to which category, I think Dr. Ambedkar now belongs; that is my comment:

"Article 37 of the Directive Principles has been made a butt of ridicule. Article 37 says that these Directives are not justiciable, that no one would be entitled to file a

suit against the Government for the purpose of what we call specific performance. I admit that is so. But I respectfully submit that that is not the way of disposing of the Directive Principles. What are the Directive Principles? The Directive Principles are nothing but obligations imposed by the Constitution upon the various Governments in this country—that they shall do certain things, although it says that if they fail to do them, no one will have the right to call for specific performance. But the fact that there are obligations of the Government, I think, stands un-impeached. My submission is this: that if these are the obligations of the State, how can the State discharge these obligations unless it undertakes legislation to give effect to them? And if the statement of obligations necessitates the imposition and enactment of laws, it is obvious that all these fundamental principles of Directive Policy imply that the State with regard to the matters mentioned in these Directive Principles has the implied power to make a law. Therefore, my contention is this, that so far as the doctrine of implied powers is concerned, there is ample authority in the Constitution itself to permit Parliament to make legislation, although it will not be specifically covered by the provisions contained in the Part on Fundamental Rights."

So, he gave sufficient importance to the Directive Principles and even conceded the propriety and the possibility of their overriding the Fundamental Rights. But we are trying, as I said in the course of my opening speech, to bring about complete harmony between the Directive Principles, Fundamental Rights, Preamble and the laws that are designed to carry the country forward on the road chalked out for it, towards the central objective which has been solemnly prescribed for it. In these circumstances I do not see how there

[Shri Govind Ballabh Pant.] can be any objection to this amending Bill.

Sir, Dr. Ambedkar referred to one or two Bills with which I happened to be associated, not in my personal capacity, but as a member of the Legislature in another place. Well, whatever was done then, was just with the determination to relieve the teeming masses of the country and the tremendous misery and oppression which was their lot at that time, and I have no compunction for what I did in that connection, and I am glad that Parliament approved of the measures that were adopted to ensure this end.

Then there were other remarks made by Dr. Ambedkar to which I think I need not refer at very great length. What I was really in a way glad to see was the very little measure of difference that actually exists between him and the provisions of this amending Bill. He has nothing to say against clause (2A) in this amending Bill. He has no quarrel with clause (2). About clause (2A) he has some difficulty as he does not fully understand what it means. Well, I should have thought that Dr. Ambedkar would not stand in need of any explanation from me. But the position is clear. It is this. The Supreme Court had interconnected clauses (1) and (2) of article 31, with the result that whenever any private property was taken possession of by the State, according to them, compensation would be due. Well, this is an impossible position. In the United States, they divide the powers of the State into two categories—the police powers on the one hand and those of eminent domain on the other. The State is always competent to exercise the police powers. Then on the eminent domain, it is not necessary that full compensation should be paid. Now, if the interpretation that has been placed on clauses (1) and (2) of article 31 holds the field and is allowed to remain as it is, then it becomes doubtful whether even the

police powers can be exercised by the State. So what has been said in clause (2A) leads to this that where property is acquired for a public purpose or is requisitioned for such a purpose, then generally, compensation will be payable in the manner and in accordance with the principles laid down by the Legislature, but when property is not acquired for a public purpose, if it is confiscated, say under a law, or is taken under management for a public purpose, and for similar other purposes, some of which were indicated by me when I spoke first and are also mentioned in the subclauses, then no compensation will be paid. That is the plain meaning of clause (2A). Whatever misunderstanding and confusion would otherwise arise in consequence of the recent decisions would be allayed and removed by this clarification of the purpose of clauses (1) and (2).

4 P.M.

In fact, it was never thought in the past that clause (1) of article 31 was connected with clause (2); the two were entirely different and that position has been clarified.

Dr. Ambedkar questioned about validity being given to Acts passed by State Legislatures and he asked why, in any case, retrospective effect being given to the validity. The Acts that we have here are very few. By the amending Bill of 1951, I find that such validity was given to many more Acts and that Bill was supported by Dr. Ambedkar—of course, that Bill was framed by him. I would just read out the list of the Acts which were given retrospective validity then:

1. The Bihar Land Reforms Act, 1950.
2. The Bombay Tenancy and Agricultural Lands Act, 1948.
3. The Bombay Maleki Tenure Abolition Act, 1949.
4. The Bombay Taluqdari Tenure Abolition Act, 1949.

5. The Panch Mahals Mehwasli Tenure Abolition Act, 1949.

6. The Bombay Khoti Abolition Act, 1950.

7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950.

8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals. Alienated Lands) Act, 1950.

9. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950.

10. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1950.

11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950.

If we err, I would like to err with Dr. Ambedkar the Law Minister then than with Dr. Ambedkar who is no longer in charge of Law as a responsible Minister. So, we have followed him now and at least he should not have blamed us for accepting his lead in this matter.

I find that so far as the other clauses go, Dr. Ambedkar has almost agreed with us except with regard to one or two. He has hailed some of them with a certain degree of warmth but I do not see why he should have been so very impatient because he is a member of the Joint Committee; the Bill is going to the Joint Committee and he will have a full opportunity there of expressing his views and converting others to those views. If, on matters of detail, there are some differences, they can well be hammered out there. I feel that in view of what he said at the end it would have been much better if the tail alone had been seen by us and the diseased body had not been demonstrated and exhibited unnecessarily. The tail had no sting; at least it was free from it and by the time he reached the tail, it seems that he was able to take a very reasonable and fair view of things. I will ex-

pect that with the help of Dr. Ambedkar and other hon. Members who will be represented in the Joint Committee, we will be able to further improve this Bill.

I do not think, Sir, it will be necessary for me to go into any further details. The speeches made here sometimes seem to ignore one important point. We are not framing or passing a Bill that will come into operation tomorrow. We here are making an amendment in the Constitution so that we may be able to introduce and pass Bills hereafter. All that is being done is this, that we are giving authority to Parliament, which we were under the impression that the Parliament possessed, to promulgate enactments for the progress of society and for the amelioration of suffering and the upliftment of the suppressed and the submerged classes. That is the only thing that is being done by virtue of this Bill. Even when it is enacted, only Parliament will have formally regained what we always thought the Parliament already possessed; powers with which Parliament was, from the beginning, deemed to be invested will again be formally recognised as being invested in Parliament. So, I do not see why there should be any objection.

As I said before, in England, there is no check on the legislative powers of the Parliament. It can take away everything; it can confiscate all property without paying a penny by way of compensation and nobody can raise his little finger. Here, we have deliberately and decidedly circumscribed our scope by laying down certain Fundamental Rights and also by having a written Constitution which circumscribes our scope of activity. That we have done deliberately and I trust that it will be essential, whatever be the occasional impediments, for the real good and benefit of our country. We want to abide by our Constitution; we want to maintain the independence and the dignity of the courts but whenever decisions are

[Shri Govind Ballabh Pant. J given that do not carry out the intentions of the authors or the central purpose for which the Constitution was framed and which is enshrined in the Preamble and elucidated in the Directive Principles, it will be the duty of Parliament to remove that conflict and to restore harmony. It is in that spirit, Sir, that this Bill has been introduced and I hope it will be unanimously accepted by all the hon. Members of this House.

MR. CHAIRMAN: The question is:

"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 Lall.
Shri Sri Narayan Mahtha
Shri Jasaud 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)."

Under article 368 of the Constitution, the motion has to be adopted by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting. A division may, therefore, be called.

The House divided:
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Abid Ali, Shri.
Adityendra, Shri.
Agarwala, Shri R. G.
Agnibhoj, Shri R. U.
Agrawal, Shri Amar Nath.
Agrawal, Shri J. P.
Ahmad Hussain, Kazi.
Ahmed, Shri Gulsher.
Akhtar Husain, Shri.
Amolakh Chand, Shri.
Banerjee, Shri Satyapriya.
Bedavati Buragohain, Shrimati.
Beed, Shri I. B.
Bharathi, Shrimati K.
Bhatt, Shri Nanabhai.
Bisht, Shri J. S.
Biswas, Shri C. C.
Chaman Lall, Diwan.
Chandravati Lakhanpal, Shrimati.
Chaturvedi, Shri B. D.
Chauhan, Shri Nawab Singh.
Daga, Shri Narayandas.
Dangre, Shri R. V.
Dasappa, Shri H. C.
Das, Shri Jagannath.
Deogirikar, Shri T. R.
Deshmukh, Shri R. M.
Dharam Das, Shri A.
Doogar, Shri R. S.
Dube, Dr. R. P.
Dutta, Shri Trilochan.
Dwivedy, Shri S. N.
Faruqi, Moulana M.
Gilder, Dr. M. D. D.
Gopal, Shri V. G.
Gupta, Shri Maithilisharan.
Gupte, Shri B. M.
Gurumurthy, Shri B. V.
Hardiker, Dr. N. S.
Hathi, Shri J. S. I*.

Hemrom, Shri S. M.
 Indra Vidyavachaspati, Shri.
 Italia, Shri D. D.
 Jafar Imam, Shri.
 Jalali, Aga S. M.
 Kalelkar, Kakasaheb.
 Kapoor, Shri Jaspat Roy.
 Karayalar, Shri S. C.
 Karimuddin, Kazi.
 Karumbaya, Shri K. C.
 Kaushal, Shri J. N.
 Keshvanand, Swami.
 Khan, Shri Abdur Rezzak.
 Khan, Shri Akbar Ali.
 Khan, Shri Barkatullah.
 Khan, Shri Pir Mohammed.
 Kishen Chand, Shri.
 Kishori Ram, Shri.
 Krishna Kumari, Shrimati.
 Lakhamshi, Shri Lavji.
 Lakshmi Menon, Shrimati.
 Lai Bahadur, Shri.
 Lall, Shri Kailash Bihari.
 Leuva, Shri P. T.
 Mahesh Saran, Shri.
 Mahtha, Shri S. N.
 Malkani, Prof. N. R.
 Malviya, Shri Ratanlal Kishorilal.
 Maya Devi Chettry, Shrimati.
 Mazhar Imam, Syed.
 Menon, Shri K. Madhava.
 Misra, Shri S. D.
 Mitra, Dr. P. C.
 Mohta, Shri G. B.
 Mona Hensman, Shrimati.
 Mookerji, Dr. Radha Kumud.
 Mujumdar, Shri M. R.
 Mukerjee, Shri B. K.
 Murari Lai, Dr.
 Nagoke, Jathedar U. S.
 Narasimham, Shri K. L.
 Narayan, Shri D.
 Nausher Ali, Syed.
 Onkar Nath. Shri.
 6 R.S.D.— 4

Pant, Shri Govind Baljabh.
 Pande, Shri T.
 Panigrahi, Shri S.
 Panjhazari, Sardar Raghbir Singh.
 Parvathi Krishnan, Shrijiaati.
 Pattabraman, Shri T. S.
 Pawar, Shri D. Y.
 Pheruman, Sardar D.. S,
 Prasad, Shri Bheron.
 Pushpalata Das, Shrimati.
 Pustake, Shri T. D.
 Raghu Vira, Dr.
 Raghbir Sinn, Dr.
 Raju, Shri A. S.
 Rao, Shri Krishnamoorthy.
 Rao, Shri Raghavendra.
 Reddy, Shri Channa.
 Reddy, Shri M. Govinda.
 Reddy, Shri K. C.
 Saksena, Shri H. P.
 Sarwate, Shri V. S.
 Satyanarayana, Shri M.
 Savitry Nigam, Shrimati.
 Seeta Parmanand, Dr. Shrimati.
 Shah, Shri M. C.
 Sharda Bhargava, Shrimati.
 Sharma, Shri B. B.
 Shetty, Shri Basappa.
 Shrimali, Dr. K. L.
 Singh, Dr. Anup.
 Singh, Babu Gopinath.
 Singh, Capt. Awadhesn Hratap.
 Singh, Sardar Budh.
 Singh, Shri Ngangom Tompok.
 Singh, Shri Nihal.
 Singh, Shri Ram kripal.
 Singh, Shri Vijay.
 Sinha, Shri B. K. P.
 Sinha, Shri R. B.
 Sinha, Shri R. P. N. j
 Sokhey, Maj.-General S. S.
 Subbarayan, Dr. P.
 Sumat Prasad, Shri.
 Surendra Ram, Shri V. M.
 Tajamul Husain, Shrir

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Tamta, Shri R. P. Tankha, Pandit
S. S. N. Tayyebulla, Maulana M.
Thanhlira, Shri R. Vaidya, Shri
Kanliaiyalal D Valiulla, Shri M.
Vallabharao, Shri J. V. K "7arma,
Shri C. L. Vijaivargiya, Shri
Gopikrisna Violet Alva,
Shrimati.

MR. CHAIRMAN: Aye 139; Noes
nil.

The motion is adopted by a majority of
the total membership of the House and
by a majority of not less than two-thirds
of the Members present and voting.

The House stands adjourned till
11.10 A.M. on Monday, the 21st March
1955-

The House then adjourned at
twenty minutes past four till
eleven of the clock on Monday,
the 21st March 1955.