

**THE
PARLIAMENTARY DEBATES**

(Part II—Proceedings other than Questions and Answers.)
OFFICIAL REPORT

59949

994

PARLIAMENT OF INDIA

Saturday, 2nd June, 1951

*The House met at Half Past Eight
of the Clock.*

[Mr. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(No Questions: Part I not published)

PAPER LAID ON THE TABLE

SUPPLEMENTARY STATEMENT SHOWING
ACTION TAKEN ON ASSURANCES ETC.
GIVEN DURING NOV.-DEC. 1949 SES-
SION.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to lay on the Table a supplementary statement showing the action taken by the Government on various assurances, promises and undertakings given during the November-December Session, 1949 of the Constituent Assembly of India (Legislative). [See Appendix XXIX.]

**ALIGARH MUSLIM UNIVERSITY
(AMENDMENT) BILL**

The Minister of State for Rehabilitation (Shri A. P. Jain): I beg to move for leave to introduce a Bill further to amend the Aligarh Muslim University Act, 1920.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Aligarh Muslim University Act, 1920."

The motion was adopted.

Shri A. P. Jain: I introduce the Bill.

193

**SCHEDULED AREAS (ASSIMILATION
OF LAWS) BILL**

The Minister of Home Affairs (Shri Rajagopalachari): I beg to move for leave to introduce a Bill to assimilate certain laws in force in the scheduled areas to the laws in force in the districts of Darrang and Lakhimpur of the State of Assam.

• Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to assimilate certain laws in force in the scheduled areas to the laws in force in the districts of Darrang and Lakhimpur of the State of Assam."

The motion was adopted.

Shri Rajagopalachari: I introduce the Bill.

**CONSTITUTION (FIRST
AMENDMENT) BILL—concl'd.**

Mr. Speaker: The House will now proceed with the further consideration of the Bill to amend the Constitution of India, as reported by the Select Committee. In this connection I have to reiterate the time-table and the programme to the House again. Yesterday clauses, 2, 3, 4, 5 and 14 were disposed of. Today we have at our disposal nearly 7½ hours—4½ hours in the morning and three hours in the afternoon. If the House agrees the following time-table may be followed:

Clauses 6, 7, 8 and 9 of the Bill refer to the two sessions of Parliament and two sessions of States Legislatures. As I said yesterday though it appears to me that they are formal, still I understand some people have to say something about it. Therefore for all these clauses, we shall have one hour. These clauses can also, I believe, be put to vote together.

[Mr. Speaker]

Clauses 10 and 11 refer to articles 341 and 342. I do not know what time they will take but I understand that there is a desire on the part of Members to say something on this, though it appeared to me that *prima facie* they are also of a more or less formal character.

Shri Kamath (Madhya Pradesh): They may take 45 minutes.

Mr. Speaker: I would have 45 minutes if the House is agreeable to that. I shall restrict it to 45 minutes.

Then clause 13 relates, I believe, to the Chief Justice and that will take some time. So I propose to allot one hour to that. Then voting on this clause will take place independently by itself.

Clauses 12, 1, the enacting formula and the long title are more or less formal matters. They should not take any time and in any case, whatever time is taken, I propose to call upon the Prime Minister to reply to these clauses, if any reply is necessary say at about 12-30 P.M. or so, because the division will take some time.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): Each one separately?

Mr. Speaker: For each clause I shall call him separately.

Shri Jawaharlal Nehru: I shall reply separately. But there is not very much to reply to and I will take about five minutes for each reply.

Mr. Speaker: What I was contemplating was this. For clauses 6, 7, 8 and 9 we have now allowed one hour inclusive of the reply of the Prime Minister. Similarly with the other clauses which are taken and before they are put to vote, he should reply in respect of those clauses, if he chooses. If he has to say nothing, he can say that he has nothing more to add.

The Minister of Home Affairs (Shri Rajagopalachari): I am afraid, Sir, I have not understood your programme in one respect correctly. Although the discussion may take place with reference to clauses in an accumulated way, I think it would be better if we follow your own ruling in regard to voting. Each clause has been separately voted upon, not because the House wanted it, not because of any sense of the House having been taken on that matter, but on account of the Constitution and the interpretation arising therefrom

apart from any question of convenience or consent of the House, or expediency. I suggest that we should put the vote on every clause separately, following the rule that you have laid down by way of interpretation of the Constitution because the procedure herein arises not on account of the opinion of the House, but on account of the Constitution and its interpretation.

Mr. Speaker: I have no objection in following that course. That will mean taking time but it does not matter.

Shri Rajagopalachari: You have laid down the rule yourself. We have to follow the rule in the Constitution because we are now dealing with people who can raise such points at any time.

Mr. Speaker: Very well.

Prof. K. T. Shah (Bihar): I was making a similar statement though for different reasons, because there is really a difference between clause 5 and clause 7. Clause 6 mentions a matter of serious principle. Clause 7 is something with which I might agree, whereas I cannot agree with clause 6, as well as the other clause dealing with the local Legislatures in clauses 8 and 9. Therefore, these cannot be put together.

Mr. Speaker: That is why I said that I shall put the clauses together in case all the hon. Members agreed to that proposal. Here the hon. Home Minister says that in spite of the agreement, it is better that they should be put separately. So there is no question now.

Is there any objection to have a common discussion on all these?

Shri Jawaharlal Nehru: No.

Shri Naziruddin Ahmad (West Bengal): May I suggest that clause 12 may be taken separately?

Mr. Speaker: I am not referring to clause 12. I am taking it independently and along with that I am having clause 1, the enacting formula and the long title.

Shri Naziruddin Ahmad: I should like to take five minutes on clause 12.

Mr. Speaker: I am putting that at a later stage and if the hon. Member wishes that to be taken separately, I shall do so.

Now one hour of the discussion will end at, say, 9-40 A.M. and I shall reserve ten minutes for the hon. Prime Minister.

Shri Jawaharlal Nehru: Yes, Sir.

Clauses 6, 7, 8 and 9.

Mr. Speaker: At 9-30 A.M. the discussion will end and hon. Members will, of course, limit their speeches now to about at the most ten minutes so as to give a chance to other people to have their say.

We shall take up clauses 6, 7, 8 and 9.

Clause 6.—(Amendment of article 85).

Mr. Speaker: Clause 6. Coming to amendments, the amendments by Prof. Shibban Lal Saksena and Mr. Naziruddin Ahmad that the clause be omitted, are out of order. They can oppose the clause if they like.

Prof. K. T. Shah: I beg to move:

(i) In page 3, lines 3 and 4, for "The President shall from time to time summon each House of Parliament" substitute:

"In accordance with the rules of procedure made by each House of Parliament in that behalf, either House of Parliament shall be summoned from time to time".

(ii) In page 3, line 5, for "as he thinks fit" substitute "as may be provided for in the rules of procedure in that behalf".

(iii) In page 3, after line 7, insert:

"Provided that, on the occasion of the first summons to the Members of the House of the People elected at a general election, and if the Speaker of the House of the People at the time of the dissolution of that House, before the general election, not being available for any reason, and the rules of procedure not providing for such a contingency, the President shall summon each Member of the House of the People, elected at the general election, to meet at such place and on such date and hour as are specified in the summons.

Provided further that the rules of procedure mentioned above shall make provision for summoning the House of the People on requisition signed by a number of Members not less than the number described under the rules as the quorum required for the valid transactions of any business of the House".

(iv) In page 3, line 6 and 7, omit "the date appointed for".

Shri Kamath: I beg to move:

In page 3, line 7, for "appointed for" substitute "of".

Clause 7.—(Amendment of article 8

Mr. Speaker: Prof. Shibban Lal Saksena's amendment is out of order. He can oppose the clause.

Dr. Deshmukh (Madhya Pradesh): I beg to move:

In page 3, for clause 7, substitute

"In article 87(1) of the Constitution, substitute the word 'any' for the word 'every' and the word 'may', for the word 'shall'".

Shri Kamath: I beg to move:

In page 3, omit lines 16 and 17.

Clause 8.—(Amendment of article 17)

Mr. Speaker: Prof. Shibban Lal Saksena's amendment for the omission of the clause is out of order.

Shri Kamath: I beg to move:

In page 3 line 24, for "appointed for" substitute "of".

Clause 9.—(Amendment of article 176

Mr. Speaker: Prof. Shibban Lal Saksena's amendment for the omission of the clause is out of order.

Shri Kamath: I beg to move:

In page 3, omit lines 34 and 35.

Mr. Speaker: The amendments will be taken as moved and clauses 6, 7, and 9 along with the amendments will be considered now.

Shri Kamath: One hour from now Sir.

Mr. Speaker: Yes; inclusive reply.

Prof. K. T. Shah: Sir, may I take it that the text of the amendments propose being on the order paper, need not read them just now, and simply commend the substance of them? That would save time.

Mr. Speaker: That is all right.

Prof. K. T. Shah: The purpose of the change that I am proposing is to keep the power in Parliament for it being summoned, instead of vesting the power, as now proposed in the Bill, in the President.

The original Constitution, as you know, Sir, does not state anything as to who shall summon Parliament, in article 85, which is proposed to be amended; it leaves Parliament to be summoned, without stating by what agency. I think that is really a wise and farsighted provision, which does not make it impossible in the manner

[Prof. K. T. Shah]

it is stated for any agency like the President or the Speaker for the time being summoning. But, at the same time, it does not make it compulsory categorically for one specified authority to summon Parliament. By the amendment I am proposing, I suggest that the words that the President shall summon either House of Parliament should be omitted.

I am making this suggestion for three main reasons. One, of course, is that the Upper House, the Council of States, is in permanent session and it is never dissolved. It should, therefore, make its own rules, and fix its own days for holding its sessions from time to time, whether adjourned or prorogued. The question of a new summons will arise only in the case of the House of the People; it cannot arise in the case of the Upper House, the Council of States for the reason I have just stated. As Parliament consists of both Houses, the language of the amending clause is inappropriate and inapplicable.

Then, again, Parliament has unquestioned right to make its own rules. Either House has the power to make its own rules, not only for its internal conduct of proceedings—those rules are sacrosanct, and no authority can enquire into those rules—but, what is more, it is also entitled to make its own rules for adjournment and so on. I admit that the English practice is for the king to summon Parliament at not only each new Parliament, but also every yearly session. That, however, is a matter more of the historic tradition peculiar to the English Parliament, its origin and growth. But these reasons do not apply in this country. And, therefore, I see no reason why we should follow the British practice in this regard, and require the President to summon Parliament as if he was a complete prototype of the English king. This right, for instance, in the American Congress is fixed by the constitution. The dates are fixed, and each House of the Congress has to make its own rules for being summoned from time to time, whether it is after a dissolution, adjournment or prorogation.

A still more important reason to my mind is the recent history of certain countries, where, in spite of provisions in the Constitution, dictators have managed to usurp power. And here also I see the possibility of a danger, that, in the event of the President refusing to summon Parliament, there will be no authority, if this clause is accepted, which could then force him to summon Parliament.

True, it is stated that more than a certain period shall not elapse between two sessions; but when a contingency of the kind that I am thinking of arises, such provisions would become ineffective. If once the President, whether independently of his Government or in collusion with the Government, ignores or overrides this provision, on the ground that he is the sole authority or has the sole authority to convene Parliament, the rest of the provisions will not help us. I fear, therefore, in this amendment is implicit the danger of autocracy or dictatorship which I trust this House will not accept.

This fear is substantiated, in my eyes, at any rate, by the further provision whereby you also fix or only lay down that not more than six months shall lapse as between the last date of the previous sessions and the date fixed for the next sessions. Now the date may be fixed, but the sitting may not take place. I, therefore, fear that these words will only lend colour to my apprehension that the change proposed here is liable to pave the way to dictatorship, which none, I hope, will welcome.

The amendment that I have proposed is that the power should be inherent in Parliament. If you do not fix the date as in America, in the Constitution itself, when the new annual session should begin, or a new Parliament should begin, it should at least be right and proper that the programme of the House of the People should be somewhat flexible, and the date should not be fixed too rigidly. It is, however, necessary and proper, in my opinion, that the authority of the House itself, namely, the Speaker of the preceding Parliament, or of the continuing Parliament, should have the right to fix the date when the next session will be held. Of course, while he remains Speaker he would have the authority to convene Parliament, so to say, on his own.

There ought to be no difficulty at all in regard to annual sessions. In case, however, the Speaker should, for any reason, be not available, then I would like to vest the power in a proportion of the House, or in a certain number of Members of the House, whatever may be the figure, that being immaterial. The principle is that it should not be left to the President or the Prime Minister to convene Parliament. I have, therefore, suggested in my amendment that the power should be given to the Speaker of Parliament to convene it, whether after a pro-

rogation, or even after dissolution; and in the event of the Speaker for any reason not being available, there should be the right inherent in Members of the House to requisition a sitting of Parliament.

I consider that the change here proposed is very different from the spirit of the Constitution as it stands to-day, and I am trying to restore the original spirit of the Constitution by the amendment that I have suggested.

I am in agreement with the idea behind the amendment in clause 7 that, for reasons both of convenience and of principle, it is but right that the business of the House should have precedence over any message that the executive head of the State would have to lay before Parliament. In fact that is the practice in England, that even if there is an address from the throne, the House of Commons always takes up some unimportant business first before the motion for the vote of thanks for the address is tabled. It may be the introduction of a Bill for the first time, or some such unimportant thing; but it comes before the business of voting on the address.

In so far, therefore, as the words proposed to be omitted are concerned, I am in agreement. But it should not be utilised to stifle general debate on the state of the country, which, I take it, would be incorporated in the address from the President at every session. I am not sure that the wording of the proposed amendment of the Government would not lend itself to this danger, not only that the occasion for a general debate on the entire state of the country being minimised, but being negatived altogether.

While, therefore, in sympathy with the intention implied in the matter of this amendment, I am not sure that I can support the general amendment as now proposed, for the reasons that I have given. As for the consequential or parallel amendments in regard to local Legislatures or State Legislatures, the same reasoning will follow, though perhaps on a somewhat minor scale. I, therefore, trust that for the reasons that I have given, my amendments will be accepted.

Shri Kamath: The Prime Minister has not told the House why this change in the articles is at all contemplated, particularly the change relating to the President's summoning Parliament and the Governor summoning the Legislature. May I ask, whether it is a sudden love for the active voice and dislike for the passive voice, which is the language of

article 85 and the corresponding article relating to the State Legislatures? If that be so, I can understand it. The Prime Minister, being a lover of the English language, he might have thought that the active voice is better. Moreover, being a very active person himself and a dynamic person, he might have preferred the active voice to the passive voice. But if there is any other reason I would request him to enlighten the House on this point.

I do not want to repeat the arguments advanced by Prof. Shah but would only like to add one or two points. If hon. Members will read the original article 85 and the proposed article 85 they will see that the summoning of the Houses of Parliament and the States Legislatures was mandatory—"shall be summoned" are the words—and the President or the Governors are only enabled by the wording "may from time to time summon Parliament or the Legislature." Here the change contemplates that the President or Governor shall summon. There the vesting of the power in Parliament is inherent that Parliament shall be summoned even by the Speaker or some other authority—say the Deputy-Speaker but the summoning of the Parliament was absolutely necessary and mandatory. Prof. Shah suggested various ways in which this could be implemented. Therefore in my humble judgment article 85, and the corresponding article relating to States are all right and may I say, fool-proof and knav-proof as they stand, and no change necessary.

9 A.M.

Then Prof. Shah referred to the apprehension that the President or the Governor may not summon at all. They may appoint a date for the session of Parliament or the Legislature, but Parliament or Legislature may not meet at all. Now it may be argued that if the President does not act in a particular way, he might be impeached in the terms of the Constitution. But if the House would read the article relating to impeachment of the President, they will see that until Parliament meets, there cannot be a process of impeachment initiated. Therefore this amendment of mine seeks to get over the difficulty if entirely, at least to a certain extent by stating that in view of the change in the language of the article the interval of six months, at the maximum, ought to relate to the last sitting in the Session and the date of the sitting the next session, not the date pointed. The article as it stood originally did not require this language. But as it is sought to be changed we must make it clear that not merely

[Shri Kamath]

does it relate to the date appointed—because Mr. Shah said that Parliament may be summoned to meet but may not meet actually—we must safeguard against that—and therefore we must see to it that an interval of six months must not elapse between the date of the last sitting in one session and the date of the first sitting in the next session.

Coming to my amendments to clauses 7 and 9. Prof. Shah said that it is likely that other business may suddenly supervene and may have to displace discussion on the President's address from the business of the House at the very start. I am not quite inclined to agree with him in this matter. As the House knows for the last one year, we have been having this ceremony of the President coming to the House in State and delivering his address to Parliament and every time we have noted that the address contained an outline of Government's policy, of what Government has done in the past and what they propose to do in the particular session. That gives a bird's eye-view of Government policy for those few months. I therefore feel that the House must be entitled to discuss this policy of Government at the very start before it launches upon its other work for the session. Discussion of Government policy in general must take precedence over other work. I do not think any other work will be so important that it need take the place of discussion on the President's address. If at all there is such a need about some particular business, then I think the process of adjournment motion might provide the necessary method of discussing that particular matter, but as it is I think it will be showing—I will not say insult or contempt—some sort of disregard for the President's address if the House does not discuss that address which embodies Government policy, before the House commences any other business. I therefore commend my amendments to the House for acceptance.

Dr. Deshmukh: The reason why I have proposed the amendment standing in my name is because it is the simplest that could be thought of and it is also one which meets the requirements of the case adequately. As has already been pointed out, there is provision in article 86 that the President may address either House of Parliament or both Houses assembled together, and, for that purpose require the attendance of Members. All we sought to do by article 87 was to provide that at the commencement of every session, the President shall

address both Houses of Parliament assembled together and inform Parliament of the cause of its summoning. Even at the time when this article was under discussion in the Constituent Assembly, I had opposed the inclusion of article 87 because I advanced the argument that it was unnecessary in view of article 86. In the alternative I had also argued that the word 'shall' should be changed into 'may' so as to give the President the latitude to choose whether he wishes to address or not. Unfortunately that was not accepted at that time and we have now found ourselves in difficulty. If we merely change these words 'every' into 'any' and 'shall' into 'may', the whole difficulty would be solved. Originally the proposal was to substitute for the words 'every session' the words 'first session of each year'. It was at the Select Committee stage that further addition of the following words was made viz., "the first session after each general election to the House of People and at the commencement of". If we merely want that the President should address at the commencement of only the first session once after the elections and later on at the first session in every year, I think the wording I have suggested would meet the requirements of the case most adequately. After all we really want that in case there are more than one session, it shall not be necessary for the President to address twice.

I also do not like the omission of the words 'and for the precedence of such discussion over other business of the House'. The provision as it stands lays down that the procedure and the precedence shall be regulated by rules framed. Now if we leave the choice to the President and do not make it compulsory for him to address at the commencement of every session, I do not see why the rules for precedence should not be there. After all laying down rules for precedence does not mean that it must have the first place. We can lay down any rules that we consider proper and say that there should be such precedence for the discussion of the address as is desired. I think everybody would agree to this. I therefore think that the amendments I have suggested should be acceptable and we would then avoid the long phraseology that has been used here. After all we are born in a country where brevity was taken to the utmost extremes and superfluous addition of any words was discounted by our grammarians and other learned ancestors. In such a country I do not think we should err on the side of using

more or less meaningless words when the purpose can be served by much fewer. Mere change of two words would really give us the necessary result and would also obviate omission of the words 'laying down rules for precedence etc.' which I very strongly object to. I think it would be necessary to have those words there and in any case there would be no harm done. I therefore suggest that the Law Minister, although he did not see his way to accept my amendment in the Constituent Assembly,—and all these troubles would have been avoided if he had accepted it then—consider my amendment more favourably this time and accept it without any further discussion because if he does so, there will be no difficulty hereafter.

Shri S. N. Das (Bihar): If the amendment proposed to article 87 is accepted some of the words in the article would become superfluous. The marginal note to article 87 is "Special address by the President at the commencement of every session". By the amendment proposed there will be no address of the President at every session. I think the words "every session" should be changed to "certain sessions". That is the purpose of my amendment, though I have not moved it.

The same is the case with article 176. There is a provision that there will be a special address by the Governor at the commencement of every session. Now there will be no address at every session, according to the proposed amendment. Therefore the marginal note should be changed to "Special Address by the Governor at the commencement of certain sessions."

In article 87 there is a provision that at the commencement of every session the President will address both Houses of Parliament together and inform Parliament of the causes of the summons. The amendment proposed in the Bill involves no address at every session. Therefore the purpose of the address will not be for giving the reasons for calling the Parliament but some other reason. Therefore the words "inform the Parliament of the causes of its summons" are superfluous.

That is the purport of my amendments. The Prime Minister may consider them and if necessary these amendments may be made.

Shri M. A. Ayyangar (Madras): The four articles cover two matters: one is the summoning of Parliament and the other is the address by the President. Article 85(1) says, "The Houses of Parliament shall be sum-

moned". Under the rules at present it is the Secretary to Parliament that summons on the advice of the Speaker. Of course they consult the Government as regards the business.

Mr. Speaker: I am afraid I will have to correct it. It is the President who orders the summoning and when his order is received then the ministerial work of issuing the summons is done by the Secretary. If the hon. Member reads through the summons he will find that the order of the President is referred to in the summons also. It is not only the convenience of the Speaker but the convenience of the Members also that is taken into consideration.

Shri M. A. Ayyangar: Rule 3 says "The Secretary shall issue a summons to each Member specifying the date and place for a session of Parliament." In article 85(1) it is not stated, as it is done in clause (2), that the President may summon. In the same article there is a difference made in clauses (1) and (2). Under clause (2) it is open to the President to summon from time to time the Houses or either House in the normal course. Clause (1) is passive and for this reason: We will assume that there is a motion of no-confidence against the Ministers. Under the Act of 1935 the Governor-General was entitled to exercise certain powers in his discretion and in his individual judgment but there are no such powers which the President can exercise in his discretion. Whatever the President does is on the advice of his Ministers. If there is a motion of no-confidence against the Ministers it is open to the Ministry to advise the President not to summon the Parliament for six months or more. Are they to be judges in their own cause, when the majority of the Members of Parliament want to get rid of the Ministry? I am not talking of the present Ministry: I have great respect for it. But we are legislating for all time. We do not know what will happen in the next elections but I believe there will be a substantial Opposition. Only the election after the next is an unknown factor, for it is in the hands of the people entirely. So far as the amendment of the Constitution is concerned I am anxious that we should be very careful. Under article 85(1) it is open to the President to summon and it is open to the Speaker also to summon. Under clause (2) it is open to the President to summon as often as he likes and the Speaker can adjourn from time to time according to convenience. These are the lines of demarcation. It is not stated in clause (1) that the President shall summon. Such controversies

[Shri M. A. Ayyangar]

may arise that there may be a conflict between the President and the Ministers on one side and Parliament on the other, in which case are we to put up with an unwanted set of Ministers and not move a motion of no-confidence against them? Formerly a certain number of Members, 25, 30 or 50 per cent. could ask for the summoning of Parliament at any time. There is absolutely no such provision now. Under the circumstances I believe that it is good to leave the wording as it is making it flexible so far as summoning is concerned.

As regards prorogation and the address by the President I agree that existing clause in the Constitution has led to many inconveniences. After the election when the Houses of Parliament are summoned in the beginning it might be necessary for the Government to lay down its policy. But as we go on there will be nothing for the Government to come out with a statement of policy. The House will remember that last time instead of prorogation the other device of adjourning was adopted. Let us validate all such things and say that at the beginning of each session the President shall address or immediately after the elections the President shall address, to give an indication as to what are the measures Government is going to bring forward. That avoids the unnecessary waste of the time of the House and repeating things over again.

As regards the other amendment I am not prepared to accept it. I would request the hon. Minister to consider if the language of article 85 need not be left as it is at present.

Shri Rajagopalachari: I think we are fighting only about drafting matters and not at all about the substance of the matter. No difficulty has been felt so far with regard to the summoning by the President. The passive and the active voice do not really differ very much from one another as has been imagined. It is the same thing whether we say the President shall summon the Houses of Parliament or whether we say the Houses of Parliament shall be summoned. The English language has a passive voice but what is the complete passive form? It would be "shall be summoned by somebody". "Shall" applies to that authority, that is to say the obligation is cast upon the person or authority which is authorised and which is obliged to summon. So there is no real difference at all between the active and the passive forms so long as we look to the

word "Shall" which remains in either case. The President shall summon: that is the active form. The Constitution lays an obligation on the President to do a certain thing. The Houses of Parliament shall be summoned. That means that somebody who is authorised to do it is bound to summon the Houses of Parliament but the person is not specified. According to our Constitution, the only authority that is given the facilities and the duties as well to summon is the President; the Speaker is not given the office that is necessary to summon; it is the Government, that is the President who is the executive head of the Government, who is bound to summon.

I think it is only a question of form and, if I may say so, a drafting accident—it is possible the drafter might have started on one style instead of another, but really there is no difference whatsoever. I may say that the active is involved explicitly in the passive in the word "shall".

Regarding some other amendments proposed to the marginal note, I think it is well-established that the marginal notes do not form part of legislation and they follow a consequential rule as to modification.

Then, it was said that "shall" may be substituted by "may" in the two articles dealing with the address. That is not quite a matter of form only—it is a matter of substance also because, I must point out to Dr. Deshmukh, if the provision is that the President may address, it follows that the President may not address. It follows then that there can be no discussion whatsoever on the general policies except when he chooses to address.....

Dr. Deshmukh: Should we not leave something for the traditions and conventions being built up.....

Shri Rajagopalachari: If reliance were placed on convention rather than the Constitution it is a different matter altogether, but since we seem to believe in statutory obligations laid down by the Constitution more than on convention in so many matters, the "shall" that is already there need not be altered. That is what I say. As regards the difficulty that has actually arisen, it was pointed out by the Deputy-Speaker in his speech that the difficulty has arisen that when each time a session starts, a general discussion on the President's address has become necessary.

Shri Jawaharlal Nehru: Mr. Kamath seemed to hint that there was some deep design or conspiracy about this attempt to amend the Constitution in this matter, and he said that the Prime Minister owed it to the House—I am quoting his words taken down verbatim—to say why these changes are proposed. Well, I thought the Prime Minister had tried to do his duty by the House in explaining this matter when he first moved the motion on this Bill. Of course, it is a very simple matter; either the hon. Member was not present here, or was not paying heed to what the Prime Minister was saying.

Shri Kamath: This particular matter was not referred to in his opening speech.

Shri Jawaharlal Nehru: However, it is a very simple matter. If you read this article 85, it says the Houses of Parliament "shall be summoned to meet twice at least in every year". Now according to one interpretation this House has not met at all this year; although hon. Members may have been sitting continuously for six months or thereabouts and working as hard as possible, according to the strict meaning of article 85 Parliament has not met at all because it was last summoned in October last and not this year. So, this peculiar difficulty arises, that even if we meet once more—if we are prorogued now to meet in August or so—in no event can we meet twice this year, and there is a breach of the Constitution if that interpretation is put on the article, which is obviously not meant by the framers of the Constitution.

Dr. S. P. Mookerjee (West Bengal): You may have prevented it by proroguing earlier. It was in your hands.

Shri Jawaharlal Nehru: In other words we can prevent it by not working at all but by coming for a week twice a year—there are so many ways of getting over the difficulty. But the main difficulty is: are we working according to the Constitution? And the more we work the less we do according to the wording of this Constitution which is obviously, if I may say so, an absurdity. The Constitution wants us to work, not to play, to meet frequently enough, not to keep away from meeting; and if we meet continuously but the meaning becomes that we do not meet at all, there is something wrong about the Constitution. If we met, as we might very well meet, continuously for the whole year barring small periods, as any

may be no prorogation or no summoning in the course of that year at all as the Constitution wants. The question only arises when you think of the old tradition, of the old Assembly which met casually for a few weeks a year, and may be twice a year, and did some odd work and then went home, and it is because of that, presumably, that this has been put in. But any working Parliament cannot just keep away from meeting because work accumulates and suffers. It was because of this actual difficulty, that it was thought that this article might be changed so that this question of being summoned twice a year need not be there, because if we are meeting all the time, then are we to break up simply to be summoned again? Of course, we may be summoned twice a year or more.

Then we come to the active and the passive. I do not know much about grammar, but I know something about common-sense and the English language, and I just do not understand this interpretation that if you say, "the President shall summon", you hand over yourself with a rope round your neck to the President, that you may hang whenever the President pulls the rope or does not pull the rope. On the other side it is suggested that if you say, "the Houses of Parliament shall be summoned", obviously the question arises: by whom? But if you took the trouble to take over page 36 of the Constitution in article 85 you are told that the President will summon.....

Shri Kamath: May summon.

Shri Jawaharlal Nehru: There is no "may" about it—he is the only authority that can summon, there is no other authority. That is to say, this article 85 actually deals, in the passive and the active, in both the voices, with who should summon, who can summon and who only can summon—there is no other authority which can summon, unless of course there is a breach of the Constitution and other things come into play. Therefore, as the Constitution is, it is only the President who can summon it, and if the President does not do his duty then other consequences may well arise. It is conceivable—I do not say it is out of the question—as Prof Shah pointed out, that the President and the Government of the day might conspire together behind the Constitution to set up a dictatorship or an authoritarian regime. All these things are conceivable—anything is conceivable in the modern world. But my point is, if such a

[Shri Jawaharlal Nehru]

place whether you write your Constitution in the active voice or the passive—it makes not the slightest difference which voice you choose, if people want to do it and take the risk of doing it. As a matter of fact, our saying, "the President shall summon" is much more mandatory on the President than saying, as it is said here, "The Houses of Parliament shall be summoned" and the President shall do so. The meaning is the same but if the President does not summon within six months it is a deliberate breach of the Constitution by the President and the Government of the day. It does not require any argument—you catch him immediately he has not done a duty laid down, which is here an indirect duty. May be some minor excuse the President may advance, or not. Therefore, in a sense you bind down the President—and when I say the President I mean the Government of the day which is also bound down by the Constitution to do a certain thing. If they do not do it then other consequences follow. They have deliberately flouted the Constitution. What happens then? Well, many things may happen. Parliament then presumably comes into conflict with the usurping Government, or the Government that carries on without the goodwill of Parliament and the people. Well, a conflict occurs. That kind of a thing would, if it occurs, presumably be decided by the normal constitutional means—other means may come into play, one does not know. But to suggest a variety of means of convening Parliament—that if the President fails the Speaker might summon, or if the Speaker also fails fifty Members may ask for the summoning of Parliament—would create all sorts of complications. Suppose you say that fifty Members may summon: suppose the President summons on a particular day and the fifty Members on some other day later: or suppose two sets of fifty Members summon on different dates—all kinds of confusing situations may arise.

After all you have ultimately to have some final authority which you presume will function according to the Constitution. If it does not then you pick the axe and cut off the head, whether he is a President or anybody. That is the normal practice in Constitutions: that is the normal practice in revolutions. I do not understand the middle practice of confusing a Constitution with a revolution and a revolution with a Constitution. I therefore, submit that the wording suggested is the right wording. It does not endanger the Constitution; it

does not give any special or additional powers to the President to come in the way. Such powers as he gets, such mischief as the future President might do, is always inherent in the nature of things and inherent also in the power of the people to put an end to the President who does that mischief.

Now there is another point that Mr. Kamath seemed to suspect—again some intrigue in the suggestion of the address to the President. What is suggested here is merely that it should not necessarily have precedence. The difficulty is this that after the President has delivered his address it is right that the Members should have two or three days to consider it and to propose motions and not immediately to have to deal with it. Otherwise two or three days may well be wasted and we will be doing nothing. So the idea is not to postpone consideration of that address, but not to waste those two or three days. You may well do something else in those two or three days. fix a date for the consideration of the President's address three or four days later and come well prepared with your motions and arguments. It would be absurd, of course, to try to discuss the President's address long after it is delivered. To get over the difficulty of waste of time it was done. I understand that in the House of Commons of the United Kingdom it is deliberately laid down—I am speaking subject to correction—that it will not have precedence. It is deliberately laid down to preserve the right of Commons not to be hustled by the king. You need not go quite so far, but you should reserve the right yourself to consider it when it suits the convenience of the House, two or three days later. It is naturally for the Speaker and the House to consider it. Certainly it should be soon after, it was delivered, though not immediately after.

Then Dr. Deshmukh went in another direction and asked—why have all this troublesome business at all? If it is the pleasure of the Government and the mood of the President he might do so. If not why should we force him to do so. Leave it to their pleasures and their moods. And make it "may" instead of "shall".

Well, I may say I do not think it is right to leave a thing of this kind to the moods or dispositions of the President or the Government of the day. It is right that we should not compel him to speak every time the House is summoned, but I think it is right to have a convention or a rule for the President to address the House

at least once a year. He may do so more often—that thing may be left to convention. But let him address the House once a year and certainly at the beginning of the new Parliament. That is what is suggested. It is a very simple proposition. I do not see why Dr. Deshmukh should be afraid of the word "shall" in that connection.

The real difficulty of course is that this involves a certain preparation outside this House which is often troublesome. Members are aware that when a coach and six come all kinds of things have to be done for that purpose. Anyhow that trouble does not fall on the House or Members thereof, but on the administration of Delhi.

I suggest that the amendments proposed are not necessary, that the wording originally suggested and which has emerged from the Select Committee does meet the situation and get over the minor difficulties that have arisen without endangering the Constitution.

Mr. Speaker: So, I shall first dispose of all the amendments to the various clauses. Clause 6. Prof. K. T. Shah's amendments.

The question is:

In page 3, lines 3 and 4, for "The President shall from time to time summon each House of Parliament" substitute:

"In accordance with the rules of procedure made by each House of Parliament in that behalf, either House of Parliament shall be summoned from time to time".

The motion was negated.

Mr. Speaker: The question is:

In page 3, line 5, for "as he thinks fit" substitute "as may be provided for in the rules of procedure in that behalf".

The motion was negated.

Mr. Speaker: The question is:

In page 3, after line 7, insert:

"Provided that, on the occasion of the first summons to the Members of the House of the People elected at a general election, and if the Speaker of the House of the People at the time of the dissolution of that House, before the general election, not being available for any reason, and the rules of procedure not providing for such a contingency, the President shall summon each Member of the House of the People, elected at the general election, to meet at

such place and on such date and hour as are specified in the summons.

Provided further that the rules of procedure mentioned above shall make provision for summoning the House of the People on requisition signed by a number of Members not less than the number described under the rules as the quorum required for the valid transactions of any business of the House".

The motion was negated.

Mr. Speaker: The question is:

In page 3, lines 6 and 7, omit "the date appointed for".

The motion was negated.

Mr. Speaker: Shri Kamath's amendment.

The question is:

In page 3, line 7, for "appointed for" substitute "of".

The motion was negated.

Mr. Speaker: Now amendments to clause 7.

Dr. Deshmukh: Sir, I beg leave to withdraw my amendment.

The amendment was, by leave, withdrawn.

Shri Kamath: Sir, I also beg leave to withdraw my amendment to clause 7.

The amendment was, by leave, withdrawn.

Mr. Speaker: Now clause 8. Shri Kamath's amendment.

The question is:

In page 3, line 24, for "appointed for" substitute "of".

The motion was negated.

Mr. Speaker: Now Shri Kamath's amendment to clause 9.

Shri Kamath: Sir, I beg leave to withdraw it.

The amendment was, by leave, withdrawn.

Shri Ramalingam Chettiar (Madras): May I suggest that four officers may be put in the booths and Members may pass through all the four, each one of them making a mark for each clause?

Some Hon. Members: Yes, that will save time.

Mr. Speaker: Hon. Members need not be so anxious about the time. Now the division takes place in ten minutes or less than ten minutes. There has to be a record. Let us go through the formal procedure of

recording each vote separately so that the whole list of Members may go in the Debates.

The question is:

✓ "That clause 6 stand part of the Bill."

The House divided: Ayes, 229; Noes, 7.

Division No. 9]

AYES

[9-40 A.M.]

Achint Ram, Lala
Ahammedunni, Shri
Alagesan, Shri
Alexander, Shri
Ali, Shri A. H. S.
Ambedkar, Dr.
Amolakh Chand, Shri
• Ansari, Shri
Arya, Shri B. S.
Asawa, Shri
Ayyangar, Shri M. A.
Baldev Singh, Sardar
• Balmiki, Shri
Barman, Shri
Barrow, Shri
Beni Singh, Shri
Bhagat, Shri B. R.
Bhagwant Roy, Kaka
Bharati, Shri
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhatt, Shri
Bhattacharya, Prof. K. K.
Biyani, Shri
Borooah, Shri
Brajeshwar Prasad, Shri
Buragohain, Shri
Chaliha, Shri
Chandrika Ram, Shri
Channiah, Shri
Chattopadhyay, Shri
Chaudhri, Shrimati Kamala
Chaudhuri, Shri R. K.
Chettiar, Shri Ramalingam
Das, Shri B.
Das, Shri B. K.
Das, Shri Biswanath
Das, Shri Jagannath
Das, Shri Nandkishore

Das, Shri S. N.
Deo, Shri Shankarrao
Deogirikar, Shri
Desai, Shri Kanayalal
Desai, Shri Khandubhai
Deshmukh, Dr.
Deshmukh, Shri C. D.
Deshpande, Shri P. Y.
Devi Singh, Dr.
Diwakar, Shri
Dixit, Shrimati
D'Souza, Rev.
Dwivedi, Shri
Faiznur Ali, Maulvi
Gadgil, Shri
Galib, Shri
Ganamukhi, Shri
Gandhi, Shri Feroz
Gautam, Shri
Ghose, Shri S. M.
Ghule, Shri
Goenka, Shri
Gopalaswami, Shri
Gopinath Singh, Shri
Govind Das, Seth
Guha, Shri A. C.
Gupta, Shri Deshbandhu
Gupta, Shri V. J.
Gurung, Shri A. B.
Haneef, Maulvi
Hanumanthaiya, Shri
Haque, Shri
Hathi, Shri
Hazarika, Shri J. N.
Hazarika, Shri M.
Heda, Shri
Himatsingka, Shri
Himatsinhji, Major General
Hiray, Shri
Husain, Shri T.
Hyder Husein, Shri
Jeyyunni, Shri

Jagjivan Ram, Shri
Jain, Shri A. P.
Jain, Shri N. S.
Jaipal Singh, Shri
Jajoo, Shri
Jajware, Shri Ramraj
Jangde, Shri
Jayashri, Shrimati
Jnani Ram, Shri
Joseph, Shri A.
Kala Venkatarao, Shri
Kaliyannan, Shri M.
Kamath, Shri
Kanaka Sabai, Shri
Kannamwar, Shri
Kapoor, Shri J. R.
Karmarkar, Shri
Keskar, Dr.
Khaparde, Shri
Krishna Singh, Thakur
Krishnamachari, Shri T. T.
Krishnanand Rai, Shri
Kumbhar, Shri
Kunhiraman, Shri
Lakshmanan, Shri
Lal Singh, Thakur
Mahata, Shri Kshudiram
Mahtab, Shri
Mahtha, Shri S. N.
Maitra, Pandit
Mallayya, Shri
Massey, Shri
Meeran, Shri
Menon, Shri Damodara
Menon, Shri Karunakara
Mirza, Shri
Mishra, Shri M. P.
Mishra, Prof. S. N.
Mishra, Shri Yudhishtir
Misra, Shri S. P.
Mohiuddin, Saikh
Mookerjee, Dr. H. C.
Moidu, Moulavi

Mudgal, Shri
 Munshi, Shri K. M.
 Munshi, Shri P. T. -
 Musafir, Giani G. S.
 Naidu, Kumari Padmaja
 Naidu, Shri Ethirajulu
 Naidu, Shri S. R.
 Naik, Shri M.
 Naik, Shri S. V.
 Nand Lal, Master
 Nathwani, Shri
 Nausherali, Syed
 Nehru, Shri Jawaharlal
 Nehru, Shrimati Uma
 Nijalingappa, Shri
 Obaidullah, Shri
 Pande, Dr. C. D.
 Pannalal Bansilal, Shri
 Pani, Shri B. K.
 Pant, Shri D. D.
 Parmar, Dr.
 Pattabhi, Dr.
 Pustake, Shri
 Rahman, Shri M. H.
 Raj Bahadur, Shri
 Raj Kanwar, Lala
 Rajagopalachari, Shri
 Ramachar, Shri
 Ramaswamy, Shri Ari-
 gay
 Ramaswamy, Shri Puli
 Ram Dhani Das, Shri
 Ramaiah, Shri V.
 Ranbir Singh, Ch.
 Ranjit Singh, Sardar.
 Rao, Shri M. V. Rama
 Rao, Shri Shiva

Rao, Shri Thirumala
 Rao, Shri Kesava
 Rathnaswamy, Shri
 Raut, Shri
 Ray, Shrimati Renuka
 Reddi, Shri P. Basi
 Reddi, Shri Ranga
 Reddi, Shri V. Kodanda-
 rama
 Reddy, Shri K. V. Ranga
 Reddy, Dr. M. C.
 Rudrappa, Shri
 Saksena, Shri Mohan
 Lal
 Samanta, Shri S. C.
 Sanjivayya, Shri
 Sarwate, Shri
 Satyanarayana, Shri
 Satish Chandra, Shri
 Sen, Shri P. G.
 Shah, Shri C. C.
 Shah, Shri M. C.
 Shankaraiya, Shri
 Sharma, Pandit Bal-
 krishna
 Sharma, Pandit Krishna
 Chandra.
 Sharma, Shri K. C.
 Shiv Charan Lal, Shri
 Shukla, Shri A. C.
 Shukla, Shri S. N.
 Singh, Capt. A. P.
 Singh, Dr. Ram Subhag
 Singh, Shri B. P.
 Singh, Shri T. N.
 Sinha, Shri Anirudha
 Sinha, Shri A. P.
 Sinha, Shri B. K. P.

Sinha, Shri K. P.
 Sinha, Shri S. N.
 Sinha, Shri Satya Nara-
 yan
 Snatak, Shri N.
 Sochet Singh, Sardar
 Sohan Lal, Shri
 Sonavane, Shri
 Sondhi, Shri
 Sri Prakasa, Shri
 Subramaniam, Dr. V.
 Subramaniam, Shri C.
 Subramanian, Shri R.
 Swaminadhan, Shrimati
 Ammu
 Tek Chand, Dr.
 Tewari, Shri R. S.
 Thakkar, Dr. K.
 Thimmappa Gowda, Shri
 Tiwari, Shri B. L.
 Tripathi, Shri Kishori-
 mohan
 Tyagi, Shri
 Upadhyay, Pandit Munish-
 war Datt
 Upadhyaya, Shri R. C.
 Vaidya, Shri K.
 Vaidya, Shri V. B.
 Vaishya, Shri M. B.
 Varma, Shri B. B.
 Velayudhan, Shrimati
 Venkataraman, Shri
 Vyas, Shri K. K.
 Vyas, Shri Radhelal
 Wajed Ali, Maulvi
 Yadav, Shri
 Yashwant Rai, Prof.
 Zakir Husain, Dr.

NOES

Das, Shri Sarangdhar
 Hukam Singh, Sardar
 Mookerjee, Dr. S. P.

Naziruddin Ahmad, Shri
 Ramnarayan Singh, Babu

Seth, Shri D. S.
 Shah, Prof. K. T.

The motion was adopted.

Mr. Speaker: 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.

Mr. Speaker: I am now putting to the House clause 7. The question is: "That clause 7 stand part of the Bill."

The House divided: Ayes, 225; Noes, 7.

✓ Clause 6 was added to the Bill.

[MR. DEPUTY-SPEAKER in the Chair]

Division No. 10]

AYES

[9-54 A.M.]

Achint Ram, Lala
Ahammedunni, Shri
Alagesan, Shri
Alexander, Shri
Ali, Shri A. H. S.
Ambedkar, Dr.
Amolakr Chand, Shri
Ansari, Shri
Arya, Shri B. S.
Asawa, Shri
Balmiki, Shri
Barman, Shri
Barrow, Shri
Beni Singh, Shri
Bhagat, Shri B. R.
Bhagwant Roy, Kaka
Bharati, Shri
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur
Das
Bhatkar, Shri
Bhatt, Shri
Bhattacharya, Prof. K. K.
Biyani, Shri
Borooah, Shri
Brajeshwar Prasad, Shri
Buragohain, Shri
Chaliha, Shri
Chandrika Ram, Shri
Channiah, Shri
Chattopadhyay, Shri
Chaudhri, Shrimati
Kamala
Chaudhuri, Shri R. K.
Chettiar, Shri Rama-
lingam
Das, Shri B.
Das, Shri B. K.
Das, Shri Biswanath
Das, Shri Jagannath

Das, Shri Nandkishore
Das, Shri S. N.
Deo, Shri Shrankarrao
Deogirikar, Shri
Desai, Shri Kanayalal
Desai, Shri Khandubhai
Deshmukh, Shri C. D.
Deshpande, Shri P. Y.
Devi Singh, Dr.
Diwakar, Shri
Dixit, Shrimati
D'Souza, Rev.
Durgabai, Shrimati
Dwivedi, Shri
Faiznur Ali, Maulvi
Gadgil, Shri
Galib, Shri
Ganamukhi, Shri
Gandhi, Shri Feroz
Gautam, Shri
Ghose, Shri S. M.
Ghule, Shri
Goenka, Shri
Gopalaswami, Shri
Gopinath Singh, Shri
Govind Das, Seth
Guha, Shri A. C.
Gupta, Shri Deshbandhu
Gupta, Shri V. J.
Gurung, Shri A. B.
Haneef, Maulvi
Hanumanthaiya, Shri
Haque, Shri
Hathi, Shri
Hazarika, Shri J. N.
Hazarika, Shri M.
Heda, Shri
Himatsingka, Shri
Him Singhji, Major Gene-
ral

Hiray, Shri
Husain, Shri T.
Hyder Husein, Shri
Iyyunni, Shri
Jagjivan Ram, Shri
Jain, Shri A. P.
Jaipal Singh, Shri
Jajoo, Shri
Jajware, Shri Ramraj
Jangde, Shri
Jayashri, Shrimati
Jnani Ram, Shri
Joseph, Shri A.
Kala Venkatarao, Shri
Kaliyannan, Shri M.
Kanaka Sabai, Shri
Kannamwar, Shri
Kapoor, Shri J. R.
Karmarkar, Shri
Keskar, Dr.
Khaparde, Shri
Krishna Singh, Thakur
Krishnamachari, Shri T. T.
Krishnanand Rai, Shri
Kumbhar, Shri
Kunhiraman, Shri
Lakshmanan, Shri
Lal Singh, Thakur
Mahata, Shri Kshudiram
Mahtab, Shri
Mahtha, Shri S. N.
Maitra, Pandit
Mallayya, Shri
Massey, Shri
Meeran, Shri
Menon, Shri Damodara
Menon, Shri Karunakara
Mirza, Shri
Mishra, Shri M. P.
Mishra, Prof. S. N.

Mishra, Shri Yudhishthir
 Misra, Shri S. P.
 Mohiuddin, Saikh
 Mookerjee, Dr. H. C.
 Moideu, Moulavi
 Mudgal, Shri
 Munshi, Shri K. M.
 Munshi, Shri P. T.
 Musafir, Giani G. S.
 Naidu, Kumari Padmaja
 Naidu, Shri Ethirajulu
 Naidu, Shri S. R.
 Naik, Shri M.
 Naik, Shri S. V.
 Nand Lal, Master
 Nathwani, Shri
 Nausher Ali, Syed
 Nehru, Shri Jawaharlal
 Nehru, Shrimati Uma
 Nijalingappa, Shri
 Obaidullah, Shri
 Pande, Dr. C. D.
 Pannalal Bansilal, Shri
 Pani, Shri B. K.
 Pant, Shri D. D.
 Parmar, Dr.
 Patabhi, Dr.
 Poonacha, Shri
 Pustake, Shri
 Raj Bahadur, Shri
 Raj Kanwar, Lala
 Rajagopalachari, Shri
 Ramachar, Shri
 Ramaswamy, Shri Ariga
 Ramaswamy, Shri Puli
 Ram Dhani Das, Shri
 Ramaiah, Shri V.
 Ranbir Singh, Ch.

Ranjit Singh, Sardar
 Rao, Shri J. K.
 Rao, Shri M. V. Rama
 Rao, Shri Shiva
 Rao, Shri Thirumala
 Rao, Shri Kesava
 Rathnaswamy, Shri
 Raut, Shri
 Ray, Shrimati Renuka
 Reddi, Shri P. Basi
 Reddi, Shri Ranga
 Reddi, Shri V. Kodanda-
 rama
 Reddy, Shri K. V. Ranga
 Reddy, Dr. M. C.
 Rudrappa, Shri
 Saksena, Shri Mohan
 Lal
 Samanta, Shri S. C.
 Sanjivayya, Shri
 Sarwate, Shri
 Satish Chandra, Shri
 Sen, Shri P. G.
 Shah, Shri C. C.
 Shah, Shri M. C.
 Shankaraiya, Shri
 Sharma, Pandit Bal-
 krishna
 Sharma, Pandit Krishna
 Chandra
 Sharma, Shri K. C.
 Shiv Charan Lal, Shri
 Shukla, Shri A. C.
 Shukla, Shri S. N.
 Singh, Capt. A. P.
 Singh, Dr. Ram Subhag
 Singh, Shri B. P.
 Singh, Shri T. N.
 Sinha, Shri Anirudha
 Sinha, Shri A. P.
 Sinha, Shri B. K. P.
 Sinha, Shri K. P.
 Sinha, Shri S. N.
 Sinha, Shri Satya Nara-
 yan
 Snatak, Shri N.
 Sochet Singh, Sardar
 Sohan Lal, Shri
 Sonavane, Shri
 Sondhi, Shri
 Sri Prakasa, Shri
 Subramaniam, Dr. V.
 Subramaniam, Shri C.
 Subramanian, Shri R.
 Swaminadhan, Shrimati
 Ammu
 Tek Chand, Dr.
 Tewari, Shri R. S.
 Thakkar, Dr. K. V.
 Thimmappa Gowda, Shri
 Tiwari, Shri B. L.
 Tripathi, Shri Kishori-
 mohan
 Tyagi, Shri
 Upadhyay, Pandit
 Munishwar Datt
 Upadhyaya, Shri R. C.
 Vaidya, Shri K.
 Vaidya, Shri V. B.
 Vaishya, Shri M. B.
 Varma, Shri B. B.
 Velayudhan, Shrimati
 Venkataraman, Shri
 Vyas, Shri K. K.
 Vyas, Shri Radhelal
 Wajed Ali, Maulvi
 Yadav, Shri
 Yashwant Rai, Prof.
 Zakir Husain, Dr.

NOES

Das, Shri Sarangdhar
 Hukam Singh, Sardar
 Mookerjee, Dr. S. P.

Naziruddin Ahmad, Shri
 Ramnarayan Singh, Babu

Seth, Shri D. S.
 Shah, Prof. K. T.

The motion was adopted.

Mr. Deputy-Speaker: 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.

✓ Clause 7 was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That clause 8 stand part of the Bill."

✓ The House divided: Ayes, 228; Noes, 8.

Division No. 11]

AYES

[10-5 A.M.]

Achint Ram, Lala
Ahammedunni, Shri
Alagesan, Shri
Alexander, Shri
Ali, Shri A. H. S.
Ambedkar, Dr.
Amolakh Chand, Shri
Ansari, Shri
Arya, Shri B. S.
Asawa, Shri
Balmiki, Shri
Barman, Shri
Barrow, Shri
Beni Singh, Shri
Bhagat, Shri B. R.
Bhagwant Roy, Kaka
Bharati, Shri
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur
Das
Bhatkar, Shri
Bhatt, Shri
Bhattacharya, Prof. K. K.
Biyani, Shri
Borooah, Shri
Brajeshwar Prasad, Shri
Buragohain, Shri
Chaliha, Shri
Chandrika Ram, Shri
Channiah, Shri
Chattopadhyay, Shri
Chaudhri, Shrimati
Kamala
Chaudhuri, Shri R. K.
Chettiar, Shri Rama-
lingam
Das, Shri B.
Das, Shri B. K.
Das, Shri Biswanath
Das, Shri Jagannath
Das, Shri Nandkishore
Das, Shri S. N.

Deo, Shri Shankarrao
Deogirikar, Shri
Desai, Shri Kanayalal
Desai, Shri Khandubhai
Deshmukh, Shri C. D.
Deshpande, Shri P. Y.
Devi Singh, Dr.
Diwakar, Shri
Dixit, Shrimati
D'Souza, Rev.
Durgabai, Shrimati
Dwivedi, Shri
Faiznur Ali, Maulvi
Gadgil, Shri
Galib, Shri
Ganamukhi, Shri
Gandhi, Shri Feroz
Gautam, Shri
Ghose, Shri S. M.
Ghule, Shri
Goenka, Shri
Gopalaswami, Shri
Gopinath Singh, Shri
Govind Das, Seth
Guha, Shri A. C.
Gupta, Shri Deshbandhu
Gupta, Shri V. J.
Gurung, Shri A. B.
Haneef, Maulvi
Hanumanthaiya, Shri
Haque, Shri
Hathi, Shri
Hazarika, Shri J. N.
Hazarika, Shri M.
Heda, Shri
Himatsingka, Shri
Himatsinhji, Major Gene-
ral
Hiray, Shri
Husain, Shri T.
Hyder Husein, Shri
Iyyanhi, Shri

Jagjivan Ram, Shri
Jain, Shri A. P.
Jain, Shri N. S.
Jaipal Singh, Shri
Jajoo, Shri
Jajware, Shri Ramraj
Jangde, Shri
Jayashri, Shrimati
Jnani Ram, Shri
Joseph, Shri A.
Kala Venkatarao, Shri
Kaliyannan, Shri M.
Kamath, Shri
Kanakan Sabai, Shri
Kannamwar, Shri
Kapoor, Shri J. R.
Karmarkar, Shri
Keskar, Dr.
Khaparde, Shri
Krishna Singh, Thakur
Krishnamachari, Shri T.
Krishnanand Rai, Shri
Kumbhar, Shri
Kunhiraman, Shri
Lakshmanan, Shri
Lal Singh, Thakur
Mahata, Shri Kshudiram
Mahtab, Shri
Mahtha, Shri S. N.
Maitra, Pandit
Mallayya, Shri
Massey, Shri
Meeran, Shri
Menon, Shri Damodara
Menon, Shri Karunakara
Mirza, Shri
Mishra, Shri M. P.
Mishra, Prof. S. N.
Mishra, Shri Yudhishtir
Misra, Shri S. P.
Mohiuddin, Saikh

Mookerjee, Dr. H. C.
 Moidu, Moulavi
 Mudgal, Shri
 Munshi, Shri K. M.
 Munshi, Shri P. T.
 Musafir, Giani G. S.
 Naidu, Kumari Padmaja
 Naidu, Shri Ethirajulu
 Naidu, Shri S. R.
 Naik, Shri M.
 Naik, Shri S. V.
 Nand Lal, Master
 Nathwani, Shri
 Nausherahi, Syed
 Nehru, Shri Jawaharlal
 Nehru, Shrimati Uma
 Nijalingappa, Shri
 Obaidullah, Shri
 Pande, Dr. C. D.
 Pannalal Bansilal, Shri
 Pani, Shri B. K.
 Pant, Shri D. D.
 Parmar, Dr.
 Patabhi, Dr.
 Poonacha, Shri
 Pustake, Shri
 Rahman, Shri M. H.
 Raj Bahadur, Shri
 Raj Kanwar, Lala
 Rajagopalachari, Shri
 Ramachar, Shri
 Ramaswamy, Shri Arigay
 Ramaswamy, Shri Puli
 Ram Dhani Das, Shri
 Ramaiah, Shri V.
 Ranbir Singh, Ch.
 Ranjit Singh, Sardar
 Rao, Shri J. K.

Rao, Shri M. V. Rama
 Rao, Shri Shiva
 Rao, Shri Thirumala
 Rao, Shri Kesava
 Rathnaswamy, Shri
 Raut, Shri
 Ray, Shrimati Renuka
 Reddi, Shri P. Basi
 Reddi, Shri Ranga
 Reddi, Shri V. Kodanda-
 rama
 Reddy, Shri K. V. Ranga
 Reddy, Dr. M. C.
 Rudrappa, Shri
 Saksena, Shri Mohan Lal
 Samanta, Shri S. C.
 Sanjivayya, Shri
 Santhanam, Shri
 Sarwate, Shri
 Satyanarayana, Shri
 Satish Chandra, Shri
 Sen, Shri P. G.
 Shah, Shri C. C.
 Shah, Shri M. C.
 Shankaraiya, Shri
 Sharma Pandit Bal-
 krishna
 Sharma, Pandit Krishna
 Chandra
 Sharma, Shri K. C.
 Shiv Charan Lal, Shri
 Shukla, Shri A. C.
 Shukla, Shri S. N.
 Singh, Capt. A. P.
 Singh, Dr. Ram Subhag
 Singh, Shri B. P.
 Singh, Shri T. N.
 Sinha, Shri Anirudha

Sinha, Shri A. P.
 Sinha, Shri B. K. P.
 Sinha, Shri K. P.
 Sinha, Shri S. N.
 Sinha, Shri Satya Nara-
 yan
 Snatak, Shri N.
 Sochet Singh, Sardar
 Sohan Lal, Shri
 Sonavane, Shri
 Sondhi, Shri
 Sri Prakasa, Shri
 Subramaniam, Dr. V.
 Subramaniam, Shri C.
 Subramanian, Shri R.
 Swaminadhan, Shrimati
 Ammu
 Tek chand, Dr.
 Tewari, Shri R. S.
 Thakkar, Dr. K. V.
 Thimmappa Gowda, Shri
 Tiwari, Shri B. L.
 Tripathi, Shri Kishori-
 mohan
 Tyagi, Shri
 Upadhyay, Pandit Muni-
 shwar Datt
 Upadhyaya, Shri R. C.
 Vaidya, Shri K.
 Vaishya, Shri M. B.
 Varma, Shri B. B.
 Velayudhan, Shrimati
 Venkataraman, Shri
 Vyas, Shri K. K.
 Vyas, Shri Radhelal
 Wajed Ali, Maulvi
 Yadav, Shri
 Yashwant Rai, Prof.

NOES

Birua, Shri
 Das, Shri Sarangdhar
 Hukam Singh, Sardar

Mookerjee, Dr. S. P.
 Naziruddin Ahmad, Shri
 Ramnarayan Singh, Babu

Seth, Shri D. S.
 Shah, Prof. K. T.

The motion was adopted

Mr. Deputy-Speaker: 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.

Clause 8 was added to the Bill.

Mr. Deputy-Speaker: The question is:

✓ "That clause 9 stand part of the Bill."

The House divided: Ayes, 229; Noes, 8.

Division No. 12]

AYES

[10-17 A.M.]

Achint Ram, Lala
Alagesan, Shri
Alexander, Shri
Ali, Shri A. H. S.
Alva, Shri Joachim
Ambedkar, Dr.
Amolakh Chand, Shri
Ansari, Shri
Arya, Shri B. S.
Asawa, Shri
Balmiki, Shri
Barman, Shri
Beni Singh, Shri
Bhagat, Shri B. R.
Bhagwant Roy, Kaka
Bharati, Shri
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhatt, Shri
Bhattacharya, Prof. K. K.
Biyani, Shri
Borooah, Shri
Brajeshwar Prasad, Shri
Boragonain, Shri
Chaliha, Shri
Chandrika Ram, Shri
Channiah, Shri
Chattopadhyay, Shri
Chaudhri, Shrimati Kamala
Chaudhuri, Shri R. K.
Chettiar, Shri Ramalingam
Das, Shri B.
Das, Shri B. K.
Das, Shri Biswanath
Das, Shri Jagannath
Das, Shri Nandkishore
Das, Shri S. N.
Deo, Shri Shankarrao
Deogirikar, Shri
Desai, Shri Kanayalal
Desai, Shri Khandubhai

Deshmukh, Dr.
Deshmukh, Shri C. D.
Deshpande, Shri P. Y.
Devi Singh, Dr.
Dharam Prakash, Dr.
Diwakar, Shri
Dixit, Shrimati
D'Souza, Rev.
Durgabai, Shrimati
Dwivedi, Shri
Faiznur Ali, Maulvi
Gadgil, Shri
Galib, Shri
Ganamukhi, Shri
Gandhi, Shri Feroz
Gautam, Shri
Ghose, Shri S. M.
Ghule, Shri
Goenka, Shri
Gopalaswami, Shri
Gopinath Singh, Shri
Govind Das, Seth
Guha, Shri A. C.
Gupta, Shri Deshbandhu
Gupta, Shri V. J.
Gurung, Shri A. B.
Haneef, Maulvi
Hanumanthaiya, Shri
Haque, Shri
Hathi, Shri
Hazarika, Shri J. N.
Hazarika, Shri M.
Heda, Shri
Himatsingka, Shri
Himatsinhji, Major General
Hiray, Shri
Husain, Shri T.
Hyder Husein, Shri
Jagjivan Ram, Shri
Jain, Shri A. P.
Jain, Shri N. S.
Jajoo, Shri
Jajware, Shri Ramraj

Jangde, Shri
Jayashri, Shrimati
Jnani Ram, Shri
Joseph, Shri A.
Kala Venkatarao, Shri
Kaliyannan, Shri M.
Kanaka Sabai, Shri
Kannamwar, Shri
Kapoor, Shri J. R.
Karmarkar, Shri
Keskar, Dr.
Khaparde, Shri
Krishna Singh, Thakur
Krishnamachari, Shri T. T.
Krishnanand Rai, Shri
Kumbhar, Shri
Kunhiraman, Shri
Lakshmanan, Shri
Lal Singh, Thakur
Mahata, Shri Kshudiram
Mahtab, Shri
Mahtha, Shri S. N.
Maitra, Pandit
Mallayya, Shri
Massey, Shri
Meeran, Shri
Menon, Shri Damodara
Menon, Shri Karunakara
Mirza, Shri
Mishra, Shri M. P.
Mishra, Prof. S. N.
Mishra, Shri Yudhishtir
Misra, Shri S. P.
Mohiuddin, Saikh
Mookerjee, Dr. H. C.
Moidu, Moulavi
Mudgal, Shri
Munshi, Shri K. M.
Munshi, Shri P. T.
Musafir, Giani G. S.
Naidu, Kumari Padmaja
Naidu, Shri Ethirajulu
Naidu, Shri S. R.

Naik, Shri M.
 Naik, Shri S. V.
 Nand Lal, Master
 Nathwani, Shri
 Nausherali, Syed
 Nehru, Shri Jawaharlal
 Nehru, Shrimati Uma
 Nijalingappa, Shri
 Obaidullah, Shri
 Pande, Dr. C. D.
 Pannalal Bansilal, Shri
 Pani, Shri B. K.
 Pant, Shri D. D.
 Parmar, Dr.
 Pattabhi, Dr.
 Poonacha, Shri
 Pustake, Shri
 Rahman, Shri M. H.
 Raj Bahadur, Shri
 Raj Kanwar, Lala
 Rajagopalachari, Shri
 Ramachar, Shri
 Ramaswamy, Shri Arigay
 Ramaswamy, Shri Pull
 Ram Dhani Das, Shri
 Ramaiah, Shri V.
 Ranbir Singh, Ch.
 Ranjit Singh, Sardar
 Rao, Shri J. K.
 Rao, Shri M. V. Rama
 Rao, Shri Shiva
 Rao, Shri Thirumala
 Rao, Shri Kesava
 Rathnaswamy, Shri
 Raut, Shri

Ray, Shrimati Renuka
 Reddi, Shri P. Basi
 Reddi, Shri Ranga
 Reddi, Shri V. Kodanda-
 rama.
 Reddy, Shri K. V. Ranga
 Reddy, Dr. M. C.
 Rudrappa, Shri
 Saksena, Shri Mohan
 Lal
 Samanta, Shri S. C.
 Sanjivayya, Shri
 Santhanam, Shri
 Sarwate, Shri
 Satyanarayana, Shri
 Satish Chandra, Shri
 Sen, Shri P. G.
 Shah, Shri C. C.
 Shah, Shri M. C.
 Shankaraiya, Shri
 Sharma, Pandit Bal-
 krishna
 Sharma, Pandit Krishna
 Chandra
 Sharma, Shri K. C.
 Shiv Charan Lal, Shri
 Shukla, Shri A. C.
 Shukla, Shri S. N.
 Singh, Capt. A. P.
 Singh, Dr. Ram Subhag
 Singh, Shri B. P.
 Singh, Shri T. N.
 Sinha, Shri Anirudha
 Sinha, Shri A. P.
 Sinha, Shri B. K. P.
 Sinha, Shri K. P.
 Sinha, Shri S. N.

Sinha, Shri Satya Na-
 yan
 Snatak, Shri N
 Sochet Singh, Sardar
 Sohan Lal, Shri
 Sonavane, Shri
 Sondhi, Shri
 Sri Prakasa, Shri
 Subramaniam, Dr. V.
 Subramaniam, Shri C.
 Subramanian, Shri R.
 Swaminadhan, Shrima-
 Ammu
 Tek Chand, Dr.
 Tewari, Shri R. S.
 Thakkar, Dr. K. V.
 Thimmappa Gowda, Sh
 Tiwari, Shri B. L.
 Tripathi, Shri Kishori-
 mohan
 Tyagi, Shri
 Upadhyay, Pandit Muni
 shwar Datt
 Upadhyaya, Shri R. C.
 Vaidya, Shri K.
 Vaidya, Shri V. B.
 Vaishya, Shri M. B.
 Varma, Shri B. B.
 Verma, Shri M. L.
 Velayudhan, Shrimati
 Venkataraman, Shri
 Vyas, Shri K. K.
 Vyas, Shri Radhelal
 Wajed Ali, Maulvi
 Yadav, Shri
 Yashwant Rai, Prof.
 Zakir Husain, Dr.

NOES

Birua, Shri
 Das, Shri Sarangdhar
 Hukam Singh, Sardar

Mookerjee, Dr. S. P.
 Naziruddin Ahmad, Shri
 Ramnarayan Singh, Babu

Seth, Shri D. S.
 Shah, Prof. K. T.

The motion was adopted.

Mr. Deputy-Speaker: 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.

Clause 9 was added to the Bill.

Clause 10.—(Amendment of article 341.)

Mr. Deputy-Speaker: Clause 10 relates to Scheduled Castes and clause 11 relates to Scheduled Tribes. The procedure and the language are the same. I think it is the general desire that clauses 10 and 11 should be discussed together, though separately put to vote.

I see there are no amendments to be moved. So I will put clause 10 to the House.

The Minister of Works, Production and Supply (Shri Gadgil): There should be a division.

Shri Gautam (Uttar Pradesh): Even if there is nobody against, there might be some neutrals. Let there be a count.

Mr. Deputy-Speaker: Yes, there will be a division.

The question is:

"That clause 10 stand part of the Bill."

The House divided: Ayes, 227; Noes, 7.

Division No. 13]

AYES

[10-31 A.M.]

Ahammedunni, Shri	Chaudhuri, Shri R. K.	Gupta, Shri Deshbandnu
Alagesan, Shri	Chettiar, Shri Rama-	Gupta, Shri V. J.
Alexander, Shri	lingam	Gurung, Shri A. B.
Ali, Shri A. H. S.	Das, Shri B.	Haneef, Maulvi
Alva, Shri Joachim	Das, Shri B. K.	Hanumanthaiya, Shri
Ambedkar, Dr.	Das, Shri Biswanath	Haque, Shri
Amolakh Chand, Shri	Das, Shri Jagannath	Hathi, Shri
Ansari, Shri	Das, Shri Nandkishore	Hazarika, Shri J. N.
Arya, Shri B. S.	Deogirikar, Shri	Hazarika, Shri M.
Asawa, Shri	Desai, Shri Kanayalal	Heda, Shri
Balmiki, Shri	Desai, Shri Khandubhai	Himatsingka, Shri
Barman, Shri	Deshmukh, Dr.	Himatsinhji, Major General
Beni Singh, Shri	Deshmukh, Shri C. D.	Hiray, Shri
Bhagat, Shri B. R.	Despande, Shri P. Y.	Husain, Shri T.
Bhagwant Roy, Kaka	Devi Singh, Dr.	Hyder Husein, Shri
Bharati, Shri	Dharam Prakash, Dr.	Iyyunni, Shri
Bhargava, Pandit M. B.	Diwakar, Shri	Jagjivan Ram, Shri
Bhargava, Pandit Thakur Das	Dixit, Shrimati	Jain, Shri A. P.
Bhatkar, Shri	Durgabai, Shrimati	Jain, Shri N. S.
Bhatt, Shri	Dwivedi, Shri	Jajoo, Shri
Bhattacharya, Prof. K. K.	Faiznur Ali, Maulvi	Jajware, Shri Ramraj
Biyani, Shri	Gadgil, Shri	Jangde, Shri
Borooah, Shri	Galib, Shri	Jnani Ram, Shri
Brajeshwar Prasad, Shri	Ganamukhi, Shri	Kala Venkatarao, Shri
Buragohain, Shri	Gandhi, Shri Feroz	Kaliyannan, Shri M.
Chaliha, Shri	Gautam, Shri	Kamath, Shri
Chandrika Ram, Shri	Ghose, Shri S. M.	Kanaka Sabai, Shri
Channiah, Shri	Ghule, Shri	Kannamwar, Shri
Chattopadhyay, Shri	Goenka, Shri	Kapoor, Shri J. R.
Chaudhri, Shrimati	Gopalaswami, Shri	Karmarkar, Shri
Kamala	Gopinath Singh, Shri	Keskar, Dr.
	Govind Das, Seth	
	Guha, Shri A. C.	

Khaparde, Shri
Krishna Singh, Thakur
Krishnamachari, Shri T.
T.
Krishnanand Rai, Shri
Kumbhar, Shri
Kunhiraman, Shri
Lakshmanan, Shri
Lal Singh, Thakur
Mahata, Shri Kshudiram
Mahtab, Shri
Mahtha, Shri S. N.
Maitra, Pandit
Mallayya, Shri
Massey, Shri
Meeran, Shri
Menon, Shri Damodara
Menon, Shri Karunakara
Mirza, Shri
Mishra, Shri M. P.
Mishra, Prof. S. N.
Mishra, Shri Yudhishtir
Misra, Shri S. P.
Mohiuddin, Saikh
Mookerjee, Dr. H. C.
Moidu, Moulavi
Mudgal, Shri
Munshi, Shri K. M.
Munshi, Shri P. T.
Musafir, Giani G. S.
Naidu, Kumari Padmaja
Naidu, Shri Ethirajulu
Naidu, Shri S. R.
Naik, Shri M.
Naik, Shri S. V.
Nand Lal, Master
Nathwani, Shri
Nausherali, Syed
Nehru, Shri Jawaharlal
Nehru, Shrimati Uma
Nijalingappa, Shri
Obaidullah, Shri
Pande, Dr. C. D.
Pannalal Bansilal, Shri
Pani, Shri B. K.
Pant, Shri D. D.
Parmar, Dr.

Pattabhi, Dr.
Poonacha, Shri
Pustake, Shri
Rahman, Shri M. H.
Raj Bahadur, Shri
Rajagopalachari, Shri
Ramachar, Shri
Ramaswamy, Shri Arigay
Ramaswamy, Shri Puli
Ram Dhani Das, Shri
Ramaiah, Shri V.
Ranbir Singh, Ch.
Ranjit Singh, Sardar
Rao, Shri J. K.
Rao, Shri M. V. Rama
Rao, Shri Shiva
Rao, Shri Thirumala
Rao, Shri Kesava
Rathnaswamy, Shri
Raut, Shri
Ray, Shrimati Renuka
Reddi, Shri P. Basi
Reddi, Shri Ranga
Reddi, Shri V. Kodanda-
rama.
Reddy, Shri K. V. Ranga
Reddy, Dr. M. C.
Rudrappa, Shri
Saksena, Shri Mohan Lal
Samanta, Shri S. C.
Sanjivayya, Shri
Santhanam, Shri
Sarwate, Shri
Satyanarayana, Shri
Satish Chandra, Shri
Sen, Shri P. G.
Shah, Shri C. C.
Shah, Shri M. C.
Shankaraiya, Shri
Sharma, Pandit Bal-
krishna
Sharma, Pandit Krishna
Chandra
Sharma, Shri K. C.
Shiv Charan Lal, Shri
Shukla, Shri A. C.
Shukla, Shri S. N.

Singh, Capt. A. P.
Singh, Dr. Ram Subhag
Singh, Shri B. P.
Singh, Shri T. N.
Sinha, Shri Anirudha
Sinha, Shri A. P.
Sinha, Shri B. K. P.
Sinha, Shri K. P.
Sinha, Shri S. N.
Sinha, Shri Satya Naray.
Sivaprakasam, Shri
Snatak, Shri N.
Sochet Singh, Sardar
Sohan Lal, Shri
Sonavane, Shri
Sondhi, Shri
Sri Prakasa, Shri
Subramaniam, Dr. V.
Subramaniam, Shri C.
Subramanian, Shri R.
Sunder Lall, Shri
Swaminadhan, Shrin
Ammu
Tewari, Shri R. S.
Thakkar, Dr. K. V.
Thimmappa Gowda, Sh
Tiwari, Shri B. L.
Tripathi, Shri Kishori-
mohan
Tyagi, Shri
Upadhyay, Pandit Mu
shwar Datt
Upadhyaya, Shri R. C.
Vaidya, Shri K.
Vaidya, Shri V. B.
Vaishya, Shri M. B.
Varma, Shri B. B.
Verma, Shri M. L.
Velayudhan, Shrimati
Venkataraman, Shri
Vidyavachaspati, Shri
Indra
Vyas, Shri K. K.
Vyas, Shri Radhelal
Wajed Ali, Maulvi
Yadav, Shri
Yashwant Rai, Prof.
Zakir Husain, Dr.

NOES

Das, Shri Sarangdhar
Hukam Singh, Sardar
Mookerjee, Dr. S. P.

Naziruddin Ahmad, Shri
Ramnarayan Singh, Babu

Seth, Shri D. S.
Shah, Prof. K. T.

The motion was adopted

2982

Mr. Deputy-Speaker: 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.

✓ Clause 10 was added to the Bill.

Clause 11.—(Amendment of article 342.)

Mr. Deputy-Speaker: The question is:

"That clause 11 stand part of the Bill."

✓ The House divided: Ayes 232; Noes, 6.

Division No. 14]

AYES

[10-45 A.M.]

Achint Ram, Lala
 Ahammedunni, Shri
 Alagesan, Shri
 Alexander, Shri
 Ali, Shri A. H. S.
 Alva, Shri Joachim
 Ambedkar, Dr.
 Amolakr Chand, Shri
 Ansari, Shri
 Arya, Shri B. S.
 Asawa, Shri
 Baldev Singh, Sardar
 Balmiki, Shri
 Barman, Shri
 Beni Singh, Shri
 Bhagat, Shri B. R.
 Bhagwant Roy, Kaka
 Bharati, Shri
 Bhargava, Pandit M. B.
 Bhargava, Pandit Thakur
 Das
 Bhartkar, Shri
 Bhatt, Shri
 Bhattacharya, Prof. K. K.
 Biyani, Shri
 Borooah, Shri
 Brajeshwar Prasad, Shri
 Buragohain, Shri
 Chaliha, Shri
 Chandrika Ram, Shri
 Channiah, Shri
 Chattopadhyay, Shri
 Chaudhri, Shrimati
 Kamala
 Chaudhuri, Shri R. K.
 Chettiar, Shri Rama-
 lingam
 Das, Shri B.
 Das, Shri B. K.

Das, Shri Biswanath
 Das, Shri Jagannath
 Das, Shri Nandkishore
 Das, Shri S. N.
 Deogirikar, Shri
 Desai, Shri Kanayālal
 Desai, Shri Khandubhai
 Deshmukh, Dr.
 Deshmukh, Shri C. D.
 Deshpande, Shri P. Y.
 Devi Singh, Dr.
 Dharam Prakash, Dr.
 Diwakar, Shri
 Dixit, Shrimati
 Durgabai, Shrimati
 Dwivedi, Shri
 Faiznur Ali, Maulvi
 Gadgil, Shri
 Galib, Shri
 Ganamukhi, Shri
 Gandhi, Shri Feroz
 Gautam, Shri
 Ghose, Shri S. M.
 Ghule, Shri
 Goenka, Shri
 Gopalaswami, Shri
 Gopinath Singh, Shri
 Govind Das, Seth
 Guha, Shri A. C.
 Gupta, Shri Deshbandhu
 Gupta, Shri V. J.
 Gurung, Shri A. B.
 Haneef, Maulvi
 Hanumanthaiya, Shri
 Haque, Shri
 Hathi, Shri
 Hazarika, Shri J. N.
 Hazarika, Shri M.
 Heda, Shri
 Himatsingka, Shri

Himatsinhji, Major Gene-
 ral
 Hiray, Shri
 Husain, Shri T.
 Hyder Husein, Shri
 Iyyunni, Shri
 Jagjivan Ram, Shri
 Jain, Shri A. P.
 Jain, Shri N. S.
 Jajoo, Shri
 Jajware, Shri Ramraj
 Jangde, Shri
 Jnani Ram, Shri
 Kala Venkatarao, Shri
 Kaliyannan, Shri M.
 Kamath, Shri
 Kanaka Sabai, Shri
 Kannamwar, Shri
 Kapoor, Shri J. R.
 Karmarkar, Shri
 Keskar, Dr.
 Klaparde, Shri
 Krishna Singh, Thakur
 Krishnamachari, Shri T.
 T.
 Krishnanand Rai, Shri
 Kumbhar, Shri
 Kunhiraman, Shri
 Lakshmanan, Shri
 Lal Singh, Thakur
 Mahata, Shri Kshudiram
 Mahtab, Shri
 Mahtha, Shri S. N.
 Maitra, Pandit
 Mallayya, Shri
 Massey, Shri
 Meeran, Shri
 Menon, Shri Damodara
 Menon, Shri Karunakara
 Mirza, Shri

Mishra, Shri M. P.
 Mishra, Prof. S. N.
 Mishra, Shri Yudhishthir
 Misra, Shri S. P.
 Mohiuddin, Saikh
 Mookerjee, Dr. H. C.
 Moidu, Moulavi
 Mudgal, Shri
 Munshi, Shri K. M.
 Munshi, Shri P. T.
 Musafir, Giani G. S.
 Naidu, Kumari Padmaja
 Naidu, Shri Ethirajulu
 Naidu, Shri S. R.
 Naik, Shri M.
 Naik, Shri S. V.
 Nand Lal, Master
 Nathwani, Shri
 Nausherahi, Syed
 Nehru, Shri Jawaharlal
 Nehru, Shrimati Uma
 Nijalingappa, Shri
 Obaidullah, Shri
 Pande, Dr. C. D.
 Pannalal Bansilal, Shri
 Pani, Shri B. K.
 Pant, Shri D. D.
 Parmar, Dr.
 Patabhi, Dr.
 Poonacha, Shri
 Pustake, Shri
 Rahman, Shri M. H.
 Raj Bahadur, Shri
 Raj Kanwar, Lala
 Rajagopalachari, Shri
 Ramachar, Shri
 Ramaswamy, Shri Arigay
 Ramaswamy, Shri Puli
 Ram Dhani Das, Shri
 Ramaiah, Shri V.
 Ranbir Singh, Ch.

Ranjit Singh, Sardar
 Rao, Shri J. K.
 Rao, Shri M. V. Rama
 Rao, Shri Shiva
 Rao, Shri Thirumala
 Rao, Shri Kesava
 Rathnaswamy, Shri
 Raut, Shri
 Ray, Shrimati Renuka
 Reddi, Shri P. Basi
 Reddi, Shri Ranga
 Reddi, Shri V. Kodanda-
 rama
 Reddy, Shri K. V. Ranga
 Reddy, Dr. M. C.
 Rudrappa, Shri
 Sahaya, Shri Syamnandan
 Saksena, Shri Mohan Lal
 Samanta, Shri S. C.
 Sanjivayya, Shri
 Santhanam, Shri
 Sarwate, Shri
 Satyanarayana, Shri
 Satish Chandra, Shri
 Sen, Shri P. G.
 Shah, Shri C. C.
 Shah, Shri M. C.
 Shankaraiya, Shri
 Sharma, Pandit—Bal-
 krishna
 Sharma, Pandit Krishna
 Chandra
 Sharma, Shri K. C.
 Shiv Charan Lal, Shri
 Shukla, Shri A. C.
 Shukla, Shri S. N.
 Singh, Capt. A. P.
 Singh, Dr. Ram Subhag
 Singh, Shri B. P.
 Singh, Shri T. N.
 Sinha, Shri Anirudha
 Sinha, Shri A. P.

Sinha, Shri B. K. P.
 Sinha, Shri K. P.
 Sinha, Shri S. N.
 Sinha, Shri Satya Nara-
 yan
 Sivaprakasam, Shri
 Snatak, Shri N.
 Sochet Singh, Sardar
 Sobhan Lal, Shri
 Sonavane, Shri
 Sondhi, Shri
 Sri Prakasa, Shri
 Subramaniam, Dr. V.
 Subramaniam, Shri C.
 Subramanian, Shri R.
 Sunder Lal, Shri
 Swaminadhan, Shrimati
 Ammu
 Tewari, Shri R. S.
 Thakkar, Dr. K. V.
 Thimmappa Gowda, Shri
 Tiwari, Shri B. L.
 Tripathi, Shri Kishori-
 mohan
 Tyagi, Shri
 Upadhyay, Pandit Mur-
 shwar Datt
 Upadhyaya, Shri R. C.
 Vaidya, Shri K.
 Vaidya, Shri V. B.
 Vaishya, Shri M. B.
 Varma, Shri B. B.
 Verma, Shri M. L.
 Velayudhan, Shrimati
 Venkataraman, Shri
 Vidyavachaspati, Shri
 Indra
 Vyas, Shri K. K.
 Vyas, Shri Radhelal
 Wajed Ali, Maulvi
 Yadav, Shri
 Yashwant Rai, Prof.
 Zakir Husain, Dr.

NOES

Das, Shri Sarangdhar
 Hukam Singh, Sardar

Naziruddin Ahmad, Shri
 Ramnarayan Singh, Babu

Seth, Shri D. S.
 Shah, Prof. K. T.

The motion was adop

Mr. Deputy-Speaker: 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.

✓ Clause 11 was added to the Bill.

✓ Clause 12.—(Amendment of article 372.)

Mr. Naziruddin Ahmad: Sir, I want to speak on clause 12.

Mr. Deputy-Speaker: Let me first see if there are any Members who want to move any amendments.

I see that there is none who wants to move any amendment. Let there be a general discussion on the clause.

Shri Deshbandhu Gupta (Delhi): What is the duration of the speeches?

Mr. Deputy-Speaker: Not more than ten minutes.

Shri Naziruddin Ahmad: This clause is a very important one, as I shall show if you will bear with me for a few minutes. The Constitution came into force from the 26th January, 1950, and by that Constitution we repealed the Government of India Act. By clause (1) of article 372 we say that all laws in force for the Government of India shall, notwithstanding the repeal of the older Act, continue to be in force.

I come to clause (2) of article 372 which is as follows:

“(2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.”

The whole purpose of this clause was that as the Constitution created a new set-up—we have adopted the Fundamental Rights, we have changed the outlook of the law in so many ways—so, the existing laws should be subject to adaptations and modifications to bring them into accord with the Constitution. And clause (3) of article 372 gave the Government a long period of two years to adapt them. Clause (3) says:

“Nothing in clause (2) shall be deemed—

(a) to empower the President to make any adaptation or modification of any law after the expiration of two years from the commencement of this Constitution;”

✓ The Constitution came into effect on the 26th January, 1950. We may adapt the laws up to 25th January, 1952. So we have yet another eight months left in our hands to adapt the laws to suit the Constitution. The object of adaptation is to make immediate changes which are necessitated by the change in the outlook of the Constitution on account of the new Constitution. I find that the President has adapted, by an order with effect from the 26th January, 1950, that is the day on which the Constitution came into force, not only Central but also State laws. The reason for this adaptation is so as to leave people in no doubt.

The question is whether the Government should be allowed to sleep off for another year even beyond the eight months which we have already under the article. They want another twenty months instead of the eight months available, to adapt the law. The very purpose of such adaptations is to bring the law immediately into conformity with the Constitution and not to leave people in doubt. After all, the existing laws are valid to the extent to which they are consistent with the Constitution, but in order to make them up to date and to bring them into conformity with and on the same lines as the Constitution, adaptation has to be resorted to. But then what is the purpose in delaying? The law Department has already failed in its duty in the matter of adaptations. Why is it that they will not do the adaptation within the long eight months that still remain unexpired? Why should it be that they require another one year? I will cite only one instance of how delay in adaptation will put the whole country into ruinous litigation. Take the case of “sedition”. “Sedition” as it was understood under the old British law was changed by the Constitution, but the old definition of “sedition” still remains in the Penal Code. The law of 11 A.M. sedition as contained in section 124A of the Penal Code has been dealt with in the Adaptation Order in some minor respects, but it has not been brought up-to-date in view of the new constitutional set-up, that is the provision contained in article 19(2). Well, there was the case of Master

Tara Singh who was prosecuted for sedition; he had to go to the High Court of Punjab and that High Court acquitted him and declared that if there had been adaptation there could have been no prosecution. The Government has left the law of sedition unadapted and the subordinate magistracy and the police officers, oblivious to the constitutional change, thought the law stood as it was in the Penal Code and prosecuted this gentleman in ignorance; and the High Court had to declare that law to have been *ultra vires*. It was mainly because the Law Department did not function thoroughly in the work of adaptation that there was this harassing litigation and consequent disappointment on the part of the Government. They blamed the Punjab High Court for coming to a wrong decision. As a matter of fact, the whole trouble was due to a failure to adapt the law. I ask you, Sir, is not the work of adaptation important and urgent? If you do not adapt the laws at once numerous complications will arise. Adaptation is therefore very urgent, it cannot brook any delay. There are still eight months left. Why not the Law Department do it within this time? The Law Department says: "We have no time to do the adaptations. Let the people suffer. Let the law remain inconsistent with the Constitution. Let millions come to courts and let there be millions of suits and prosecutions and let some of them come to the Supreme Court, and let the Supreme Court tell them what the law is". All this for your failure to adapt! I refuse to agree to give the Law Department another year's time. Let them do it at once or let them refuse to do it. The hon. Law Minister once declared, "How can I undertake adaptation? I have simply no time for it." Well, then it is better for the Law Department to abdicate. May I draw his attention to the Government of India Act, 1935, in which there was a similar adaptation section and to the fact that the Adaptation Order under that Act was passed by the King under that section. That order came into effect on the first day of April, 1937, the date on which that Constitution came into effect, and it was final and complete and there was no clamour for time to think and wait. I think the Law Department should wake up from their sleep and adapt the law, or refuse to do it. Why should the people be kept hanging without any adaptations? I claim the Law Minister's personal attention to these matters of enormous importance. If there are difficulties in the way of Governmental work let them take the help of experts, Pandit Bhargava and I would be willing to give our help.

But if you do not adapt the laws effectively, you must not blame lawyers for going to court and taking advantage of these deficiencies in the law. I think we should reduce litigation by undertaking adaptation at once. I think the urgency of this problem does not require to be stated any further.

Shri Shiv Charan Lal (Uttar Pradesh): While supporting clause 12, I have to make just a few submissions. It is certain there are many laws to be changed, many laws to be adapted; but these have not been brought up-to-date. I know that there is so much work for the Ministry of Law that it is not easy to tackle all the necessary legislation work. But in the matter of bringing our laws in conformity with the present position, or with the present Constitution it is very necessary that our Law Ministry should move more quickly and bring the laws up-to-date.

I may just refer to one or two instances. Under the Constitution, Parliament has to give certain inherent powers to the Supreme Court, but so far no Bill has been brought forward to give the inherent powers to the Supreme Court. The High Courts have those powers under section 561A of the Cr. P.C., but no such section has been put in the Cr. P. C. by Parliament so far in order to give those inherent powers to the Supreme Court. Sometimes in some cases the Supreme Court may find it difficult to exercise its powers and justice may be denied to the people.

In the same way there are other Acts to be amended, for example the Copyright Act. We have been a free country for nearly two years now, but we are still being governed by the Copyright Act of the U.K. There might be certain changes necessary to bring it in conformity with our present needs and with our present conditions. There may be many similar Acts relating to the various Departments of Government, which have to be brought in conformity with the Constitution. I, therefore, request Government that they should devote more time and more attention to bring these in conformity with the present position.

पंडित ठाकुर दास भार्गव : मैं इस क्लॉज (clause) की तारीफ करता हुआ अदब से दो तीन बातें अर्ज करना चाहता हूँ। अभी हम जो कानून पास कर रहे हैं इस का क्लॉज २ हम पास कर चुके हैं जिस

[पंडित ठाकुर दास भार्गव]

में दर्ज है कि पहिले जितने कवानीन थे, वह सब के सब उसी हद तक जिन्दा रहेंगे जिस हद तक कि यह नया अमेंडमेंट (amendment) जो हमने पास किया है, उस के साथ कांसिस्टेंट (consistent) है। इस बात के लिये यह निहायत जरूरी है कि सारे देश में पता लगे कि दर असल हम ने इस कानून को रिट्रोस्पेक्टिव इफेक्ट (retrospective effect) इस हद तक दिया है कि जो कानून इस प्राविजन (Provision) के मुताबिक नहीं हैं वह रद्द हो चुके हैं। हाउस (House) के अन्दर भी कई मेम्बरान (Members) ने इस पर एतराज किया कि सैडीशन ला (Sedition Law) मसलन् १२४-ए और १५३-ए या दूसरे चन्द ऐसे कानून जिन को सारा देश नहीं चाहता है वह इस के जरिये रिवाइव (revive) हो जायेंगे, यह बिल्कुल गलत बात है। लेकिन गलती कैसे मालूम होगी, यह कैसे पता लगे कि वह रिवाइव (revive) हुए या नहीं हुए। इस के दो तरीके हैं, या तो मुकदमे में किसी को सजा हो और वह सुप्रीम कोर्ट या हाई कोर्ट (Supreme Court or High Court) तक जाय और सुप्रीम कोर्ट या हाई कोर्ट वाले तय करें कि यह कानून गलत है जैसा कि मास्टर तारा सिंह के केस में हुआ, इस के जानने की या तो यह तरकीब है या फिर यहां से बैठे हुए डाक्टर अम्बेडकर साहब ३७२ दफा से हम को यह बतला दें कि अब यह कानून बिल्कुल गलत हो गया है। इस में फायदा यह है कि अगर कभी छै महीने में वह चीज सामने आ जाये कि ऐडेप्टेशन बिल (adaptation Bill) की दफा २ की जो मंशा है अगर वह पूरी हो जाय तो देश में कह सकते हैं कि दरअसल यह बिल जैसा कि

गलत तौर पर ख्याल किया गया था कि यह लोगों की आजादी छीनने वाला है, बल्कि उल्टे यह उस को बढ़ाने वाला है ताकि लोगों को यह बतलाया जा सके कि इस तरह १२४-ए (124-A) और १५३-ए (153-A) और दूसरे बहुत से कानून इस की ज़द में आ जायेंगे जैसे कि पहले ज़द में आ चुके हैं। आज इन का ज़द में आना लोगों को पता नहीं है और इस वास्ते लोगों का ख्याल है कि इस कानून के जरिये वह सारे काले कानून जिन को कि लोग पसन्द नहीं करते हैं वह सब के सब जिन्दा कर दिये गये हैं। मेरी अदब से गुज़ारिश है कि दफा ३७२ में पार्लियामेंट (Parliament) ने जो अख्तियार प्रेसीडेंट (President) साहब को दिया है उस को ऐडेप्ट कर के लोगों को मुकदमे बाजी से बचाना चाहिये और यह जरूरी नहीं है कि उस के वास्ते जा कर सुप्रीम कोर्ट में फैसला करायें। मैं मिसाल के तौर पर अर्ज करता हूं कि कितना फायदा अब तक हम को दफा ३७२ का हो चुका है। जनावआला को मालूम है कि पंजाब में एक ऐक्ट (act) जिस का कि नाम पंजाब लैंड ऐलिनेशन ऐक्ट (Punjab Land Alienation Act) था वह सन् १९०० में जारी था उस के बारे में बहुत से जो नान-एग्रीकल्चरिस्ट्स (non-agriculturists) थे वह पहिली गवर्नमेंट (Government) के बरखिलाफ़ बड़ा सख्त एजीटेशन (agitation) किया करते थे कि उस के मातहत जो एक खास जात या विरादरी का आदमी होता था उस को अख्तियार होता था कि वह ज़मीन खरीद सके और दूसरा कोई नहीं खरीद सकता था। चुनावे उस को हटाने के वास्ते सन् २६-२८ में जब मैं हाउस

(House) में आया यह सवाल उठाया और दिल्ली के अछूतों के वास्ते द्वारा जब मैं यहां सन् ४६-४७ में आया यह सवाल उठाया और आहिस्ता आहिस्ता उस को दुरुस्त करने की कोशिश की, लेकिन अभी प्रेसीडेंट साहब ने, डाक्टर अम्बेडकर साहब की मेहरबानी में मुझे कहना चाहिये, क्योंकि लाँ मिनिस्टर (Law Minister) वही हैं, इस पंजाब लैंड ऐलिनेशन ऐक्ट को यक्कलम से ऐडप्ट (adapt) कर के हटा दिया। सारे पंजाब में उस का असर हुआ, लोगों ने समझा कि नये कांस्टीट्यूशन (Constitution) में हमारे हकूक बढ़ते हैं और हम में से वह तमीजें जो बर्थ (Birth) की बिना पर थीं, हटा दी गई हैं। मैं कहना चाहता हूँ कि बहुत जल्द १२४-ए और १५३-ए, पंजाब का सेफ्टी ऐक्ट (Safety Act) है और ऐसे ही प्रेस इमरजेंसी ऐक्ट (Press Emergency Act) में जो दफात हैं उन दफात के बारे में अगर ऐडप्टेशन हो जाये तो लोगों के अन्दर जो एक डर है वह निकल जाये और लोग इस गवर्नमेंट को मुबारकबाद भेजें कि दरअसल आप ने जो काम किया है, वह कांस्टीट्यूशन बना कर जो हमारे देश में खराब कानून हैं वह हटा दिये हैं। अभी गवर्नमेंट ने प्रेस वालों को यह वायदा दिया है कि वह उन के लिये एक कॉम्प्री-हेन्सिव प्रेस लेजिस्लेशन (Comprehensive Press Legislation) लाना चाहती है, तो उस के वास्ते यह जरूरी होगा कि जितने ऐसे प्राविजनस् (Provisions) हैं जो इस दफा के मुताबिक कांसिस्टेंट (consistent) नहीं हैं, वह खतम हो जायें : लेकिन प्रेस वालों के साथ हमारे प्राइम मिनिस्टर (Hon. Prime Minister) और होम मिनिस्टर साहब (Hon. Home Minister) ने जो वायदा किया वह सब ठीक

है, लेकिन बाकी लोग इस देश के जो ३५ करोड़ आदमी हैं वह भी तो कुछ आप से उम्मीद रखते हैं। प्रेस वालों के साथ आप जरूर रियायत करें, उस में भी हम इंटरस्टेड (interested) हैं, लेकिन यह जो ३५ करोड़ की आबादी इस देश में बसती है, वह बड़ी उम्मीद लगाये है कि हमारे प्रेसीडेंट साहब इस को जरूर जल्द से जल्द ऐडप्ट करें। मैं ने एक तरमीम का नोटिस (notice) भी दिया था जो लिस्ट नं० ३ (List No. 3) में ४१ नम्बर (No. 41) के अन्दर छपा हुआ है जिस में मैं ने अर्ज किया था कि :

"Provided that all existing laws enacted by the legislature of the States in regard to matters referred to in sub-clause (2) shall be adapted and made consistent with the provisions of the amended clause within a period of six months from the passing of this Act by the President....."

मैं ने उस को मूव (move) नहीं किया लेकिन मैं अदब से अज्र करना चाहता हूँ और मैं बड़े जोर से हाउस (House) से उम्मीद करता हूँ कि जितनी जल्द मुमकिन हो सके, वह उस को ऐडप्ट करे। मैं जानता हूँ कि ऐडप्टेशन आसान काम नहीं है, यह सारे जो हम और लेजिस्लेचर्स (Legislatures) कानून बनाते हैं, उन के बारे में हम इन सब की बजाय सिर्फ ला मिनिस्ट्री (Law Ministry) को कानून दुरुस्त करने की जिम्मेदार करार देते हैं। और ला मेकिंग (law-making) का काम निहायत मुश्किल काम है। मैं चाहता हूँ कि जहां तक इस बिल का ताल्लुक है, इस का छै महीने के अन्दर ऐडप्टेशन हो जाना चाहिये और बाकी कानून भी जितनी जल्दी ऐडप्ट हो जायें उतना अच्छा है—जब तक हम यह नहीं करते; हम अपना पूरा फर्ज पब्लिक (Public)

[पंडित ठाकुर दास भार्गव]

की तरफ पूरा नहीं करते। दफा ३७२ की मियाद को बढ़ाने चले हैं, दो से तीन साल तक। हमें ऐश्योरेंस (assurance) मिलना चाहिये कि जल्द से जल्द वह इन कानून को एंडेंट कर लेंगे और इस देश का भला करेंगे।

(English translation of the above speech)

Pandit Thakur Das Bhargava (Punjab): While supporting this clause I beg to submit one or two things. We have already passed the clause 2 of this Bill and it lays down that all the previous laws will remain in force to the extent they are consistent with the new amendment which we have passed. It is essential in this connection that the whole country should know that in fact, we have given retrospective effect to this law to such an extent that all the past Acts which are not consistent with this provision would be superseded by it. Even in this House many a member objected that the Sedition Laws such as 124A and 153A and a few other similar laws which are not liked by the whole country would be revived as a result of this amendment being accepted; I say this contention is totally wrong. But the question is how can a person know about the mistake, how can it be found whether they have been revived or not. There are only two methods by which we can know about this development: one of them is that a person, who is involved in a case and is sentenced by a lower court, approaches the Supreme Court or the High Court and they declare that a particular law has become null and void, as was done in the case of Master Tara Singh. You can know about it either by this method or the other method is that hon. Dr. Ambedkar while sitting here should tell us that according to the section 372 such and such a law has been superseded. Its advantage would be that if in a six months' period the adaptation of this Bill takes place and the purpose of the section 2 is fully materialized, then the people in the country could be told that in fact this Bill, about which we had wrongly calculated that it would take away the freedom of the people, would on the other hand increase the scope of freedom. It can be conveyed to the people that sections 124A and 153A would come under its purview in the same manner as others have come before. People are not aware of their being in purview of this law, and so

they think that all those laws, which were not at all liked by them, have been revived by this Bill. My submission is that the people should be saved from litigation by adapting the special powers which the Parliament has given to the President under section 372, and it is not at all necessary that the matters should be got decided in the Supreme Court. For instance, I would like to refer to the advantages that we have derived from section 372 so far. Sir, you know that there was an Act in the Punjab known as the Punjab Land Alienation Act. It was in force right from the year 1900. Most of the non-agriculturist population used to agitate against it saying that it authorized persons of particular communities or castes to purchase lands while at the same time it debarred others from doing so, with the result that in the year 1926-28 when I came to this House I raised this question and in the year 1946-47 when I came here again I raised this question once again for the untouchables of Delhi; and in this way tried to get it rectified by and by. But now our President has with the kindness of hon. Dr. Ambedkar, who is our Minister of Law, repealed that Act all at once. It affected the whole of Punjab and people thought that our rights have increased under the new Constitution and all the discrimination based on birth has been removed. I would like to say if sections 124A and 153A, the Punjab Safety Act and some sections of the Press Emergency Act are removed soon, the result would be that a kind of fear which is existing in the minds of people would vanish and they would congratulate you saying that the work of Constitution-making, which has been carried out by you, has in fact removed all the black laws from this country. The Government have given an assurance to the Press that they want to bring forth a comprehensive press legislation for them, and for this too it is necessary that all the provisions, which would not be consistent with this section, should become ineffective. The assurances that have been given to Press by our hon. Prime Minister and hon. Minister of Home Affairs are all right, but 35 crores of people of this land too have some hopes from you. No doubt, you should give concessions to the Press, we too are interested in it, but the 35 crores of people of this country too have high hopes that our President will adapt it as soon as possible. I have given notice of an amendment which is mentioned under item No. 41 in List No. 3, in which I have requested that

"Provided that all existing laws enacted by the legislature of the States in regard to matters referred to in sub-clause (2) shall be adapted and made consistent with the provisions of the amended clause within a period of six months from the passing of this Act by the President....."

I did not move it. But I beg to submit, and earnestly hope from the House, that it should be adapted as soon as possible. I know the work of adaptation is not an easy one. Whatever laws we and the legislatures make, we hold only Ministry of Law responsible for their adaptation; and there is no doubt in it that law-making is a very tedious job. I want that so far as this Bill is concerned, the work of its adaptation should take place within six months and also the sooner the other laws are adapted the better would it be. Up till the time we do not do so we do not fulfil our duty which we owe towards the public. You are going to extend the period of section 372 from two to three years. We should have this assurance that this law would be adapted as soon as possible for the good of the country.

Sardar Hukam Singh (Punjab): I consider the whole trouble has arisen because the Government slept enough and did not move as was required of them under article 372. It was anticipated that certain Acts would come in conflict with the spirit of the Constitution and everybody knew that some adaptation shall have to be made. Because that adaptation was not made all the difficulties arose. To conceal that default on their own part the Government has thrown the whole blame on the judiciary "that they have come to certain decisions which have created difficulties and we cannot move forward". Be it the case of Master Tara Singh under sections 124A and 153A of the Indian Penal Code which were declared *ultra vires*, or be it Shaila Bala's case of *Sangram* under section 4 of the Press (Emergency Powers) Act, and in all other cases as well, the judiciary have only held that the laws as they stood were wide enough to cover any cases of offences which could not be according to the spirit of the Constitution. These laws were so wide that they covered certain things which were allowed and permitted by the Constitution. Their scope was much larger and could include other minor offences as well which were not intended to be punished according to the spirit of the Constitution. So the whole trouble was that the modification was not made, that adaptation

was not resorted to, and the time was allowed to pass. Therefore, naturally those laws came into conflict with the Constitution. Instead of changing or adapting those laws according to the spirit of the Constitution as was intended, we are hastening towards this amendment of the Constitution and we are seeking that another year should be given.

I do not agree with Pandit Thakur Das Bhargava when he says that section 124A and others would not be revived. They would be revived. They are laws conceived for the security of the State and as other laws, like the Press (Emergency Powers) Act, they would also be revived. It is a different thing that we have put the word "reasonable" and the courts shall have to decide whether the limitations imposed in these laws are reasonable restrictions or not. But with the passing of this amending Bill we are restoring all those laws. The courts shall have to decide, there will be litigation, and unless the Government proceeds to adapt these laws and to modify them according to the present amendment, the same difficulties would arise. Therefore I am not in favour.....

पंडित ठाकुर दास भार्गव : अगर गवर्नमेंट (Government) किसी लेजिस्लेशन (Legislation) को रीजनेबल (reasonable) नहीं समझती है तो क्या उस का ऐडप्टेशन (adaptation) या माडिफिकेशन (modification) नहीं हो सकता है ?

[Pandit Thakur Das Bhargava: If the Government do not consider any legislation reasonable can it not be adapted or modified?

सरदार हुकम सिंह : गवर्नमेंट जब करेगी तभी तो होगा। यही तो मेरी शिकायत है। पहिले तो वह रिवाइव (revive) हो जायेंगे तब गवर्नमेंट उस के बाद कुछ करेगी। दो साल तक वह सोई रही, और अब भी वह सोई रहे तो कैसे काम चलेगा। गवर्नमेंट उन को रिवाइव करेगी इसी लिये तो मैं अपोज (oppose) कर रहा हूँ।

[Sardar Hukam Singh]

I am opposing on that ground. Unless the Government moves in the matter they will all be revived. The Government has not done that and has thrown all the blame on the judiciary. I am bitterly opposed to this extension of time by another year and I would ask the Government to move in the spirit as was intended in the Constitution to adapt these laws and to see how they can fit in with the amended provisions of the Constitution. That is the remedy and not this one extending the time for modification.

(English translation of the above)

Sardar Hukam Singh: It can be done only when the Government take any step. This is my grievance also. First of all these will be revived, after that the Government will take some steps in this matter. For two years the Government did nothing in this matter and even now if they keep mum how this matter will be dealt with. The Government will revive them, that is why I oppose this measure.

I am opposing on that ground. Unless the Government moves in the matter they will all be revived. The Government has not done that and has thrown all the blame on the judiciary. I am bitterly opposed to this extension of time by another year and I would ask the Government to move in the spirit as was intended in the Constitution to adapt these laws and to see how they can fit in with the amended provisions of the Constitution. That is the remedy and not this one extending the time for modification.

Shri Kamath: I disagree with my friend Sardar Hukam Singh that Government has gone to sleep. I do not think it is so fast asleep as he imagines it to be. I do hope that the discussion of this particular clause, clause 12, will have at least one salutary effect today, and that is, I hope it will bring the Law Minister to his feet and that we will have the pleasure of listening to his stentorian voice which has not been heard so far today in the Parliament Chamber. He has been silent and I hope he will reply to this clause at least.

I would only request him to throw light on one or two points—that is all—and give us some information if that be in his possession today. Articles 372 and 392 confer certain powers upon the President to adapt and modify either orders or laws in force. Article 392 is safeguarded by a proviso and that is that the President shall

have no power to modify or adapt any order or law with a view to removing defects. "after the first meeting of Parliament duly constituted under Chapter II of Part V". Here, though there is no such proviso or no such safeguard, Parliament or the competent Legislature has been empowered to repeal or amend any law which is modified or adapted by the President. So I suppose in effect there will not be any real harm or disadvantage if the power conferred upon the President by article 372 remains. But what the House would desire to know today is how far this process of adaptation and modification has proceeded, how many laws, major or minor or both, have been modified by the President so far and how many are still outstanding, especially major laws, and what have been the reasons for not getting these laws examined to see if any modification or adaptation is necessary.

My hon. friends who preceded me have referred to the need for appointing a Committee of the House, if necessary, to examine this particular matter. If the Law Minister and his Ministry and his advisers are busy otherwise, I think it will be desirable for the House to appoint a Committee to examine this whole matter and finish this matter once for all as soon as possible. Let us not drag it on indefinitely as there is a tendency to drag on certain other matters. This matter can be settled easily. There are very competent and renowned lawyers in the House including yourself and other friends. There are barristers and lawyers and advocates of the Supreme Court who are vitally interested in this matter, and they will lend a helping hand very willingly and readily to the Law Minister. The will is perhaps lacking on the part of the Law Minister to take their help in this matter. He was talking of "bee in the bonnet" yesterday. I do not know how many of them are buzzing in the House or outside or in his own Ministry. But I do hope that he will take a very liberal and very reasonable view of this matter and not decline the help that will be forthcoming from eminent lawyers in the House on this subject.

Article 392 provides that every order made by the President under clause (1) of the article shall be laid before Parliament. I do not know—I speak with trepidation on this point—I do not know whether, in spite of the fact that article 372 has no such provision that the President shall lay, whether the copy of the order shall be laid before Parliament, and whether

the practice has been that every such order is laid on the table of the House. If that is being done, then of course this point has no force. But if that is not being done, I would request the Law Minister to apply his mind to this matter and see that every law modified or adapted by the President under article 372 is brought before the House. I know it is published in the Gazette, but every one of us is not so vitally interested in every page of the Gazette, and so some things escape our notice. It will be helpful to all Members—I am not speaking for myself in this matter—I am sure all will agree in this matter that every law modified or adapted by the President must come before the House. Even now it is not too late, if not by amendment of the Constitution at this stage but at least bearing it in mind and issuing an order or otherwise, to see that every law modified or adapted under article 372 is brought before the House and a copy thereof is laid on the Table of the House so that the provision of the other clause in the Constitution, that is clause (2), in regard to the power vested in the Legislature to amend or to repeal that law modified or adapted by the President may take effect. Otherwise, if the Legislature is ignorant of the matter, it may not proceed in the matter at all. Therefore, it is very necessary that this also should be borne in mind and all such laws modified or adapted brought before the House. Further, I shall be grateful if the hon. Law Minister can throw some light as to how many laws have been modified so far and how many laws still remain to be modified, whether most of them have been modified or the majority of them are still outstanding.

Shrimati Durgabai (Madras): While supporting the amendment, which only seeks to extend the term from two to three years, that is, another year, I would like to make a few submissions. I too have got a complaint that the Law Ministry has not moved quickly enough to bring all laws into the spirit of the Constitution. Article 13 says:

"All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void."

So we all reasonably expected after the Constitution was adopted and the Fundamental Rights were guaranteed

in this Constitution, that those laws which are now in force would be adapted, modified or amended, so as to be brought within the spirit and letter of the Constitution. But the Law Ministry has not moved so quickly as to do that. Sometime ago a Law Revision Commission was also suggested on the floor of this House, but Dr. Ambedkar was not pleased to accept it. The object of that suggestion was to see that such laws, which are inconsistent with the spirit of the Constitution be brought within the spirit of the Constitution. He has not adopted that suggestion and the Law Ministry has not moved quickly so as to do this work, which he assured the House then would be taken up, with the result that the laws which are now in force are so inconsistent. For instance, I would mention for the benefit of the House the laws relating to inheritance and succession which create inequalities between the share of a daughter and a son. Such laws are still in force. How does Dr. Ambedkar justify that these laws are consistent with the spirit of the Constitution? I do not want to be pessimistic about these matters just as other hon. Members are but another year which we are giving by this amendment will be wasted and not fruitfully utilised in bringing all such laws within the spirit of the Constitution. I only hope that care will be taken to see that the laws now in force which are absolutely inconsistent are brought within the spirit of the Constitution.

चौधरी रनबीर सिंह : मैं ने इस क्लॉज (clause) के ओमिट (omit) किये जाने का संशोधन दिया था जो कि मैं ने इस सभा के सामने पेश नहीं किया। उस संशोधन को देने का जो मेरा आशय था वह यह कि सरकार न दो साल के अन्दर एक कानून रिपील (repeal) किया और वह ऐसा कानून था जिसे मेरे ह्याल में रिपील नहीं किया जाना चाहिये था। मैं इस बारे में पंडित ठाकुर दास जी भागवत से सहमत नहीं कि लोग इस का रिपील किया जाना अच्छा समझेंगे। मैं नहीं समझता कि जिन लोगों के बारे में उन्होंने कहा उन की तारीफ़ क्या है। अगर उन की जनता की तारीफ़ पंजाब के पच्चीस फी सदी लोगों से है जो शहरों में रहते हैं तो ठीक है फिर तो जनता

[चौधरी रनबीर सिंह]

भी चाहती हैं, पंजाब के आदमी भी चाहते हैं। लेकिन हमारे पंजाब के ७५ फी सदी आदमी देहात के अन्दर रहते हैं, और उन की बहुत बड़ी तादाद काश्तकार और पेजेन्ट्स (peasants) हैं। आज पंजाब की आबादी का पचपन या साठ फी सदी तबका पेजेन्ट्री (peasantry) का है। यही नहीं जिस समय यह कानून रिपील किया गया था उस वक्त पंजाब के हरिजनों को भी और हर एक पिछड़े हुए भाई को भी ऐग्रिकल्चरल क्लासेस (Agricultural classes) में शामिल कर लिया गया था। मैं नहीं समझता कि इस तबके के लोग इस को ठीक समझेंगे। मैं तो कहता हूँ कि जिस समय इस कानून को रिपील किया गया था उस समय भगवान की बड़ी दया थी कि वक्त कुछ अच्छा था। वरना बहुत बड़ी खराबी हमारे बीच में पैदा हो जाती। वह वक्त ऐसा था जिस वक्त लोगों की एकतासादी हालत थोड़ी बहुत अच्छी थी, और उन की जमीनें दूसरे लोगों के पास नहीं जा सकती थीं।

उपाध्यक्ष महोदय, मैं आप की उत्सुकता को समझता हूँ और इस में और मैं ज्यादा नहीं जाऊंगा। मेरा जो मंशा है वह यह कि यह जो रिपील करने की बात लाई गई वह ठीक तरह पर इस्तेमाल नहीं हुई। इस के अन्दर अगर कोई बात ऐसी खराब थी जिस को कि माननीय मंत्री महोदय ठीक नहीं समझते थे तो वह माडीफाई (modify) की जा सकती थी। यही ही नहीं, मैं तो मानता हूँ कि आज जो बिल (Bill) हम पास करेंगे उस बिल के तहत मैं कुछ ऐसे कानून हैं जिन की तरह का कानून हमारे मंत्री महोदय ने रिपील किया है। बंबई के अन्दर तो उसे पास किया जा रहा है। वहां जो कानून बना है उस के अन्दर यह दर्ज

है कि काश्तकार अपनी जमीन सिर्फ काश्तकारों को ही बेच सकेगा। मैं पूछता हूँ कि लैंड ऐलियेशन एक्ट (Land Alienation Act) में क्या था ?

पंडित ठाकुर दास भार्गव : काश्तकार का सवाल नहीं था, उन की खास जातों का सवाल था।

चौधरी रनबीर सिंह : मैं अपने लायक दोस्त से कहना चाहता हूँ कि हिन्दुस्तान के अन्दर जैसी हालत है इस बात से कोई इन्कार नहीं कर सकता कि आज खास किस्म की जाति के आदमी वह कोई खास पेशा अस्तियार करते हैं, क्या यह सच नहीं है कि हिन्दुस्तान के अन्दर जितने महाजन लोग हैं, वह आम तौर पर सब व्यापारी हैं और दूसरे कुछ जातियों के लोग काश्तकार हैं। आज हम इस बिल के अन्दर मान रहे हैं कि जो पिछड़े लोग हैं उन के संरक्षण के लिये कायदे और कानून बनाये जा सकते हैं। इस के लिये भेदभाव रखा जायेगा, उस को इस के तहत जिन्दा रखने की इजाजत दी जा सकती थी, लेकिन जिस तरह से वह इस को मानते हैं अगर उस को भी ठीक मान लें तो भी मैं समझता हूँ इस को रिपील करने की आवश्यकता नहीं थी। इस को माडीफाई करने की आवश्यकता थी। मैं ने हाउस (House) का जो समय लिया वह केवल इस लिये कि माडीफाई (modify) या रिपील करने की जो ताकत है वह बहुत बड़ी ताकत है। इतनी बड़ी ताकत को बहुत ज्यादा दिन तक देना ठीक नहीं है। यह ताकत या तो किसी लेजिस्लेचर (Legislature) के हाथ में होनी चाहिये या अदालतों के हाथ में होनी चाहिये। छः महीने के अन्दर सारे हिन्दुस्तान में नई असेम्बलियां (Assemblies) आयेंगी, नई पार्लियामेंट (Parliament)

चाहेगी, तो यह उन्हीं के ऊपर छोड़ देना चाहिये और यह मियाद बढ़ानी नहीं चाहिये थी। जैसा मैं ने कहा कि आम तौर पर डिमाक्रेसी (Democracy) के अन्दर माना जाता है कि एक राजा कितना ही अच्छा क्यों न हो, उस की स्वाहिश कितनी ही अच्छी क्यों न हो, लेकिन वह गलती कर सकता है, और इसलिये डिमाक्रेसी भागे बढ़ाई जाती है ताकि ज्यादा आदमी होंगे तो वह ज्यादा सोच विचार कर चलेंगे और उन से कम से कम गलती की तबक्को की जा सकती है। इसीलिये मैं ने जैसे पहले कहा जिस कानून को रिपील किया गया उस से मैं समझता हूँ ~~यि~~ लोगों के साथ न्याय नहीं किया गया न ही कांस्टीट्यूशन (Constitution) के मुताबिक चला गया।

Mr. Deputy-Speaker: This does not prevent the Provincial Legislature from adapting or modifying. It only enables the President to do so.

Dr. Deshmukh: He refers to the consequences of giving and extending those powers.

Mr. Deputy-Speaker: It does not stand in the way of the Provincial Legislatures making another law. They can do so.

चौधरी रनबीर सिंह : मैं जो निवेदन कर रहा था उस में या तो मैं अपने आप को ठीक तरह से एक्सप्रेस (express) नहीं कर सका या आप उस को समझ नहीं सके। मैं ने कहा कि इस तरह से वैकुअम (Vacuum) पैदा हो जाता है। उस का क्या बने। यह तो हमारी खुशकिस्मती थी कि उस समय हमारी हालत अच्छी थी बरना पंजाब की क्या हालत होती। पंजाब की सारी जमीन उन लोगों के हाथ में चली जाती जिन से जमीन का कोई ताल्लुक नहीं था।

Mr. Deputy-Speaker: There is no vacuum in that.

193 PSD

चौधरी रनबीर सिंह : जो समय पांच महीने कायदा कानून बनाने के लिये लगता है तो विधान लाया जाय तो उस के बीच के समय के लिये क्या होना चाहिये। मैं आप से अर्ज करना चाहता हूँ कि उत्तर प्रदेश में जो जमींदारी ऐबोलिशन ऐक्ट (Zamindari Abolition Act) बना तब से और जब जायज करार दिया गया उस बीच में उन आदमियों ने जो नई जमीन चलाना चाहते हैं यू० पी० के बड़े बड़े जमींदारों को लाखों रुपया दिया। इसलिये मैं कहता हूँ कि इस वैकुअम से काफी गड़बड़ी बढ़ सकती है और मैं समझता हूँ कि आप भी मेरे इस ख्याल के विरुद्ध नहीं होंगे।

(English translation of the above speech)

Ch. Ranbir Singh (Punjab): I had submitted an amendment for the omission of this clause, which I did not move in this House. My purpose in submitting that amendment was that the Government have repealed an Act in two years' time, which in my opinion should not have been repealed. In this matter I do not agree with Pandit Thakur Das Bhargava when he says that the people will welcome its being repealed. I do not know who are these people about whom he has stated that they would welcome this move. If he means thereby the twenty-five per cent. of the people residing in the cities of Punjab, then it is all right and the masses of Punjab also want it to be so. But 75 per cent. people in Punjab live in the villages and most of them are peasants. Fifty-five to sixty per cent. of the present population of the Punjab consists of peasantry. Moreover, when this Act was repealed the Harijans and the backward classes of the Punjab were included in the agricultural classes. I am not sure whether the agricultural classes will approve of this measure. Fortunately the Act was repealed at a time, when considering the economic condition, the times were not so bad, otherwise a great trouble might have arisen. At that time the economic condition of the peasants was fairly good and their lands could not be taken possession of by the non-agriculturists.

[Ch. Ranbir Singh]

I will not discuss it at length. What I mean to say is that the way this law is intended to be repealed is not proper. Had there been any such thing in this law which the hon. Minister did not consider proper, that could have been modified. Moreover, I know, that the Bill which we are going to pass today contains such provision as the hon. Minister has already repealed. In Bombay that law is being passed. It has been laid down in the law which has been enacted there that the agriculturists can transfer their lands to agriculturists only. I want to know what was there in the Land Alienation Act?

Pandit Thakur Das Bhargava: That Act mentioned only some particular castes of the agriculturists and not them as a whole.

Ch. Ranbir Singh: I want to tell my hon. friend that considering the social structure of India, no one can deny the fact that the people of a particular caste take to a particular profession. Is it not a fact that the *Mahajans* in India are generally businessmen and the people of some particular castes are agriculturists? Today we are making provision in this Bill that the legislation can be enacted for the protection of the interests of the backward classes. For this purpose discrimination will be made, and the same could have been allowed under this Bill. But as he accepts this Bill, if he accepts that too, even then I think there was no necessity to repeal it, it should have only been modified. I have taken the time of the House only to explain that the power to modify or repeal is a very vast power. It is not proper to delegate such a vast power to be exercised for a very long period. This power should be vested either in any legislature or in the Courts. In the period of next six months, new State Assemblies and the new Parliament will be elected. This matter should have been left for them and this period should not have been extended. As I have already stated that in a democratic set-up, it is generally believed that howsoever efficient a king may be and however well disposed his intention, yet he is prone to commit mistakes and that explains why Democracy is preferred to any other form of Government, because with the increase of number of persons more and more thought is likely to be given to any matter. This is why I have already stated that by repealing the Act neither justice has been done to the people nor have we acted in accordance with our Constitution.

Mr. Deputy-Speaker: This does not prevent the Provincial Legislature from adapting or modifying. It only enables the President to do so.

Dr. Deshmukh: He refers to the consequences of giving and extending those powers.

Mr. Deputy-Speaker: It does not stand in the way of the Provincial Legislatures making another law. They can do so.

Ch. Ranbir Singh: Sir, either I could not express myself correctly or you could not understand what I was submitting. I stated that in this way a vacuum is created. Fortunately the people of Punjab were economically well off, otherwise if conditions were not so, no one knows what would have happened there. All the land in Punjab would have been transferred to those who had nothing to do with agriculture.

Mr. Deputy-Speaker: There is no vacuum in that.

Ch. Ranbir Singh: Since enacting law will take five or six months, some provision should be made for the intervening period. I want to submit that those people in Uttar Pradesh who wanted to purchase land during the period when the Zamindari Abolition Act was passed and when it was declared valid, paid very large amounts to the big land lords. I, therefore, say that because of this vacuum much confusion is likely to prevail and I think that you are also not opposed to my view.

The Minister of Law (Dr. Ambedkar): On listening to the debate, I believe the House desires that the powers of adaptation vested in the President should continue and that it is a very useful instrument which has been forged by the Constitution for the purpose of bringing the laws already passed into conformity with the provisions of the Constitution. On that, I do not see any kind of difference of opinion. The only question that has been raised is this: why is it that the President has not been able to make modifications in the laws that appear to be inconsistent with the provisions of the Constitution during the period that has elapsed between now and the passing of the Constitution and why is it that further time is necessary. That seems to be the only point which requires clarification.

It has been stated that the Law Department has been very lax. Some friends have said that it has gone to sleep.

बाबू रामनारायण सिंह : ठीक है ।

[Babu Ramnarayan Singh (Bihar): That is right.]

Shri Hussain Imam (Bihar): Dozing.

Dr. Ambedkar: I do not know whether such statements are mere matters of imagination or whether there is any substance behind them—I think all hon. Members will agree that the Law Department is the smallest Department in the Government of India.

Babu Ramnarayan Singh: Why?

Shri T. Husain (Bihar): There is the Department of Parliamentary Affairs.

Dr. Ambedkar: The Department of Parliamentary Affairs has nothing to do with the Law Ministry; it is quite separate from it.

I should like to say that in the Law Ministry there are only three draftsmen. I have pressed on the Finance Ministry the necessity of increasing the number of draftsmen; but I have failed.

Shri Kamath: A Deputy Minister?

Dr. Ambedkar: A Deputy Minister cannot do anything in this matter, because no Minister can do drafting.

The House also will remember the amount of legislation that is being put forth before it ever since the Constitution came into existence. I believe, I am speaking from memory, that in each session there are something like 30 or 40 Bills which are presented. Some of them are carried through and some of them are left over. Out of those that are left over, some are converted into Ordinances and the House again sits to convert the Ordinances into laws. Now, it might well be imagined whether it is possible for three draftsmen to draft 40 or 50 Bills for each session, and yet have spare time for doing something else. That is a point which I think the House should consider in judging the work.

Shri P. Y. Deshpande (Madhya Pradesh): Who is responsible for there being only three?

Shrimati Durgabai: May I ask a question? Is it only a question of drafting or changing the substance of the laws?

Dr. Ambedkar: I am coming to that; please do not be in a hurry.

Therefore, the normal work of the Law Ministry is so heavy and it is very difficult to cope with it. The adaptation work is something abnormal and something that is new that has been thrown upon the Law Ministry. There has been no expansion of the staff to cope with this new work. That is one point which I think the House

will remember when criticising the Law Ministry for not completing the work of adaptation.

The work of adaptation obviously falls into two categories. There are adaptations which are merely of a formal character. For instance, in the existing laws, the expression used is 'Provincial Government'. Today, the expression that is used for the corresponding purpose is "State Government". These are formal amendments. These amendments have already been carried out and I do not think any part of that work remains. But, the other part of the adaptation work, namely, making substantial modifications in the existing laws in order to bring them into conformity with the provisions of the Constitution is a totally different business from the formal kind of adaptation to which I have referred.

Now, let us consider how it is possible to proceed methodically with regard to making modifications of a substantial character in the existing laws of the country, in order that they may be brought into conformity with the provisions of the Constitution. Obviously, there must be some officer somewhere at the Centre whose duty it would be to, what we call, note on the Acts in the various States and Acts made by the Centre, in order to ascertain for himself whether there is anything in any of the existing laws—whether they are made by the Centre or by the Provinces—which he thinks at the initial stage requires consideration from the point of view of adaptation. After that work is done, the matter may come to the Law Ministry for further examination whether there is any substance in the note made by that particular officer. There again the matter cannot end. Obviously, there must be further correspondence between the Law Ministry and the Law officers in the States in order to find out whether they agree with the view that certain of their laws are inconsistent with the provisions of the Constitution. If they agree, well and good; action may be taken. But, if they do not agree, then, obviously, the matter has to be referred to the Advocate General of the State and also the Attorney-General of the Government of India, because, in this matter, they are the final advisers of the Government and on whose advice alone the Government could act. The number of Acts in the Provinces are legion; the number of Acts made by the States are equally large. One can well imagine the amount of time which would be necessary in order to go through the process which I have detailed here before the Central Government could come to the con-

[Dr. Ambedkar]

clusion that a particular law must be declared to be null and void or must be modified in certain parts in order that it may be brought into line with the Constitution and the President may accordingly issue an Order. It is therefore not quite so easy as some people in the House seem to think. It is a very elaborate and laborious process.

After all, what is the President in this matter? The President is a law making authority. His authority is practically co-extensive with the authority of Parliament. But, in order that it may be done in an expeditious manner, we have vested the President with this particular power. I am sure that so important and so crucial a power of law-making practically could not be exercised in a hurried manner and to make some kind of a change may be absolutely inappropriate and quite unjustified. These are the reasons why it has not been possible for the Law Ministry to complete the task and why the Law Ministry thinks that perhaps one more year may be necessary. It should also be remembered in this connection that the Law Ministry has been now for the last three months practically busy with the work of elections, preparing the two Representation of the People Bills, delimitation of constituencies, considering the amendments that are coming to the Order of the President delimiting the constituencies etc. They will also be busy with making rules and all sorts of other things relating to the elections and these are matters which are now outstanding before the Law Ministry. And especially in view of the limited staff of the Law Ministry, I cannot see how any spare staff can be found or how time can be found to be devoted exclusively for the purposes of carrying out the object laid down in article 372. Therefore, further time is necessary. And that is the reason why this amendment has been moved.

With regard to the point made by my friend Ch. Ranbir Singh relating to the declaration that the Punjab Land Alienation Act is invalid and inconsistent with the provisions of the Constitution, I should like to say this. The point that he raised was that it was wrong on the part of the Government of India to have abrogated the whole of that legislation that has been operating there. Well, this matter also was considered in the Law Ministry, whether it was possible to modify some of the provisions of that Act and leave the rest intact. But I should like to tell the House that with all the goodwill in the world, so far as that Act was concerned, both the Attorney-General here and, if I remember

correctly, the law officers of the Punjab Government agreed that every one of the provisions of that Act was inconsistent with the Constitution. Therefore we had no remedy left except to declare the whole Act invalid.

Now, I have given the justifications to the House why this amendment is necessary and I hope the House will be satisfied with the explanation that I have given.

Shri Kamath: What about the suggestion to have a Committee of this House to help the Law Ministry?

Dr. Ambedkar: Yes. With regard to that, there again, as I said, a Committee of the House might help at a much later stage. But unless I am in a position to place before any Committee of this House material which has already been examined by somebody, the Committee, in my judgment, could not come to any conclusion. Preliminaries will be necessary and I myself have got an idea in my mind that it may be desirable to appoint a small Committee of some retired High Court judges to examine the matter and report to us as to what are the laws which require consideration from the point of view of article 372.

Shri Kamath: Members of the House?

Dr. Ambedkar: I thought my friend said lawyer Members. Yes, they may be co-opted. After the report is received, they may be taken into confidence and the matter may be decided.

Shrimati Durgabai: I would like to get one point cleared by the hon. Law Minister. We have been told that whenever a law is made by a State Legislature on any item in the Concurrent List, it would come to the Centre automatically for consultation, advice and all that. I would like to know when such a proposed legislation is sent to the Centre, whether the matter is left to the draftsmen to decide whether the law is inconsistent or not? What is the procedure?

Dr. Ambedkar: The lady is thoroughly confused, I am sorry to say.

Shrimati Durgabai: That does not matter. The Law Minister may clear up the confusion.

Dr. Ambedkar: Adaptation applies to existing laws. It does not apply to future laws. All the laws that come to us for such consultation are future laws. The article deals with the existing laws which were made when there was no Chapter on Fundamental Rights anywhere in the Government of India Act and which have now become subject to the Fundamental Rights, and therefore inconsistent. So the inconsistency has to be removed.

Mr. Deputy-Speaker: The point is, with respect to any law that is being now made if it is in the Concurrent List, it is reserved for the President's consent. When such a law comes up, it is left to the draftsmen to find out whether it is inconsistent or not?

Dr. Ambedkar: The draftsman certainly plays his part; but the Law Ministry takes the responsibility and the Cabinet also takes the responsibility.

Shri Husain Imam: May I know what is the position with regard to those Acts that are in the Schedule? Have they been adapted or are they proposed to be adapted? For instance the Bombay Act LXVII has certain reservations on the lines of the Punjab Land Alienation Act which has been declared *ultra vires*. Do Government propose to modify this Act? It is item 2 in the Ninth Schedule. The Bombay Tenancy and Agricultural Lands Act, 1948 does not deal with abolition of zamindaries, but says that

transfer shall not take place between certain classes.

Dr. Ambedkar: The answer of the House is that these Acts shall be validated by the Constitution without the necessity of adaptation. I am bound by the decision of the House. This point should have been raised yesterday.

Shri Naziruddin Ahmad: I raised that very point yesterday, but you rejected it.

Shri Rajagopalachari: Further questions may be postponed to the interpellation programme, and the present clause may be got through.

Mr. Deputy-Speaker: We have had sufficient discussion.

The question is:

✓ "That clause 12 stand part of the Bill."

The House divided: Ayes, 232
Noes, 9.

Division No. 15]

AYES

[11-51 A.M.]

Achint Ram, Lala
Ahammedunni, Shri
Alagesan, Shri
Alexander, Shri
Ali, Shri A. H. S.
Alva, Shri Joachim
Ambedkar, Dr.
Amolakr Chand, Shri
Ansari, Shri
Arya, Shri B. S.
Asawa, Shri
Baldev Singh, Sardar
Balmiki, Shri
Barman, Shri
Beni Singh, Shri
Bhagat, Shri B. R.
Bhagwant Roy, Kaka
Bharati, Shri
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhatt, Shri
Bhattacharya, Prof. K. K.
Biyani, Shri
Borooah, Shri
Brajeshwar Prasad, Shri
Buragohain, Shri
Chaliha, Shri
Chandrika Ram, Shri

Channiah, Shri
Chattopadhyay, Shri
Chaudhri, Shrimati Kamala
Chaudhuri, Shri R. K.
Chettiar, Shri Ramalingam
Das, Shri B.
Das, Shri B. K.
Das, Shri Biswanath
Das, Shri Jagannath
Das, Shri Nandkishore
Das, Shri S. N.
Deo, Shri Shankarrao
Deogirakar, Shri
Desai, Shri Kanayalal
Desai, Shri Khandubhai
Deshmukh, Dr.
Deshmukh, Shri C. D.
Deshpande, Shri P. Y.
Devi Singh, Dr.
Dharam Prakash, Dr.
Diwakar, Shri
Dixit, Shrimati
D'Souza, Rev.
Durgabai, Shrimati
Dwivedi, Shri
Faiznur Ali, Maulvi
Gadgil, Shri
Galib, Shri

Ganamukhi, Shri
Gandhi, Shri Feroz
Gautam, Shri
Ghose, Shri S. M.
Ghule, Shri
Goenka, Shri
Gopalaswami, Shri
Govind Das, Seth
Guha, Shri A. C.
Gupta, Shri Deshbandh
Gupta, Shri V. J.
Gurung, Shri A. B.
Haneef, Maulvi
Hanumanthaiya, Shri
Haque, Shri
Hathi, Shri
Hazarika, Shri J. N.
Hazarika, Shri M.
Heda, Shri
Himatsinhji, Major General
Hiray, Shri
Husain, Shri T.
Hyder Husein, Shri
Iyyunni, Shri
Jagjivan Ram, Shri
Jain, Shri A. P.
Jain, Shri N. S.
Jajoo, Shri
Jajware, Shri Ramrao

Jangde, Shri	Nehru, Shri Jawaharlal
Jayashri, Shrimati	Nijalingappa, Shri
Jnani Rām, Shri	Obaidullah, Shri
Kala Venkatarao, Shri	Pande, Dr. C. D.
Kaliyannan, Shri M.	Pannalal Bansilal, Shri
Kamath, Shri	Pani, Shri B. K.
Kanaka Sabai, Shri	Pant. Shri D. D.
Kannamwar, Shri	Parmar, Dr.
Kapoor, Shri J. R.	Pattabhi. Dr.
Karmarkar, Shri	Poonacha, Shri
Keskar, Dr.	Pustake, Shri
Khaparde, Shri	Rahman. Shri M. H.
Krishna Singh, Thakur	Raj Bahadur, Shri
Krishnamachari. Shri T.	Raj Kanwar, Lala
	Rajagopalachari, Shri
Krishnanand Rai, Shri	Ramachar, Shri
Kumbhar, Shri	Ramaswamy, Shri Arig
Kunhiraman, Shri	Ramaswamy, Shri Pul
Lakshmanan, Shri	Ram Dhani Das, Shri
Lal Singh, Thakur	Ramaiah, Shri V.
Mahata, Shri Kshudiram	Ranbir Singh, Ch.
Mahtab, Shri	Ranjit Singh, Sardar
Mahtha, Shri S. N.	Rao, Shri J. K.
Maitra, Pandit	Rao, Shri M. V. Rama
Malaviya, Pandit	Rao, Shri Shiva
Mallayya, Shri	Rao, Shri Thirumala
Massey, Shri	Rao, Shri Kesava
Meeran, Shri	Rathnaswamy, Shri
Menon, Shri Damodara	Raut, Shri
Menon, Shri Karunakara	Ray, Shrimati Renuka
Mirza, Shri	Reddi, Shri P. Basi
Mishra, Shri M. P.	Reddi, Shri Ranga
Misra, Shri S. P.	Reddy, Shri V. Kodan
Mishra, Prof. S. N.	rama
Mishra, Shri Yudhishtir	Reddy, Shri K. V. Rang
Mohiuddin, Saikh	Reddy, Dr. M. C.
Mookerjee, Dr. H. C.	Rudrappa, Shri
Moidu, Moulavi	Saksena, Shri Mohan
Mudgal, Shri	Samanta, Shri S. C.
Munshi, Shri K. M.	Sanjivayya, Shri
Munshi, Shri P. T.	Santhanam, Shri
Musafir, Giani G. S.	Sarwate, Shri
Naidu, Kumari Padmaja	Satyanarayana, Shri
Naidu, Shri Ethirajulu	Satish Chandra, Shri
Naidu, Shri S. R.	Sen, Shri P. G.
Nalk, Shri M.	Shah, Shri C. C.
Naik, Shri S. V.	Shah, Shri M. C.
Nand Lal, Master	Shankaraiya, Shri
Nathwani, Shri	Sharma, Pandit B.
Nausherahi, Syed	krishna
Nehru, Shrimati Uma	Sharma, Pandit Krishn
	Chandra

NOES

Birua, Shri
Das, Shri Sarangdhar
Hukam Singh, Sardar

Hussain Imam, Shri
Mookerjee, Dr. S. P.
Naziruddin Ahmad, Shri

Ramnarayan Singh, Babu
Seth, Shri D. S.
Shah, Prof. K. T.

Mr. Deputy-Speaker: 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.

✓ Clause 12 was added to the Bill.

✓ Clause 13.—(Amendment of article 376)

Mr. Deputy-Speaker: Hon. Members wishing to move their amendments may kindly rise in their seats.

Prof. K. T. Shah: Mine are Nos. 99, 100 and 101 in Supplementary List No. 2. But in No. 101 there is a serious omission or mis-type, which I would like to request you to correct but I will do it when I move it.

Mr. Deputy-Speaker: Even at this stage I would point out to the hon. Member that it appears that he said yesterday that it was a printing mistake; but I am sorry to say that it is his own mistake and not that of the printer. I have the original here.

Prof. K. T. Shah: Surely, it is certainly not my intention to suggest that anyone who is not an Indian should be appointed Chief Justice. It may be my error.

Mr. Deputy-Speaker: The office has put what the hon. Member has tabled. That appears to be a typist's mistake.

Prof. K. T. Shah: I am not blaming any officer at all. There is an omission and that is all I have to say.

Mr. Deputy-Speaker: All right. The word 'not' has to be added after the word 'is' and it will read 'who is not a natural born citizen etc.'. He may move it in the modified form.

Prof. K. T. Shah: I beg to move:

(i) In page 4, line 8, omit "as Chief Justice or".

(ii) In page 4, lines 8 and 9, omit "or of the Supreme Court".

(iii) In page 4, after line 9, add:

"Provided that such Chief Justice or other Judge of a High Court shall acquire citizenship of India within three months of such appointment; and provided that no one who is not a natural born citizen of India shall be appointed

The motion was adopted.

Chief Justice or Judge of the Supreme Court of India."

Prof. S. L. Saksena (Uttar Pradesh): I beg to move:

In page 4, after line 9, add:

"Provided that before such appointment he shall renounce his foreign citizenship and obtain Indian Citizenship."

Shri Kamath: I beg to move:

(i) In page 4, line 8, omit "as Chief Justice or other".

(ii) In page 4, lines 8 and 9, omit "or of the Supreme Court".

Mr. Deputy-Speaker: Amendments moved:

(1) In page 4, line 8, omit "as Chief Justice or".

(2) In page 4, lines 8 and 9, omit "or of the Supreme Court".

(3) In page 4, after line 9, add:

"Provided that such Chief Justice or other Judge of a High Court shall acquire citizenship of India within three months of such appointment; and provided that no one who is not a natural born citizen of India shall be appointed Chief Justice or Judge of the Supreme Court of India."

(4) In page 4, after line 9, add:

"Provided that before such appointment he shall renounce his foreign citizenship and obtain Indian Citizenship."

(5) In page 4, line 8, omit "as Chief Justice or other".

(6) In page 4, lines 8 and 9, omit "or of the Supreme Court".

Prof. K. T. Shah: The substance of my amendments is necessitated because of the nature of the amendment proposed by Government. The amendment proposed by Government seeks to facilitate the appointment of certain persons who at present are not citizens of India to high judicial offices. An article of the Constitution—either 216 or 217—requires the Judges of the High Courts and of the Supreme Court to be Indian nationals. I under

[Prof. K. T. Shah]

stand that there are four persons at present in our judicial service serving as Judges of the High Courts somewhere in India, who are likely to be promoted to higher posts, either in the Supreme Court, to the Chief Justiceship of High Courts, or even the Chief Justiceship of the Supreme Court.

[PANDIT THAKUR DAS BHARGAVA in the Chair]

I do think that it is not desirable that non-Indians should occupy this high position. This is not with a view to emphasise a narrow nationalism, or to exclude people who have otherwise served satisfactorily, merely because of the accident of their birth. I have, therefore, suggested, in one of my amendments, that, if those persons have served satisfactorily, and if they are in the ordinary run eligible for promotion to higher posts in the judiciary, let them be appointed after giving them a chance to acquire Indian citizenship. Article 5 of the Constitution enables them to acquire such citizenship. Though Parliament may not have made any detailed or specific law for the acquisition of citizenship, the principle has been laid down and they might be allowed three months to become naturalised Indian citizens and as such be qualified. I trust therefore that no charge would be levelled, so far as this particular amendment goes, of a spirit of narrow nationalism, which would bar public servants from higher judicial posts than the one they enjoy at the moment. It is, in my view, stretching it too much to undertake the amendment of a whole Constitution or an article therein for the sake of four persons and that too only for a limited period.

Speaking for myself, I see no objection why we should not confine certain offices only to natural born Indian citizens. Inasmuch however, as this is a very limited number and for a limited period, I am prepared to say that, provided these people acquire Indian citizenship, there should be no bar to their promotion. If, however, after being offered the facility to acquire Indian citizenship, they do not care to acquire it, and prefer their own citizenship by birth, as being so superior that they would not care to acquire Indian citizenship, then they would bar themselves by their own act by refusing to take the choice we offer them.

I may further add that the choice would not be an eternal, perpetual or lifelong choice for them, because the laws now permit citizenship to be acquired or relinquished, if and when

they retire and return to their own native land, and wish to resume their natural citizenship. I would not stipulate, nor the law we might make on citizenship would place any bar in the way of their resuming their natural citizenship. Just as we expect from all such officers an oath of loyalty to the Constitution and the country, I do not see any objection to such persons acquiring Indian citizenship, if they are not born citizens of India, to be qualified for certain posts.

There is only one exception which I would like to make, and that is with regard to the Chief Justice of the Supreme Court of India. That office is, like the office of the President, or the Prime Minister; and should certainly be reserved for Indians, natural born Indians, and not those who have acquired citizenship. A similar provision is there in the U.S.A. so far as the President is concerned. About the Chief Justice there I am not quite sure for the moment. It must be required by our Constitution that no one who is not a citizen of India by birth shall be qualified to be the Chief Justice of India.

Here may I remind the House that our law of citizenship is far more liberal than the law of other countries, in that we regard those people to be natural born citizens of India who are themselves born in India, or whose parents, or grand-parents, or either of them on either side may be born citizens of India, unless they had in the meantime relinquished their citizenship. With the liberal law that we have adopted, we should say definitely in the Constitution, while making the amendment, that anyone to be appointed Chief Justice of the Supreme Court must be natural born citizen.

I hope I would not be misunderstood in this. We have not yet reached a stage of catholicity, where world citizenship is accepted by all, and any human being is equal to any other human being for any post. I am not advocating any spirit of inequality or discrimination. I am only saying that people who are not born natives of this country may not be familiar with the laws and customs, and with the whole background on which these laws and customs are administered. Speaking for myself, the administration of the personal law of large communities, as given by the foreigners in the early days of the British administration in India, has resulted in a distortion, perversion and misunderstanding of the texts of the Hindu law, which would not have happened had the natives of the soil administered it. I, therefore, trust that at least with

regard to one highest judicial office, namely that of the Chief Justice of the Supreme Court, we must make this reservation, that it should be open only to natural born citizens. As regards the others they may acquire citizenship. But citizenship is a qualification I would insist upon—whether natural or acquired.

Prof. S. L. Saksena: It hurts me very much that this amendment should be made to our Constitution. After all, when we framed our Constitution we were very careful to see that our judiciary is above suspicion and that it is independent and able to interpret the Constitution in the best manner possible. Still we have found the Law Minister accusing the Supreme Court the other day of having wrongly interpreted the purpose of one of the provisions. The Prime Minister also has been saying that the intention of the makers of the Constitution has not been brought out by the interpretation of the Judges of the Supreme Court and of the High Courts. I think this is a very unfair criticism; if the Supreme Court Judges who have given these rulings were foreigners probably there might have been some suspicion that they were not patriotic and therefore did not interpret our laws correctly. I personally feel that if you...

Dr. Ambedkar: I should like to repudiate any such suggestion as my hon. friend is making. We impute no bad motives to the Judges.

Prof. S. L. Saksena: I am glad that he has said it today. The House had on a former occasion protested against his remarks about the Supreme Court. But I feel that if a foreigner were in the seat of the Chief Justice, he himself would feel rather diffident and would not have the same sturdy independence in interpreting our Constitution as an Indian would have. Therefore, apart from the reasons given by my friend, Prof. Shah, that we should not change the Constitution for the sake of four persons, still even on principle I think that a foreigner sitting in the place of the Chief Justice will not have the independence and courage to give a judgment which will be above suspicion. The Law Minister said that nobody has cast an aspersion on the Judges. I have carefully read the speech of the Prime Minister.....

Mr. Chairman: May I just remind the hon. Member that the point at issue is not what the Law Minister or the Prime Minister has said in some other connection? We are considering

this clause and their view is not relevant to its consideration. The only point relevant is whether this clause should be accepted. I would beg of the hon. Member to confine his remarks to this question alone.

Prof. S. L. Saksena: The relevance of my remarks is this. If you put in this clause then a foreigner also becomes entitled to occupy high places and I say that in that position he will not have that sturdy independence which an Indian in that position can have. I am therefore perfectly relevant when I oppose this clause on that ground. I also feel that there is a reason for this fear because, as I said, it has been stated in this House that we are amending the Constitution because the real purpose of the framers has not been brought out by the judgments of the courts. I say, when our own Indian Judges, appointed by the Government, have interpreted it in the manner they have, I think there is no reason to question their judgment. If we framed our Constitution and put it into a certain form of wording and that wording has been interpreted by the Judges, I think we should accept their judgment. If not, we have not put it in proper words. Therefore, I say that this amendment will take away the independence of the Judges. Otherwise too, it would be a blot on our Constitution that we should have this provision. I feel it is very easy for a person who wants such a position to renounce his citizenship and acquire Indian citizenship. My amendment says that because that person has served here for so long we do not want to deprive him of anything; let him be there, but let him be there as a citizen of our country so that he may feel, and we may also know, that he loves India as much as any other person. I do not know whether a person who is not prepared to renounce his citizenship should still be made a High Court Judge or a Supreme Court Judge.

I consider this clause should not be adopted. It will be a bad thing to incorporate it in our Constitution, and to amend the Constitution for the sake of four persons is wholly wrong.

Shri Kamath: Article 376 which this particular clause seeks to amend is one among the temporary and transitional provisions of the Constitution. My amendments to this clause 13 are, the Prime Minister will please note, not a mere question of grammar but they go farther than mere grammar. The Prime Minister is an acknowledged master of English, from grammar to syntax, language and style, and his mastery is acknowledged all over the world; in his writings and

[Shri Kamath]

speeches he runs the whole gamut of language and style, from ordinary conversational style to the highest flights of rhetoric; he was too modest in saying that he did not know much of English grammar. That apart, these amendments of mine are more than what can be described as commonsense or uncommonsense to which he referred in his previous utterance. Any way, who am I, a mere common man, to sit in judgment on the commonsense of the Prime Minister?—and I would not venture into that field at all. I would only refer to the political or constitutional sense of my amendments, because very few can define what common or uncommonsense is.

The point at issue which you referred to a little while ago is whether these Judges who occupied such offices at the commencement of the Constitution and have been enabled to continue as such under article 376 of the Constitution, can fill that capacity even though they may be non-citizens or non-Indian nationals. The first objection of mine is very fundamental, that is to say, constitutionally fundamental. The Constitution lays down in article 217 and in article 124 that a person shall not be qualified, mark the words, shall not be qualified for appointment as a Judge of the Supreme Court or of the High Court unless—in both cases—he is a citizen of India. I do not know how the length of this transitional period is computed, but I suppose after the first Parliament is elected and meets under the new Constitution the transitional period will come to a close, but this amendment to article 376, if carried and put into effect, will mean that even after the expiry of this transitional period, such a Judge who has been enabled to hold that office during the temporary and transitional period will continue in that capacity (under this new amendment) after the expiry of that temporary and transitional period. Therefore it may happen that a non-Indian citizen, a non-Indian national will continue as a Judge or Chief Justice of the High Court indefinitely—there is no time limit prescribed.

The other part of the amendment refers to the Supreme Court which came into being on the commencement of the Constitution. This amendment will permit non-Indians to occupy the office of Judge or Chief Justice of the Supreme Court. The Home Minister or the Law Minister the other day told the House that only four non-Indian Judges are at present functioning in the High Courts of India. This amendment will permit those Judges

to be appointed as Chief Justice or Judge of the Supreme Court. There is no reciprocity at present between India and other parts of the Commonwealth in this regard; that is to say, no Indian can be appointed a Judge either in the United Kingdom or in any other part of the Commonwealth. Formerly, of course, Indians could be appointed to the Judicial Committee of the Privy Council. But that Council is gone now and no Indian can fill the position of a Judge in England or in any other country of the Commonwealth. Strictly, therefore, on the basis of reciprocity, I would suggest that no non-Indian Judge, unless he has chosen to acquire Indian citizenship, as suggested by Prof. Shah, should be allowed to continue as Judge of the High Court or Supreme Court or Chief Justice of either.

Last year one of the Acts passed by this Parliament referred to non-Indian dentists all over India. There it was laid down that no dentist could practise anywhere in India unless he takes Indian domicile or Indian nationality. If that was done in the case of such a simple thing as a dentist who pulls out our teeth or fills them, or cleans them, I would suggest that where such a fundamental thing as the judiciary of the Union or the judiciary of the States who handle cases relating to life and property, and such other vital and fundamental matters, is concerned it is incumbent upon Parliament to see that no non-national is allowed to occupy that post and if a non-Indian is keen on occupying that post he should be asked to acquire Indian nationality or Indian citizenship.

As the amended article is before the House, I feel that such a provision will militate against the spirit of the Constitution. As remarked by some friends, just as in the case of the President and the Prime Minister, it would be improper for a non-Indian to occupy the office, the high office of the Chief Justice of the Supreme Court. The Chief Justice, we are well aware, administers the oath of allegiance to the Constitution to the President when he is elected. How absurd—not merely in Indian eyes, but in the eyes of the world—will it look when a non-Indian, who is eligible under this clause to be Chief Justice of the Supreme Court, stands up and administers the oath of office to the President? Will it not sound ridiculous and preposterous that a non-Indian should do this duty of administering the oath to the President?

Shri Lakshmanan (Travancore-Cochin): The Chief Justice himself

has taken the oath of allegiance to the Constitution.

Shri Kamath: When the President takes office, the Chief Justice administers oath to him and if a non-Indian does it, it will look very improper in my eyes, unless he has acquired Indian citizenship.

Therefore, I would commend my amendments and if the first one is not acceptable at least the second.

Shri Hussain Imam: May I ask a question of the hon. the Law Minister. There is nothing in articles 124 and 217 to say that a non-Indian could not be eligible to be appointed Chief Justice of either the Supreme Court or of the High Court. The prohibition is only for appointment as Judge. Therefore I should like the hon. Minister to enlighten the House as to under what article of the Constitution a non-Indian is debarred from being a Chief Justice of either the Supreme Court or of the High Court.

Shri Rajagopalachari: The hon. Member wants to know what prohibition there was which we are trying to remove. Article 217 contains the prohibition against any Judge being a non-citizen. All the Judges would be covered by that provision. That is sought to be removed by a transitory provision.

Mr. Chairman: If a person cannot become a Judge of a High Court how can he become the Chief Justice?

Shri Shiv Charan Lal: Transfer is covered by article 222. Therefore, for transfer it is not necessary that the Judge should be a citizen and it is not necessary to have this amendment.

Dr. Ambedkar: Sir, if it satisfies the House I would like to propose an amendment to clause 13 which would read thus:

In page 4, lines 8 and 9, omit "or of the Supreme Court".

Shri Kamath: That is one of my two amendments that I have moved.

Dr. Ambedkar: Well, I am prepared to accept yours, if you like. I do not think any further reply is necessary from me if the House is satisfied with the deletion of the words "or of the Supreme Court".

Mr. Chairman: I shall now put the amendments to the House. Prof. Shah's amendments. The question is:

In page 4, line 8, omit "as Chief Justice or".

The motion was negatived.

Mr. Chairman: The next is seeking to omit the words "or of the Supreme Court". It is the same amendment that Dr. Ambedkar has proposed.

Shri Jawaharlal Nehru: It is exactly the same.

Shri Kamath: But I have moved it and Prof. Shah has also moved it.

Mr. Chairman: The amendment is there and I am bound to put it to the House.

An Hon. Member: It may be withdrawn.

Prof. K. T. Shah: Why should I withdraw it?

Mr. Chairman: The question is:

In page 4, lines 8 and 9, omit "or of the Supreme Court".

The motion was adopted.

Mr. Chairman: The question is:

In page 4, after line 9, add:

"Provided that such Chief Justice or other Judge of a High Court shall acquire citizenship of India within three months of such appointment; and provided that no one who is not a natural born citizen of India shall be appointed Chief Justice or Judge of the Supreme Court of India."

The motion was negatived.

Mr. Chairman: Now, Prof. Shibba Lal Saksena's amendment. The question is:

In page 4, after line 9, add:

"Provided that before such appointment he shall renounce his foreign citizenship and obtain Indian Citizenship."

The motion was negatived.

Mr. Chairman: The next one Shri Kamath's amendment.

Shri Kamath: Sir, I would like withdraw it.

The amendment was, by leave, withdrawn.

Mr. Chairman: Then, his second amendment.

Shri Kamath: It is the same which has already been adopted.

Mr. Chairman: The question is:
 ✓ "That clause 13, as amended,
 stand part of the Bill."

✓ The House divided: Ayes, 234:
 Noes. 12.

[MR. DEPUTY-SPEAKER in the Chair.]

Division No. 16]

AYES

[12-40 P.M.]

Achint Ram, Lala
 Ahammedunni, Shri
 Alagesan, Shri
 Alexander, Shri
 Ali, Shri A. H. S.
 Alva, Shri Joachim
 Ambedkar, Dr.
 Amolakh Chand, Shri
 Ansari, Shri
 Arya, Shri B. S.
 Asawa, Shri
 Baldev Singh, Sardar
 Balmiki, Shri
 Barman, Shri
 Beni Singh, Shri
 Bhagat, Shri B. R.
 Bhagwant Roy, Kaka
 Bharati, Shri
 Bhargava, Pandit M. B.
 Bhargava, Pandit Thakur
 Das
 Bhatkar, Shri
 Bhatt, Shri
 Bhattacharya, Prof. K. K.
 Biyani, Shri
 Borooah, Shri
 Brajeshwar Prasad, Shri
 Buragohain, Shri
 Chaliha, Shri
 Chandrika Ram, Shri
 Channiah, Shri
 Chattopadhyay, Shri
 Chaudhri, Shrimati
 Kamala
 Chaudhri, Shri R. K.
 Chettiar, Shri Rama-
 lingam
 Das, Shri B. V.
 Das, Shri B. K.
 Das, Shri Biswanath
 Das, Shri Jagannath
 Das, Shri Nandkishore
 Das, Shri S. N.
 Deo, Shri Shankarrao
 Deogirikar, Shri
 Desai, Shri Kanayalal
 Desai, Shri Khandubhai

Deshmukh, Dr.
 Deshmukh, Shri C. D.
 Deshpande, Shri P. Y.
 Devi Singh, Dr.
 Dharam Prakash, Dr.
 Diwakar, Shri
 Dixit, Shrimati
 D'Souza, Rev.
 Durgabai, Shrimati
 Dwivedi, Shri
 Faiznur Ali, Maulvi
 Gadgil, Shri
 Galib, Shri
 Ganamukhi, Shri
 Gandhi, Shri Feroz
 Gautam, Shri
 Ghose, Shri S. M.
 Ghule, Shri
 Goenka, Shri
 Gopalaswami, Shri
 Gopinath Singh, Shri
 Govind Das, Seth
 Guha, Shri A. C.
 Gupta, Shri Deshbandhu
 Gupta, Shri V. J.
 Gurung, Shri A. B.
 Haneef, Maulvi
 Hanumanthaiya, Shri
 Haque, Shri
 Hathi, Shri
 Hazarika, Shri J. N.
 Hazarika, Shri M.
 Heda, Shri
 Himatsingka, Shri
 Himatsinhji, Major Gene-
 ral
 Hiray, Shri
 Husain, Shri T.
 Hyder Husein, Shri
 Iyyunni, Shri
 Jagjivan Ram, Shri
 Jain, Shri A. P.
 Jain, Shri N. S.
 Jajoo, Shri
 Jajware, Shri Ramraj
 Jangde, Shri
 Jayashri, Shrimati

Jnani Ram, Shri
 Joseph, Shri A.
 Kala Venkatarao, Shri
 Kaliyannan, Shri M.
 Kamath, Shri
 Kanaka Sabai, Shri
 Kannamwar, Shri
 Kapoor, Shri J. R.
 Karmarkar, Shri
 Keskar, Dr.
 Khaparde, Shri
 Krishna Singh, Thakur
 Krishnamachari, Shri T.
 T.
 Krishnanand Rai, Shri
 Kumbhar, Shri
 Kunhiraman, Shri
 Lakshmanan, Shri
 Lal Singh, Thakur
 Mahtab, Shri
 Mahtha, Shri S. N.
 Maitra, Pandit
 Malaviya, Pandit
 Mallayya, Shri
 Massey, Shri
 Meeran, Shri
 Menon, Shri Damodara
 Menon, Shri Karunakara
 Mirza, Shri
 Mishra, Shri M. P.
 Misra, Shri S. P.
 Mishra, Prof. S. N.
 Mishra, Shri Yudhishtir
 Mohiuddin, Saikh
 Mookerjee, Dr. H. C.
 Moidu, Moulavi
 Mudgal, Shri
 Munshi, Shri K. M.
 Munshi, Shri P. T.
 Musafir, Giani G. S.
 Naidu, Kumari Padmaja
 Naidu, Shri Ethirajulu
 Naidu, Shri S. R.
 Naik, Shri M.
 Naik, Shri S. V.
 Nand Lal, Master

Nathwani, Shri
 Nausherali, Syed
 Nehru, Shrimati Uma
 Nehru, Shri Jawaharlal
 Nijalingappa, Shri
 Obaidullah, Shri
 Pande, Dr. C. D.
 Pannalal Bangilal, Shri
 Pani, Shri B. K.
 Pant, Shri D. D.
 Parmar, Dr.
 Pattabhi, Dr.
 Poonacha, Shri
 Pustake, Shri
 Rahman, Shri M. H.
 Raj Bahadur, Shri
 Raj Kanwar, Lala
 Rajagopalachari, Shri
 Ramachar, Shri
 Ramaswamy, Shri Arigay
 Ramaswamy, Shri Puli
 Ram Dhani Das, Shri
 Ramaiah, Shri V.
 Ranbir Singh, Ch.
 Ranjit Singh, Sardar
 Rao, Shri J. K.
 Rao, Shri M. V. Rama
 Rao, Shri Shiva
 Rao, Shri Thirumala
 Rao, Shri Kesava
 Rathnaswamy, Shri
 Raut, Shri
 Ray, Shrimati Renuka
 Reddi, Shri P. Basi
 Reddi, Shri Ranga

Reddy, Shri V. Kodanda-
 rama
 Reddy, Shri K. V. Ranga
 Reddy, Dr. M. C.
 Rudrappa, Shri
 Saksena, Shri Mohan Lal
 Samanta, Shri S. C.
 Sanjivayya, Shri
 Santhanam, Shri
 Sarwate, Shri
 Satyanarayana, Shri
 Satish Chandra, Shri
 Sen, Shri P. G.
 Shah, Shri C. C.
 Shah, Shri M. C.
 Shankaraiya, Shri
 Sharma, Pandit Bal-
 krishna
 Sharma, Pandit Krishna
 Chandra
 Sharma, Shri K. C.
 Shiv Charan Lal, Shri
 Shukla, Shri A. C.
 Shukla, Shri S. N.
 Singh, Capt. A. P.
 Singh, Dr. Ram Subhag
 Singh, Shri B. P.
 Singh, Shri T. N.
 Sinha, Shri Anirudha
 Sinha, Shri A. P.
 Sinha, Shri B. K. P.
 Sinha, Shri S. N.
 Sinha, Shri Satya Nara-
 yan
 Siva, Dr. M. V. Ganga-
 dhara

Sivaprakasam, Shri
 Snatak, Shri N.
 Sochet Singh, Sardar
 Sohan Lal, Shri
 Sonavane, Shri
 Sondhi, Shri
 Sri Prakasa, Shri
 Subramaniam, Dr. V.
 Subramaniam, Shri C.
 Subramanian, Shri R.
 Sunder Lall, Shri
 Swaminadhan, Shrimati
 Ammu
 Tewari, Shri R. S.
 Thakkar, Dr. K. V.
 Thimmappa Gowda, Shri
 Tiwari, Shri B. L.
 Tripathi, Shri Kishori-
 mohan
 Upadhyay, Pandit Muni-
 shwar Datt
 Upadhyaya, Shri R. C.
 Vaidya, Shri K.
 Vaidya, Shri V. B.
 Vaishya, Shri M. B.
 Varma, Shri B. B.
 Varma, Shri M. L.
 Velayudhan, Shrimati
 Venkataraman, Shri
 Vidyavachaspati, — Shri
 Indra
 Vyas, Shri K. K.
 Vyas, Shri Radhelal
 Wajed Ali, Maulvi
 Yadav, Shri
 Yashwant Rai, Prof.
 Zakir Husain, Dr.

NOES

Birua, Shri
 Das, Shri Sarangdhar
 Hukam Singh, Sardar
 Hussain Imam, Shri

Man, Sardar B. S.
 Mookerjee, Dr. S. P.
 Naziruddin Ahmad, Shri
 Ramnarayan Singh, Babu

Saksena, Prof. S. L.
 Seth, Shri D. S.
 Shrah, Prof. K. T.
 Sinha, Shri M. P.

The motion was adopted.

Mr. Deputy-Speaker: 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.

✓ Clause 13, as amended, was added to the Bill.

Mr. Deputy-Speaker: Then clause 1, the Long Title and the Enacting Formula remain. I shall put all of them together.

Shri Naziruddin Ahmad: There is a small amendment of mine about the deletion of a full stop. It appears

under the heading which is the Long Title; and it is well known that headings do not need any fullstop. This can be taken care of by the draftsman.

Mr. Deputy-Speaker: Yes, certainly Parliament will never stop on account of that.

The question is:

“That clause 1, the Title and the Enacting Formula stand part of the Bill.”

The House divided; Ayes, 234: Noes, 12.

Division No. 17]

AYES

[12-55 P.M.]

Achint Ram, Lala
Ahammedunni, Shri
Alagesan, Shri
Alexander, Shri
Ali, Shri A. H. S.
Alva, Shri Joachim
Ambedkar, Dr.
Amolakh Chand, Shri
Ansari, Shri
Arya, Shri B. S.
Asawa, Shri
Baldev Singh, Sardar
Balmiki, Shri
Barman, Shri
Beni Singh, Shri
Bhagat, Shri B. R.
Bhagwant Roy, Kaka
Bharati, Shri
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhatt, Shri
Bhattacharya, Prof. K. K.
Biyani, Shri
Borooah, Shri
Brajeshwar Prasad, Shri
Buragohain, Shri
Chaliha, Shri
Chandrika Ram, Shri
Channiah, Shri
Chattopadhyay, Shri
Chaudhri, Shrimati Kamala
Chaudhuri, Shri R. K.
Chettiar, Shri Ramalingam
Das, Shri B.

Das, Shri B. K.
Das, Shri Biswanath
Das, Shri Jagannath
Das, Shri Nandkishore
Das, Shri S. N.
Deo, Shri Shankarrao
Deogirikar, Shri
Desai, Shri Kanayalal
Desai, Shri Khandubhai
Deshmukh, Dr.
Deshmukh, Shri C. D.
Deshpande, Shri P. Y.
Devi Singh, Dr.
Dharam Prakash, Dr.
Diwakar, Shri
Dixit, Shrimati
D'Souza, Rev.
Durgabai, Shrimati
Dwivedi, Shri
Faiznur Ali, Maulvi
Gadgil, Shri
Galib, Shri
Ganamukhi, Shri
Gandhi, Shri Feroz
Gautam, Shri
Ghose, Shri S. M.
Ghule, Shri
Goenka, Shri
Gopalaswami, Shri
Gopinath Singh, Shri
Govind Das, Seth
Guha, Shri A. C.
Gupta, Shri Deshbandhu
Gupta, Shri V. J.
Gurung, Shri A. B.
Haneef, Maulvi
Hanumanthaiya, Shri

Haque, Shri
Hathi, Shri
Hazarika, Shri J. N.
Hazarika, Shri M.
Heda, Shri
Himatsingka, Shri
Himatsinhji, Major General
Hiray, Shri
Husain, Shri T.
Hyder Husein, Shri
Iyyunni, Shri
Jagjivan Ram, Shri
Jain, Shri A. P.
Jain, Shri N. S.
Jajoo, Shri
Jajware, Shri Ramraj
Jangde, Shri
Jayashri, Shrimati
Jnani Ram, Shri
Joseph, Shri A.
Kala Venkatarao, Shri
Kaliyannan, Shri M.
Kamath, Shri
Kanaka Sabai, Shri
Kapoor, Shri J. R.
Karmarkar, Shri
Kesar, Dr.
Khaparde, Shri
Krishna Singh, Thakur
Krishnamachari, Shri T. T.
Krishnanand Rai, Shri
Kumbhar, Shri
Kunhiraman, Shri
Lakshmanan, Shri
Lal Singh, Thakur
Mahtab, Shri

Mahtha, Shri S. N.
 Maitra, Pandit
 Malaviya, Pandit
 Mallayya, Shri
 Massey, Shri
 Meeran, Shri
 Menon, Shri Damodara
 Menon, Shri Karunakara
 Mirza, Shri
 Mishra, Shri M. P.
 Misra, Shri S. P.
 Mishra, Prof. S. N.
 Mishra, Shri Yudhishtir
 Mohiuddin, Saikh
 Mookerjee, Dr. H. C.
 Moidu, Moulavi
 Mudgal, Shri
 Munshi, Shri K. M.
 Munshi, Shri P. T.
 Musafir, Giani G. S.
 Naidu, Kumari Padmaja
 Naidu, Shri Ethirajulu
 Naidu, Shri S. R.
 Naik, Shri M.
 Naik, Shri S. V.
 Nand Lal, Master
 Nathwani, Shri
 Nausherali, Syed
 Nehru, Shrimati Uma
 Nehru, Shri Jawaharlal
 Nijalingappa, Shri
 Obaidullah, Shri
 Pande, Dr. C. D.
 Pannalal Bansilal, Shri
 Pani, Shri B. K.
 Pant, Shri D. D.
 Parmar, Dr.
 Pattabhi, Dr.
 Poonacha, Shri
 Pustake, Shri
 Rahman, Shri M. H.
 Raj Bahadur, Shri
 Raj Kanwar, Lala
 Rajagopalachari, Shri
 Ranachar, Shri

Ramaswamy, Shri Arigay
 Ramaswamy, Shri Puli
 Ram Dhani Das, Shri
 Ramaiah, Shri V.
 Ranbir Singh, Ch.
 Ranjit Singh, Sardar
 Rao, Shri J. K.
 Rao, Shri M. V. Rama
 Rao, Shri Shiva
 Rao, Shri Thirumala
 Rao, Shri Kesava
 Rathnaswamy, Shri
 Raut, Shri
 Ray, Shrimati Renuka
 Reddi, Shri P. Basi
 Reddi, Shri Ranga
 Reddy, Shri V. Kodanda-
 rama
 Reddy, Shri K. V. Ranga
 Reddy, Dr. M. C.
 Rudrappa, Shri
 Saksena, Shri Mohan Lal
 Samanta, Shri S. C.
 Sanjivayya, Shri
 Santhanam, Shri
 Sarwate, Shri
 Satyanarayana, Shri
 Satish Chandra, Shri
 Sen, Shri P. G.
 Shah, Shri C. C.
 Shah, Shri M. C.
 Shankaraiya, Shri
 Sharma, Pandit Bal-
 krishna
 Sharma, Pandit Krishna
 Chandra
 Sharma, Shri K. C.
 Shiv Charan Lal, Shri
 Shukla, Shri A. C.
 Shukla, Shri S. N.
 Singh, Capt. A. P.
 Singh, Dr. Ram Subhag
 Singh, Shri B. P.
 Singh, Shri T. N.
 Sinha, Shri Anirudha

Sinha, Shri A. P.
 Sinha, Shri B. K. P.
 Sinha, Shri S. N.
 Sinha, Shri Satya Nara-
 yan
 Siva, Dr. M. V. Ganga-
 dhara
 Sivaprakasam, Shri
 Snatak, Shri N.
 Sochet Singh, Sardar
 Sohan Lal, Shri
 Sonavane, Shri
 Sondhi, Shri
 Sri Prakasa, Shri
 Subramaniam, Dr. V.
 Subramaniam, Shri C.
 Subramanian, Shri R.
 Sunder Lall, Shri
 Swaminadhan, Shrimati
 Ammu
 Tewari, Shri R. S.
 Thakkar, Dr. K. V.
 Thimmappa Gowda, Shri
 Tiwari, Shri B. L.
 Tripathi, Shri Kishori-
 mohan
 Tyagi, Shri
 Upadhyay, Pandit Muni-
 shwar Datt
 Upadhyaya, Shri R. C.
 Vaidya, Shri K.
 Vaidya, Shri V. B.
 Vaishya, Shri M. B.
 Varma, Shri B. B.
 Varma, Shri M. L.
 Velayudhan, Shrimati
 Venkataraman, Shri
 Vidyavachaspati, Shri
 Indra
 Vyas, Shri K. K.
 Vyas, Shri Radhelal
 Wajed Ali, Maulvi
 Yadav, Shri
 Yashwant Rai, Prof.
 Zakir Husain, Dr.

NOES

Birua, Shri
 Das, Shri Sarangdhar
 Hukam Singh, Sardar
 Hussain Imam, Shri

Man, Sardar B. S.
 Mookerjee, Dr. S. P.
 Naziruddin Ahmad, Shri
 Ramnarayan Singh, Babu

Saksena, Prof. S. L.
 Seth, Shri D. S.
 Shah, Prof. K. T.
 Sinha, Shri M. P.

The motion was adopted.

Mr. Deputy-Speaker: 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.

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

Mr. Deputy-Speaker: The clause by clause consideration, that is, the second reading is over.

Shri Kamath: We have received amendments by Dr. Ambedkar today.

Mr. Deputy-Speaker: They will be considered at the third reading stage which will start after the House re-assembles at 3-30 P.M. today.

The House then adjourned till Half Past Three of the Clock.

The House re-assembled at Half Past Three of the Clock.

[MR. SPEAKER in the Chair]

Shri Jawaharlal Nehru: I beg to move:

"That the Bill, as amended, be passed".

There are a few minor consequential amendments which my colleague the Law Minister will move.

Mr. Speaker: Motion moved:

"That the Bill, as amended, be passed".

Clause 5.—(Insertion of new article 31B.)

Dr. Ambedkar: I beg to move:

In page 2,

(i) line 35, after "Acts" insert "and Regulations",

(ii) line 36, after "Acts" insert "and Regulations",

(iii) line 39, after "Act" insert Regulations",

(iv) line 42, after "Acts" insert "and Regulations",

Mr. Speaker: I think I shall put all the amendments together. Amendments moved:

In page 2,

(i) line 35, after "Acts" insert "and Regulations",

(ii) line 36, after "Acts" insert "and Regulations",

(iii) line 39, after "Act" insert "Regulation",

(iv) line 42, after "Acts" insert "and Regulations".

Dr. S. P. Mookerjee: This, as the Prime Minister has said, is a consequential change. Apparently, it refers to the Hyderabad Regulations which the House incorporated on an amendment moved on the floor of the House. What about the last part of the clause? It says:

"... each of the said Acts (and Regulations, if this is accepted) shall, subject to the power of any competent legislature to repeal or amend it, continue in force."

So far as these Regulations are concerned, they cannot be repealed or amended by any Legislature when there is no Legislature in Hyderabad. There also, it should be altered by saying 'legislature or other competent authority'.

Dr. Ambedkar: Whatever legislature there is, it will have the right to amend.

Mr. Speaker: There is confusion about the meaning of the word 'legislature'. A legislature is conceived as consisting of a Chamber with elected representatives and so on. I believe the legislature here means, the Rajpramukh who is himself the legislature. That I think is the constitutional meaning.

Dr. Ambedkar: Yes.

Mr. Speaker: If that is so, there is no difficulty.

The questions is:

In page 2,

(i) line 35, after "Acts" insert "and Regulations",

(ii) line 36, after "Acts" insert "and Regulations",

(iii) line 39, after "Act" insert "Regulation",

(iv) line 42, after "Acts" insert "and Regulations".

The motion was adopted.

Shri Kamath: Is it not necessary to put this clause, as amended, to the House?

Mr. Speaker: Is it really necessary? The position will be like this. "That the Bill, as amended, be passed" will be the motion which I am going to put to the House. There is no particular clause again to be put to the House. The hon. Member will note that clause 5 was voted upon and the House has assented to it. Votes were taken separately on that clause. This amendment comes in as a consequential amendment.

Dr. Ambedkar: Under rule 94.

Dr. S. P. Mookerjee: It is for you to consider this. With regard to clauses, you have ruled deliberately for the sake of safety that every clause should be put separately and the votes of two-thirds of the Members present and voting should be recorded. Now, clause 5 has been passed in accordance with that direction. Now, we are amending clause 5. Is it not desirable and safe that clause 5, as amended, should be put separately and votes recorded?

Mr. Speaker: That would be an irregular procedure. That clause, in the clause by clause consideration at the second reading, has been already accepted by the House. The proposition before the House is that the entire Bill, as amended, be passed. The amendment is merely a consequential or verbal amendment, which is permissible at this stage. No substantial amendment is permissible at this stage.

Shri Kamath: Consequential upon what?

Mr. Speaker: Consequential upon the House accepting an amendment to a subsequent clause. After clause 5 was passed, the House accepted to introduce certain Regulations. So far as clause 5 is concerned, it does not make any substantial change. The substantial change was made in the other clause, clause 14, I think. That change having been made, it becomes necessary to say "Acts and Regulations" instead of merely saying 'Acts'. This is entirely a verbal and consequential amendment. I believe I am clear. It does not require to be put again. Otherwise, in the third reading, I shall be putting again a clause to the House. That is an anomalous procedure.

Shri Kamath: Clause 14 came after clause 5. Clause 14 was passed after clause 5 was passed. If this is consequential upon clause 14 which was passed subsequent to clause 5, is it not necessary for this to be adopted as amended?

Mr. Speaker: No; not necessary now. There is no amendment of substance so far as that clause is concerned. It is only bringing it in line with the other clause.

Dr. S. P. Mookerjee: In accordance with rule 94. Dr. Ambedkar's motion really should have been moved before the Prime Minister moved that the Bill, as amended, be passed. Rule 94 says:

"(1) When a motion that a Bill be taken into consideration has been carried and no amendment of the Bill is made, the member in charge may at once move that the Bill be passed.

(2) If any amendment of the Bill is made, any member may object to any motion"

Mr. Speaker: I may tell the hon. Member the scheme of this rule. The scheme of this rule is that you should not take up the third reading immediately in cases where some amendments are made. The House has to be given some time to consider the amendments. But, it is for the Speaker to waive that rule. I believe, before this motion was made, a request was made to the Deputy-Speaker by the hon. Prime Minister saying that he may be permitted to move the third reading at this stage. That is what he did lest some Members raise an objection. The hon. Member may read sub-rule (4) of that rule, which says:

"To such a motion no amendment may be moved which is not either formal, verbal or consequential—the matter is clear—upon an amendment made after the Bill was taken into consideration".

The motion comes first. The House is seized of it. Then only, the amendment comes.

I was just thinking of the programme. I think according to the agreement, I shall have to call upon the Prime Minister to reply at How long is the Prime Minister likely to take?

Shri Jawaharlal Nehru: That depends upon what is said previously. I hope not to take too much of the time of the House. I take it that the

[Shri Jawaharlal Nehru]

House is supposed to finish its business if possible by half past six.

Mr. Speaker: We have given two hours. If the House chooses to sit till 6-30 P.M. I should have no objection.

Shri Jawaharlal Nehru: If I may suggest, the general debate may go on for two hours.

Mr. Speaker: It is now 20 minutes to four. That comes up to a quarter to six.

Shri Jawaharlal Nehru: Then if I have anything to say, I shall say. Thereafter, the motion may be put.

Mr. Speaker: I shall reserve half an hour or so.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): Two hours may be given for discussion and voting will have to be after six o'clock.

Mr. Speaker: It is now 20 minutes to four. They get nearly three hours. Our agreement has been two hours. We are exceeding the agreement by 40 minutes.

Shri Satya Narayan Sinha: You were pleased to say that 7½ hours would be allotted today. That can only be by giving three hours in the afternoon.

Mr. Speaker: The hon. Minister is only supporting my argument. Let us not be strict about the hours. I said 7½ hours. Let it be eight hours. It does not matter. After all, Members who wish to speak, let them have the pleasure of speaking. So I shall call upon the hon. Prime Minister at six o'clock to speak, and we proceed up to six o'clock. There should be a strict time-limit because a large number of Members wish to speak and we should allow just fifteen minutes to each and not more than that.

Prof. S. L. Saksena: This Bill is going to be the first amendment of the Constitution and it will be law after three hours. I am very sorry that the first amendment of our Constitution should be a retrograde measure.

An Hon. Member: Question.

Mr. Speaker: Order, order. Let him proceed.

Prof. S. L. Saksena: The first amendment of the American Constitution extended the limits of freedom and ours is going to restrict them.

Now, after having debated each clause we have to consider whether we should support the Bill as a whole or reject it. I have supported three of its clauses, those relating to the Zamindari abolition and have opposed the remaining ones. It is sometimes difficult to decide, but on the balance, I think there was no occasion for an amendment of the Constitution at this stage. [Zamindari abolition, no doubt, is a thing to which the country and this House is committed. But I do not think that Zamindari abolition Acts have been invalidated. In our State we have passed a very comprehensive measure for the abolition of Zamindari which, though challenged in the High Court, was upheld by the High Court. Of the Acts mentioned in the Schedule, only one has been rejected by the High Court—the Bihar Act and on that the Supreme Court has not yet pronounced its judgment. If the Supreme Court had upheld the decision of the Patna High Court, there would have been occasion to bring forward this amendment. But that is not so. The Supreme Court has not yet heard the appeal. Besides, I do not agree that on every adverse judgment of the High Court, the Constitution should be amended.] I therefore think that we have taken up this amendment of the Constitution in undue haste and therefore I am going to oppose the third reading of this Bill.

The Prime Minister in his speech said that there were great difficulties and these had compelled him to bring forward this measure. But he did not take the House and the country into his confidence and tell them what those difficulties were that had compelled him to bring forward this Constitution (Amendment) Bill and to curtail the Fundamental Right of Freedom of speech and expression. The Prime Minister told us that we should not treat the Constitution as sacrosanct. I agree with him and I think that the Constitution should be changed when there is need for it. But in the very next breath he said that he is not really changing the Constitution, but only bringing out explicitly what is implicit in the Constitution. That is something that I cannot follow. After all we all participated in the passing of the Constitution and we did it after close deliberation for three years. Many eminent lawyers like Dr. Ambedkar were there and they drafted it and I do not think they could have been guilty of wrong phraseology or of not being able to express what was intended to be expressed. I think they expressed themselves quite correctly. And I also feel that the Supreme

Court has interpreted those expressions in the correct manner. Therefore, it is not what was implicit in the Constitution that is now being brought out, but something that is quite different. Views have changed and therefore I think this change has been brought forward in the Constitution. Knowing the Prime Minister as I do, I fear that the reactionaries in his Cabinet have bargained with the Prime Minister. He must have wanted only the Zamindari abolition amendments. But probably they were agreed to by his Cabinet colleagues provided that these curbs on the freedom of expression were included along with them in the Bill. Throughout his speech he was apologetic for amending article 19(2) and article 15 as well as the other articles. He has tried to say that he does not mean what is being read into these amendments; but the law courts will not take his meaning into consideration. They will consider the letter of the law and therefore, though he may mean well, I am sorry to say, they will interpret the law against the freedom of the people. I do not like his attempt to create a sort of antagonism between the Supreme Court and the "will of the community". The Prime Minister says that the will of the community must be supreme. I agree. But is not the Supreme Court there to interpret "the will of the community" as embodied in the Statutes and the laws of the country? After all, the Judges of the Supreme Court have been appointed by you. You choose the very best persons in the country and when they interpret the law, they interpret it according to canons which are recognised all the world over to be correct. And when they interpret the law, I think we should abide by their interpretation.

If you say that the interpretation by the Supreme Court of the Constitution which you framed as embodying the "will of the community" as represented by you at that time is something different from the "will of the community" as you now think you had then intended it, then I think you are doing injustice to your own Supreme Court. The will of the community, you can say, has changed. You may say that when the Constitution was framed, those who represented the will of the community thought in one way and now they feel differently. But when you say that you had intended the Constitution to mean what you now say was your meaning and not what the Supreme Court has interpreted your words to mean, then you are telling something which is

untrue, and no one can believe you. Besides, you were not the only maker of the Constitution. When the constitution makers themselves differ, your case becomes extremely weak. So far as I remember Acharya Kripalani was then the President of the Fundamental Rights Committee and he was also the then President of the Congress. But he has come forward in this House to say that this amending Bill does not represent the "will of the community" and that the constitution correctly represents the "will of the Fundamental Rights Committee" over which he had the honour to preside and whose recommendations in this regard were accepted by the Constituent Assembly, and which therefore must be accepted as representing the "will of the community" at that time. The Prime Minister's case is therefore very weak. But the Prime Minister may say that the will of the community is now different. The best way even to determine that was to wait till the new elections. We could also hold a referendum on the clauses in this Bill. If that is done, I am definite that the whole Bill would have been thrown out. The whole Press has unanimously condemned the amendment of article 19(2) and I am sure the whole country too would have given the same verdict. You have changed your ideas and so you say that the "will of the community" is what you say now. This is not correct. I say the "will of the community" has not been judged after the last election. The best thing would have been to wait for the new elections and then to see whether the country wishes to change the constitution as you have suggested in your amending Bill. Then, another important argument of the Prime Minister and in fact his main argument in support of his Bill was that this was only an enabling Bill and was intended only to widen the powers of Parliament to make laws. I think it is not correct. The Bill gives powers not only to Parliament to make laws but to each single legislature in the country to make laws affecting this Fundamental Rights of the people. My amendments to confine this power to Parliament were rejected by the House. Besides, as soon as these amendments are passed, hundreds of very obnoxious laws become resurrected. They become laws by the backdoor without even coming before this Parliament. This Bill says that even those laws which became void under the original article 19 will be "considered not to have become void". This shows that this Bill is also an enacting Bill and is not merely an enabling Bill. By passing this measure you will have

[Prof. S. L. Saksena]

enacted all those highly obnoxious laws like section 124A of the Indian Penal Code which were dead according to the old law. I was a Member of the Constituent Assembly as well as of the Congress Party when this article 19 was considered and I clearly remember that the House was jubilant when that obnoxious word "sedition" was deleted from the original draft. Section 124A, I.P.C., under which the Father of the Nation, Mahatma Gandhi and Lokamanya Tilak were each convicted to six years on different occasions—that section is being resurrected and it is something that is shameful for all of us to resurrect all such obnoxious laws by the back-door. The Prime Minister said that he has no intention to impose any restriction on the Press. He said he has no intention to stop criticisms of foreign countries. But another Prime Minister may come who will like to use all those powers. This Bill is, therefore, very dangerous. In fact, the Prime Minister gave up his whole case when he said that he does not want to use these powers. He said, "whatever changes we may make in the Constitution to-day, it is highly unlikely that the Government or Parliament will take advantage of them by passing laws to that effect unless a very severe crisis arises". Therefore these amendments are not of any use. There is no urgency about them. Why could we not have waited for the new Parliament to be elected. He said he wants to hand over to the new Parliament something which will make their work smooth. The new Parliament will not be composed of children and they can amend the Constitution as they like. They do not want this sort of help from the Prime Minister today. I therefore think there is some fear in the mind of the Prime Minister—I know him very well—he seldom has fear and I am therefore surprised at this. Does he feel that in the new Parliament he will not have a two-thirds majority? I am surprised. I am therefore very sorry that he should have hurriedly brought these amendments of the Constitution at this stage. It is quite possible that there will be some effect on this Government on account of the volume of opposition to this Bill which has been seen in the Press. But what about other Governments which may follow? The Constitution as such has been amended for all time and any dictator or tyrant may come and take advantage of the changes. I therefore think that it has been a wrong thing and it is something for which we shall repent.

It has also been argued that powers taken in this Bill will be used only in emergencies. But does not the Constitution already provide for emergencies? In fact when we made the Constitution we took care and provided for every contingency. The Prime Minister mentioned the Telengana area. But he can declare that area as 'disturbed area', if conditions there are really so bad. Why then for that one district, you should amend the whole Constitution. I think this is not fair at all. Mahatma Gandhi, the great Father of our Nation, had taught us civil disobedience and satyagraha and here we are passing a Bill that every law made by Parliament will be sacrosanct, howsoever unjust it may be. If he were alive, he would probably be the first person to be put under jail under this new Act. I am very sorry that this Bill is being passed by this House. We cannot help it but certainly we can record our protest against the enactment of this measure and therefore I shall oppose the Bill.

सेठ गोविन्द दास : अभी मेरे मित्र शिबन लाल जी सक्सेना ने जिन कारणों से इस विधेयक का विरोध किया है मैं उन्हीं कारणों से इस का समर्थन करता हूँ। और जब मैं इस का समर्थन करता हूँ तब अपने उत्तरदायित्व का पूरा ध्यान रखते हुए ऐसा करता हूँ। जब से यह विधेयक इस संसद में प्रस्तुत किया गया है तब से जो बातें इस के विरोध में कही जा रही हैं यदि हम उन पर दृष्टि डालें तो हमें स्पष्ट मालूम हो जाता है कि इस के विरोध के तीन चार मुख्य कारण हैं।

पहली बात जो इस के विरोध में कही जाती है वह यह है कि जो विधान हम ने अभी कुछ महीनों पहले स्वीकार किया था उसी का हम इतने शीघ्र परिवर्तन करना चाहते हैं। मैं आप से यह कहना चाहता हूँ कि यह होना बिल्कुल स्वाभाविक बात थी। हम ने एक नया विधान स्वीकार किया था। उस विधान को स्वीकार करने के क्या फल होंगे, यह उस समय हमारे सामने नहीं था।

इन थोड़े से महीनों में हम ने देखा कि उस विधान में कितनी बातें आवश्यक हैं जिन्हें हम बदल दें। जब हम एक इतना बड़ा विधान अपने देश के लिये स्वीकार कर रहे थे, तो यदि हमें उस का परिवर्तन करना पड़ रहा है तो यह शीघ्र परिवर्तन करना इस विधेयक के विरोध का कारण नहीं होना चाहिये।

दूसरे हम यह भी देखते हैं कि आजकल संसार में कितने शीघ्र परिवर्तन होते जा रहे हैं। कल जो बात थी वह आज नहीं है, परसों जो बात थी वह कल नहीं थी और आज जो बात है वह कल नहीं रहेगी। इस लिये इस परिवर्तनशील संसार में, और जिस संसार में आज कल परिवर्तन बहुत जल्दी जदी हो रहे हैं, यदि हमें अपने विधान में इतने शीघ्र परिवर्तन करना पड़ रहा है तो इस में भी हमें आश्चर्य नहीं होना चाहिये।

मेरे मित्र शिबन लाल जी ने कहा यह विधेयक उन की दृष्टि से हमें पीछे ले जाने वाला है। मैं कहता हूँ यदि हम इस देश में निर्माण करना चाहते हैं, स्वराज्य के पश्चात्, अपना विधान बनाने के पश्चात्, सब से बड़ी आवश्यकता निर्माण की है, तो यदि हम निर्माण करना चाहते हैं तो हमें एक बलशाली और संगठित सरकार की आवश्यकता है। यदि इस बात को हम ध्यान में रखें तो हमें मानना होगा कि यह विधेयक हमें पीछे ले जाने वाला नहीं है परन्तु आगे बढ़ाने वाला है। जो कुछ आज देश में हो रहा है यदि आप उस पर दृष्टिपात करें तो आप को ज्ञात होगा कि इस समय हमें जो नई स्वतंत्रता प्राप्त हुई है, हमारा जो नया विधान बना है, उस सब के कारण देश में एक सिरे से दूसरे तक एक वावला सा मच गया है। कहीं भी न हमें विचारों का स्थायित्व दिखाई

देता है न हमें दलों में स्थायित्व दिखाई देता है, न हम आगे क्या करने वाले हैं इन विचारों में स्थायित्व दिखाई देता है, और इस देश की जो परिस्थिति है, और इस समय की जो परिस्थिति है उस परिस्थिति को देखते हुए अगर हम इस देश में निर्माण करना चाहते हैं तो हमें स्थायित्व की आवश्यकता है और जहां तक स्थायित्व की आवश्यकता है यह विधेयक बहुत दूर तक उस स्थायित्व को लाता है।

4 P.M.

हर जगह हमें जो आवाजें सुनाई देती हैं उन में तीन बातें दिखाई देती हैं, सन्देह, शंका और भय। अभी मेरे मित्र श्री शिबन लाल जी सक्सेना ने यह कहा कि जो लोग इस विधेयक को ला रहे हैं उन के मन में भय है। मैं उन से कहना चाहता हूँ कि जो इस विधेयक का विरोध कर रहे हैं उन के मन में भय है। विधेयक को लाने वालों के दिल में भय नहीं है, उन के मन में शंका नहीं है, उन के मन में सन्देह नहीं है। शंका सन्देह और भय उन के मनों में है जो इस विधेयक का विरोध कर रहे हैं। क्यों इतना सन्देह हम को हमारी सरकार पर हो रहा है, मेरी समझ में नहीं आता। क्यों इतनी शंका हम को अपनी ही सरकार पर हो रही है यह मेरी समझ में नहीं आता। क्यों हमें भय अपनी ही सरकार से लग रहा है मेरी समझ में नहीं आता। बात यह है कि लगातार पराधीनता में रहने के कारण, शताब्दियों तक पराधीनता में रहने के कारण और यहां पर पौने दो सौ वर्ष तक अंग्रेजी राज्य के चलते रहने के कारण जो धारणा हमारी विदेशी सरकारों के सम्बन्ध में हो गई थी वही आज हमारे मन में अपनी सरकार के विषय में हो रही है। यह चीज हम को आगे बढ़ाने वाली नहीं है, हम को निर्माण

[सेठ गोविन्द दास]

में योग देने वाली नहीं है। हमारे देश में जिस प्रकार की एक वलिष्ठ सरकार चाहिये उस सरकार का निर्माण कराने में हमें यह सहायक होने वाली नहीं है।

अब इस विधेयक में जो बातें कही गई हैं उन में से यदि हम मुख्य बातों को लें तो हम को जान पड़ता है कि पहली बात कुछ पिछड़ी हुई जातियों के सम्बन्ध में है। हर वस्तु का अच्छा उपयोग और बुरा उपयोग दोनों हो सकते हैं। हम बिना किसी सन्देह के, बिना किसी शंका के, बिना किसी भय के, जो हमारे प्रधान मंत्री ने हमें को आश्वासन दिया है उस पर विश्वास रख कर, यदि इस धारा को कार्यरूप में परिणत करने का प्रयत्न करें तो इस धारा से हम बहुत आगे बढ़ सकेंगे। यहां पर शंकायें प्रकट की गई हैं, और कई उच्च वर्ग वालों ने शंकायें प्रकट की हैं कि प्रदेशों में इस का उपयोग वहां की सरकारें ठीक प्रकार से नहीं करेंगी और इस का दुरुपयोग होगा। प्रदेशों की सरकारें भी आप की सरकारें हैं। आप प्रदेशों की सरकारों के सम्बन्ध में इस प्रकार की शंकायें, संदेह और भय क्यों रखते हैं? मुझे विश्वास है कि हमारी प्रदेशों की सरकारें इस धारा का समुचित उपयोग करेंगी।

दूसरी जो धारा है वह धारा इस समय देश में जो कुछ हो रहा है उस को ध्यान में रख कर रखी गई है। आप जरा देखें तो कि इस समय कई स्थानों से जो समाचारपत्र भारतवर्ष से निकलते हैं, जो पुस्तिकायें निकलती हैं, जो पत्रक निकलते हैं, वे किस प्रकार के हैं, और इन समाचारपत्रों, इन पुस्तिकाओं और इन पत्रकों में क्या क्या कहा जाता है। मुझे तो आश्चर्य होता है कि हमारे प्रदेशों की सरकारें और हमारी केन्द्रीय सरकार इस प्रकार

के पत्रों, इस प्रकार की पुस्तिकाओं और इस प्रकार के पत्रकों पर कोई ऐसी बात क्यों नहीं करती जिस से हमारे देश का जो नैतिक विचार स्तर है वह कम से कम नीचा न हो पावे। व्यक्तियों का निर्माण, संस्थाओं का निर्माण, बड़ी कठिन बात है। निर्माण में समय लगता है, नाश में समय नहीं लगता, सृजन में समय लगता है, प्रलय में समय नहीं लगता। कुछ समय लगा कर, हम ने कुछ त्याग कर के व्यक्तियों का निर्माण किया, संस्थाओं का निर्माण किया। जो निर्माण हम ने इतनी कठिनाइयों में किया, उस का नाश और उस का प्रलय इस प्रकार सरलता से कर देना हमारे देश के लिये कोई अच्छी बात नहीं होगी। इस लिये मैं कहना चाहता हूं कि जो दूसरी धारा इस विधेयक की है वह भी आवश्यक धारा है।

अब मैं तीसरी धारा जमींदारी उन्मूलन को लेता हूं। हम ने देखा कि इन सम्बन्ध में कितनी कठिनाइयां हमारे सामने आईं। जमींदारी का उन्मूलन तो, जहां तक हमारे यहां की भूमि के संगठन का सवाल है उस के लिये पहला कदम है। जब इस पहले कदम पर ही हम को इतनी कठिनाई नज़र आती है तब दूसरे कदम के उठाने पर तो हमारे सामने न जाने और कितनी कठिनाइयां आयेंगी। जमींदारी उन्मूलन इस से बहुत पहले ही हो जाना चाहिये था। यदि जमींदारी उन्मूलन में इतना समय लगा और लग रहा है तो हम को इस सम्बन्ध में कुछ न कुछ कार्यवाही करनी ही चाहिये। मैं उस वर्ग से आता हूं जो जमींदार वर्ग कहलाता है और मैं अपने वर्ग से, अपने जमींदार भाइयों से, कहना चाहता हूं कि यह जमींदारी तो उन के लिये एक सोने

की तोप हो गई है जिस से वे खुद ही दग रहे हैं। इस ज़मींदारी से उन को कोई लाभ होने वाला नहीं है। क्या लोग चाहते हैं कि केवल किसानों को ही कष्ट है। मैं कहता हूँ कि जो ज़मींदार हैं। उन को, किसानों को चाहे कितना ही कष्ट हो, किसानों से अधिक कष्ट है। मैं ज़मींदारों से पूछता हूँ कि क्या एक षड़यंत्र बना कर, कुछ लोगों का खून पी कर, कुछ लोगों की सच्ची कमाई को खुद के स्वार्थ के लिये अपहरण कर किसी भी व्यक्ति को सच्चा सुख प्राप्त हो सकता है ? सच्चा सुख क्या धन एकत्रित करने से ही मिल सकता है ? मैं ज़मींदार बन्धुओं से कहना चाहता हूँ कि इस ज़मींदारी प्रथा के उन्मूलन में जितने अड़ंगे उन्होंने लगाये हैं वह न लगाते तो अच्छा था। वह हाई कोर्टों (High Courts) में गये और अब सुप्रीम कोर्ट (Supreme Court) में जाने वाले हैं। मैं ने सुना है कि अब ज़मींदार लोग इस विधेयक के स्वीकार होने के बाद भी इस को ग़ैर कानूनी घोषित कराने का प्रयत्न करना चाहते हैं। इस से कोई लाभ होने वाला नहीं है। मैं इस मौके पर उन्हें कह देना चाहता हूँ कि अगर ऐसी कई कार्यवाही उन्होंने की तो अगस्त में हमारी पार्लियामेंट फिर बैठने वाली है और हम एक नया संशोधन इस के संशोधन करने के लिये ले आयेंगे। हम इस देश में ज़मींदारी प्रथा को कदापि रहने देने वाले नहीं हैं। इस सम्बन्ध में जितने भी अड़ंगे हमारे मार्ग में लगाये जायेंगे उन सब अड़ंगों को पूरी शक्ति के साथ, पूरे बल के साथ, दूर करने का हम प्रयत्न करेंगे और अगले चुनाव के पहले ज़मींदारी ऐसी कोई चीज़ नहीं रहने पायेगी। यह तीसरी धारा है जो इस विधेयक में रखी गई है। मैं ने इस पर इतने जोर के साथ इस लिये कहा है कि मैं स्वयं उसी बर्ग से आता हूँ जो कि इस धारा का इतना

विरोध कर रहा है।

अतएव हम इस विधेयक को गौर से देखें तो. हमें मानना पड़ेगा कि इस की मुख्य धारायें ये तीन धारायें हैं जिन के सम्बन्ध में मैं ने अभी आप से कहा; यह तीनों धारायें इस विधेयक के लिये अत्यन्त आवश्यक थीं। अब एक और बात कह कर मैं अपना स्थान ग्रहण करूंगा। मेरे मित्र श्री शिब्यन लाल जी सक्सेना ने अभी रेफरेंडम (Referendum) की बात कही। मैं कोई भविष्य वक्ता तो नहीं हूँ, नज़मी भी नहीं हूँ, कोई रमल फेंकना भी नहीं जानता। लेकिन मैं एक भविष्यवाणी कर देना चाहता हूँ कि रेफरेंडम की बात उन को अगले चुनाव में मालूम हो जायेगी। आज जो दल इस संसद् में मौजूद है अगले चुनाव में वही दल इसी ताकत से फिर से इस संसद् में आवेगा और तब उन को मालूम हो जायेगा कि यह जो विधेयक हम ने पास किया उस में यथार्थ में हम को एक प्रकार से रेफरेंडम मिल गया है, क्योंकि इस दल को चुनने का अर्थ ही यह होता है कि इस विधेयक को पूर्ण समर्थन प्राप्त हो गया। इस लिये मैं भविष्यवाणी करता हूँ कि जिस रेफरेंडम की बात उन्होंने कही वह पांच छः महीने में उन को प्राप्त हो जायेगी।

मैं पूरे हृदय के साथ, पूरे बल के साथ, इस विधेयक का समर्थन करता हूँ।

(English translation of the above speech)

Seth Govind Das (Madhya Pradesh):
I support this Bill for the very reasons for which my friend Prof. Shibban Lal Saxena has opposed it. And when I support it, I do so fully aware of my responsibilities. If we look to what is being said in opposition to this Bill since its introduction in Parliament, it becomes clear that this is due to three or four reasons.

[Seth Govind Das]

The first thing said against it is that we are bringing so soon a change in the Constitution which we had approved only a few months before. I want to say that this was quite natural. We had adopted a new Constitution. What results would follow was not before us then. During the course of these few months we saw what things were necessary to be changed therein. Since we were adopting such a big Constitution for our country, there should be no reason to oppose this Bill if we have been obliged to amend it so soon.

Then, we also see how rapidly changes are going on in the world. What it was yesterday is not so today, what it was the day before yesterday was not so yesterday and what is today will not be so tomorrow. Therefore, if in this changing world, where changes at present are occurring very rapidly, we have been obliged to change our Constitution, there should be no surprise for it.

My friend Prof. Shibban Lal Saxena has called this Bill retrograde. I have to say that if we want to do constructive work in our country—after achievement of freedom and framing our Constitution our greatest need is of construction—we would require a strong and organised Government. If we keep that in mind we would realize that this Bill is not a retrograde but a progressive one. If you will only have an eye upon what is happening in the country, you will find that there has been a confusion in the country from one end to the other following our newly-gained freedom and newly-framed Constitution. Nowhere is seen a stability—either in ideas or among parties or in our future programmes. If we want to do constructive work in our country under the conditions obtaining and the trend of time as it is, a stability is required and that stability is to a great extent achieved by this Bill.

What we hear everywhere reflects three things—scepticism, suspicion and fear. Just now my friend Prof. Shibban Lal Saxena said that those who were bringing forward this Bill have a lurking fear in their minds. I want to tell him that the fear is lurking in the minds of those who are opposing this Bill. There is no fear, no suspicion, no scepticism in the minds of its sponsors. Scepticism, suspicion and fear are in the minds of those who are opposing the Bill. I do not understand why we should be so sceptic and so suspicious of our Government and why should we have fear from our own Government. The thing

is that we have come to look upon our own Government with that demur which we have gathered during our continuous slavery of centuries and the English domination of nearly 175 years. This tendency does in no way help us in our progress or in our constructive work. This is not going to be an aid in the formation of a strong Government as is needed in our country.

Now, if we look to the various things dealt with in this Bill we find, firstly, that something has been said for the backward classes. Everything can have both good and bad aspects. We shall be able to go ahead a great deal if confiding in the assurances given to us by hon. our Prime Minister we try to work into action this clause without any scepticism, without any suspicion and without any fear. Fears have been expressed here, and they have been expressed by several of those belonging to upper classes, that the State Governments would not properly observe it and would misuse it. After all, the State Governments are also your own Governments. Why should you have such scepticism, suspicion and fear from the State Governments? I am sure our State Governments would make proper use of this clause.

The other clause has been incorporated in view of what is happening in the country at present. Just see what type of newspapers, magazines and pamphlets are being published from a number of places and what is said therein. I am really surprised why our State and Central Governments do not take any action against such papers, magazines and pamphlets so that the moral standards of our country may not at least be lowered down.

Making of men and of institutions is a hazardous task. Building takes time, breaking up is done in no time. Creation takes time, destruction is done in no time. By spending time and making sacrifices we made men and institutions. It would not be in the good of the country to break up and destroy what has been created under such hardships. Therefore I contend that the second clause of this Bill is also necessary.

Now I take the third clause relating to Zamindari abolition. We have seen what difficulties cropped up before us in this connection. Abolition of Zamindari is only the first step so far as the question of our land reorganisation is concerned. When difficulties appear to us even at the first stage who knows what and how many difficulties would come up at the second stage? Indeed, Zamindari Abolition should have taken place much earlier. If it has taken and

is taking so much time, some effective steps must be taken. I myself belong to the class called the Zamindar class and want to tell my Zamindar brethren that Zamindari for them has become a golden gun by which they themselves are being fired upon. No good is going to accrue to them by this Zamindari. Do people think that only the cultivators are in misery? I say whatever may be the miseries of the cultivators, those of Zamindars are much more. I ask the Zamindars: can anybody attain real happiness by resorting to intrigues, by sucking the blood of some people and by usurping their honest earning for their own ends? Can real happiness be achieved only by accumulating wealth? I want to tell my Zamindar friends that it would have been better had they not put in the impediments that they did in the way of the abolition of Zamindari. They went to the High Courts and now they want to go to the Supreme Court. I have heard that they are endeavouring to get it declared *ultra vires* even after the adoption of this Bill. No benefit is going to come out of this. I would utilize this occasion to tell them that if any such activity is resorted to by them, we shall again bring forth a new amendment to amend this Bill during the next session of Parliament which is going to be held in August. In no case are we going to let Zamindari survive in this country. Whatever impediments would be brought in our way in this respect will be dealt with full force and absolute determination and before the commencement of the next elections there would not exist here anything like Zamindari. This is the third clause embodied in the Bill. I have so much emphasized it for the fact that I come from the same class that has been so much opposing it.

So if we pursue this Bill carefully it will be impressed upon us that the main clauses in it are these three about which I have just spoken. All the three clauses were absolutely essential. One thing more and I shall take my seat. My friend Shri Shibban Lal Saxena talked of referendum. Well, I am neither a foreteller, nor an astrologer, nor do I know the art of geomancy, still one thing I want to foretell, that the matter of referendum will be made clear in the next elections. The party which is now present here in Parliament will emerge successful and come here again in the same strength after the next elections and he will then realise that we got a sort of referendum in support of the Bill we have passed because the

return of the party implies the Bill getting full support. Therefore I foretell that the referendum he talked of will be had in five or six months' time.

With all my heart, with all the force at my command, I support this Bill.

श्री गौतम: अभी मेरे दोस्त शिबबन लाल सक्सेना साहब ने इस तमाम बिल का विरोध किया, इस तमाम फ़ैमले का जो हम लोगों ने इतने दिनों के दौरान में किया। उन का कहना यह है कि इस की कोई जल्दी नहीं थी, इस की कोई ज़रूरत नहीं थी। मैं उन से पूछना चाहता हूँ क्या कि यह ज़मींदारी को खत्म करना चाहते हैं या नहीं? अगर वह ज़मींदारी को खत्म करना चाहते हैं तो क्या इस बीच में, जब कि कांस्टीट्यूशन (Constitution) बना था उस वक्त से और अब के बीच में, कोई दिक्कतें आईं या नहीं? और अगर आईं तो उन का वह क्या इलाज सोचते हैं? उन्होंने एक बात और ताज्जुब की कही कि दि विल आफ दी कम्युनिटी हैज चेन्ज्ड (The will of the community has changed)। मैं नहीं जानता कि इस से उन का क्या मतलब था लेकिन इतनी बात साफ है कि जब कांस्टीट्यूशन बना था उस वक्त और उस से पहले और आज कांस्टीट्यूट असेम्बली (Constituent Assembly) की इच्छा साफ यह थी कि इस देश से ज़मींदारी खत्म होनी चाहिये और उस के लिये हम हर तरह का प्रावजन (provision) कांस्टीट्यूशन में करने को तैयार थे। हम ने यह देखा कि जो प्रापर्टी क्लाज (property clause) कांस्टीट्यूशन में बना था उस में जो हम ने राइट (right) दिया था कि प्रापर्टी को किस तरह से एक्वायर (acquire) किया जायगा उस की वजह से उस के एक्वायर करने में जो क़ानून बनेंगे उन को अदालतों में चैलेंज (challenge)

[श्री गौतम]

किया जा सकता है। तो बहुत से लोगों का यह ख्याल हुआ कि अगर यह हक ज़मींदारों को दे दिया गया कि वह ज़मींदारी के खत्म करने के कानूनों की अदालतों में ले जा सकें तो उस से ज़मींदारी के खत्म होने में बहुत देर लगेगी। इस लिये उस वक्त भी आर्टिकल ३१ में यह साफ कहा गया और लिखा गया कि जो ज़मींदारी के खत्म करने के बारे में कानून बनेंगे वह अदालतों के सामने नहीं जा सकते। लेकिन हम ने देखा कि जो भाषा उस समय हमारे विद्वानों ने लिखी थी वह काफी नहीं थी। उस से काफी दिक्कतें हुईं। उस के बाद यह जरूरत महसूस हुई कि इसको इस तरह अमेंड (amend) करें कि ज़मींदारी को खत्म करने की जो हमारी इच्छा थी, हमारा जो फैसला था, जो कुछ हम करना चाहते थे, उस में भाषा की कमी रह गई हो तो उस को कुछ तरीक़ों कर दें, उस को ठीक कर दें। तो बहुत सा हिस्सा जो आर्टिकल ३१ के अमेंड करने का है वह उस इच्छा को जाहिर करता है, वह उसी इच्छा के अनुसार है, उसी फैसले के अनुसार है जो कांस्टीट्यूएंट असेम्बली ने इस कांस्टीट्यूशन को बनाते वक्त किया था, यह कोई नई चीज नहीं है, सिवाय इस के कि जो दिक्कतें इस बीच में आईं उन को दूर करने की कोशिश की गई है। लेकिन मैं तो इस से एक कदम और आगे जाना चाहता था, उस वक्त भी और अब भी समझता हूं कि जाना चाहिये। यह कांस्टीट्यूशन का इस तरह का तरीका कि हर कदम पर जब कोई दिक्कत हमें नजर आये उस समय कांस्टीट्यूशन को अमेंड करना पड़े हम को बहुत दूर तक नहीं ले जाता।

इस में दिक्कतें आती हैं और वह मुनासिब भी नहीं मालूम होतीं। मैं इस चीज को बहुत मुनासिब नहीं समझता कि हम ११,

१२ कानूनों को जो कि कई हाई कोर्टों में अल्ट्रा वायर्स (*ultra vires*) करार दिये गये हैं या उन के सामने पेश हैं, उन को बगैर क्लॉज वाई क्लॉज (clause by clause) कंसिडर (consider) किये हुए, बगैर उन को अच्छी तरह से देखे हुए वैलीडेट (validate) कर दें। यह कांस्टीट्यूशन का अमेन्ड इस तरह से होना मुझे बहुत मुनासिब नहीं मालूम होता क्योंकि यह जितने कानून हैं वह हमारे सामने अच्छी तरह से नहीं आये हैं। हम ने उन को अच्छी तरह से नहीं पढ़ा। और दूसरी बात यह है कि जितने यह कानून हैं उन में हम जिस हिस्से को वैलीडेट करना चाहते थे वह वह हिस्सा था जो आर्टिकल ३१ से ताल्लुक रखता है। लेकिन उन की कानूनी और बहुत सी बातें हैं जो इस क्लॉज से ताल्लुक नहीं रखतीं। अगर उन चीजों को भी हम वैलीडेट कर दें तो और उस के बाद यह अधिकार न दें कि वह किसी अदालत में जाये तो हम उस की मंशा से और आगे जाते हैं। इस लिये मैं यह समझता हूं कि दूरदर्शी, फोरसाइटेडनेस, (*foresightedness*) इसी बात में है कि हम अपना विधान इस तरह से बनायें कि आगे की तमाम दिक्कतों को हल कर सकें और हम जिस तरफ जाना चाहते हैं उस में कोई रुकावट न आये।

अभी कल हमारे प्राइम मिनिस्टर साहब ने कहा कि वह क्लासलेस सोसायटी, (*classless society*) बनाना चाहते हैं, वही हमारी इच्छा है। लेकिन मैं यह पूछना चाहता हूं कि जिस तरह से हमें थोड़े असेमें ही आर्टिकल ३१ में दिक्कतें नजर आने लगी हैं, क्या यह आर्टिकल अपनी मौजूदा हालत में हम को वहां जाने देगा? इस लिये बजाय इस के कि बराबर यह

अमेंडमेंट्स किये जायें, बराबर हर दिक्कत को देख कर कांस्टीट्यूशन में अमेंडमेंट्स किये जायें, ज्यादा मुनासिब है कि हम उसे एक बार ही उस तरह से रख दें कि हमें इस को दोबारा देखने या अमेंड करने की जरूरत न हो। मैं समझता हूं कि मेरी पहिले भी यही राय थी जब कांस्टीट्यूशन बना था और अब भी यही राय है कि इस में जो प्रापर्टी एक्वायर करने की चीज है, चाहे वह लेन्डेड प्रापर्टी (landed property) हो, चाहे दूसरी हो, जो भी नेशनल इन्टरेस्ट (national interest) में प्रापर्टी एक्वायर की जाय वह जस्टिसिएबल (justiciable) न बनाई जाय। कम्पेन्सेशन (compensation) के बारे में दो राय नहीं हैं। जो भी कहता है कम्पेन्सेशन न दिया जाय वह सही नहीं है। जो भी इस कांस्टीट्यूशन में दिया हुआ है, हम देखते हैं कि वह यही है कि अगर कोई भी प्रापर्टी ली जायेगी तो उस का कम्पेन्सेशन दिया जायेगा। इस पर इस कांस्टीट्यूशन में दो राय नहीं हैं। लेकिन झगड़ा इस बात का है कि कम्पेन्सेशन दिया जाय, उस के लिये जो कानून बनाया जाय क्या वह जस्टिसिएबल हो या नहीं। क्या वह अदालत में फैसला होने के लिये जा सकता है या नहीं। इस लिये मैं समझता हूं कि एक बार ही इस को इस तरह से अमेंड कर दिया जाये जिस से हर बार छोटी-छोटी दिक्कतों के लिये इसे अमेंड करने की जरूरत न पड़े। अगर प्रापर्टी एक्वायर करने के लिये कम्पेन्सेशन की बात जस्टिसिएबल न हो तो तमाम दिक्कतें एक बारगी दूर हो जायेंगी। जिस तरह से हमें दिक्कतें नज़र आ रही हैं उस तरह से हम जाना चाहें तो आगे और भी दिक्कतें आती जा सकती हैं। विल आफ दी पीपुल (will of the people) कुछ ज्यादा कहे और हो सकता है कि पार्लियामेंट इस हद तक उसे पूरा कर सके या न कर

सके। और उस के बाद अदालतों में दिक्कतें आ सकती हैं, कितने ही दिन तक वह रिफार्म्स (reforms) डिले (delay) हो सकते हैं। और डिले होने के बाद जो असली हल करने की चीज है वह खर्च हो सकती है और उस की वजह से और मुसीबतें बढ़ सकती हैं। इस लिये मैं फिर निवेदन करूंगा कि अगर अभी कुछ देर लगे तो सही लेकिन इस के बाद जब भी हो सके जल्दी से जल्दी इस आर्टिकल ३१ को इस तरह से अमेंड किया जाय कि उस में आगे आने वाली दिक्कतें दूर हो जायें।

वाकी जो अमेंडमेंट्स हैं उन के बारे में यह कहना कि यह हमें पीछे ले जाते हैं, यह हमारी लिबर्टी (liberty) को कर्टेल (curtail) करते हैं, मैं उन लोगों में से नहीं हूं जो इस की तार्ईद कर सकें। मैं यह समझता हूं कि राइट (right) के साथ कुछ ड्यूटी (duty) भी होती है। आप का राइट वहां खत्म होता है जहां मेरा राइट शुरू होता है। एक आदमी के राइट का अगर दूसरे आदमी के राइट से झगड़ा होता है बखेड़ा होता है तो उस में हर एक आदमी का कम्पलीट राइट (complete right) नहीं हो सकता।

१९ (२) में जो अमेंडमेंट किया गया है उस में जो डर नज़र आ रहा है, जो घबराहट है वह खास तौर से इस बात की है, और प्रेस वाले भी इस बात पर जोर दे रहे हैं कि मुमकिन है कि मुस्तलिफ स्टेट्स इस तरह से कानून बनायें जिस में उन का अधिकार छीना जा सके। लेकिन वह जो कानून बनायेंगे वह वही हो सकते हैं जो हमारे बनाये हुए, पार्लियामेंट के बनाये हुए कानूनों के खिलाफ न हों। इस लिये इस का इलाज मैं यह समझता हूं कि पार्लियामेंट

[श्री गौतम]

में इस तरह का एक कानून बना दिया जाय जो काफी लिबर्टी प्रेस वालों को और इंडिविजुअल (individual) को दे जिस से कि यह तमाम चीजें जो सेक्शन १९ (२) में रखी गई हैं वह मेफगार्ड (safeguard) हो सकें। उस के बाद किसी स्टेट में ऐसा कानून न बन सके जो उस के खिलाफ हो और जो डर इस सम्बन्ध में है वह दूर हो जाय। मैं नहीं समझता कि अभी जो हमारी स्टेट्स हैं वह इस तरह से कानून बनायेंगी जिस में हमारी आजादी कम हो। आखिर वहां भी तो वही लोग हैं जिन्होंने आजादी की लड़ाई लड़ी थी। उन लोगों पर शक करना मैं मुनासिब नहीं समझता। इस लिये हमें १९ (२) में जो खतरा नजर आ रहा है हम उसे इस तरह न देखें जिस तरह से आज हम देखते हैं।

इन लफ्जों के साथ मैं इस अमेन्डमेन्ट की पूरी ताईद करता हूँ और यह उम्मीद करता हूँ कि आप सब मिल कर इस को पास करेंगे।

(English translation of the above speech)

Shri Gautam: My friend Prof. Shibban Lal Saxena has just made his speech opposing the whole Bill, or say the entire decisions that we have taken in the course of the last so many days. His argument is that there was no hurry and necessity of all this. I would like to ask him whether he is in favour of abolishing the Zamindari or not? If he is in favour, I ask him whether any difficulties have arisen or not in the period between now and the time when the Constitution was framed? And if they have arisen, what remedies does he propose for them? Another strange thing which he told is that the will of the community has changed. I do not know what he meant by this. But one thing is clear that when the Constitution was framed and even before that it was the definite desire and intention of the Constituent Assembly to abolish the Zamindari system in the country and that

we were prepared to make any provision in the Constitution to achieve that end. We saw that the clause in the Constitution in respect of property provided, as to how property could be acquired and also that the laws enacted in connection with the acquiring of properties, could be challenged in the courts. But then many a member expressed the fear that if the right of taking the question of the abolition of Zamindari to the courts is given to the Zamindars it would mean much delay in abolishing the Zamindari System. Therefore even at that time it was clearly said and provided in Article 31 that the laws that will be framed to end Zamindari system cannot be challenged in the courts. But we found that the language used by our scholars at that time was not enough and it led to a number of difficulties. Then it was felt that it should be amended in such a way that our desire and our decision to abolish Zamindari and achieve all other things we wanted, must be carried out if they are being delayed or challenged on account of any inaccuracies of language it should better be amended. So, a major part of this amendment to Article 31 expresses this desire, and is in accordance with the same desire and decision which was taken at the time of framing the Constitution. It is not anything new. It is only to try to do away with certain difficulties that have arisen in this period. But I wanted to go a step further even at that time and still I feel we must go a little further. This method of amending the Constitution whenever a problem presents itself does not take us any far. Such a procedure leads to difficulties and at the same time seems to be improper. [I do not think it is proper to validate those eleven or twelve Acts that have been held *ultra vires* by certain High Courts, or are still pending with them, without previously considering them clause by clause. Amending the Constitution in such a way does not seem proper to me because these laws have not been thoroughly examined by us. Another point is that the portion which we wanted to amend in these laws was one relating to Article 31. But their legal and certain other aspects are not concerned with this clause. If we validate them also and do not give the right to challenge them in the courts it would amount to our going farther than its very intentions. Hence I think, foresightedness lies only in our amending the Constitution in such a way that we might solve all difficulties arising in future and thus carry out all our intentions and plans without any obstruction.]

Only the other day, our Prime Minister said that he wants to build a classless society. But I want to ask whether Article 31, in respect of which we have already been faced with many difficulties in such a small period, would enable us to reach our goal with its present form? Therefore instead of making amendments off and on or amending the Constitution whenever a difficulty arises, I think the better course would be to amend it once for all so that there may not be any necessity of revising or improving upon it in future. I submit that I was of this view at the time when the Constitution was framed and I still hold the same opinion that the provision in it to acquire properties, whether landed or otherwise, that is, to acquire any property in the national interest should not be made justiciable. There are not two opinions with regard to compensation. Anybody who says that compensation should not be given is wrong. We find that what is given in the Constitution is that compensation will be paid for acquiring any property. The Constitution is very clear on this matter but the trouble arises on the question whether the law that would be framed in regard to compensation should be made justiciable or not and whether it can be brought to the courts for decision or not? Therefore I think it should be amended once for all in such a way that it may not be necessary to amend it every time even when any small problem arises. If payment of compensation for acquiring property is not made justiciable, all difficulties and problems will be solved. If we choose to proceed further amidst difficulties, that we can see ahead, the result will be more difficulties and still more hardships. The will of the people may require something more and it is likely that the Parliament may or may not be able to meet the demand to that extent. And then difficulties may arise in the courts resulting in prolonged delay of the reforms and after that delay, the real thing to be solved might get lost, and which may create further troubles. Therefore, I would once again submit that may it take a long time just at present but this Article 31 should be amended at the earliest opportunity in such a way that all difficulties likely to arise in future, may be done away with.

Then, about other amendments, I must say that I am not one of those who argue that they take us back or they curtail our liberty. Obviously rights entails certain duties also. The rights of a person end where the rights of the other begin, and when there is a conflict between the rights of one

person and those of the other, there can be no full rights for anybody. The apprehension and fear, which is being shown with regard to the amendment of Article 19(2) and which is also being emphasized by the Press, is that possibly the various States might enact such laws as may curtail their rights. But I submit they would make only such laws which do not go against the laws made by us or say by the Parliament. Therefore, I think the solution of the problem is that a law should be made by the Parliament which may give enough liberty to the Press and the individual as well so that all these things that have been provided in Article 19(2) may be safeguarded, and after that the States may not enact any legislation which might go against that law, with the result that all our fears regarding this matter may disappear. I do not think our States would make such laws as may curtail our liberty. After all there are also the same people who fought for the freedom of the country. It is improper to have doubts about them. Therefore, we should not look upon Article 19(2) with the same feeling of apprehension and fear with which we are looking at it at present.

With these words, I give my wholehearted support to this amendment and hope that the House will also accept it.

Shri Mirza (Hyderabad): I rise to speak to a tired House and I will be brief. Prof. Saksena and Dr. Mookerjee both have been insisting on the view that the amendment of the Constitution is not a proper thing. Dr. Mookerjee went so far as to say that it is a tyranny of majority and a scrap of paper and words like that. He praised the American Constitution and also had a great deal to say about the American Press. Just because the American Constitution was not changed, or the method of change was different from what we have adopted, he desired that we should do likewise.

While he was speaking of the American Constitution the fervour of his oratory was so great and the current was so strong that it actually lifted a rock and placed it so as to act as a dam to its own current. He admitted that after two years of the birth of the American Constitution, it was amended and amended vitally. I do not see why our Constitution should not be amended when we had made specific provision therein to make such a change.

That matter was settled. We are now in the third reading of the Bill;

[Shri Mirza]

but I would like to say a few things about remarks that came from him about the freedom of the American Press. He went round to the library and hunted for volumes and quoted from learned Judges of sacred memory and it seemed to us that the only place where there is freedom of expression and freedom of speech is that land of promise! But, I confess that I cannot agree and I will not admit that freedom of Press even in this country is anything less than what is in the United States of America. I hope he knows the activities of the Civil Liberties Union in America; I hope he knows the commentaries that are made by that organisation; I hope that he also knows the checks and the difficulties in the way of any activity which has any communist tinge. I challenge him to get some of the matters that are published in the Press of India, published in any paper in the United States, even in the advertisement columns.

While I do not grant that our Press is any way less free than that of America, still I will not say that we are the model. But I am not prepared to accept America as the model. I hope he would have heard of that old story about the statue of liberty. When an American showed it to an Englishman and said: "Look here, this is our statue of liberty: have you anything like that?" the Englishman replied: "Yes, Sir, this is very fine. We also raise monuments to our dead." So, while freedom in this country is no less, still we are not the model and I am not one of those who are prepared to poohpooh the protest that has come from one section of the Press. Whatever might be its capitalistic nature, whatever the composition of the people that run it, still the protest that came from that quarter, is a wholly healthy sign. They are alert, they are working as watch-dogs. But granting that, I would ask them to consider this for a moment. They are thinking the amendment that we are making to article 19(2) as a store of atomic energy. But let them not confuse a store of atomic energy for an atomic bomb. When the bomb gets manufactured, or if it is manufactured at all, then the question will arise as to whether this weapon, or this power that we are giving to Government is being utilised beneficially as atomic energy can be, or is being abused. And after the assurances that have been given by the Prime Minister and the Home Minister, I think the Press ought to be satisfied that these powers are required for the good Government of the country and not for curbing the

liberties of the people or of the Press. We know our leaders and I think we are justified in trusting them.

A good deal has been said by my hon. friend Mr. Pant. I will not speak on that line, but the Press that is so anxious about its freedom must try and see to put its own house in order. Can there be freedom, when the owner of a Press is also an owner of a textile mill? You may compare a textile worker with a working journalist. There is less security of tenure for a working journalist than for an ordinary textile worker. His wages, or whatever you pay him, are so inadequate that he has to go round to make deals with politicians who want to hunt for publicity. That being the case, the Press by not paying him adequately and by not giving him security of tenure is not only curbing the freedom of the Press, but also corrupting the political life of the country. While they are anxious to get freedom for themselves, let them see that their limbs are also free, and that those who work with them feel that consciousness that they are working for a big country and for a big cause. But the real reason for this change in the Constitution is not any real conflict with the Press or anything like that. The real conflict is that on the one side there is the people's will expressed through Parliament and that on the other side there is the interpretation of that by the courts. When a conflict develops it is very well to say that the judges are good, that the court's judgment should be respected. But when conflicts develop what really happens is that the court itself gets corrupt. That being the case you corrupt justice at its very source, and just for these legal fineries you will find that the whole range of your justice which affects millions of your people is affected. Let us go an honest and straightforward way. My hon. friend Dr. Mookerjee was very eloquent about the Supreme Court and said that there should be no change. It is because of this conflict between the executive and the courts and the conditions or other reasons that compel courts to discover new sophistries like 'police power', and so on. What is it, if not the change of the Constitution in a very indirect way and in a way that takes a very long time? A small State like Kashmir with all its political difficulties has been able to implement a change in the land tenure system. Four years after our getting freedom we are still considering whether this thing is legal or is not legal. How long are we going to wait? Is time going to wait for you, or are the currents that are sweeping the

world going to stop because of some legal difficulties? That is not going to happen.

One thing more I would like to say and that is this, that when people compare America with India, whatever the constitutional aspect, they forget that the conditions are different. Things that are true for America really do not apply to India. America has a straight road and there is no need to change your gear. But the condition in our country is such that when we are turning, every now and then you have to change your gear. America has been following a policy of *laissez-faire*, free expression and expansive economy, because the conditions are such that all this was possible. So there is no basic change in the condition to require a change in the Constitution or the economic set-up. But when America reaches the limits of her expansion then you will find the conflict arising, and that will be the time to judge whether the American Constitution can outlive the demand of time. Here we have not only communal, sectional, linguistic differences and so on, but our people in every section of these are living, some in the sixteenth century, some in the seventeenth century, some in the eighteenth century and so on, and some like my hon. friend Prof. Shah are living partly in the nineteenth and partly in the twentyfirst century. Every little change, I want to stress, alters the whole pattern. A change in America does not alter the pattern of life, either economic or political life. But every little change in this country changes the whole pattern and requires new instruments, new powers and new ways of dealing with it.

And here we require also a leadership not only of the present day; he must have a bit of himself in every part, in every age. And we are proud and lucky that we have one such in our leader. Because to my mind it seems that he is ancient in his humanity and culture, modern in his realism and futurist in his ideologies. Because of this complex concept in our lives you find that foreign countries find it so difficult to handle our affairs. That being so, not only the leader but the instrument he handles should also be elastic and flexible, though not pliable. And that is the instrument that we by this Bill are getting today.

One word about foreign policy. My friend Pandit Hirday Nath Kunzru said the other day that before the war when Hitler asked Britain to see that their Press did not say anything about him, the British Government said "Oh,

they are free". But I want to give another illustration. After the first world war there was a trade agreement with Russia. Russia was not recognised then, and one of the clauses of the agreement with England was that each country will do no propaganda against the other. There was no question of freedom of the press and when once the agreement was made the Press automatically followed it. It is not the case in this country. There can be situations when you make some agreement and the Supreme Court may say that you cannot do it under the Constitution. That being so, especially when conditions abroad are so difficult, when in the capitals of Europe whisperings are going on that August and September are going to be difficult months, when you are suddenly faced with a situation, a Government, if you trust that Government, must be equipped with powers to meet an emergency. If you do not trust that Government you have got every right to throw it out.

So I submit finally that, though I recognise all the political arguments about freedom and so on and so forth, the realities of the situation and the requirements of this country now require that people who are trusted with authority should be given also the proper instrument to function.

Shrimati Ranuka Ray (West Bengal): I rise to support this measure which is reaching the final stages of enactment. But in so doing I am constrained to say that there are certain matters which I think have not been dealt with adequately and that there is one very important lacuna with which I shall deal later.

There is a good deal of misapprehension in this country regarding this first amending Bill. I think that the actual motives behind these amendments have not been understood, as they have been deliberately explained in such a way that ordinary people are bewildered and seem to think that there is something in this which is really going against the liberty of the people. But the underlying trend which is discernible in the major amendments in this Bill shows that it is with the idea of restoring to Parliament and the State Legislatures, which express the will of the people, certain rights which were, I think, curtailed, inadvertently by the Constitution-makers that this Bill is before us. Some of us pointed out when the Constitution was in the making that in our desire to include Fundamental Rights, which, of course, we must have and to curtail the right of the execu-

[Shrimati Renuka Ray]

tive, which, of course, must be done, we have curtailed far too much the powers of Parliament as also of the State Legislatures. (An Hon. Member: Have we?) The courts must have every right in regard to the applications of the laws, but surely the validity of laws which are enacted by the sovereign Parliament should not be questioned in the courts of law. The Select Committee has made one very important change and that is the introduction of the word 'reasonable' in clause 3 which again curtails the powers of Parliament. I consider that the best way out would have been to have taken the suggestions made by my hon. friends Shrimati Durgabai and Dr. Syama Prasad Mookerjee and lay down precisely that these powers should belong to Parliament alone. When we have introduced into this Bill the words 'friendly relations with foreign States', 'public order' and 'incitement to offence' I do agree with all those who have misgivings in regard to every State Legislature having the power to enact legislation on this account. I consider that it was very desirable and necessary that such powers are confined only to Parliament. Apart from this, uniformity could only be achieved in this way. We shall now have varying legislation in various States which will not be uniform and surely in the over-all interest of the country, this should have been done. I am sorry and I regret to say that I am not at all convinced by the argument that the hon. Law Minister advanced in regard to this. He said that 'public order' comes within the powers of the State List and therefore, it was not possible for the right of the States to be curtailed. But the Fundamental Rights chapter is only within the purview of Parliament and not of the State Legislature. Therefore, this argument, I do not think holds sway, but even so if the Government felt that it was taking a risk, I cannot for the life of me, understand why they did not at least introduce the amendment moved by Dr. Mookerjee regarding obtaining the President's assent to such legislation. Some of us had also tabled such amendments providing for the President's assent to this clause; at least that would have secured some uniformity. It is a great pity that we have not done so. We are now in the last stages of enactment and I do not know if it is still possible, and if it is, I would suggest that this should be incorporated.

A great deal has been said about the Press. It has been held that the powers of the Press are being taken away. It was I think yesterday that

my hon. friend, Mr. Pant made a very effective speech in this regard. According to some important Press men the freedom of the Press has been attacked by this legislation. I think that the freedom of the Press is already in great danger in this country. Apart from countries which have authoritative Governments under communistic sway where there is no freedom of the Press, there are other countries which are the so called great democracies of the world where today freedom of the Press has become a will-o'-the-wisp, because we know that the Press combines and the cartels that have grown up in those countries have made it almost impossible to have real freedom of the Press. I would further add that this ugly thing is rearing its head in our country too and it is very necessary to curb it. I do not want to reiterate all that has been said by Mr. Pant, but I do think it is very necessary that when a comprehensive law is to be drawn upon this matter, as the Prime Minister stated, we would like an assurance that there will be provisions in that Press law to see that cartels and Press combines are discouraged effectively. I do hope that the Prime Minister when he replies will give an assurance to the House that the freedom of the Press about which we have talked so much is really assured by not allowing the further growth of these cartels and Press combines.

I now want to say a few words about article 31, about which my hon. friends Prof. K. T. Shah and Shri Mohanlal Gautam have already spoken. I have also spoken about this article during the first reading of the Bill and I only want to point out that it is a matter of infinite regret that the amending Bill did not make a change in clause (2) of article 31. That was the way the amending Bill should have made the change. It is no use arguing that this was beyond the intention of the Constitution makers. If this was beyond the intention of the Constitution makers then other things that have been done could also be argued to be beyond the intention of the Constitution makers. Certainly we have in clause 31(4) of the Constitution made some escape provisions regarding certain Zamindari legislation which was before the courts of law but we did not extend this to all 'estates'. Therefore, in this amending Bill there is an extension and as such if this extension could be there, then certainly clause 31(2) could have been changed or at least at a later stage this extension could have been made in the case of all property, that has

to be taken over or acquired in the national interest. There is no question of expropriation.

Shri R. K. Chaudhuri (Assam): On a point of order, Sir.

Mr. Speaker: Let her finish. There is no point of order.

Shrimati Renuka Ray: I am not giving way. No question of expropriation or inadequate compensation arises. The question is that the enabling power of Parliament which is the underlying motive of this amending Bill should be restored. I do not even suggest that such powers should go to the State Legislatures. In fact we are so careful in regard to property rights that we have, as my hon. friend Shrimati Durgabai pointed out yesterday, put in a clause that the President's assent is needed for such property at least about which Parliament and the Legislatures' powers cannot be challenged by courts of law. But in regard to liberty of expression or thought or any other right, that is a Fundamental Right, it is not considered necessary to do the same and accept the amendment that Dr. Mookerjee has brought forward. Right through the Constitution and this amending Bill, we find the recognition of this great sanctity of property rights. Now as the hon. Prime Minister pointed out yesterday, time was when slaves were property; time was when women were property; those times have gone and today we are living in other times when great changes are sweeping over this country and the world. If today we deprive Parliament which represents the supreme will of the people from having the right to take over property and decide what is the amount and the principles of compensation then surely this Constitution will become a scrap of paper. Yesterday the hon. Prime Minister was saying that it is not possible as yet, it is not practicable to take over in the national interests certain other forms of property and particularly he said this in regard to the collective farming. I agree with him. It is not practicable to bring in everything that we want today. But, that does not mean that Parliament of tomorrow should be curbed also. That is, in fact, what we are doing. I do not want to say anything more on this point except to say that when posterity judges us, they will say that, in spite of the Directive Principles of State Policy, which, as Mr. T. T. Krishnamachari aptly pointed out, in the Constituent Assembly, was "the 193 PSD

dust bin of our sentiment", in spite of the preamble, which we have written in beautiful language, we have not included any economic right for the people except the right of inherited property, as a justiciable right.

Before I conclude, there is one other point to which I want to refer. Much has been said about the motives of the Congress Government in bringing this amending Bill. It has been said that this has been done for its own self-aggrandisement, and to help the Congress. I do not think that anything could be more untrue and fantastic. Today, we are going to face General Elections in a few months time and the Government in power today have not many months to go. It is not in their interest therefore to bring forward a measure which is termed unpopular when they are going to face the General Elections. I should say rather that had the Prime Minister of this country been concerned only with the General Elections, which he is not, he would not have brought forward this measure today. On the other hand, he would have let it remain for Parliament of tomorrow when an amendment would have become most difficult, with many political parties. But he and the Congress Government are much more interested in doing what is in the best interests of the country. It is for that reason that this measure has been brought forward. I do not understand why the people of this country are being confused on this issue. I think that has been deliberately done—I am not talking of the Press—it is being deliberately done by the political parties who are against the Congress. Naturally, they will take any stick to beat the Congress with and this will be one of them. I think, at least, that if the present does not realise, the future at least will realise that it was a bold and courageous step that the Prime Minister of India took in bringing an amendment of this nature today. In spite of its unpopularity, when the country is facing General Elections, he has taken the right step with the full support of the Congress Members of Parliament.

Mr. Speaker: Mr. T. N. Singh.

Shri R. K. Chaudhuri: Sir, I rose on a point of order and my point of order still holds good. The hon. Member who has spoken just now supported the motion, but she attacked every provision of the amending Bill.

Shrimati Renuka Ray: No, only regarding extension of article 31.

Shri R. K. Chaudhuri: It is only misleading the House.

Mr. Speaker: Order, order. In the guise of raising a point of order, he wishes to pass strictures and perhaps partially reply to the arguments of the previous speaker. The raising of the point of order is not in order.

Shri R. K. Chaudhuri: I am not trying to meet those arguments. . . .

Mr. Speaker: Order, order.

Shri T. N. Singh (Uttar Pradesh): We have now debated this Bill for a very long time and it is perhaps not much necessary to say anything more about it. All the same, if we analyse the various criticisms made in this House in respect of the provisions of this Bill, we find that the greatest attention has been paid to the amendments proposed to article 19 of the Constitution. I want to ask the House, what are the rights of freedom of speech that are being taken away by this amendment and in what specific manner our right of freedom of speech and expression is being curtailed? That is the first thing that we should examine before we go on to criticise this proposed amendment.

I would draw your attention to the way and the manner in which we have, ever since we attained freedom three years ago, been exercising this right. I would invite our friends who have waxed eloquent on behalf of the Press to have a look at the various language papers that are being published day after day, week after week, containing such material of which, I say, any decent journalist would be ashamed. Yet, by an irony of fate, these persons have come within the fraternity of journalists and they belong to what is called the Press. I have come across reports of scandalous news items in the papers of which I will give just one or two instances. Not tired with opposing or criticising their political opponents, their activities have gone far beyond. One paper, which happens to be published from one of the principal cities of Uttar Pradesh, says thus. The editor seems to have taken offence against a petty revenue official. What he does is this. He publishes a report in which he says that the wife of so and so is not of proper decent moral character. This is published in the faith, in the hope that no official will dare to bring such a matter to the court because, in that case, he will have to produce his wife and his sister and other members of his family in the court. I want to know what is the culture and tradition of India in this respect. Even if there is something wrong with a neighbour's sister, in our villages, our

people say deliberately, there is nothing wrong about her. That has been our culture. We not only hesitate but oppose any attempt at defamation of our neighbour's brother or sister or anybody. Here, openly, in the Press, these things are published. This is what is called Press in certain sections.

There is not one paper like that; there are several. It is not a stray example. There are instances where a reporter or a Press magnate takes offence at the behaviour of a particular officer. He says.....

Mr. Speaker: Order, order. I may invite the hon. Member's attention to the fact that if he yields to the temptation of giving instances, he may be losing his substantial arguments. There is a time-limit of 15 minutes.

Shri T. N. Singh: This is the only second instance that I am giving.

Mr. Speaker: He may go on; I do not mind.

Shri T. N. Singh: Apart from other instances in which a person's character is impugned, on account of political animosity, certain things are said in which a man's character and his behaviour in his administrative post are brought in and sought to be defamed. I want to know whether you would like to permit that.

As a matter of fact, the article as amended says that the Government will have the authority to impose reasonable restrictions on the rights conferred under part (a) of this article. The article only confers freedom of speech and expression subject to certain limitations which have already been explained in the article. This is only a new addition to that. I want to know in what way this is exceeding the limits of restrictions that should be reasonable. After all freedom of speech and expression is not meant to be absolute.

[**MR. DEPUTY-SPEAKER in the Chair.**]

There are always legitimate restrictions which have got to be imposed and which are imposed in every society or State. This is what has been done; this is what is expected of any State Legislature which makes laws under this article.

5 P.M.

As regards the various things said about the Press in general, I do not think anything more need be said. I need only add that there is a dangerous tendency in some quarters of

10072

the Press and the Press itself is passing into capitalist hands. From my experience as an ordinary proof-reader, and also as a reporter and sub-editor and assistant editor I can tell you that the poor working journalist has not much of freedom left to him. To give my own experience, in Delhi city I was working as a sub-editor and I was also the secretary of a labour organisation. But the proprietor of the paper asked me to choose either to be secretary of the labour organisation or be in his paper. Naturally I had to go out of the paper and you can imagine what freedom is left to the poor working journalist in the matter of expressing his opinions or comments. With such things going on, I say we have every reason to be cautious in seeing that the freedom is properly used. Today we are passing through a great crisis and we do not know how we are going to develop and how we are going to make our country stronger and stronger. Hardly three years have passed after freedom was won after centuries of slavery. Are we going to fritter away all the good things that we have got, by adhering to formulas which lead us nowhere? Are we going to let fissiparous tendencies weaken the country? We should not be led away by catch words which have been the ruination of many a people. The article has been properly amended and we should strive our best to maintain the real freedom of the Press.

As regards the other amendments we have only conferred on the Legislatures of the various States the right to bring in the very necessary land reforms, namely the abolition of zamindaries, or the abolition of intermediaries. These intermediaries have been living as parasites on the land. There may be a few exceptions, but the majority of them have not justified the position they have been enjoying so far. Not only so, our economic conditions have been going down because of these people. The Congress has for so many years past repeated that these intermediaries should be removed. And this Bill is only giving the power to give effect to this policy of removing the intermediaries, so that the law courts or quibbles of a legal nature may not stand in the way. This is what has been done with regard to article 31.

The third important point in this Bill relates to backward classes. I do not know why any head need be created on this account. After all the Constitution has provided that those

who are backward should be allowed to come up—the Scheduled Tribes and Scheduled Castes and the backward classes. They have been kept back for long due to customs and habits and traditions and to enable them to make up the leeway, they must be allowed special facilities. But it has been found that the Constitution itself stood in the way of this being done, in the matter of educational facilities and the like and so the necessary changes have now been brought about.

I will not take up any more time. I will only appeal to newspaper men and journalists and to all my friends of the Press here and outside not to be carried away by mere emotion or by mere phrases. It has been said that there is threat to the Press. But we should not forget that today there is threat to the freedom of the individual in this country by people who are unscrupulous and by people who want to exploit the situation for their own political ambitions. And it is but fair and proper that they should be prevented from doing so. It is our duty to see that the *Swaraj* that has been won after years of sacrifice and toil is kept intact and the country is allowed to grow from strength to strength. Any tendency that stands in the way of such progress should be guarded against and in this work, I would invite the co-operation of journalists who are champions of freedom and who have all along been the champions of *Swaraj*. Their fair name should not be allowed to be sullied. They should see that they do not become tools in the hands of people who have been rightly dubbed capitalists. Let us see that the Press does the right job as it has been doing so far.

Shri Joachim Alva (Bombay): There is one small point which seems to have escaped the attention of the House; but it is of enormous significance. On this point, I would like to congratulate the Prime Minister, the Home Minister and the Law Minister on the deletion of the words "of the Supreme Court" in clause 13 which amends article 376, though they first appeared in the Bill. Only a citizen of India shall now be the Chief Justice of the Supreme Court. This is a very important point. We are an independent country now and we do not want a European to administer the oath to the President of India or occupy any other high position. If we had missed this point and if it had escaped our attention, it might have landed us into a lot of difficulty. A European may hold the position of Chief Justice

[Shri Joachin Alvā]

of a High Court and may even become the Judge of the Supreme Court; but thereafter he shall not become eligible to be Chief Justice of the Supreme Court. However I shall not fail to pay tribute to the manner in which European judges have administered justice in this country fearlessly and with honour. All the same this deletion made in clause 13 was very important and necessary.

As regards article 31A, I remember saying in the speech that I made on the first budget that he who solves the land problem will become master of the land. It may be the present Prime Minister. It may be the present Government, but whoever it may be that solves this problem becomes the master of the land. I say this because this problem bristles with difficulties. We have to solve this problem. It may be that we have to adopt the pattern of land reform that Russia has adopted for solving this problem. But whatever we may do, we have to see that the tiller becomes the owner and the land does not come under the hands of people who are sharks and prey upon the land. In regard to the amendment of article 19 of the Constitution, I, who have been a journalist, will make a few humble observations. In 1947 when India achieved independence, the Indian Press breathed a sigh of relief. Until Independence came, the Indian Press had the nightmare of the British regime for nearly 80 years. We had so many chains, the chains of the vernacular Press etc. when presses were confiscated, and journalists were put in jail. In fact I term that age as the golden age of Indian journalism when men and women fought for the freedom and honour of the country, for the prestige of their country. They were ready to face imprisonment and allow their presses to be confiscated. They were really the good old golden days. This continued till the Second World War came when the Press barons entered and took over considerable portions of the Press, when journalism assumed the colour of gold, of the yellow metal, when money entered the soul of journalism. The golden period has gone! We did heave a sigh of relief that the restrictions on the Press were also gone. However, the present Bill will usher in many restrictions, penalties, pre-censorship and several other things which, when worked in actual practice will thrust great difficulties on us. The orders that will come as a result of this legislation will be administered by petty officials and by those who may not be able to separate the goats from the sheep; the right

type of papers may have to suffer with wrong journals.

The Prime Minister said a day will come when our newspapers will be great engines of publicity like those existing in the United States of America or the United Kingdom. I shall not look forward to those days. Let our Press be dominated by men of idealism, by men of character, by men who shall not attack the son for the father, the sister for the brother or the wife for the husband—who shall not be defaming the national leaders but men who shall perhaps in days of crisis help the army or the police when the security of the State shall be in jeopardy. These are the grave dangers that face us today. Today great men do not come to teach at the Universities because the pay is not attractive and the young men in our Universities are falling a prey to the yellow Press. The yellow Press is fostered by men who claim to be Oxford men but who have no compunction in their writings. They had contempt for the first Home Minister of the National Cabinet, the present Home Minister here and also in Bombay. What can you say when thousands of sheets are circulated that 'C.R. is a serpent' in big sign bold type or when they write of 'Morarji and the Prostitute'. These are the people who should never have entered our journalism. Up till 1947—for 80 years—we fought the battle of freedom but these despicable things never crept into our journalism. The All-India Newspaper Editors' Conference had not done anything effective in the matter. When the elders in the profession have no power to exercise over the youngsters, the State has got to come in; otherwise the police will be tampered with, the army will be tampered with and the security of our infant State will be endangered. These are the points which I wish to warn the House about. The golden age of our journalism has passed away and it has passed into rupees, annas and pies; into a mere machine which is moving with gigantic speed. We will see the day when Hindi journals will claim a circulation of five or even fifty million. Perhaps this country will claim the biggest circulation of millions which no other country will have achieved when these are the checks you are imposing on this fast-expanding Press.

Sir, one more point. These are the days when even the law courts shall not be able to do justice to the litigants. Twelve out of thirteen complainants refuse to lodge complaints for defamation.

They get no relief and wronged people feel it is better to keep quiet than file defamation suits. Hence the arch-defamers in yellow journalism get away. In the olden days we worshipped the leaders of the Press and those lords of the Press were filled with the fire of patriotism. But who are the new apostles of the Press? They are people who licked the boots of the British and they were not seen anywhere inside the prisons and they never saw what was the lot of a 'C' Class prisoner, who never got milk or butter, rice or cheese, tea or coffee. These are the people who now seek to be the barons of the Press. Hence we do not want to move on the lines of gigantic machinery like the United States of America nor do we want to be like U.K. Perhaps a day might come when the State will have to run its own papers as in Soviet Russia—I am not an admirer of any system—but these are facts that must be faced. Beautiful periodicals are printed in Russia and perhaps the lords of the Press will have to wait for the day when the Indian Government in a democratic and socialist way, will have to run their own Press for the benefit of all.

One word more, and that is in regard to the hon. Dr. S. P. Mookerjee. I have personally known Dr. S. P. Mookerjee. I have had the highest respect for his character, patriotism and ability. But I always felt that he was a first-class man devoted to a wrong cause; that he was a first-class man in a wrong party and the only time that he was at his best was when he was a member of the Government. There he felt uncomfortable and went away. But when the hon. Dr. Mookerjee quoted Sir Samuel Hoare, it made my inside upside down. For Sir Samuel Hoare was the worst Secretary of State for India—the most notorious oppressor of India who laid many Members of this House in jail, who laid Panditji in jail before Mahatma Gandhi landed in Bombay from the Round Table Conference in 1932. Dr. Mookerjee quoted Hoare on this subject of liberty. Hoare, I felt, was the devil himself, quoting the scriptures. That is the least I can say. Otherwise how dare Hoare speak on liberty which he crushed in India. I felt that Dr. Mookerjee and Acharya Kripalani were making pure election speeches. Dr. Mookerjee was running on principles. Acharya Kripalani went on personalities trying to tear up the character of this or that person. He need not have struck at the idols for the simple reason that he is an idol lacking wor-

shippers. I think both the opposition leaders had their eyes on the coming elections.

This is a great Bill and all of us have taken it with the spirit of responsibility. Some people, no doubt, have said that three journalists have remained neutral. As against them, nearly a dozen journalists, mostly from the Indian languages section of the Press, have voted for the Bill. It would be strange if they had voted otherwise. You must know that now people are after the Indian language Press and we should not ignore the Indian language Press which will soon be the master of the situation. We should not be overtaken by those who only write English journals and run away with it. Hence they think they are the real lords! The real people concerned are found in the Indian language Press and if their voice is not heard, it will be ruinous for the motherland.

Shri Hanumanthaiya (Mysore): Very learned and impassioned speeches have been made on this Bill. From my point of view I look at it as a charter of liberty for the underdog. To begin with it has given scope for the backward classes to come up to the level of others more advanced so that there may be real equality in the country as contemplated and guaranteed by the Constitution. The peasants' interests have been safeguarded as against the big landowners. It has been apparent that the working journalists are wholeheartedly at one with this measure as against the few who control the Press in the country.

This measure, as the Prime Minister said in his first speech, is a liberalising measure. Dr. Mookerjee challenged that and said that this Government has taken the power in its own hands. This Bill only empowers Parliament in a greater measure to have power in the field of legislation than it had before. To put it in homely phraseology it is merely a case of anyone of us transferring his money from the fixed deposit to the current account for purposes of trade or domestic expenditure. I do not know why merely because a man out of his need transfers his money from the fixed deposit to the current account, there should be so much hue and cry about it. We had deposited the power in the Constitution. We now find it necessary to take some of the powers in our hand to see that the interests of the underdog, the peasant, the backward classes and the man in the street are safeguarded. It is from this point of view that the

[Shri Hanumanthaiya]

Bill is a real boon to the peasant, the worker, the working journalist and the backward classes in the country.

Much was made on the ground that we are taking away the powers of the court. There is an unhealthy tendency in some quarters to see that there is a kind of rivalry in the matter of power and prestige between the judiciary and Parliament. It is a very wrong psychology to be encouraged. It is an undoubted fact that even according to the Constitution Parliament and the executive are the supreme authority. The judiciary is merely the interpreter of the law. Parliament and the executive have the power of appointment, the power of dismissal, of determining the pay and the emoluments of the judiciary. How then can the judiciary claim equality with Parliament or the executive.

✓ The independence of the judiciary should be properly understood. Independence means that Parliament and the executive do not interfere in the day to day discharge of the functions of the judiciary. They should not influence the decisions or judgments of the courts behind scenes. They are given unfettered discretion to decide and interpret the law as they think fit. That is the real meaning of the independence of the judiciary. To say that they are rivals in the matter of the exercise of power with Parliament or the executive is to misunderstand the position thoroughly and it will not help anybody.

If certain people impute a wrong psychology to Parliament or the executive, that they want to take away powers from the judiciary, it is because some people want to put the judges on a superior pedestal to Parliament, which represents the will of the people. The judges themselves ought to know their own limitations. Many a time it has so happened that the judges have passed unsavoury remarks against Parliament in their courts. I was very happy to see the other day the Speaker pulling up some Member who made a somewhat disparaging remark against the judges. That is the restraint with which Parliament is working. In contrast to this what do we find in some courts? When we read in the newspapers the remarks they make against Parliament and the Members of this House.

Mr. Deputy-Speaker: Is it necessary at the third reading or even earlier to go into what the judges have said in their courts? It is better to avoid all such references.

Shri Hanumanthaiya: Certainly, Sir. It is my opinion that the independence of the judiciary should not be understood literally but has a definite meaning attached to it. Independence means freedom in the matter of the interpretation of the law. It is not a question of sitting in judgment as to whether a law is just or unjust: it is not the business of any other authority except Parliament to decide./

I have to say a few words in regard to certain remarks made by certain hon. Members. There is a tendency in this House on the part of a few individuals to cast aspersions against State Governments and Legislatures. My friend Mr. Anthony is not here and he used words which are almost unparliamentary and objectionable. I do not want to speak the same language. To bring about a kind of misunderstanding between the Central Government and the Government of the States, between Parliament at the Centre and the State Legislatures is a very unhappy thing to do. Each Legislature, the State Government and Parliament and the Central Government have their own duties to perform under the Constitution in their respective spheres. They are discharging the onerous tasks imposed upon them by the Constitution. To claim superiority and disparage others is not the happy way of building up the country into one solid whole. I very much wish that that psychology is given up. After all the Members of the State Legislatures are elected just as the Members of this House. They are as much patriotic and responsible as anyone here. I hope this House will not allow the habit of attacking State Legislatures and State Governments for extraneous reasons.

As I said, this measure is a boon to the underdog, the peasant, the backward classes, the working journalists and the people at large, because the measure vests in Parliament greater powers, which means vesting those powers with the people.

Mr. Deputy-Speaker: Shri Venkataraman. (Interruption.) The opponents of the Bill have had opportunities day in and day out.

Babu Ramnarayan Singh: I have had no opportunity.

Shri Venkataraman (Madras): Sir, I thank you very much for giving me this opportunity to place a few facts on what I consider to be the merits in the legislation which the House will just now pass.

There is the amendment to article 15 which has been made at the instance and is very largely due to the pressure or influence from Madras. There is a feeling both in this House as well as elsewhere that by this amendment we are trying to get over the decision of the Supreme Court. If we carefully analyse the facts relating to the communal G.O., its history and its past, we will realise that this amendment is necessary in the interests of the social welfare of all the people in that State. In the year 1926 the independent ministry of Madras introduced this communal G.O. It was then supported by two members who were originally in the Congress but who had crossed the floor. But then for nearly fifteen or twenty years it has been in existence and our concept of social justice has been changing in the meanwhile. When the hon. Home Minister was the first Premier of Madras under the first Congress Government, he extended this principle of the communal G.O. to recruitment to the judiciary. I am sure you will agree, Sir, that the hon. Home Minister is perhaps one of the rarest men who has the courage of his conviction, and if he did not feel that that principle was a true reflection of social justice I am quite positive he would not have extended it to recruitment to the subordinate judiciary.

Subsequently when we were framing the Constitution we thought it was no longer necessary to have any provision for the advanced classes and that it would be quite sufficient if we made provision only for the backward classes. If you look into article 16 you will find that provision has been made for reservation of seats for the backward classes in the matter of appointments to services. Article 16(4) makes it possible for the State Governments to reserve seats for these backward classes in the services. But when we come to article 29, clause (2), we find such a reservation has not been made—either by oversight, or—I do not know why. Nobody would deny that it is absolutely necessary to make some provision for the purpose of giving adequate educational facilities to the backward classes and provide reservation of seats for the purpose, but when we actually come to article 29 we find that clause (2) of that article makes it almost impossible for the State to reserve seats for the backward classes. The present amendment brings the law under article 29 on the same par with that under article 16(4) where we have accepted the principle. Therefore, this amendment makes no further change and there is absolute-

ly no need for apprehension of any kind. In the case which came up before the Supreme Court—not the one which most of the Members have read and quoted from, but the other one of Venkataramana *versus* the State of Madras, (No. 318 of 1950),—the Supreme Court said that in the circumstances it is impossible to say that classes of people other than Harijans and backward Hindus can be called backward classes. Therefore, there is no need for either the members of the Select Committee or even the Prime Minister to give an assurance in this House that this provision cannot be abused. There is a decision of the Supreme Court and if it is abused by the Government of Madras it, will certainly be questioned before the Supreme Court. Therefore, to raise imaginary fears and imaginary doubts and then to cast a slur or aspersion on the State Government is wholly unnecessary, because you have adequate protection, even as the law now stands and even according to the judgment delivered by the Supreme Court, to prevent any abuse of this clause.

I have found considerable difficulty in following the argument of some of my very good friends. I am sorry my friend, Prof. Shibban Lal is not here, but may I say that every legislation of the middle-of-the-road or moderate kind is liable to attack from both sides—from the one side that it does not go far enough, from the other that it makes a change in the *status quo*? But if the same person attacks the legislation from both the angles it becomes rather difficult to understand what it is. Take the case of voting by Prof. Shibban Lal Saksena against article 15. According to his claims that he stands for the backward classes, for the downtrodden, and for labour in this country, I thought he should have been the most robust champion of article 15, clause (4). Similarly, even with regard to article 31, I cannot understand how he could oppose it. Maybe by a technical error or through an oversight we may have passed a zamindari abolition measure which does not conform to the provisions of the Constitution, nevertheless we stand committed to the principle. Therefore, people like Prof. Shibban Lal and myself should, notwithstanding any defect in the manner and method of the legislation, so long as we believe in the principles embodied in it, do all that we can to give legislative sanction to see that it is made legal and enforced. Prof. Shibban Lal pointed out that there is no hurry for this amending Bill. To my mind it seems it is most urgent. Admissions to the colleges in Madras will begin

[Dr. Venkataraman]

next month and if this measure is not carried through before the colleges reopen we cannot make adequate provision for the backward classes and the backward Hindus. Therefore, it is absolutely necessary and very urgent that we should have brought this measure now and see that we pass it now. [As regards the abolition of zamindari, to keep the tenants in suspense, in doubts and fears for a long time is to demoralise them; having passed the legislation the legality of which is under doubt, it is likely to cause greater harm to the tenantry of the country than if we had not passed it.] I remember an incident which happened some years ago in Madras when my friend, Mr. Kala Venkata Rao who was then the local Revenue Minister toured the agricultural areas of Tanjore and delivered speeches in support of the abolition of zamindari Bill which he had just introduced in the Legislature. I happened to go with him translating his speeches into Tamil. Well, after he left some of my own tenants came to me and asked: "You said these lands of yours will be ours. When are you going to give them to us?" That is the way our tenantry in this country is looking at this legislation. [They want to get the land as quickly as possible. If we are going to take this matter to the courts and delay it we are not only causing great harm to the legislation itself but irritate other people to such an extent that they will have no faith whatsoever in the legislation you are bringing forward, they will have no faith whatsoever in the courts and in the sanctity of law. Therefore, it is absolutely necessary and also very urgent that when these matters are questioned before the courts, when the validity of these measures is in doubt, this great Assembly of ours, this sovereign body of this country should come to their succour and see that their doubts are set at rest.]

I do not want to say anything about article 19 because it has already been discussed sufficiently. Dr. Mookerjee has quoted a number of decisions. I can also do it, but as a lawyer I know it is useless to quote decisions on particular issues. Every enunciation of the law relates to the facts of the particular case. In the ultimate analysis you will find that the precedent just revolves round the particular facts of that particular case. There are legal observations, if necessary I will read out only one of them, in which they say that under the guise of freedom of the Press you cannot preach anarchy. This is what Justice

Robert H. Jackson said in the latest case of this kind in the U.S., judgment on which was delivered on the 8th May, 1950. My friend, Dr. Syama Prasad Mookerjee must have seen it. The case was of the American Communication Association vs. Douds. This is what Justice Jackson said:

"But I have protested the degradation of these constitutional liberties to immunize and approve mob movements, whether those mobs be religious or political, radical or conservative, liberal or illiberal, or to authorize pressure groups to use amplifying devices to drown out the natural voice and destroy the peace of other individuals. And I have pointed out that men cannot enjoy their right to personal freedom if fanatical masses, whatever their mission, can strangle individual thoughts and invade personal privacy."

Quotations like this can be multiplied. It all depends on the facts of a particular case to say whether the freedom of the Press is ennobled in that case or the restriction has been emphasised. Now the final opinion is very interesting. This is what it says:

"The task of this court to maintain a balance between liberty and authority is never done".

It is a continuing process. The Supreme Court and other High Courts exist in this country for the purpose of seeing that neither under the guise of liberty of Press license or incitement to violence or offences is allowed to be preached, nor on the other hand under the guise of security of the State the individual liberty is curbed. The balance cannot be determined by law. The balance must always be determined by courts and that is why courts exist. What Dr. Mookerjee has tried to preach to this House is to see that by legislation that balance is achieved. I venture to submit that as far as my small knowledge goes, it is impossible to do it by legislation; it must always be left to courts. What we are now doing under article 19(2) is only to give that authority to the courts to see that a just balance is maintained between those relating to individual freedom and the necessities of the security of the State.

Dr. S. P. Mookerjee: Today after so many days' debate the curtain will soon be drawn over a matter which has excited comments not only inside this House but throughout the country. The Bill as it stands amended,

contains a few changes which, as I have said before, have made considerable improvement on the original provisions of the Bill. I was reading the way in which the majority and the minority discuss matters in Parliament in an authoritative book *Reflections on Government* by Barker and in two sentences he has described the spirit in which discussions should take place.

"Discussion implies a spirit and can only be in a spirit of mutual giving and taking. Discussion is not only like war; it is also like love. It is not only a battle of ideas; it is also a marriage of minds".

Shri D. D. Pant (Uttar Pradesh): Better late than never.

Dr. S. P. Mookerjee: It is both a battle of ideas and also a marriage of minds. So far as the Opposition is concerned, we expressed our viewpoint forcibly and so far as the Government is concerned, its viewpoint was also expressed without any hesitation. The Bill, though it has been amended in some respects is still unacceptable to us, and we, therefore, feel it our duty to oppose the Bill as it stands. It does not mean that we are opposed to all its clauses, but on the whole we are not prepared to accept it.

I shall not go into details now, but one factor stands out prominently and that is the manner in which the amendment has been made. This is the first amendment to our Constitution. Although legally Parliament was entitled to pass a Bill amending the Constitution, yet it would have been better if Government had established a healthy convention and circulated the Bill for eliciting public opinion, so that the view point of the people who are outside this House would have been more effectively known. It has been said by one hon. Member that an overwhelming majority of this House has supported this Bill. But let it not be forgotten that the overwhelming majority of this House consists of members of one party and one organisation.

An Hon. Member: Representatives of the people.

Dr. S. P. Mookerjee: In fact, if you count the heads—it is not always possible by counting heads to count the brains—you will find that more than 95 per cent. of the people who have voted for the Bill are all subject to the whip of one political party. So it would not be wrong to count them

as one vote, the vote of the Leader of the House. And if you calculate the vote of 19 independent Members who have voted against the Bill, perhaps morally speaking, we have won and not the Government.

Seth Govind Das: You are not a good accountant.

Dr. S. P. Mookerjee: In any case, why is it that we are passing this Bill? Now various reasons have been advanced why the Bill is necessary. It is most unfortunate that unnecessary bogeys have been raised in connection with the debate. One of my hon. friends from Bombay speaking today referred to the yellow Press. Another referred to the scurrilous writings appearing in some sections of the Press—abuses which are vulgar, obscene, indecent. No one defends them. But your present law is competent enough to deal with such offences. The Prime Minister also spoke yesterday, and spoke very vehemently, about the shock which he received from time to time when he goes through the vernacular newspapers—all cases of personal abuses, filth, venom, etc. Even if you amend the Constitution, as you propose to do, how are you going to deal with them? Are you going to attach a Schedule to the Constitution consisting of names of certain newspapers which shall not be published in India? All that you can do is to prosecute them. Prosecute for what? For vulgarity, for obscenity, for indecency, which are already covered under article 19(2) today. If your present Indian Penal Code is not sufficient to cover such acts of omission or commission, by all means amend the Indian Penal Code; but what is your justification for restricting the freedom of the Press generally, because you failed to tackle some sections of the yellow Press? Similarly, with regard to incitement to offence like murder, etc., it has been repeated *ad nauseam* that there are some people who are inciting others to commit murder, to commit violence. No one supports them. If you have not the authority, we are all agreed to that extent the Constitution might have been amended. But what is your justification for wholesale restriction? Have you given an iota of evidence before the House justifying the inclusion of such a broad category as incitement to any offence? Then again, you have created history by giving retrospective effect to the changes which curtail freedom.

Take again your zamindari abolition. Now naturally zamindaris have to be abolished. That is more or less the

[Dr. S. P. Mookerjee]

accepted programme of everyone. You have already passed your Constitution and provided for it. You have said that it will be done in accordance with the provisions of article 31. If you feel today that zamindaris should be abolished without compensation, be straightforward and say so and amend article 31. But you do not do so. You leave article 31 as it is and you include an article 31A and also an article 31B which are nothing but instances of "constitutional monstrosity". What is it that you say—that any State might pass any legislation for acquisition of estates and even though the provisions of such laws are inconsistent with the provisions of the Chapter dealing with Fundamental Rights in the Constitution, still they will be good laws. [You have included a Schedule to the Bill. Today under article 31B, sitting on the floor of the House you suddenly added two Regulations from Hyderabad. I ask how many Members who support the inclusion of these Regulations had seen those Regulations? No one has seen them.] If the order comes to include the Regulations, they have to be included. If the order is given to omit the Regulations, the same will not be included. It depends on the master's wish. (Interruption). The President has not certified them.

The Minister of States, Transport and Railways (Shri Gopalaswami): They have been certified. The hon. Member will take it from me, and I assure him, that both these Regulations have received the certificate of the President.

Dr. S. P. Mookerjee: If the President has certified them why include them in the Constitution?

An Hon. Member: By way of abundant caution.

Shri Rajagopalachari: And one of them is in the court.

Dr. S. P. Mookerjee: If the President had certified them and if the courts had upheld them, why stigmatize the Constitution and make them part of the Constitution?

Shri Gopalaswami: My hon. colleague did not say that the courts had "upheld" it. He said that one of them was in the courts.

Dr. S. P. Mookerjee: It makes it still worse. [Have you ever heard of such a thing that a particular Regulation is now a subject-matter of dispute before a constituted court of law, and here we are sitting as a solemn Parliament and, without wait-

ing for the decision of the court, we are saying that that law is valid and is in accordance with the Constitution. I used the language "Constitutional monstrosity" with some hesitation, but I have no hesitation in using it now. It is absolutely unprecedented. Even the British Government would not have ventured to deal with any court in the manner in which this Government is dealing with the judiciary.]

Take article 19(6). What is it that the Allahabad High Court had said with regard to the State transport—that such orders creating a monopoly, wholesale or partial monopoly, should not be passed by executive order. That is all that the Allahabad High Court said. What is it that you are doing under the Constitution? It is not nationalisation. Some Members spoke glibly about nationalisation. I understand that. It is a clear straightforward act by which you acquire private property or private undertaking for State purposes. Give it compensation and be done with it. But here what you say is that the State may enter into the field of business, trade, commerce, industry, automatically and prevent private enterprise either in whole or in part. What does it mean? It means that if a particular State Government...

Mr. Deputy-Speaker: Was he not a party to this resolution as a member of the Cabinet?

Dr. S. P. Mookerjee: This was not there at all. Nationalisation is all right. This is not nationalisation. This is through the back door, preventing private enterprise from playing a natural part. This is no question of nationalisation at all. I have every sympathy with the clear-cut proposal for nationalisation. But I ask the Finance Minister who is sitting here: what sort of confidence will be created in public mind by such a provision in the Constitution? If, suppose, a State Government passes a law or by an order decides that it will establish a factory, automatically it may debar the existing factories in the same field within that particular area from functioning. If you want to do it do it consistently. Let there be consistency. But whatever has been done by you is nothing but a display of dynamic inconsistency. At every stage you proceed from one inconsistency to another, and you do not know where exactly you will be landed.

Shri Joachim Alva: My hon. friend was a member of the Central Cabinet when the Bombay State took over the transport.

Dr. S. P. Mookerjee: The hon. Member always makes a mess of everything whenever he speaks on any subject.

Shri Joachim Alva: I am giving out facts.

Dr. S. P. Mookerjee: One of my friends has said that with regard to the freedom of the Press, the working journalists welcome this particular measure. Only yesterday I saw in the papers an announcement that the Federation of Working Journalists in India, which represents all the working journalists, has condemned this Bill. I do not know which working journalists have come privately to Mr. Hanumanthaiya to announce that they support the provisions of this Bill. The Working Journalists' Association in several Provinces have unequivocally condemned the Bill. And yet we hear that the working journalists consider that this is a charter of their liberty!

Two of my friends said the other day—and I was surprised at their remarks—that really India is not fit for democracy yet, that Indians cannot be trusted with all these rights and liberties which our Constitution has clothed them with. I was really amazed to hear these two statements coming from two respected Members of this House. I could have understood such a statement coming from our old British masters who always proceeded on the assumption that Indians would never be fit for democracy. But for the Members of Parliament of Free India to say that we are not fit for democracy or not fit to exercise our rights and liberties which were given to us under our own Constitution passed sixteen months ago is something which we are not prepared to accept. Even take England. One of my friends said they know how to behave. But did they behave in a docile manner throughout the chequered history of England? How did they get powers? How did they get their rights and liberties? They did not get them by mere petitions? Rights and liberties in England were wrung out of unwilling diehard masters who ruled over the destinies of that country. They even sent one of their kings to the gallows, and one was forced to sign the Bill of Rights, the Charter of Rights which Englishmen treasure even today.

So let us not talk about England. We have proceeded on a different plane, through a different line of action altogether. And we got our liberties. What is my complaint against this

Bill? That without assigning reasons, without adequate reasons you are deliberately curbing the rights which you yourselves gave to the country sixteen months ago. That is the sum and substance of my charge against this Bill. If reasons had been given I could have understood, as reasons had been given with regard to one or two other points. But with regard to the main propositions, I think this is an entirely wrong approach and this is not going to help Government at all. The Prime Minister gave verbal assurances which satisfied a number of Members, including some of the distinguished journalists who are Members of this House and who therefore abstained from voting yesterday. No doubt verbal assurances from the Prime Minister are valuable. Everyone should treasure them. But what can the poor Prime Minister even do? Did he not give a verbal assurance on the floor of the House yesterday on one particular clause on which we were very emphatic that he should be prepared to accommodate the House and accept its suggestion, namely with regard to article 19(2)? We said if Parliament would not frame the laws, at least the President would be given the power of giving the final assent to the laws made by the State. He made that statement here on the floor two days ago, but ultimately he failed to fulfil the promise which he had given. So far as this question is concerned, the giving of the assent by the President was quite possible, legally, constitutionally, and the House could have agreed to it—as indeed has been done with regard to article 31A, yet this was not done. I am not going to discuss the reasons. The fact remains that even verbal assurances given by the Prime Minister on such fundamental matters cannot be given effect to for one reason or other.

I shall conclude by referring to one aspect of the matter which really worries many of us. We are not here to quarrel with each other. The country is passing through a great crisis. Very often the Prime Minister refers to emergencies. When you have to deal with an emergency you have ample provisions in the Constitution. That is another bogey which is created for the purpose of misleading people. You have ample provisions for that. You can go and suspend any part of Fundamental Rights in respect of any part of the territory of India, if you so desire, if there is a real emergency. We are not discussing emergency here. If an emergency comes, an emergency which will call

[Dr. S. P. Mookerjee]

forth the combined efforts of all sections of the people, I have not the least doubt that the vast majority of the people of India will rally to the call of the Prime Minister, because no one wants that this country should be bartered away to our enemies. But what we are really afraid of is that provisions of so drastic a nature are liable to abuse and mis-use in ordinary times. It is not a question of casting motives on State Legislatures. You will not be able to get uniformity of laws; when your party machinery or party Government works, a natural tendency comes to obstruct and to make it impossible for those who politically may not see eye to eye with you to function independently or to proceed in the way in which they would like to proceed. Here it is that the possibility of curbing the inherent rights of individuals exists, and it exists very much so. Let the Prime Minister bear this in mind. Why is it that there is so much discontent in the country? Many of us have been moving about in different parts of the country and we mix with people of various classes and conditions. Why is it that today that feeling of adoration, that feeling of confidence and that feeling of affection has disappeared? Why should there be so much criticism against the Government? I believe my hon. friend, Seth Govind Das got up and said: Well why cannot the Government be trusted? Perfectly true, and my answer to him is: Why cannot the people be trusted by our own Government? Why should it be necessary for you to forge such weapons for crushing the rights and liberties of the people? There is something wrong somewhere. The real fact is that the impression is gaining ground amongst large sections of the people in the country that the Government has failed to deal with some of the vital matters which concern the daily welfare of millions of people. There has been maladministration; there has been failure; there has been inefficiency; there has been ineffective working of the administration and that is why popular discontent is rising. The answer to that popular discontent is not by passing repressive measures. That was done by the British Government. I did not quote Sir Samuel Hoare for the purpose of praising him but I warned the House that it should not proceed on the same lines that Sir Samuel Hoare proceeded which ended in abject failure. He was not prepared to give Fundamental Rights to the Indian people because he knew that they would stand in the way of the British Government in India from

continuing the repressive laws which were then on the statute book and today you are also curbing the Fundamental Rights which were given in the First Constitution because you are not prepared to trust the people of this country. The answer to this present attitude of discontent in the minds of the people can only be fruitfully given, if Government approaches the problems constructively. It must enter the minds and hearts of the people and not intensify the fear of repression, through Bills, creating new offences and sending them to jails. How many jails would be needed for this purpose in the whole of India? There will be a physical limitation to your capacity to accommodate all the people who are going to fill the jails of India. You cannot do it without courting disaster. The Prime Minister said the other day and I was glad that he touched the point, he said that if the situation comes to that stage, then there will be one and only one solution, namely, there will be revolution in the country. Do we want to create conditions which will lead to revolution in India? I would therefore appeal to the Prime Minister even at this stage—of course, you have got your majority; you will carry this Bill through; you carry it through—but in giving effect to it you must not be guided merely by a sense of intoxication of the power that is in your hands because you have 240 supporters inside the House. Outside the House there are millions who are against you and you will have to remember how you will be able to placate them properly. . . . (Interruption). You may protest as much as you like but the fact remains there.

I would end by saying that here is a situation which has arisen in the country when we should be able to put our heads together—no matter whether we are in different camps—and decide how to tackle these grave and urgent problems, on the right solution of which the future welfare and destiny of this country lies.

Shri Jawaharlal Nehru: We have arrived at the end of a long debate which has lasted for many days and on several occasions I have had occasion to intervene in this debate and now that we have nearly come to the end of it I thought that you might call upon me to speak and I was wondering what I could say, because I thought we had explored every aspect of this question and I had said whatever I had to say and in the course of this long debate, sometimes warm words had been exchanged, neverthe-

less on the whole, I thought I might say that it is true that this debate had been carried on on a fairly high level. There were lapses, of course, but still on the whole, I felt that this debate has not only been a good experience for all of us in this Parliament but also for the country (*Hear, hear*). It is not so much because of the matter in the debate, that is, the amendments moved on our behalf to the Constitution, and the way all the issues were debated; nevertheless some issues were raised which were not related directly to those amendments but which happened to be in peoples' minds owing to their fears or suspicions or which perhaps they brought in because they wanted to bring them in whether they had any reason for that or not. So that we have had a great debate. Until a few minutes ago, I did not quite know what to say, but I am grateful to the hon. Member who preceded me for having given me some ideas on the subject, some thoughts on the subject and to have shown to me more vividly than I realised in the course of the last ten or twelve or 15 days what the real motive of this opposition has been (*Hear, hear*), because I say this opposition is not a true opposition, is not a faithful opposition, is not a loyal opposition. I say it deliberately. Dr. Mookerjee objected strongly when he was interrupted. I do not object to interruptions. I invite him to do so.

Dr. S. P. Mookerjee: I say yours is not a true Bill.

Shri Jawaharlal Nehru: I say that Dr. Mookerjee's statement is a false statement. I say it deliberately.

Dr. S. P. Mookerjee: Your statement is absolutely false.

Shri Jawaharlal Nehru: I know that Dr. Mookerjee has said that. By saying that, it will not make any difference, but the kind of statements that my hon. friend has made in his last speech and the previous speeches is scandalous. I say that because...

Dr. S. P. Mookerjee: Because your intolerance is scandalous.

Shri Jawaharlal Nehru: The country will judge, not only this House but the country will judge and it has become the fashion in this country for some people to go about in the name of nationalism and in the name of liberty to preach the narrowest of doctrines, of communalism and those things which restrict the liberty (*Hear, hear*). (Dr. S. P. Mookerjee: You

are an arch-communalist, responsible for the partition of the country.) The hon. Member need not get excited and he is going to hear many more truths before I have done with it.

Dr. S. P. Mookerjee: You will also hear many truths.

Shri Jawaharlal Nehru: We here have had to put up with much from a few Members in this House who have challenged.

Dr. S. P. Mookerjee: That is dictatorship and not democracy.

Pandit Malaviya (Uttar Pradesh): Sir, may I raise a point of order? May I submit that though every hon. Member has no doubt the right to interrupt another, but can there be a running commentary from one Member upon another's speech all the time? -

Shri Jawaharlal Nehru: I do not mind that. I have invited it because I know...

Pandit Malaviya: You may not mind it but I do not want this running commentary all the time.

Shri Jawaharlal Nehru: I only wanted to just see how much restraint Dr. Mookerjee had...

Dr. S. P. Mookerjee: What restraint have you shown?

Shri Jawaharlal Nehru: Let us examine these ten days' debate and the truth behind it. Here we were putting forward some amendments, amendments dealing with important matters because anything dealing with the Constitution is important, but nevertheless, what were they? We are told: You are curbing, you are destroying the liberty etc. I say any man who says, any group which says, any newspaperman who says that, lies, and knows that he lies, and I challenge everyone of them.

Shri Hussain Imam: The word 'lies' is not parliamentary.

Shri Jawaharlal Nehru: Any person who says that these amendments of mine curb the liberty of the Press, I say, he utters an absolute untruth and I challenge him. (*Hear, hear*). We have put up and restrained ourselves during these many days with having two or three Members of this House who have brought this again and again and I challenge them again. They are repeating an untruth and they will have to stand by the untruth not only here but in the public market

[Shri Jawaharlal Nehru]

place and everywhere; we challenge them to combat everywhere, intellectually or any kind of combat on this and every other issue. . .

Dr. S. P. Mookerjee: Except physically.

Mr. Deputy-Speaker: I would like the hon. Prime Minister to be allowed to go on without interruption.

Shri Jawaharlal Nehru: The hon. Member is used to other types of conflicts.

Dr. S. P. Mookerjee: Not cowardice.

Shri Jawaharlal Nehru: Look at these amendments that we have moved and the House has passed by vast, tremendous and stupendous majorities. Hon. Members who are in a small minority and two or three other Members, who, I am glad to say, have drifted away from us,—and I welcome the fact that they have drifted away from us elsewhere; may they be welcome elsewhere because we are happy without them (*Several Hon. Members: That is right*)—have come here and instead of reasoning with this House, instead of arguing with it, instead of bringing forward arguments to advance the subject of the debate, tell us that the country is against us, that they are 90 and we are ten, and that we are tied up on account of the party whip. I ask, is this the stuff that the hon. Member thinks can be doled across in this way and listened to and accepted by us? If the hon. Member wishes to challenge us, I accept the challenge here, in the country, and everywhere.

Dr. S. P. Mookerjee: Why not have a referendum on this Bill?

Shri Jawaharlal Nehru: I accept it everywhere: not only of the hon. Member, but of every person who wishes to challenge. We accept it, I say.

Dr. S. P. Mookerjee: Mutual acceptance.

Shri Jawaharlal Nehru: We have had enough of soft dealing. If there is to be hard dealing, there are going to be hard blows all round.

During the last fortnight, in the Select Committee and outside, we have dealt with this measure as softly, as gently and in as friendly a way as possible, to meet every argument. We tried to discuss this in a way which sought to find common ways of agreeing to things. We agreed to some things; we could not agree to others. Anyhow, our method was one of

friendly agreement in so far as we could. Nevertheless, we find here charges being flung at us, insinuations being made, and things said which have not the faintest substance in fact. If that is said, we can fight both here and outside. We are not going to tolerate this kind of business. I want to make it perfectly clear to everyone. We have put forward deliberately these amendments to the Constitution. We have gone through them patiently, trying to convince and we have convinced a great majority in this House and I believe we can convince and we have convinced a great majority in this country. I shall tell you why.

What are these amendments? Some hon. Members who are advanced socialists and the like have spoken, one or two of them, against the amendments. They have informed us that they are going to vote against them. What are these amendments? The major amendments are in regard to article 19 and article 31. In the last speech that we heard, we were told how we were running amuck through this Constitution because of some Acts that we had put in at the end of these amendments. [What do these Acts deal with and what is the purpose of article 31? When I find those gentlemen. Members of this House who presume themselves to be socialists, speak in the manner they have done, when we bring forward such amendments, all I can say is that there is very little of socialism in them, if there is any sense at all in them. Here is a proposition—a major proposition—the land problem with which we have been wrestling for years and years. We have come up against difficulties, legal difficulties and the rest. But nothing can be allowed to come in the way—I say nothing.—in the way of effecting a solution of the land problem in India which is the major problem of our country. If the courts come, we respect them. We obey them. But the Courts have to carry out the Constitution and if the Constitution comes in the way, it is this Parliament and no other that can change the Constitution of India. Are we to submit to things and wait till some great revolution comes to change the condition of things? Land reform has become absolutely essential and we have been yearning for it for generations and we have been working for it. We have to give effect to it without let or hindrance. If anybody comes in the way we have to remove him. There is no other way, because millions wait and millions have been waiting for decades for this. Do you think that lawyers or any petty legal arguments

are going to come in the way of these millions? I am amazed at the arguments that have been advanced by some people here. They seem to live in some distant age which has passed. But we have lived in the past and we have worked for these changes. We can say with pride that we have brought about these major changes and not these petty critics of the Government and it is we who are going to bring about major changes in this country. We are not going to allow petty critics and others to stop changes. They advance arguments which might have had some relevance some hundreds of years ago but which have no relevance in India to-day.

In this matter we have been asked many things. Prof. Saksena said, referring to me, that I had been bargaining with reactionary elements to get something which I wanted. Let me assure him that I have been amazed at his reactionary attitude in this whole debate. Reaction is not necessarily concerned merely with words which denote reaction. If Prof. Saksena knows anything about revolutionary technique and revolutionary history and revolutionary literature, he will know that the greatest reaction is the reaction that presumes to talk in revolutionary language and acts differently. Prof. Saksena informs us that he is compelled by circumstances, by his conscience or by the heavens to vote against this measure, and therefore he is going to vote against the measure as a whole, even though the major part of it and the most important part of it deals with this land business and agrarian legislation. Let him realise that this is the major aspect of the measure and he is going to vote against it. Why? I do not know, except that he has not given enough thought to it, that he has been talking so much about it that he has not sufficiently thought about it. But really, I wish the House would realise and hon. Members on the other side should realise what we are talking about. Have they a sense of reality and a grip on the reality? Or are they living in a world divorced from realities? When they talk, they confront us with something that was said in the middle of the eighteenth century in America or in the nineteenth century in some other country. But we are now in the middle of the twentieth century in India and we have to face the problems that confront us here in India and in the present world. Let us realise that. We should not forget all that has passed. They have got their lessons

for us. But it is impossible to solve present problems under conditions which somebody mentioned some one hundred or two hundred years ago. And I say to you, take this question of land reforms in this country which is the major question, which is the important question before which every other question is irrelevant. [In this question of land reform here, we are year after year held up—I do not blame the courts. The Courts are functioning as they should in interpreting the laws and we respect their interpretations and abide by them. But we also have the power to change the law if they construe a law in a way which does not fit in with our intentions because it is a major thing in India that the land reform must come and zamindari system must go and everything that pertains to it. It has been held up long enough and the process that some of our friends opposite suggest means holding it up longer and longer still till this court decides and that court decides. We have had enough of this holding up business and if you and I hold it up, there will be marching in the fields which will not help either the hon. Members or the country.]

There is the strange method of some people who tell us "Oh, what you do does not go far enough. Therefore we will oppose it". That is an argument which has been raised on one or two occasions in connection with this Bill. They say "if you of course went in for full-blooded socialism, we will support you and because you are going only 25 per cent., therefore we will not support you". This argument can only come out of a person who has nothing to do with reality, who lives in a world of ideas or in some secluded chamber or tower. We, I hope, have some relation to this world we live in. We have lived in the world of ideas and we have some relation to the world of facts. Both these impel us to go ahead as far as the Indian people permit us to go ahead. What is the good of any person telling me that peasant proprietorship is something reactionary. It comes in the way of full-blooded socialism. Of course it does. It comes in the way of all kinds of socialistic or communistic experiments. It comes in the way of even efficient production; I admit that. Nevertheless admitting it, I say, as I said in the earlier stage, that that is an inevitable thing for us to do. We can experiment with large-scale farming, we can experiment with State farming and socialistic and co-operative farms and all manner of things, we can experiment but in the state of affairs today, it is not possible,

[Shri Jawaharlal Nehru]

as it was not possible even in a country like China with a clean slate to write upon, to go on with what might be called socialistic farming. Because we cannot do that, therefore do not go in that direction at all—that is not an argument which can be intelligently put forward or intelligently accepted.

We have been told repeatedly about the restraints and curbs we are putting on the Press. I have listened to this again and again and I have reminded hon. Members and I have asked them to point out what the restraints and curbs are. Yet the phrase has been repeated. I say it is completely and absolutely devoid of truth—that phrase. All you might say is that you have taken some power under the Constitution which might enable you in future to put some restraint and curbs. Possibly there might be some truth in that, and I admit it will enable this Parliament to do something. The fact of the matter is people talk of fear. Those hon. Members who propose these amendments are full of fear in their hearts. They are afraid of Parliament, they are afraid of this House and they are afraid of the Indian people. They try to seek shelter in some paper enactments, etc. against their own people and against this Parliament. It is right that we should give them shelter. It is important to give them shelter, not to them but to the country, so that it may not act rashly on them. I admit that. But remember when times are changing and revolutionary processes are working in a country, any rigidity means the breakdown of that system. You must have flexibility, you must have adaptability to changing social and economic conditions and changing ideas. Any system which is rigid cannot survive today. In bringing forward these amendments to the Constitution—they do not go far, only hon. Members' speeches appeared to make them go far—we are doing, if I may say so, a very important and vital task. People have said, "You cannot touch the Constitution". It is of the utmost importance that people should realise that this great Constitution of ours, over which we laboured for so long, is not a final and rigid thing, which must either be accepted or broken. A Constitution which is responsive to the people's will, which is responsive to their ideas, in that it can be varied here and there, they will respect it all the more and they will not fight against it, when we want to change it. Otherwise, if you make them feel that it is unchangeable and cannot be touched, the only thing to

be done by those who wish to change it is to try to break it. That is a dangerous thing and a bad thing. Therefore, it is a desirable and a good thing for people to realise that this very fine Constitution that we have fashioned after years of labour is good in so far as it goes but as society changes, as conditions change we amend it in the proper way. It is not like the unalterable law of the Medes and the Persians that it cannot be changed, although the world around may change.

Therefore, it was a right thing that when we felt that some parts of the Constitution, as the judiciary interpreted them, were coming in the way of social or other progress, it was the right thing and the inevitable thing for us to come to this House and ask this House to approve of certain changes. The changes are not great or vital.

A great deal has been said about those changes and yet I do say, as I said at an earlier stage, that every change that is referred to here is implied in the Constitution itself. [Take article 31A or 31B dealing with land reform or the abolition of the zamindari. The Constituent Assembly took great and considerable care to lay down that these changes should not be challenged in a court of law. In spite of this care, perhaps the language was not clear enough. That was our fault and so it has been challenged and these reforms have been in consequence delayed. Now, are we to wait for this delaying process to go on and for this process of challenge in courts of law to go on month after month and year after year?

Some hon. Members opposite have said, "Why not wait for this court or that court to decide?" I want to tell them that a few million people have waited for too long a period. There is not going to be much more waiting by these millions outside. And these people who talk about waiting do not know what is stirring the hearts of those millions outside.]

The Hon. Member opposite referred to the discontent against the Government. Maybe he is right and there are many matters over which the people are discontented with the Government but the Government is discontented with itself also. But I can tell the hon. Member that in this matter of the abolition of zamindari the Government is dead right and the various State Governments are dead right, whatever else may be said to the contrary. And if this reform does not go through quickly enough then

there will be trouble for those who delay.

Therefore we have to understand realities and deal with them—understand not only realities but the justice of the cause. It is true that in doing these things on a vast scale you come up against difficulties and injustices. You cannot help it when you are dealing with vast social reforms and changes. You can try to remedy them and so I have suggested to the State Governments to look into the matter and remedy them, if necessary, by additional legislation. But the thing must go through: you cannot stop it. Nor stop for the law courts to declare whether the law is right or wrong. So also in regard to the amendment to article 19(2). It is an amendment in regard to certain matters which widens the scope of law-making—undoubtedly so—partly because that scope had been narrowed too much, more particularly in regard to communal matters, communal discord and the rest of it. And that is a matter which we cannot leave to chance easily—the risks are too great.

My friend, Prof. Shibban Lal Saksena said something about my suddenly experiencing fear, a great deal of fear. Well, it is difficult to judge one's own fear or one's own lack of fear. I do not think I am terribly frightened about this or any development in this country, but sometimes I am a little frightened of the narrow-mindedness that begins to prevail in this country, of the lack of vision that spreads among people, because that is the thing which stunts our growth, which will prevent us from doing what we want to do, because neither a fine Constitution nor anything else that we may do will help us much if we are limited of mind and small of spirit. Therefore, it has become necessary to make these changes in the Constitution which by themselves do not do anything except to give certain powers to Parliament, except to validate some laws, except to enable you to go ahead on the road of your choice. What that road is I do not know—it may vary. One sees ahead rather dimly, because many things happen today which we cannot control and which we cannot foresee. Therefore, we shall have to grope our way from day to day, week to week and year to year; if we think it is a clear way then we are mistaken.

The difficulty arises not in these amendments that we have moved and that you have passed in the second
193 PSD

reading with such great majorities; the difficulty is not in them but somewhere behind them, hidden behind them—some ideas that fill people's minds of elections, of the General Elections that are coming, and everybody judging this from the standard and the yardstick of that election. Well, the election as I said is important in many ways, but if my word has any value I can assure the House that I did not have the election at all even remotely in my mind when I put these amendments forward. I have the election in mind for other reasons. I want this election to be a well-ordered election, I want it to bring out the wishes of the people of India whatever they may be. And I can tell you quite honestly that it does not matter to me overmuch ultimately, what those wishes are, how they are expressed, who comes out at the top. Because, I might regret some development—well, I cannot help it, if I regret it I dislike it and I should oppose it so far as I can—but I should like this country to develop the democratic process and grow on democratic lines. But we talk so much of democracy and of liberty. And those words are dear to us because most of our lives we have fought for freedom and liberty; and yet when you talk of democracy it means some kind of ordered liberty because a disordered liberty is not democracy, and it leads ultimately to the suppression of that liberty. We have seen—those of us who are acquainted with recent history—how too much talk of liberty has led to licence and has led to the suppression of that liberty. The history of Europe will show that; the history of other countries too. So, let us not be too sure of the liberty and freedom we possess. Let us cling to them and guard them jealously. But we will not guard them or preserve them by loose talk or loose action. Only by stern discipline and sternly understanding the limitations of freedom can we preserve them, for everything has its limitations, even freedom and even liberty. Without those limitations we endanger the very thing we stand for.

I need not say much about these amendments that this House has been considering for a number of days and has passed clause by clause. But nevertheless I would say that they have not been thought of or brought forward before this House with a view to restricting liberty or freedom in the slightest or with a view to restricting the freedom of the Press or expression in the slightest, but certainly with two points of view. One is to restrict certain forms of unbridled licence which has little to do with political opposition so far as I

[Shri Jawaharlal Nehru]

understand it, and also to preserve that very freedom, because we are quite convinced that unless you have this ordered preservation of freedom, that freedom will go, and it will be very difficult for you to get it back. Therefore, after serious and full thought we brought this forward. It is no good considering this in the air. Hon. Members tell us: "You have not shown, or proved to us the dangers of the situation—what are the dangers?" Well I do not quite know what to reply to that. If hon. Members are not in full possession or fully acquainted with what is happening in the world today or in the India of ours, what can I tell them? When I said I am not afraid of any violent revolution breaking out, of course, Dr. Mookerjee said that if such a thing happens, we have the emergency powers and the rest. But the House does not expect Government to use those emergency powers at the slightest provocation. They are not meant for that. It will be a bad thing for any Government to use emergency powers and get used to them. Therefore, we must normally create conditions which do not require the use of emergency powers at all. It is not a good thing to advise any Government to use those powers and I do submit that the amendments that we have put before this House and which the House has accepted more or less, are amendments which do not—so far as Governments are concerned—give any special powers to the Governments. Maybe slightly for the present they

do give, some powers; maybe later when Parliament considers this matter, they may give those powers or take away, very likely, some of the powers that Government might possess today. Indeed some powers and some of the old laws should be put an end to.

In any event these measures that we have suggested to the House, do not directly have a bearing on the great issue that we have been debating. At any rate, I welcome this debate, not because of its intimate connection with these issues, but because it is good for us to talk about great matters, about the freedom of the Press and the freedom of the people and to educate ourselves and our people in the process. Unfortunately, our politics in this country gradually drift away from great public debate: it is becoming or tends to become a parlour variety of debates. That is a bad thing for democracy. Let us have great debates on a high level, let us discuss the bearings of each problem and then come to decisions, so that the public may know our minds. Therefore, although this particular issue did not to my thinking raise these grave issues, nevertheless I have welcomed this great debate, because it has been good for us generally.

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed".

The House divided: Ayes, 228; Noes, 20.

Division No. 18]

AYES

[6-40 P.M.]

Achint Ram, Lala.
Ahammedunni, Shri.
Alagesan, Shri.
Alexander, Shri.
Ali, Shri A. H. S.
Alva, Shri Joachim.
Ambedkar, Dr.
Amolakh Chand, Shri.
Ansari, Shri.
Arya, Shri B. S.
Asawa, Shri.
Baldev Singh, Sardar.
Balmiki, Shri.
Barman, Shri.
Beni Singh, Shri.
Bhagat, Shri B. R.
Bhagwant Roy, Kaka.
Bharati, Shri.

Bhargava. Pandit M. B.
Bhargava, Pandit Thakur
Das
Bhatkar, Shri.
Bhatt, Shri.
Biyani, Shri.
Borooah, Shri.
Brajeshwar Prasad, Shri.
Buragohain, Shri.
Chaliha, Shri.
Chandrika Ram, Shri.
Channiah, Shri.
Chattopadhyay, Shri.
Chaudhri, Shrimati
Kamala
Chaudhuri, Shri R. K.
Chettiar, Shri Ramalingam
Das, Dr. M. M.

Das, Shri B.
Das, Shri B. K.
Das, Shri Biswanath.
Das, Shri Jagannath.
Das, Shri Nandkishore.
Das, Shri S. N.
Deo, Shri Shankarrao.
Deogirikar, Shri.
Desai, Shri Kanayalal.
Desai, Shri Khandubhai.
Deshmukh, Dr.
Deshmukh, Shri C. D.
Deshpande, Shri P. Y.
Devi Singh, Dr.
Dharam Prakash, Dr.
Dholakia, Shri.
Dlwakar, Shri.
Dixit, Shrimati

D'Souza, Rev.
 Durgabai, Shrimati.
 Dwivedi, Shri.
 Faiznur Ali, Maulvi.
 Gadgil, Shri.
 Galib, Shri.
 Ganamukhi, Shri.
 Gandhi, Shri Feroz.
 Gautam, Shri.
 Ghose, Shri S. M.
 Ghule, Shri.
 Gopalaswami, Shri.
 Gopinath Singh, Shri.
 Govind Das, Seth.
 Guha, Shri A. C.
 Gupta, Shri V. J.
 Haneef, Maulvi.
 Haque, Shri.
 Hanumanthaiya, Shri.
 Hathi, Shri.
 Hazarika, Shri J. N.
 Hazarika, Shri M.
 Heda, Shri.
 Himatsingka, Shri.
 Himatsinhji, Major General
 Hiray, Shri.
 Husain, Shri T.
 Iyyunni, Shri.
 Jagjivan Ram, Shri.
 Jain, Shri A. P.
 Jain, Shri N. S.
 Jajoo, Shri.
 Jajware, Shri Ramraj.
 Jangde, Shri.
 Jayashri, Shrimati.
 Jnani Ram, Shri.
 Kala Venkatarao, Shri.
 Kaliyannan, Shri M.
 Kanaka Sabai, Shri.
 Kannamwar, Shri.
 Kapoor, Shri, J. R.
 Karmarkar, Shri.
 Kazmi, Shri.
 Keskar, Dr.
 Khaparde, Shri.
 Krishna Singh, Thakur.
 Krishnamachari, Shri T.
 Krishnanand Rai, Shri.
 Kumbhar, Shri.
 Kunhiraman, Shri.

Lakshmanan, Shri.
 Lal Singh, Thakur.
 Mahata, Shri Kshudiram.
 Mahtab, Shri.
 Mahtha, Shri S. N.
 Maitra, Pandit.
 Malaviya, Pandit.
 Mallayya, Shri.
 Massey, Shri.
 Meeran, Shri.
 Menon, Shri Karunakara.
 Mirza, Shri.
 Mishra, Shri M. P.
 Misra, Shri S. P.
 Mishra, Prof. S. N.
 Mishra, Shri Yudhishthir.
 Mohiuddin, Saikh.
 Mookerjee, Dr. H. C.
 Moidu, Moulavi.
 Mudgal, Shri.
 Munshi, Shri K. M.
 Munshi, Shri P. T.
 Musafir, Giani G. S.
 Naidu, Kumari Padmaja.
 Naidu, Shri Ethirajulu.
 Naidu, Shri S. R.
 Naik, Shri M.
 Naik, Shri S. V.
 Nand Lal, Master.
 Nathwani, Shri.
 Nausherali, Syed.
 Nehru, Shri Jawaharlal.
 Nehru, Shrimati Uma.
 Nijalingappa, Shri.
 Obaidullah, Shri.
 Pande, Dr. C. D.
 Pannalal Bansilal, Shri.
 Pani, Shri B. K.
 Pant, Shri D. D.
 Parmar, Dr.
 Pattabhi, Dr.
 Poonacha, Shri.
 Pustake, Shri.
 Rahman, Shri M. H.
 Raj Bahadur, Shri.
 Raj Kanwar, Lala.
 Rajagopalachari, Shri.
 Ramachar, Shri.
 Ramaswamy, Shri Arigay.
 Ramaswamy, Shri Puli.

Ram Dhani Das, Shri.
 Ramaiah, Shri V.
 Ranbir Singh, Ch.
 Ranjit Singh, Sardar.
 Rao, Shri J. K.
 Rao, Shri M. V. Rama.
 Rao, Shri Thirumala.
 Rao, Shri Kesava.
 Rathnaswamy, Shri.
 Raut, Shri.
 Ray, Shrimati Renuka.
 Reddi, Shri P. Basi.
 Reddi, Shri Ranga.
 Reddi, Shri V. Kondandarama
 Reddy, Shri K. V. Ranga
 Reddy, Dr. M. C.
 Rudrappa, Shri.
 Saksena, Shri Mohan Lal
 Samanta, Shri S. C.
 Sanjivayya, Shri.
 Santhanam, Shri.
 Sarwate, Shri.
 Satyanarayana, Shri.
 Satish Chandra, Shri.
 Sen, Shri P. G.
 Shah, Shri C. C.
 Shah, Shri M. C.
 Shankaraiya, Shri.
 Sharma, Pandit Bal-
 krishna
 Sharma, Pandit Krishna
 Chandra
 Sharma, Shri K. C.
 Shiv Charan Lal, Shri.
 Shukla, Shri A. C.
 Shukla, Shri S. N.
 Singh, Capt. A. P.
 Singh, Dr. Ram Subhag.
 Singh, Shri B. P.
 Singh, Shri T. N.
 Sinha, Shri Anirudha.
 Sinha, Shri A. P.
 Sinha, Shri B. K. P.
 Sinha, Shri K. P.
 Sinha, Shri S. N.
 Sinha, Shri Satya Nara-
 yan.
 Siva, Dr. M. V. Ganga-
 dhara
 Sivaprakasam, Shri.
 Snatak, Shri N.

Sochet Singh, Sardar.
 Sohan Lal, Shri.
 Sonavane, Shri.
 Sondhi, Shri.
 Sri Prakasa, Shri.
 Subramaniam, Dr. V.
 Subramaniam, Shri C.
 Sumbramanian, Shri R.
 Swaminadhan, Shrimati
 Aminu.
 Thakkar, Dr. K. V.

Thimmappa Gowda, Shri.
 Tiwari, Shri B. L.
 Tripathi, Shri Kishori-
 mohan
 Tyagi, Shri.
 Upadhyay, Pandit Muni-
 shwar Datt
 Upadhyaya, Shri R. C.
 Vaidya, Shri K.
 Vaidya, Shri V. B.
 Vaishya, Shri M. B.

Varma, Shri B. B.
 Varma, Shri M. L.
 Velayudhan, Shrimati.
 Venkataraman, Shri.
 Vidyavachaspati, Shri
 Indra.
 Vyas, Shri K. K.
 Vyas, Shri Radhelal.
 Wajed Ali, Maulvi.
 Yadav, Shri.
 Yashwant Rai, Prof.

NOES

Bhattacharya, Prof. K. K.
 Birua, Shri.
 Das, Shri Sarangdhar.
 Hukam Singh, Sardar.
 Hussain Imam, Shri.
 Jaipal Singh, Shri.
 Kamath, Shri.

Kripalani, Acharya.
 Kripalani, Shrimati Such-
 eta
 Kunzru, Pandit.
 Man, Sardar B. S.
 Mookerjee, Dr. S. P.
 Naziruddin Ahmad, Shri.

Oraon, Shri.
 Ramnarayan Singh, Babu.
 Saksena, Prof. S. L.
 Seth, Shri D. S.
 Shah, Prof. K. T.
 Sinha, Shri M. P.
 Velayudhan, Shri R.

The motion was adopted.

Mr. Deputy-Speaker: 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 Constitution (First Amendment) Bill, 1951, as amended, is passed.

BUSINESS OF THE HOUSE

Mr. Deputy-Speaker: I would like to make an announcement regarding the work on Monday. On Monday the Government of Part C States Bill will be taken up. The general discussion has been finished and the clause by clause discussion has to take place. Time has been allowed to hon. Members to sit along with the hon. Minis-

ter to iron out differences and bring forward, as far as possible, agreed amendments. Therefore, if possible, the Bill must be finished on Monday. Otherwise, if something stands over, we can have a short time on Tuesday.

Shri Hussain Imam (Bihar): With regard to the delimitation of constituencies, the time is restricted by the statute. Anything that is to be done must be done within twenty days of laying the orders.

Mr. Deputy-Speaker: The matter may be raised on Monday. On Monday this will be the business.

The House then adjourned till Half Past Eight of the Clock on Monday, the 4th June, 1951.