

sections 107, 108, 109 and 110, and they all enable the magistrate to demand security for good behaviour. I don't understand why this Bill should not contain a provision to that effect. When for instance we find in Rajputana and other States the caste Hindus are agitating to harass the untouchables because they exercise civil and constitutional rights, why should you not take security for good behaviour ?

Shri J. S. Bisht (Uttar Pradesh) : These are all the provisions in the Criminal Procedure Code.

Dr. B. R. Ambedkar : That is what exactly I am saying, that there is a precedent in the Criminal Procedure Code for taking security from persons who do not keep peace, for good behaviour, from persons disseminating seditious matter, from vagrants and from habitual offenders, for good behaviour. I am not certain that these provisions could be invoked for the purpose of taking security from persons offending against this law. It may be that specific provision dealing with the cases dealt with in this Bill has to be made, and that can only be made by a specific provision in this Bill.

Then, Sir, there is another provision which finds a place in the Indian Police Act. Section 15 of the Act, under which when some people in the village or the villagers as a whole disturb the peace, the Government can quarter upon them additional police and recover the cost of the additional police from the inhabitants of that village. That is a general provision. I am not sure again whether that provision could be invoked by the Government for the purpose of enforcing this Act. That Act is a general Act, disturbance of peace and so on and so forth. This is quite a different case and I should have thought that a specific clause on the lines of section 15 of the Police Act should have found a place in this Bill if outlawing of untouchability is intended to be an effective thing. But that again is not there.

Now, Sir, I come to another question about which I certainly feel a certain amount of doubt. Who is to administer this law, the Centre or the States ? And if the Centre is to administer the law, is it not better that this Bill should contain a clause to that effect, that it shall be administered by the Central

Government ? I make this suggestion because I feel that the States might raise an objection that this is a concurrent piece of legislation and being a concurrent piece of legislation the States have the right ordinarily to administer these Acts. I do not think that this is a concurrent piece of legislation in which the States can claim to have a right to administer.

I claim that this is a Central law although it does not fall in List I of the Seventh Schedule. The provisions contained in article 35 are quite clear. It has been stated in article 35 that any law to be made for inflicting punishment for any infringement of a law made in pursuance of article 17 shall be by Parliament and not by the State. Those are the very express words. Therefore there can be no doubt in my mind that this law will have to be by virtue of the Constitution administered by the Centre and not by the States. I say this because my hon. friend might be saying that since we have made the offences under this Act cognisable, it does not matter if the law is administered by the States but that argument cannot stand at all in virtue of article 35 and I would suggest to him that he should introduce an express provision in the Bill that the Law shall be administered by the Centre. If my friend's contention or the contention of the States is that this is also a concurrent piece of legislation, I would like to draw his attention to the proviso to article 73 which is a very important one and which relates to the administration of laws in the concurrent field. My hon. friend will remember that in the scheme of things in the Government of India Act of 1935 we had the same kind of classification of subjects—List I—Central subject, List II—State subject, and List III—Concurrent subject, but the Government of India Act contained an express provision that the power of the Centre to make law in the concurrent field was confined merely to lawmaking. It could not encroach upon the field of administration. The reasons why such a provision was made in the Government of India Act, 1935, are quite irrelevant to the times in which we find ourselves now, but when we made the Constitution we refused to accept such a provision. We said that although generally the Centre may leave a law in this concurrent field

for administration to the States the choice must be given to the Centre to determine whether any particular law in the" concurrent field made by it shall be administered by it and not by the States. That intention has been carried out in the proviso to article 73. We said that if the Centre so determines that the law made in the concurrent field shall be administered by the Centre then the States cannot interfere in the matter at all. Therefore, I am strongly of the opinion that this contention is invalid.

(53)

CONSTITUTION (FOURTH AMENDMENT)
BILL, 1954

***Dr. B. R. Ambedkar** (Bombay) : Mr. Chairman, those who are familiar with the British Parliamentary system will know that there is a dogma in the working of the British Constitution that all parties in England accept. That dogma is that the King can do no wrong. If any wrong is done in the working of the Constitution, the person responsible for the wrong is the Prime Minister and his colleagues. But the King can never be wrong and can never do wrong. We too in this country have adopted practically, with slight modifications, the British Constitution. But unfortunately the working of our Constitution is governed by a dogma, which is just the opposite of the dogma adopted by the British people. In our country the dogma on which we proceed is that the Prime Minister can do no wrong and that he will do no wrong. Therefore, anything that the Prime Minister proposes to do must be accepted as correct and without question. This devotion in politics to a personality may be excusable in some cases, but it does not seem to me excusable where the fundamental rights are being invaded. The fundamental rights are the very basis of the preamble to the Constitution. The Preamble says that this Constitution will have as its basis liberty, equality and fraternity. These objectives of the Constitution are carried out by the fundamental rights. And it is, therefore, the duty, I should have thought, of every Member of Parliament, apart from personal loyalty, to be critical when any invasion is made of the fundamental rights. Unfortunately, one does not find this kind of critical attitude. The history of fundamental rights in this country is very interesting. In olden times under the Hindu kings there were fundamental rights only for two—the Brahmin and the cow—

* P. D., Vol. 9-B, 19th March 1955, pp. 2446-66.

and the Puranas described the king as "*Go Brahmana Pratipalaka*." That was the duty of a king; whether the other sections of his subjects received any consideration at his hands or not, or whether animals other than the 'Go' had any consideration was a matter of no moment at all. So long as the Brahmin and the cow were protected, the king was destined to go to heaven.

When the Muslims came, they took away these fundamental rights which the Hindu kings had granted to the Brahmin and the cow. The cow unfortunately not only lost its rights to live, but became the victim of everybody. So was the case of the Brahmin. What the Muslims did was to give privileges to the Mussalman and no rights to the non-Muslims. After the Muslim rule ended in this country, there came upon us the rule of the British. Anyone who examines the various Government of India Acts passed from 1772 to 1935 will find that there were no such thing as fundamental rights in any of the Government of India Acts that were passed by Parliament for the administration of this country. It is in 1947 or so when Swaraj became a fact in this country that this idea of fundamental rights emerged. It is our Constitution which for the first time contains the embodiment of what are called fundamental rights. It is a very strange thing that although the foreigners were ruling in this country, namely the British, no one ever agitated for the enactment of the fundamental rights. The Congress was in existence from 1886. Let anyone examine the annual resolutions passed by the Congress. They never asked for any fundamental rights.

Babu Gopinath Singh (Uttar pradesh): Did you read the Karachi Congress Resolution of 1931.

Dr. B. R. Ambedkar: Well, I have no idea about that. They said that they would have fundamental rights when they enact a Constitution. I am coming to that now, it is as I say a very strange commentary that no Indian—and the Indians who ran the Congress in the earliest times were intellectual giants: they were not ordinary people, they were most learned, they were wide awake—not one of them to my knowledge asked for any fundamental rights. But as soon as

Swaraj came, there was a demand for fundamental rights. It is a matter worth consideration why this happened ? Various people would no doubt give various replies, but my reply is very simple. My reply is very simple. My reply is this—the reason why Indians did not demand fundamental rights when the British were here is this. Although the British had their imperialism as one aspect of their rule, there cannot be any doubt that the administration of this country was governed by what was called the rule of justice, equity and good conscience. Sir, I remember, at least speaking for my own province, how independent was the judiciary which wholly consisted of Europeans. How independent it was of the executive. I remember a case

Dewan Chaman Lall (Punjab) : Is it Tilak's case ?

Dr. B. R. Ambedkar : It is a very famous one, the case of a Mr. Justice Knight who was the Chief Justice of the Bombay High Court during the time of the East India Company. He had issued a writ against the Government of Bombay and the Government of Bombay refused to obey. They said that the Chief Justice of the Bombay High Court had no right to issue a writ against the Executive. When they informed him that they were not going to carry out that particular writ, what did Mr. Knight do ? He called the Chaprassi and said : "Bring the keys of the High Court", and he asked him to lock up every room of the High Court, including his own, and next day booked a passage for himself and went back to London, saying: "If you are not going to obey my orders as the Chief Justice of the Bombay High Court, you will have no High Court, at all." Subsequently, of course, his order was reversed by the Privy Council. But that is no matter at all. The point is that the British administered this country in a manner in which everybody felt that there was some sense of security. That is the reason why, in my judgement, nobody in this country clamoured for fundamental rights. But as soon as Swaraj presented itself, everybody thought—at least many of the minorities thought—that there was the prospect of political authority passing into the hands of a majority, which did not possess what might constitutionally

be called constitutional morality. Their official doctrine was inequality of classes. Though there is inequality in every community, or whatever be the word, that inequality is a matter of practice. It is not an official dogma. But with a majority in this country, inequality, as embodied in their *Chaturvarana* is an official doctrine. Secondly, their caste system is a sword of political and administrative discrimination. The result was that the fundamental rights became inevitable. What I found—and I know this thing more than probably many do, because I had something, to do with it—was that the Congress Party was so jubilant over the fundamental rights. They wanted fundamental rights, and they thought that fundamental rights were so necessary that if the Indian people had a constitution which did not embody fundamental rights, they would appear nude to the world. That was the reason why they clamoured for fundamental rights. In the proceedings of the Constituent Assembly, I do not find a single Member who stood up and said “We do not want fundamental rights.” Fundamental rights were regarded as a kind of an ornament which the Indian people must have. Today, their attitude has undergone a complete change. Today, they look upon the fundamental rights as an iron chain which ought to be broken, whenever occasion arose for breaking it. This, I find, is a fundamental change. I am sorry to say that this attitude of treating the fundamental rights with contempt, as though they were of no consequence, that they could be trodden upon at any time with the convenience of the majority or the wishes of a Party chief, is an attitude that may easily lead to some dangerous consequences in the future. And I therefore feel very sorry that even a matter of this sort, namely, the infringement of, or the deviation from, fundamental rights, is being treated by the Party in power as though it was a matter of no moment at all.

It seems to be suggested that those who made the Constitution had no sense, that fundamental rights must be elastic, that they must leave enough room for progressive changes. I must, Sir, as the Chairman of the Drafting Committee, repudiate any such suggestion. Any one, who reads the fundamental rights as they are enacted in the

Constitution, will find that every fundamental right has got an exception. It says: Notwithstanding anything contained, the State may impose reasonable restrictions on them. We were quite aware of the fact that fundamental rights could not be rigid, that there must be elasticity. And we had provided enough elasticity.

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

Dr. Anup Singh (Punjab) : Last time when you spoke, you said that you would burn the Constitution.

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

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

Shri B. K. P. Sinha (Bihar) : Destroy the devil rather than the temple.

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

Mr. Chairman: You are being drawn into

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

I was saying that Article 31 was an article for which we were not responsible. Even then, we have made that article as elastic as we possibly could in the matter of compensation. If members of the House will refer to entry 42 of the Concurrent List, and compare it with Section 299 of the Government of India Act, 1935, they will find how elastic has been the provision made by the drafting Committee. Section 299 of the Government of India Act which governed the question of compensation described the following ingredients. One was that there must be full compensation by which they, *no* doubt, meant compensation *in* accordance with the terms of the Land Acquisition Act. Secondly, it said that compensation

must be paid and paid in cash before possession could be taken. That was the provision in the Government of India Act, 1935. Look at the provision that we have made in entry 42 of the Concurrent List, by which I hope members will understand that the authority to determine compensation is given to both the State Legislatures as well as to Parliament, and the reason why we did this was simple. It was this : we thought that, if compensation was distributed in List I and List II, so that the Centre might be free to fix compensation for such acquisition as it might make, and the provinces or the States might fix such compensation as they might think fit, it would result in utter chaos in this country and that there must be some sort of uniformity in this. Therefore, while giving authority to the States to lay down rules of compensation, we also gave authority to Parliament so that Parliament might enact a general law which would be applicable to the whole of India and which might supersede any State law which might be inequitable. That was the reason why we put it in the Concurrent List. What is the provision we have made? We have said that it is not necessary that Government should actually pay compensation to acquire possession of property. We have not said that. We have said "compensation to be given" and not "paid" so that it is open to the Government at the Centre as well as in the States to acquire property without actually paying compensation.

The second distinction that we have made between section 299 of the Government of India Act, 1935 and entry 42 is that compensation may be in any form, that either Parliament or the State Legislature might decide by law to give compensation in the form of paper bonds, cash certificates or whatever they liked to give, or that they might pay it in cash if they liked it. We have also said that, although Parliament may not actually fix compensation, it may merely lay down the rules for compensation, so that, if a law was passed which did not contain a clause specifically saying what should be the compensation but merely laid down the rules and principles, that was enough for Government to take possession of the property and acquire it. Now, Sir, I would like to ask the Members of this House if they can point out any

Constitution where the procedure for acquiring property is so easy as it is in our Constitution. Can anyone point out to me that there is some other Constitution which enables the Government with greater facility to acquire property for public purposes? Now, with all this facility, is there any necessity for the Government to come out with a proposition that there are cases where they shall not give compensation? They need not cast the whole burden, the entire burden, on the present generation. They are not asked to say that the bonds that they might issue must be redeemable. They may make them irredeemable. All that they need do is to give some interest on the bond as every borrower agrees to do and as every creditor gets. Why at all even the most hasty socialist should say, "well, we shall not pay compensation;," I do not understand. There are in my judgement three cases or three paths that one might follow. The first path would be full compensation; the second, no compensation; and the third, compensation as determined by law. I am quite in agreement with those who think that it is not possible to accept full compensation in terms of the Land Acquisition Act. I am quite in agreement with that; if by full compensation is meant compensation as determined by the rules now prescribed by the Land Acquisition Act, I am quite prepared to side with the Government and say that that is an impossible proposition which we need not accept. I might at this stage draw the attention of the House to the fact that we are not the only people who are bringing about socialism. What socialism means, nobody is able to say. That is the socialism of the Prime Minister, which he himself said that he cannot define. There is the socialism of the Praja Socialist Party; they don't know what it is. And even the Communists.....

Shri S. N. Dwivedy (Orissa): You don't know either.

Dr. B. R. Ambedkar: I am not a socialist.

Shri S. N. Dwivedy: You want to criticise without knowing what it is.

Mr. Chairman: Order, order, you may go on.

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

Mr. Chairman: Of course he is listening with the greatest attention.

Dr. B. R. Ambedkar: What I wanted to tell him was this, that this is quite interesting. Anyone who has studied the legislative programme of the British Labour Party, after the close of the War, will see that the Labour Party, in accordance with the report of the Trade Union Congress, published in 1945, carried out nationalisation of various industries and various services including the Railways and even the Bank of England. I have not understood what changes have been made by the Labour Party in the working of the Bank of England by nationalisation. I am a student of currency and I know something about the Bank of England but there it is that they had it. But what I wanted to tell my friend Mr. Pant is this, that in everyone of those cases where the Labour Party has carried out nationalisation, they have paid full compensation—full. That is to say, they have paid the market value for the shares that they have acquired. Payment of compensation, therefore, cannot come in the way of nationalisation but as I said, I am quite prepared for that proposition because the values of the shares are not due merely to the share capital that is invested. It is due to a variety of social circumstances. It is social causes which have brought about the rise in the value of the shares and there is no reason why a private shareholder should be entitled to appropriate to himself the social values which have become part of the values of his shares. I don't also understand how the theory of no-compensation can be supported. In Russia they paid no compensation, it is true. But it must not be forgotten that the Russian Government undertakes to give employment to people, to feed them, to clothe them, to house them, to scrub them and to provide for all the human needs.

If the State can undertake to feed the population whom it has deprived of compensation, then of course, in those circumstances, the theory that no-compensation shall be paid is a valid one. Why do you want compensation? Compensation is necessary simply because the State has deprived an individual of his instruments of earning a living. You cannot deprive a man of the instruments of his earnings and at the same time say, "Go and feed yourself". That theory, in my judgement, is a very barbarous one. It is therefore not possible to accept it. But why can we not accept the theory that just compensation means compensation determined by the law of Parliament? Why not? It does not mean that Parliament shall make a law exactly in terms of the Land Acquisition Act. You can scrap the Land Acquisition Act. You have a right to do so because it is within the purview of both Parliament and the State Legislatures. It can enact a new Land Acquisition Act with a new set of principles. There is no harm in doing that and no difficulty for doing that. If you do that, well, nobody can have a right to complain because when you bring forth such a measure for determining compensation by law, all sections of the House will have a right to say what they have to say. It would be the result of common agreement. If one Parliament finds certain principles to be good and another Parliament finds that those principles are bad, Parliament may change but it should all be done and it can be done by Parliament. Therefore my suggestion to the Government is this, that rather than bring in this kind of a Bill, a bald one and, as I am going to show later, really a very trifling thing, its corpse ought to be carried unwept, and unsung and nobody ought to cry over it. I am not going to cry over it because it is not going to do any good or going to do any harm, as I will show. Therefore, my suggestion to the Government was this that rather than keep on encroaching upon these fundamental rights from time to time, it is much better to give Parliament once for all the power to determine compensation. This tampering with the Constitution from time to time is a bad thing. I said so last time but I don't suppose the Government has cared to pay any heed. I would like to repeat the same caution again and I should like to

give some reasons why the Constitution should not be amended and tampered so easily. Anyone who is familiar with what is called the interpretation of law by courts—and there are well-set rules as to how Statutes are to be interpreted—will recall that there is a famous rule of interpretation which is called *stare decisis* which means this, that when the courts have given an interpretation for a long number of years in a very uniform sense, and if after a long number of years some lawyer gets up and convinces the court that the existing interpretation is wrong and ought to be changed, the courts say that they shall not do it, although they are convinced that the interpretation is wrong. The reason why the courts adopt this rule *stare decisis* is very important. The court says :

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

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

Shri Tajamul Husain (Bihar): Why should they ?

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

Mr. Chairman: Go on, go on.

Dr. B. R. Ambedkar: In other countries wherever a clause of the Constitution has been interpreted by the judiciary in a way which the Government does not like, Government concurs in, it does not like to upset the decision

of the court. Here, in our country, we have cultivated a different mentality. Our mentality is that if the Judges of the Supreme Court do not give a judgement which is to our liking, then we can throw it out. That is what it is. I am rather glad with regard to the behaviour of our Supreme Court. In the short time that it has been in existence, I see some different phases of the Supreme Court. Being a sick person I have not been attending the Supreme Court for the last two or three years, but I am in contact with what is happening. I remember that in the very first flush of its power, the Supreme Court declared or had the courage to declare that a certain section of the Indian Penal Code was *ultra vires*. Our Government at once reacted and brought in an amendment to declare that the interpretation of the Supreme Court was wrong.

(Interruptions.)

Mr. Chairman: Let us avoid comments upon the Supreme Court.

Dr. B. R. Ambedkar: I hope that notwithstanding the constant amendments which the Government seems to be prone to bringing forth, the Supreme Court will continue to have its independent judgement, notwithstanding what the Government may have to say. I do not find that the Supreme Court has given any judgement which, any independent man can say, is not in consonance with the terms of the Constitution.

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

it say? To put it in plain language, quite different from the language that is used in the clause, as embodied in the amending Bill, it seems to say this. If Government buys up ownership of any property, it will amount to acquisition and Government will pay full compensation in accordance with article 31. If Government buys up ownership, that is the important point. If Government buys up ownership, then that is tantamount to acquisition and Government will be bound to pay compensation. Secondly, it means that if Government takes possession of the property, then the taking possession will also amount to acquisition and the Government will be bound to pay compensation in accordance with the terms of article 31.

That is what the clause in the Bill says : What is it that will not amount to acquisition ? What is it that is left which
12-00 Noon Government can do and wants to do and yet escape compensation ? If it acquires ownership, it is said, it will pay compensation; if it takes possession, it says, it will pay compensation because that would be tantamount to acquisition.

Shri Tajamul Husain: What about the Sholapur Case? It was only temporary possession for improving matters.

Dr. B. R. Ambedkar: I have got the case here; I shall come to it.

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

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

Shri H. P. Saksena (Uttar Pradesh): Yes.

Shri Tajamul Husain: And better.

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

Shri Tajamul Husain: Yes, they do; the Government buses always do.

Dr. B. R. Ambedkar: But the point to be considered is this; here are a body of people engaged in this particular trade, who are earning their living by this trade. They have invested quite a lot of money in buying their stock-in-trade, namely the buses, the workshops and whatever other things are necessary. You suddenly come and say, "Stop your trade. We shall not allow you to carry on". Even that I do not mind but the point that I would like to ask my friend is this; the least thing that my hon. friend could do is at least to buy their stock-in-trade because that very stock-in-trade would be useful to us running by the Government. If it did that and then said that it is not going to give them any more compensation because the stock-in-trade has been bought with which money they could go and practise any other trade they liked, that would be quite an equitable proposition from

my point of view. But the Government does not want to do that. In running the Government buses they prefer to buy new buses. The Minister has yet to give an answer as to why he would not take the old buses from the people whose licences he has cancelled. No answer has been given for this thing.

Mr. Chairman : Dr. Ambedkar, you have taken nearly an hour.

Dr. B. R. Ambedkar: Yes, Sir, that is quite true.

Mr. Chairman: Please wind up as early as possible.

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

Now I will proceed to clause 3 of the amending Bill. I would like to say at the outset that the provisions contained in clause 3 are in my judgement, most insignificant, trivial and jejune and I do not know what the Government is going to achieve by incorporating this clause in the Constitution. Now, with regard to sub-clauses (g), (h) and (i) of proposed clause (1), in clause 3 of the amending Bill, I have not the least objection because I do not see that by taking action under these clauses, there is going to be any injury to anybody. The essence of acquisition is that it causes injury to the interests of anybody. I do not see that these sub-clauses will cause any injury to anybody and, therefore, I support the proposition that there need be no compensation in these cases.

But there is one thing that I would like to say with regard to these clauses and it is this that if any action is taken under these clauses (g), (h) and (i), it must only be on the ground that public purpose justifies it. It must not be merely an arbitrary act on the part of the Government. It must not be a whim that Government wants to amalgamate one company

with another or transfer the management of one to another. These clauses must be subject to the rule of public purpose. If that, is so, then there is no objection to them.

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

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

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

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

Dr. B. R. Ambedkar: It may be but the point is this that it is necessary to know whether these things are really good to be incorporated in the Constitution. My Friend Mr. Pant

knows because he was the Chairman of the Committee on Land Tenures in U. P. which I have studied—that the maximum holding in U. P. is about two acres for a *ryot* and I do not know that there is any part of India where *tyotwari* prevails where the holding is larger than two acres. What maximum can you fix I do not understand. Therefore this seems to me quite a futile thing.

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

Shri Tajamul Husain: Have they done it in Russia ?

Mr. Chairman: Don't bother, he takes it as an illustration.

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

Shri Tajamul Husain: That is why we are amending the Constitution framed by Dr. Ambedkar.

Shri S. Mahanty (Orissa): And voted by you.

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

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

Shri S. Mahanty: And about Rs. 50 lakhs.

Dr. B. R. Ambedkar: What other corporations would do I do not know.

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

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

That is all that I want to say.

(54)

STATES REORGANISATION BILL, 1956

***Dr. B. R. Ambedkar** (Bombay): Mr. Deputy Chairman, the storm centre of the debate on this Bill as I see it from the papers is the position assigned to the City of Bombay. As is obvious from the Bill this City which was a premier city in the civic affairs of this country has been brought down to the level of Adaman and Nicobar Islands—what has been described in our Constitution as the territories of India. That means that these territories and now the City of Bombay will not have any Legislature or Executive. Nobody in his widest dreams could have conceived of such a madness. A city which has been in the forefront of India, which has taught politics of India, is now placed on the level of the Laccadive and Maldiv Islands and the Nicobar Islands. I am sure that the Government which has fostered this proposal must have the strongest reasons, incontrovertible reasons, in order to justify the decision that they have taken. There have been contestants to the claim for the City of Bombay. There are the Maharashtrians who claim that the city belongs to them. There are our Gujarati friends; I do not know on what basis they lay their claim, but they claim a kind of an easement over the city. They say that they will not allow the city to go into the possession of the Maharashtrians and the quarrel is going on. It has been admitted by no less a person than Mr. Morarji Desai that Bombay belongs to Maharashtra. I have read his speech which he delivered to the Gujarat Maha Pradesh Congress, or something like that, in which he categorically made this statement that Bombay belongs to Maharashtra. If that is so, I am quite unable to understand what objection there can be for the city of Bombay to be given to Maharashtra. Under the British regime when citizenship was common, any man could go anywhere and reside and the

*P. D., (R. SO, Vol. 12-A of 1956, 1st May 1956, pp. 834-46.