

[Shri S. C. Samanta]

in that direction. Why? It was mainly want of money. The States could not ask the Central Government to bear the expenses for the education to the children, for free and compulsory education to the children. They could not do so, I do not know whether any State came forward to the Centre for help in order to implement the pledge which we took when we passed the Constitution.

The Centre feels that it is a State subject. But the State Government could not do its duty for want of money, for want of endeavour or something else. They could not do anything. It has not been implemented. It is a fact. I wanted to bring in the Central Government in the field of Education. Primary education, elementary education, social education, adult education everything, cannot be done by the Centre unless the States also come in. It is not my intention that these things should be separated, and the Education Minister cannot say, no, to my plea. Even educationists in the country cannot say yes or no, because they have some doubts to say, yes, they have some doubts to say, no. So, the course now suggested will, I think, be beneficial for the country.

Let this Bill be circulated for eliciting public opinion thereon from educationists, members of the public in different walks of life and so on. With those opinions we may press Government to accept the amendment I have moved for bringing Education on the Concurrent List.

I am thankful to the hon. Minister for agreeing to the motion moved by Shri Hansda. I accept it and request the House to do likewise.

MR. CHAIRMAN : The question is :

"That the Bill further to amend the Constitution of India, be referred to a Select Committee consisting of 8 members namely; Shri Arvind Netam, Shri Subodh Hansda, Shri Vikram Mahajan, Chaudhary Nitiraj Singh, Shri Arjun Sethi, Shri Rajaram Shastri, Shri B. R. Shukla and Shri Ram Chandra Vikal with instructions to report by the 1st August 1972". (1)

The Motion was Negatived.

The motion was negatived.

MR. CHAIRMAN : The question is :
"That the Bill be circulated for the purpose of eliciting opinion thereon by the 23rd October 1972". (2)

The motion was adopted.

16.52 hrs.

CONSTITUTION (AMENDMENT) BILL

*Amendment of Ninth Schedule) by Shri
C. K. Chandrapan*

SHRI C. K. CHANDRAPAN (Telli-
cherry) : I beg to move :

"That the Bill further to amend the Constitution of India, be taken into consideration"

While speaking about this Bill, I am sure that the entire population in my State, irrespective of their political views or opinion, is fully looking to this House and the decision we might take. Before this discussion, there was a prelude in which from the government side certain opinions were expressed. At the very outset, I would like to speak about certain opinions expressed by the hon. Minister regarding the so-called protection available to the Kerala Land Reforms Bill by way of certain Ordinances which are said to be there. There is a certain Ordinance. But there is a very strong view expressed by legal experts that ordinance may not protect the interests of the poor when it is challenged in courts. Now, what is this Land Reforms Bill in Kerala. Before going to the need for including it in the Ninth Schedule, I would like to say briefly the importance of this land legislation. It has also a political relevance.

In this country today, the question of land reforms is very much debated. Sometimes heated discussions are taking place in a very academic manner whether the ceiling should be decided on the basis of perennially irrigated lands at the cost of the Government or whether privately irrigated lands should be exempted and all that. But in our State,

that is not the situation. There is no difference of opinion among any section, among any political party or among the Members of the State Legislature. Everybody is unanimous that the Kerala land legislation should be implemented and accordingly the land legislation has been implemented in that State some time ago. So, we are not discussing about how the land legislation should be. We are discussing about the situation in which the State has been put today by certain verdict given by the Supreme Court after the land legislation has been implemented. There was a time when the land-less poor people never had even the right to own their hut dwellings. Now, several lakhs of people had been made the owners of the hut dwellings they had in the past. It is not a question of one or two or a few hundreds. Some two lakhs of people in the State had been given the right to own hut dwellings. They are called kudikidapukar. The Supreme Court judgement which had been given the other day, in a big way, will go against the interests of the hut dwellers. This is the same case with regard to any other Supreme Court judgement, or for that matter, any other judgement. With that judgement, if you go and evict the hut dwellers, I think a situation might arise in my State where people will not lie low and accept that position. This will be resisted. Victorious land-lords may go with the help of the police and try to evict the poor people. That will create conditions of law and order. That would very well create a civil war situation, as my friend Shri Vayalar Ravi from the other side has described. We want to avoid that. That is why, primarily, we want that this Bill should be included in the Ninth Schedule so that we will give constitutional protection to that, from the interference of the Courts.

Secondly, this land legislation has been described by no less a person than the Prime Minister, as a model legislation. She said that this is a model legislation which the other States should accept. She stated this in a letter written to the Chief Ministers in 1970. I do not know whether the Minister in the Centre were under the impression that this is something which came from the blue and they were taken by surprise so that they had no time to discuss this in the

Cabinet. But that was not so. In 1970 when Mr. Chavan was the Home Minister, the Kerala Government communicated this matter to the Central Government and wanted that this Bill should be given constitutional protection and it was at that time the Prime Minister advised the Chief Ministers in the States that this Bill should be considered as a model so that they may also implement effective land reforms. Now, the model Bill has been challenged by the Supreme Court.

17 hrs.

Why has this been challenged? Is it something which came unexpectedly? No. The Kerala Government insisted on the Centre to bring about the legislation to give constitutional protection to these Acts. At one stage, as I said earlier, the then Home Minister, Mr. Chavan, agreed that this would be included in the Ninth Schedule, and that in principle the Government had to objection. They only said that. At that time, they had a doubt whether it is possible in the light of the verdict given by the Supreme Court on the Golaknath case, and now, we have adopted a constitutional amendment by which we can overcome that objection which was raised by Mr. Chavan. After that, months have passed. My complaint is that the Government at the Centre, the Cabinet, never took into account the seriousness of the matter. This demand was put forward by the Kerala Legislature unanimously. There was not a single voice of dissent. There were syndicate members; even the Marxist members supported it, and there are people who try to create some political situation in the State and everybody supported the Bill with the demand that it should be included in the Ninth Schedule of the Constitution.

AN HON. MEMBER : Why "even the Marxists"? (*Interruptions*).

SHRI C.K. CHANDRAPPAN : Let us not enter into that controversy. They will understand why I said that even they supported it. Now, the question is, when the court has come out with a judgment, whether at this moment the Government is ready to do what is expected of the Government. Why are we demanding this now? On the 1st June the courts will be reo-

[Shri C. K. Chandrappan]

Pened after the vacation and the landlords are waiting to go to the court. The flood-gate of litigation will be opened in the State of Kerala. Several thousands, tens of thousands, of hut-dwellers, people who got the right to own the land, tenants who got the benefit of this Bill, will be asked by the court to come and stand in the dock for the repayment of the so-called rent which was due, and to the hut-dwellers they will put the question, "What right have you got to stay on the land?" We do not want that situation to be created. Those who are sitting and looking after the affairs at the Centre should understand that this legislation has been adopted in the State of Kerala not because of the mercy of some one. There is a history behind it. It was written by the poor people with their blood and sweat. Hundreds of people gave their lives and several thousands shed their blood to bring about this radical legislation. There was a time when the old Congress came out in opposition to all these land laws—

SHRI C.M. STEPHEN (Muvabttupuzha): Question.

SHRI C.K. CHANDRAPPAN : There was a time—do not forget about it.

SHRI C.M. STEPHEN : This Bill was piloted by us.

SHRI C.K. CHANDRAPPAN : I am speaking of the old Congress. I do not think Mr. Stephen belongs to the old Congress (*Interruption*). At that time they opposed this land legislation. However, in the State, the people who have that tradition to fight, to demand and to impress upon the authorities, gathered the entire force under their command to bring about this legislation, and they succeeded. Those who opposed this legislation were all thrown to the dustbin of history. That has happened in Kerala.

In my State, we all remember as milestones, the martyrs of Kayyur. In those olden days, they raised the banner of revolt against landlordism, and they were hanged and killed, but that could not kill the sentiments and passions of the people for a meaningful land reform. Kayyur was followed by a determined people, determined

landlords, the downtrodden. They came with the red flag in their hands and fought in many other places.

I remember how in many places they were butchered by the police. But those martyrs again inspired the people. The masses, roused by the memories of these martyrs, came forward for the cause they always upheld. As a result of it, in 1957, for the first time in Kerala when a communist ministry was in power, a meaningful land reform Bill was brought forward. How did the Centre treat it in those days? Instead of the President giving his assent to it, the President sent it to the Supreme Court. That was how the old Congress treated it. In the Supreme Court we fought. Whatever suggestions they put forward, to accept and the Bill was modified. Then we had to face the opposition from the reactionaries. Those who temporarily succeeded in defeating the implementation of land reform were defeated miserably in 1967 and again the land reform Bill was more radicalised. When that Bill was at the stage of implementation, again certain new political developments took place and a new correlation of forces came into being. The Congress Party which once opposed the land Bill came forward in support of it. Paradoxically enough, the Marxist Party which was supporting the Bill came to oppose it in the name of the so-called struggle of the people to liberate the land.

Anyway, Kerala people got the benefit under the present UF regime. Several lakhs of people who were tilling the land were made the owners of land. The resolution adopted by the Congress many decades before but which could not be implemented in any other State was implemented by the UF regime in Kerala. When we were giving this benefit to several lakhs of people, the landlords went to the court. But not a single political party, including the Swatantra Party in that State, dared to oppose it, not because they become progressive but because anybody opposing the land reform will be thrown out by the people. That everybody realised and that is why everybody supported. When the Prime Minister was recently in Kerala to attend the meeting of the Kerala Pradesh Congress Committee to which Mr. Stephen and Mr. Vayalar Ravi belong, the KPCC unanimously adopted a resolution.

AN HON. MEMBER : How can you know that ?

SHRI C. K. CHANDRAPPAN : It was a public thing, not so secret. It was put forward before the Government that this Bill should be given the protection of the Constitution. Now all sorts of legalistic arguments are put forward. I do not think there is any ground for legal argument. What you have to decide is whether you are for radical land reform legislation to be implemented. I know everybody is a good speaker. You can have a wonderful academic discussion in posh clubs or you can write wonderful articles with all sorts of legalistic arguments. You can raise a thousand slogans like *garibi hatao*. But the question is, when in Kerala *garibs* are made owners of land, and when they are going to be kicked out of the land which we have given to them, are you ready to give them constitutional protection ? That is the crux of the matter. We do not want the legal experts on the other side coming and saying that there is an Ordinance. I know that there is the Ordinance. When the Kerala Land Act was questioned in the Kerala High Court, as an interim measure in order to protect that Act during the pendency of the case in the High Court and the Supreme Court, this Ordinance was brought forward. So, there are no two opinions about it. I do not have much respect for their wonderful legalistic expertise; excuse me, for saying so.

The Law Ministry and the Home Ministry were asked by the Kerala Government to express what they think about it. They said that they have no objection, in principle, to its inclusion in the Ninth Schedule but the Golaknath case was standing in the way. Now that the Golaknath case has been removed from the way, what is standing in their way ?

Then they say that the new article inserted in the Constitution, namely, Article 31C is wonderful enough to protect this Bill. Then the Kerala Government pointed out to the gentlemen sitting in the Law Ministry that this is not enough because in Kerala we have a peculiar situation. There are religious institutions in our State which are

the biggest landlords. Since the Kerala Land Reforms Act touches the lands of religious institutions, article 31C is not sufficient to protect the Kutikidapukars, or the tenants, because their landlord is God or somebody else. To this question of the Chief Minister and Law Minister of Kerala there is no reply from the Centre.

Now the question before the Government and before the House is very clear. We want a categorical assurance, not dilly-dallying sort of argument, not an interpretation which can be stretched this far or that far, nor a legalistic explanation, but a categorical assurance on the floor of the House that the Law Ministry is going to bring about a legislation in this session of Parliament itself, to amend the Constitution so that these Acts are included in the Ninth Schedule of the Constitution. We do not want them to say "we may do it"; we want them to say "we will do it".

I am saying this because this is a question which is agitating the mind of the people in Kerala. If you want to make the Kerala Land Reforms Act a scapegoat, then of course it is different. I know that the ruling party in the Centre is confronted with a peculiar situation. Here the landlord lobby, the Kulak lobby is active and the party is very much divided on this question. So, my only request is that the Kerala Land Reforms Bill should not be made a scapegoat at the altar of the kulaks of North India. In my party there are no kulaks, like the ones inside the Congress. I am interested in the welfare of the country. This is not something which is affecting Kerala alone. We are not looking at it in that narrow fashion.

MR. CHAIRMAN : The time allotted for his Bill is two hours. He has taken 20 minutes. Of course, if he likes I can give him two hours. But then there will be no other speakers. I leave it to him.

SHRI INDRAJIT GUPTA (Alipore) : When two hours have been allotted for this Bill, is 20 minutes something excessive for the mover ? I do not understand it. Why are you irritated ? This kind of remark is not warranted at all. You can ask him to

[Shri Indrajit Gupta]

conclude if he has taken more time. But you need not say that he can take the whole two hours. That irritation on your part is not warranted.

SHRI C. K. CHANDRAPPAN : The poor people of Kerala have shed their blood in order to bring about this change. Now if the Centre is not satisfied with the present position and it wants more blood to be shed to protect this Bill, the people of Kerala are prepared for that also. It is not a question of merely protecting a Bill. It is a question of the rights given to the people being implemented. If the land is taken back by the landlords and the vested interests, no body in Kerala is going to swallow it in adocile fashion. If it requires a militant struggle, more *marchas* and more bloodshed, yes, the people of my State will do that to quench the thirst of anybody who is sitting here and protecting the interests of the *kulaks*. We are ready to do that.

You have not got much time to make up your mind. You have to make up your mind immediately; I do not say, today. The discussion on this Bill will be concluded on the 26th, but we are not going to wait up to the 26th to hear your wonderful legalistic arguments. On the 26th you can scuttle, the whole thing. The Government can come and say, "We are sorry; we are examining it; the Cabinet could not meet or that could not meet; the legal opinion is divided; so, we will take some time." On 31st we will all go home. Nothing like that will happen. The Government will have to make up their mind and tell us very clearly in unequivocal terms, as early as possible. I put it like that. Do not be under the impression that we will wait up to the 26th. You have to give a reply is due from you. Do not be under the impression that we will go home just like that.

We came here with a mandate of the people—not only I but those, who are sitting on that side also, from Kerala. That is why they are supporting it. We came with a very definite mandate from the people. We are here to protect the radical thinking of the people which has been expressed in terms of law in Kerala. By protecting that we feel that we are one with the fighting people all over the country. When we fight for the interests of the Kerala

Land Act to be protected constitutionally, we are fighting against that attitude of the Centre which has not given the sanction to so many other radical reforms in the past.

I remember, what the Law Ministry and the Home Ministry have done in relation to the Bihar Bill on the Tata zamindari abolition. It is not an accidental thing. From Kerala we have sent 18 months ago another ordinance. The Minister sitting there said, "My Ministry has cleared it" I do not know what for their Ministry is clearing all these things in this way. We categorically ask this Government, you speak of self-reliance, you speak of *garibi hatao*, we have sent you a Bill, an Ordinance, to nationalise the foreign-owned, British plantations in Kerala. I do not know who is shivering here, who prevented it, which Ministry played the role of the villain. The villain was sitting on that side. The Minister told us the other day in an innocent way. "My Ministry has cleared it". The Home Minister, a respectable one, said "My Ministry is just like a post office." Then, who is responsible? We want to know from the responsible people from that side, not from the post office and the pretender of innocence. You have to come out and say whether you are ready to bring forward this Constitutional Amendment. I not think there is any other way by which you can bring this Constitutional Amendment.

I accept the amendment moved by my Kerala colleagues, Shri Janardhanan and Shri Balakrishna Pillai, to include the Kerala Land Reforms Act, 1969, which is the basic Act. Will you include this and bring forward a Bill? The simple question is that. It will not take more than half an hour to adopt it here because there is a consensus of opinion. That party is agreed. My hon. friends from Kerala on that said will agree. On this side there is hardly any difference. I said, "My friends from Kerala". I am trying to demarcate them from bad company. I will not put them in that bad company. My friends from Kerala who are here are very progressive. When we implemented land reforms, it was with their help that we did it when our friends from that side the Marxists were occupying the land to scuttle the implementation of the land Act. So, we respect them, we understand their feelings. But that

company, on that side, I cannot understand.

I am concluding now. My only request is that the Constitutional amendment should be brought forward as early as possible. Otherwise, we are not going to leave this place. Unless such an assurance is categorically made, we will not go from this place. We are sent here with a purpose and that purpose will be served.

The time is running out against you people, on that side of the House. Don't miss the bus. You have once missed it and terribly suffered. It was that section of the Congress, young people, who gave the Congress a new radical image. (*Interruption*). You may not agree. But they have done that. They have brought the Congress in my State to that level that they supported the land reforms. So, don't spoil the image of that section which gave a new image to the Congress in the interest of some *kulaks* who are sitting on that side.

With these words, I move the Bill for the consideration of the House.

MR. CHAIRMAN Motion Moved:

"That the Bill further to amend the Constitution of India, be taken into Consideration."

SHRI M.C. DAGA (Pali): I beg to move:

"That the Bill further to amend the Constitution of India be referred to a Select Committee consisting of 9 members, namely:—(1) Shri Arvind Netam (2) Shri S.M. Banerjee (3) Shri H.K.L. Bhagat (4) Shri Chandulal Chandrakar (5) Shri A.S. Kader (6) Shri Vikram Mahajan (7) Shri Shrikishan Modi (8) Chaudhary Nitiraj Singh; and (9) Dr. Laxminarayan Pandeya, with instructions to report by the last day of the first week of the next session. (2)

SHRI A.K. GOPALAN (Palghat): Mr. Chairman, Sir, I support this Bill. While supporting this Bill, I do not want to go at length into the question of the decision

of the Supreme Court and how the decision of the Supreme Court will affect hutment dwellers, tenants and other sections of people in Kerala because it has been very elaborately discussed by the author of the Bill, Shri Chandrappan.

I want only to say that this is not only concerning Kerala. Today, it may be Kerala; tomorrow, it may be some other State. So, you should not take this discussion as one relating to Kerala only. This is an all-India thing. Whenever a radical legislation is passed, the Supreme Court and the High Courts for the last so many years have struck down the most important provisions of it. We are now talking about ceiling on land holdings and all that the Chief Ministers' Conference is also there. Some States have passed a radical legislation. After the Supreme Court and the High Courts have struck it down, to come to Parliament saying that it must be put in the Ninth Schedule should not happen hereafter. Whenever a legislation is passed, it must be put in the Ninth Schedule so that, after that, the Supreme Court or the High Court may not strike it down, and then, you come to Parliament saying, "Please see that it is put in the Ninth Schedule." That is one point as far as that aspect is concerned.

Now, today it may be Kerala; tomorrow it may be some other States which may pass certain radical legislations. Unless protection is given to those legislations, those Acts will not survive. This must be taken as a warning by the Central Government. Today, they are feeling helpless. We had a discussion; everybody was there. The Prime Minister was not taking anything; the Home Minister was saying, "I am alone. I am agreed to it. But the Cabinet must be there." I do not know why they did not discuss about it.

Shri Chandrappan spoke very strongly about it. According to my age, I cannot speak so strongly. In action, I will be strong but, in speech, I will not be. I do not know why they say that they want some time. I say that some months ago they had been approached by the Kerala Government before the Supreme Court judgment came and also before the Bill was passed, the