

बिहार विधान सभा वादवृत्त

बृहस्पतिवार, तिथि ३० अगस्त, १९५१।

भारत के संविधान के उपबन्ध के अनुसार एकत्र विधान सभा का कार्य-विवरण।

सभा का अधिवेशन पटने के राज्यपाल-भवन में बृहस्पतिवार, तिथि ३० अगस्त, १९५१ को पूर्वाह्न ११ बजे माननीय अध्यक्ष श्री विन्ध्येश्वरी प्रसाद वर्मा के सभापतित्व में हुआ।

*तारांकित प्रश्नोत्तर

TROOP-TRAIN DERAILMENT.

A *33. Shri JAGANNATH SINGH : Will the Hon'ble Minister in charge of the Communications be pleased to state—

(a) whether the attention of Government has been drawn to the news published in the Dak Edition of a local English daily, dated the 20th July, 1951, under the caption 'Troop-Train Derails near Motihari—suspected sabotage by Pakistan Agents';

(b) if the answer to clause (a) be in the affirmative the full facts of the accident and whether the derailment was caused by the sabotage of Pakistani agents?

माननीय श्री अब्दुल क़यूम अन्सारी—(क) उत्तर स्वीकारात्मक है।

(ख) (१) १८ जुलाई, १९५१ को रात में २ बज कर ५ मिनट पर १०१ अप पैसेन्जर मुजफ्फरपुर से खुली। प्रातःकाल ४ बज कर ४५ मिनट पर जब ट्रेन मोतीहारी स्टेशन से २ मील और मुजफ्फरपुर को ओर से १००/२१ मील पर पहुँची, तथा जब धनौती पुल पर पहुँचने में २७६ फीट की दूरी पर थी तब यह पटरी से उतर गयी। इंजिन का एक पिछला डब्बा (जनानी तथा ड्योढ़ा दरजे का) रास्ते की दाहिनी तरफ उलट गया; किन्तु इंजिन से जुटा रहा और इंजिन रास्ते से नहीं हटी। उसके दूसरे डब्बों का चक्का पटरी से उतर गया और डब्बा नीचे के ढाचें (चैसिस) से अलग हो गया। उसके पीछे का तीसरा डब्बा इंजिन की ओर उलट-पुलट कर रह गया। कोई व्यक्ति मरा नहीं और ११ व्यक्तियों को मामूली चोट आयी थी जिनको निकट की पुलिस लाइन के लोगों द्वारा शीघ्र ही आवश्यक सहायता दी गयी।

(२) ऐसा मालूम होता है कि किसी अज्ञात उपद्रवकारी ने दो जोड़े फिश प्लेटों को खोल दिया था जिसके कारण रेल पटरी से उतर गयी। अतएव यह तोड़-फोड़ का मामला मालूम होता है। इस बात की अभी गुप्त रूप से जांच-पड़ताल की जा रही है कि इस दुर्घटना का जिम्मेवार कौन है।

श्री जगन्नाथ सिंह—मैं जानना चाहता हूँ कि इस सम्बन्ध में किसी की गिरफ्तारी हुयी है या नहीं?

A.—Postponed from the 23rd August 1951.

श्री अली अहमद बुलंद अख्तर का छुट्टी के लिये आवेदन ।

APPLICATION FOR LEAVE OF ABSENCE FROM SHRI ALI AHMAD BULAND AKHTAR.

माननीय अध्यक्ष—भागलपुर डिवीजन मुसलिम नागरिक क्षेत्र के प्रतिनिधि श्री अली अहमद बुलंद अख्तर ने अस्वस्थ रहने के कारण विधान सभा के वर्तमान अधिवेशन से अनुपस्थित रहने की अनुमति मांगी है ।

माननीय अध्यक्ष—प्रश्न यह है कि :

श्री अली अहमद बुलंद अख्तर को विधान-सभा के वर्तमान अधिवेशन से अनुपस्थित रहने की अनुमति दी जाय ।

प्रस्ताव स्वीकृत हुआ ।

विधान कार्य : सरकारी विधेयक ।

LEGISLATIVE BUSINESS : OFFICIAL BILLS.

दि बिहार प्रिविलेज्ड परसन्स होमस्टेड टेनेन्सी (अमेण्डमेण्ट) बिल, १९५१ (१९५१ की वि० सं० २९) ।

THE BIHAR PRIVILEGED PERSONS HOMESTEAD TENANCY (AMENDMENT) BILL, 1951 (BILL NO. 29 OF 1951).

माननीय अध्यक्ष—श्री जगन्नाथ सिंह ने अपना संशोधन खंड २ पर पेश कर दिया था । इसके बाद माननीय मंत्री ने उनके संशोधन पर एक संशोधन दिया था और वह संशोधन भी पेश हो चुका था ।

माननीय श्री कृष्ण वल्लभ सहाय—मैं एक दूसरा अमेण्डमेंट पेश कर देना चाहता हूँ । यदि यह संशोधन पास हो जायेगा तो पहले के पेश किये हुए दोनों संशोधन रद्द हो जायेंगे ।

Shri SAIYID AMIN AHMAD : Sir, I rise on a point of order. My friend cannot move two contradictory amendments at the same time. He must withdraw his previous amendments before he moves his second amendment.

माननीय श्री कृष्ण वल्लभ सहाय—मैं प्रस्ताव करता हूँ ।

Shri SAIYID AMIN AHMAD : Sir, my point of order should be decided first. The last date on which this Bill was taken up the hon'ble member in charge of the Bill moved an amendment and that amendment is before the House.

२ बिहार प्रिविलेज्ड परसन्स होमस्टेड टेनेन्सी (अ०) बिल, १९५१ [३० अगस्त]

Hon'ble the SPEAKER : It is the discretion of the Speaker, either to reject it or to accept it.

Shri SAIYID AMIN AHMAD : Sir, the question is whether the same member can move two amendments ?

The Hon'ble the SPEAKER : Can you show me any rule ?

Shri SAIYID AMIN AHMAD : That I want to show.

माननीय श्री कृष्ण वल्लभ सहाय—हुजूर अगर आप की इजाजत हो तो मैं अपना संशोधन वापस ले लूँ ताकि अमीन अहमद साहेब की बात रह जाय।

The amendment was, by leave of the House, withdrawn.

माननीय अध्यक्ष—मैं जानना चाहता हूँ कि श्री जगन्नाथ सिंह अपना संशोधन उठा लेना चाहते हैं या नहीं।

श्री जगन्नाथ सिंह—जी नहीं, मैं अपना संशोधन वापस नहीं लेना चाहता हूँ।

माननीय अध्यक्ष—तब किसी को अपना संशोधन वापस लेने की जरूरत नहीं।

माननीय श्री कृष्ण वल्लभ सहाय—मैं प्रस्ताव करता हूँ कि :

For item (a) of sub-clause (ii) of clause 2 of the Bill, the following item shall be substituted, namely :—

“(a) For sub-clause (1), the following sub-clause shall be substituted, namely :—

(1) he holds no land except—

(a) his homestead ; or

(b) any other land, being land in the village in which his homestead is situate, not exceeding one acre, of which at least one-tenth is such as is, in the opinion of the Collector, suitable for erecting a building for residential purpose”.

मैं हाउस को यह बता देना चाहता हूँ कि इस संशोधन का आशय क्या है। इसका आशय यह है कि यदि किसी प्रिविलेज्ड परसन के पास एक एकड़ जमीन है मगर वह ऐसी जमीन है कि जिसमें मकान नहीं बन सकता है तो वह प्रिविलेज्ड परसन जिस मकान में रहता है उससे हटाया नहीं जा सकता। खुलासा यह है कि एक एकड़ जमीन ऐसी है जिसमें मकान बन सकता है तो अगर वह उस मकान से हटा दिया जाय जिसमें रहता है तो कोई मुजायका नहीं। एक बात इससे निश्चित हो जाती है कि हरिजन या तो जिस मकान में रहता है रहेगा या उसके पास ऐसी जमीन होगी जिसमें वह मकान बना सके। मैं समझता हूँ इस उद्देश्य से सभी को सहानुभूति होगी।

१९५१] बिहार प्रिविलेज्ड परसन्स होमोस्टेड टेनेन्सी (अ०) बिल, १९५१ ३

Shri SAIYID AMIN AHMAD : Sir, I have got every sympathy with the hon'ble member in charge of the Bill and I have got every sympathy with the *harijans* as such ; but it is most unfortunate that my hon'ble friend is trying to do something which is not competent to do. Sir, he is trying to amend the Bihar Privileged Persons Homestead Tenancy Act. Perhaps he does not know that that Act after the promulgation of the Constitution has become a dead law which cannot be revived, and today my hon'ble friend is wasting all his energies.....

The Hon'ble Shri KRISHNA BALLABH SAHAY : Sir, on a point of order, I do not think this is relevant. If the Act has become dead, let the hon'ble member move the High Court and if he gets a verdict to that effect, the Act would be treated as dead. Today we are concerned only with the amendment which is proposed to amend the Act, and I think the discussion ought to be confined to the amending Bill and the new amendment I have moved. He ought not go beyond that. I don't think we will be justified in criticising the provisions of the Privileged Persons Homestead Tenancy Act.

Shri SAIYID AMIN AHMAD : Sir, my objection is that my hon'ble friend has no power to amend a law which has ceased to be a law after the promulgation of the Constitution of India, and my hon'ble friend has no power to bring this amending Bill before the House, because this House is not competent to enact it into law.

The Hon'ble the SPEAKER : शांति-शांति !

What is the justification for the hon'ble member in saying that ?

Shri SAIYID AMIN AHMAD : My justification is article 13 "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",—sub-clause (2) of article 13. Sir, article 14,—I do not know whether my hon'ble friend knows that article or whether he has tried to consider that article,—and article 15.....

The Hon'ble the SPEAKER : The hon'ble member ought to prove the inconsistency.

Shri SAIYID AMIN AHMAD : I shall prove it. Article 13 says that if there is any law in force which is inconsistent with the provisions of the Constitution in this part it shall be void.

The Hon'ble the SPEAKER : Where is the inconsistency ?

Shri SAIYID AMIN AHMAD : The inconsistency is because it is repugnant to article 14.

४ बिहार प्रिविलेज्ड परसन्स हो स्टैंड टैनेन्सी (अ०) बिल, १९५१ [३० अगस्त]

The Hon'ble the SPEAKER : Is that the meaning of "inconsistency" ?

Shri SAIYID AMIN AHMAD : By this Act, namely, the Bihar Privileged Persons Homestead Tenancy Act, the Legislature created a privileged class of persons and gave them a privileged status. "Privileged person" under this Act means a person who satisfies all the conditions, namely, he holds no land or no other land except his homestead." There can be no objection to that.

But, sub-clause (2) : "He is a member of the Scheduled Caste within the meaning of the Government of India Scheduled Caste Order, 1936, or a member of the Backward Tribes as defined in paragraph 19 of the Fifth Schedule to the Government of India Act, 1935, read with sub-paragraph 2 of paragraph 6 of Part VII of the Government of India Provincial Legislative Assembly Order, 1936, or a member of the Muslim community", is objectionable. Because it involves discrimination on grounds of race or religion.

So, this class of privileged persons was created by the Act of 1947. Now under the Constitution this provision cannot remain in force. Article 14 says :

"The State shall not deny any person equality before the law or the equal protection of the laws within the territory of India."

Sir, my hon'ble friend may enact a law for all the citizens who are landless.

The Hon'ble the SPEAKER : Is the hon'ble member raising any point of order ?

Shri SAIYID AMIN AHMAD : I am making my speech ; I am not raising any point of order.

The Hon'ble the SPEAKER : If the hon'ble member does not require any decision of the Chair I have nothing to say.

Shri SAIYID AMIN AHMAD : But it will be for the Chair to give any decision *suo moto*.

The Hon'ble the SPEAKER : The Chair would not hazard any such decision.

Shri SAIYID AMIN AHMAD : I would not ask for any decision, Sir, because I am perfectly sure of my position. So, Sir, as I was saying, if my hon'ble friend had a general law for every citizen of Bihar irrespective of caste, creed or community, that would have been a different matter.

But here he has come to the House for making certain provisions in regard to privileged persons only. Article 15 is very significant. Article 15(1) says that the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. Now, here the State has discriminated on grounds of religion also as well as race and caste. As you will find, Sir, certain members of the muslim community have been given privileged position and who are they? Sir, my friend, Mr. Noor and Mr. Ansari are there. They are supposed to be the beneficiaries of this Act.

The Hon'ble Shri ABDUL QAIYUM ANSARI : Why do you grudge?

Shri SAIYID AMIN AHMAD : I am not grudging. Poor people are grudging this because you have usurped their rights. They have very serious grievance against this.

The Hon'ble the SPEAKER : Order, order. This question is irrelevant.

Shri SAIYID AMIN AHMAD : On grounds of religion there has been discrimination. Certain members of the muslim community have been given a privileged position. Then, on grounds of race and creed, there has been discrimination because certain persons within the meaning of the Government of India Scheduled Castes Order, 1951.....

The Hon'ble the SPEAKER : Will the hon'ble member look up the definition of 'privileged tenant' in sub-clause (2) of clause 4?

Shri SAIYID AMIN AHMAD : I want to refer you, Sir, to sub-clause (2) of clause 2, wherein the definition of 'privileged person' has been given.

The Hon'ble the SPEAKER : A 'privileged tenant' shall have a permanent tenancy in the homestead held by him. There is no question of discrimination.

Shri SAIYID AMIN AHMAD : Government may declare any person to belong to a privileged class. They would decide which persons amongst the muslim community should be included in the class of privileged persons.

The Hon'ble the SPEAKER : The term 'privileged persons' means, as such, for the purposes of this Act.

Shri SAIYID AMIN AHMAD : My point is, Sir, that certain persons are denied that right. They will have this grievance. Suppose, my friend Mr. Ansari who holds a certain homestead and has no other land, he will be declared as a 'privileged person'.....

The Hon'ble the SPEAKER : Order, order. Does the hon'ble member want to re-open the whole Act of 1947?

६ विहार प्रिविलेज्ड परसन्स होमिस्टेड टेनेन्सी (अ०) बिल, १९५१ [३० अगस्त]

Shri SAIYID AMIN AHMAD : That is not my point, Sir.

The Hon'ble the SPEAKER : I have expressed my opinion.

Shri SAIYID AMIN AHMAD : Sir, I am bound not by the opinion of the Chair but by the ruling of the Chair.

The Hon'ble the SPEAKER : Sometimes even my opinion becomes a ruling, and I cannot allow a discussion thereafter.

Shri SAIYID AMIN AHMAD : But Sir, I do not share the same view.

The Hon'ble the SPEAKER : That is altogether a different matter. The Chair has given his ruling and, therefore, nothing can be said regarding the old Bill.

Shri SAIYID AMIN AHMAD : Alright Sir, I am speaking only about the amendment and I say that the definition of 'privileged persons' which is going to be amended is wrong on principle and is against the spirit and letter of the Constitution of India.

The Hon'ble Shri KRISHNA BALLABH SAHAY : Mr. Amin Ahmad can only speak on the provisions of the amending Bill.....

As I am rising on a point of order, my friend Mr. Amin Ahmad should resume his seat.

(Mr. Amin Ahmad resumed his seat.)

At last he has acted up to the etiquette of the House.

My point is this, Sir, my friend cannot speak on any of the provisions of the Act; he can only speak on the provisions of the amending Bill, and the amendment which is before the House. Therefore, he should not be allowed to speak on the provisions of the Act, as they exist.

The Hon'ble the SPEAKER : I think, the hon'ble member accepts this position.

Shri SAIYID AMIN AHMAD : I am not going to accept any opinion of my hon'ble friend.

The Hon'ble Shri KRISHNA BALLABH SAHAY : That is never expected from you.

Shri SAIYID AMIN AHMAD : We know the extent to which your opinions are correct. I am speaking about the amendment and I say that this amendment is wrong on principle, and also on the specific ground that it is contrary to the provisions of the Constitution. I am speaking only about the amendment and not about the old Act. Sir, this amendment is in regard to item (a) of sub-clause (2) of clause 2 of the Bill. Now I am referring only to this sub-clause (2) of clause 2 of the Bill. I am not going to speak about the whole of the Bill.

The Hon'ble the SPEAKER : What does the hon'ble member propose to do ?

Shri SAIYID AMIN AHMAD : Sir, I want only to speak about sub-clause (2) of clause 2 of the Bill and nothing else. Sir, the sub-clause (2) refers to section 2 of the Act, and I am entitled to speak on section 2 of the Act because it is going to be amended by clause 2 of the Bill. My friend's amendment is "For item (a) of sub-clause (ii) of clause 2 of the Bill, the following item shall be substituted, namely,....." So I have every right to refer to section 2 of the Act which is being amended by clause 2 of the Bill.

The Hon'ble the SPEAKER : My ruling is this that hon'ble members have the right to refer only to the merits of the amendment.

Shri SAIYID AMIN AHMAD : I shall speak only on the merits of the amendment.

The Hon'ble Shri KRISHNA BALLABH SAHAY : And never refer to the Act.

Shri SAIYID AMIN AHMAD : I am not going to take any direction from any of the Hon'ble Ministers and I hope, Sir, that the Hon'ble Minister.....

The Hon'ble the SPEAKER : Are you speaking on the merits of the amendment now ? (*Laughter.*)

Shri SAIYID AMIN AHMAD : Sir, I am speaking on the merits of an Hon'ble Minister's observations.

However, Sir, my friend wants that certain special rights should be created in favour of certain privileged persons only but that would be against the provisions of Articles 14 and 15 of the Constitution. What will happen if this amendment is accepted ? If a certain person comes within the definition of privileged persons holding one acre of land in addition to his homestead he gets certain privileges. If any other citizen of the State of Bihar placed in a similar circumstance holds one acre of land in addition to his own homestead he will not get that privilege. So this amendment is *ultra vires* of the Constitution and also *ultra vires* of this Assembly because under sub-clause (2) of Article 13, the Assembly has no power to make any such law. Sub-clause (2) of Article 13 of the Constitution says "The State shall not make any law which takes away or bridges the rights conferred by this part and any law made in contravention of this clause shall, to the extent of the contravention, be void". So we have no power to make any such amendment.

८ बिहार प्रिविलेज्ड परसन्स होमस्टेड टेनन्सी (अ०) बिल, १९५१ [३० अगस्त]

The Hon'ble the SPEAKER : Is the hon'ble member speaking on item (i) of section 2 of the Act ?

Shri SAIYID AMIN AHMAD : About the Act I want to say nothing because you have given a ruling to that effect. I am only speaking about the amendment given notice of by my friend. What right my friend has to create special privileges only in favour of a certain category of privileged persons ? Let there be a general law and I have no objection to that. If there is a general law that any person who holds a homestead and in addition one acre of land will be protected, then I have no objection. As that is not the case I am opposing it on grounds of principle. I am speaking for every poor person and I do not want to speak only for a certain section of the people who are known by the name of ' Harijans ' or by some other names.

Then, Sir, I would like to point out to my friend that this amendment is absolutely unnecessary. If there is a tenant in a village who holds any land other than his homestead then he is a *raiyyat* and he gets protection under the Bihar Tenancy Act. This Privileged Persons Homestead Tenancy Act was passed in 1947 only because such persons were tenants-at-will. Any person holding only a homestead and no other land is not a *raiyyat* ; he is a tenant-at-will who may be asked to quit at any time when his landlord wants him to quit. So to protect such persons this special Act was promulgated in the year 1947. But, now, if my friend wants to extend the scope of " privileged persons " then the entire amendment becomes absolutely useless, because if there is a person holding one acre of land in addition to his homestead he must be a *raiyyat* and not a tenant-at-will. He cannot be ejected by the landlord. What is all this fuss about, I really cannot understand. My friend wants to introduce this measure on the eve of the General Elections because he wants to show to the Harijans that he has done something for them. If he really wanted to do something for them he could have done it in other ways.

The Hon'ble the SPEAKER : Why do you say that this amendment is unnecessary ?

Shri SAIYID AMIN AHMAD : Because if he has one acre of land in addition to his own land he becomes a *raiyyat* and is protected by the Bihar Tenancy Act. My friend now wants to widen the scope of the original Act. The original Act said " privileged persons " means any person who holds no land or any other land except the homestead. In that case he required protection because the Bihar Tenancy Act could not give him any relief. But, here my friend wants to include " one acre of land " in addition to his homestead. If you include that he is a *raiyyat* and gets protection under the Bihar Tenancy Act.

My friend has brought another amendment in sub-clause (3). You will find that "*raiyyat*" was excluded in the original Act because he was given protection in the Bihar Tenancy Act. So the then Legislature considered it necessary to exclude "*raiyyat*" but now my friend wants to include "*raiyyat*". I know my friend is very proud of the legal opinion that he receives.

You have become an expert. Well, we do not grudge it. We would welcome it that our Revenue Minister should be a legal expert. We are sorry that sometimes such Bills are brought in this House which show that the legal aspects have not been considered at all. We have had enough of such Bills in this House. I can show you that all the time that my friend has taken in connection with this Bill will result in nothing.

Shri MURLI MANOHAR PRASAD : He has no right to make such remarks.

Shri SAIYID AMIN AHMAD : If my friend has tried to help the Harijans he could have done it in many other ways. My friend has given 30 bighas of land to a certain person in Bettiah only because he belonged to a particular political party.

The Hon'ble the SPEAKER : Average person holds one acre of land and he becomes a *raiyyat* and he is protected.

Shri SAIYID AMIN AHMAD : What is the use of this Act, to protect the *raiyyat*? The *raiyyat* has already got his protection. So, I was saying that this is nothing but absolute make-belief just to show that my friend has done something for the Harijans. I say he could have helped the Harijans in other ways. There are so many court of wards Estates under him. He could have issued orders there that lands should be settled with Harijans. But he has not done that. He has given lands to well-to-do persons not often and the poor Kisans have been robbed of their lands. Those lands have been misused. I have got facts and figures and I can quote them.

The Hon'ble Shri KRISHNA BALLABH SAHAY : Sir, I rise on a point of order. He is to confine himself to the provisions of the Bill and he is not to criticise the general policy of the Government with regard to the settlement of lands to the Harijans. I do not know how the latter part of his speech has become relevant.

The Hon'ble the SPEAKER : He can say how the Harijans can be helped. So far as that is concerned he is relevant.

Shri SAIYID AMIN AHMAD : I am speaking about the object of the amendment. I want to show that it is nothing but crocodile tears. I say there are cases in which the poor tenants have been made to sign blank petitions.

१० बिहार प्रिविलेज्ड परसन्स होमस्टेड टेनेन्सी (अ०) बिल, १९५१ [३० अगस्त]

The Hon'ble the SPEAKER : How is that relevant here ?

Shri SAIYID AMIN AHMAD : My friend has not helped the Harijans.

The Hon'ble the SPEAKER : That is also not relevant. The only relevant thing is that what he is going to do just now would not help the Harijans.

Shri SAIYID AMIN AHMAD : At the third reading, Sir, I shall state how my friend could have helped the *raiyat* in other ways and I shall then make some sensational disclosures.

The Hon'ble the SPEAKER : Provided they are relevant.

Shri SAIYID AMIN AHMAD : They are fully relevant. I would ask the hon'ble member to be present at that time. I shall make some disclosures which are worth making and deserve to go down in the proceedings of this House for the guidance of the future generation.

Sir, supposing we accept this amendment how would it benefit those Harijans who have got one acre of land in addition to their homestead ? The only benefit is mentioned in clause 4. The person who holds one acre of land will have permanent tenancy. Let my friend take the advice of the Advocate-General as to whether after the amendment, the Bill would serve any useful purpose.

The Hon'ble the SPEAKER : The hon'ble member says that this Bill would serve no purpose to those who hold no land except the homestead.

Shri SAIYID AMIN AHMAD : That is being amended now.

The Hon'ble the SPEAKER : That is being retained.

Shri SAIYID AMIN AHMAD : It is being retained and then amended in the next sub-clauses.

The Hon'ble the SPEAKER : There is no provision in the Tenancy Act.

Shri SAIYID AMIN AHMAD : So that will be ineffective and the next part will be effective.

The Hon'ble the SPEAKER : So, the Bill will serve some purpose.

Shri SAIYID AMIN AHMAD : This retention is meaningless, because it is already there. So, this thing is absolutely useless, and ridiculous.

The Hon'ble the SPEAKER : The hon'ble member should make no reflection on any other hon'ble member. The hon'ble member may only say that it is not correct.

१९५१] बिहार प्रिविलेज्ड परसनस होमस्टेड टेनेन्सी (अ०) बिल, १९५१ ११

Shri SAIYID AMIN AHMAD : Sir, I really want to know what the law is on this point. I would, therefore, request you to ask the Advocate-General to come to this House and give his opinion on this point.

माननीय श्री कृष्ण वल्लभ सहाय—अध्यक्ष महोदय, मेरे दोस्त अमीन साहब ने कन्सटीट्यूशन के प्वायंट को रेंज किया है और कहा है कि अगर आप आर्टिकल्स १३ और १४ को पढ़ें तो मालूम हो जायगा कि जो अमेंडमेंट पेश किया गया है वह अल्ट्रा वायर्स है। अमीन साहब ने लैंड रीफॉर्म्स ऐक्ट, पर पटना हाई कोर्ट के जजमेंट को कोट किया है। आपको मालूम होना चाहिये कि पटना हाई कोर्ट ने लैंड रीफॉर्म्स ऐक्ट को इस लिये अल्ट्रा वायर्स किया था कि उसमें छोटे जमींदारों और बड़े जमींदारों में डिसक्रिमिनेशन हो जाता था। लेकिन यहां पर हरिजन या शेड्यूल्ड कास्ट्स को खास प्रिविलेज देना है। इस बिल में लैंडलॉर्ड, टेन्योर होल्डर और रेंयत के बीच कोई डिसक्रिमिनेशन नहीं होता है। हमारे अमेंडमेंट में लैंडलॉर्ड्स, टेन्योर होल्डर्स और रेंयत कुल हैं। इसलिये आर्टिकल्स १३, १४ और १५ यहां लागू नहीं होते हैं। जिस कन्सटीट्यूशन को आपने पढ़ा है उसकी यह खास हिदायत है कि हरिजन और शेड्यूल्ड कास्ट्स और वीकर सेक्शन्स के इकॉनामिक इन्टरैस्ट को सेफगार्ड किया जाय।

आर्टिकल ४६ में है कि :—

“The State shall promote with special care the educational and economic interests of the weaker sections of the people and, in particular, of the scheduled castes and scheduled tribes, and shall protect them from social injustice and all sorts of exploitation.”

यह गरीब हरिजनों को मकान बनाने के लिये अमेंडमेंट लाया गया है। मान लीजिये कि कोई भूमिन् जो गरीब है उसको जमीन से मालिक हटाना चाहता है तो उसकी इससे रक्षा होगी। अगर हम ऐसा करते हैं तो कन्सटीट्यूशन के स्पिरिट को कामयाब करते हैं। हमारे दोस्त ने कहा है कि यह पहले ही अल्ट्रा वायर्स हो गया है। हमने समझा था कि सूबे में एक ही पटना हाई कोर्ट है लेकिन आज मालूम हुआ कि अमीन साहब सुप्रीम पटना हाई कोर्ट हैं जिनका जजमेंट बेलगाम होता है।

दूसरी बात यह है कि आपने रेंयत का लफ्ज ओमिट करने की बात कही है। इसको हमने जान-बूझ कर ओमिट किया है। हम उसको ओमिट नहीं करते तो अगर कोई ऐसा आदमी है जिसके पास होमस्टेड के अलावे रेंयती जमीन है तो चूंकि उसके पास रेंयती जमीन है, इस लिये वह प्रिविलेज्ड परसन नहीं माना जायेगा, ऐसी बात नहीं है। अगर उसके पास १० कड़वा रेंयती जमीन है और होमस्टेड लैंड भी है तो वह प्रिविलेज्ड परसन कहा जायगा। हमारे दोस्त अमीन साहब भूमिन् भाइयों से रेंज हैं तो मालूम नहीं वे हरिजन भाइयों का गला क्यों काटना चाहते हैं?

१२ बिहार प्रिविलेज्ड परसन्स होमस्टेड टेनेन्सी (अ०) बिल, १९५१ [३० अगस्त]

माननीय अध्यक्ष—अगर किसी आदमी ने दूसरे की जमीन में घर बनाया है तो मौजूदा कानून के अनुसार रेंट होने की वजह से उसको परमनेंट टेनेन्सी राइट हो ही जाता है, तो मैं जानना चाहता हूँ कि इस कानून की क्या जरूरत है ?

माननीय श्री कृष्ण वल्लभ सहाय—मान लीजिए कि उसकी जमीन दूसरी जगह है और वह बसा हुआ है दूसरे की जमीन में, तो मेरे ह्याल में उसकी होल्डिंग प्रोटेक्टेड नहीं है।

Shri SAIYID AMIN AHMAD : On a point of order, Sir. The amendment is that "any other land, being land in the village in which the homestead is situated, not exceeding one acre of land". Now, Sir, my objections have not been answered by my friend. I request therefore, that the Advocate-General may kindly be requested to clear the matter.

माननीय श्री कृष्ण वल्लभ सहाय : हुजूर, मेरा अभिप्राय यह है कि अगर किसी के पास १० कट्ठा रेंटी जमीन है और होमस्टेड लैंड भी है लेकिन वह दूसरे की जमीन है और होल्डिंग का पार्ट नहीं है तो वह सुरक्षित नहीं है। अर्थात् किसी के पास १ एकड़ जमीन है और ऐसी जमीन जिस पर वह मकान नहीं बना सकता तो उसको प्रिविलेज्ड परसन होने में बाधा नहीं पहुँचती है।

मान लीजिये कि किसी के पास १ बीघा जमीन है लेकिन वह डेम्प है या उसमें बाढ़ का पानी आ जाता है तो वहाँ वह मकान नहीं बना सकता है। इसलिये ऐसे लोगों को भी हम प्रिविलेज्ड परसन्स में शुमार करते हैं।

माननीय अध्यक्ष—अब मैं खंड २ पर के संशोधनों को सभा के सामने रखना चाहता हूँ। पहले से श्री जगन्नाथ सिंह के संशोधन को रखना चाहता हूँ :

प्रश्न यह है कि :

"That at the end of proposed sub-clause (1) in clause (i) of section 2 of the Bihar Privileged Persons Homestead Tenancy Act, 1947, the following explanation be added, namely :—

Explanation.—For the purpose of this sub-clause, the word "Land" does not include such land as is situated at an unreasonable distance from the village in which the privileged tenant resides and as, in the opinion of the Collector, is unfit for constructing a residential building thereon."

प्रस्ताव अस्वीकृत हुआ।

माननीय अध्यक्ष—अब मैं माननीय मंत्री के संशोधन को उपस्थित करता हूँ प्रश्न यह है कि :

For item (9) of sub-clause (ii) of clause 2 of the Bill, the following item shall be substituted, namely :—

"(a) For sub-clause (1), the following sub-clause shall be substituted, namely :—

(1) he holds no land except—

(a) his homestead;

(b) any other land, being land in the village in which his homestead is situated, not exceeding one acre, of which at least one-tenth is such as is, in the opinion of the Collector, suitable for erecting a building for residential purpose. ”

प्रस्ताव स्वीकृत हुआ ।

माननीय अध्यक्ष—प्रश्न यह है कि :

इस सभा द्वारा यथा संशोधित खंड २ इस विधेयक का अंग बने ।

प्रस्ताव स्वीकृत हुआ ।

इस सभा द्वारा यथा संशोधित खंड २ इस विधेयक का अंग बना ।

माननीय अध्यक्ष—प्रश्न यह है कि :

खंड ३ और ४ इस विधेयक के अंग बनें ।

प्रस्ताव स्वीकृत हुआ ।

खंड ३ और ४ इस विधेयक के अंग बनें ।

माननीय अध्यक्ष—प्रश्न यह है कि :

खंड १ इस विधेयक का अंग बने ।

प्रस्ताव स्वीकृत हुआ ।

खंड १ इस विधेयक का अंग बना ।

माननीय अध्यक्ष—प्रश्न यह है कि :

प्रस्तावना इस विधेयक का अंग बने ।

प्रस्ताव स्वीकृत हुआ ।

प्रस्तावना इस विधेयक का अंग बनी ।

माननीय अध्यक्ष—प्रश्न यह है कि :

नाम इस विधेयक का अंग बने ।

प्रस्ताव स्वीकृत हुआ ।

नाम इस विधेयक का अंग बना ।

माननीय श्री कृष्ण वल्लभ सहाय—मैं प्रस्ताव करता हूँ कि :

इस सभा द्वारा यथा संशोधित दि बिहार प्रिविलेज्ड परसन्स होमस्टेड टेनेन्सी (अर्मेंडमेंट) बिल, १९५१, स्वीकृत हो ।

Shri SAIYID AMIN AHMAD : Sir, my friend wants that we on behalf of the Harijans should thank him for giving effect to Article 46 of the Constitution of India. Sir, Article 46 lays down only the directive principles but every State is however bound to give effect to the directions contained in Article 46 and my friend has failed signally to do anything either for the scheduled castes or for the scheduled tribes.

१४ बिहार प्रिविलेज्ड परसन्स होमस्टेड टेनेन्सी (अ०) बिल, १९५१ [३० अगस्त]

The Hon'ble Shri KRISHNA BALLABH SAHAY : Sir, I rise on a point of order. I do not think that the subject whether the Government have done anything for the scheduled castes or Harijans can be discussed at this stage. Here we are to confine ourselves to the substance of the provisions of the Bill.

Shri SAIYID AMIN AHMAD : Yes. I shall keep myself confined to the subject. It is my friend who referred to Article 46 of the Constitution but now he takes objection to it when I am referring to it. He says that the Bill has been brought in order to give effect to the principles of Article 46 of the Constitution but now he takes objection to it.

The Hon'ble the SPEAKER : He does not take objection to your referring to Article 46 of the Constitution but he takes objection when you dilate upon what the Government has done for the Harijans or the scheduled castes.

Shri SAIYID AMIN AHMAD : I say that the Government has done nothing for them and they want to conceal this fact. I say that this Bill has been brought to conceal this fact as they have done nothing for the Harijans and the scheduled castes. That is the underlying idea. I have referred to Article 46 of the Constitution because it has been referred to by my friend ; it would not have been necessary for me to do so if he would not have done so. This Article speaks about educational and economic necessity of the weaker sections of the people. You are not doing anything for the weaker sections of the people. What is there in the Bill ? There is nothing in it which would help the weaker sections of the people, or the scheduled castes, or the schedule tribes in particular. Sir, today my friend has done nothing more than this that by this Bill the Act of 1947 becomes a dead Act. By so doing, he has done away even with the effects of the dead Act. Sir, up till now as long as the Act was not challenged, or as long as the Act was not pronounced *ultra vires*, of course something could have been done under that Act but my friend has now made it impossible for his officers to do anything even under the old Act. The amendment which my friend has moved is quite clear. This Act would apply to *raiyyats* who satisfy two conditions, (1) they have got homestead land in the village and (2) have homestead land not exceeding one acre of land. Now, Sir, what would the officers do ? Would they consider the Bihar or the Bengal Tenancy Act to be abrogated ? Would they apply the Bihar Tenancy Act to such persons who have homestead land and an acre of land in the same village. The amendment says that he holds no land except his homestead or any other land, being land in the village in which his homestead is situated, not exceeding one acre, of which at least one-tenth is such as is, in the opinion of the Collector, suitable

for erecting a building for residential purpose. In such circumstance, how is my friend going to help them? Would they apply the Bihar Tenancy Act, or what Act would they apply here?

The Hon'ble the SPEAKER : Such objection is met in clause 3, which says that the provisions of this Act shall have effect, notwithstanding anything contained to the contrary in any law for the time being in force.

Shri SAIYID AMIN AHMAD : What is the result? The protection given in the Bihar Tenancy Act has been taken away. Now such persons cannot claim any protection. It says that the provisions of this Act shall have effect, notwithstanding anything contained to the contrary in any law for the time being in force. Thus the tenants belonging to the scheduled castes or scheduled tribes who have got their homestead and also one acre of land will not get any benefit of those Acts. They cannot seek any protection under the Bihar Tenancy Act or the Chota Nagpur Tenancy Act. He will have to take dubious protection of this Act, and what is the protection which my friend will give them. The only protection that can be given is that he would be treated as a permanent tenant. Just see what a great privilege Government has given; and it is only this that the people there will be treated a permanent tenant. By so doing, of course, this Bill may have some propaganda value. But I say that after this expression of opinion in this august House, it will not have the propaganda value, and the people will be able to know that the Government has done nothing for the Harijans. My contention is that because the Government have done nothing during the last five years for the Harijans, and because they are afraid of the general election because of the fact that the Harijans might vote against them, they have brought this Bill. Thus it is clear that their intention is not to do any good to the Harijans, and at the same time they want the Harijans to understand that something very great has been done for them, and that is the only aim and object of this Bill. Sir, I say that the Government have violated the principle laid down in Article 46 of the Constitution, and they have not done anything for them.

The Hon'ble Shri KRISHNA BALLABH SAHAY : Sir, I raise a point of order. He cannot discuss the deeds and misdeeds of Government here; whether the Government have done anything good for the Harijans or not. He should not be permitted to do that. As soon as he began to speak on this point, I have been able to know what he wants to say.

Shri SAIYID AMIN AHMAD : That is my reading of the aims and objects of the Bill. This is the inner motive of Government and I have read it quite successfully.

१६ बिहार प्रिविलेज्ड परसेन्स होमस्टेड टेनेन्सी (अ०) बिल, १९५१ [३० अगस्त]

The Hon'ble the SPEAKER : The object of the Bill is to protect a *raiyat* having homestead land.

Shri SAIYID AMIN AHMAD : This is nothing, because just now I explained to the House that it is meaningless. So Sir, I was saying why Government did not bring any amendment at the time of third reading of the Bill.

The Hon'ble the SPEAKER : The Act stood in the way.

Shri SAIYID AMIN AHMAD : This Act never required any amendment. This is my first point. This amendment has never been brought with the intention of doing any good to the *raiyat*. This has been brought simply for the sake of propaganda. They have done nothing for the last five years. This Bill is only to cover their sins.

The Hon'ble the SPEAKER : But the sins may not cover the earlier sins.

Shri SAIYID AMIN AHMAD : My friend does not remain in the House every day. Today is my fortune that my friend is in the House and I want to enumerate those sins committed by him.

The Hon'ble Shri KRISHNA BALLABH SAHAY : He can speak at the time when the discussion on the supplementary demands begins. Just now he must confine himself to the provisions of the Bill.

Shri SAIYID AMIN AHMAD : I hope, Sir, that even now the Government would rise to the occasion and do something for the poor Harijans who are not going to get any relief by this amending Bill and I hope, Sir, that even now Government would try to settle these poor Harijans on the land which they occupy which in their possession of the Government Khas Mahal land may be given to the Harijans for establishing colonies. There are still many of them who live in open fields even in the rainy and winter seasons. If you want to see their miserable condition you have only to go to the Gandhi Maidan. They are living in the open and their misery can only be imagined and not described.

Sir, this Bill requires further amendment, if it is to be made useful. I proposed to make disclosures and I shall do that on some other occasion.

The Hon'ble the SPEAKER : There should be relevant occasion for this disclosure.

Shri SAIYID AMIN AHMAD : Sir, I was just going to say that the Government have done nothing for the poor Harijans and it is only to conceal this, that they have enough. It is a useless Bill and people will come to know of it very soon.

The Hon'ble the SPEAKER : This point is not relevant.

The Hon'ble Shri KRISHNA BALLABH SAHAY :

अध्यक्ष महोदय, जब बिल के प्रोविजन्स पर बहस हो रही थी तब यह सवाल उठा था कि पर्मानेंट टेनेन्स का होमस्टेड प्रोटेक्टेड है या नहीं। मैंने उस पर राय ले ली है।

"Under Bihar Tenancy Act, 1947 the homestead of a *raiyat* cannot be sold if it is a part of the holding. This incidence will be governed by custom and this is the practice."

इस लिये हरिजनों को प्रोटेक्शन देने के लिये इस अमेंडमेंट की आवश्यकता पड़ गई है। दूसरी बात यह कहनी है कि मेरे दोस्त जिस सर्कुलर को चाह रहे थे वही इसू किया गया है कि कोर्ट ऑफ वाइस की जहाँ कहीं जमीन हो उसे हरिजनों को दिया जाय।

श्री सैयद अमीन अहमद—अब बचा ही क्या है। सब तो दूसरे लोग खा गये।

श्री कृष्ण बल्लभ सहय—अभी आपके जैसे लोग भी हैं जिनको खिलाना है।

श्री सैयद अमीन अहमद—हरिजनों को जमीन देने के लिये जो प्रतिबन्ध किया गया है वह रेलिक्टेड बात नहीं है।

माननीय अध्यक्ष—प्रश्न यह है कि :

इस सभा द्वारा यथा संशोधित दि बिहार प्रिविलेज्ड परसन्स होमस्टेड टेनेन्सी (अमेंडमेंट) बिल, १९५१, स्वीकृत हो।

प्रस्ताव स्वीकृत हुआ।

पटना कारपोरेशन बिल, १९५० (१९५० की वि० सं० ४१)।

THE PATNA CORPORATION BILL, 1950 (BILL NO. 41 OF 1950).

*Mr. IGNACE BECK : Sir, I was submitting the other day that this Corporation Bill is going to affect the poorer section of the people rather vitally. You know that the Patna town or any other town is mostly inhabited by such people. Now, if this Bill is passed into a law, there will be planning for the whole town. This means that if the planning is carried out the poorer people will have to vacate their hearths and homes. It is true that they will be paid compensation at the rates fixed by Government; but this money they will finish up in keeping their body and soul together. The result will be that they will not be able to construct any house unless Government comes to their rescue by giving substantial aid. Therefore, there should be some sort of provision that Governemnt will take up construction of houses for such people or will come to their help in a substantial way in the matter of resettling them somewhere.

*Speech not corrected by the hon'ble member.