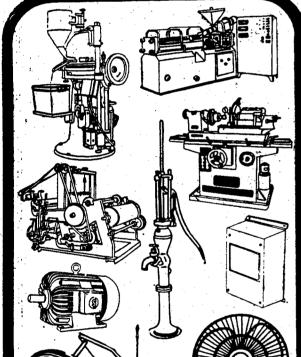
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Parliament can't delete basic W. Bengal alert THE TIMES OF INDIA, WEDNESDAY, NOVEMBER 1, 1972 7 rights, says Palkhivala

hearing in the Supreme Court try a one-party rule without freedom today arguments on whether Parliament has the right to modify fundamental rights guaranteed under the constitution. under the constitution.

Under challenge are the 24th con-

stitution amendment, by which Par-liament, has asserted its right, and three other subsequent constitution amendment acts — 25th, 26th and Today's is the first major constitu-

tional review by the Supreme Court In February, 1967, by a six-five majority in the Goldmath case, the court handed down a verdict which was generally considered a bar on Parliament's right to take away or abridge any of the fundamental rights. n more than five years.

Parliament, after the mandate the mid-term poll, reasserted its right through the 24th amendment. And, by the 25th, it has sought to put out of the jurisdiction of court social legislation against concentration of wealth and for redistribution of

EX-RULERS' CASE

These and the 29th which protects the Kerala land relegislation from court action have been challenged, in the main by a mutt chief whose petition challenging the state land reform law of has been pending before the

Supreme Court.

The mutt chief of Kerala, Swami Kesavananda Bharati Sripada Yalavaru (of Edaneer mutt), has been joined in the present case by two former rulers and three colliery-owners. The former rulers — Nawab Moham-Supreme Court. The former rulers — Nawab Monammad Iftikar Ali Khan and Mr. Raghunath Rao Ganpatrao — have challenged the 26th amendment which de-recognised the princes and ended their privy purses and privileges,

3 CRUCIAL QUESTIONS

Opening the arguments, Mr. N. A. Palkhivala, counsel for the petitioners, said it was nobody's case that the Indian constitution could not be amended. But a creature of the constitution, which Parliament is, could not claim the power to go against not claim the power to go against the basic constitutional framework.

Three "crucial questions" arose in the present case, he said.

They were: What was the correct reasoning and effect of the decisions in the Golaknath case? Should the in the Golakhath case? Should the reasoning be upheld? Was the 24th amendment validly enacted and, if it was, what was the extent of the inherent or implied limitations on Pariament's power under article 368 to

amend the constitution.

The Chief Justice, Mr. S. M. Sikri, himself a member of the bench which decided the Golaknath case, said the case did not deal with the question of amending article 368. A reference to the question in the draft majority to the question in the draft majority judgment was deleted at his instance.

NEW DELHI, October 31.

BENCH of 13 judges began

BENCH of 13 judges b nent**e**d.

essential elements of the constitution.'
The court room of the Chief Justice realism' where the hearing began this morn-ing was jampacked. Narrow chairs

were kept for the judges themselves to accommodate the largest ever bench Counsel took the court through the Golaknath judgment and observed that fundamental rights were held to be "rights of the people preserved by the constitution" and were a necessary

Speeches by Dr. Ambedkar and Mr. Jawaharlal Nehru in the Constituent Assembly had referred to these rights as "transcendental". People had "reserved" the fundamental freedoms to themselves, counsel said.
Under the constitution, Mr. Palkhi vala said, entire Parliament could not

personality.

Reference to Hitler

NEW DELHI, October 31: Adolf Hitler figured time and again in the Supreme Court today during the hearing of the writ petitions challenging Par-liament's right to amend the fundamental rights guaranteed under the constitution.

Mr. N. A. Palkhivala, counsel for one of the petitioners, cited judgments of the court in which such adjectives as "sac-rosanct," "inalienable" and "inviolable" had been used to qualify the fundamental rights. He said Hitler had been em-powered to amend the German constitution and the world knew what had followed.

Mr. Justice A. N. Grover intervened to ask: "What is the point in taking us to those facts? If Parliament has the power to amend the rights, it would remain unaffected, irrespective of what happened in Germany or is likely to happen anywhere."—U.N.I.

even by a unanimous vote legislate to take away one fundamental right Surely, then, a mere two-thirds majorily could not abrogate the rights by simply calling it a "constitution

Reiterating that a "creature" of the constitution could not go against the basic democratic structure of the constitution, Mr. Palkhivala said Parlia-ment could not convert it into a nonarchy or provide for slavery in

Mr. Justice Hegde: Can anything be added to the fundamental rights?

Counsel: Yes. Mr. Justice Heade: By adding one right, it could be that you abridge

One had only to examine the 25th

Urging that the court should look into "the basic structure of the constitution behind the written text," if tomorrow a constitution amendment were to provide for a theocratic state preventive measures have been in as in Pakistan. The Indian constitution tiated," he said. tion was based on the principle of tolerance, be added.

elected on a limited franchise, could of Naxalite attempts to regroup and lay down that a future Parliament reorganise their ranks. constituted later on a wider franchise would not have the right to amend it or frame a new constitution.

Mr. Palkhivala said the essential features of the basic constitution could not be altered or amended by a sub-sequent Parliament which did not

enjoy constituent power. Counsel was asked by Mr. Justice Grover about the essential features of the constitution. Once we start trying to identify them, there would arise an element of doubt and un-

certainly."
Mr. Palkhiyala said that so long as human agency and human intelligence operated in such matters, there would remain a certain element of uncertainty, but it would not negate the fact that the Indian constitution had essenial features of its own.

ESSENTIAL FEATURE

Mr. Justice Hegde asked whether, assuming there was no implied or in-herent limitations on Parliament's power to amend the constitution, the mpugned amendments were bad in

one of the ambits of a "creature of the constitution" to amend or alter its basic or essential features. In his to forgo the fundamental rights they njoyed.
At this point, the Chief Justice

delegated powers to state legislatures to amend fundamental rights and whether such judicial power could be delegated.

The central theme, of Mr. Palkhivala's argument was that Parliament was not competent to take away undamental rights.

lition of the Supreme Court and said if the power of amendment was so widely conferred would happen.

would happen.

Mr. Justice Hegde pointed out that article 31 (B) gave powers to state legislature to amend the law, but such amended laws had to be incorporated on statutes by Parliament.

Chief Justice, who pre- and the islands in the Indian Ocean, and the islands in the Indian Ocean, since the

judgment was deleted at his instance.

(Mr. Justice Sikri and Mr. Justice
J. M. Shelat, the only other judges sitting on both the present and the Golaknath benches were with the majority in 1967).

Continuing, Mr. Palkhivala said the Indian constitution provides for a democratic republic with certain basic human rights.

And, "if Parliament wants to take"

And the instance.

(Mr. Justice J. M. Shelat, Mr. Justice J. M. Shelat, Mr.

Bangladesh President to visit India

Bangladesh president, Mr. Abu Sayeed Chowdhury, will pay a ten-day state visit to India from November 27, it

CALCUTTA, October 31: The West Bengal police were today asked to renew their vigil against Naxalites. The alert followed yesterday's murder of a traffic constable in south Calcutta and a simultaneous attack on

The law and order position was reviewed today at a conference at which the chief secretary, the inspecconstitution amendment. "It is not an academic question. It is not an argument of fear. It is an argument of police commissioner were present." police commissioner were present. A government spokesman said that there might be different points of view about the cause of the murder. We have taken it was an extremis atcion and certain precautionary and

This was the first such attack on a policeman on duty in the city for Mr. Justice Hegde asked whether the constitution, which had been tramed by a Constituent Assembly off and on had been receiving reports

the fact remained that the police had not been able to lay their hands on some of those who had been known to provide the leadership, he said.

'Historic decision' of

Supreme Court hailed NEW DELHI, October 31: Mr. K. Narendra, president of the Indian and Eastern Newspaper Society, today hoped that the government would "recognise and homour" the principles laid down by the Superme Court when if contemplated, any regula-

tion of the press.

He hailed the Supreme Court judgment striking down the newsprint control order as "a historic decision" upholding the freedom of the press and protecting it from governmental interference and control.

"In delivering the judgment," he from more than 30 consaid, "the court has sanctified one meet in Bombay during of the prime essentials of democracy and freedom and laid down the limit Counsel said the real question was of governmental action in this realm," jointly by the Food and Agriculture ne of the ambits of a "creature of The IENS chief suggested to the Organisation and the International government to "take the press into its confidence" and said: "the time tits basic or essential features. In his its confidence" and said: "the time in recent years, scientists have view, it was inconceivable that the has come when the powers that be developed a workable process for premajority of the people would ever like in the information and broadcasting serving food by the use of gamma ministry revise their attitude towards the newspapers."—P.T.I.

Airline allowed to fly over India to China

NEW DELHI, October 31: Ethiopian Airlines has been permitted to ly to China via India with traffic He posed a question if there could rights at Bombay, according to an be any amendment suggesting the aboair agreement signed between the two lition of the Supreme Court and said countries in Addis Ababa last week. The national carrier of Ethiopia is conferred, nobody knew what expected to begin its China service

> This is the first time since the Chinese communist revolution in 1949

that an air service is to be operated to that country with traffic rights at an Indian airport.—P.T.I.

Trains dieselised:

coal shortage MADRAS, October 31: The South-

ern Railway has cancelled a number of passenger trains and switched over to diesel engine at least one of its express trains both ways because of a shortage of coal. Reports from Cochin said that the Cochin-Bangalore Island Express

According to reports available from Coimbatore, four passenger trains have been cancelled both ways — Coimba-tore Madras, Coimbatore-Olavakote, Shornur-Coimbatore and Coimbatore-

Editor of Malayalam daily reprimanded

"The Times of India" News Service

MR. Kalnilayam Krishnan Nair, Moideen Kutty Haji, in abusive and wulgar language" and adducing motives for his (Speaker's) conduct.

This is the features. was called to the bar of the state assembly today and reprimanded for a "gross breach of privilege

assembly reprimanded an editor for contempt of the house. The committee of priv leges recommended this action after Mr. Nair had sought to justify and contempt of the house."

The deputy speaker, Mr. R. S. Unni, reprimanded the editor for "criticising" his writings before it. The privilege arose from an torial in his paper on August 18, 1971, criticising the decision of the speaker

not to permit a debate in the house er Sheikh Muiibur Rahman, in Paki-"The editorial in its tenor and content, libelled the honourable speakfections on him on account of his conduct in the house and referred to him in a contemptuous and insuling manner," the deputy speaker

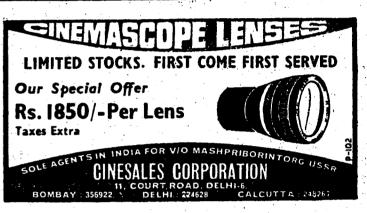
said. "As managing editor, you had high responsibility to exercise the utmenting on the conduct of the hon-ourable speaker in his capacity as such, yet you published words calculated to bring him into odium, contempt and

World Bank team for Jaipur soon

The Times of India" News Service JAIPUR, October 31: A team of World Bank officials will visit Jaipur early next month to discuss develop-ment programmes for the irrigation the Chambal project.

The Rajasthan government has sub-mitted to the World Bank for assist-ance two schemes for the development of the Rajasthan Canal and Chambal command areas. The schemes are estimated to cost Rs. 200.48 crores and Rs. 246.9 crores Chambal

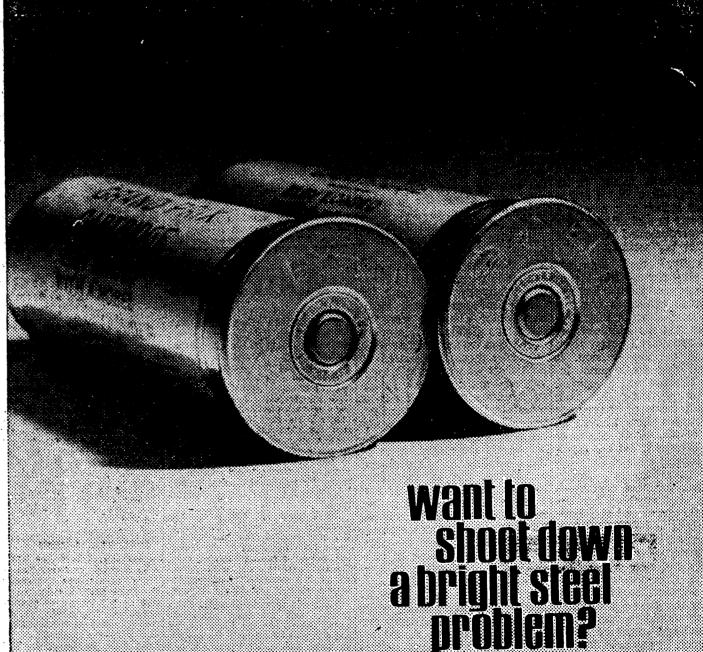
visit the two projects for an on-the-spot study of the problems relating to the two schemes and hold discus-sions with project officials. They will hold discussions with state govern-



GRAND AUCTION SALE OF 14 MOTOR CARS

Mis. Gandhi & Co., will under instructions from Burmah-Shell sell by Public Auction on 2-11-72 at 1-30 P.M. at their Auction Rooms at 72 Nagindas Master Rd., Fort, Bombay 1: 14 Cars: Ambassadors, Jeep, Dodge Saloon, Dodge Station Wagons etc. Vehicles on view on Sale-day from 10 A.M. Terms: Full cash & immediate delivery. For details contact:

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Indo-Yugoslav units in third countries mooted

The agreement was reached when the Yugoslav federal minister for eco nomic relations with developing countries, Dr. Emil Ludviger, called on the Indian foreign trade minister, Mr.

L. N. Mishra, this morning. Meanwhile, official delegations from the two sides were busy giving final

93 servicemen honoured

NEW DELHI, October 31: Ninety hree servicemen who covered themselves with glory by their gallant lavia due to begin early deeds in the Indo-Pakistan war in under an earlier contract. December, 1971, were awarded Vir Chakras — the third ranking award for heroism in the country — by President V. V. Giri at an investiture decisions reached would be document-

Sixty-nine of the awards went to men in the Army, six to men in the Navy, 17 to members in the Air Force, and one to the Border Security given posthumously. Havaldar Rumosh Kumar Dogra'

was supported back to her seat by The mother of Capt. Surendra Nath, a young doctor killed in the battle of Basantar when attending on wounded soldiers, bravely received the

widow broke down after receiving the medal and was seen sobbing as she

Most of the recipients were in the age group of 25 to 35. At the reception given in the Ashoka hall after the investiture, Mrs. Gandhi was seen talking to the

pereaved relatives of the posthumous recipients.—P.T.I. U.N.I. adds: The posthumous awards drew the warmest applause awards drew the warmest appliance among them was one presented to Capt. S. Gurung, father of late Lance Naik Nar Jung Gurung of the Gorkha Rifles. Himself profusely decorated, the father of the recipient waiked up to the dais impressively to receive his son's award. Nar Jung Gurung laid down his life while stoutly dework of shops. fending a locality in the western sector almost single-handedly against

North-South Janata express likely

NEW DELHI, October 31: A fast janata express train may be intro-duced on the north-south grand trunk route from next January 26 to serve stations in the south like Mangalore and Trivandrum, the Railway minister, Mr. T. A. Pai, told a press conference here today.

The plan to tone up the running and speeding up of passenger trains includes the introduction of nine new trains from tomorrow with the release of the new railway time-table, The running of six additional trains

s to be extended which include the Srinagar Express and the Sealdah-Pathankot Express until now operating up to Pathankot only. With the Jammu station being opened to passenger traffic in December, these trains would also go to that northern-most station of the country. Three pairs of trains are being

converted from passenger to express

NEW DELHI, October 31: The

The total trade turnover between the two countries in 1970 was of the order of Rs. 46 crores of which Indian exports amounted to Rs. 29 crores and imports Rs. 7 crores. This was largely because Yugoslavia had accumulated large rupee deposits to its credit from past trading account and India had to liquidate these to

and india had to indicate these to strike a balance.

The main problem before the two countries would be the mode of settling some Rs. 10 crores which is likely to stand in Yugoslavia's favour at the end of December when the two sides switch over to trade in freely convertible currency. A sizable part of this might be adjusted against the supplies of Indian wagons to Yugoslavia due to begin early next year

ceremony at Rashtrapati Bhavan to-day.

day. — Rashtrapati Bhavan to-lers on Thursday.—P.T.I.

Corporation for dry fruit imports likely

The Times of India" News Service NEW DELHI, October 31: The foreign trade ministry has finalised its scheme to set up a corporation o take over the imports of dry fruit. This will soon go to the union cabi-net for approvel.

This was disclosed by the foreign trade minister, Mr. L. N. Michra, at today's meeting of the consultative committee of parliament attached to his ministry.
Private trade in controlled cloth

would cease from tomorrow, said the minister. Arrangements had been

made to distribute such cloth though fair-price shops, super bazaars, co-

Some members brought up the woolen rags scandal. The minister agreed with members that the guilty

NEW DELHI, October 31: Bihar,

tion and power minister, Mr. K. L. Rao, the M.P. chief minister, Mr. P. C. Sethi, the Bihar chief minister Kedar Pandey and the U.P. rrigation minister. Mr. Mehmud Ali Khan, met for about two hours to iron out the differences on the sharing of the Sone waters without reaching an agreement.

operative stores and retail outlets, set up by mills. up by mills, NETWORK OF SHOPS It was to be hoped that this would effectively stop all black marketing in controlled cloth. Between 100 million and 120 million metres of cloth per

> The minister said that the cotton textile industry was already implementing the compulsory scheme to export at least 15 per cent. of the otal textile production.

importers deserved the severest condemnation. He said there was no dispute between him and the finance ministry and all persons responsible for the scandal would be duly puni-

Sone water talks fail Uttar Pradesh and Madhya Pradesh yesterday failed to reach an agreement on the sharing of the Sone River water impounded in the proposed Bansagar reservoir and below At the instance of the Union irriga-

The next meeting will be held on November 12 when the UP chief minister, Mr. Kamlapati Tripathi, is also expected to attend.—U.N.I.

Delhi High Court that the chances of a pilot mistaking any other lights of a pilot mistaking any other lights for runway lights were reduced if he was on the instrument landing system? Capt. Seaver of Quntas had comfunctioning of the instrument landing irport on his flight from Teheran on une 12. 1972.

In reply to a question by the court. Capt. Seaver said the complaint was a "casual report" and, therefore, did not give many technical details.

A copy of his report has been produced in the JAL crash inquiry, now being conduced by Mr. Justice Pratash Narain. The JAL DC-8 craished near Delhi on June 14, 1972.

Food, atomic experts to meet in city

NEW DELHI, October 31: Experts more than 30 countries will November 13-17 to discuss food preservation by irradiation at a symposium convened jointly by the Food and Agriculture Atomic Energy Agency.

rays emanating from radioactive isoto-pes such as Cobalt-60 and Cesium-137. Reports show that large segments of the world's population face famine and malnutrition while enormous quantities of the world's food supplies are regularly lost owing to lack of proper- preservation methods.—
P.T.I.

systems of the Rajasthan Canal and

The World Bank officials will also