

CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 24th November, 1948

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. Vice-President (Dr. H. C. Mookherjee), in the Chair.

CONDOLENCE ON THE DEATH OF SHRI KANYALAL MANANA

Mr. Vice-President (Dr. H. C. Mookherjee): I understand that Shri Kanyalal Manana who was elected to the Constituent Assembly from Madhya Bharat died sometime ago. This was announced in newspapers and then the news had to be verified. It has been verified now. May I request the Members to stand up for a minute in order to pay respect to his memory?

(All the Members stood up in their seats.)

Mr. Vice-President : I wish that the House should authorise me to send the usual message of condolence to the members of his family.

Honourable Members : Yes.

DRAFT CONSTITUTION—*contd.*

Article 38—*(contd.)*

Mr. Vice-President : We shall commence today's proceedings with the consideration of the particular article with which we are concerned today in the draft Constitution. The introduction of the Bill will be taken up after a little while.

Prof. Shibban Lal Saksena (United Provinces: General): I am tabling an amendment which is an amendment of Mr. Mahavir Tyagi's. I hope it will be acceptable to him, because in his amendment, he has not included the words 'except for medicinal purposes'. I think that if the amendment of Mr. Mahavir Tyagi is accepted as amended by my amendment, it would become much better. I wish Dr. Ambedkar to accept my amendment which is mentioned in No. 86 of list IV.

Sir, I beg to move:

"That at the end of article 38, the following be substituted:—

'and shall endeavour to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to health except for medicinal purposes'."

This exception in the last four words was not made in the original amendment but I think it is important. I think it was an omission and therefore my amendment should be accepted. Sir, I pointed out the other day while discussing the amendment of Syed Karimuddin that this is a fundamental subject on which opinion in our country is almost unanimous. Probably people do not generally realise the far-reaching consequences of the drink evil. In fact, if we add up the revenues of the various provinces from prohibition, we will find that the figure is of a very high order. I have complete figures for 1940-1941 and in that year the total revenue from prohibition was Rs. 12,52,00,000 from all the provinces. Out of this one crore was from foreign liquors and two crores from opium and only Rs. 25 lakhs of this sum was derived from sales of medicinal and intoxicating drugs. Actually now it has become almost double or even more, in the last six or seven years. So the real magnitude of the

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sacrifice involved in accepting this amendment will be clear from the fact that if we can achieve prohibition, we shall be voluntarily foregoing about 25 crores of rupees in revenue. But the revenue is only a fourth or fifth part of the price of liquor and if the revenue lost is Rs. 25 crores, the amount saved to the people is at least Rs. 100 crores which are wasted by the people in the country on intoxicants. Now this 100 crores will be saved to the families of drunkards and especially to labour and Harijan families where this vice is most prevalent. I wish to call the attention of Dr. Ambedkar to the fact that the Harijan and the labour population which earns this money by hard labour spends a large portion of it in the toddy shops and the drink shops which are generally situated in the vicinity of mills and labour and Harijan quarters. I hope that this directive principle will not remain merely a pious wish; but like Madras, all the provinces will enforce it and soon we shall have our country dry and thus we shall set an example to the whole world in this matter.

At present the expenditure on enforcing these excise duties is about a crore and a half of rupees, but I know that if we enforce prohibition, the expenses will increase, so that we are not only sacrificing a revenue of Rs. 25 crores, we shall also spend a few crores on the enforcement of prohibition; it is a big sacrifice, but I think for the great ideal which our leader has bequeathed to us, we must not grudge this sacrifice, because ultimately it will result in a very happy population and a contented country. In fact the advantage in the shape of Rs. 100 crores saved to the Harijan, labour and other drunkard families together with far more valuable moral advantages which far outweigh even the material advantages, which will follow complete prohibition are worth all this great sacrifice. Only the other day the Premier of my province, the Honourable Pandit Govind Ballabh Pant, was telling me that prohibition in Cawnpore has been very beneficial and the labour population in Cawnpore is now very much better off and their families thank the Government for what they have done. I hope very soon the whole country will be dry and we will then have achieved our great ideal of prohibition. I commend the motion to the House.

Shri Mahavir Tyagi (United Provinces: General): Sir, I accept the amendment.

Shri B. H. Khardekar (Kolhapur): Mr. Vice-President, Sir, at the outset I must say I am extremely nervous. This is the first speech that I am making not only in this Assembly, but in any Assembly. I may further add that I have not so far taken part in any college or school debate. I should like, therefore, Sir, to have your indulgence, almost your generosity, particularly when I am making bold to speak something against prohibition. I do want you to give me the necessary hearing.

I have been listening, Sir, very carefully to the number of arguments brought forth in favour of prohibition. I will just mention them and because I think they are very flimsy, I will say what I have to say about them. One of the arguments put forth was that the American Constitution makes such a provision. Sir, are we not going to learn anything from the mistake of others? Is it going to be said of us that history teaches us nothing? The Americans had it in their Constitution; the Americans provided for it in the legislature; ultimately, in the light of experience, they had to give it up completely.

Then, Sir, the second argument put forth has been that the Congress is pledged to it. Sir, it has been repeatedly admitted that in this House there is neither a Government nor any party. The Congress is no longer a mass organisation; it is one, perhaps the most important political party. This is only a technical objection. Let me go a little further. The Congress has done such a tremendous work in the past and innumerable sacrifices and so on for the attainment of freedom. The Congress is pledged to a number of good things. My

request to the members of the Congress is, you must try to see which pledges should come first. You have to see first of all how you are going to make the lot of the teeming millions of India economically and in several other respects better.

The third argument put forth has been the success of prohibition in Madras. How, Sir, is this success measured I want to know. Is it measured in terms merely because there is prohibition? You have a number of people who go on still indulging in drinks and go on filling the innumerable jails. Have you also measured as a result of the squandering of several crores of Rupees, what you have failed to do? Have you tried to measure the success of prohibition in Madras from that point of view?

The next argument put forth was that all communities want it. Parsis and Christians also were included in that list. Sir, I happen to know Parsis and Christians a little bit and I think, Sir, definitely they are not in favour of prohibition.

Then, the last and perhaps the most difficult argument for me to answer is that Gandhiji has been always for prohibition. Let me make it very clear to this House that I am second to none in my admiration, respect and veneration for Gandhiji. Gandhiji is the father of the Nation; he is the father of all of us. But, Sir, I want to say something. It was stated here, might be perhaps a little frivolously, that where liquor is, Gandhiji is not; where Gandhiji is, liquor is not. In other words, Gandhiji shuns sinners, presuming that liquor drinking is a sin. Gandhiji read, studied, I dare say, loved the Gita, and as a student of the Gita, he had, what I may say, attained *Sama Drishti*. He did not make any distinction between a sinner and a saint. Gandhiji was a saint first, a politician afterwards. I want you to consider, Sir, I make bold myself to ask you, what do you think is the essence of Gandhism? The essence of Gandhism is love, toleration; its essence is non-violence, search for truth and all these important things. The externals of Gandhism or the outward trappings of Gandhism are Khaddar and prohibition. Unfortunately, the followers of Gandhiji, some of them have been giving more importance to the outward trappings of Gandhism than to the essence of it. Gandhiji's conception of truth was that though truth is one, every individual is to have his own approach to truth, and every individual had to see it for himself. Therefore, this is what Gandhiji said, what Gandhiji wanted. If we merely follow blindly, the good father that he is, he will really be sorry, though he has departed,—he has left even this House full of lisping babes, who merely do discredit to the Father,—for not having taught them to think individually and rationally. Then, Sir, are we going to say: merely because it is the father's word, as the saying goes, *Baba Vakyam Pramanam*, is that going to be the philosophy of life? We are living in an age, when, in spite of the fact that there are several defects in it, there is one very important thing about the twentieth Century. This is an age of interrogation. The young men of today want to throw a challenge and find out the truth for themselves. As Flaker has said, "Even if God were to burn with hell and fire, I would still ask Him till He answers me why;" I would not follow blindly even if God were to tell me to do so. We are not to be dumb driven cattle; We are to be heroes in this strife. Sir, George Bernard Shaw has said much the same thing, 'examine, test and then accept'. If you are fond of Sanskrit literature, Kalidasa says more or less the same thing:

सन्तः परीक्ष्यान्त तरत् मजन्ते मूढः पर प्रत्ययनेय बुद्धिः।

From answering arguments, let me go to the positive side of my speech. On the practical side, I say prohibition should be made to wait, and wait for long in this unfortunate land of ours which has become fortunate only the other day. On the practical side, Sir, I may quote one great thinker who says that there are

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two important fronts in life, first there is the war front, and then there is the front of education. When we will have war, God alone knows; we may have a major war at any time and we must be prepared for that. There is some trouble in Kashmir; there was some in Hyderabad. We have got to be prepared. It must also be remembered that we are a very poor country and we must gather up all the resources that we have, so that we can attend to first things first. In a country where democracy has to flourish, where democracy is in its infancy, the front of education is the most important one. You know the appalling condition of the people so far as education concerned. About sixty to seventy years ago, in several countries free and compulsory primary education was introduced. As a result of freedom, that should be our first business. Only yesterday, we discussed the necessity of having such a clause in the Draft Constitution. In a country like ours, even free compulsory primary education would not be enough, because the poor boy, who goes to plough, forget seven to put his signature after a few years, and so, in proportion, even secondary education for the backward communities, rather I may say for the poor would have to be provided. Sir, we are an infant democracy and if we are going to have really a democratic Government, we must have education. You know the great saying "Democracy without education is hypocrisy without limitation" and we do not want to have such a Government where only a few who know will govern ultimately and we will have a Fascist Government; and if we are going to insist too much today on prohibition, we are going to deprive a number of our good children from receiving proper education and the result would be whereas we aim at establishing a secular democratic State, we are really going to have a religious fascist Government and nothing short of it. I am giving you, Sir, a warning.

Then apart from education, there is a thing like medical health and public health. Most of you are very honest and sincere workers and you have been to villages. Even during my occasional visits I find that the poor villager has absolutely no medical help. There are thousands of lepers who require medical help and if all that tremendous help is to be given, from where is the money to come forth? Therefore, we must have first things first and our great enemy is poverty and unless we pool our resources and put first things first, unless we develop a sense of values, I think we will be in a mess.

Now curiously enough I want to talk to you, Sir, a little about the moral side of prohibition or against it. I recommend to you very strongly a remarkable Chapter in Harold Laski's 'Liberty in the Modern State' which he has devoted against prohibition. I could not get the book, so I cannot quote from it but his main point is that prohibition goes against the very grain of personal liberty. In a free India, Sir, the development of personality to its fullest extent is our aim and by frustrations, prohibition, inhibitions, suppressions we are going to have a stunted growth in the young men. It does not mean that we should encourage them to drink but they will find their mistakes and ultimately liberty—I don't mean by liberty license—would be of considerable use. Then Sir, consider—I am not going to be frivolous here—but consider the shock given to social life,—club life will come to an end—and I may tell you just compare the two things—some friends having discussion may be in the evening or night quite seriously over a glass of butter-milk and as against that an innocent but intellectual discussion over a glass of wine or even beer. The Greeks had it. True philosophers know how to enjoy both the worlds and the foundations of philosophy and science were laid by the Great Greeks. They did not have taboos and suppressions and inhibitions. The real development of personality comes through that. If you were to compare the life in a city like Bombay on dry days and wet days, Sir, on dry days you will find life really dry and dull. I ask

you to see that. You might think this is all for the rich. Everybody that goes to club is not rich but what about the poor? Think of the millions of mill hands working very hard all day. In the evening they like to have a glass or two of toddy which is really nothing but fermented neera and if along with the vitamins he gets a little mirth or joy, why should you deprive him of that? Sir, I would request you to consider the solace and the little comfort that he gets. There are some among us—men like Dr. Ambedkar getting great solace in reading. There are others who like to read novels and enjoy them. There are those who like to play the piano and there are some who would like to have a glass of wine or beer. Now I may draw some distinction here because most of you, I beg to say, would not be knowing how many people after all do drink. I would request the economists and the statisticians to find it but I dare say the figure is not more than 10 per cent and most of you are ignorant of a very important fact that you do not know the essential difference between drinkers and drunkards. Of the 10 per cent that drink not 9 per cent are drunkards. They just drink a glass or two with friends and the 1 per cent that consists of drunkards are hopeless people due to very bad circumstances—there might be innumerable reasons—if you deprive them of drink by law, they will resort to illicit distillation. If even that is not allowed, if your machinery is perfect—but I dare say our machinery is inclined towards bribery and corruption and this will be one more handle for them—but apart from that even if you deprive them of that, they will indulge in drinking poisonous stuff and meet their end even earlier. So, for this 1 per cent of the human population are you going to throw so much of valuable wealth, tons and tons of rupees into the Arabian Sea merely because there is a sort of religious inkling behind. You may have that religious idea that it is impious to drink. Well, Gods were supposed or they are supposed to indulge in Sura. The human beings may indulge in Madira. What harm is there? Then, I may point out that after all if one really does not have bad effects from it, why should we deprive them? Let us consider what India really requires. Now, having prohibition and being very pious are very good and these are very highly developed qualities which even the civilised nations have not been able to bring into practice. We, Sir, lack even common decency and honesty. The Prime Minister of India Pandit Jawaharlal Nehru, the most beloved and most respected, loses a pair of shoes. In European countries the least respected leader would not lose a pair of shoes, if he attends a function. So there is this difference that essential qualities, basic qualities like honesty etc. we must have first. You are a party in majority and you can decide what you like. I don't mean you should stop bringing prohibition but wait for some time—and I may quote the Editor of the Times of India and say that there are things other than liquor that go to the head and power is one. Let not the majority party suffer from it.

Shri Jaipal Singh (Bihar: General): Mr. President, Sir, I do not know whether I shall be in order in suggesting to you that this amendment be postponed until such time as we come to the consideration of the recommendations that the Advisory Committee has made particularly in regard to the Tribal Areas. Now the recommendations of the Advisory Committee as well as the Sub-Committees have not been given a chance for full discussion on the floor of this House. Therefore, I do not at this stage, want to go into details but I am bound to oppose the Resolution and amendments of this sort. We have heard such a lot of pious language about a democratic State, of a secular State, of our being voluntarily opposed to the establishment of theocracy in India. Here, Sir, I submit, by the back door we are trying to interfere with the religious rights of the most ancient people of this country. You may laugh. Excess in every thing is wrong. If you eat too much rice, it is bad for you. There are so many other things that you take in excess. But, if you take anything in its right quantity, it is good for you. Drink certainly is one of the things taken in excess which does no one good, but, let us remember that we should

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not be hasty in putting into the Constitution anything which is going to work for more bitterness than there is already. During our discussions in the Advisory Committee, Maulana Abul Kalam Azad was pleased to put a direct question to me and it was this—"Kya yah mazhabi chij hai". Is it really a religious right? On that occasion, the Chairman of the Advisory Committee, the Honourable Sardar Patel gave me an opportunity to explain what the position was. Now, as far as the Adibasis are concerned, no religious function can be performed without the use of rice beer. The word here used—the phrase used is 'intoxicating drinks'. Sir, that is a very vague way of describing the thing, and, also 'injurious to health'. My friend Prof. Shibban Lal has tried to put forward the argument of economic efficiency. He thinks that if prohibition were installed in this country, the economic efficiency of the workers would be enhanced. I dare say it would be. But what I want to tell him is that it is not merely the industrial workers whom he has particularly in mind, that are affected. I would like to point out to him the position of the very poor people, the Adibasis, and, members who come from West Bengal and other places will bear me out in what I say about the Adibasis who are in such large numbers in West Bengal, Southern Bihar, Orissa and other places. In West Bengal, for instance, it would be impossible for paddy to be transplanted if the Santhal does not get his rice beer. These ill clad men, without even their barest wants satisfied, have to work knee-deep in water throughout the day, in drenching rain and in mud. What is it in the rice beer that keeps them alive? I wish the medical authorities in this country would carry out research in their laboratories to find out what it is that the rice beer contains, of which the Adibasis need so much and which keeps them against all manner of diseases.

Well, Sir, I am not opposing this amendment because I want drink to increase in this country. I am all for seeing to it, and, seeing vigorously to it, that the Adibasis do not injure themselves by this drink habit. But that is quite apart from the religious needs and religious privileges; we shall educate them to lead a life of temperance. I am all for that. But this amendment is a vicious one. It seeks to interfere with my religious right. Whether you put it in the Constitution or not, I am not prepared to give up my religious privileges. (*Hear, hear.*)

Mr. Vice-President : Order, order.

Shri Jaipal Singh : Sir, if you will forgive me, I would rather explain all this when we come to the recommendations which the Advisory Committee has made in regard to the Scheduled Tribes and others. This is not the proper time for me to talk *in extenso*. Here I would only point out to the honourable Members here that it is better not to be hasty, and, I would request you that this amendment be deferred until such time as we come to the recommendations of the Advisory Committee in regard to the Scheduled Tribes and Scheduled Areas; because, if we decide the thing at this stage, we shall be doing ourselves wrong. We shall be unfair to a very important and, at the present moment, politically helpless minority. There are hardly a dozen of them who can speak on behalf of them here, though they are thirty millions. This is a decision which must rest with the wishes of the people themselves. We are going through difficult times. Let us not make matters any more difficult. Sir, I need say nothing more than that I am opposed to this amendment, and my humble request to you would be that the further consideration of this amendment be taken up after we have come to a decision with regard to the Scheduled Tribes and Scheduled Areas.

Shri V. I. Muniswamy Pillai (Madras: General): Mr. Vice-President, Sir, I was strangely surprised today to see two members of the sovereign Body come up here and say that prohibition must be postponed. Let me take my

honourable Friend Mr. Jaipal Singh. He claims to represent the Adibasis—the Hill-tribes and the aborigines. A humble member like myself, coming from the region of the aborigines and Hill-tribes may tell him that there is no such thing as require liquor, toddy, brandy or any such thing, at the time of the ceremonies of the aborigines. I do not know, Sir, whether my friend has ever seen a Toda — a member of the pastoral community, living in the Nilgris. They live there under the worst conditions of the monsoon. In their life they had never seen what alcohol is. Sir, when the Britishers came, they brought in the whisky bottle and when they disappeared, from the administration of this land, we must take it that wine also has disappeared. But it is strange that today my friend Mr. Jaipal Singh had to plead for these unfortunate communities. I may say there are several communities like the Kotahs Irulas, Paniyas, Kurumbas, Badagas, and others who all come under the category of Adibasis in the Province of Madras. But there none of these communities has ever come forward to protest against the authorities that drink must be given back to them. It is strange that my friend who is so sympathetic to the aborigines should plead for drink for them. I may tell him that in actual practice, all these communities have greatly benefited in the province of Madras after the introduction of prohibition. The other friend from Kolhapur has been praising Mahatma Gandhi as the Father of the Nation and all that. But unfortunately he fails to follow what Mahatma Gandhi told us. Of the four constructive programmes, Mahatma Gandhi placed prohibition at the head of all the four. Why? Because he found that the country was going to rack and ruin, and the poor were spending all their earnings on drink and leaving their children and families in utter poverty and want. I am sorry my friend has taken up this attitude and opposed this amendment, so wholesomely brought before this Sovereign Body. The Province of Madras has lost yearly nearly seventeen crores of rupees. But the people of Madras stood up as one man and said, “Never mind about these seventeen crores of rupees. We want the citizens, we want the poor people to be healthy and peaceful.” Sir, Prohibition has brought peace and plenty to the province of Madras. It has produced a marked improvement in the physique of the people and also in their economic position. I may tell you that Harijans, the unfortunate communities were driven by the Caste-Hindus and the Mirasdars to lowly occupations and were given their wages not in cash, but chits to liquor vendors that they may go and get drunk. But these things have now disappeared and as the Minister incharge of the portfolio, I can dare say that prohibition has brought peace and plenty to my province. So I support the amendment brought by Prof. Saksena and oppose those friends who are talking about postponing prohibition.

The Honourable Shri B. G. Kher (Bombay: General): Sir, it is rather unfortunate that the very first appearance of our new arrival from Kolhapur should have been made an occasion for attacking what is a very vital directive principle in the shaping of our constitution. Prof. Shibban Lal Saksena has suggested that at the end of Article 38 the following clause may be inserted:

“The State shall endeavour to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to health.”

Shri Mahavir Tyagi : That amendment is my copyright and not Prof. Shibban Lal Saksena’s.

The Honourable Shri B. G. Kher : I do not propose to infringe the copyright of the Honourable Mr. Mahavir Tyagi or any other Member who wishes to take the credit of it. I am perfectly willing to give it.

The amendment further says “except for medicinal purposes”. From the fact that these gentlemen propose to object to this amendment it is evident that they wish that the State should allow the consumption of intoxicating drinks and drugs which are injurious to health.

[The Honourable Shri B. G. Kher]

I do not wish to speak at length on prohibition because after very deliberate consideration and prolonged discussion most of the provincial governments and most of those who are interested in the progress of this country have accepted the necessity of protecting our people from going to their ruin by the use of intoxicating drugs and liquor. They believe that humanity will not progress on proper lines unless along with intellectual and material progress they give sufficient importance to moral progress and it is too late in the day now to argue that the use of intoxicating drugs and liquor do not affect the moral sense of a person who uses them. The very lamp which shows to you the distinction between right and wrong is extinguished and it is therefore, not a matter of individual liberty, which was one of the arguments which the honourable representative from Kolhapur used. There cannot be individual liberty to commit suicide. Society is interested in every individual's prolonged life therefore I was surprised to find such an amount of ignorance in what today is being done, thought and experienced as a result of the administration of prohibition in the provinces. Instead of getting a large excise revenue and spending it on education, the best education is to teach people to abstain from drink and drugs.

For every single rupee that the State gets by way of revenue from excise society loses three times that money by the increase of crime, by the increase of disease and the loss of efficiency. This has been admitted by economists. The honourable gentleman who championed the cause of Adibasis told us that there ought to be further medical research. Medical research has been made to a considerable extent and people have come to the conclusion that the consumption of spirituous liquors and injurious drugs (the description which has been used in this clause) is admittedly injurious to health. One Honourable Member mentioned Nira. The Bombay Government is opening Nira centres by the hundreds, because Nira before it ferments and becomes toddy is a health-giving drink and therefore we are allowing people to drink Nira. But we are now speaking about intoxicating drinks and drugs which are injurious to health. Is it the contention of those honourable members that the State shall not strive to prohibit the use of drugs and drinks which are injurious to the health of the people? Those who use such hackneyed arguments as that of further medical research, individual liberty or medicinal benefit, I am afraid these people are living in an isolated world of their own, because whichever province (Madras and Bombay for instance) has introduced prohibition, has come to the conclusion that the very people who indulged in the use of these liquors are today benefited so considerably that not a day passes when we do not get letters of gratitude from the members of the family of the labourers and other people who used to drink themselves to death. To say that only 10 percent of society indulge in this and that therefore society need not worry itself about this does not need any further criticism.

I was surprised to hear an Honourable Member who represents the Adibasis attack this amendment as vicious. I am afraid that this is the way in which men's minds are perverted. The very object of introducing this amendment, which I am very happy to find has been accepted by the honourable Dr. Ambedkar who is in charge of the Bill, is to prevent the furtherance of vice. Is it argued that the use of intoxicating liquors and injurious drugs leads to the practice of virtue? I am not quoting Mahatma Gandhi in support of my argument but he has said that he would not attach any importance to any other social reform so long as this question of the prevention of consumption of intoxicating liquors and drugs was not taken up by the State. The very first reform that he enjoined upon all the provinces was the stopping of this vicious thing. In this country almost every section of society, whether it is the Hindus, the Muslims or even Christians, have always looked upon the use of intoxicating liquor and drugs as a vice.....

Shri L. Krishnaswami Bharathi (Madras: General): As a sin.

The Honourable Shri. B. G. Kher: I mean sin. The drinking of liquor is one of the five deadly sins which the *Smritis* have laid down and that was not a matter of bigotry or prejudice but the result of vast experience. Today go to America. I met a number of people who genuinely regretted that they were not able to make prohibition a success. Why were they not able to make a success of it? Simply for the reason that they have gone on too long imbibing the poison and it is too late now for them to go back. But the section of the people who have the good of the community and of their country at heart still desire that it were possible to stop the deterioration of the human race, which is sure to be brought about by the use and by making the use of intoxicating drinks respectable in society. So, though a sin both for the Hindus as also for the Muslim, after the advent of the British the use of intoxicating liquors became a sign of being fashionable, a sign of progress and culture. It is quite true that it is perhaps impossible to eradicate from the face of the earth for good and for ever these three vices—the use of liquor in one shape or other by some few people, the evil of gambling and the evil of prostitution: but it shall be the endeavour of every civilised government to prevent all these three cankers of human society, if it is their object that society should be healthy and happy and moral.

I do not propose to take much time of the House.

Sir, it is entirely due to the fact that our friends from Europe were used to look at liquor in a different way that people in this country began to look upon the use of liquor as respectable. Before the evil becomes so deep—rooted that we also come to the same conclusion as those in Europe and America that it is impossible to prevent our people from drinking, it is time that the State should take up this reform which is not only in the interest of this country but also of the world and of the human race in general.

I was considerably surprised at the argument of the honourable Member representing the Adibasis. Here is Mr. Thakkar who has devoted his whole life to the service of the Adibasis and I am sure he wholeheartedly agrees with the principle of this amendment. I quite agree that these people are accustomed to drink and they will have to be gradually educated but that is what this amendment proposed to do, that is, prohibiting the consumption of intoxicating drinks and drugs which are injurious to health. I do hope the honourable Members do not wish to encourage the use of drinks and drugs which are injurious to the health of the people.

I strongly support the amendment.

Mr. Vice-President : Does the Honourable Member, Dr. Ambedkar, accept the amendment?

The Honourable Dr. B. R. Ambedkar: Yes.

Mr. Vice-President : I ask the indulgence of the House as I have overlooked another amendment. That is No. 81 in list No. 3 — by Sardar Bhopinder Singh Man. Does he propose to move it?

Sardar Bhopinder Singh Man (East Punjab: Sikh): Yes. *[Mr. Vice-President I would like that where these words, namely, “Drinks and drugs” occur, the word “tobacco” also be added between them. Mr. Vice-President, I am aware that in moving this amendment. I would be incurring the displeasure of the influential members of this House and I also feel that I am going against the temper of the majority. In reminding Mr. Tyagi regarding this omission I am submitting it after judging it according to the test laid down by him. He has made out two points, namely, to prohibit those intoxicants that are bad and dangerous for health. Judging by this test we should

* [] Translation of Hindustani speech.

[Sardar Bhopinder Singh Man]

see whether it can be classified as an intoxicant or not, or whether it is harmful to health. I have no doubt that tobacco is an intoxicant and is more harmful to health than liquor. This is the considered opinion of the medical men that tobacco has nicotine—a poison—most harmful to health. Take the villagers; they get liquor only off-and-on, but they smoke tobacco day and night, and due to their indolence they let suffer even their important tasks. As far as the economic aspect is concerned, I can assure you that much greater loss is incurred on account of tobacco than by liquor. Not only lakhs but crores of rupees annually flow out of the country on this account. When it is realised that tobacco is in fact a dangerous intoxicant, then I do not see why Mr. Tyagi has left out tobacco while mentioning liquor and other drugs. It is probably because it is consumed by the majority but that is no reason. It is said that cigarette or bidi, if consumed in small quantity, would not be harmful to health. But this leads to another controversy of ‘too-much or too less’. Even if a useful thing is consumed in excess, it might prove harmful. My point is that when you are dead against an innocent thing like liquor then why don’t you prohibit tobacco also?]

Shri A. V. Thakkar (United State of Kathiawar: Saurashtra): Sir, after the case had been put by my friend Shri Bal Gangadhar Kher I did not want to speak. But I want to speak on two small matters, but those are very important matters. One is this. Mr. Jaipal Singh has said, “Let the Regional Committees or the Advisory Committees of the Adibasis come into existence; ask their opinion and then this amendment should be passed; or this should be postponed till then.” That is not a correct attitude for any legislator to take.

Shri Jaipal Singh: What I said was let the Schedule dealing with the Scheduled Tribes and Scheduled Areas come up for discussion here; there was no question of consulting the Regional Council.

Shri A. V. Thakkar: The Advisory Committees are still to come into existence. We do not know whether they will approve of this prohibition or disapprove of it. It should not be taken for granted that they will disapprove of it because Mr. Jaipal Singh disapproves of it.

There is another matter. All Adibasis do not want to drink: they want prohibition. I am talking of the Bhils in Gujrat, in Maharashtra, in West Khandesh and in the Central Provinces. I am talking of the Gonds also of the Central Provinces. I have asked hundreds and thousands of them whether they want drink or whether they want prohibition. Their decided answer to me has been: “Thakkar, you are talking of prohibition; you are talking of doing away with drinks. You are placing these enticements in our path and you are still asking for our opinion. For God’s sake have the liquor shops closed and then ask us. We are enticed to go to drink; otherwise we will not.” To give you a concrete fact about the Bhils of Panchmahals, amongst whom I have worked for 27 years, even the shops set up by the government of the day had to be closed because of the voluntary abstention of the Bhils from drinking. The shops went dry of their own accord. Nobody would visit the shops, because the Bhils had taken vows not to drink and not to become victims to the liquor shops. The shops had to be auctioned out and nobody would buy them. Therefore, it is too much to say that all Adibasis want this, or want this even as a religious right. Even in the matter of it being a religious right with the Bhils, that was the talk twenty years ago. Now they have stopped talking about it. It is not a religious right with them now.

Mr. Vice-President : May I ask the permission of the House to suspend discussion of this item so that the honourable Sardar Vallabhbhai Patel may have an opportunity of moving the motion which stands against his name?

Honourable Members : Yes.

GOVERNMENT OF INDIA ACT, 1935 (AMENDMENT BILL)

The Honourable Sardar Vallabhbhai J. Patel (Bombay : General): Sir, I beg to move for leave to introduce a Bill to amend the Government of India Act, 1935.

Mr. Vice-President: The question is:

“That leave be granted to introduce a Bill to amend the Government of India Act, 1935.”

Maulana Hasrat Mohani (United Provinces : Muslim): I beg to oppose this.

Mr. Vice-President : On what ground?

Maulana Hasrat Mohani : I will make out the reason if you please allow me to have my say. I say that he should not be allowed to introduce the Bill.

Mr. Vice-President : I shall put the matter to vote. The question is:

“That leave be granted to introduce a Bill to amend the Government of India Act, 1935.”

The motion was adopted.

Maulana Hasrat Mohani : I strongly protest against this procedure. It is a well-known fact that this House is a packed House.

The Honourable Sardar Vallabhbhai J. Patel : With your leave I now introduce the Bill to amend the Government of India Act, 1935.

Mr. Vice-President : The Bill has been introduced. Now may I ask Sardar Vallabhbhai Patel to give the House some idea of the time when he proposes to move for taking the Bill into consideration? This is required only for the convenience of Honourable Members.

The Honourable Sardar Vallabhbhai J. Patel : It will be after a week.

Mr. Vice-President : Thank you. The House will now resume discussion of article 38 of the Draft Constitution. I now call upon Shri L. N. Sahu to speak.

Article 38 (contd.)

Seth Govind Das (C. P. & Berar : General): I move that the question be now put as far as the clause relating to prohibition is concerned.

Mr. Vice-President : I have already called upon Mr. L.N. Sahu to speak.

Shri Lakshminarayan Sahu (Orissa : General): *[Mr. Vice-President, the subject which we are discussing here today is very important. It is correct that Adibasis are addicted to the habit of drinking as has been stated by Shri Jaipal Singh, but as remarked by Shri Thakkar Baba it is also a fact that they (Adibasis) want to do away with it.

First of all, I would like to point out that the liquor used by Adibasis is of a different kind. It is prepared out of a tree and is named as “Salab Drink”. It relaxes them a little but does not produce intoxication. In the words of Keshab Chandra Sen the two great gifts of the Britishers to India are on the one hand, the Bible and on the other hand the bottle. The country lost its all. Shri Keshab Chandra Sen said that Bible was really such a great book that had not the Britishers brought the bottle with them, this country as a whole would have put faith in the Bible. I speak from my experience when I say that wine produce very harmful consequences in our country. Formerly in the town where I have been living for the last 32 years, no one was given to the drink habit. But since the Government started liquor shops all persons began to

* [] Translation of Hindustani speech.

[Shri Lakshminarayan Sahu]

drink. My grand-children talk now of other people drinking and I am afraid that they may also take to drinking. As there is now a new order of things as we have attained independence and as it was the wish of Mahatma Gandhi that the word Prohibition should be inscribed in every public place, therefore, I desire Prohibition to be enforced. Is it now wise on Sri Jaipal Singh's part to talk of religious freedom in this context? We had the religious freedom of Sati in our country. Where is it now? Most of such other religious freedoms were abolished according to the conditions of the age. Human sacrifice was permissible amongst the aboriginals, but today that evil custom disappeared under the stress of changed circumstances. Now the Government does not permit human sacrifice. I am talking of aboriginal area. I toured along with Shri Thakkar Baba for about three or four months. In Orissa I toured alone. I found a new feeling amongst the aboriginals of that area. They have got a feeling that one who teaches should not take to drinking and one who goes to school should not also drink. Reading and drinking should never be combined. One who reads does not drink.

Aboriginals have such a nice feeling and the greater the facilities provided to them to cherish this feeling the better it would be for them. It is not fair to talk of drinking as a matter of our religious rights; and that we should fight to preserve it is quite unfair.]

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President. I accept the amendment of Prof. Shibban Lal Saksena subject to a further amendment, namely, that after the word 'and' at the beginning of his amendment (86 of List IV) the words "in particular" be added.

Shri Mahavir Tyagi : I really cannot understand how that amendment can be accepted by the Honourable Dr. Ambedkar. The amendment under discussion is mine.

The Honourable Dr. B. R. Ambedkar : Sir, I accept the amendment of Mr. Tyagi as amended by the amendment of Prof. Shibban Lal Saksena (Laughter.)

Mr. Vice-President : Mr. Tyagi is a great stickler for rights.

The Honourable Dr. B. R. Ambedkar : Sir, if I may say so, the right really belongs to me, because it is I who drafted the amendment he moved. (Renewed laughter.)

Mr. Vice-President : That puts the matter in a new light.

The Honourable Dr. B. R. Ambedkar : I do not think the House would have found any difficulty in accepting this amendment. Two points have been raised against it. One is by Prof. Khandekar who represents Kolhapur in this Assembly. I am sure that Mr. Khandekar has not sufficiently appreciated the fact that this clause is one of the clauses of an Article which enumerates what are called Directive Principles of Policy. There is therefore no compulsion on the State to act on this principle. Whether to act on this principle and when to do so are left to the State and to public opinion. Therefore, if the State thinks that the time has not come for introducing prohibition or that it might be introduced gradually or partially, under these Directive Principles it has full liberty to act. I therefore do not think that we need have any compunction in this matter.

But Sir, I was quite surprised at the speech delivered by my friend Mr. Jaipal Singh. He said that this matter ought not to be discussed at this stage, but should be postponed till we take up for consideration the report of the Advisory Committee on Tribal Areas. If he had read the Draft Constitution, particularly the Sixth Schedule, paragraph 12, he would have found that ample

provision is made for safeguarding the position of the Tribal people with regard to the question of prohibition. The scheme with regard to the tribal areas is that the law made by the State, whether by a province or by the Centre, does not automatically apply to that particular area. First of all, the law has to be made. Secondly, the District Councils or the Regional Councils which are established under this Constitution for the purposes of the administration of the affairs of these areas are given the power to say whether a particular law made by a province or by the Centre should be applied to that particular region inhabited by the tribal people or not, and particular mention is made with regard to the law relating to prohibition. I shall just read out sub-paragraph (a) of paragraph 12 which occurs on page 184 of the Draft Constitution. It says:

“Notwithstanding anything contained in this Constitution—

- (a) no Act of the legislature of the State in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region unless in either case the District Council for such district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall in its application to such district or region or any part thereof have effect subject to such exceptions or modifications as it thinks fit;”

Now, I do not know what more my friend, Mr. Jaipal Singh, wants than the provision in paragraph 12 of the Sixth Schedule. My fear is that he has not read the Sixth Schedule: if he had read it, he would have realised that even though the State may apply its law regarding prohibition in any part of the country, it has no right to make it applicable to the tribal areas without the consent of the District Councils or the Regional Councils.

Mr. Vice-President : There are three amendments. One is by Mr. Mahavir Tyagi. That is No. 71 in List II. If I read the situation a right, that has been practically withdrawn. Am I right, Mr. Tyagi?

Shri Mahavir Tyagi : I have not withdrawn my amendment. I have only accepted the words which Prof. Shibban Lal Saksena intends to add to my amendment.

Mr. Vice-President : I want to know whether you want that your amendment should be put separately to the vote.

Shri Mahavir Tyagi : Yes, Sir, of course. As I have said, I want to abolish liquor altogether. He wants to add the words “except for medical purposes” Therefore my amendment is the original amendment.

Mr. Vice-President : I understand the situation. I shall now put to the vote the amendment of Mr. Mahavir Tyagi as modified by Professor Shibban Lal Saksena and further modified by Dr. Ambedkar.

Shri Mahavir Tyagi : On a point of order, Dr. Ambekar has added the word “particular” but he has not taken my permission.

Mr. Vice-President : I take your permission on behalf of Dr. Ambedkar.

Shri Mahavir Tyagi : I accept his amendment also, Sir.

Mr. Vice-President : This particular amendment as amended is now put to the vote.
The amendment was adopted.

Mr. Vice-President : Then, there is another amendment which is No. 81 in List III moved by Sardar Bhopinder Singh Man to insert the word ‘tobacco’ between the words ‘drinks’ and ‘drugs’. I now put it to the vote.

The amendment was negatived.

Mr. Vice-President : I now put to the vote article 38, as amended.

The motion was adopted.

Article 38, as amended, was added to the Constitution.

Mr. Vice-President : We now come to new article 38-A—amendment No. 1002 standing in the names of Pandit Thakur Dass Bhargava and Seth Govind Das.

Article 38-A

Seth Govind Das : Sir, I have an amendment to the amendment of Pandit Thakur Dass Bhargava which I will move after Pandit Thakur Dass Bhargava has moved his amendment.

Pandit Thakur Dass Bhargava (East Punjab : General): *[Mr. President, the words of the amendment No. 72 which I am moving in place of amendment No. 1002, are as follows:—

“That for amendment No. 1002 of the lists of amendments to 38-A the following be substituted:—

‘38-A. The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall in particular take steps for preserving and improving the breeds of cattle and prohibit the slaughter of cow and other useful cattle, specially milch and draught cattle and their young stock’.”

At the very outset I would like to submit that this amendment.....]

Shri S. Nagappa (Madras : General): Sir, on a point of order, my honourable Friend, who can speak freely in English, is deliberately talking in Urdu or Hindustani which a large number of South Indians cannot follow.

Mr. Vice-President : The honourable Member is perfectly entitled to speak in any language he likes but I would request him to speak in English though he is not bound to speak in English.

Pandit Thakur Dass Bhargava : I wanted to speak in Hindi which is my own language about the cow and I would request you not to order me to speak in English. As the subject is a very important one, I would like to express myself in the way in which I can express myself with greater ease and facility. I would therefore request you kindly to allow me to speak in Hindi.

*[Mr. Vice-President, with regard to this amendment I would like to submit before the House that in fact this amendment like the other amendment, about which Dr. Ambedkar has stated, is his manufacture. Substantially there is no difference between the two amendments. In a way this is an agreed amendment. While moving this amendment, I have no hesitation in stating that for people like me and those that do not agree with the point of view of Dr. Ambedkar and others, this entails, in a way, a sort of sacrifice. Seth Govind Das had sent one such amendment to be included in the Fundamental Rights and other members also had sent similar amendments. To my mind it would have been much better if this could have been incorporated in the Fundamental Rights, but some of my Assembly friends differed and it is the desire of Dr. Ambedkar that this matter, instead of being included in Fundamental Rights should be incorporated in the Directive Principles. As a matter of fact, it is the agreed opinion of the Assembly that this problem should be solved in such a manner that the objective is gained without using any sort of coercion. I have purposely adopted this course, as to my mind, the amendment fulfils our object and is midway between the Directive Principles and the Fundamental Rights.

I do not want that due to its inclusion in the Fundamental Rights, non-Hindus should complain that they have been forced to accept a certain thing against their will. So far as the practical question is concerned, in my opinion, there will be absolutely no difference if the spirit of the amendment is worked out faithfully, wheresoever this amendment is placed. With regard to Article 38 which the House has just passed, I would like to state that Article 38 is like a body without a soul. If you fail to pass Article 38-A which is the proposed

* [] Translation of Hindustani speech.