PETITIONER:
MOHD. HANIF QUARESHI & OTHERS

Vs.

RESPONDENT:
THE STATE OF BIHAR(and connected petition)

DATE OF JUDGMENT:
23/04/1958

BENCH:
DAS, SUDHI RANJAN (CJ)
BENCH:
DAS, SUDHI RANJAN (CJ)
AIYYAR, T.L. VENKATARAMA
DAS, S.K.
GAJENDRAGADKAR, P.B.
BOSE, VIVIAN

CITATION:
1958 AIR 731 1959 SCR 629

ACT:
Cow slaughter-Legislation Placing total ban-If Constitutional -Directive Principles of State Policy, value of-Fundamental rights Reasonable restrictions--Test-Intention in Supreme Court Proceedings, when permissible-Bihar Preservation and Improvement of Animals Act, 1955 (Bihar II of 1956)-U. P. Preve lion of Cow Slaughter Act, 1955 (U. P. 1 of 1956)-C. P. and Berar Animal Preservation Act, 1949 (C. P. and Berar LII of 1949)-Constitution of India, Arts. 14, 19, 48---Supreme Court Rules, 0. XLI, r. 2.

HEADNOTE:
The Bihar Preservation and Improvement of Animals Act ,955, put a total ban on the slaughter of all categories of animal,, of the species of bovine cattle. The U. P. Prevention of Cow Slaughter Act, 1955, put a total ban on the slaughter of cows and her progeny which included bulls, bullocks, heifers and calves. The C. P. and Berar Animal Preservation Act, 1949, placed a total ban on the slaughter of cows, male or female calves of cow, bulls, bullocks, and heifers and the slaughter of buffaloes (male or female, adults or calves) was permitted only under a certificate granted by the proper authorities. No exception was made in any of these Acts permitting slaughter of cattle even for bona fide religious purposes. These three Acts were enacted in pursuance of the directive principles of State policy contained in Art. 48 Of the Constitution. The petitioners, who were engaged in the butcher’s trade and its subsidiary undertakings, challenged the constitutional validity of the three Acts on the grounds that they infringed their funda-mental rights guaranteed under Arts. 14, 19(1)(g) and 25 of the Constitution. The respondents contended that the impugned Acts were constitutional and valid as they were made in consonance with the directive principles of Art- 48 which were superior to the fundamental rights and that the impugned Acts did not offend Art. 14, 19(1)(g) or 25
Held, (i) that a total ban on the slaughter of cows of all ages and calves of cows and of she-buffaloes, male and

female, was quite reasonable and valid;
(ii)that a total ban on the slaughter of she-buffaloes or breeding bulls or working bullocks (cattle as well as buffaloes), as long as they were capable of being used as milch or draught cattle, was also reasonable and valid; and
(iii) that a total ban on the slaughter of she-buffaloes, bulls
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and bullocks (cattle or buffalo) after they ceased to be capable of yielding milk or of breeding or working as draught animals was not in the interests of the general public and was invalid.
The directive in Art. 48 for taking steps for preventing the slaughter of animals is quite explicit and positive and contemplates a ban on the slaughter of the several categories of animals specified therein, namely, cows and calves and other cattle which answer the description of milch or draught cattle. The protection is confined only to cows and calves and to those animals which are presently or potentially capable of yielding milk or of doing work as draught cattle but does not extend to cattle which at one time were milch or draught cattle but which have ceased to be such. The directive principles of State policy set out in Part IV of the Constitution have to conform to and run as subsidiary to the fundamental rights in Part 111.
State of Madras v. Smt. Champakam Dorairajan, [1951] S.C.R. 525, followed.
The ban on the slaughter of cows even on the slaughter day did not violate the fundamental rights of the petitioners under Art. 25 as it had not been established that the sacrifice of a cow on that day was an obligatory overt act for a Mussalman to exhibit his religious belief and idea.
Ratilal Panachand Gandhi v. The State of Bombay, [1954] S.C.R. 1055, applied.
The impugned Acts which affected only the butchers who slaughtered cattle and not the butchers who slaughtered sheep or goats, did not offend Art. 14 Of the Constitution. The different categories of animals being susceptible of classification into separate groups on the basis of their usefulness to society, the butchers who kill each category may also be placed in distinct classes according to the effect produced on society by the carrying on of their respective occupations. This classification is based on an intelligible differentia which places the petitioners in a well defined class and distinguishes them from those who slaughter sheep or goats and this differentia has a close connection with the object sought to be achieved by the im-pugned Acts, namely, the preservation, protection and improvement of livestock.
In determining the question of the. reasonableness of restrictions imposed on the fundamental rights conferred by Art. 19(1)(g) the Court cannot proceed on a general notion of what is reasonable in the abstract or even on the consideration of what is reasonable from the point of view of the person or persons on whom the restrictions are imposed. What the Court has to do is to consider whether the restrictions imposed are reasonable in the interests of the general public. The test of reasonableness has been laid down in State of Madras v. I. G. Row, [1952] S.C.R. 597 at 602. It should also be remembered that the legislature
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is the best judge of what is good for the community. Though a constitutional question cannot be decided on the grounds of the sentiment of a section of the people, it has to be

taken into consideration, though only as one of the elements, in arriving at a judicial verdict as to the reasonableness of the restrictions.

The effect of the impugned Acts on the fundamental rights of the petitioners under Art. 19(1)(g) is direct and instantaneous as soon as the Acts are brought into force, and it has to be determined whether they can be justified under cl. (6) of Art. 19 The country is in short supply of milch cattle, breeding bulls and working bullocks, and a total ban on the slaughter of these which are essential to the national economy for the supply of milk, agricultural working power and manure is a reasonable restriction in the interests of the general public. But a total ban on the slaughter of useless cattle, which involves a wasteful drain on the nation's cattle feed which is itself in short supply and which would deprive the useful cattle of much needed nourishment, cannot be justified as being in the interests of the general public.

Under O. XLI r. 2, Of file Supreme Court Rules intervention is permitted only to the Attorney-General of India or the Advocates-General for the States. There is no other provision for permitting a third party to intervene in the proceedings before the Supreme Court. In practice, however, the Supreme Court, in- exercise of its inherent powers, allows a third party to intervene when such third party is a party to some proceedings in the Supreme Court or in the High Courts where the same or similar questions are in issue, for the decision of the Supreme Court will conclude the case of that party.

JUDGMENT:

ORIGINAL JURISDICTION: Petitions Nos. 58, 83, 84, 103, 117, 126, 127, 128, 248, 144 & 145 of 1956 & 129 of 1957.

Petitions under Article 32 of the Constitution of India for enforcement of Fundamental Rights.

H. J. Umrigar, N. H. Hingorani and A. G. Ratnaparkhi, for the petitioners in all the petitions except Petition No. 103 of 1956. The impugned Acts infringe the fundamental rights under Art. 19(1)(g) of the petitioners who are butchers, tanners, gut merchants, curers and cattle dealers to carry on their respective trades. Where, as in the present case, the enactment on the face of it violates a fundamental right the burden lies on those who support it to show that it falls within the purview of cl. (6) of Art. 19. Saghir, Ahmed v. The State of U.P., ([1955] 1 S.C.R. 707 at 726);

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Chiranjitlal Chowdhuri v. The Union of India, ([1950] S.C.R. 869 at 891-892). The impugned Acts put a total ban on the trade and business of the petitioners who kill only cattle. Total prohibition of a trade which is not immoral or obnoxious can never be reasonable restriction within the meaning of el. (6) of Art. 19. Chintaman Rao v. The State of Madhya Pradesh, ([1950] S.C.R. 759 at 765); R.M. Sheshadri v. The District Magistrate ([1955] 1 S.C.R. 686 at 689, 690); Cooverjee B. Bharucha v. The Excise Commis-sioner, ([1954] S.C.R. 873); Rashid Ahmed. The Municipal Board, Kairana, ([1950] S.C.R. 566). Total ban on the slaughter of cattle is not in the interests of the general public. Animal husbandry will suffer by a total ban. There is shortage of fodder and pasture in the country and the useless and uneconomic cattle will deprive the useful cattle of these things. Setting up of Gosadans for the uneconomic cattle will be a tremendous waste of public money. [Counsel

referred to various official reports in this connection.]
The impugned Acts create an odious discrimination between butchers and persons dealing solely in cows, bulls, etc., and those dealing in sheep and goats, and offend Art. 14. These Acts which single out the petitioners' community which kills only cows, bulls, etc., are hostile and discriminatory legislation. Ye Cong Eng v. Trinidad, (70 L. Ed. 1059 at 1071); Fowler v. Rhode Island, (97 L. Ed. 828); Lane v. Wilson, (83 L. Ed. 1281 at 1287); Ligget Co. v. Baldrige, (73 L. Ed. 204).
The impugned Acts also contravene Art. 25 as they prohibit the Mussalmans from performing the religious practice of the community to sacrifice the cow on the occasion of Bakr Id. Ratilal Panachand Gandhi v. The State of Bombay, ([1954] S.C.R. 1055 at 1063).
The directive principles of State policy set out in Art. 48 can never override fundamental rights. The State of Madras v. Sm. Champakam Dorairajan, ([1951]) S.C.R. 525 at 530); Saghir Ahmed's Case, ([1955]) 1 S.C.R. 707 at 727). The impugned Acts traverse, beyond the directive principles in Art. 48.
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The Bihar and the Madhya Pradesh Acts which affect inter-State trade in cattle and beef offend Art. 301 and are void as the assent of the President was riot taken before enacting them.
Frank Anthony and K. L. Mehta, for the petitioners in Petition No. 103 of 1956. Section 9 of the U. P. Prevention of Cow Slaughter Act makes the slaughtering of cattle a cognisable and non-bailable offence. This and other provisions of the Act are ex facie restrictions on the right of the petitioners to carry on their trade. The onus is on the respondents to show that the restrictions are reasonable restrictions in the interests of the general public. Chintaman Rao v. The State of Madhya Pradesh, ([1950] S. C. R. 759 at 763); Seghir Ahmed v. The State of U. P., ([1955] 1 S. C. It. 707 at 726). The legislation is colourable and mala fide and is inspired by religious motives. State of Madras v. V. G. Rao, ([1952] S. C. R. 597). Article 48 in so far as its imposes blanket ban on cow would have to yield to Art. 19 (1) (g). The restrictions in the Act amount to total prohibition and extinction of the trade of beef butchers. Saghir Ahmed's case; Dwarka Prasad Laxmi Narain v. The State of U. P., ([1954] S.C.R. 803), Fairmout Creamery Co. v. Minnesota, (71 L. Ed. 893 it 897). The impugned Act offends Art. 14 as it discriminates against the beef butchers. These butchers have a legal right to slaughter cow for food or sacrifice. Naubahar Singh v. Qadir Bux, (A. 1. R. 1930 All. 753); Shahbazkhan v. Umrao Puri, (I. L. R. 30 All. 181); Emperor -v. Muhammad Yakub, (I. L. R. 32 All. 571).
C. K. Daphtary, Solicitor-General of India, with Mahabir-Prasad, Advocate-General of Bihar and S. P. Varma (respondent in Petitions Nos. 58, 83 and 84 of 1956), and with R. H. Dhebar, for the State of Bombay (respondent in Petition No. 117 of 1956). The legislature has thought fit that slaughter of cattle should be stopped in the inter states of animal husbandry and public policy. It is not for the Court to say that such a policy should not have been adopted. Both on the question of policy at-id the extent of the restrictions
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the Court should interfere only if it is convinced that in no view of the matter could the restrictions be reasonable. There are two conflicting opinions on this controversial

matter, i. e., whether there should be total ban or only partial ban. In such a case the opinion of the legislators must prevail and the Court should not interfere where there is controversy as to facts. State of -Madras v. V. G. Rao, ([1952] S. C. R. 597 at 606); The State of Bihar v. Maharajadhiraja Sir Kameshwar Singh, ([1952] S. C. R. 889 at 941); Arumugham v. State of Madras, (I. L. R. [1953] Mad. 937). Unless it can be said that the restrictions have no bearing on the object sought to be achieved the legislation must be upheld. Article 37 enjoins the State to apply the directive principles of State policy in Part IV of the Constitution in making law., The legislation is in accordance with the direction given in Art. 48.

The object of the legislation is not to control any trade or industry but to improve the breed of cattle and to organise animal husbandry and agriculture. Unless the legislation directly hits trade or business it does not infringe Art. 19 (1) (g). A. K. Gopalan v. The State, ([1950] S. C. R. 88 at 101); Ram Singh v. The State of Delhi, ([1951] S. C. R. 451 at 455-457); R. S. Ram Jawaya Kapur v. The State of Punjab, ([1955] 2 KS. C. R. 225); State of Bombay v. R. M. D. Chamar-baugwala, (A. I. R. 1957 S. C. 699 at 721).

B.Sen and R. H. Dhebar, for the State of Bombay (respondent in Petitions Nos. 126 to 128 and 248 of 1956), and for the State of Madhya Pradesh (respondent in Petition No. 144 of 1956).

M.Adhicary, Advocate-General for the, State of Madhya Pradesh and I. N. Shroff, for the State of Madhya Pradesh (respondent in Petition No. 145 of 1956), adopted the arguments of C. K. Daphtary.

H. N. Sanyal, Additional Solicitor-General of India, G.C. Mathur and C. P. Lal, for the State of U. P. (respondent in Petitions Nos. 103 of 1956 and 129 of 1957). The provisions of the U. P. Act have a reasonable relation to the purpose in view i. e. the directive

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in Art. 48 and consequently the Act cannot be said to offend Art. 19 (1) (g). Chintaman Rao v. The State of Madhya Pradesh, ([1950] S. C. R. 759 at 763). According to the facts and figures given in the Gosamvardhan Enquiry Committee's Report the cattle population was actually decreasing and total ban on slaughter was necessary to protect and preserve the cattle. The State of U. P. had made ample provisions for looking after the decrepit cattle, and such cattle also was not uneconomic as it yielded hides and manure.

The U. P. Act which prohibits the slaughter of cattle but not that of buffaloes does not offend Art. 14 as the discrimination is based upon proper classification. The buffalo does not require any protection. The female buffalo is in no danger as its yield of milk is very high. The he-buffalo is not very useful for draught purposes and there is no need to protect it. Besides, the buffalo population is steadily increasing.

The U. P. Act does not violate Art. 25. Article 25 of our Constitution is similar to Art. 8 of the Irish Constitution. There is no religious compulsion on the Mussalmans to sacrifice a cow on Bakr Id Day.

Thakurdas Bhargava, as amicus curiae. The directive principles of State policy in Part IV of the Constitution are superior to fundamental rights and the enactments which are in pursuance of the directions given by Art. 48 are valid and constitutional even though they may infringe the fundamental rights of the petitioners. The total ban on cow slaughter in the impugned Acts is justified and is in the

interests of the general public. The facts and figures given in the official reports are inaccurate, and there is no real shortage of fodder or pasture land. There is shortage of milk in the country and it is essential to protect the cow. The bullock takes the largest share in meeting the power requirement for our agricultural production. Cow dung manure contributes about rupees 63 crores per year to our national income.

H.J. Umrigar, in reply.

Frank Anthony, also replied.

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1958. April 23. The Judgment of the Court was delivered by DAS C. J.-These 12 petitions under Art. 32 of our ,Constitution raise the question of the constitutional validity of three several legislative enactments banning the slaughter of certain animals passed by the States of Bihar, Uttar Pradesh and Madhya Pradesh respectively. The controversy concerning the slaughter of cows has been raging in this country for a number of years and in the past it generated considerable illwill amongst the two major communities resulting even in riots and civil commotion in some places. We are, however, happy to note that the rival contentions of the parties to these proceedings have been urged before us without importing into them the heat of communal passion and in a rational and objective way, as a matter involving constitutional issues should be. Some of these petitions come from Bihar, some from U. P. and the rest from Madhya Pradesh, but as they raise common questions of law, it will be convenient to deal with and dispose of them together by one common judgment.

Petitions Nos. 58 of 1956, 83 of 1956 and 84 of 1956 challenge the validity of the Bihar Preservation and Improvement of Animals Act, 1955 (Bihar 11 of 1956), hereinafter referred to as the Bihar Act. In Petition No. 58 of 1956 there are 5 petitioners, all of whom are Muslims belonging to the Quraishi community which is said to be numerous and an important section of Muslims of this country. The members of the community are said to be mainly engaged in the butchers' trade and its subsidiary undertakings such as the sale of hides, tannery, glue making, gut making and blooddehydrating, while some of them are also engaged in the sale and purchase of cattle and in their distribution over the various areas in the State of Bihar as well as in the other States of the Union of India. Petitioners Nos. 1 and 2 are butchers and meat vendors who, according to the petition, only slaughter cattle and not sheep or goats and are called " Kasais " in contradistinction to the "'Chicks " who slaughter

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only sheep and goats. After slaughtering the cattle these petitioners sell the hides to tanners or bide merchants who are also members of their community and the intestines are sold to gut merchants. It is said that there are approximately 500 other Kasais in Patna alone apart from 2 lacs of other Kasais all over the State of Bihar. The correctness of these figures is not admitted by the respondent State but we do not doubt that the number of Kasais is considerable. Petitioner No. 3 is the owner of a tanning factory and Petitioner No. 4 is a gut merchant, while Petitioner No. 5 is the General Secretary of Bihar State Jamiatul Quraish. In petition No. 83 there are 180 petitioners residing at different places in the State of Bihar who are all Muslims whose occupation is that of Kasais or cattle dealers or exporters of hides. In Petition No. 84 there are 170 petitioners all residents of Patna District

who are also Muslims belonging to the Quraishi community and who carry on business as Kasais or dealers of cattle. All the petitioners in these three petitions are citizens of India.

The Bill, which was eventually passed as the Bihar Act, was published in the Bihar Gazette on April 20, 1953. The scheme of the Bill, as originally drafted, was, it is said, to put a total ban only on the slaughter of cows and calves of cows below three years of age. The Bill was sent to a Select Committee and its scope appears to have been considerably enlarged, as will be seen presently. The Bill, as eventually passed by the Bihar Legislature, received the assent of the Governor on December 8, 1.955, and was published in the Official Gazette on January 11, 1956. Section 1 of the Act came into force immediately upon such publication, but before any notification was issued under sub-s. (3) of s. 1 bringing the rest of the Act or any part of it into force in the State or any part of it, the present petitions were filed in this Court challenging the consti-tutional validity of the Act. On applications for an interim order restraining the State of Bihar from issuing a notification under s. 1(3) of the Act bringing the Act into operation having been made in these petitions, the respondent State, by and through the learned

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Solicitor General of India, gave an undertaking not to issue such notification until the disposal of these petitions and, in the premises, no order was considered necessary to be made on those applications.

Petition No. 103 of 1956 has been filed by two petitioners, who are both Muslims residing in Uttar Pradesh and carrying on business in that State, the first one as a hide merchant and the second as a butcher. Petitioners in Petition No. 129 are eight in number all of whom are Muslims residing and carrying on business in Uttar Pradesh either as gut merchants or cattle dealers, or Kasais or beef vendors or bone dealers or hide merchants or cultivators. All the petitioners in these two applications are citizens of India. By these two petitions the petitioners challenge the validity of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955 (LT. P. 1 of 1956), hereinafter referred to as the U. P. Act and pray for a writ in the nature of mandamus directing the respondent State of Uttar Pradesh not to take any steps in pursuance of the U. P. Act or to interfere with the fundamental rights of the petitioners.

Petitions Nos. 117 of 1956, 126 of 1956, 127 of 1956, 128 of 1956, 248 of 1956, 144 of 1956 and 145 of 1956 have been filed by 6, 95, 541, 58, 37, 976 and 395 petitioners respectively, all of whom are Muslims belonging to the Quraishi Community and are mainly engaged in the butchers' trade and its subsidiary undertaking such as the supply of hides, tannery, glue making, gutmaking and blood-dehydrating. Most of them reside at different places which, at the dates of the filing of these petitions were parts of the State of Madhya Pradesh, but which or parts of which have, in the course of the recent re-organisation of the States, been transferred to and amalgamated with the State of Bombay. In consequence of such re-organisation of the States the State of Bombay has had to be substituted for the respondent State of Madhya Pradesh in the first five petitions and to be added in the sixth petition, for a part of the district in which the petitioners resided had been so transferred, while the State of Madhya Pradesh continues to be the respondent in the seventh

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petition.By these petitions the petitioners %II of whom are citizens Of India, challenge the validity of the C. P. and Berar Animal Preservation Act, 1949 (C. P. and Berar Lll of 1949), as subsequently amended.

In order to appreciate the arguments advanced for and against the constitutional validity of the three impugned Acts it will be necessary to refer to the relevant provisions of the Constitution under or pursuant to which they have been made. Reference must first be made to Art. 48 which will be found in Chapter IV of the Constitution which enshrines what are called the directive principles of)State policy. Under Art. 37 these directive principles are not enforceable by any court of law but are nevertheless fundamental in the governance of the country and are to be applied by the State in making laws. Article 48 runs thus:-

Organisation agriculture and animal husbandry.

48. The State shall endeavour of to organise agriculture 'and animal husbandry oil modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle."

The principal purpose of this article, according to learned counsel for the petitioners, is to direct the ,State to endeavour to organise agriculture and animal husbandry on modern and scientific lines and the rest of the provisions of that article are ancillary to this principal purpose. They contend that the States are required to take steps for preserving and improving the breeds and for prohibiting the slaughter of the animals specified therein only with a view to implement that principal purpose, that is to say, only as parts of the general scheme for organising our agriculture and animal husbandry on modern and scientific lines. Learned counsel for the petitioners refer to the marginal note to Art. 48 in support of their contention on this part of the case. They also rely on entry 15

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in List II of the Seventh Schedule to the Constitution. That entry reads: " Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice." There is no separate legislative head for prohibition of slaughter of animals and that fact, they claim, lends support to their conclusion that the prohibition of the slaughter of animals specified in the last part of Art. 48 is only ancillary to the principal directions for preservation, protection and improvement of stock, which is what is meant by organising agriculture and animal husbandry. Learned counsel for the respondents and Pandit Thakurdas Bhargava, who appears as amicus cutriae, on the other hand, maintain that the article contains three distinct and separate directions, each of which should, they urge, be implemented independently -and as a separate charge. It is not necessary for us, on this occasion, to express a final opinion on this question. Suffice it to say that there is no conflict between the different parts of this article and indeed the two last directives for preserving and improving the breeds and for the prohibition of slaughter of certain specified animals represent, as is indicated by the words " in particular ", two special aspects of the preceding general directive for organising agriculture and animal husbandry on modern and scientific lines. Whether the last two directives are ancillary to the first as contended for by learned counsel for the peti-

tioners or are separate and independent items of directives as claimed by counsel on the other side, the directive for taking steps for preventing the slaughter of the animals is quite explicit and positive and contemplates a ban on the slaughter of the several categories of animals specified therein, namely, cows and calves and other cattle which answer the description of milch or draught cattle. The protection recommended by this part of the directive is, in our opinion, confined only to cows and calves and to those animals which are presently or potentially capable of yielding milk or of doing work as draught cattle but does not, from the very nature of the purpose for which it is obviously recommended, extend to cattle which at
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one time were milch or draught cattle but which have ceased to be such. It is pursuant to these directive principles and in exercise of the powers conferred by Arts. 245 and 246 of the Constitution read with entry 15 in List 11 of the Seventh Schedule thereto that the, Legislatures of Bihar, Uttar Pradesh and Madhya, Pradesh have respectively enacted the statutes which are challenged as unconstitutional. In order properly, to appreciate the meaning and scope of the impugned Acts it has to be borne in mind that each one of those Acts is a law with respect to " preservation, protection and improvement of stock ", and their constitutional validity will have to be judged in that context and against that background. Keeping this consideration in view, we proceed now to examine the relevant provisions of the three Acts.

The title of the Bihar Act is " An Act to provide for the preservation and improvement of certain animals in the State of Bihar." Sub-section (3) of s. 1 provides that that section shall come into force at once and the remaining provisions of the Act or any of them shall come into force on such date as the State Government may, by notification, appoint and that different dates may be appointed for different provisions and for different areas. Section 2 is the definition section and the following definitions are to be noted:

(a) " Animal " means-

(i)bull, bullock, cow, heifer, buffalo, calf, sheep, goat and-any other ruminating animal;

(ii) poultry; and

(iii) elephant, horse, camel, ass, mule, dog, swine and such other domesticated animals as may be specified in this behalf by the State Government by notification in the Official Gazette;

(b).....

(c) " bull " means an uncastrated male above the age of three years belonging to the species of bovine cattle ;

(d) " bullock " means a castrated male above the age of three years belonging to the species specified in clause

(e)" calf " means a female or a castrated or
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uncastrated male, of the age of three years and below belonging to the species specified in clause (c);

(f).....

(g) " cow " means a female above the age of three years belonging to the species specified in clause (e) ;

Section 3, which is the principal section for the purposes of the Bihar Petitions, runs as follows:

" 3. Prohibition of slaughter of cow, calf, bull or bullock. Notwithstanding anything contained in any law for the time being in force or in any usage or custom to the contrary, no person shall slaughter a cow, the calf of a cow, a bull or a

bullock; Provided that the State Government may, by general or special order and subject to such conditions as it may think fit to impose, allow the slaughter of any such animal for any medicinal or research purposes."

Section 4 provides for penalties for contravention or attempted contravention or abetment of contravention of any of the provisions of s. 3. The remaining provision; in the following three chapters are not material for our present purpose. It will be noticed that the words " bull ", " bullock ", " calf " and " cow" have been defined in cls. (c), (d), (e) and (g) of s. 2 as belonging to the species of bovine cattle. The expression " species of bovine cattle " is wide enough to in-elude and does in ordinary parlance include buffaloes,(male, or female adults or calves). Therefore, the corresponding categories of buffaloes, namely, buffalo bulls, buffalo bullocks, buffalo calves and she-buffaloes must be taken as included in the four defined categories of the species of bovine cattle and as such within the prohibition embodied in s. 3 of the Act. It is to be, noted, however, that the allegations in the petitions and the affidavits in opposition proceed on the assumption that buffaloes (male or female adults or calves) were not within the protection of the section and, indeed, when the attention of learned counsel for the petitioners was drawn to the reference to the " species of bovine cattle " in each of the four definitions, they

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still made an attempt to support the latter view by suggesting that if buffaloes were to be included within the words defined in cls. (c), (d), (e) and (g), then there was no necessity for specifying it separately in the definition of " animal " in el. (a). This argument does not appear to us to be sound at all, for, then, on a parity of reasoning it was wholly unnecessary to specify heifer " in the definition of " animal ". If heifer is not to be included in the definition of cow " because heifer " is separately enumerated in 'the definition of animal " then an astounding result will follow, namely, that the operative part of s. 3 will not prohibit the slaughter of " heifer " at all-a result which obviously could not possibly have been intended. The obvious reason for the enumeration of the different categories of animals in the definition of " animal " must have been to provide a word of wide import so that all those sections where the wider word " animal " is used may apply to the different kinds of animals included-within that term. If the intention of the Bihar legislature was to exclude buffaloes (male or female adults or calves) from the protection of s. 3 then it must be said that it has failed to fulfil its intention.

The U. P. Act is intituled " An Act to prohibit the slaughter of COW and its progeny in Uttar Pradesh." The preamble to the Act recites the expediency " to prohibit and prevent the slaughter of cow and its progeny in Uttar Pradesh". Although the 17. P. Act has been made under entry 15 in List 11 and presumably pursuant to the directives contained in Art. 48 nowhere in the Act is there any express reference whatever to the " preservation, protection or improvement of stock." Section 2 defines " beef " as meaning the flesh of cow but does not include the flesh of cow contained in sealed containers and imported as such in Uttar Pradesh. Clause (b) is very important, for it defines " cow " as including a bull, bullock, heifer, or calf. Section 3, which is the operative section runs thus:

3. Notwithstanding anything contained in any

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other law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaughtered or offer or cause to be offered for slaughter any cow in any place in Uttar Pradesh."
Two exceptions are made by s. 4 in respect of cows suffering from contagious or infectious disease or which is subjected to experimentation in the interest of medical or public health research. Section 5 prohibits the sale or transport of beef or beef products in any form except for medicinal purposes and subject to' the provisions of the exception therein mentioned. Section 6, on which counsel for the State relies, provides for the establishment, by the State Government or by any local authority wherever so directed by the State Government, of institutions as may be necessary for taking care of uneconomic cows. Under s. 7 the State Government may levy such charges or fees, as may be prescribed for keeping uneconomic cows in the institutions. Section 8 provides for punishment for contravention of the provisions of ss. 3, 4 and 5. Section 9 makes the offences created by the Act cognisable and non-bailable. Section 10 gives power to the State Government to make rules for the purpose of carrying into effect the provisions of the Act. It should be noted that the U. P. Act protects the " cow ", which, according to the definition, includes only bulls, bullocks, heifer and calves. There is no reference to the species of bovine cattle and, therefore, the buffaloes (male or female adults or calves) are completely outside the protection of this Act.
The C. P. and Berar Act of 1949 was originally intituled " An Act to provide for preservation of certain animals by controlling the slaughter thereof," and the preamble recited that it was " expedient to provide for the preservation of certain animals by controlling the slaughter thereof." ,Animal " was defined in s. 2 as meaning an animal specified in the schedule. The schedule specified the following categories of animals, namely, (1) bulls, (2) bullocks, (3) cows, (4) calves, (5) male and female buffaloes and (6) buffalo calves. Section 4 originally prohibited the slaughter
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of an " animal " without certificate. There was then no total ban on the slaughter of any animal as defined. ,In 1951, the C. P. and Berar Animal Preservation Act, 1949, was amended by the Madhya Pradesh Act XXIII of 1951. By this amending Act the words, " by prohibiting or " were added to the long title and the preamble before the word " controlling " and a new clause was added to s. 2 as el. (i) (a) defining " cow " as including a female calf of a cow and sub-s. 1 of s. 4 was amended so as to read as follows:
"(1) Notwithstanding anything contained in any other law for the. time being in force or in any usage to the contrary, no person-
(a) shall slaughter a cow; or
(b) shall slaughter any other animal unless he has obtained in respect of such other animal a certificate in writing signed by the executive authority and the veterinary officer for the area in which the animal is to be slaughtered that the animal is fit for slaughter."
Thus a total ban was imposed on the slaughter of cows and female calf of a cow and the male calf of a cow, bull, bullock, buffalo (male or female adult or calf) could be slaughtered on obtaining a certificate. The Act was further amended in 1956 by Act X of 1956 substituting for the amended definition of " cow " introduced by the amending Act

of 1951 as cl. (1)(a) of s. 2 of the C. P. and Berar Animal Preservation Act, 1949, a new definition of " cow " as including a male or female calf of a cow, bull, bullock or heifer and a new schedule specifying only (1) cows, (2) male and female buffaloes and (3) buffalo calves was substituted for the original schedule to the Act. Shortly put the position in Madhya Pradesh has been this: while under the C. P. and Berar Animal Preservation Act, 1949, as it originally stood, the slaughter of all categories of animals mentioned in the original schedule were only controlled by the requirement of a certificate from the appropriate authority before the actual slaughter, by the amending Act XXIII of 1951, a total ban was imposed on the slaughter of " cows " which was then defined as including only a female calf of a
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cow and the slaughter of all other categories of animals coming within the original schedule was controlled and finally after the amending Act X of 1956, there is now a total ban on the slaughter of " cows " which by the new definition includes a male or female calf of a cow, bull, bullock or heifer so that the male and female buffaloes and buffalo calves (male and female) can still be slaughtered but on certificate issued by the proper authorities mentioned in the Act. The Madhya Pradesh Act X of 1956, amending the C. P. and Berar Animal peservation Act, 1949, received the assent of the Governor on May 18, 1956. The C. P. and Berar Animal Preservation Act, 1949, as amended up to 1956, is hereinafter referred to as the Madhya Pradesh Act.' To sum up, under the Bihar Act there is in the State of Bihar a total ban on slaughter of all categories of animals of the species of bovine cattle. In Uttar Pradesh there is, under the If. P. Act, a total ban on the slaughter of cows and her progeny which include bulls, bullocks, heifer or calves. The buffaloes (male or female adults or calves) are completely outside the protection of the Act. In the present Madhya Pradesh and the districts which formerly formed part of Madhya Pradesh but have since been transferred to the State of Bombay and where the Madhya Pradesh law including the Madhya Pradesh Act still applies, there is a total ban on the slaughter of cow, male or female calves of a cow, bulls, bullocks, or heifers and the slaughter of buffaloes (male or female adults or calves) are controlled in that their slaughter is permitted under certificate granted by the proper authorities mentioned in the Act. No exception has been made in any of these three Acts permitting slaughter of cattle even for bona fide religious purposes such as has been made, say, in the Bombay Animal Preservation Act, 1948 (Bom. LXXXI of 1948).

As already stated the petitioners, who are citizens of India, and Muslims by religion, mostly belong to the Quraishi community and are generally engaged in the butchers' trade and its subsidiary undertakings such as supply of hides, tannery, glue making, gut making
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and blood de-hydrating, Those, who carry on the butchers trade, are mostly. Kasais who, the petitioners say kill only cattle but not ship or goat which are slaughtered by other persons known as Chicks. Learned counsel appearing for the petitioners challenge the, constitutional validity of the Acts respectively applicable to them on three grounds, namely, that they offend the fundamental rights guaranteed to them by Arts. 14 ' 19(1)(g) and 25. Learned counsel appearing for the respondent States, of course, seek to support their respective enactments by controverting the reasons advanced by learned counsel for the petitioners.

Bharat Go-Sevak Samaj, All India AntiCow-Slaughter Movement Committee, Sarvadeshik Arya pratinidhi Sabha and M. P. Gorakshan Sangh put in petitions for leave to intervene in these proceedings. Under Order XLI, rule 2, of' the Supreme Court Rules intervention is permitted only to the Attorney-General of India or the Advocates General for the States. There is no other express provision for permitting a third party to intervene in the proceedings before this Court. In practice, however, this Court, in exercise of its inherent powers, allows a third party to intervene when such third party is a party to some proceedings in this Court or in the High Courts where the same, or similar questions are in issue, for the decision of this Court will conclude the case of that party. In the present case, however, the petitioners for intervention are not parties to any proceedings and we did not think it right to permit them formally to intervene in these proceedings; but in view of the importance of the questions involved in these proceedings we have heard Pandit Thakurdas Bhargava, who was instructed by one of these petitioners for intervention, as amicus curiae. We are deeply indebted to all learned counsel appealing for the parties and to Pandit Thakurdas Bhargava for the valuable assistance they have given us.

Before we actually take tip and deal with the alleged infraction of the petitioners' fundamental rights, it is necessary to dispose of a preliminary question raised by Pandit Thakurdas Bhargava. It will be recalled

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that the impugned Acts were made by the States in discharge of the obligations laid on them by Art. 48 to endeavour to organise agriculture and animal husbandry and in particular to take steps for preserving and improving the breeds and prohibiting the slaughter of certain specified animals. These directive principles, it is true, are not enforceable by any court of law but nevertheless they are fundamental in the governance of the country and it is the duty of the State to give effect to them. These laws having thus been made in discharge of that fundamental obligation imposed on the State, the fundamental rights conferred on the citizens and others by Chapter III of the Constitution must be regarded as subordinate to these laws. The directive principles, says learned counsel, are equally, if not more, fundamental and must prevail. We are unable to accept this argunent as sound. Article 13(2) expressly says that the State shall not make any law which takes away or abridges the rights conferred by Chapter III of our Constitution which enshrines the fundamental rights. The directive principles cannot over-ride this categorical restriction imposed on the legislative power of the State. A harmonious interpretation has to be placed upon the Constitution and so interpreted it means that the State should certainly implement the directive principles but it must do so in such a way that its laws do not take away or abridge the fundamental rights, for otherwise the protecting provisions of Chapter III will be " a mere rope of sand ". As this Court has said in the State of Madras v. Smt. Champakam Dorairajan (1) , "The directive principles of State policy have to conform to and run as subsidiary to the Chapter on Fundamental Rights".

Coming now to the arguments as to the violation of 4 the petitioners' fundamental rights, it will be convenient to take up first the complaint founded on Art. 25(1). That article runs as follows:

" Subject to public order, morality and health and to the other provisions of this Part, all persons are equally

entitled to freedom of conscience and the right freely to profess, practise and propagate religion".
(1) [1951] S.C.R. 525 531-
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After referring to the provisions of el. (2) which lays down certain exceptions which are not material for our present purpose this Court has, in Ratilal Panachand Gandhi v. The State of Bombay (1) explained the meaning and scope of this article thus:
" Thus, subject to the restrictions which this article imposes, every person has a fundamental right under our Constitution not merely to entertain such religious belief as may be approved of by his judgment or conscience but to exhibit hisbelief and ideas in such overt acts as are enjoinedor sanctioned by his religion and further to propagatehis religious views for the edification of others. Itis immaterial also whether the propagation is made by a person in his individual capacity or on behalf of any church or institution. The free exercise of religion by which is meant the performance of outward acts in pursuance of relgious belief, is, as stated above, subject to State regulation imposed to secure order, public health and morals of the people. "
What then, we inquire, are the materials placed before us to substantiate the claim that the sacrifice of a cow is enjoined or sanctioned by Islam ? The materials before us are extremely meagre and it is surprising that on a matter of this description the allegations in the petition should be so vague. In the Bihar Petition No. 58 of 1956 are set out the following bald allegations:
That the petitioners further respectfully submit that the said impugned section also violates the fundamental rights of the petitioners guaranteed tinder Article 25 of the Constitution in-as-much as on the occasion of their Bakr Id Day, it is the religious practice of the petitioners' community to sacrifice a cow on the said occasion. The poor members of the community usually sacrifice one cow for every 7 members whereas it would require one sheep or one goat for each member which would entail considerably more expense. As a result of the total ban imposed by the impugned section the petitioners would not even be allowed to make the said sacrifice which is a practice
(1) [1954] S.C.R. 1055, 1062-1063.
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and custom in their religion, enjoined upon them by 'the Holy Quran, and practised by all Muslims from time immemorial and recognised as such in India. "
The allegations in the other petitions are similar. ,These are met by an equally bald denial in para. 21 of the affidavit in opposition. No affidavit has been filed by any person specially competent to expound the relevant tenets of Islam. 'No reference 'is made in the petition to any particular Surah of the Holy Quran which, in terms, requires the sacrifice of a cow. All that was placed before us during the argument were Surah XXII, Verses 28 and 33, and Surah XXII,. What the Holy book enjoins is that people should pray unto the Lord and make sacrifice. We have no affidavit before us by any Maulana explaining the implications of those Verses or throwing any light on this problem. We, however, find it laid down in Hamilton's translation of Hedaya Book XLIII at p. 592 that it is the duty of every free Mussulman, arrived at the age of maturity, to offer a sacrifice on the Yd Kirban, or festival of the sacrifice, provided he be then possessed of Nisab and be not a traveller. The sacrifice established for one

person is a goat and that for seven a cow or a camel. It is therefore, optional for a Muslim to sacrifice a goat for one person or a cow or a camel for seven persons. It does not appear to be obligatory that a person must sacrifice a cow. The very fact of an option seems to run counter to the notion of an obligatory duty. It is, however, pointed out that a person with six other members of his family may afford to sacrifice a cow but may not be able to afford to sacrifice seven goats. So there may be an economic compulsion although there is no religious compulsion. It is also pointed out that from time immemorial the Indian Mussalmans have been sacrificing cows and this practice, if not enjoined, is certainly sanctioned by, their religion and it amounts to their practice of religion protected by Art. 25. While the petitioners claim that the sacrifice of a cow is essential, the State denies the obligatory nature of the religious practice. The fact, emphasised by the respondents, cannot be

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disputed, namely, that many Mussalmans do not sacrifice a cow on the Bakr Id Day. It is part of the known history of India that the Moghul Emperor Babar saw the wisdom of prohibiting the slaughter of cows as and by way of religious sacrifice and directed his son Humayun to follow this example. Similarly Emperors Akbar, Jehangir, and Ahmad Shah, it is said, prohibited cow slaughter. Nawab Hyder Ali of Mysore made cow slaughter an offence punishable with the cutting of the hands of the offenders. Three of the member of the Gosamvardhan Enquiry Committee set up by the Uttar Pradesh Government in 1953 were Muslims and concurred in the unanimous recommendation for total ban on slaughter of cows. We have, however, no material on the record before us which will enable us to say, in the face of the foregoing facts, that the sacrifice of a cow on that day is an obligatory overt act for a Mussalman to exhibit his religious belief and idea. In the premises, it is not possible for us to uphold this claim of the petitioners.

The next complaint is against the denial of the equal protection of the law. It is thus formulated: The petitioners are Muslims by religion and butchers (Kasais) by occupation and they carry on the trade of selling beef. The impugned Acts prejudicially affect only the Muslim Kasais who kill cattle but not others who kill goats and sheep and who sell goats' meat and mutton. It is, therefore, clear that only the Muslim Kasais, who slaughter only cattle but not sheep or goats, have been singled out for hostile and discriminatory treatment. Their further grievance is that the U. P. Act makes a distinction even between butchers who kill cattle and butchers who kill buffaloes and the Madhya Pradesh Act also makes a like discrimination in that slaughter of buffaloes is permitted, although under certificate, while slaughter of cows, bulls, bullocks and calves are totally prohibited. In the premises the petitioners contend that the law which permits such discrimination must be struck down as violative of the salutary provisions of Art. 14 of the Constitution.

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The meaning, scope and effect of Art. 14, which is the equal protection clause in our Constitution, has been explained by this Court in a series of decisions in cases beginning with Chiranjitlal Choudhury v. The Union of India (1) and ending with the recent case of Ram Krishna Dalmia and others v. Sri Justice S. R.Tendolkar (2). It is now well established that while Art. 14 forbids class legislation it does not forbid

reasonable classification for the purposes of legislation and that in order to pass the test of permissible classification two conditions must be fulfilled, namely, (i) the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and (ii) such differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification, it has been held, may be founded on different bases, namely, geographical, or according to objects or occupations or the like and what is necessary is that there must be a nexus between the basis of' classification and the object of the Act under consideration. The pronouncements of this Court further establish, amongst other things, that there is always a presumption in favour of the constitutionality of an enactment and that the burden is upon him, who attacks it, to show that there has been a clear violation of the constitutional principles. The courts, it is accepted, must presume that the legislature understands and correctly appreciates the needs of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds. It must be borne in mind that the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest and finally that in order to sustain the presumption of constitutionality the Court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation. We, therefore, proceed to examine

(1) [1950] S.C.R. 869. (2) [1959] S.C.R. 279.

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the impugned Acts in the light of the principles thus enunciated by this Court.

The impugned Acts, it may be recalled, have been made by the States in discharge of the obligations imposed on them by Art. 48. In order to implement the directive principles the respective Legislatures enacted the impugned Acts in exercise of the powers conferred on them by Art. 246 read with entry 15 in List II of the Seventh Schedule. It is, therefore, quite clear that the objects sought to be achieved by the impugned Acts are the preservation, protection and improvement of livestocks. Cows, bulls, bullocks and calves of cows are no doubt the most important cattle for the agricultural economy of this country. Female buffaloes yield a large quantity of milk and are, therefore, well looked after and do not need as much protection as cows yielding a small quantity of milk require. As draught cattle male buffaloes are not half as useful as bullocks. Sheep and goat give very little milk compared to the cows and the female buffaloes and have practically no utility as draught animals. These different categories of animals being susceptible of classification into separate groups on the basis of their usefulness to society, the butchers who kill each category may also be placed in distinct classes according to the effect produced on society by the carrying on of their respective occupations. Indeed the butchers, who kill cattle, according to the allegations of the petitioners themselves in their respective petitions, form a well defined class based on their occupation. That classification is based on an intelligible differentia which places them in a well defined class and distinguishes them from those who kill goats and sheep and this differentia has

a close connection with the object sought to be achieved by the impugned Act, namely, the preservation, protection and improvement of our livestock. The attainment of these objectives may well necessitate that the slaughterers of cattle should be dealt with more stringently than the slaughterers of, say, goats and sheep. The impugned Acts, therefore, have adopted a classification on sound and intelligible basis and can quite clearly stand the test laid down in
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the decisions of this Court. Whatever objections there may be against the validity of the impugned Acts the -denial of equal protection of the laws does not, prima facie, appear to us to be one of them. In any case, bearing in mind the presumption of constitutionality attaching to all enactments founded on the recognition by the court of the fact that the legislature correctly appreciates the needs of its own people there appears to be no escape from the conclusion that the petitioners have not discharged the onus that was on them and the challenge under Art. 14 cannot, therefore, prevail.

Learned counsel for the petitioners then take their final stand on Art. 19(1)(g). Immediately learned counsel for the respondents counter the charge by saying that Art. 19(1)(g) can hit only the law which purports to directly violate its provisions. The impugned Acts, we are reminded, have been made in implementation of the directive principles laid down in Art. 48 and are laws with respect to matters set forth in entry 15 of List II and it is emphasised that the sole purpose of these enactments is to secure the preservation, protection and improvement of stock and that its real aim is not to take away or abridge the rights guaranteed by Art. 19(1)(g). If at all, these enactments may only indirectly and incidentally affect those, rights but that circumstance cannot alter their real nature and purpose. Reliance is placed in support of this contention on the following observations of Kania C. J. in A. K. Gopalan v. The State (1).

" If there is a legislation directly attempting to control a citizen's freedom of speech or expression, or his right to assemble peaceably and without aims, etc., the question whether that legislation is saved by the relevant saving clause of article' 19 will arise. If, however, the legislation is not directly in respect of any of these subjects, but as a result of the operation of other legislation, for instance, for punitive or preventive detention, his right under any of these sub-clauses is abridged, the question of the application of article 19 does not arise. The true approach is only to consider the directness of the legislation and not what will

(1) [1950] S.C.R. 88, 101.

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be the result of the detention otherwise valid, on the mode of the detenue's life. "

This part of the argument advanced on behalf of the respondents is further sought to be reinforced by the fact that the above observations of Kania C. J. had subsequently been adopted by this Court in Ram Singh v.The State of Delhi (1). Those observations of Kania C. J. should, in our opinion, be read in the context of the facts of those cases. It should be remembered that both these cases arose out of orders made under the Preventive Detention Act, 1950. Article 22, which is to be found in Chapter III of the Constitution, recognises the necessity for preventive detention, however odious it may be. The purpose of the Act

under which the detention orders had been made in those cases, was to prevent the persons concerned from acting in any manner prejudicial to one or other of the three important matters specified therein. The effect of the execution of the orders was to deprive those persons of their liberty according to procedure established by law. Preventive detention, like punitive detention, having taken away the personal liberty of those persons they could not claim the rights under Art. 19(1)(a) to (e) and (g) for those were the rights of free men. It was, therefore, considered that the primary and direct object of the Preventive Detention Act, 1950, being, inter alia, to secure the security of the State and maintenance of law and order, its impact on the fundamental rights was indirect and, therefore, the Act could not be challenged for breach of the fundamental rights under Art. 19(1). The position in the cases now before us is quite different. The last part of the directive principles embodied in Art. 48 require the State to take steps for prohibiting the slaughter of the specified animals and this directive can only be carried out by prohibiting the petitioners and other butchers (Kasais) from. slaughtering them. There can be no mistake about the directness of these legislations vis-a-vis the petitioners and other butchers and the effect of these legislations on their rights is direct and instantaneous as soon as they are brought into force. The title of the U. P. Act

(1) [1951]1 S.C.R. 451, 456-457.

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does not even attempt to conceal the directness of its impact on the butchers of Uttar Pradesh. The argument of learned counsel for the respondents on this point cannot be accepted and the question of the alleged violation of Art. 19(1)(g) has to be dealt with on merits.

The complaint of the petitioners under Art. 19 (1) (g) is that the impugned Acts, if enforced, will compel them at once to close down their business and will, in effect, amount to a complete denial of their right to carry oil their occupation, trade or business in spite of the mandatory provisions of Art. 19(1)(g). The objection is elaborated thus: The livelihood of a butcher of cattle depends on the existence of many factors. First he has to purchase the cattle which he will slaughter. The statistics will show that a large number of cattle are slaughtered for food every year. According to Table 11 on p. 24 of the Report on the Marketing of Cattle in India 18,93,000 heads of cattle and 6,09,000 buffaloes were slaughtered in the year 1948. Taking that 7 goats are the equivalent in flesh of cow or buffalo these butchers who slaughter 25,02,000 bovine cattle will have to find 7 times that number of goats or sheep, that is to say, they will have to have 1,75,14,000 extra goats and sheep per year. This it is said, is not available in -India. Then the butchers will have to find buyers for this enormous quantity of goats' meat or mutton the price of which, according to the figures given at p.12 of the Expert Committee'.-, Report, is very much higher than that of beef. Poorer people may afford to buy beef occasionally but goat-,' meat or mutton will be beyond their reach and consequently there will not be a market for sale of the meat of so many goats and sheep and the butchers will have to reduce the number of goats and sheep for purposes of slaughter and that will reduce their income to a negligible figure. Further, what will they do with the skins of so many goats, and sheep ? They will not have ready sale in the market as hides of cows and buffaloes have, for the latter are used in the manufacture of boots, shoes, suit cases,

belts and other leather goods while the skins of goats and sheep will be useless
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for such purpose. The same considerations will apply to the guts. There is, therefore, no escape, say learned counsel for the petitioners from the inevitable conclusion that a total ban on the slaughter of all animals belonging to the species of bovine cattle will bring about a total prohibition of the business and occupation of the butchers (Kasais). Clause (6) of Art. 19, no doubt, protects the operation of the existing laws in so far as they impose and do not prevent the State from making any law imposing, in the interest of the general public, reasonable restrictions on the exercise of the right conferred by Art. 19(1)(g). But restrictions, they say, cannot extend to total prohibition and reference is made to the observations to be found in some of the decisions of this Court. The contention is that the State may regulate but cannot annihilate a business which a citizen has a right to carry on.
The rival contention is thus formulated: The dictionary meaning of the word " butcher " is " slaughterer of animals for food, dealer in meat". It is one of the three well-known occupations included in the homely phrase, " the butcher, the baker, the candlestick maker". The expression " butcher ", as popularly understood now, has no reference to any particular animal. The term is now applicable to any person who slaughters any animal for food. Taken in this larger sense, the facts alleged in the petitions do not, according to learned counsel for the respondents, indicate that any of the impugned Acts has the effect of completely stopping the petitioners' businesses. They seek to illustrate their point thus: Take the case of piece-goods merchants. Some may deal in country made piece-goods and others may import and sell piece-goods manufactured, say, in England or Japan. Some may deal in dhotis and saris and others may confine their activities to the purchase and sale of long cloth or other varieties of piece-goods. They are, however, all piece-goods merchants. Suppose in the interest of our indigenous textile industry and to protect the best interests of the general public it becomes necessary to stop the import of foreign cloth altogether. Such stoppage will not prevent any cloth
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merchant from carrying on his trade or business as cloth merchant, for he can still deal in cloth and piecegoods manufactured in India. Will any piece-goods merchant, whose business was only to import foreign piece-goods for sale in India, be heard to complain that the stoppage of import of foreign cloth has completely prevented him from carrying on business as a piece goods merchant and, therefore, such stoppage of import of foreign cloth being more than a mere restriction violates his fundamental right under Art. 19(1)(g) ? Where, they ask, will the argument lead us ? Suppose that the import of one particular variety of piece-goods, say saris, is stopped but import of dhotis and all other varieties of piece-goods are allowed. On a reasoning at par with that urged in the last case should not a dealer who imports only that variety of piece-goods the import of which has been stopped be entitled to say that his business has been completely stopped ? Suppose the State in the interest of Khadi and cottage industries imposes a ban on the manufacture or sale of cloth of a very fine count, will a merchant who deals only in fine cloth be entitled to say that as he deals only in fine cloth, the ban has completely

prohibited the carrying on of his business ? The truth of the matter, they submit, is that the ban on the import of foreign cloth or on the manufacture of cloth of very fine count is only a restriction imposed on the piece-goods business, for the ban affects one or more of the segments of that business but leaves the other segments untouched. There is, therefore, only some restriction imposed on piece-goods merchants in that they cannot deal in certain kinds of piece-goods, but they are not wholly prevented from carrying on piece-goods business. The position, they say, is the same in the case of butchers (Kasais). The butchers' business, they point out, has several segments and a ban on one segment may be complete prohibition of the activities of that segment, for restriction is complete as far as it extends, but in the larger context of the butchers' business such a ban, they submit, operates only as a restriction. Far less, it is said can a dealer in hides, complain that the ban

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imposed on the slaughter of cattle and buffaloes prevent him from, carrying on his, business as a hide merchant, for he call still carry on his business in ,fallen hides. Indeed the statistics collected in the Report of Marketing of Hides in India, Second Edition, p.9, show that the percentage of fallen hides to the total cattle population is 8.8 whereas the percentage of slaughtered hides to the total cattle population is

1.4. The. same argument has been advanced regarding gut merchants and other dealers in subsidiary things.

It is not necessary for us to dilate upon or to express any opinion on the rival contentions as abstract pro. positions . The matter has to be dealt with objectively. What do the Acts actually provide ? In Uttar Pradesh the petitioners can freely slaughter buffaloes (male or female adults or calves) and sell their meat for food. It is also open to them to slaughter goats and sheep and sell the meat. Therefore, so far as the butchers of Uttar Pradesh are concerned, there A,, obviously no total prohibition of their occupation but only some restrictions have been imposed on them in respect of one part of their occupation, namely, the slaughter of cows, bulls, bullocks, and calves of cows. In Madhya Pradesh the Act, it is true, totally forbids the slaughter of cows including bulls, bullocks and cows but permits the slaughter of buffaloes (male or female adults or calves) under certain conditions. Therefore, in Madhya [Pradesh also there is no law totally prohibiting the carrying on of the business of a butcher. In Bihar there is, no doubt, a total ban against the slaughter of all animals belonging to the, species of bovine cattle which includes buffaloes (male or female adults or calves) but it is still possible for the butchers of Bihar to slaughter goats and sheep and sell goats' meat and mutton for food. As will be -seen hereafter the total ban on the slaughter of bulls, bullocks, buffaloes (male or female adults or calves) irrespective of their age or usefulness is, in our view, not a reasonable restriction imposed on, the butchers (Kasais) in the interest of the general public and that being, therefore, void, no question can arise, even in

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Bihar, of any total prohibition of the rights of butchers to carry on their occupation or business. In this view of the matter we need express no final opinion on the vexed question as to whether restrictions permissible under cl. (6) of Art. 19 may extend to total prohibition. That question was left open by this court in Saghir Ahmed v. The

State O. U. P. and others (1) and in The State of Bombay v. R. M. D. Chamarbaugwala (2) and in the view we have taken on the facts and construction of the several Acts under consideration, does not call for an answer in disposing of these petitions. The question that calls for an answer from us is whether these restrictions are reasonable in the interests of the general public.

Clause (6) of Art. 19 protects a law which imposes in the interest of the general public reasonable restrictions on the exercise of the right conferred by sub cl. (g) of cl. (1) of Art. 19. Quite obviously it is left to the court, in case of dispute, to determine the reasonableness of the restrictions imposed by the law. In determining that question the court, we conceive, cannot proceed on a general notion of what is reasonable in the abstract or even on a consideration of what is reasonable from the point of view of the person or persons on whom the restrictions are imposed. The right conferred by sub-cl. (g) is expressed in general language and if there had been no qualifying provision like el. (6), the right so conferred would have been an absolute one. To the person who has this right any restriction will be irksome and may well be regarded by him as unreasonable. But the question cannot be decided on that basis. What the court has to do is to consider whether the restrictions imposed are reasonable in the interests of the general public. In the State of Madras v. V. 0. Row (3) this court has laid down the test of reasonableness in the following terms:

" It is important in this context to bear in mind that the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned-,

(1) [1955] 1 S.C.R. 707, 724. (2) [1957] S.C.R. 874.

(3) [1952] S.C.R. 597, 607.

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and no abstract standard, or general pattern, of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict. In evaluating such elusive factors and forming their own conception of what is reasonable, in all the circumstances of a given case, it is inevitable that the social philosophy and the scale of values of the judges participating in the decision should play an important part, and the limit to their interference with legislative judgment in such cases can only be dictated by their sense of responsibility and self-restraint and the sobering reflection that the Constitution is meant not only for people of their way of thinking but for all, and that the majority of the elected representatives of the people have, in authorising the imposition of the restrictions, considered them to be reasonable."

These observations have been adopted by this Court in later cases, e. g., The State of West Bengal v. Subodh Gopal Bose (1) and Ebrahim Vazir Mavat v. The State of Bombay (2). In this connection it will also be well to remember the observation of Mahajan J. in The State of Bihar v. Maharajadhiraj Sir Kameshwar Singh of Dharbangha (3), namely, that " the legislature is the best judge of what is good for the community, by whose suffrage it comes into existence..... This should be the proper approach for the court but the ultimate responsibility for determining the validity of the law must rest with the court and the court

must not shirk that solemn duty cast on it by the Constitution. We have, therefore, to approach the problem now before us in the light of the principles laid down by this Court.

The avowed object of each of the impugned Acts is to ensure the preservation, protection, and improvement of the cow and her progeny. This solicitude

(1) (1954] S.C.R. 587, 627. (2) [1954] S.C.R. 933, 949-950, (3) [1952] S.C.R. 889, 041.

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arises out of the appreciation of the usefulness of cattle in a predominantly agricultural society. Early Aryans recognised its importance as one of the most indispensable adjuncts of agriculture. It would appear that in Vedic times animal flesh formed the staple food of the people. This is attributable to the fact that the climate in that distant past was extremely cold and the Vedic Aryans had been a pastoral people before they settled down as agriculturists. In Rg. Vedic times goats, sheep, cows, buffaloes and even horses were slaughtered for food and for religious sacrifice and their flesh used to be offered to the Gods. Agni is called the " eater of ox or cow " in Rg. Veda (VIII. 43, 11). The staying of a great ox (Mahoksa) or a " great Goat " (Mahaja) for the entertainment of a distinguished guest has been enjoined in the Satapatha Brahmana (111. 4. 1-2). Yagnavalkya also expresses similar view (Vaj 1. 109). An interesting account of those early days will be found in Rg. Vedic Culture by Dr. A. C. Das, Ch. 5, pp. 203-5, and in the History of Dharmasastras (Vol. II-, Part II) by P. V. Kane at pp. 772-773. Though the custom of slaughtering of cows and bulls prevailed during the Vedic period, nevertheless, even in the Rg. Vedic times there seems to have grown up a revulsion of feeling against the custom. The cow gradually came to acquire a special Sanctity and was called " Aghnya " (not to be slain). There was a school of thinkers amongst the Rsis, who set their face against the custom of killing such useful animals as the cow and the bull. High praise was bestowed on the cow as will appear from the following verses from Rg. Veda, Book VI, Hymn XXVIII (Cows) attributed to the authorship of Sage Bhardvaja:

" 1. The kine have come and brought good fortune; lot them rest in the cow-pen and be happy near US.

Here let them stay prolific, many coloured, and yield through many morns their milk for Indra.

6. O cows, ye fatten e'en the worn and wasted, and make the unlovely beautiful to look on.

Prosper my house, ye with auspicious voices, your power is glorified in our assemblies.

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7. Crop goodly pasturages and be prolific; drink pure sweet water at good drinking places.

Never be thief or sinful man your master, and may the dart of Rudra still avoid you.

(Translation by Ralph Griffith). Verse 29 of Hymn 1 in Book X.of Atharva Veda forbids cow slaughter in

the following words:

" 29. The slaughter of an innocent, O Kritya, is an awful deed, Slay not cow, horse, or man of ours. " Hymn 10 in the same Book is a rapturous glorification of the cow:

" 30. The cow is Heaven, the cow is Earth, the cow is Vishnu, Lord of life,

The Sadhyas and the Vasus have drunk the outpourings of the cow.

34. Both Gods and mortal men depend for life and being on

the cow.
She hath become this universe; all that the sun ,surveys is she. "
P.V. Kane argue,, that in the times of' the Rg. Veda only barren cows,if at all, were killed for sacrifice or meat and cows yielding milk were held to be not fit for being killed. It is only in this way, according to him, that one can explain and reconcile the apparent conflict between the custom of killing COWS for food and the high praise bestowed oil the cow in Rg. Vedic times. It would appear that the protest raised against the slaughter of cows greatly increased in volume till the custom was totally abolished in a later age. The change of climate perhaps also make the use of beef food unnecessary and even injurious to health. Gradually cows became indicative of the wealth of the owner. The Neolithic Aryans not having been acquainted with metals, there were no coins in current use in the earlier stages of their civilisation, but as they were eminently a pastoral people almost every family possessed a sufficient number of cattle and 'some of them exchanged them for the necessaries of their life,. The value of cattle (Pasu)was, therefore, very great with the early Rg. Vedic Aryans. The ancient Romans also used the word pecus or pecu (pasu) in the sense of wealth or money. The English words,
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" Pecuniary " and " impecunious ", are derived from the Latin root pecus or pecu, originally meaning cattle. The possession of cattle in those days denoted wealth and a man was considered rich or poor according to the large or small number of cattle that he owned. In the Ramayana King Janaka's wealth was described by reference to the large number of herds that he owned. It appears that the cow was gradually raised to the status of divinity. Kautilya's Arthasastra has a special chapter (Ch. XXIX) dealing with the "superintendent of cows" and the duties of the owner of cows are also referred to in Ch. XI of Hindu Law in its sources by Ganga Nath Jha. There can be no gainsaying the fact that the Hindus in general hold the cow in great reverence and the idea of the, slaughter of cows for food is repugnant to their notions and this sentiment has in the past even led to communal riots. It is also a fact that after the recent partition of the country this agitation against the slaughter of cows has been further intensified. While we agree that the constitutional question before us cannot be decided on grounds of mere sentiment, however passion ate it may be, we, nevertheless, think that it has to be taken into consideration, though only as one of many elements, in arriving at a judicial verdict as to the reasonableness of the restrictions.
Cattle in India, it is said, has a treble role to play, namely, (i) to produce milk for food, (ii) bulls for draught and (iii) manure for agriculture. It is necessary to advert to the arguments advanced under each head. According to the 1951 census there were 15,60,00,000 heads of cattle and 4,00,00,000 of buffaloes making a total of 19,60,00,000 or roughly 20,00,00,000 of animals belonging to the species of bovine cattle. In India there are 123 heads of cattle including buffaloes per square mile and 43 heads to every 100 persons. Out of the total cattle population of 15,60,00,000 and buffalo population of 4,00,00,000 there were in Bihar 1,52,97,000 cattle and 33,16,000 buffaloes, in Madhya Pradesh 1,48,58,000 heads of cattle and 26,00,000 buffaloes and in Uttar Pradesh 2,35,13,000 heads of cattle and 92,50,000 buffaloes.

The total distribution of cattle and buffaloes, according to age, sex and work, was as follows:-

Males	Cattle	Buffaloes
Breeding bulls	6,52,000	3,06,000
Working bullocks	5,88,18,000	60,36,000
Bulls and bullocks over three years not in use for breeding and work, i. e., useless.	27,35,000	4,66,000
Young stock under once year.	97,63,000	28,70,000
Young stock one to three years of age.	1,22,57,000	23,84,000
Total	8,42,25,000	1,20,02,000
Females		
Breeding cows, i.e., cows, over 3 years kept for breeding or milk production.	4,67,23,000	2,10,08,000
Cows over 3 years used for work.	23,17,000	5,34,000
Cows over 3 years not in use for work or breeding purposes, i. e., useless.	12,02,000	3,15,000
Young stock over 1 year.	93,05,000	42,02,000
Young stock 1 to 3 years of age.	1,25,44,000	52,83,000
Total	7,20,91,000	3,13,42,000
Grand total	15,63,16,000	4,33,44,000

As stated in the Report on the Marketing of Cattle in India issued by the Directorate of Marketing and Inspection, Ministry of Food and Agriculture, Government of India, 1956, the proportion of males in cattle is a little more than half of the total cattle population whilst in the case of buffaloes, females predominate and are about 3/4 of the total. For agricultural purposes male cattle are generally preferred for their comparative lightness and active nature. Of the total 39,57,000 unserviceable heads of cattle in India there were 5,35,000 in Bihar, 1,55,000 in Madhya Pradesh and 1,84,000 in Uttar Pradesh. Of the total 7,81,000

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unserviceable buffaloes there were 1,20,000 in Bihar, 15,000 in Madhya Pradesh and 28,000 in Uttar Pradesh.

Although, according to the census figures given above, our cattle wealth is, in number, the highest in the world the milk production is perhaps the lowest. According to the figures given in the Second Five Year Plan, at the beginning of the First Five Year Plan the milk output was over 1,80,00,000 ton,;. The average yield of milk per cow in India was 413 pounds which is about the lowest of any country in the world as against 8,000 pounds in the Netherlands, 7,000 pounds in Australia, 6,000 pounds in Sweden and 5,000 pounds in the U.S.A. Out of the total yield she-buffaloes give 54% while cows give only 42%. Buffalo milk is richer in fat, 6 to 7% as compared to 4.5% of fat in the cow’s milk,. But cows milk is richer in other important content.,, and is more easily digestible. The average per capita consumption of milk and milk products was worked out by the First Five Year Plan at 5.5 ounces, i.e., about 2.5 chhataks or 1/6 of a seer per day, though 10 ounces are recommended by nutrition experts. In the Facts and Figures about Bihar published in 1955 by the Department of Public Relations, the average annual. milk yield is stated to be 620 lbs. per cow and 1,526 lbs. per buffalo. It is recognised in Human Nutrition vis-a-vis Animal Nutrition in India, a Memorandum prepared by the Nutrition Advisory Committee of the Indian Council of Medical Research and the

Animal Committee of the Indian Council of Agricultural Research that the performance of Indian much animals, particularly of cows, is extremely poor and that from a more economic point of view there does not seem to be any justification for maintaining animals yielding 2 pounds of milk or less per day and perhaps these animals would better be eliminated. But, as the Memorandum also says, one should realise, before such a drastic action is taken, the consequences that may follow from the adoption of this policy, for if the animals giving 2 pounds or less of milk are condemned as unsuitable it will mean elimination of more than 90% of the present day much cows and loss of about 70,00,000 tons out of 97,00,000 tons of annual
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gross production of milk from this group, besides a large number of bullocks that they will bear. According to the table of the human food requirement recommended by the Nutrition Advisory Committee of the Indian Council of Medical Research 10 ounces of milk per adult unit per day is necessary to make tip a balanced diet. The total human population, according to 1951 census, was 35,68,00,000 which, at the current rate of increase, was estimated to have reached the figure of 37,76,00,000 in 1956. Treating children below 10 years of age as 0.83 of adult value, the total adult unit is calculated at 31,30,00,000. At the rate of 10 ounces of milk per adult per day we Would require 3,23,00,000 tons of milk per annum. It is clear, therefore, that in India, where a large section of tile population consists of vegetarians, there is a huge shortage in the supply of milk. Cows and other milch cattle, therefore, are of very great value to this country. If milk yielding capacity were the only consideration the comparatively smaller number of female buffaloes which produce 54% of the total milk supply of our country would obviously have deserved a far greater preference over the cows in our estimation. But, as pointed out by Pandit Thakurdas Bhargava, there is another important consideration which is perhaps more important from the standpoint of human food supply. It is the bullock that takes the largest share in meeting the power requirements for our agricultural production. Based perhaps on age old experience Indian agriculturists habitually prefer a cow bullock to a buffalo bullock. As a result of the evolutionary process of trial and error, we find in this country about 10 cow bullocks for every buffalo bullock as is shown by the 1951 census figures set out above. If this relative distribution is considered unavoidable for our crop production, we may expect no change in the existing ratio in the population of the two species unless a revolution can be brought about in our methods and practice of land cultivation. According to the Report on the Marketing of Cattle in India, 1956, p. 22, animals are utilised in India under four heads:(1) used for cultivating6,54,22,000 (2) used
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for carting in urban areas-11,80,000 (3) used as pack animals-67,705 and (4) used in oil crushers, etc.4,30,000, making up the total of 6,70,99,705. As against this we have, according to the 1951 census figures set out above, 5,88,18,000 working bullocks and 60,36,000 working he-buffaloes, aggregating to 6,48,54,000. There is therefore a shortage of 22,45,705 bullocks including buffaloes which presumably represent the dry cows and female buffaloes put to agricultural labour, as shown in the Second Five Year Plan at pp. 281-282. It is true that tractors have begun to

be used but they are still of a negligible number and for many years to come the country will have to depend upon animal power for her agricultural operations in order to grow enough food for meeting the demands of the fast growing human population. In Uttar Pradesh, according to the 1951 census, there were 2,35,12,839 heads of cattle and 92,50,488 buffaloes, making a total of 3,27,63,327. The total area of Uttar Pradesh was 7,22,78,809 acres out of which 4,92,30,120 acres were under cultivation. If a pair of bullocks can be taken on an average to cover 10 acres the total area under cultivation will require 98,46,000 bullocks. The 1951 census figures show 1,15,00,000 of bullocks which are slightly in excess of the number of bullocks required for the purposes of cultivation only. Indeed both in Uttar Pradesh and in Bihar, according to the First Five Year Plan, p. 247, there was a surplus of about 40,00,000 of bullocks while in the Punjab and Pepsu the number available was just adequate to meet the demands. If, however, account is taken of the other purposes for which bullocks may be used, namely, for carting or as pack animals or for working oil crushers or drawing water from the wells for irrigation purposes, the total available animal power will fall short of the requirements. In addition to that we have to keep in view the necessity for further expansion of the cultivated area to meet the food requirements of the fast growing population, and in that case the deficit will go up still further. In Bihar, according to the Facts and Figures, 1956, the total number of animal population of the bovine species were:-

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Cattle

Cows and oxen (adults)	1,15,64,310
Cows and oxen (young stock)	37,33,166
Buffaloes (adult)	23,78,293
Buffaloes (young stock)	9,37,582

The number of working cattle andbuffaloes works out to one for every 6 acres of net area under cultivation. It follows, therefore, that our working animals are perhaps just about sufficient to supply the power to keep our agricultural operations up to the necessary standard, but the demand for food is growing and more lands will have to be brought under cultivation and we shall require a far large number of these animals.

There are in India, 6,50,000 breeding bulls and 3,10,000 breeding buffaloes. There are 4,63,40,000 breeding cows and 2,09,90,000 breeding buffaloes. According to the First Five Year Plan, 1). 274, approximately 750 farm bred bulls of known pedigree are distributed annually by the Government in different States for developing and improving the draught as well as the milch breeds. Besides there are some approved bulls belonging to private owners. But the existing number of private bulls meets less than 0. 15% of the total requirements of the country. According to the Report on the Marketing of Cattle in India, p. 9, service bulls number approximately 6,52,000 or about 0.4% of the total cattle in the country. In the absence of an arrangement to castrate or remove the inferior bulls before a pedigree bull is located in an area, the progeny of the pedigree bulls have access to scrub, which nullifies the efficiency achieved in the first generation. It is, therefore, clear that the breeding bulls (cattle and buffaloes) are insufficient to meet the requirements. It is true that the practice of artificial insemination has been introduced in some centres but for many years to come Indian animal husbandry will have to depend on the ordinary breeding bulls. We are in short

supply of them.
The third utility of these animals (cattle and buffaloes) is the dung. The First Five Year Plan at p. 255
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records that 80,00,00,000 tons of dung are available per annum. 50% of this is used as fuel by cultivators and the other 50% is used as manure. If suitable supplies of fuel could be made available to the cultivators then the entire quantity of dung could be used for manure. It is doubtful, however, if the cultivators would be in a position to pay for the fuel and utilise the entirety of the dung for manure. Cattle urine is also useful for the nitrogen, phosphates and potash contents in it. In terms of money the dung and the urine will account for a large portion of the agricultural income in India. Indeed Pandit Thakurdas Bhargava appearing as amnicus curiae has claimed Rs. 63,00,00,000 per year as the contribution of the dung of these animals to the national income.
The discussion in the foregoing paragraphs clearly establishes the usefulness of the cow and her progeny. They sustain the health of the nation by giving them the life giving milk which is so essential an item in a scientifically balanced diet. The working bullocks are indispensable for our agriculture, for they supply power more than any other animal. Good breeding bulls are necessary to improve the breed so that the quality and stamina of the future cows and working bullocks may increase and the production of food and milk may improve and be in abundance. The dung of the animal is cheaper than the artificial manures and is extremely useful. In short, the backbone of Indian agriculture is in a manner of speaking the cow and her progeny. Indeed Lord Linlithgow has truly said-" The cow and the working bullock have on their patient back the whole structure of Indian agriculture. " (Report on the Marketing of Cattle in India, p. 20). If, therefore, we are to attain sufficiency in the production of food, if we are to maintain the nation's health, the efficiency and breed of our Cattle population must be considerably improved. To attain the above objectives we must devote greater attention to the preservation, protection and improvement of the stock and organise our agriculture and animal husbandry on modern and scientific lines. We have, therefore, to examine the provisions of the impugned Acts and
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ascertain whether they help in achieving the said objectives, or are calculated to hinder that process. In that context all the considerations above alluded to must enter the judicial verdict and if the impugned Acts further the aforesaid purpose then only can the restrictions imposed by the impugned Acts be said to be reasonable in the interest of the general public.
We turn now to the other side of the picture. In examining the conspectus of the problem the Court cannot overlook the fact, emphasised in the petition, that the petitioners and a very large number of similarly situated persons, even if their number does not come up to the figure mentioned in the petition, are butchers (Kasais) by occupation and make an income of about Rs. 150 to Rs. 200 per month and that they will be seriously affected, if not completely thrown out of occupation, by the impugned Acts. It is true, for reasons hereinbefore stated, that they cannot complain that they have been completely deprived of their occupation or business but the enactments, if valid, will compel them to make fresh arrangements for the supply of animals which are

permitted to be slaughtered for food. Theoretically it may not be impossible for them to do so, but in practice it is more than likely to cause considerable inconvenience to them and may even involve extra expenses for them. The hide merchants, who, they say in the petition, have made their arrangements for the supply to them of hides of slaughtered animals up to 95 % of their requirements, may find it difficult to make fresh arrangements for procuring fallen hides. The same observations may be made about the gut merchants. The immediate effect of the operation of these Acts is to cause a serious dislocation of the petitioners' business without any compensatory benefit. In Saghir Ahmad v. The State of U. P. (1), at p. 727 this Court observed, with respect to the persons engaged in running buses for carrying passengers:

" One thing, however, in our opinion, has a decided hearing on the question of reasonableness and that is the immediate effect which the legislation is likely to

(1)[1955] 1 S.C.R. 707,724.

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produce. Hundreds of citizens are earning their livelihood by carrying on this business on various routes within the State of Uttar Pradesh. Although they carry on the business only with the aid of permits, which are granted to them by the authorities under the Motor Vehicles Act, no compensation has been allowed to them under the Statute. "

Similar inconvenience may easily be supposed to have befallen the petitioners and others of their class and the immediate and possibly adverse impact of the impugned Acts on their occupation or business must, therefore, be taken into account as one Of the important factors in judging the reasonableness or otherwise of the said Acts.

There is also no getting away from the fact that beef or buffalo meat is an item of food for a large section of the people in India and in particular of the State of Bihar and Uttar Pradesh. Table 11 at p. 24 of the Report on the Marketing of Cattle in India shows that in the year 1948 the annual demand for cattle and buffaloes for purposes of food was: 1.8,93,000 heads of cattle and 6,09,000 buffaloes. These figures indicate that beef and buffalo flesh are used for food by a large section of the people in India. It is wellknown that poorer sections of Muslims, Christians and members of the Scheduled Castes and Tribes consume beef and buffalo flesh. There is also a limited demand for beef by the foreign population. Buffaloes yield comparatively coarse and tough meat of inferior quality and consequently the demand for beef is greater than that for buffalo flesh. Further the price of the buffalo flesh is 20 to 40% less than that of beef. The prices of beef and buffalo meat are much cheaper than that of mutton or goat's meat and consequently beef and buffalo flesh come within the reach of the poorer people perhaps for a day or two in the week. According to the figures given in the Report of the Expert Committee at 1). 12, in 1938 in -Bombay the prices were Rs. 0-3-9 per pound of beef, Rs. 0-2-0 per pound of buffalo flesh and Rs. 0-5-6 for mutton and goats' flesh. In 1950 these prices went up respectively to Rs. 0-12-0, Rs. 0-11-0 and Rs. 1-3-0.

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The comparatively low prices of beef, and buffalo flesh, which are nearly half of that of mutton or goats' flesh, is the main reason for their demand. Habit is perhaps secondary. Learned counsel for some of: the petitioners cited the case of the boys and girls residing in boarding houses attached to the Anglo-Indian schools where the only

meat which the boarding school authorities can afford to supply as part of the diet of the growing children is beef and that only on a day or two in the week. The Acts, if enforced, will prevent them. from having even this little bit of nourishment and amenity. It is true that after the partition of the country the Muslim population has decreased and further that some Muslims may not habitually take beef or buffalo flesh, but even so a large section of the poorer people belonging to the Muslim, Christian and Scheduled Castes communities do consume beef and buffalo flesh. And this is not merely a matter of amenity or luxury but is at any rate partially', a matter of necessity. Table VII set out at p. 32 of the Memorandum on Human Nutrition vis-a-vis Animal Nutrition in India recommends one ounce of meat daily whereas the available quantity is much less and the attainable quantity under the new plan may be 1/3 ounce or a little more. Poorer people, therefore, who can hardly afford fruit or milk or ghee are likely to suffer from malnutrition, if they are deprived of even one out-ice of beef or buffalo flesh which may sometimes be within their reach. This aspect of the matter must also be taken into account in assessing the reasonableness of the provisions of the impugned Acts.

The number of cattle and buffaloes not fit for breeding or working has already been set out. Further particulars in detail are available from Appendices II and III to the Report on the Marketing of Cattle in India. The figures given there show that according to the 1951 census the total number of unserviceable male cattle was 27,35,000 and that of female cattle was 12,02,000. Out of these there were in Bihar 2,93,000 male and2,42,000 female, in Madhya Pradesh 1,24,000 male and31,000 female and in Uttar Pradesh
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1,63,000 male and 21,000 female. The unserviceable buffaloes in the whole of India, according to 1951 census, were 7,81,000 out of which 4,66,000 were males and 3,15,000 were females. Out of the total there were in Bihar 61,000 male buffaloes and 59,000 female, buffaloes, in Madhya Pradesh 10,000 male and 5,000 female, in Uttar Pradesh 16,000 male and 12,000 female. According, to the First Five Year Plan, p. 273, the overall estimates made by the Cattle Utilisation Committee show that about 10 % of the cattle population in India or roughly 1,14,00,000 adults were unserviceable or unproductive. The Report of the Cattle Preservation and Development Committee also put the figure of old, decrepit and unproductive cattle at 10% of the total population. Pandit Thakurdas Bhargava does not accept the correctness of these figures. It is difficult to find one's way out of the labyrinth of figures and it will be futile for us to attempt to come to a figure of unserviceable agricultural animals which may even be approximately correct. For our purpose it will suffice to say that there is a fairly large number of cattle and buffaloes which are not of any use for breeding or working purposes. The position may be accepted as correctly summed up at p. 274 of the First Five Year Plan where it is stated, inter alia, that there is a deficiency of good milch cows and working bullocks and that there exists a surplus of useless or inefficient animals.

The presence of a large number of useless and inefficient cattle in the midst of the good ones affect our agricultural economy in two ways. In the first place and this is the crux of the matter-this surplus stock is pressing upon the scanty fodder and feed resources of the country and is an obstacle to making good the deficit,. As pointed out by the

expert Committee Report at p. 59 the greatest handicap in improving our cattle wealth is the lack of resources in feeding them. Any effort to improve cattle will fail unless they are properly fed. The table set out on that very page of that Report records a deficiency of 6,00,00,000 tons, i. e., 33% in straw or Kadbi 10,40,00,000 tons, i.e., 13% in green fodder and 2,65,20,000 tons, i. e.,
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70% in concentrates (i. e., oil cakes, bran, oil seeds, maize' barley and gram, etc.). It is pointed out that the figures shown against green fodder are not the quantities which are presently available but! which can be made available if forest' resources are fully, tapped. According to this Report even if the forest resources are fully utilised there will still be a deficiency of 13% in the supply. The actual availability of this item is limited by the fact that green fodder is, only available during the monsoon months and much of this is wasted by the lack of country-wide arrangements for its conservation. The estimated requirements and the present supply of food stuffs for animals is also given in Table V at p. 23 of the Memorandum on Human Nutrition vis-a-vis Animal Nutrition in India which tallies with and is more or less about the same as those given in the Report of the Expert Committee above referred to. Table V also shows a deficiency of 6,00,00,000 tons of straw or Kadbi 1,78,00,000 tons of green fodder. The shortage of concentrates, i. e., oil cakes, maize, barley, gram, cotton seed and bran vary between 8,50,000 to 71,17,000 tons. According to the estimate given in the First Five Year Plan at p. 273 the quantity of fodder available is about 75% of requirements while available concentrates of feeds would suffice only for about 28 % of 1 the cattle. The, figures given at p. 24 of the report of the Gosamvardhan Enquiry Committee set up by, the Uttar Pradesh Government are interesting. The total cattle: and buffalo population in, Uttar Pradesh is estimated at 3,27,63,327. The scientific food requirements of this total population, according to, the Western standard, are: first set out. Then begins a: process of scaling down, for the above- scale is, considered to be somewhat lavish for our low sized village cattle. The Indian standard, according to this report, will, require much less and the figures, according to Indian standards, are next set out. Evidently these, figures also, show a, very big gap between, requirements and the available, quantities. So the report says that event, this may, be reduced and -what is significantly
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described as the " critical limit " is then set out. It is not quite intelligible why an Indian cow should not require even an Indian standard of ration. Be that as it may, even for the " critical limit " the quantity available is far too short. The gap between the critical limit and what is available is respectively 1,80,00,000 tons of dry matter, 15,00,000 tons of protein and 28,61,70,00,000 therms. It is conceded that the requirements of mixed population of 3,27,63,327 heads of animals may be taken as representing 2,71,30,000 adult units and with the present available supply of straw, green feed and concentrates these adult units cannot be fully fed even on the critical limit standard. The available supply can support only 1,59,20,000 adult units leaving 1, 1 2, 1 0,000 units unfed. It is recognised by this Report that with an increase in cattle population and better prophylactic treatment against

contagious diseases, the trend of population will be towards an increase and the deficiency in nutrition will become still more pronounced. The remedy suggested is that attention be paid urgently towards the production of more fodder from cultivated land and utilisation of all marginal and sub-marginal land for augmenting food and fodder sources.

With a large population of animals in which the majority is not yielding adequate and prompt returns to the owners, the animals are naturally allowed to fenad for themselves and to subsist on whatever the agriculturist is able to provide from his scanty sources for the maintenance of his stock. Naturally, therefore, the problem of substantial precentage of uneconomical cattle has cropped up along with that of stray, wild, old, diseased and uneconomical animals. These old and useless animals roaming about at pleasure in search of food are a nuisance and a source of danger in the countryside. They grow wild and become a menace to the crop production. As pointed out by the Report of the Expert Committee, the danger was actually seen by the members of that Committee in Pepsu where, it is significant to note, the slaughter is banned completely.

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The presence of a large number of old and useless animals also has a bad effect on the quality of the breed. There is a tendency for this population to multiply and bring into being progeny of a very inferior kind which is bound to adversely affect the production of milk or bullock power. It is absolutely necessary that this surplus cattle should be separated from the good and robust animals and a total ban on slaughter of cattle and buffaloes will contribute towards worsening the present condition.

The Cattle Preservation and Development Committee set up by the Government of India in 1948 at p. 47 of its Report recommended, as a panacea for the evil menace of useless cattle, a scheme for the establishment of cattle concentration camp for the old and useless cattle. It is this scheme which subsequently came to be known by the name of Gosadans. At pp. 48 and 49 are set out the estimates of cost of establishing and running a camp to house 2,000 cattle. The non-recurring cost on land, cattle sheds, staff and servants' quarters is shown at Rs. 32,000 and the recurring cost, namely, salary of manager, stock-man, chaukidars. and others on the establishment together with allowances is shown at Rs. 13,000 per year and it is hoped that a sum of Rs. 5,000 will be derived from the sale of hides, manure, etc. According to the Report of the Expert Committee each Gosadhan housing 2,000 heads of cattle would have to have 4,000 acres of land which would permit of a rotational and controlled grazing practice and provision has to be made for the surplus grass during the rainy season to be preserved for the scarcity months. There should be thatched sheds for protection of the cattle against weather and wild animals and fodder is to be cultivated on a small part of the 4,000 acres. By the end of 1954, when the Report of the Expert Committee came to be made, the cost had gone up from what they were in 1948 when the Cattle Preservation and Development Committee Report had been made. The estimated cost, according to the Report of the Expert Committee, of establishing and running of a Gosadan for 2,000 heads of cattle is shown as: nonrecurring

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Rs. 50,000, and recurring Rs. 25,000 per year. On this basis the recurring cost alone will work out at Rs. 12.50 per head of cattle per annum for preserving useless cattle.

The figures given in the Gosamvardhan Enquiry Committee's Report are interesting. Taking the total number of cattle,% in Uttar Pradesh not used for breeding or work at 1,83,276 in 1951, the State will require 91 Gosadans each with a housing capacity for 2,000 heads of cattle. Even taking one acre per animal instead of two acres per animal as recommended by the Expert Committee Report, 91 Gosadan,s will require nearly 2,00,000 acres of land. The cost of 91 Gosadans will be non-recurring Rs. 45,50,000 and recurring Rs. 22,75,000 per annum. It appears from the revised model for Gosadans for 500: heads of cattle to be run by the State Governments set out in Appendix II to the Proceedings of the Fifth Annual General Meeting of the Central Council of Gosamvardhan held at Now Delhi on February 21, 1957, that the non-recurring cost will be Rs. 39,000 and the recurring running cost will be Rs. 12,000. It is estimated that there will be an income of Rs. 2,500 from the sale of hides, etc. Allowing this, the net annual recurring cost will be Rs. 9,500 for 500 heads of cattle which works out at Rs. 19 per head of cattle per annum. As regards Gosadans to be run by private institutions it is said in the same Appendix II that those institutions will be given a subsidy of Rs. 18 per head per annum out of which 75% would %,be contributed by the Centre and the remaining 25% by the State. Thus for the preservation of the useless cattle the country will pay Rs. 19 or Rs. 18 per head of such useless cattle per annum, whereas our total national expenditure on education (Central and States including local bodies) in 1955-1956 was only Rs. 4-9 per capita as against Rs. 104.6 per capita in the United Kingdom and Rs. 223.7 per capita in the United States of America and our target for 1957-1958 works out at Rs. 5 per capita per annum. It will be noticed that in none of the schemes is even a pice provided for fodder. The idea evidently is that the cattle will be left there to fend for themselves on whatever grass or

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other green feed they can get by grazing. If one remembers that though green fodder may be available in the monsoon months, there will be a dearth, of them in the dry months, one will at once see that the segregating of the cattle in the concentration camp will only be to leave them to a fate of slow death. The very idea that these animals should eke out their livelihood by grazing and that Gosadans should be located in out of the way places, appeared to the authors of the Memorandum on Human Nutrition vis-a-vis Animal Nutrition at p. 47, to belie the humanitarian considerations on the basis of which the scheme was conceived.

Theory apart, the Gosadan scheme has 'been tried and the result is not at all encouraging. The First Five Year Plan, obviously as an experimental measure, provided for the establishment of 160 Gosadans each housing 2,000 heads of cattle, at a cost of about Rs. 97,00,000. The Planning Commission recognised that these measures would touch only the fringe of the problem and the success of the movement would depend on the amount of public support, especially from charitable institutions that it received. The sheer weight of the figures of expenses compelled the Gosamvardhan Enquiry Committee to recognise that if the unwanted and uneconomic cows and their progeny have to be effectively saved from slaughter, the responsibility had to be shared by the individual, the community and so on, for it would be utterly impracticable to expect that the burden of collection of such animals from villages and transporting them to the Gosadans would be within the exclusive means and competence of the State. That Committee certainly expected

the State to share a particular portion of the expenditure which legitimately fell in its sphere of responsibility, but the Committee felt, and said so in so many words, that by far the most substantial portion of the responsibility should rest on the owners and the community itself for it was but equitable to expect that if the cow had to be really saved from slaughter the cost on this account should be equitably borne by the people and the State. This

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part of the Report of the Gosamvardhan Enquiry Committee reads like wishful thinking and amounts to only hoping for the best. When the conscience of the individual or the community did not prevent the Hindu owner from selling his dry cow to the butcher for a paltry sum of Rs. 30 to Rs. 40 per head, when the Hindu sentiment for the divinity and sanctity attributed to the cow has to be propped up by legislative compulsion, when according to its own Report at p. 41 the Dharmada and Brit collected by the Hindu businessmen on each commercial transaction ostensibly for the benefit of the cow is not made available in full and finally when Goshalas have had to be closed down for want of funds and public support, when the country cannot spend more than Rs. 5 per capita per annum on the education of the people, it seems to be somewhat illogical and extravagant, bordering on incongruity, to frame a scheme for establishment of Gosadans for preserving useless cattle at a cost of Rs. 19 or Rs. 18 per head per annum and which will, for its success, admittedly have to depend on the same elusive and illusory public support or 75% subsidy from the Central Government.

What has been the result of the experiment? According to the Report of the Expert Committee since the First Five Year Plan only 17 Gosadans had been started in Bihar, Uttar Pradesh, Pepsu, Coorg, Bhopal, Kutch, Vindhya Pradesh, Tripura and Saurashtra put together. Not even one of these 17 establishments is fully stocked. There are only about 5,293 animals in these 17 Gosadans instead of 34,000. According to the Gosamvardhan Enquiry Committee's Report, only two Gosadans had been established up to the date of that Report in Uttar Pradesh. The Second Five Year Plan (p. 283) shows that out of the 160 Gosadans for which provision had been made in the First Five Year Plan, only 22 Gosadans had been established. According to the Facts and Figures about Bihar, 1955, p. 88, three Gosadans had been established at Berwadih, Nirmali and Monghyr where there were about 700 uneconomic animals at that time instead of 6,000 which should have been there as per the estimated capacity for each Gosadan.

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What, in the view of the several committees, is the conclusion ? According to the Memorandum on Human Nutrition Vis-a-vis Animal Nutrition in India, p. 4, the present scheme of establishing Gosadans for segregating old and useless animals can serve only a limited, purpose and if extended countrywide, it is likely to hinder rather than help the problem of disposing of, the surplus animals. At p. 47 the authors of this Memorandum appear to have felt that in advocating, the adoption of Gosadan Scheme on a countrywide, basis, sufficient consideration had not been given to its practical aspects. It is pointed out that according to the present estimate the total number of useless animals is four times the number the Second Five -Year Plan had estimated and that consequently, having regard to the huge size of our cattle population the existing number of the useless section would remain

unchanged for many years to come and that a sum of Rs. 3,04,00,000 will be required only for pounding such animals. The Expert Committee's Report is quite definite and emphatic. Paragraph 133 of that Report at P. 62 clearly expresses the opinion that Gosadans do not offer a solution to the problem. To house and maintain all these animals, thousands of Gosadans on lakhs of acres of land would be needed. In addition to the huge nonrecurring expenses, a very high recurring annual expenditure would have to be incurred., In view of this and in view of the indifferent response from the States in setting up Gosadans, the Expert Committee came to the conclusion that the Gosadan scheme was not likely to offer any solution for the problem of useless cattle and that it would be far more desirable to utilise the limited resources of the country to increase the efficiency of the useful cattle.

The Report of the Cattle Preservation and Development Committee did not recommend the immediate total ban on the slaughter of all cattle. They recommended the establishment of concentration camps, later on euphemistically called Gosadans, and though total ban was the ultimate objective, it did not, for the moment, prohibit the slaughter of animals over the age of 14 years and of animals of any age

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permanently unfit for work or breeding owing, to age or, deformity. In para. 134 of the Expert Committee's Report at, p. 63 it, is stated clearly that the total ban on the slaughter of all cattle would not be in the best interests of the country as it is merely a negative and not a positive approach to the problem. They consider that a constructive approach to the problem will be, to see that no useful animal is slaughtered and that the country's. resources are fully harnessed to produce better and more efficient cattle. Neither the First Five Year Plan nor -the Second Five Year Plan accepted the idea of a total ban on the slaughter of cattle. Indeed, according to the Second Five Year Plan, a total ban will help the tendency for the number of surplus cattle to increase and, in their view, a total ban on the slaughter of all cows, calves and other milch and draught cattle will defeat the very object of the directive principles embodied in Art. 48 of the Constitution. We find from para. 6 on p. 283 of the Second Five Year Plan that the Gosadan scheme did not make any, real or satisfactory progress and that altogether 22 Gosadans housing only 8,000 cattle had been established by the States up to the date of that document and even then many of the States had encountered difficulty in, securing the areas of land needed for their; operations. The Planning Commission considered that it would be impossible to establish enough of these Gosadans and they reached the conclusion that in defining the scope. of the ban on the slaughter of cattle the States should take a, realistic view of the fodder resources available in the country. and the extent to which they can get the. co-operation of voluntary organisations to bear the main responsibility for, maintaining unserviceable, and unproductive cattle with a measure of assistance from the Goverment land general support from; the people., As already stated,' the, Memorandum on Human Nutrition vis-a-vis, Animal. Nutrition at p. 4 expressed the view that the Gosadan scheme can, serve only a limited purpose and, if extended countrywide was likely, to hinder, rather than help the problem of disposing of the, surplus animals, appart From the huge initial cost. A, large, concentration of

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useless animals within a restricted area, the authors of

that Memorandum feared, might lead to considerable soil erosion due to overgrazing and there might be every possibility of contagious and parasitic diseases spreading from these animals to the surrounding area. It is only the Gosamvardan Enquiry Committee which had recommended an immediate total ban on the slaughter of all cattle, irrespective of age or sex. It should, however, be noted that even that Committee did not recommend such a total ban as a measure independent of all other considerations. Its recommendation in this behalf was linked up with and was a part of a scheme which depended, for its success, on a variety of imponderable matters, like public enthusiasm and support for the establishment and maintenance of Gosadans in a high state of working, efficiency, the capacity of the State to bring more lands under cultivation, reclamation of the jungle lands and the like. It may be noted also that although in some of the States total ban has been imposed on the slaughter of cattle, many of the States have not considered it necessary to impose such a blanket ban. Thus the Assam Cattle Protection Act, 1950, the Bombay Animal Preservation Act, 1948, the West Bengal Animal Slaughter Control Act, 1950, the Hyderabad Slaughter of Animal Act, 1950, the Travancore-Cochin Notification permit slaughter of cattle and buffaloes over specified years of age. Even the Madhya Pradesh Act, as criminally enacted, did not place a total ban on the slaughter of all cattle.

In earlier times there being enough of pastures and smaller human and cattle population and restricted needs, it was possible to rear large and valuable herds and organise a system of balanced economy as far as agricultural development was concerned. Thus, while the country was producing enough grain for the requirement of the human population there was an adequate area available for plentiful grazing of animals, which, supplemented by fodder available from agricultural production, assisted in developing the types of quality animals required for the needs of the

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times and the area in question (Report of the Gosamvardhan Enquiry Committee). The position has considerably changed since then. There has been a large increase in human population and famines and epidemics having been largely brought under control, there has been an increase in the animal population also. Already there is a competition between man and the animal for the available land. The growing human population needs more food for which more land is required. The refugee problem has yet to be solved and sufficient land has to be found for settling the refugees therein. With organised facilities for artificial fertilisers and the introduction of scientific methods of cultivation agricultural production is expected to increase and the problem of food for human consumption may be capable of a satisfactory solution. But as regards the cattle feed the gap between the requirement and the available quantities is so wide that there is little possibility, in any foreseeable future, of the country producing enough to feed them adequately.

To summarise: The country is in short supply of milch cattle, breeding bulls and working bullocks. If the nation is to maintain itself in health and nourishment and get adequate food, our cattle must be improved. In order to achieve this objective our cattle population fit for breeding and work must be properly fed and whatever cattle food is now at our disposal and whatever more we can produce

must be made available to the useful cattle which are in presenti or will in futuro be capable of yielding milk or doing work. The maintenance of useless cattle involves a wasteful drain on the nation's cattle feed. To maintain them is to deprive the useful cattle of the much needed nourishment. The presence of so many useless animals tends to deteriorate the breed. Total ban on the slaughter of cattle, useful or otherwise, is calculated to bring about a serious dislocation, though not a complete stoppage, of the business of a considerable section of the people who are by occupation butchers (Kasais), hide merchants and so on. Such a ban will also deprive a large section of the people of what may

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be their staple food. At any rate, they will have to forego the little protein food which may be within their means to take once or twice in the week. Preservation of useless cattle by establishment of Gosadans is not, for reasons already indicated, a practical proposition. Preservation of these useless animals by sending them to concentration camps to fend for themselves is to leave them to a process of slow death and does no good to them. On the contrary, it hurts the best interests of the nation in that the useless cattle deprive the useful ones of a good part of the cattle food, deteriorate the breed and eventually affect the production of milk and breeding bulls and working bullocks, besides involving an enormous expense which could be better utilised for more urgent national needs.

We are not unmindful of the fact that beef and buffalo flesh from calves under one year of age. heifers and young castrated stock yielding meat of a superior quality fetch comparatively higher prices in the market and, therefore, the tendency of the butchers naturally is to slaughter young calves. This circumstance clearly warns us that calves, heifers and young castrated stock (cattle and buffalo) which will in future supply us milk and power for purposes of agriculture require protection. We also do not fail to bear in mind that for very good and cogent reasons cows also require protection. Cows give us milk and her progeny for future service. Unfortunately, however, the average milk yield of a cow, as already stated, is very much less than that of a she-buffalo. As the Gosamvardhan Enquiry Committee's Report points out, despite all the veneration professed for the cow, when it comes to the question of feeding, the she-buffalo always receives favoured treatment and the cow has to be satisfied with whatever remains after feeding the she-buffaloes, bullocks, and calves in order of priority. The growth of cities and heavy demand for milk in the urban areas have contributed to the slaughter of good stock. For want of space no freshly calved animal can be brought in without getting rid of one that had gone dry. Salvage facilities not being available or, if available,

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being uneconomical, the professional gowalas, who are mostly, if not wholly, Hindus, find it uneconomical to maintain the cow after she goes dry and consequently sell her to the butcher for slaughter at Rs. 30 to Rs. 50 per head, irrespective of her age and potential productivity, and import a fresh cow. The veneration professed for the sanctity attached to the cow does not prevent them from doing so. In big towns the municipal regulations are stringent and slaughter is permitted only of unserviceable and unproductive animals. Instances are not uncommon, however, that to get an animal passed for slaughter, the teeth or the rings round the horns of the animal are

tampered with and sometimes a cow is even maimed in order that she may be passed by the veterinary inspector as fit for slaughter. Cows, which are rejected by the inspector, are taken out of the limits of the cities and slaughtered in the rural areas. As slaughter is not confined to registered slaughter houses, the number of useful animals which are slaughtered cannot be given accurately. It is estimated in the Report of the Expert Committee at p. 2 that at least 50,000 high yielding cows and she-buffaloes from cities of Bombay, Calcutta and Madras alone are sent annually for permature slaughter and are lost to the country. The causes of slaughter of useful cattle are enumerated at pp. 2, 3, and 9 of that Report, namely, lack of space in the cities and suburban areas, long dry period, want of arrangement for breeding bulls at the proper time, the anxiety to get as much milk out of the cow as possible, -the high cost of maintenance of cows in the cities and the difficulties in the matter of obtaining adequate fodder. For these reasons many animals are sent to the slaughter houses through sheer economic pressure and are replaced by fresh animals imported from breeding areas. The danger of such premature slaughter is greater for the cow, for being an animal with a scanty yield of milk it does not pay the owner to maintain her through the long dry period and hence there is an inducement for adopting even cruel practices to get her passed by the inspectors. But a dry she-buffalo is well worth preserving and maintaining
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in expectation of rich return at the next lactation. Besides, buffaloes for slaughter will not fetch as good a price as cows would do. Likewise there will not be much inducement to the agriculturist or other owner to part with the breeding bulls or working bullocks (cattle and. buffalo) as long as they are serviceable. For their sheer usefulness and their high market value as breeding or working animals the breeding bulls and working bullocks, as long as they are fit, are, to the agriculturists, worth more than the price of their flesh in gold. There can hardly be any inducement for maiming valuable animals which, as breeding bulls or working animals, can at any time fetch from the agriculturists a price higher than what the maimed ones will fetch from the butchers. The breeding bulls and working bullocks (cattle and buffaloes) do not, therefore, require as much protection as cows and calves do.

The next question is as to what should be the scope of the ban on the slaughter of animals. One view is that the slaughter of all animals (cattle and buffaloes) of all categories should be regulated by the State and that animals below a specified age or not suffering from some natural deformity should not be allowed to be slaughtered. Drastic and stringent regulations have been imposed by municipal laws and have been tried but experience shows that they are not sufficient at least to protect the cow. It has been found to be extremely difficult to enforce the regulations for inadequacy of staff and veterinary inspectors, little or no check on the veterinary inspectors who succumb to the pressure or inducements of the butchers and pass animals not really useless as and for useless and aged animals. A large percentage of the animals not fit for slaughter are slaughtered surreptitiously outside the municipal limits. For reasons of economy rapacious gowalas or callous agriculturists find it uneconomical to maintain the dry cow and even resort to cruel practices and maim the cow in order to get her passed for slaughter. As already stated, the she-buffalo and the breeding bulls and working bullocks

(both cattle and buffaloes) for their value, present and
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future, do not ruin the same amount of danger as a dry cow does. Regulation of slaughter of animals above a specified age may not be quite adequate protection for the cow but may be quite sufficient for the breeding bulls and working bullocks and the she-buffaloes. These considerations induce us to make an exception even in favour of the old and decrepit cows. The counsel for the petitioners, be it said to their credit, did not contend otherwise.

After giving our most careful and anxious consideration to the pros and cons of the problem as indicated and discussed above and keeping in view the presumption in favour of the validity of the legislation and without any the least disrespect to the opinions of the legislatures concerned we feel that in discharging the ultimate responsibility cast on us by the Constitution we must approach and analyse the problem in an objective and realistic manner and then make our pronouncement on the reasonableness of the restrictions imposed by the impugned enactments. So approaching and analysing the problem, we have reached the conclusion (i) that a total ban on the slaughter of cows of all ages and calves of cows and calves of she-buffaloes, male and female, is quite reasonable and valid and is in consonance with the directive principles laid down in Art. 48, (ii) that a total ban on the slaughter of she-buffaloes or breeding bulls or working bullocks (cattle as well as buffaloes) as long as they are as milch or draught cattle is also reasonable and valid and (iii) that a total ban on the slaughter of she-buffaloes, bulls and bullocks (cattle or buffalo) after they cease to be capable of yielding milk or of breeding or working as draught animals cannot be supported as reasonable in the interest of the general public.

We now proceed to test each of the impugned Acts in the light of the aforesaid conclusions we have arrived at The Bihar Act, in so far as it prohibits the slaughter of cows of all ages and calves of cows and calves of buffaloes, male and female, is valid. The Bihar Act makes no distinction between she-buffaloes, bulls and bullocks (cattle and buffaloes) which are
useful as milch or breeding or draught animals and those which are not and indiscriminately prohibits slaughter of she-buffaloes, bulls and bullocks (cattle and buffalo) irrespective of their age or usefulness. In our view the ban on slaughter of she-buffaloes, breeding bulls and working bullocks (cattle. and buffalo) which are useful is reasonable but of those which are not useful is not valid. The question as to when a she-buffalo, breeding bull or working bullock (cattle and buffalo) ceases to be useful and becomes useless and unserviceable is a matter for legislative determination. There is no provision in the Bihar Act in that behalf. Nor has our attention been drawn to any rule which may throw any light on the point. It is, therefore, not possible to apply the doctrine of severability and uphold the ban on the slaughter of she-buffaloes, breeding bulls and working bullocks (cattle and buffalo) which are useful as milch or breeding or working animals and strike down the ban on the slaughter of those which are useless. The entire provision banning the slaughter of she-buffaloes, breeding bulls, and working bullocks (cattle and buffalo) has, therefore, to be struck down. The result is that we uphold and declare that the Bihar Act in so far as it prohibits the slaughter of cows of all ages and calves of cows and calves of buffaloes, male and female, is constitutionally valid and we hold that, in

so far as it totally prohibits the slaughter of she-buffaloes, breeding bulls and working bullocks (cattle and buffalo), without prescribing any test or requirement as to their age or usefulness, it infringes the rights of the petitioners under Art. 19 (1) (g) and is to that extent void.

As regards the U. P. Act we uphold and declare, for reasons already stated, that it is constitutionally valid in so far as it prohibits the slaughter of cows of all ages and calves of cows, male and female, but we hold that in so far as it purports to totally prohibit the slaughter of breeding bulls and working bullocks without prescribing any test or requirement as to their age or usefulness, it offends against Art. 19 (1) (g) and is to that extent void.

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As regards the Madhya Pradesh Act we likewise declare that it is constitutionally valid in so far as it prohibits the slaughter of cows of all ages and calves of cows, male and female, but that it is void in so far as it totally prohibits the slaughter of breeding bulls and working-bullocks without prescribing any test or requirement as to their age or usefulness. We also hold that the Act is valid in so far as it regulates the slaughter of other animals under certificates granted by the authorities mentioned therein.

In the premises we direct the respondent States not to enforce their respective Acts in so far as they have just been declared void by us. The parties will bear and pay their own costs of these applications.

Petitions partly allowed.