

## CONSTITUENT ASSEMBLY OF INDIA

Monday, the 12th September 1949

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Nine of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

### DRAFT CONSTITUTION—(Contd.)

#### Article 24—(Contd.)

**Mr. President** : We shall now take up the remaining amendments.

**Shri H. Siddaveerappa** : (Mysore State) : Sir, I beg to move :

“That in amendment No. 369 of List VII (Seventh Week), at the end of clause (4) of the proposed article 24, the following explanation be added :—

*‘Explanation.—The provisions of this clause shall not refer to the system of land tenure called Ryotwari anywhere in the Union including the Indian States’.*”

I shall very briefly and succinctly explain the reasons that prompted me to move this amendment. I am not unaware of the fact that the legislative enactments dealing with the abolition of zamindari in Madras and Bihar do not refer to the system of *ryotwari* lands. In fact, the Bill pending before the United Provinces Legislature also does not in any way affect the *ryotwari* system.

As you are aware, Sir, under the *ryotwari* system the owner of the land is himself the cultivator : either he personally cultivates or he cultivates with the help of agricultural labour. There is no intermediary between him and the State; there is no man who gets an unearned income as under the zamindari system. If you refer to clause (4) you will find that it refers not only to the pending Bill of the United Provinces but any Bill that may be introduced in any legislature of a State before the commencement of this Constitution.

Sir, there are some people who believe and who have got their pet theories, namely, that all lands, irrespective of the nature of the tenure must be nationalised. I may in this connection refer to amendments No. 385 and 394 moved by two honourable Members of this House. It will be seen that under the *ryotwari* system the holdings are very small and under the present Mitakshara system of the law of inheritance the holdings are becoming smaller and smaller. As a matter of fact, a different set of land reform is required in the case of those holdings. If you are to take the line of these amendments that I just now referred, namely, 385 and 394, it may as well be possible for any over-zealous legislature of any State to legislate for these lands called *ryotwari* lands also, and it is as a matter of caution and prudence that I have moved this amendment.

**Shri K. M. Munshi** (Bombay: General) : Mr. President, Sir, I may mention that amendment No. 504 is of a verbal nature and is related to amendment No 505. If you will permit me I would like to move them together.

Sir, I move :

“That in amendment No. 369 of List VII (Seventh Week), in clause (5) of the proposed article 24, the words ‘Save as provided in the next succeeding clause’ be omitted.”

[Shri K. M. Munshi]

“That in amendment No. 369 of List VII (Seventh Week), for sub-clause (a) of clause (5) of the proposed article 24, the following sub-clause be substituted:—

‘(a) the provisions of any existing law other than a law to which the provisions of clause (6) of this article apply, or’.”

If the House is pleased to turn to the original motion moved by the Honourable the Prime Minister it will find that in clause (5) the words were “save as provided in the next succeeding clause, nothing, etc., etc..... Save as provided in the next succeeding clause” governs both sub-clause (a) and sub-clause (b). But it is not intended to govern sub-clause (b) and therefore it is necessary that that should be placed in sub-clause (a). The object of amendment No. 504 is to remove those words from the first line of clause (5) and to transfer that saving clause to sub-clause (a).

That is merely a verbal change and I do not think I need take up the time of the House by explaining it further.

I may also mention one matter which is a typing mistake, if I may so put it. It is this. In clause (1) after the words “the compensation is to be determined” the words “and given” are omitted. I hope in the Third Reading Stage or at a suitable time the words “and given” will be accepted.

**Mr. President** : There are amendments to that effect.

**Shri K. M. Munshi** : I do not wish to move No. 506.

**Shri Krishna Chandra Sharma** : (United Provinces : General) : Mr. President, Sir. I move :

“That in amendment No. 369 of List VII (Seventh Week), after clause (6) of the proposed article 24, the following clause be added :—

‘(7) The Parliament may by law in case the social and economic conditions so necessitate, provides for the socialization of any class property on such terms and conditions as provided in the law’.”

Sir, my amendment raises four questions. In the first place, there is no justiciability of the terms. Secondly, there is no mention of the compensation. My third point relates to the conditions prevailing—that is, economic and social conditions. The fourth is socialization. None of these things has been covered in the proposed draft of article 24 or in clause (6) thereof.

With regard to the first point, namely, justiciability, I beg to submit that despite the long list of Constitutional provisions cited by my Friend Mr. Naziruddin Ahmad, those provisions came on the statute book at a time when the conception of property was different from what it is today. The classical conception of property, as the conception of many other things, was the conception of something existing, something static whereas the present conception of property is dynamic. What the classical jurisprudence gave to the world was a juristic static; what the modern world gives in juristic dynamics. As the Honourable the Prime Minister said, property today means credit, promissory notes, securities. It is not gold and silver so much; it is not the women and children.

The present day conception of property is a functional conception. It is, its work, its movement. You cannot have property deposited in your house or hold it always in your possession without any regard to the question whether it serves any purpose, function or work whatsoever. The old conception of property today is an impossible one. So, two things arise. What is the function, work or place of the property as such in the social and economic structure of the society ? Secondly, what does the man who claims the property do with the property ? If the property does not help in the performance of any function or work and has no place whatsoever in the moving changes

and structure of society, then the property is nothing; it is a useless thing and nobody can make any claim to it as property. So, when it is said that these are dark days, that there is no light and that everything is being attacked, I would respectfully submit that there is light even in the night where in the nature there would be darkness, but you do not see the light because you shut your eyes to the things around you.

My respectful submission, therefore, is that Mr. Naziruddin's contention that compensation and justiciability find place in almost all Statutes has no force because the conception of property has changed, the situation has changed, the circumstances have changed and society from a static form—from a position of mere existence or place as it was—has passed on to one of dynamics, to one of changes and the old conceptions do not hold good in the present circumstances; so much so that the most property-conscious people of America who up till 1936 were sticking to certain conceptions, notions and old precedents of law changed them ever since 1936. For instance, measures like the Minimum Wages Bill, measures relating to the Hours of Work in the Factories, Welfare Acts and so many other measures which were once held to be invalid and as contravening the provisions of the constitutional law of America have after 1936 been held to be valid. And many other such measures will be so held because the judges interpreting them have changed and the whole conception has changed with the changes of time.

I will just give the provision from the 1919 Constitution of Germany. It is article 155. It says :

“The distribution and use of land shall be supervised by the State in such a way as to prevent abuse and with a view to ensuring to every German a healthy dwelling and to all German families, particularly those with many children, a dwelling and economic homestead suited to their needs. Special consideration shall be given in the framing of the Homestead Laws to persons who have taken part in the war.

Landed property may be expropriated when required to meet the needs of housing, or for the purpose of land settlement, the bringing of land into cultivation of the improvement of husbandry. Testamentary trusts are to be terminated.

The cultivation and full utilization of the land is a duty the landowner owes to the community. Increment in the value of landed property, not accruing from any expenditure of labour and capital upon the land, shall be devoted to the uses of the community.”

That is the conception of property expounded by Proudhon in the latter half of the Eighteenth Century, that is, every citizen has a right—a fundamental right—to the material which is necessary for production of his needs for existence. I quote from a book on American Constitution you know this Constitution makes the property question justiciable and it says not that a law court has the final word, but that the whole question of compensation can be taken out of the jurisdiction of the court. It says : “When private property is taken for a public or a semi-public purpose the constitutional requirement is that ‘just compensation’ must be paid to the owner. But how is that compensation determined? As a matter of practice the officers of Government first make their own valuation and offer the owner what they deem to be just. The owner, in most cases, rejects this offer and asks for more. Then by the usual process of bargaining, an agreement or some compromise figure might be reached. But if the owner cannot get what he believes to be fair compensation in this way he has an appeal to the courts.” This is important. “But it is allowable to have the decision made by an administrative tribunal, with no appeal to the regular courts on questions of fact, provided a fair administrative procedure is followed.” You will note that there is no regular appeal to courts on questions of fact provided a fair administrative procedure is followed.

So, Sir, the sacred right asked for by Mr. Naziruddin Ahmad as indispensable to the citizen, *viz.*, the right to go to the courts for compensation no longer exists anywhere in the world in spite of the fact that it finds a prominent

[Shri Krishna Chandra Sharma]

place in the Statute Books. In practice it is no longer possible for one to stand up and say: "This is my land; I will not leave it. I will have it at all costs" though it is required for building a hospital for the needs of children who are suffering from tuberculosis. Such an attitude cannot be taken up by anyone in the present-day world.

As regards compensation, I beg to submit that property is a human institution. You cannot enjoy property unless society permits you to hold it, to enjoy it. The right to property is limited by social conditions. I may illustrate what I mean. Suppose you have a job. You cannot reach your place of work unless you have the transport service made available to you by the State. So even your job you cannot attend unless the social circumstances help you and the transport workers labour for you. You cannot produce anything on your property unless the social conditions permit you. You cannot even hold that property unless your neighbour permits you and you cannot enjoy it unless the society agrees to your enjoying it. So, the institution of Property is a social institution conditioned by the social changes around you. Therefore you cannot dictate the terms of compensation when that property is required for some common purpose. Compensation means the will of the people as a whole. If society does not like you to hold that property, you cannot hold it. You cannot call this tyranny, because by its very nature property is a social institution and as such, even from the primitive times there has been such a thing as dominance of right in property by somebody else superior to you. In mediaeval times it was the King and in modern times it is held by the sovereignty of the people. So there is no such thing as property for you to claim as yours and dictate terms of compensation. Fair compensation depends on what use that property is put to and what function, it is likely to perform.

**Mr. President :** May I remind the honourable Member that this point has been emphasised by several other speakers ?

**Shri Krishna Chandra Sharma :** Sir, I have finished with fair compensation.

The third point I wish to mention is the social and economic condition. Sir, it is a new expression I have used. I have not found it anywhere in any of the amendments and I am in duty bound to explain the need for this expression.

Sir, with regard to the conception of property, I must point out that it should be regarded as the common need of man. No one should be able to stand up and say: "I want to do this and not that", because social forces are so overwhelmingly great as to make him do what they want despite his will. The situation has arisen when an individual could not do what he wants to do. A man now is made to do a job contrary to his own inclinations and is taken to a place where he does not willingly want to go. Times are changing. Forces are operating upon individual will. Therefore the situation has arisen when nobody can dictate or do what he wants to do or refuse to do what he does not want to do. Even sections of society cannot stand in the way of mass movements of progress. That being so, no individual can dictate terms as regards the property that has to be acquired or as regards the uses to which it may be put. It is the cumulative effect of human forces and the social forces that will remove all difficulties in the way.

My emphasis is, therefore, upon the social and economic conditions of the country as a whole. A tiny section of society, be it a ruler or a legislature, cannot dictate terms in contravention of what the social and economic forces demand. So I beg to ask you not to close your eyes and say, you see darkness. Darkness you see because you have shut your eyes. These social forces are operating somewhere. Be alive to the realities of the situation. Nobody can envisage where he would be some time hence. You could not imagine that you would be here where you are.

Therefore we should move with the times. If we do not move with the times, it will mean stagnation and death and we will be inviting disaster. It is only people who do not move with the times who say that there is darkness around them, there is immorality around them. there is no sanctity around them. Throughout the centuries changes have come, upheavals have come, revolutions have taken place and those people who could not adjust themselves to the changed circumstances were swept away. Things change and change and those people who are crying hoarse about the sanctity of property, about the sacredness of property and so many other fine things, get swept away.

**Mr. President** : You are not only repeating the other speakers but yourself.

**Shri Krishna Chandra Sharma** : My contention is, Sir, that social and economic conditions change and that we should have to move with the times. One more point, Sir.

**Mr. President** : You have still some more points ?

**Shri Krishna Chandra Sharma** : I only want to touch upon socialisation.

**Mr. President** : There have been so many speeches and so many amendments covering this point.

**Shri Krishna Chandra Sharma** : But socialisation has not been touched upon by any Member.

**Mr. President** : Then you ought to have spoken on this, instead of speaking on other matters which have already been touched upon.

**Shri Krishna Chandra Sharma** : I am sorry, Sir, but I would be very short. I beg to submit that ours being a democratic republic with sovereignty having been vested in the people, the people will have the right to do anything with property. In the beginning, property was a communal institution. Later on as things developed, and cultivation came into vogue, the land became an individual institution and became the property of individual who cleared away the bushes and made the land cultivable. Therefore he became the proprietor thereof. Now, the ways of cultivation and the ways of production having changed, it is good that in the interests of society and in the interests of the State, property should again become a communal institution. In the interests of social progress it is in the fitness of things that the institution of property, if circumstances so demand, should pass on from being the concern of the individual, from being the right of the individual, to being the concern and right of society as a whole. Sir, I move.

**Mr. President** : All the amendments which were on the Order Paper are finished. The proposition and the amendments are now open to discussion.

**Mr. Naziruddin Ahmad** (West Bengal: Muslim) : May I point out, Sir, that amendment No. 504 which has been moved by Mr. K. M. Munshi has already been covered by my own amendment No. 425 ?

**Mr. President** : May be I made a mistake in asking him to move it. Now the proposition and the amendments are open to discussion.

**Mr. Naziruddin Ahmad** : Amendment No. 504 is exactly the same as 425.

**Shri Kameshwar Singh of Darbhanga** : (Bihar : General) : Sir, I thank you for giving me this opportunity to have my say on this very important item of the Constitution. It embodies the principle and lays down the procedure according to which a private property has to be dealt with by the State when it is necessary to acquire it for public purposes.

It gave me a rude shock when I read the amendment proposed by no less a person than our Prime Minister and such legal luminaries and constitutional experts as the Honourable Shri N. Gopalaswami Ayyangar, Shri Alladi Krishna Swami Ayyar, Shri K.M.Munshi and the Honourable the Premier of the United Provinces.

[Shri Kameshwar Singh of Darbhanga]

I fail to understand as to how such eminent men could subscribe to the proposition that if a confiscatory law is passed after the commencement of the Constitution it is justiciable; whereas if such a law is either pending or has been passed before the commencement of the Constitution it becomes non-justiciable. I ask the House and the mover himself to consider whether such a discrimination is fair or just.

By excluding these two classes of legislations from law courts, is it not admitted by the authors of this amendment that the provisions of these legislations are so unjust and improper that they cannot stand the scrutiny of the Law courts? In fact, clauses (4) and (6) of the amendment contravene the letter and spirit of the general principles enunciated in the article and negative the recommendations of the Fundamental Rights Committee already adopted by the House and incorporated in the Draft Constitution. They permit even confiscatory legislation approved by the executive authority to go unchallenged and deny to a section of the people the protection which the Constitution affords to others. Does it behove such an august Assembly as this to discard principles and disfigure the edifice which is sought to be built on the four pillars of Justice, Liberty, Equality and Fraternity, by introducing inequitous discrimination? We know that the Constitution guarantees certain Fundamental Rights to all citizens and creates a forum for the protection of those rights. Now does it not betray lack of confidence even in the highest judicial tribunal of this land which will be set up to uphold the rule of law? I feel constrained to submit that I never expected that the eminent persons who are associated with the amendment would adopt this attitude.

Only the other day, H. E. the Governor General of India made a significant observation regarding the role of the judiciary in the democratic set-up of the country. He said:—

“It is by impartial interpretation of law and independent dispensation of justice between man and man and between State and subject that the judiciary holds aloft the banner of democracy which can sustain only by instilling the confidence in the poorest of the land that his wrong will be redressed and his justifiable grievances redeemed.”

Clauses (4) and (6) of the amendment, as the House will notice, deny the aggrieved party the right to go to the court of law and thus place the executive authority in the position of an autocrat.

I would like the House to appreciate that the underlying principles of the Constitution we are giving to ourselves guarantee the right of personal liberty and it is based on common rights and reason—the fundamental principle of all democracy. Now, is such a discrimination as is sought to be introduced by the amendment compatible with common rights and reason? Is it not tainted with prejudice and bias created by circumstances that have now changed?

I am aware of the fact that the Congress Party, which is in an overwhelming majority in the House, is pledge-bound to abolish the Zamindari system but it is equally pledge-bound to do so on payment of equitable compensation. Now, in implementing the first part of its pledge, is it not fighting shy of implementing its second part, by preventing the question of the abuse of power by State legislature in the matter of the determination of compensation from going to the judiciary? As Pandit Jawaharlal Nehru has himself remarked: “Parliament fixes either the compensation itself or the principles governing that compensation and they should not be challenged except for one reason. Where it is thought that there has been a gross abuse of the law, where, in fact, there has been a fraud in the Constitution, naturally the judiciary comes in to see if there has been a

fraud on the Constitution or not”, but so far pending legislations and recent enactments are concerned even for this limited purpose judiciary has been shut out. This distinction, I humbly submit, is extremely unfair.

Then again clauses (4) and (6) of the amendment discriminate (though not in so many words, but actually), between the provinces of Madras, Bihar and U.P. and other provinces, between Zamindari property and other kinds of properties and provide loopholes for provinces to enact confiscatory legislations, if they so desire before the commencement of the Constitution. The amendment in fact, has retrospective effect and takes away the justiciable rights even with regard to section 299 of the Government of India Act. The amendment enunciates a very vicious principle. It is vicious because it virtually discriminates between one kind of private property and another. It is vicious because it treats one section of the Citizens of the Indian Union differently from another. It is vicious because it sanctions virtual expropriation of private properties. I would humbly entreat the supporters of the amendments not to introduce the vicious principle in the Constitution. If they do so, what at present is misfortune for some of us, may be a misfortune for the country as a whole. The Congress Organisation has built up a career on great and noble principles. The destiny of the country has passed into its hands and it has great duties to discharge and heavy responsibilities to shoulder. I would implore the Mover of the amendment not to get anything done by the Assembly which might either militate against the principles adopted by the great Organisation or be contrary to the pledge given by it in pursuance of its principles.

**Mr. President** : There is, I find, some kind of humming going on around which disturbs, I believe, honourable Members as it disturbs me here and I would make an appeal to the Members to allow the debate to proceed in a way in which all can take interest.

**Shri Alladi Krishnaswami Ayyar** (Madras: General) : Mr. President, Sir, in Supporting article 24 as moved by the Honourable the Prime Minister, I crave the indulgence of the House to say a few words if only because in regard to some of the points covered by the article, I have not always seen eye to eye with the Honourable the Prime Minister and I have now without any mental reservation accepted his point of view.

*(At this stage Mr. President vacated the Chair which was then occupied by Mr. Vice-President, Shri V. T. Krishnamachari.)*

The expression “payment” in section 299 which is reproduced in article 24 of the Draft Constitution has given rise to some difficulty as it may lend support to the view expressed in certain quarters that payment imports payment in the current coin of the realm, not in bonds, not possibly even in instalments but payment immediately on the compulsory acquisition of property. Clause (2) as placed before the House omits any reference to payment as the expression “payment” has given rise to some difficulty in interpretation. The article now drafted merely provides that the law must provide for compensation for the property taken possession of or acquired. This, taken along with Entry No. 35 in the Concurrent List already passed by this House, which enables the Legislature concerned to provide for the manner of payment, removes all possible manner of doubt in regard to the question whether compensation need, be paid in the current coin of the realm and immediately.

The other portion of clause (2) which has given rise to a good deal of controversy is the import of the expression “compensation” in section 299 of the Government of India Act 1935 and article 24 as originally drafted which in substance is merely a reproduction of section 299. On the one side it has been urged that the expression “compensation” by itself carries with it the significance that it must be equivalent in money value of the property or the date of

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the acquisition, *i.e.* its market value. On the other side, it has been urged that taking the clause as it is which refers to the law specifying the, principles on which and the manner in which the, compensation is to be determined, it gives a latitude to the Legislature in the matter of formulating the principles on which and the manner in which the compensation is to be determined. In this context, it is necessary to note that the language employed in section 299 and that employed in article 24 is not in *pari materia* with the language employed in corresponding provisions in other Constitutions referring to the compulsory acquisition of property on payment of just compensation. The, expression 'just' which finds a place in the American and in the Australian Constitutions is omitted in section 299 and in article 24. There is also no reference to any principles and the manner in which the compensation is to be determined at all in the Australian or in the American Constitution- The principles of compensation by their very nature cannot be the same in every species of acquisition. In formulating the principles, the Legislature must necessarily have regard to the nature of the property, the history and course of enjoyment, the large class of people affected by the legislation and so on. There is the further point that the Legislature, in Schedule Seven, item 35 of the Concurrent List already passed by this House, is clothed with plenary power to formulate the principles and the manner of compensation.

It is an accepted principle of Constitutional law that when a Legislature, be it the Parliament at the Centre or a Provincial Legislature, is invested with the power to pass a law in regard to a particular subject matter under the provisions of the Constitution, it is not for the Court to sit in judgment over the Act of the Legislature. The court is not to regard itself as a super-Legislature and sit in judgment over the act of the Legislature as a Court of Appeal or a review. The Legislature may act wisely or unwisely. The principles formulated by the Legislature may commend themselves to a Court or they may not. The province of the Court is normally to administer the law as enacted by the Legislature within the limits of its power. Of course, if the legislation is a colourable device, a contrivance to out step the limits of the legislative power or, to use the language of private law, is a fraudulent exercise of the power, the Court may pronounce the legislation to be invalid or *ultra vires*. The Court will have to proceed on the footing that the legislation is *intra vires*. A constitutional statute cannot be considered as if it were a municipal enactment and the Legislature is entitled to enact any legislation in the plenitude of the power confided to it. As I have already pointed out, there is no item corresponding to Item 35 as already passed by this House in the Government of India Act 1935, which in terms confers upon the Legislature the power to formulate the principles of compensation and in any construction of article 24, this will be an important factor to be considered. I might mention I have formally indicated my view to the Honourable the Prime Minister even before the article was tabled for consideration by the House. In the view which I have indicated as to the main part of article 24, it may be possibly urged that clauses (2) and (3) apparently intended to deal with the U.P. legislation now pending in the U.P. Assembly are unnecessary. It was felt, however, that, having regard to the fact that a most well-considered opinion by its very nature can be no guarantee against a different view being taken by the highest court in the land and the magnitude of the problem, it was thought desirable in the best interests of all concerned to give a quietus to litigation and that is the reason for the insertion of clauses (2) and (3) in the article.

Clauses (2) and (3), as I have already pointed out are primarily intended to deal with the U.P. legislation now pending in the U.P. Assembly and expected



to go on till after the new Constitution is passed. The two clauses provide for the.....

**Mr. Naziruddin Ahmad :** It must be clauses (4) and (6) not (2) and (3)

**Shri Alladi Krishnaswami Ayyar :** I am obliged to you for that.

The two clauses provide for the reservation of the Bill for the consideration of the President and the President exercising his judgment and giving his assent to the measure. The President is expected to see that the Bill conforms to the main scheme of article 24 and unless the measure is in compliance with the principles as to compensation appropriate to the nature of the subject-matter dealt with by the legislation, he is not expected to give his assent to the measure. The assent of the President in the context and under the circumstances is not a formal assent. If he is, satisfied that the Bill has not done justice in the sense and to the extent. I have already indicated to the proprietary right of the people who are deprived of their property it will be his obvious duty to withhold assent.

Instead of leaving the matter to be litigated in courts and having regard to the large class of people that are likely to be affected by the legislation, the delay, the trouble, expense and misery that might result from the matter being canvassed in different courts, a conclusive effect is given to the legislation as a result of the President's assent. I am not acquainted with the details of the U.P. measure and I am not in a position to pronounce upon the justice or otherwise of the measure. A reference is made in the clause to a Bill because it is expected in the normal course that the Bill would not pass into law but would be pending when the new Constitution is passed. An appropriate provision may have to be possibly made in the transitory provisions to the effect that a Bill pending on the date when the Constitution is passed may be taken over and continued even after the new Constitution comes into force.

The last clause is obviously intended to deal with the Madras Estates Abolition Act and the Bihar Act. Already notices have been given challenging the validity of the Act. The Act itself is admittedly incomplete in several particulars even according to the views expressed by the Madras Government and possibly defective. The position as taken up by the Madras Government is to the effect that they are authorised under the provisions of the Act to notify several estates and take possession of them without paying any compensation as a condition of their taking possession. It is alleged on behalf of the Government that under the provisions of the Act, they can take their own time for the payment of compensation until after the survey and settlement operations are over which may take several years. The Government have not paid even a portion of the compensation simultaneously with their taking possession of the estates and it is stated that they are advised that they cannot pay compensation even on agreements being executed by the landholders to the effect that any amount paid may be adjusted as against the compensation that might ultimately be found due. The Act provides for rules being made in regard to certain matters connected with the payment of compensation and it was given out in the papers that at the time when the assent to the Madras measure was given it was on the understanding that the rules would be made as early as possible and that the same would be placed before the Governor-General. The non-enactment of these rules however, according to the view of the Madras Government does not stand in the way of their taking immediate possession.

From the papers, I gather that notices of suit have been served by some of the landholders challenging the validity of the Act. If under these circumstances the law is allowed to take its own course and the various proprietors affected are to start litigation, it will take several years before this issue is

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finally settled by the Supreme Court. To say the least, there can be no certainty about the chances of litigation in courts. One court may decide in favour of the Government. Another court may decide in favour of the proprietors. Clause (6) is intended to give a quietus to all future litigation by providing for a certification by the President. Having regard to the large classes of people affected by the legislation, the future of agriculture and the agricultural prosperity in my province, I accord my full support to clause (6) as moved by the Honourable the Prime Minister. On several occasions I have expressed myself against the Madras measure and I might mention that I am a small proprietor who is vitally affected by the Madras legislation. If the matter is viewed merely from the technical point of view, the proper course may be to have section 299 of the Government of India Act 1935 amended in an appropriate manner or the law passed by the Madras legislature may have to take its own course until the decision of the final court of appeal. But, I felt that the clause as moved by the Honourable the Prime Minister enabling the Government to seek the certification of the President will put an end to litigation. The President would and could grant the certificate only if on examination of the provisions he is satisfied that the measure conforms to the provisions of the Constitution and the landholders affected are getting as speedily as possible a fair and equitable compensation, taking all aspects of the matter into consideration, for the property of which they are deprived. If the President suggests an amendment and the Government or the legislature concerned do not choose to accept the suggestions as to the amendment, it will be the obvious duty of the President to withhold certification and the matter will have to be fought out in a court of law. I do not believe that a Ministry with a sense of responsibility will choose the latter course of fighting out the matter in a prolonged litigation, instead of remedying the defects if any pointed out in a speedy and easy manner. It is in the firm belief and hope that wise counsel will prevail and that the Government will take a broad and just view of the matter that I am supporting the clause as put forward by the Prime Minister.

A few words on the general aspects touched by the Honourable the Prime Minister. Though a lawyer by profession, I may claim I have never approached law in a legalistic spirit. Law according to me, if it is to fulfil its larger purpose, must serve as an instrument of social progress. It must reflect the progressive and social tendencies of the age. Our ancestors never regarded the institution of property as an end in itself. Property exists for Dharma.

*(At this stage, Mr. President resumed the Chair.)*

Dharma and the duty which the individual owes to the society form the whole basis of our social frame-work. Dharma is the law of social well-being and varies from Yuga to Yuga. Capitalism as it is practised in the West came in the wake of the Industrial Revolution and is alien to the root idea of our civilisation. The sole end of property is Yagna and to serve a social purpose, an idea which forms the essential note of Mahatma Gandhi's life and teachings. In the fervent hope that the amendment will further social progress of the teeming millions of the agricultural population of this country, I accord my whole-hearted support to the proposition as put forward by the Honourable the Prime Minister.

**Shri Syamanandan Sahaya :** (Bihar: General) : Mr. President, Sir, I stand here with a certain amount of trepidation, not being quite sure of what reception my view-point will receive this morning.

**Pandit Balkrishna Sharma :** (United Provinces : General) : Do not worry.

**Shri Syamanandan Sahaya :** I have however sufficient confidence in the wisdom, the sagacity and the prudence of this House not to deter me in spite of Pandit Balkrishna Sharma to express myself freely and frankly on the issues that are at present under consideration in this House.

**Pandit Balkrishna Sharma :** I was only encouraging the honourable Member.

**Shri Syamanandan Sahaya :** Sir, it is fortunate in many respects that the amendment has been brought up by the Honourable the Prime Minister of India, fortunate in the sense that he is endowed with the gift of transcending all formalities, and false notions of prestige in achieving an objective, in accepting a proposition even if it runs counter to his own and unfortunate also in some respects because the scale against the proposition which I am placing before you has been very much over weighted indeed. I shall, therefore, proceed with the handicap but in the hope that my appeals will receive in proper quarters the consideration that they deserve. Even though Panditji is not present in the House at present, I understand he has placed the portfolio in the hands of another able man—that of the Premier of the United Provinces of Agra and Oudh. I shall make a special request to him to consider the few points which I raise in this House and to give it such consideration as it properly deserves.

A lot has been said in this House about private property, about changing conditions, about the impact of time, about the forces that surround us. I have heard them all with great respect and great attention. But without commenting in any great detail on them, I would like to tell this House that the recognition of the right to private property was a thing that was evolved as society grew up. It was not something which dropped all on a sudden from the high skies and in fact the recognition in olden times of the right to private property was a recognition of the principle of right over might. Friends might not agree with me. It is not my purpose here to detain you long over this controversy and perhaps now a hackneyed question; but even so I would be failing in my duty. If I did not impress on you the fact that it is really not so simple as some critics think to come here and say that this theory of private property is an exploded one. Whether we like it or not, whether we accept it or not, the fact remains that if you dispose of property as something not deserving of consideration. You really go back to the 'Might is right' theory. It might have at one time the physical might—today it might be the numerical might.

I fully concede that socialisation of the means of production is a sure and certain stage in the evolutionary process. It must come. My only quarrel is with those who want to take it away from the evolutionary process and desire to bring it by revolution. I disapprove of the methods which seeks to hustle it into being. Sometimes my socialist friends begin to act in this manner and behave like the young man in a hurry, with the great risk of not only missing the bus but also missing the ceremony at the Church. It requires a great technique to decide what is the proper occasion for bringing about this important change in the structure of society. If you pluck a mango a day too soon, before it is thoroughly mature you lose the sweetness, the fragrance and the flavour of it, although you might have the satisfaction of possessing the mango and eating it too. I claim that the time for taking up that great stride, for socialisation and nationalisation of all means of production is not yet come. It has accepted by some of the greatest thinkers of socialistic theories that individual enterprise must have its fullest play before you can adopt socialistic methods and socialist means of production.

I ask every friend, I ask every sincere friend to whom the country, and not a slogan, is dear whether really we have moved forward to an extent where it might be possible for us to distribute the wealth of the country. Today if we

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start distributing in the words of the Honourable Prime Minister, the mover of this amendment—it will be distributing our poverty alone, for that is what we possess. Man in the ultimate analysis must be the sole consideration and not only man but man with his psychological bearing. If you remove the incentive of the development of private property, you reduce the man ultimately to an automation. You may have some results to begin with but I feel confident that it will not stand the test of time. Even in countries where this method was adopted, people are beginning to visualise that it is useful to allow the man to have some private property and some incentive for the development thereof.

Now let us take the land problem. I concede that the position with regard to socialisation and nationalisation of land is not the same, is not on a par with that of industries. Industries have not been worked enough but land has been. Our difficulty however is that once we start on this errand, we frighten others and then we do not know where to cry halt. Suppose you eliminate a few zamindars what happens next ? The wealth of the land is still concentrated in the hands of a few as compared to the very large number who are still landless. The question therefore which I might ask is how long, how often and to what extent are we willing to go to bring about the equilibrium.

Some friends have characterised property as theft. Sir, this I attribute to ignorance. They do not realise that most of the property held now is really purchased property, whether it be landed property or otherwise. Land was the safest investment till a ago and the hard-earned savings of the people were invested in land. It was supposed to be an insurance against old-age, against sudden calamities, for widows and for orphans. It is another matter if we decide upon taking away those properties; but let us not go to the extent of characterising property as theft. That, in my humble opinion, would be a very wrong conception of property as it has evolved.

Another friend from Madras seemed to think that he had made a great point by saying that zamindars who started with an income of Rs. 40 lakhs in that province were now having an income of Rs. 240 lakhs. But let me point out to my friend that he has taken only one figure, namely, the figure of income at the time the zamindari settlement was made and now. If he had only cared to see another figure, then he would have been satisfied that he was not making any point at all. That figure is the figure of the land under cultivation at the time of the zamindari settlement and the land under cultivation now.

**Shri Kala Venkata Rao :** (Madras : General) : I know these figures, but can the honourable Member enlighten me how this will improve the situation ?

**Shri Syamanandan Sahaya :** I hope to be able to convince my friend a little later and show how it will improve the situation. If he had ventured on that enquiry, he would have found that land under cultivation now is much larger than what it was. Might I ask how all this land came under cultivation? Was it by a magic wand ? It might be contended and perhaps rightly, that it was due to the tenant, the tiller of the soil. I concede that. But who provided the wherewithal ? These, Sir, are questions which I think must be taken into consideration by those whom Providence, today has placed in authority to consider what developments, what procedure, what changes should be brought about in the revenue system of this country. Luckily, Sir, for the zamindars, there are two types of land revenue systems in this country. One is the *ryotwari* system where there are no landlords and the other is the zamindari system. If you compare the condition of the tenantry of both these types of land revenue systems, if you compare the rent payable by the tenants under the *ryotwari* system and the rent payable under the zamindari system, you will

find that the condition of the tenantry in the ryotwari areas, is in no way better than that in the zamindari areas. I am quoting, Sir, from a commission known as the Floud Commission in Bengal which ultimately decided upon the abolition of zamindari. Even they made it quite plain that the condition of the tenantry was in no way better in the ryotwari area. You will be surprised if you compare the rents in the ryotwari areas with the zamindari areas, In the Province of Madras, the average rent varies from Rs. 6 to 7 per acre and for wet lands it varies from Rs. 10 to 12 per acre, average; whereas in the permanently settled zamindari area in Bihar, Bengal and other places the rent is between Rs. 3 to 4 per acre.

**Shri Biswanath Das (Orissa : General) :** Sir, I rise to a point of order. It is this. We are here discussing the question whether or not to have article 24 which is a rider on item No. 9 of the State List in Schedule. Seven. There is no Bill relating to the acquisition of zamindari lands pending before us now to be discussed so as to compare and contrast the levels of rents in Zamindari and ryotwari lands. Therefore, such comparisons and discussions are out of order.

**Mr. President:** Other speakers have dealt with the question in a general way and I cannot prevent a representative of the zamindars from putting forward his view-point.

**Shri Syamanandan Sahaya :** Sir, as a matter of fact, the real position is this. Article 24 is being considered and it deals with compensation for private property, and it has been suggested more than once that compensation need not be given and that right to private property need not be respected. Land is one kind of private property. Therefore, apart from the consideration that other people have spoken on the subject, I think I am entitled to speak and say that private property should be respected and full compensation paid in case of acquisition.

**Mr. Naziruddin Ahmad :** It has even been maintained that zamindari is no property.

**Shri Syamanandan Sahaya :** Now, Sir, there is another kind of private property and that is industry. We have heard a lot about industrialists having made a lot of profits. Our friends and critics have only given attention to the profits which industries or the industrialists are making, but have they considered what they do with these profits ? If I may say so, the answer is simple—mills and more mills, In fact if you wanted to describe the present day capitalists in this country, you can give no better or worse description of them than call them the members of a “Mill Multiplication Society.” I ask my friends to consider whether this is a good or bad for the country. We are faced with tremendous difficulties. Every day we hear that there must be full production and more production. How is that to be achieved overnight, if we begin socialising all means of production and give no chance to private enterprise to do its best?

I must, therefore, Sir, congratulate our leaders on their sticking to the property rights and guaranteeing them under this Constitution. While I do so, I have a feeling that the new draft of the compensation clause aims at a certain amount of discrimination not only between property and property, but also between the same type, of property. Whatever my Friend Mr. Biswanath Das from Orissa might say, the fact is, and it was made quite clear by the honourable Mover in his speech yesterday, that clauses (4) and (6) have been incorporated in the draft with the sole purpose of meeting the case of certain Bills and Acts in certain provinces. If Mr. Biswanath Das had cared to follow things in this country he would have known that they relate to land only.

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In this draft, we find an attempt to fight shy of our own judiciary. It is an accepted principle all over that the judiciary is the ultimate custodian and guardian, and the strongest bulwark of democracy. Would it therefore do, Sir, in the very beginning of our Constitution to lay down a procedure by which we might show, in howsoever small a measure, any disregard of or want of confidence in our own judiciary ? There is no denying the fact, there is no need of emphasising the point that the judiciary cannot take over the powers of a legislature. It simply cannot. The judiciary can only interpret your law and interpret your law in a just and fair manner. Would it be wise at this stage, I may ask, would it be wise to make a provision with a view to clearly oust the jurisdiction of courts ? Some grounds have been placed before us for this, and same difficulties have been pointed out.

Let us however not forget that the vital difference between democracy and other forms of Government like autocracy, oligarchy, etc., is that the democratic system of Government provides for fair and impartial justice not only between citizen and citizen but also between the citizen and the State. And what is the system that has been evolved for this purpose? I know of none else than the judiciary. I, therefore, submit that it will be, wrong to concede, and to lay down, that the jurisdiction of law courts should be ousted for any purpose.

Now, Sir, the difficulty which has been envisaged by the Honourable the Mover is mostly what he calls 'dilatatory and financial'. The Mover in his speech said that "if we allow these Acts to be considered by law courts it will involve us in such prolonged litigation that we shall never be able to carry out any reform at all and if we pay compensation according to market rates we shall never have the financial wherewithal to undertake zamindari abolition"—I respectfully differ from him. The Government cannot be deterred by any prolonged litigation for the simple reason that the Government can any moment make a legal provision that they shall pay whatever compensation they consider fair, but if later on the courts decide that a higher compensation should be paid the Government will pay it. This is no new procedure; it is already followed under the Land Acquisition Act. The Land Acquisition Officer makes an award, takes over the property and if ultimately the judges decide that more compensation should be paid the extra amount is paid to the party. Therefore, the question of prolonged litigation should not stand in the way of the reforms that we propose to undertake in the matter of land in this country.

Now, let us take the financial aspect. Of the three provinces with which we are at present concerned and for which I am told clauses (4) and (6) have been particularly drafted, we find that in the case of Madras there is no financial difficulty at all as the Honourable the Prime Minister and the Revenue Minister of Madras have made it quite plain on more than one occasion. The total financial requirement according to them is only about Rs. 15 crores, which for a province like Madras ought not be difficult to find if not in one year, at best in two or three years. In the United Provinces the Honourable the Premier and the Members of his Cabinet have evolved a scheme which, I suppose, is going to bring them more money than they would require to pay the zamindars. It will be a kind of what you call an improvement trust scheme where ultimately the trustees gain rather than lose. In Bihar the position, in my opinion, is comparatively simple, because the Government there desire to take up for acquisition larger estates to begin with and with the sayings made from them, they propose to acquire smaller estates. They have even made a statement to the Government of India that they do not at present (perhaps

I am using the word “at present” as my own and not that of the Government of Bihar) propose to take over zamindaris of less than Rs. 5,000. If that is so, the problem of payment of compensation even in Bihar is not a difficult one.

I submit, therefore, that neither the prolonged litigation problem, nor the financial problem is so difficult that without making a provision of the nature, I have been discussing here, in the Constitution, it will not be possible to undertake land reforms.

Sir, I believe our administrators may be genuinely and sincerely apprehensive of these difficulties. If the proposals are the same today as they were, I feel no apprehension whatsoever in any of these Governments undertaking the land reform even with the financial resources that they possess.

Let us now see how the country and the Congress have been looking at the zamindari problem and the compensation to be paid in case of acquisition. I have no doubt that you will be aware that as late as the year 1915 the All India Congress passed, a resolution which I would like to read out for the information of the House.

It runs thus :

“This Congress is strongly of the opinion that a reasonable and definite limitation should be put to the demand of the State on land and that Permanent Settlement be introduced in an areas, ryotwari or zamindari, where that settlement is not in force, or a settlement for a period of not less than 60 years be introduced “

Some friends, Sir, seem to think that 1915 has long gone by and that I am harping on something which is long since dead and gone. But I feel that it would not be wise not to consider the opinions held only about 35 years ago particularly about such an important matter.

However, coming to recent times I may recall to you, Sir, a statement made by Sardar Patel as late as 1939, at Brindaban, where you and Mahatmaji were also present. Referring to the abolition of zamindari system the Sardar maintained that the national and economic salvation of India did not lie in it. The Congress Manifesto, though it advocated the elimination of the intermediaries between the State and the tiller of the soil, recognised—I am using the language of the resolution—‘that the rights of the intermediaries should be acquired on payment of equitable compensation.’ As late as 1948 and 1949 (on the 6th of April in both years) the Honourable the Prime Minister of India made two policy statements in both of which he clearly stated that any acquisition of private property would only be on the basis of fair and equitable compensation. Equitable compensation therefore seems to be a recognised fact.

What is really perplexing to me is who is to decide what is equitable compensation. The State is taking over the property; the citizen is involved. Will the State be the final arbiter ? The State may set up any machinery for determining equitable compensation, but it has to be other than the Government itself. An honourable Friend speaking a few minutes back said that some kind of administrative tribunal might be set up. We have nothing to say against it. But where it is a matter between the State and the citizen some machinery, be it judicial, or be it an administrative tribunal, should be devised which would decide what equitable compensation is.

Now, Sir, let us come to the Constituent Assembly itself and scrutinise the views expressed and the principle accepted here. In the Objectives Resolution which we passed here we laid down quite clearly what the constitution will strive for and what it will guarantee to the citizens of the State. It guaranteed among other things equality of status before the law. Now, Sir,

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if we, weight clauses (4) and (6) of this draft on the scale of this guarantee, I have no doubt the House will concede that there is no equality of status so far as clauses (4) and (6) are concerned. It does not even give us an opportunity of going before a court of law, much less claiming any equality before it. And for what? Not for considering whether the compensation is fair or not. Only clause (2) lays down the principle of payment of compensation. At no other place have we said that compensation shall be paid. And clauses (4) and (6) say that "the law so assented to shall not be called in question in any court on the ground that it contravenes the provisions of clause (2) of this article". Now, the contravention might be of the entire principle of compensation. Even if a province, for instance, decides not to pay any compensation, such contravention cannot be taken to a court of law. The other day the Honourable the Prime Minister speaking on this particular part of the draft said that it has been provided that if there is a fraud on the Constitution the matter can be taken to court. I will appeal to the legal luminaries present in the House and particularly to the Honourable Prime Minister of U.P. to consider whether clauses (4) and (6) leave any room open for a party to go to a court even if no compensation is paid by the legislature. If that is the position I submit that I have made out a strong case for amending this clause, if not for completely deleting it.

This point has been further clarified in discussions in this House and in clause 13F, where we have guaranteed the "acquiring, holding and disposing of property" and further on in article 15 of our Constitution where we have guaranteed "equal protection of law" to everybody. I might ask; Is it equal protection of law to deny to one class of zamindars the right of justiciability with regard to the right of compensation for their acquired property and to give other zamindars—of other provinces—the same right? The fact of the matter is that only three provinces are affected. If, suppose, C.P. or Orissa or Bengal bring up a Bill for acquisition of zamindari later on, the zamindars of those provinces will have the protection of law. They shall have the right to go to a court and seek justice. On the other hand we in Bihar, U.P., and Madras are being denied that right. I might ask this House is it really "equal protection of law"? This, we have guaranteed; this we have already passed. Some friends might get up and say "Well, Sir, this House is a Sovereign Body and we can do anything". I would humbly point out to such friends that this House might have the right to make a foot of itself, but wise men will always counsel the House not to make that attempt. Sir, this is an important thing which we are incorporating in clauses (4) and (6). Even the amendment which Mr. Munshi had tabled, namely, that the President before certification may return the Bill for such amendment as he might consider necessary has not been moved by him. It therefore comes to this that President has either to accept the Bill or reject it. And it will be exceedingly difficult for any President to reject the Bill wholesale. I ask the Honourable the Premier of U.P. and other friends: Is it not right that some such provision must be made here which should authorise the President to give to the Legislature concerned his advice and opinion? Will it be fair to leave him only with the option of either accepting or rejecting it? I thought that on the very fact of it, it was a proposition which could not be accepted. And there is time yet.

**Shri Alladi Krishnaswami Ayyar :** I thought that it was implicit in the provisions.

**Shri Syamanandan Sahaya :** There are many things which are implicit, but we want to make some things explicit also. I submit that this is a point which deserves serious consideration. The time has not been lost yet. I think there is still time when some such amendment to these clauses could be brought up, and with your express consent it could be done even now.



I know, Sir, that I have already taken a great deal of your time. But I would like to recapitulate our commitments before I conclude. As I said, there is the Congress Manifesto, the Policy Declaration by the Honourable the Prime Minister only in April 1949, the Objectives Resolution, the Fundamental Rights Committee Report where we have clearly accepted the principle of acquisition only on compensation, which we are not deviating from in clauses (4) and (6). Then there are articles 13 F and 15 of our draft Constitution guaranteeing clearly that there shall be equal protection of the law for all citizens. Although perhaps it may be considered as a suggestion late in the day, I will submit that there are already amendments for deleting clauses (4) and (6) and it might be open to the authorities to consider the suggestions which I am making, even at this stage.

As I have said just now, the certification of the President gives him no option and I think it will ultimately come to this that he will have to accept the Bill. As you have given, Sir, twelve hours for the discussion of this matter I do not think I have, by the socialistic procedure, had enough time wherein I could place the point of view of zamindars. However, I will conclude now. But before I conclude I will again appeal to the authorities to consider the points which I have made not merely in the interests of zamindari but in the general interest of constitution-making. I am reminded here of an important point made by the late revered Pandit Motilal Nehru while he was arguing the famous "Searchlight" Defamation Case. He said it was not only necessary for the judiciary to lay down good law but it was equally important for it to create the confidence that the judiciary were laying down good laws and the interest of the citizen was safe in its hands. Sir, it is more important for the Legislature and even more so for a Constituent Assembly that we, should lay down only such law as will appeal to all sections of the people as being fair, just and equitable. I plead with the House to accept my suggestion for deleting clauses (4) and (6). If, however, I am not able to secure the approval of the House for my suggestion I shall content myself by exclaiming with Lord Byron that "my only solace is that our tyrants are after all our own countrymen".

**Pandit Balkrishna Sharma :** Mr. President, Sir, it is a curious thing that this proposition which has been moved by the Honourable the Prime Minister and supported by no less a jurist than Shri Alladi Krishnaswami Ayyar should have evoked a sort of conflicting opinion and emotions in this House. There are many zamindar friends here who are opposed to it because they think that there is something in this article which tries to tread upon their toes. Then there are other men like me who are really opposed to this amendment moved by the Honourable the Prime Minister because we think that this leaves certain loopholes which may make it difficult for our State—either provincial or Central—to do things with speed for the public weal and for the common good. Here we have laid down certain principles which cannot be justified on the grounds of the greatest good of the greatest number. Clause (2) of this article definitely lays down that for public purposes acquisition of property can take place but that acquisition cannot take place without laying down the principles for paying compensation or actually making payment for the things acquired. When this article says : "Property taken possession of or acquired shall not be taken possession of or acquired unless the law provides for compensation for that property or it fixes the amount of the compensation or specifies the principles", it clearly means that we are here leaving a loophole for a sort of legal quibbling. Shri Alladi Krishnaswami Ayyar has very definitely told us here today that this clause does not empower anyone to go to the court and question the decision of the Government on the ground that the compensation paid is inadequate or that the principle laid down is in any way inequitable or fraudulent. That is what the eminent jurist Shri Alladi Krishnaswami Ayyar told us.

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Now, if actually it is so, then why should we not accept the amendment which has been moved by my sister Shrimati Renuka Ray ? In that amendment she has tried to clarify the issues by saying definitely that no law making provisions as aforesaid shall be called in question in any court either on the ground that the compensation provided for is inadequate or that the principle or the manner of compensation specified is fraudulent or inequitable. If really clause (2) of this article means what Shri Alladi Krishnaswami Ayyar says and what other jurists maintain, I think there is no reason why the Honourable the Prime Minister should not accept Shrimati Renuka Ray's amendment which makes the matter clear beyond any shadow of doubt. That is my first suggestion about the proposition before the House. As it stands the clause leaves several loopholes. That being so, all our protestations about either the judiciary stepping in or our making the judiciary a third chamber and things of that sort will do us no good, because the proposition as it stands is capable of being interpreted by interested persons in a manner which will put almost insurmountable obstacles in the way of social progress. Therefore, my submission is that while accepting this proposition we must also at the same time accept the amendment of Shrimati Renuka Ray.

If I have understood this article, it only means that we are hereby laying down the principle which will facilitate the activities of the State in the direction of doing some things for the common good and that no private interest shall be permitted to stand in the way of achieving that common good. This is, I believe, the essence of this proposition:

सर्वे भवन्तु सुखिनः सर्वे सन्तु निरामयाः।  
सर्वे भद्राणि पश्यन्तु मा कश्चित् दुःखभाग भवेत्॥

*Sarve bhavantu sukhinah, sarve santu niramayah  
Sarve bhadran pashyantu ma kashchit dukhbhag bhavet.*

This is what we want to achieve. Let everyone in society in this world, be happy. Let none suffer from any illness. Let everybody develop the capacity to see the truth and let nobody be unhappy. This is the prayer which has arisen from the enormous depths of Indian thought and this is the prayer in which we have believed from time immemorial.

Sir, this article I think is an attempt to embody that prayer and to make the way clear for the Government to bring about changes in our social and economic structure. But, as I have pointed out, clause 2 is defective. If it is not, as Shri Alladi Krishnaswami Ayyar says, then there seems to be no need for clauses (4) and (6). If actually we have placed the principles laid down in the article beyond the jurisdiction of the courts of law, then clauses (4) and (6) are absolutely unnecessary. But we have brought in these clauses simply because we wanted to ensure certain social legislations which are on the anvil or may be on the anvil in the United Provinces and in the Presidency of Madras. Therefore we think that there may be something in clause (2) which may militate against our efforts in this direction. Now if we are here discussing that proposition with such reservations, then I would beg of the House not to do so and to make it absolutely plain beyond any shadow of doubt by accepting the suggestion put forward by Shrimati Renuka Ray.

Many questions have been raised here about property there were questions about the sanctity of private property; questions about private property being an incentive for work and for development of society and also questions about the undesirability of bringing on the Statute Book laws which will take away that incentive which an individual would feel only if he is assured that his

private property shall not be touched. These are questions which raise fundamental issues. The one fundamental issue now before the House is what sort of social concept we shall have and what sort of social concept we shall not permit to be incorporated in our Constitution : this is philosophy more than anything else—philosophy behind a certain idea or a certain line of action which ultimately influences the conduct of society as a whole. We have seen that in the early nineties the idea brought by Darwin—Survival of the fittest—was accepted as true. This truth was borne out by biological developments and by the observations of those scientists who for the first time brought before society the theory of evolution, that nature was red in tooth and claw and that it was only the fittest who could survive and that it is war to the knife. Now, this philosophy, this idea, got hold of the mind of the Westerner to such an extent that everyone of the nations there tried to be the fittest by way of increasing their armaments, with the result that within twenty-five years or thirty years two devastating wars engulfed them, overtook them. We have to see whether that concept of society, that the fittest alone will survive, was right. Subsequently we have found that it is not only the principle of the survival of the fittest that was working in nature but also that the principle of mutual aid was there, that whereas nature was red in tooth and claw, yet nature was mother also, that nature knew how to fondle the child, how to render help to the helpless, and that those principles also were working in nature. Similarly if we today stand up here and say “No, property is sacrosanct, property shall not be touched and any attempt to touch property will violate the principles which have been sanctified by tradition”, then I ‘would like this House to know that this is not the way in which your forebears looked at this question. You must remember the famous saying in the Bhagavad Gita—

यज्ञ शिष्टाशिनः सन्तो मुच्यन्ते सर्वकिल्बिषैः  
भुञ्जते ते त्वहं पापा ये पचन्त्यात्मकारणात्॥

*Yajna shishtashinah santo muchyante sarv kilbishaihi.  
Bhunjate te twagham papa ye pachantyatma karnat.*

The *Gitar* has definitely stated that they are thieves and sinners who have only their own comfort before them in acquiring property and who forget that ultimately the whole society has been created with the spirit of Yajna, with the spirit of sacrifice, with the spirit of mutual aid. As you know, the *Gitar* has very definitely stated—

सहयज्ञाःप्रजाः सुष्ट्वा पुरोवाच प्रजापतिः।  
अनेन प्रसविष्यध्वं एष वोडस्त्वष्ट-कामधुक्॥

*Sahayajna praja srishtwa purovach prajapatihi  
Anena prasavishyadhvam eshawo stwishta Kamadhuk.*

Prajapathi created this whole universe.....

**Mr. President** : I am afraid the honourable Member has become too philosophical for the House. Let him confine himself to the Resolution.

**Shri Kala Venkata Rao**: Being so conversant in Sanskrit, I hope that he will be prepared to support Sanskrit as the national language

**Pandit Balkrishna Sharma** : Knowing as I do that the honourable Member is a Sanskrit Pandit, I am prepared to let him have advantage over me. However, as I said, Sir, the idea behind all this is that the whole society has been borne with the spirit of sacrifice and, therefore, if anybody, whether he be a zamindar or a capitalist, stands up in the House and says that his rights are to be safeguarded, are to be protected, then I think he is not true to his own traditions, to his own spirit of the past, which has sustained him throughout the dark ages, and therefore to my zamindar friends I would say, do not look at this question in a petty fogging manner.

We, as a State, we as a political party, have a great responsibility upon us. If we make the acquisition of certain properties justiciable and the acquisition

[Pandit Balkrishna Sharma]

of certain other sort of property non-justiciable, then we will be laying ourselves bare to the attack that we are here definitely giving a sop to one section of the society, the capitalist section of society. Does clause (2) mean that we are keeping the door open for the capitalist to go to a court of law and claim that the principle on which compensation has been decided is fraudulent or that the compensation which has been given is not adequate or equitable ? Is this the meaning clause (2) If this is the meaning, Sir, then I beg to submit we should not be surprised if our opponents come and say that we are acting as mere stooges of the capitalists. If we do not mean it, then we must say in no uncertain terms that no law which makes such provision for the acquisition of property for social purposes shall be called in question in any court either on the ground that the compensation provided for is inadequate or that the principles on which that compensation is to be paid are fraudulent or inequitable. That is what I want to submit. If we do not make this clear, then I think we are paving the way for very serious consequences to overtake and invade us. With these words I oppose the motion and I request the Honourable the Prime Minister to accept the amendment which has been moved. With that amendment, this will be an ideal proposition before the House and therefore I will have no compunction in giving my full-throated support to the proposition, but unless this point is made clear, I cannot bring myself round to the view that this should be accepted by the House.

**Shri Jagannath Baksh Singh** (United Provinces : General) : Mr. President, Sir, I move an amendment for the deletion of clause (4), but according to your ruling, and in view of the fact that general discussion has commenced, I shall speak in general mainly on clause (4). I am equally opposed, I may submit, to clause (6) of this amendment, but as I understand that there are several honourable Members who know better about that clause, I shall only endorse their arguments and not speak to the House on that aspect of the amendment.

Sir, compulsory acquisition of property has hitherto been governed by the provision of section 299 of the Government of India Act, 1935 as adapted by the Indian Independence Act and the consequential orders. This section has, not so far been taken into use in acquiring property. I think the property so far compulsorily acquired has been under Act I of 1894, *i.e.*, the Land Acquisition Act. Regarding the main question of justiciability of rights, there are two provisions in section 23 of this Act which I may mention here. Section 23 Sub-section 1 provides that market value shall first be taken into consideration in determining the compensation for the land acquired; Sub-section (2) further lays down: "In addition to the market value of land as provided above the court shall in every case award a sum of 15 *per centum* on such market value, in consideration of the compulsory nature of the acquisition."

Over and above this, there is a proviso attached to section 35 of the same Act which reads thus : "In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof; the Collector shall refer such difference to the decision of the Court."

These, Sir, are the provisions for "adequate" or perhaps more than "adequate" compensation for the acquisition of property under an Act enacted by what might be called an executive-ridden body of legislators, and being worked under a constitution which is based on the principle of the supremacy of the executive over the judiciary.

Is it not a contrast full of ironical significance that this constitution which is streamlined for its respect for the Rule of Law, which claims to guarantee the individuals right of access to the judiciary should contain a proviso like clause (4) of the proposed amendment which prevents judicial redress against interference by a State Government with one of the basic rights of man?

Clause (4) lays down two principles for such States where Zamindari Abolition Bills are pending before the legislature at the commencement of the constitution. These are : Firstly, transfer of power to the State Governments to lay down the principle and method for the, determination and payment of compensation; secondly, exclusion of the jurisdiction of the law court to question the principle and method as laid down above. Shri Alladi Krishnaswami Ayyar, whose opinions on legal matters are, rightly taken as authoritative has made a clarification of article 24 as it stands amended today. For a layman like myself, it may not be quite possible to judge the implications of the opinions expressed by him, but as I have submitted, I am mainly concerned with clause (4). With reference to clause (4) Shri Alladi has said that this particular clause concerns a Bill in the United Provinces. He however, admitted that he was not aware whether that Bill contained provisions which are just or otherwise. Shri Alladi and other eminent lawyers and persons were members of the Fundamental Rights Committee and the Bill of the U.P. came long after the report of the Fundamental Rights Committee. I take it that they too are not supposed to know thoroughly about the Bill. I may take it that other members of the Drafting Committee too are not aware of 'the implications of the Bill which is pending in the U.P. Legislature. It may, not therefore be out of place if I go into some detail regarding the Bill which is before the U.P. Legislature. I submit that I shall not go into intimate details.

That Bill, is a voluminous piece of legislation and it contains 310 clauses, including sub-clauses which may go to a thousand, and this House has no time to listen to the details of that Bill. Taking that into consideration, I have decided to speak on two points and that too very briefly. The two points are, firstly the effect of compensation and secondly how far it expropriates the proprietors of their rights. Sir, the area of the United Provinces I is roughly 6 crores of acres, and 59 per cent. of this is under the tenants who are going to get transferable rights. One per cent, is under the cultivating possession of zamindars, who are going to get that land for their living. This one per cent. works to about 3.74 acres per family of a Zamindar of whom there are about 20 lakhs of families according to the Government figures and 23 lakhs families according to our estimate. This comes to 60 per cent. of the area of the land in the U.P. The zamindars are treated as intermediaries with respect to 59 per cent. of the total area. Taking the meaning of the word "intermediary" as a person who stands between the State and the cultivator of the land, 59 per cent. of such land is tinder the rights of Intermediaries. The remaining 40 per cent. of land 216 lakhs of acres is culturable waste for which the Zamindars have a direct settlement with the Government. Here there are no cultivators and therefore there are no intermediaries. Now, in respect of the 59 per cent. of the total area where the Zamindar is an intermediary between the Government and the tiller of the soil, the compensation which is proposed to be given is briefly eight times the net profit of every estate. Provision has been made for the payment of rehabilitation grant of different multiples on net income below Rs. 5,000 land revenue. About Rs. 5,000 there is only eight times, but on the top grade the payment of compensation will be only three times the net profit. I say so according to a statement of the Honourable the Premier of the United Provinces himself at a press conference held in Lucknow on June 10. Those persons who are going to get three times of their net profit, their compensation will work out to 75 per cent. of their annual income. For instance, a person whose income is a Lakh of Rupees will get Rs. 75,000 as compensation for the whole of his property. Calculated at 2 1/2 p.c. interest per annum. this will mean an income of Rs. 1,875 per year in place of Rs.1 lakh as now. This is the position regarding compensation for acquiring 59 p.c. of the area of the U.P.

[Shri Jagannath Baksh Singh]

In connection with the remaining 40 per cent. of the land with respect to which, as I have submitted, the Zamindars are not intermediaries, the Government is going to acquire that land without any compensation. This is about two crores odd acres which bears pastures, miscellaneous trees, jungles, forests, water reservoirs, wells and other works and constructions for the improvement and development and the waste lands as well as the cultivated areas, yielding no less revenue than the cultivated land. All this land is going to be acquired without any compensation and it may be noted that this expropriation hits the smaller Zamindar in a much greater degree than bigger ones. I shall place one particular point before the House.....

**Shri Mahavir Tyagi** (United Provinces : General) : May I know if that land pays any land revenue ?

**Shri Jagannath Baksh Singh** : Land revenue is being paid on that land as it is paid on the cultivated land. Those Zamindars who have purchased these lands have paid price for it, and their income from these areas, apart from being assessed to land revenue, is subject to income-tax by the Central Government which put the value of the land beyond doubt.

**Mr. President** : I would ask the honourable Member not to go much into the details of this particular-Bill.

**Shri Jagannath Baksh Singh** : I would not go any further. Now, Sir, this point is not perhaps of a detail, and does not concern any particular province when I say that the acquisition of Zamindaris is being effected as a part of the Congress pledge to abolish the intermediaries between the State and the tiller of the soil. This pledge embodied in the Congress election manifesto of 1945-46 has been repeated frequently in the legislatures and outside. I do not propose to take the time of the House in reading out that resolution. But, I may submit here for the information of the House that with a view to implementing that pledge the U.P. Legislative Assembly, on the 8th August 1946, Passed a resolution. This resolution says :

“This Assembly accepts the principle of the abolition of the Zamindari system in this province which involves intermediaries between the cultivator and the State and resolves that the rights of such intermediaries should be acquired on payment of equitable compensation

(These words may be marked)

“and that the Government should appoint a Committee to prepare a scheme for this purpose.”

Now, this resolution was moved by the Honourable the Minister of Revenue, and the Honourable the Premier of U.P. in a fairly long speech supported this resolution. in his speech he said, (he spoke in Hindustani) “*Hamara farz hai ki ham Zamindaron ke sath insaf karen*” which means, “it is our duty that we should be just to the Zamindars. It is our *dharma* that we should be just to the Zamindars.” We laid much store by his words and the implications of this resolution. I shall make no comment on this. I shall only leave it to the House to judge whether the conditions of compensation and expropriation which I have very briefly described go to prove the fact that the Zamindars of the U.P. are getting an equitable compensation as the Government stated it to be their duty to be just to them. These are questions, on which I need not pass any verdict. It is for the House to judge.

I shall in conclusion only say that the case of justiciable rights in respect of private property is unassailable. Paucity of funds is no argument against payment of compensation to the Zamindars when a State Government is making a clean profit of Rs. 45 crores out of sale to the tenants of transferable rights in the land acquired. Equality of treatment to all forms of private property is a principle to which this House stands committed by virtue of the declarations contained in the Objectives Resolution and the provision of article

15 already passed. May I point out, Sir, that even apart from being contradictory to the previous commitments of this House, the amendment if accepted, will stand out as an unprecedented outrage on the fundamental right to property which is deemed sacred and guaranteed by almost every important constitution of the world. There is therefore a moral obligation to delete clause (4) from this amendment as also clause (6) and provide for the payment of a fair and equitable compensation as a justiciable issue. Justice, Sir, should not only be done, nor said to have been done, but it should also seem to be done. With these words, I strongly support the deletion of sub-clauses (4) and (6).

**The Honourable Pandit Govind Ballabh Pant** (United Provinces : General) : Sir, a large number of amendments have been moved since this article was placed before the House by the Prime Minister. The article has been attacked for various reasons. Many of these amendments run counter to each other and are altogether contradictory. Some of the speakers were not satisfied with the clause, because it concedes too much, while others thought that the compensation that was admissible under it was illusory and not likely to satisfy them.

I think there is still some misunderstanding in spite of the clear exposition given by Shri Alladi Krishnaswami Ayyar and the weighty speech made by the Prime Minister when he moved this article. Raja Jagannath Baksh Singh, the leader of the Zamindari party in my province, who is also a member of the Joint Select Committee which is considering this Bill, desires that compensation for Zamindaris should be paid in accordance with the principles laid down under the Land Acquisition Act, that is, that the Zamindars should get the market value plus 15 per cent. After hearing him, I feel that we would have been really making a great blunder if we did not introduced clause (4). Vested interests' die hard. But, sometimes, they are not even capable of taking a sensible view of things much less a generous view,

He has attacked the Bill that I had the privilege of placing before the U.P. legislature. But, before going to that Bill, as he has referred to the Government of India Act, 1935, and said that section 299 had never been put into force previously, I should like to make a few remarks in that connection. I think what I propose to say will disabuse him of some of his notions if he is still in a receptive mood about which I have my doubts. The Joint Select Committee had occasion to consider this question and what they said may satisfy him. In that Committee the question was considered at some length and what is an important general principle was accepted. There may be acquisition of an individual's property for a specific and a limited purpose. There may be general acquisition of a class of property for- the reconstruction of a social order. The principles have to be determined in the light of the purpose, the circumstances and other germane and relevant considerations which have a bearing on these issues. Where the property of an individual is acquired for a post office or for a railway station or for a store house he has to be paid in accordance with the Land Acquisition Act which prescribes a definite and precise yard-stick *i.e.*, he has to be paid the market value. But where property is acquired not for any such specific purpose but you acquire the property of large numbers of people, not for any productive purpose as such in a limited sense, but for promoting public weal, then the principles have to be devised with due regard for the purpose as well as for the occasion when such step is taken.

Now some friends have referred to the right of private property that is provided in this Bill. I would like to remind them of the Objectives Resolution that we passed on the first day. I would also like to remind them of the Preamble to this Bill. Some times we are apt to forget what is the basic and

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the vital principle,—the very soul of the legislation which we are undertaking and the Constitution that we are building here. In the Preamble we say—

“We, the people of India having solemnly resolved to constitute India into a Sovereign Democratic Republic and to secure to all its citizens justice, social, economic and political, equality of status and of opportunities and to promote among them all fraternity assuring the dignity of the individual and the unity of the Nation”.....

I submit that the Zamindari abolition and Land Reforms Bill which we have introduced in our Legislature is designed to promote the social objective of our Republic. So when we judge its provisions we must bear in mind the supreme aim which our State has placed and defined for itself. I stand by every word that the Honourable the Prime Minister said and I repeat that we have no hostility against the zamindars. I for one, want to befriend them and want to be a friend to everyone. I feel we would not be discharging our responsibilities fairly if we deliberately wanted to cause injury to any particular class. So I stand for equitable compensation. Equitable compensation for everyone; but what is equitable compensation ? That is the point. Equity cannot be defined in terms of any yard-stick. When we introduce a large measure of social reform, then it would be most inequitable to provide compensation on terms which the State cannot fulfil, which cannot possibly be discharged and which will either break down the machinery of the State or which will be crumbled under its weight. We have to guard against both these things. The capacity of the State is limited. After all, when we take a measure for the well-being of the people while we have to be just to every class, we have to bear the main purpose constantly in mind, and that is the welfare of the entire State and of the entire community. No class and no interest can be allowed to come in its way and if it does come, it will be crushed—it will collapse, it cannot stand.

So, I say when I am told that I promised to be just I claim that I have been just and I am prepared to place the U.P. Zamindari Abolition Bill before any Arbitration Board to examine its contents and to pronounce upon the nature of the compensation provided in it. If any person who is responsible and who can take a large view of things and who can bear the supreme purpose for which our State stands, constantly in view is pleased to take this trouble. I am sure—I am prepared to flatter myself with the hope—that he will compliment me for what we have done and I claim that those who have cared to examine it carefully have almost reached the same conclusion, and in our own province many people think that we have been too generous.

What after all is the compensation that we have provided. We have about 20 lakhs of zamindars so-called. For more than 19 lakhs we have provided 28 times their net annual income as compensation. Can anybody say that it is inadequate? You will find that no one who pays a revenue of Rs. 5,000/- or less is to get as compensation less than 10 times the net annual income. Is it unfair, is it inadequate and howsoever high the revenue paid by anybody, he is to receive not less than 8 times the net income. Those who are acquainted with the history of Zamindari must be aware that when the British first introduced this system, the zamindars were allowed to retain only 10 per cent out of the gross assets collected by them and there were some who were asked to pay more than they could collect. So what zamindars are paying today or retaining today is only a creature of the Statute. In the olden days they had no status as such. The British Government to start with gave them only 10 per cent of net assets. I am prepared to give them 20 per cent and to pay them at market value, and they must be satisfied with that. After all, what are these conventional notions about compensation? Do we ever try to go deep into them? What does compensation depend on even if you take market



value? Market value is more or less the creature of the State. If you demonetise your currency tomorrow, the market value collapses or it may rise hundred fold under a different set of circumstances. Since we took up this legislation for the abolition of zamindaris, the market value of zamindaris has gone down considerably and zamindars cannot get purchasers. Again, it is open to me, to the government, to impose land revenue to the extent of 95 per cent. of the total income, or impose agricultural income tax to the extent of 15 annas in the rupee. There is nothing to prevent any State from doing so. So, how do you define what is equitable compensation? How can you define what is reasonable in the circumstances? It is only a matter which can be determined in the light of all the relevant factors. So, let us not make too much of this mysterious and fashionable expression—'justiciable' which seems to have possessed a large number of my friends today.

And even if you look at it from the point of view of justiciability, I may tell you that so far as my Bill goes, it enables the zamindars to approach the civil court. If the amount of compensation provided for them by the Compensation Officer is not considered by them to be justified under the Bill, they can go to the civil court. They can appeal to the High Court. So courts are not excluded. The jurisdiction of courts has not been set at naught. What we do desire is this. In spite of the best efforts that we have made to do justice, there are still these notions, not based on reason, but perhaps on prejudice or on self-interest of an un-enlightened character, that what has been provided for is altogether inadequate and meagre. And therefore it becomes necessary to have a clause of the nature of clause (4), for I know that our zamindars, and Taluqdars have still the last for litigation. In the olden days, they wanted to indulge in bull fights or pigeon contests. Those days are gone. Now they have to fight somewhere and that is in the courts.

But when we are concerned with the solution of problems of enormous magnitude, affecting not hundreds and thousands, but literally millions, we cannot afford to indulge in such luxuries. Howsoever futile the results may be, the very process imposes a strain which should be avoided. Then, we have gone even beyond this. We have not only tried to give adequate compensation, but in addition to that, we are going to make the colossal effort to collect huge sums of money from tenants in order to pay compensation in cash, in whole or in part. I hope we will devise some method by which if we succeed in collecting the money such money will be used for productive purposes. But we are trying to collect the money. We have fixed for ourselves a target of about Rs. 150 crores to be collected in the course of a few months. That is what we propose to do. Does not that indicate our desire to be not only just, but also to settle this problem once and for all finally so that there may be no disputes over it in future. So far as the abolition of zamindaris goes, even if there were no general provision in the law, I would still have asked the House to make a specific provision so that there may be no difficulty hereafter. concede that we shall have to pay equitable compensation to everybody.

But we do not want to be involved in litigation in any case, whatsoever, and I presume that if at any time this legislature chooses to nationalise industry, and take control of it, whether it be all the industries or any particular class of it, such as the textile industry or mines, it will be open to it to pass a law and to frame the principles for such purpose, and those principles will be invulnerable in any court. They will not be open to question, because the only condition for disputing them, as has been pointed out by Shri Alladi, one of the most eminent jurists which our country has ever produced, is this, that it should be a fraud on the Constitution. No legislature can commit a fraud on the Constitution. No legislature can sink so low, as to commit a fraud on the Constitution. A legislature is meant to maintain and to uphold the Constitution. So, we should have no such apprehensions.

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I do not see why there should be any doubt in any quarter. Some friends think that this clause will stand in the way of socialisation. I do not know what is meant thereby. But Seth Damodar Swaroop who is, I think the accredited representative of the Socialist Party, has himself suggested that there should be no acquisition except by law and also that compensation should be paid. That is accepted even by Socialists. But obviously the State can give such compensation and such compensation only, as will be considered to be equitable, with due regard to the purpose for which the property is acquired and circumstances under which it is acquired.

So, I submit to those who have moved amendments the other way, that they have no reason for apprehension. Whenever we socialise, we certainly will define and enunciate certain principles and those principles, you yourselves desire, should not be a fraud on the Constitution. So why should there be any difficulty? Why do you think that this clause will stand in the way? Today our difficulty is that we want production, and more production and yet more of it, and we must not let ourselves to be obsessed by imaginary apprehensions, in utter disregard of hard realities of the day. Some friends here spoke about our re-gaining the confidence of the investor. I do not yet know why we have lost it. If the investor does not choose to invest, it is not because this Government has failed to do its utmost to reassure him. But if in spite of such assurances there are no investments, then I might as well remind the House that the provisions of article 24 go much further than those of section 299 of the Government of India Act. They felt no apprehensions so long as article 299 of the Government of India Act was there. The Government of India Act only dealt with compulsory acquisition of property, while our article 24 deals with not only compulsory acquisition of property, but also with our taking into possession of property for public purposes. So it goes much further.

When they had no apprehensions when section 299 of the Government of India Act was in force, I see absolutely no reason why this article 24 of our New Constitution should give them any cause for apprehension, disquiet or distrust. It gives them greater assurance, and I say that, apart from anything, the Congress with its creed of non-violence stands for equitable compensation. But that equity is to be determined by the Legislature and not by the courts, because the Legislature alone is capable of taking that comprehensive view of factors which bear on such complicated issues. There is no justiciable material that can be placed before any court for obtaining its decision on such issues. In the circumstances no other form can possibly be found. Sometimes we may have to take into account not only domestic conditions, but even international conditions. What has happened in China for example cannot be ignored when we are considering the question of abolition of zamindari in our country. What is happening in Burma cannot be ignored. But no court can be asked to go to Burma, to make an inspection and submit a report. No Commission can be appointed for that purpose. So we have to rely on the Legislature and if we have no faith in ourselves, then I say that we cannot find any satisfaction anywhere else. So my appeal to the House is to take this article in its proper sense and full import, to understand its extensive scope and also its limitations and to remember that everything that we do is in accordance with the objective that we have set before ourselves.

**Shri Biswanath Das :** Sir, very important principles, such as the utility, protection and preservation of private property, adequate compensation, constitutional safeguards and the like have been brought into the arena of our discussions today. To me the point seems to be very simple and I would appeal to my honourable Friends to pay pointed attention to that aspect of the question which has a direct bearing on our discussions.

The position is this. We have already accepted List II of the Seventh Schedule, known as the State Schedule, attached to this Constitution. Therein we have invested the States with the powers of undertaking compulsory acquisition if and when required. Item No. 9 relates to acquisition of property in the shape of lands. Attempts are now being made to restrict this power under the provisions of article 24 now under discussion. Therefore the question simply is that whether you are going to reverse, qualify or modify the powers that you have given to the provinces which are to be called States under the New Constitution, or allow the provinces or the States to continue to exercise those functions and those powers that have been vested in them under Schedule Seven attached to the Constitution.

In this connection I might invite the attention of Honourable Members to item 9 where practically the principle of compensation has been allowed and accepted. Two questions naturally arise. The first is whether the State is to, give compensation or not in case of compulsory acquisition. To this the answer is provided in item No. 9 of the Schedule 7. Here we have differed from persons who hold the view that no compensation need be paid. We are not ashamed of accepting the principle that compensation shall be given for properties to be acquired compulsorily by the State.

Sir, having taken up that position, the other thing that is necessary and essential is whether the executive of the province is to take up acquisition themselves suo motu without having any power from the Legislature. To that, clause (1) of article 24 is the answer. I entirely agree with my honourable Friend from Bihar who pleaded with all vehemence that the rest of the article is unnecessary. I must frankly confess, despite all the respect and reverence I have for the Honourable Pandit Jawaharlal Nehru, that it is revolting to my sentiment to call this a Fundamental Right and bring it as a rider on the powers that have already been vested by a vote of this House on the States. You cannot have a cake and eat it too. You have provided for power under the Constitution to the States to legislate on certain aspects of the Constitution. Wherein lies the justification and the justice for you to come now and say "Well, my good boys, I have given you power, but here are the safeguards for the,, vested interests". To me this is a contradiction in terms. I must frankly confess and record my protest that you have already treated the States and State Legislatures with scant courtesy. You have given autonomy to the provinces, but you have wiped off the very autonomy which you have professed to have given them. The States are shorn of all the autonomy that they enjoyed even under the Act of 1935. To quote an instance, you have, provided in this Constitution the powers to levy taxation, realise taxation and distribute it according to a certain principle to be decided by the President. The responsibility of levying taxation which is a responsibility of the State Legislatures has been taken away from the States. The responsibility of assessment, which is a responsibility of State Legislatures, has been taken away from the States. And now you come with another important proposal in the realm of provincial activity by taking away, in the guise of Fundamental Rights, the right to legislate on the question of acquisition of properties. Let there be plain speaking at least. Let us stand erect and say "Here are you, States. We refuse to confide in you. You can have your two hundred members for each State and have a salary of Rs. 150 for each member per month, but you shall not have the power to legislate either on assessing taxation or to legislate on anything worth the name". Until that is done I think we are not playing the role that is expected of us. How long are you going to keep the States spoon-fed in this manner ? In many other provisions in the body of the Constitution, you have already provided to keep the States spoon-feeding. I warn you that so long as you resort to spoon-feeding you can never inculcate the sense of responsibility that you so much desire to have in the State Legislatures. The United States

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of America or Australia have given far more powers to the States. Is there any protest or any score that these powers vested in the States have been misused ? Why then this suspicion on the future working of State Legislatures when you have not seen either in the present India or in any other part of the world any instances of such misuse in the working of State Legislatures ?

Having stated so much about the responsibility that is going to be vested in the States. I now come to the actual body of article 24. I have my strongest objection to clause (6). This clause is an outrage on any sense of legislation, much less to speak of any constitution. Why should you at all have clause (6) ? What is the sin that Madras and Bihar have committed ? They have passed a legislation in terms of section 299 of the Government of India Act, 1935. The Government of India Act, 1935, lays down very important and essential safeguards in this regard. Provision has been made that previous sanction of the Governor is necessary. And these unfortunate Ministries have got this sanction for the Bills they introduced in their Legislatures. The Bills have been thoroughly scrutinized by both Houses of the legislature which these unfortunate provinces have. When the Government of India Bill, 1935, was on the Parliamentary anvil it was justified in the House of Lords that second chambers have been provided because they will act as a check on any irresponsible work of the first chambers in Provinces. In these two cases both the Lower and the Upper House have approved these pieces of legislation of these Provinces. The Governors as also the Governor-General have been parties to it. Why then should you take the most unnatural course of putting to shame and disgrace these Legislatures by having to submit their Acts again for the approval of the President ? Where is there any parallel to this outrageous act of the Constituent Assembly in this regard, in the matter of an Act already passed by the Legislature, approved by the Governor, assented to by the Governor-General, having again to be submitted to the President of the Union ? This to me is an outrageous act on any Legislature—not to speak of Constitution-makers. I therefore record my strongest protest in this regard against clause (6).

Having stated so much about clause (6), I come to clause (4). Now compare and contrast between these three provinces. Why should you on the one hand kick these two provinces for their sin of having taken the earliest course of passing a certain pieces of legislation. 'This is a point on which I expected the Honourable Pandit Jawaharlal Nehru to furnish this House with an explanation. I waited to get that explanation but unfortunately there are none. Will at least the Drafting Committee do us the favour of 'explaining why this difference has been made ? If clause (2) is so very innocent and innocuous and so very useful, why is clause (4) necessary ? On behalf of the rest of the provinces of India, I record my strongest protest against clause (4). Why should you have clause (4) ? You are making acquisition of zamindaris in other provinces like Orissa, Bengal, Assam and the rest of India impossible hereafter. Having read this many times more than some of the Members, have attempted to do, I must claim that it will make acquisition of zamindaris hereafter, after a year, impossible under this Constitution. Zamindars, clever as they are, with their long purse, with their clever brain, their intelligence and intellect, and above all with the hired brain that India is capable of placing and talented Universities are capable of providing them, they will make this Constitution as a barricade against progress in future in this regard. I warn the honourable members of the Constituent Assembly through you, Sir. And it pains me very much in this regard—even to the point of shedding tears—because I was the first in India to inaugurate tenancy organisations. I was running two tenancy organisations—the Andhra Zamindari Ryots' Association and the Presidency Proprietary Ryots' Association in Madras—two powerful tenancy organisations

in this regard from 1920 at a time when there was no talk of tenancy Organisation anywhere in India. I thought that at least in Free India, though not in India under the bondage of Britain, we would be able to realise our aims. Two years after achievement of Freedom for India, I see that I am where I was in 1920. My apprehensions in regard to this article are the result of mature consideration of the same. The moment I assumed office I wanted to take legislation for the liquidation of zamindaris I recollect today that, when we were discussing this very question in Bombay at a conference of Ministers and I raised this question, one of the biggest guns of the Congress High Command pounced upon me saying: 'You are offering to pay compensation to the zamindars'? Sir, I stand where I did, but I find that a change has come over others. From the speeches of friends demand for fair and equitable compensation for the zamindars is put forth. What is a zamindari except an office. That is the view expressed in the Permanent Settlement Regulations. Sir, assuming it is not an office, look at the Prakasam Committee Report which was supported not only by the Lower House but also by the Upper House of the Madras Legislature. This monumental official Report speaks of the Permanent Settlement in terms of the Congress Resolution. We stand not only on our pledges given to the electorates, but also by the changes taking place resulting from our freedom in the country.

I would not detain the House longer. I know it is impatient. But, Sir, references have been made to election pledges. Yes, we have given pledges to the electorate and we have fought elections on those pledges. The question of zamindari abolition was stressed in our pledges to the people in the elections of 1937 and 1946. How are you going to honour that pledge? In the year 1937, in the Congress pledge we have unfortunately stated that we are going to fight the Government of India Act of 1935. Soon after the election we were called upon to assume office. I was one of the unfortunate few who assumed office and undertook to form a Cabinet. At that time the direction given to us was that we should create deadlocks and make the working of that Act difficult and impossible.

Sir, I must congratulate my honourable Friend the Chairman of the Drafting Committee and Shri Alladi Krishnaswami Ayyar and other friends for their expert knowledge of affairs and for having excelled all others in this matter of sugar-coating the provisions in such a way that they have made the impossible possible today. Look at the draft of the Constitution? You will find nothing there about the liquidation of the Act of 1935. If the Act of 1935 was so good that we could now so fully embody its provisions in our Constitution, were we, congressmen, fools when we resolved to fight that Act and create deadlocks? Anyway I must thank the members of the Drafting Committee for making us swallow this sugar-coated pill which contains nothing but that same Act of 1935. In these circumstances I have no option but to support my friends in demanding that except clause (1), every other clause in article 24 should be wiped off. If this is not done I warn my friends that we will not be able to liquidate the zamindaris anywhere except in the three provinces of Madras, Bihar and the United provinces

**Honourable Members :** The question may now be put.

**Begum Aizaz Rasul** (United Provinces : Muslim) : Mr President, Sir, I am wondering whether after waiting for so long, it is my good fortune or bad fortune to be called upon to speak of this, very important and controversial matter after the speech of the Honourable the Premier of my Province Pandit Govind Ballabh Pant. But in a way I think it is just as well, because after my speech he will not be able to make any reply to anything that I might say about my province, though I feel sure that I stand on strong ground when I answer some of the remarks he has made.

[Begum Aizaz Rasul]

The Honourable the Prime Minister, in moving this amendment to article, 24 yesterday, rightly remarked that few articles in the Constitution have evoked greater and more keen discussion than this article. There is no doubt that for more than a year Members of this House as well as people outside, have been greatly concerned as to the shape and manner in which principles regarding acquisition of property and compensation will be laid down in the Constitution. Sir, with due respect to the Honourable the Prime Minister I am constrained to say that the amendment proposed by him does not lay down principles based on fairness and justice. There are two principles laid down in this article: One is; acquisition of property, clause (1), and the second is the manner and mode of the payment of compensation, clause (2). Now, Sir, under the following article 25(1) it is clearly laid down that every person will have the right to approach the Supreme Court. This of course is not only in regard to acquisition of property but for every purpose. But ordinarily also any person has a right to file a suit attacking an Act authorising the acquisition of property if the compensation is not proper in his opinion. Therefore, Sir, my contention is that when a right has been given to every person living in this Union to approach the Supreme Court, to have recourse to justice, why should this right be taken away under clauses (4) and (6) from only those people who are being deprived of their property in the three provinces of the U.P., Bihar and Madras who are being subjected to legislation which will deprive most of them of their only source of livelihood. I contend that in the Constitution of a country such exceptions cannot be made and therefore I feel that if clauses (4) and (6) of this article are allowed to remain, it will be a great blot upon this Constitution. The Constitution of a country is not made merely for a few years, or to suit this programme or exigencies of a political party : it is made for generations and for all peoples and to keep a provision such as is provided in clauses (4) and (6) will not do credit to the Constitution-makers and will remain an ugly blot. Therefore I earnestly hope that wiser counsels will prevail and that such an absurd provision will not be included.

It may be considered by some people that I am speaking in this strain because I am being affected by it personally, but, Sir, I may say that, although my voice may be feeble in this House, I know that I am voicing the feelings and sentiments of hundreds of thousands of people when I say that such discriminating clauses should not find a place in the Constitution, many newspapers in India have written leading articles on this and expressed their strong disapproval.

The Honourable the Premier of the U.P. stated that the Zamindari Abolition Bill that he has introduced in the House and which is now before a Select Committee of which I have the honour to be a member, can be shown in any court of law and that the provisions that he has made regarding compensation would be borne out to be fair by any legal authority. I may respectfully suggest to him that if this is the case, then why the inclusion of this clause (4) which, it is well known, has been inserted at his insistence? If he feels that he is on such safe ground that he can challenge any court of law about the validity the fairness and the equity of the compensation that he is giving to the zamindars of U.P., then I submit that he should not deprive us of that right that is being given to every man under this Constitution to approach a court of law. The Honourable the Premier of U.P. also made the remark that the Taluqdars of Oudh have a lust for litigation. Sir, I should have thought that that would have gone in our favour. If we share our riches with other people and help lawyers in getting rich, I do not think that we should be condemned for that, I had given notice of amendments for the deletion of clauses (4) and (6),

because I feel that such provisions, which are more on the lines of Parliamentary legislation, should certainly not find a place in the Constitution of a country.

My objection is based on two grounds; one is as already stated that certain provinces where legislation for acquisition of property is pending or has already been passed are being debarred from having recourse to the basic and fundamental right given to every citizen in India, namely, the right to approach the Supreme Court. The second reason is the discrimination between industrial and zamindari property because only zamindari property is on the anvil of legislation in the three provinces. Not only that but it also means that if any zamindari legislation is brought up in any other province of the, Indian Union, say the C.P., the East Punjab, Rajasthan, etc., the people of those provinces will have justiciable rights. I feel strongly that a Constitution of a country should not find a place for this sort of discrimination. Sir, I am afraid, that you will not give me time.....

**Mr. President :** I think you had better conclude because before I close the discussion at 12.30, I want to give an opportunity to another Member to speak for some time.

**Begum Aizaz Rasul :** I only want to say something about U.P.

**Mr. President :** I do not think it is necessary.

**Begum Aizaz Rasul :** I am grateful to you for having given me an opportunity to speak but I am sorry I will not be able to make out my case properly at all, because the time that has been given to me is so short. I would like to ask the Premier of the U.P. to kindly consider whether by inserting this clause (4) he is not also taking upon himself the right of not giving any compensation at all if the legislature feels that on account of financial reasons, it is not in a position to do so. The Honourable the Prime Minister yesterday said that the legislature is supreme and no court can override its decisions—If that is so, then why are fundamental rights incorporated in the Constitution ? It is only because there is a fear that people might encroach upon other people's rights and therefore some basic fundamental rights are laid down, which are beyond the purview of any legislation and which cannot be touched by the provincial or the Central legislature. Therefore my contention is that either article 24 should not be placed in the Fundamental Rights chapter and if it is, it should be without clauses (4) and (6). In the U.P. nearly a crore of people are being affected by the zamindari legislation. The compensation proposed is so meagre that it will be extremely difficult for these people to plan their lives and exist. Has our Premier given thought to the fact as to what will happen to these people? They are being turned on the streets with no proper provision for their livelihood. Socialisation of the country means all round socialisation. You must guarantee free education to our children—free medical aid and guarantee of employment to every citizen and we will not ask for any compensation—I warn the Premier of U.P. that by depriving the zamindars of their source of livelihood without making any proper provision for them he is creating problems for himself which it may be difficult for him to cope with. With these few words I hope I have been able to convince some honourable Members of the injustice of these clauses.

**Mr. President :** Maulana Hasrat Mohani, Maulana Sahib, I wish to remind you that We are closing at 12.30.

**Maulana Hasrat Mohani** (United Provinces : Muslim) : I will try to keep to time, Sir.

**Shrimati Renuka Ray** (West Bengal : General) : Mr. President, Sir, you have just said that you want to close the discussion at 12.30. I would appeal to you

[Shrimati Renuka Ray]

that this is the most fundamental clause in the whole Constitution and a large number of Members wish to speak on this article. I hope you will allow full discussion.

**Mr. President** : The question has been discussed sufficiently.

**Maulana Hasrat Mohani** : Mr. President, Sir, almost at the very outset I declare that I am very seriously opposed to this whole process, I mean the process adopted by the U.P. Government and its Premier, Pandit Pant, who pretends that his scheme will lead to the abolition of the Zamindari. I think that it will do nothing of that kind. I submit that I have used the words "pretend" purposely because I am pretty sure that a shrewd politician like my honourable Friend, the Premier of U.P. must realize by this time, if he has not already realized, that his scheme will not lead to the abolition of the Zamindari but it will lead, I say to the perpetuation and establishment of such a Zamindari system in the worst form and in this way he proposes only to take the zamindari of a small number of big zamindars and he wants to distribute the lands so obtained among the petty tenants and even landless tenants if they pay ten times the rent which they pay now. Well, I submit, Sir, it will not make any difference. He says that he will make these tenants, if they pay ten times the rent, "Bhoomidars" I say that nobody will be deceived by this jugglery of words. What does it mean? There is no difference between a 'Bhoomidar' and a Zamindar. Perhaps Pandit Pant might have said that because "Zamin" is a Persian word and the word "Bhoomi" is a Sanskrit word, and therefore he wants to substitute one for the other. I say that this will not deceive anybody. I call it merely a jugglery of words. All those 'Bhoomidars' whom he is going to create afterwards will be Zamindars and as I say they will only deprive some big zamindars who pay a land revenue of more than Rs. 5,000 and they will create in their place a large number of small zamindars. It is no use our discriminating between a big zamindar and a small zamindar. The Zamindars will remain there and I admit it would have led to the abolition of Zamindari if his scheme had been based on a more justified basis. I say that if he had based his scheme on getting this land transferred from these big Zamindars to the people or to the State, that might have been something.

Our Premier the Honourable Pandit Jawaharlal Nehru himself admitted in his opening speech the other day when he said. "This resolution that I beg to move tries to avoid that conflict and tries to take into consideration fully both these rights, the rights of individuals and the rights of the community." Further on he says, "that we have to keep these things in view; we have to take property for the State and we have to see that fair and equitable compensation is given to them." I say that if you accept this version of our Premier and also accept that the proprietorship of land will be transferred from the Zamindars to the State, of course, I can understand that and it would mean something. What are you going to do ? You are adopting a very curious process; you confiscate the land of a few big zamindars and directly take that into the open market; you are going to sell it at a profit to all these would be 'Bhoomidars' and tenants. I say "with profit" because Pandit Pant has himself admitted that they will realize something like 180 crores of rupees from these future Bhoomidars and that he will pay compensation to the extent of Rs. 140 crores. I say that this surplus sum of Rs. 40 crores (I cannot give it any other name), I say that this is a form of black-marketing of the worst type. We are all condemning the black-marketing going on in the food grain markets and in the cloth markets and I say that we must condemn this all the more. We take possession without any rhyme or reason from these big Zamindars and want to go into the open market and sell them to those people who are also smaller zamindars.



Therefore, what I submit is that I can never admit that this scheme is a scheme for the abolition of Zamindari. I insist on that. Instead of abolishing the Zamindari it will tend to establish and perpetuate an evil system of Bhoomidars that you are going to create who will have the same paraphernalia with them. We have been objecting to the Zamindars that they take advantage of their being zamindar and that they do not allow anything to go to the cultivators of the land. But if you create the smaller zamindars, they will practise the same thing and there is no escape from that. I submit, Sir, that if he says that I am indulging in negative criticism, then I have something to suggest to my honourable Friend, Pandit Pant, and that is he must take courage in both his hands and come forward and say that he will postpone the consideration of this Bill in the United Provinces Legislature, realizing at least the difficulties that will lie in his way and also the criticism of not only the Zamindars but the criticism that I have uttered here. I challenge him to come forward and refute my argument. If not he should postpone the consideration of this article here in this House and also postpone the present Bill in the U.P. Assembly. I am not suggesting anything extraordinary. It has happened here the other day when my honourable Friend, Dr. Ambedkar proposed the Hindu Code Bill. After realizing that there is such a large antagonism against that Bill, he undertook to postpone its consideration. To save his face, he did not say it himself, but he entrusted the work to the Sardar who at the next meeting said : "We postpone its consideration." I think that discussion has been postponed *sine die*; it will never come up again. I suggest, Sir, that my honourable Friend Pandit Pant should also adopt the same procedure and postpone the whole thing; otherwise, he must come forward and reply to my criticisms first.

**Several Honourable Members :** The question be now put.

**Mr. President :** Closure has been moved.

**Shri Algu Rai Shastri :** (United Provinces: General) : \*[Mr. President, I would like to submit to you, Sir, that this matter is of very great importance and gravity.]\*

**Mr. President :** \*[I do not think its importance will suffer in any way if its consideration is cut short by a few hours. I am, therefore, of opinion that it is not necessary to prolong its consideration any further. I am going to put the question of closure to the House.]\*

The question is:

"The question be now put."

The motion was adopted.

**Mr. President :** Pandit Nehru.

**The Honourable Shri Jawaharlal Nehru :** (United Provinces: General) : If you will permit, Sir, my honourable Friend Mr. Munshi would reply.

**Mr. President :** Mr. Munshi will reply.

**Shri K.M. Munshi :** Mr. President, Sir, after patiently hearing the speeches of those who moved the different amendments, I came to the conclusion that the article moved by the Honourable the Prime Minister cannot be more aptly described than in his own words as a just compromise which should be accepted by the whole, House unanimously.

The points of view have been ably put forward by all sides. After the masterly exposition of the Prime Minister, and my honourable Friends, Shri Alladi Krishnaswami Ayyar and the Premier of the United Provinces, very little need be said. But I may just refer in passing to a few amendments which deserve notice.

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\*[        ]\* Translation of Hindustani Speech.

[Shri K. M. Munshi]

The amendments fall under four categories. One set of amendments says that there should be no compensation at all. The second set of amendments says that Parliament should not seize property under the Fundamental Rights, but the President should, that is, the Executive should. That is a reversal to barbarism; I need not touch the point any further. A third set says that Parliament should be fully empowered without any judicial review to take over property after fixing the compensation which may be "fraudulent or inequitous"—I am quoting the very words of the amendment, thus giving to Parliament the right by constitution to pass a law which may be fraudulent or inequitous. The fourth.....

**Shrimati Renuka Ray :** Mr. President, Sir, I must point out that is a misunderstanding of the whole thing. The point is that it must be Parliament who will decide whether principles are fraudulent or not, and not a court of law. The amendment does not advocate that fraudulent grounds should be allowed but that it must be Parliament who shall decide whether any enactment contains fraudulent provisions or not. This misreading should be corrected.

**Shri K. M. Munshi :** I do not want to misconstrue or misinterpret anybody much less my respected Friend, Mrs. Renuka Ray. The amendment she wants to be put on the Statute book runs thus :

"No law making provision as aforesaid shall be called in question in any court either on the ground that the compensation provided for is inadequate or that the principles and the manner of compensation specified are fraudulent and inequitous."

She wants to go to the international assemblies with this Constitution in her hands. I do not want to say anything further.

The other set of amendments is of this nature not that when there is a fraud of Fundamental right, parties should go before the courts but the principles the form and the manner should all be scrutinised by the courts so that as the Honourable the Prime Minister said, the Supreme Court should become a third revising Chamber more powerful than both the Chambers of Parliament. That is the third set of amendments.

The fourth set refers to Zamindaris, that is, seeks the elimination of clauses (4) and (5) which has been fully dealt with by my honourable Friend Pandit Govind Ballabh Pant.

We cannot, Sir, go back upon the decisions of this House, nor upon the pledges of the Congress Party, nor upon the pledges of our Government. So far as our pledges are concerned, they are well known and find a place in the manifesto. We have promised even equitable compensation to the Zamindars by our Election Manifesto of 1945. As regards this House, Sir I submit, without being charged with inconsistency, it cannot go back upon the proposition that had been adopted by it. When this matter came up before the Advisory Committee, it unanimously accepted clauses (1) and (2). It was then anticipated that Zamindaris would be liquidated long before we came, to the final conclusion of our deliberations in this Constituent Assembly. Sardar Patel while moving it in the House said thus :

"Land will be acquired for many public purposes not only land, but so many other things may have to be acquired. The State will acquire them after paying compensation and not expropriate them."

Proceeding further, he said with regard to Zamindaris:

“This clause here will not become law tomorrow or the day after. It will take at least a year more.”

Of course, at that time we thought that our speed would be so great as to finish our Constitution in one year. That is, his reference; but his hopes have been unfortunately belied :

“It will take at least a year more. Before then, most of the Zamindaris would have been liquidated. Even under the present laws, different provinces have brought legislation to liquidate the Zamindaris either by paying just compensation or adequate compensation or whatever the legislature there think fit. The process of acquisition is already there and the legislatures are already taking steps to liquidate Zamindaris.”

This House therefore, two years ago set the seal on this resolution by saying that whereas Zamindaris would be liquidated long before we passed this Constitution, so far as the other properties were concerned, they would be acquired on the lines of clause (2) of this particular article.

Therefore this House has accepted the position that acquisition can only be by law, that Parliament when it acquires property by law can fix the compensation, and that as Zamindaris would have been liquidated, there was no necessity for making a provision for that in this article. This is the decision of the House. This article carries out that decision, except in so far as it has become necessary to modify it in the light of circumstances that exist today.

We have extended very much, as has been already pointed out, the scope and powers of Parliament. Members will please refer to entry 55 in list III which this House has passed. Powers of legislating on the principles of compensation, and the form and manner, have been solely left to Parliament and the State Legislatures. In the language of section 299 of the Government of India Act as Members know the words used are ‘payment of compensation’ which implies, at least on one view, that payment should be in cash and that payment is a pre-condition of acquisition.

**Shri T. T. Krishnamachari :** (Madras: General) : May I correct my honourable Friend : is he referring to List III of Schedule VII, item 35?

**Shri K. M. Munshi :** My Friend, Mr. T. T. Krishnamachari’s memory is certainly much more accurate than mine. It is entry 35, I apologise, not 55. He must realise that I am a very old man—

**An Honourable Member:** You do not look it any way.

**Shri K. M. Munshi :** Compared to my honourable Friend.

It is not correct to say that Parliament has not been given full powers. It can fix the form and the manner of giving compensation; it can give bonds or land in exchange for the land acquired. It has much wider powers than the Legislatures in India ever possessed before. Therefore, Parliamentary powers have been enlarged. But Parliament, remember,—in spite of what has been said about justiciability and particularly against the tribe of lawyers more than once—is the sole judge of two matters. First, it is the sole judge of the propriety of the principles laid down, so long as they are principles. Secondly, it has been authoritatively laid down there is no doubt about it—as has been stated by my honourable Friend, Shri Alladi Krishnaswami Ayyar that principles may vary as regards different classes of property and different objects for which they are acquired. We find on the English Statute Book several Acts, the Land Acquisition Act, the Land Clauses Act, the Housing Act, in all of which a varying basis of compensation has been adopted to suit not only the nature of the property but also the purpose for which it is to be acquired. Parliament therefore is the judge and master of deciding what principles to apply in each case.

[Shri K. M. Munshi]

In this connection, if I may, I will mention an instance in my own experience. In 1938 when the Bombay Government wanted to—it was the Kher Ministry in which I had the honour to be a Member—acquire Bardoli lands, the property in one case was worth over 5 lakhs and had been acquired for something like 6,000/- in a market in which there was no other purchaser, for which the Commissioner had brought down an old Dewan of a State in order to purchase the property. The income of that property was something like 80,000/- a year which he had enjoyed for about ten years. We drafted the Bill stating that the purchase of this property having been made under conditions where there was no fair market and that on account of serious political circumstances do purchaser was ordinarily forthcoming and that therefore a principle had to be laid down by which the then owner was to be repaid the amount invested plus 6 per cent. etc. At that time the Government of India I was given to understand—referred the matter to their legal advisers and sought their opinion on two questions. First whether the basis of compensation that we had laid down in that Act contained principles within the meaning of Section 299 of the Government of India Act of 1935 and secondly, whether it was within the power of the Bombay Legislative Assembly to depart from the principles laid down in the Land Acquisition Act. On both these points our stand was held to be legal and the Governor-General gave the sanction to the Bill.

Principles are not rigid canons to be applied mechanically. They have to be formulated in the light of the circumstances of each situation; in the light of the reforms sought to be carried out; in the light of the purposes for which the property is acquired. The Parliament is to judge in each case as to what is fair and equitable and whether the principles laid down are calculated to yield compensation, fair and equitable in the light of such circumstances.

The question of justiciability, I fear has been unnecessarily brought into this controversy. In a civilised country, every article of the written Constitution, if there is one, and every law made by Parliament is justiciable in the sense that the Courts can examine each of them to decide that the law-making authority acted within the ambit of its powers and to ascertain the meaning and effect of its provisions. Even if you use the words “compensation shall not be questioned in Court”, the Courts will have a right to adjudicate upon what is the meaning of ‘questioned in Court’; whether the thing questioned is compensation at all; whether in law the Legislature was acquiring property for compensation. Let there be no mistake: unless you revert to the tribal law, where the word of the tribal chief is the last word, you cannot escape the tribe of lawyers. But one thing is clear. The rule of the tribe of lawyers is any day better than the rule of the tribe of tyrants.

**An Honourable Member :** Why not put the lawyers in a schedule?

**Shri K. M. Munshi :** We may put them in a schedule; they will be too glad to legislate upon themselves; but they will take the law to the Law Courts and come out successful—schedule or no schedule.

The question is what is the extent of justiciability in this article ? The article requires that if the Legislature is to exercise the responsibility entrusted to it by the Constitution, it must lay down the principles of compensation; it must determine the manner and form in which the compensation is to be paid; and provided it yields compensation that is an equivalent recompense, no Court will go behind the policy of the measure. This has been laid down again and again by the Courts of the British Commonwealth as also by the Supreme Court in America, where the words in the Constitution are “just compensation” and where there is the ‘Due Process Clause’ in the Constitution

The Courts will not substitute their own sense of fairness for that of Parliament they will not judge the adequacy of compensation necessarily from the standards of market value; they will not question the judgement of Parliament, unless the inadequacy is so gross as to be tantamount to a fraud on the fundamental right to own property.

In the minds of people who fear justiciability, there is a lurking feeling that if a law laying down principles of compensation goes to Court, the Court will invariably apply the market value standard. This has never been the case, In America, as I said, where the words in the Constitution are “just compensation” and where the 14th Amendment arms the Supreme Court with the Due Process clause, it has never been so held. In one American case—it was an extreme and extraordinary case one dollar was paid by way of compensation. The Court held that looking to the circumstances of that case, even one dollar was just compensation. We need not assume therefore that our Supreme Court will consist of a set of stupid people who will indiscriminately apply the market value rule to every kind of acquisition.

In fairness, we cannot omit this kind of clause from our Constitution. It is necessary that the right of the Legislature in matters relating to acquisition of property should be properly defined. It is equally necessary that judicial review should be permitted where there is a wrongful deprivation of the fundamental right to own property contained in our Constitution; where the Legislature has seized property by acting outside its powers or without fixing the amount of compensation or the principles on which to determine such compensation or where there is expropriation under the guise of acquisition; where the principles laid down are illusory or where the principles or the manner or the form of compensations are not calculated- to yield a fair equivalent; or where the whole thing amounts—as my eminent friend pointed out—to a fraud on the Constitution. The draft as now placed before you, therefore, I submit, satisfies every approach which has been put forward in this House by any section of the honourable Members.

The only other question is of zamindari and after the able and lucid exposition by my honourable Friend, Premier Pant, I need not say anything more. I do not however want this debate to be a controversy between the Premier of the United Provinces and the Zamindars of U.P., as at one stage of this controversy it looked. You must look at the country as a whole. This Constituent Assembly two years ago expected that before this Constitution took final shape, zamindaris will be liquidated. Therefore we are not going back upon, the decision of the Constituent Assembly in incorporating clause, (4) and (6). Look at the figures involved in this question. Imagine the dangers are there. I am not concerned with the merits of this controversy nor with the origin of Zamindari which my Friend, Kala Venkata Rao described. I am only concerned with pointing out that these three Bills of Madras, Bihar and U.P. are already before the country. Action has already been taken under them. We cannot allow a vast number of people to have their rights left in uncertainty after the coming into force of this Constitution.

**Begum Aizaz Rasul :** May I know if one test case in one province is not enough to decide the principles regarding compensation?

**Shri K. M. Munshi :** You will realise that I am not concerned with the, merits of it. What will happen if clauses (4) and (6) are omitted ? I do not belong either to Madras, U.P. or Bihar nor have I any zamindari but we cannot allow the validity of these legislations fought out before any Court when the issues involved are so far-reaching and millions of people are affected by them. That is the reason why I have agreed to this and I think it is the soundest reason. Safeguards have been provided for the three zamindari legislations. All the three Bills will come before the President and he will, if he

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thinks proper, advise or consult the Provincial Ministries with a view to seeing that justice is done. There shall, however, not be a judicial review of the legislations.

**Dr. P. S. Deshmukh :** (C.P. & Berar: General) : May I know, Sir, whether he is arguing for or against the article ?

**Mr. President :** You may draw your own conclusions.

**Shri K. M. Munshi :** If you go to a judicial review, I will tell you what will happen. By these three legislations, seven crores forty lakhs acres have been affected. Secondly, seven crores twenty lakhs of agriculturists, tillers of the soil are affected. If you take the number of zamindars who are to receive less than 16 years purchase which is always considered a liberal measure of compensation, there are 13,000 of them if you take 12 years purchase 5,000 people are only affected as against seven crores and twenty lakhs of tillers. Do you want that the rights of all these people should be hung up for six years so that the laborious process of litigation may proceed from the Subordinate court to the District Court, from the District Court to the High Court and so on, and that all these new adjustments which have come into being should be upset? We cannot afford to do that. It will mean a revolution. We cannot go back, only for the sake of safeguarding the interests of some 5,500 zamindars in the.....

**Begum Aizaz Rasul :** May I know, how you have calculated this figure ?

**Shri K. M. Munshi :** I have got the figures from the Ministers here and they have got them from the documents in their possession. If what they have given me is not correct, then I am not correct.

**Begum Aizaz Rasul :** May I inform the Honourable Member that only in the U.P. there are 22 lakhs of people directly affected, besides their dependents ? Shri K. M. Munshi: I have got the figures for U.P. also. In the U.P. there are only 10,000 zamindars who have got less than thirteen years purchase. These are the figures that I got from Pandit Pant, and there is no reason why they should be disputed. But even assuming that it is not 10,000 but 30,000 can you compare that figure to seven crores and twenty lakhs? Are you going to have a revolution in the country—an agrarian revolt—so that a few thousand people may be kept entrenched in their luxuries and may have all that they have been having all these centuries ?

**An Honourable Member :** What about the individual loss ?

**Shri K. M. Munshi :** Sir, I am not looking at it from the individual point of view. I know some of my friends who but yesterday had an income of 5,000 per month have been reduced to 500 today. But we cannot look at the zamindari legislation from the point of view of individuals. It is a national and social revolution which we have achieved and we cannot go back on it.

**An Honourable Member :** How is the State.....

**Shri K. M. Munshi :** I wish you stop interfering with my speech, I submit that this is the best compromise, a just compromise arrived at after discussing all the most important factors, and I want the House to accept it.

Sir, there are some amendments which I am going to accept. One is No. 405 of Shri Yadubans Sahai asking for addition of the words “and given” after the words “the compensation is to be determined”. These words were omitted by a typing mistake.

The other amendments that I accept are Nos. 504 and 505 which are verbal in nature. And then I accept No. 428 moved by my Friend, Kala Venkata Rao. He wants the period of one year to be extended to eighteen months because some people feel that the dates for the Madras and Bihar legislations cannot be fixed accurately. And the other amendment I accept is the one moved by Shri Jaspat Roy Kapoor with regard to evacuee property. On the suggestion of the Honourable Gopalaswami Ayyangar he has re-drafted it and made some verbal improvements, with a view to bring accuracy.

Subject to these five amendments, I oppose all the others. I hope the House will carry this article with these amendments.

**Shri Jaspat Roy Kapoor** (United Provinces : General) : May I put a question to Mr. Munshi as to.....

**Mr. President** : I do not think any further questions need be put or answered.

**Dr. P. S. Deshmukh** : My friend has accepted the amendment of Mr. Sahai, but my amendment should have been preferred to his because the word "paid" is certainly better than the word "given".

**Mr. President** : I do not know, it is for them to accept or not. No more questions. I am putting the amendments.

The procedure that I desire to follow with regard to the voting on this question is this. I will take, first of all those amendments which seek to replace the original amendment 369. And after these are disposed of, I will take the thing paragraph by paragraph and I will take the amendments to each paragraph.

Now, the first amendment which seeks to replace the whole thing is No. 383, moved by Shri Damodar Swarup Seth.

The question is :

"That in amendment No. 369 of List VII (Seventh Week), for the proposed article 24, the following be substituted:—

- '24. (a) The property of the entire people is the mainstay of the State in the development of the national economy.
- (b) The administration and disposal of the property of the entire people are determined by law.
- (c) Private property and private enterprises are guaranteed to the extent they are consistent with the general interests of the Republic and its toiling masses.
- (d) Private property and economic enterprises as well as their inheritance may be taxed, regulated, limited, acquired and requisitioned, expropriated and socialised but only in accordance with the law. It will be determined by law in which cases and to what extent the owner shall be compensated.
- (e) Expropriation over against the States, local self-governing institutions, serving the public welfare, may take place only upon the payment of compensation'."

The amendment was negatived.

**Mr. President** : Then I put No. 384 of Prof. Saksena.

The question is :

"That with reference to amendments Nos. 720 to 769 of the List of Amendments, for article 24, the following be substituted :—

- '24. (1) No person shall be deprived of his property save by authority of law.
- (2) No property, movable or immovable, including any interest in, or in any company owing, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition except on payment in cash or bonds or both of the amount determined as compensation in accordance with principles laid down by such law.

[Mr. President]

- (3) Nothing in clause (2) of this article shall affect—
  - (a) the provisions of any existing law, or
  - (b) the provisions of any law which the State may hereafter make for the purpose of imposing or levying any tax or for the promotion of public health or the prevention of danger to life or property.’ ”

The amendment was negatived.

**Mr. President** : Then I take No. 385 of Shri Brajeshwar Prasad.

The question is :

That for amendment No. 720 of the List of Amendments, the following be substituted :

That for article 24, the following be substituted :—

- “24. (1) All private property in the means of production may be acquired by the Government of India.
- (2) The President shall determine in each case to what extent, if any, the owner whether a private, individual, a State, a local self-governing institution or a company, shall be compensated.
- (3) That within four years from the date of the commencement of this Constitution, the Union Government shall become the owner of all private property in land which is being used or capable of being used for agricultural purposes.
- (4) Any existing law or the provisions of any law which may thereafter be made contrary to the provisions of this article shall be null and void.
- (5) The provisions of this article may be amended if ratified by the People signified by 51 per cent. of the total number of voters on the electoral list framed on the basis of, adult franchise.”

The amendment was negatived.

**Mr. President** : Then No. 472 of Mr. Tripathi.

**Shri Kishorimohan Tripathi** : (C.P. & Berar State): Sir, I beg leave to withdraw my amendment.

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

**Mr. President** : Then I take amendments to clause (1). The first amendment is No. 386 moved by Mr. Kamath. The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (1) of the proposed article 24, after the word ‘property’, the words ‘except in national interest and’ be inserted.”

The amendment was negatived.

**Mr. President** : The next one is No. 387 moved by Mr. Brajeshwar Prasad. The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (1) of the proposed article 24, for the word ‘law’ the words ‘the President’ be substituted.”

The amendment was negatived.

**Mr. President** : Next is No. 388 of Prof. K. T. Shah. The question is:

“That in amendment No. 369 of List VII (Seventh Week), at the end of clause (1) of the proposed article 24, the following proviso be added :—

‘Provided that no rights of absolute property shall be allowed to or recognised in any individual partnership firm, or joint stock company in any form of natural wealth, such as land, forests, mines and minerals, waters of rivers, lakes or was surrounding the coasts of the Union; and that ultimate ownership in these forms of natural wealth shall always be deemed to vest in and belong to the people of India collectively; and that they shall be owned, worked, managed or developed by collective enterprise only, eliminating altogether the profit motive from all such enterprise.’ ”

The amendment was negatived.



**Mr. President :** Then we go to the amendment which covers all the clauses (2) to (6). I will take them separately also, but now I take No. 389 which seeks the deletion of all these five clauses. The question is:

“That in amendment No. 369 of List VII (Seventh Week), clauses (2), (3), (4), (5) and (6) of the proposed article 24 be deleted.”

The amendment was negatived.

**Mr. President :** Then I come to clause (2). There are several amendments to this clause. I take No. 394 of Prof. K. T. Shah. The question is:

“That in amendment. No. 369 of List VII (Seventh Week), in clause (2) of the proposed article 24,—

- (i) for the words ‘No property’ the words ‘Any property’ be substituted;
- (ii) for the words ‘shall be taken’ the words ‘may be taken’ be substituted;
- (iii) for the words ‘unless the law provides for compensation’ the words ‘subject to such compensation, if any’ be substituted;
- (iv) for the words ‘acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined’, the words ‘acquired as may be determined by the principles laid down in the law for calculating the, compensation’ be substituted;
- (v) the following be added at the end :—

“Provided that no compensation whatsoever shall be payable in respect of:—

- (a) any public utility, social service, or civic amenity which has been owned, worked, managed or controlled, by any individual, partnership firm, or joint stock company for more than 20 years continuously immediately before the day this Constitution comes into force;
- (b) any agricultural land, forming Part of the proprietary of any landowner, howsoever described, which has remained uncultivated or undeveloped continuously for ten years or more immediately before the day this Constitution comes into force;
- (c) any urban land, forming part of the proprietary of any individual, partnership firm or joint stock company, which has remained unbuilt upon or undeveloped in any way for fifteen years or more continuously immediately before the day this Constitution comes into effect;
- (d) any agricultural land forming part of the proprietary of any land-owner, howsoever described, which has remained in the ownership or possession of the same land-owner or his family for more than 25 years continuously immediately before the date when this Constitution comes into operation;
- (e) any mine, forest or mining or forest concession which has remained in the ownership or possession of the same individual, partnership firm, or joint stock company for at least twenty years immediately before the day this Constitution comes into operation;
- (f) any share stock, bond, debenture or mortgage on any joint stock company, owning, working, managing or controlling any industrial or commercial undertaking which has been owned, worked, controlled or managed by the same joint stock company, or any combination or amalgamation of it with any other company for more than thirty years continuously immediately before the day this Constitution comes into operation;

*or*

which has paid in the course of its operations and existence, in the aggregate in the shape of dividend or interest, a sum equal to or exceeding twice the paid-up value of its shares, stock, bonds or debentures;

*or*

whose total assets (not including goodwill) at the time of the acquisition by the State of any such undertaking are less in value than its total liabilities.”

The amendment was negatived.

**Mr. President :** Then No. 395 of Mr. Kamath. The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (2) of the proposed article 24, for the words ‘taken possession of or acquired’ where they occur for the second time, the words ‘to be taken possession of or acquired’ be substituted.”

The amendment was negatived.

**Mr. President :** No. 397 moved by Shri B. Das. The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (2) of the proposed now article 24, for the words ‘unless the law provides for compensation’ the words ‘unless law provides for fair and equitable compensation’ be substituted.”

The amendment was negatived.

**Mr. President :** Then No. 400, moved by Mr. Nagappa.

**Shri S. Nagappa :** (Madras: General) : I wish to withdraw my amendment, Sir.

Amendment No. 400 was, by leave of the Assembly, withdrawn.

**Mr. President :** Then No. 402. The question is:

“That in amendment No. 369 of List VII (Seventh Week). in clause (2) of the proposed article 24,—  
‘before the word “principle” the word “appropriate” be inserted.’-

The amendment was negatived.

**Mr. President :** No. 403, moved by Mr. Kamath. The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (2) of the proposed article 24, after the words ‘to be determined’ a comma and the words ‘provided that such principles or such manner of determination of compensation shall not be called in question in any Court’ be added.”

The amendment was negatived.

**Mr. President :** No. 404 moved by Dr. Deshmukh. The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (2) of the proposed article 24, after the words ‘is to be determined’ the words ‘and paid’ be added.”

The amendment was negatived.

**Mr. President :** Then comes No. 405 which has been accepted by Mr. Munshi.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week) in clause (2) of the proposed article 24, after the words ‘the compensation is to be determined’ the words ‘and given’ be added.”

The amendment was adopted.

**Mr. President :** The question is:

“That in amendment No. 369 of List VII (Seventh Week), after clause (2) of the proposed article 24, the following proviso be added:—

‘Provided that when any such law provides the acquisition by any State of the interests of the Zamindars of various degrees and other intermediaries for the purpose of abolishing the Zamindari system, it shall be sufficient if the law provides for the payment of compensation amounting to not less than twelve times the estimated average net income of the Zamindar of any degree or intermediary whose interests are to be acquired.’

The amendment was negatived.

**Shri Phool Singh :** (United Provinces: General) : Sir, I would like to withdraw my amendment No. 475.

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

**Shri Guptanath Singh** : (Bihar: General) : Sir, I would like to withdraw my amendment No. 476.

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

**Mr. President** : The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (2) of the proposed article 24, for the words ‘provides for compensation’ the words ‘provides for fair and equitable compensation based on market value’ be substituted.”

The amendment was negatived.

**Mr. President** : The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (2) of the proposed article 24, for the words ‘unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined’ the words ‘unless due compensation is paid for’, *or, alternatively*, ‘unless the law provides for due compensation’ be substituted.”

The amendment was negatived.

**Shri P. D. Himatsingka** : (West Bengal: General) : Sir, I wish to withdraw my amendment.

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

**Shri B. P. Jhunjunwala** : (Bihar: General) : Sir, I wish to withdraw my amendment.

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

**Mr. President** : The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (2) of the proposed article 24, after the words ‘or specifies the’ the word ‘proper’ *or, alternatively*, ‘fair’ be inserted.”

The amendment was negatived.

**Mr. President** : The question is:

“That in amendment No. 369 of List VII (Seventh Week), at the end of clause (2) If the proposed article 24, the following new proviso be added :—

‘Provided that no compensation shall be payable to any owner or holder of any movable or immovable property, who, having owned or held such property for thirty years continuously immediately before the coming into force of this Constitution, has either not habitually resided within the State where such property is situated, or has not done anything to develop such property.’

The amendment was negatived.

**Mr. President** : The question is:

“That in amendment No. 369 of List VII (Seventh Week), for clause (3) of the proposed article 24 be deleted.”

The amendment was negatived.

**Mr. President** : The question is:

“That in amendment No. 369 of List VII (Seventh Week), for clause (3) of the proposed article 24, the following be substituted :—

‘(3) No such law as is referred to in clause (2) of this article made by the Legislature of the State shall have effect, unless such law receives the assent of the President’.”

The amendment was negatived.

**Mr. President :** The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (3) of the proposed article 24, for the words ‘unless such law having been reserved for the consideration of the President has received his assent’ the words ‘has received the assent of the President’ be substituted.”

The amendment was negatived.

**Mr. President :** The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (3) of the proposed article 24, for the words ‘having been’ the word ‘is’ be substituted,”

The amendment was negatived.

**Mr. President :** The question is:

“That in amendment No. 369 of List VII (Seventh Week), for clause (4) of the proposed article 24, the following be substituted :-

- ‘(4) Any Bill pending before the Legislature of a State at the commencement of this Constitution shall not, after its subsequent enactment, be called into question in any Court on the ground that it contravenes the-provisions of clause (2) of this article.’ ”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), in clause (4) of the proposed 24,—

- (i) for the words ‘If any’ the word ‘Any’ be substituted;
- (ii) for the words ‘has, after it has been’ the words ‘may be’ be substituted;
- (iii) the words ‘received the assent of the President,’ be deleted; and
- (iv) for the words ‘assented to’ the word ‘passed’ be substituted.”

The amendment was negatived.

**Mr. President :** The question is:

“That in amendment No. 369 of List VII (Seventh Week), in clause (4) of the proposed article 24, after the word ‘Constitution’ the words ‘and designed to execute a scheme of agrarian reform by abolition of Zamindari and conferring rights of ownership on peasant proprietors for such compensation as the Legislature of the State considers fair.’ ”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), for clause (4) of the proposed article 24, the following be substituted:—

- ‘(4) No law making provision as aforesaid shall be called in question in any court either on the ground that the compensation provided for is inadequate or that the principles and the manner of compensation specified are fraudulent and inequitable.’ ”

The amendment was negatived.

**Mr. President :** The question is:

“That in amendment No 369 of List VII (Seventh Week), at the end of clause (4) of she proposed article 24, the following explanation be added :

‘*Explanation.*—The provision of this clause shall not refer to the system of land tenure called Ryotwari anywhere in the Union including the Indian States.’ ”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), for clause (5) of the proposed article 24, the following be substituted:—

‘(5) Save as provided in the next succeeding clause, nothing in clause (2) of this article shall affect the provisions of any existing law or of any law which the State may hereafter make which imposes or levies any tax or penalty which seeks to promote public health or to prevent danger to life and property.’ ”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), in sub-clause (b) of clause (5) of the proposed article 24, after the word ‘property’ the words ‘or for ensuring full employment to all and securing a just and equitable economic and social order’ be added.”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), clause (5) of the proposed article 24 be deleted.”

The amendment was negatived.

**Mr. President :** The questions is :

“That in amendment No. 369 of List VII (Seventh Week), in clause (5) of the proposed article 24, the words ‘Save as provided in the next succeeding clauses’ be omitted.”

The amendment was adopted.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), for sub-clause (a) of clause (5) of the proposed article 24, the following sub-clause be substituted:—

‘(a) the provision of any existing law other than a law to which the provisions of clause (6) of this article apply, or’.”

The motion was adopted.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), sub-clause (a) of clause (5) of the proposed article 24 be deleted.”

The amendment was negatived.

**Mr. President :** These two amendments have been put in a new form. The question is :

“That in amendment No. 369 of List VII (Seventh Week), after sub-clause (b) of the proposed article 24, the following new clause be added :—

‘(c) The provisions of any existing law made or of any law which the State may hereafter make, in pursuance of any agreement arrived at with a foreign State or otherwise with respect to property declared by law to be evacuee property.’ ”

The amendment was adopted.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), in clause (6) of the proposed article 24, for the words ‘not more than one year’ the words ‘at any time’ be substituted.”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), in clause (6) of the proposed article 24, for the words ‘not more than one year before the commencement of this Constitution’ the words and figures ‘after August 15, 1947’ be substituted.”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), in clause (6) of the proposed article 24, for the words ‘one year’ the words ‘eighteen months’ be substituted.”

The amendment was adopted.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), in clause (6) of the proposed article 24, for the words beginning with ‘may within three months’ and ending with Government of India Act, 1935, the following be substituted :—

‘shall not be called in question in any court on the ground that it contravenes any provision of this article.’”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), in clause (6) of the proposed article 24, the words ‘may within three months from such commencement be submitted by the Governor of the State to the President for his certification; and thereupon, if the President by Public notification so certifies, it’ be deleted.”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), in clause (6) of the proposed article 24, the words figures and brackets ‘clause (2) of this article’ be deleted.”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), in clause (6) of the proposed article 24 be deleted.”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), in clause (6) of the proposed article 24, the following new clause be added :—

‘(7) If any State passes a law designed to execute a scheme of agrarian reform in the State by abolition of Zamindari conferring rights of ownership on peasant proprietors or at least rights of occupancy for such compensation as the State Legislature considers fair on the lines of the law referred to in clause (4) of this article, such law shall be submitted by the Governor or the Ruler as the case may be, to the President for his certification. If the President by public notification certifies the law, it shall not be called in question in any court on the ground that it contravenes the provisions of clause (2) of this article.’ ”

The amendment was negatived.

**Mr. President :** The question is :

“That in amendment No. 369 of List VII (Seventh Week), after clause (6) of the proposed article 24, the following clause be added :—

‘(7) The Parliament may by law in case the social and economic conditions so necessitate, provide for the socialization of any class of property on such terms and conditions as provided in the law.’ ”

The amendment was negatived.

**Mr. President :** The question is :

“That with reference to amendment No. 369 of List VII (Seventh Week), after the proposed article 24, the following new article be added :—

‘24-A. Nothing in this Constitution shall prevent the Parliament from exercising jurisdiction over, and the State Legislature from acquiring any properties movable or immovable belonging to any public charitable trust without compensation and for the purpose of better utilization and management of the trust property.’ ”

The amendment was negatived.

**Mr. President :** I will now put to vote the original amendment No. 369 of List VII (Seventh Week), moved by the Prime Minister, as amended by the amendments which have been adopted.

The question is :

“That proposed article 24 as amended, be adopted.”

The motion was adopted.

Article 24, as amended, was added to the Constitution.

The Assembly then adjourned till Four of the Clock in the afternoon.