

Monday, 12th September, 1949

Volume IX

**30-7-1949
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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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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 to 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.

[Pandit Balkrishna Sharma]

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.

[The Honourable Pandit Govind Ballabh Pant]

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

[Shri Biswanath Das]

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 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.

[] 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.

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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.

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- (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. Jhunhunwala : (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.

The Assembly re-assembled in the afternoon at Four of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

DRAFT CONSTITUTION—(*Contd.*)

PART XIV-A—LANGUAGE

Mr. President : We have now to take up the articles dealing with the question of language. I know this is a subject which has been agitating the minds of Members for sometime and so I would make an appeal to the speakers who are going to take part in the debate. My appeal is not in favour of any particular proposition, but it is with regard to the nature of the speeches which Members may be making. Let us not forget that whatever decision is taken with regard to the question of language, it will have to be carried out by the country as a whole. There is no other item in the whole Constitution of the country which will be required to be implemented from day to day, from hour to hour, I might even say from minute to minute in actual practice. Therefore Members will remember that it will not do to carry a point by debate in this House. The decision of the House should be acceptable to the country as a whole. Even if we succeed in getting a particular proposition passed by majority, if it does not meet with the approval of any considerable section of people in the country—either in the north or in the south, the implementation of the Constitution will become a most difficult problem. Therefore, when any Member rises to speak on this language question I would request him most earnestly to remember that he should not let fall a single word or expression which might hurt or cause offence. Whatever has to be said, should be said in moderate language so that it might appeal to reason and there should be no appeal to feelings or passion in a matter like this.

Now I desire to say one word about the procedure which I propose to follow so that I could have the approval of the House for that procedure.

I have found that there are some three hundred or more amendments to these articles. If each one of the amendments is to be moved I do not know how many hours it will take if I am to allow ten minutes to each mover to speak. Many of these amendments overlap; many make only difference of a shade in their meaning; many make practically no difference except in their wording. There are some of course which are of a substantial nature. I, therefore, propose to take all the amendments as moved and ask the Members to start the discussion straightway. Every Member who wishes to speak is free to do so on his amendment, but he has to remember that he must confine his speech to about 10 minutes or 15 minutes at the most. If he wishes to cover all the amendments or all the propositions which arise, probably he will have no time to deal fully with the particular item to which he attaches importance. It, therefore, naturally follows that in observing the time-limit, Members may have to concentrate on particular points to which they desire to attach importance. If the house co-operates and if the Members co-operates, there is no reason why we should not be able to finish the discussion of this question within a reasonable time, as we have done with the rest of the Constitution. I would like to know if the House approves of the procedure which I propose to follow.

Honourable Members : Yes.

Shri Mahavir Tyagi : Sir, I do not accept the procedure suggested, if discussion is to be permitted to cover the whole field of amendments, one will not be in a position to know exactly what a particular amendment signifies or what an amendment to an amendment means. Therefore if the procedure suggested

by you is followed the House will not get the full benefit of the debate. I therefore suggest that either you may be pleased to take the salient points from these Lists of Amendments to be moved and take the decision of the House on them so that such decisions may thereafter be implemented by the Drafting Committee. If this is not done, and if discussion is carried on the question of the numerals, etc. simultaneously one would not know what he has to say. I therefore submit that the procedure suggested will not be fair.

Mr. President : I assume that the Members have read the amendments and understood their significance (Several Honourable Members : Yes.) It is on that basis that I placed my suggestion before the House.

Maulana Hasrat Mohani : May I suggest that the official resolution of Dr. Ambedkar and two others be moved and thereafter the amendments may be moved one after the other. They have become things of no significance. Therefore if you ask Dr. Ambedkar and his companions to come forward and move their amendments and then allow the amendments to those amendments to be moved, that will give a fair chance to honourable Members to express their views.

Mr. President : It is open to Members to say that they do not wish to move any particular amendment. Otherwise I will take all amendments as moved. We shall start the discussion.

Maulana Hasrat Mohani : I have proposed an amendment to the amendment proposed by Dr. Ambedkar. If he says that he does not want to move his amendment.
.....

Mr. President : Your amendment will be taken as moved.

Seth Govind Das (C.P. & Berar : General) : I would like to know whether, in view of the fact that you have said that all the amendments would be taken as moved, the discussion would take place on all the amendments or on each point.

Mr. President : I will follow the procedure which I followed earlier in the day in connection with the other proposition to which also we had a large number of amendments. I shall take the amendments first which cover the whole ground and after they have been disposed of, I shall take up paragraph by paragraph if Members so desire to discuss them.

Pandit Balkrishna Sharma : You were pleased to state that we shall take all the amendments as moved. What then will be the order of the members whom you will be pleased to call upon to speak?

Mr. President : The same order which is ordinarily followed by any Speaker of the Assembly.

The Honourable Pandit Ravi Shankar Shukla (C.P. & Berar : General) : Are we going to take amendment by amendment for discussion or are we going to take the whole lot of them?

Mr. President : The whole lot of them.

The Honourable Pandit Ravi Shankar Shukla : If we take amendment by amendment, we shall be able to concentrate on each point. Otherwise there would be such a lot of confusion that you yourself would not be able to fix upon speakers.

Mr. President : That is why I suggested that Members in speaking will concentrate on the particular point to which they attach importance.

Mr. Mohamed Ismail Sahib (Madras : Muslim) : There are certain amendments coming still; are we to assume that they are all going to be taken as moved?

Mr. President : All the amendments which I have received up to this particular movement. They will be circulated this evening.

Pandit Balkrishna Sharma : Will it be possible for you to take up article by article?

Mr. President : At the time of voting.

Pandit Balkrishna Sharma : We can take up article by article and discussion will be confined to that particular article for the time being; then the second article can be taken up, so that if the same Member wishes to speak on that article, he can do so.

Mr. President : I do not like that, but of course it is open to the House.

An Honourable Member : Will every Member who has moved an amendment be entitled to speak as a matter of right?

Mr. President : I cannot say just now. I have not counted the number of Members who have moved amendments but I will try to accommodate every member who has moved an amendment.

Shri R. K. Sidhwa (C.P. & Berar : General) : What about those Members who have not moved any amendments? Would they also be entitled to speak?

Mr. President : I will try to accommodate every Member.

Shri Jaspal Roy Kapoor : Sir, according to the suggestion which you have been pleased to make, all the amendments will be taken as moved. May I submit, Sir, that this whole Chapter deals with the question of language. Hitherto the practice adopted in this House has been that when a particular Chapter is under consideration, each article is taken up separately. The articles in this Chapter relate to entirely different subjects. One relates to numerals. Another relates to the language of the High Courts and the Supreme Courts, and another to the language of the States; another relates to the language which should be used in communications between one State and another. All these articles relate to absolutely different subjects, and I would therefore submit that, while there may be this departure which you have suggested, so far as taking up each article is concerned, the usual procedure that has been adopted so far may continue to be adopted. Otherwise there will be confusion.

Dr. P. S. Deshmukh : Why should this change be made at the fag-end of the Constitution-making?

Mr. President : Because it is the fag-end.

Mr. Naziruddin Ahmad : Then the time limit should be relaxed.

Mr. President : That is a matter about which I am prepared to re-consider. Instead of ten minutes, I may give some more time.

Mr. Naziruddin Ahmad : I want that each Member should be strictly relevant.

Mr. President : That is exactly the difficulty.

Mr. Naziruddin Ahmad : I have moved certain amendments. If I am not relevant at any time, you will be pleased to stop me, Sir.

The Honourable Shri Jawaharlal Nehru : You have given the ruling that all the amendments of which notice has been given will be taken as moved. Apparently there are two or three hundreds of them. Now, I imagine that some of them overlap and some are completely out of date. If we take them all as moved, ultimately it will take a lot of time. I am merely suggesting that those Members who want to withdraw their amendments might withdraw them by writing to you.

Mr. President : I am prepared to go a little further than that. I will call every amendment and then the member concerned can say if he wants to move it or not.

Shri Deshbandhu Gupta (Delhi) : Since the Drafting Committee has not been able to put forward any agreed amendment on this question may I suggest even at this late stage a Committee of nine or eleven Members be appointed by the House, to go into the whole question once again and try to bring about some agreed amendment?

An Honourable Member : No, Sir.

Shri Deshbandhu Gupta : At least, such an amendment can form the basis for discussion and the points of difference can be reduced. I suggest with your permission, Sir that the following members might serve on that Committee : The Honourable Pandit Jawaharlal Nehru....

An Honourable Member : No, we are not agreeable to the idea.

Mr. President : I do not think that is practicable. I understand that that procedure has been followed. It makes no difference.

Shri Deshbandhu Gupta : If we can have an agreed solution, that will save a good deal of time and botheration.

Mr. President : It will make no difference. I think I had better close this discussion now.

Shri B. Das (Orissa : General) : Sir, may I have your ruling if the amendments that have been tabled so far are the only amendment and that no further amendments will be accepted, so that time and expenses of the House could be saved?

Mr. President : The matter will be put to the vote now. The question is :

“That the procedure that I have suggested be generally adopted.”

The motion was adopted.

Mr. President : I will now call the amendments one by one. Amendment No. 65.

Shri S. V. Krishnamoorthy Rao (Mysore State) : I have tabled an amendment, Sir, that the question of the language be left to the future Parliament. If that amendment is accepted, all this discussion could be avoided.

Mr. President : There are so many other amendments which, if accepted, would throw all the other amendments out of the picture. I shall now call each of the amendments, and if any Member wishes to withdraw his amendment, he will let me know.

(Members who had given notice of amendments Nos. 65 and 66 indicated that those amendments might be taken as moved.)

Amendment No. 67.

The Honourable Pandit Ravi Shankar Shukla : Sir, I wish to move each item separately.

Mr. President : It will be a question at the time of voting from that point.

The Honourable Pandit Ravi Shankar Shukla : My amendments so far as No. 67 is concerned contains three amendments : One is to delete articles 99 and 184. I wish not to move that. That may be dropped. As regards amendment No. 67, I have given notice of amendments to each article separately. I wish they may be taken as moved and not amendment 67. Amendment No. 67 may not be taken as moved, but the other amendments may be taken as moved.

Mr. President : Which are the other amendments?

The Honourable Pandit Ravi Shankar Shukla : I have given amendments under each article under my name.

(Members who had given notice of amendments Nos. 68 and 69 indicated that these amendments might be taken as moved.)

The Honourable Shri Ghanshyam Singh Gupta (C.P. & Berar : General): Sir, I have a point of order with regard to amendment No. 69. Shall I raise it now or at the time of voting?

Mr. President : At the time of voting.

(Members who had given notice of amendments Nos. 70, 71 and 72 indicated that these amendments might be taken as moved.)

The Honourable Dr. B.R. Ambedkar : I am not moving amendment No. 73.

Shri Mahavir Tyagi : I move it, Sir.

(Members who had given notice of amendments Nos. 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84 and 85 indicated that these amendments might be taken as moved.)

Dr. P. S. Deshmukh : Sir, if an amendment is absolutely similar, is it permissible for an identical amendment being moved by several Members?

Mr. President : I shall leave them out at the time of voting.

(Member who had given notice of amendments Nos. 86, 87, 88, 89 and 90 indicated that these amendments might be taken as moved.)

(Amendment No. 91 was not moved.)

(The Member who had given notice of amendment No. 92 indicated that this amendment might be taken as moved.)

(Amendment No. 93 was not moved.)

(Members who had given notice of amendments Nos. 94, 95, 96, 97, 98, 99, 100, 101, 102, 103 and 104 indicated that these amendments might be taken as moved.)

Shri Mahavir Tyagi : Those Members who are not moving their amendments may pass a slip to you and thus save time.

(The member who had given notice of amendment No. 105 indicated that this amendment might be taken as moved.)

(Amendment No. 106 was not moved.)

(Members who had given notice of amendments Nos. 107, 108 109 and 110 indicated that these amendments might be taken as moved.)

(Amendment Nos. 111 and 112 were not moved.)

(Members who had given notice of amendments Nos. 113, 114, 115, 116 and 117 indicated that these amendments might be taken as moved.)

(Amendment No. 118 was not moved)

(Members who had given notice of amendments Nos. 119 and 120 indicated that these amendments might be taken as moved.)

Shri H. V. Kamath : On a point of order, Sir, is it proper for a member to give notice of amendments which are inconsistent with one another? Dr. Ambedkar has given notice of several amendments which are mutually inconsistent.

Mr. President : It is nothing unusual for Members of this House to be inconsistent.

Dr. P. S. Deshmukh : Including the honourable member himself (*Laughter*).

Shri H. V. Kamath : My amendments have not been inconstant like that.

(Members who had given notice of amendments Nos. 121, 122 and 123 indicated that these amendments might be taken as moved.)

(Amendment No. 124 was not moved.)

(Members who had given notice of amendments Nos. 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166 and 167 indicated that these amendments might be taken as moved.)

(Amendment No. 168 was not moved)

(Members who had given notice of amendments No. 169, 170, 171, 172, 173, 174 and 175 indicated that these amendments might be taken as moved.)

(Amendment No. 176 was not moved.)

(Members who had given notice of amendments Nos. 177 and 178 indicated that these amendments might be taken as moved.)

Mr. President : Is it necessary for me to go through the ceremony for the rest of the amendments? Nobody will be prepared to withdraw them. After going through 178 amendments, I do not think it is necessary to go through the ceremony for the rest, and I take them all as moved.

Pandit Balkrishna Sharma : May I draw your attention to the fact that some of us gave notice of amendments even today and you were pleased to admit them on the Order paper. May I know, Sir, whether even those amendments which we have given notice will be taken as moved?

Mr. President : Such of the amendments as were given notice of up to the moment this sitting commenced, will be taken as moved. They will be circulated this evening. There was no time.

Now we shall start the discussion. Mr. Gopalaswami Ayyangar will move the first amendment No. 65.

The Honourable Shri N. Gopalaswami Ayyangar (Madras : General) : Mr. President, Sir, I take it that it is quite unnecessary for me to read the whole of this amendment.

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

The Honourable Shri N. Gopalaswami Ayyangar : At the outset, I wish to say that I shall endeavour to the best of my ability to confirm to the appeal you made at the opening of this afternoon's session. I shall try to be brief and what is more, it will be my endeavour to be objective in dealing with this problem. The problem has been before us for quite a long time now. We have discussed it amongst ourselves in small groups, in larger groups in the country, in the Press and so on. A great deal has been said on this problem in all these various places. Opinion has not always been unanimous on this question. There was, however, one thing about which we reached a fairly unanimous conclusion that we should select one of the languages in India as the common language of the whole of India, the languages that should be used for the official purposes of the Union. In selecting this language various considerations were taken into account. I for one did not easily reach the conclusion that was arrived at the end of these discussions because it involved our bidding good-bye to a language on which I think, we have built and achieved our freedom. Though I accepted the conclusion at the end that that language should be given up in due course and in its place, we should substitute a language of this country, it was not without a pang that I agreed to that decision.

Pandit Lakshmi Kanta Maitra : (West Bengal : General) : Unfortunately I am not able to catch what the honourable Member says. Will somebody adjust the mike?

The Honourable Shri N. Gopalaswami Ayyangar : The final decision, as all honourable Members know, on that particular question is that we should adopt Hindi as the language for all official purposes of the Union under the new Constitution. That of course, is and ultimate objective to be reached. It certainly involves that when that achievement takes place, we have to bid good-bye to a language on which many of us have been reared and on the strength of which as I said we have achieved our freedom, I mean the Kind of language.

The decision to substitute Hindi in the long run for the English language having been taken, we had to take also two subsidiary decisions which were involved in that one decision. Now the subsidiary decisions were that we could not afford to give up the English language at once. We had to keep the English language going for a number of years until Hindi could establish for itself a place, not merely because it is an Indian language, but because as a language it would be an efficient instrument for all that we have to say and do in the future and until Hindi established itself in the position in which English stands today for Union purposes. So we took the next decision, namely that for a period of about fifteen years English should continue to be used for all the purposes for which it is being used today and will be used at the commencement of the Constitution.

Then, Sir, we had to consider the other aspects of this problem. We had to consider, for instance, the question of the numerals about which I shall have to say something more detailed in the few remarks and I shall permit myself. Then we had to consider the question of the language of the States and we took a decision that, as far as possible, a language spoken in the State should be recognised as the language used for official purposes in that State and that for Inter-State communications and for communications between the State and the Centre the English language should continue to be used, provided that where between two States there was an agreement that inter-communication should be in the Hindi language, that should be permitted.

We then proceeded to consider the question of the language that should be used in our Legislatures and the highest courts of Justice in the land and we came to the conclusion after a great deal of deliberation and discussion that while the language of the Union 'Hindi' may be used for debates, for discussions and so forth in the Central Legislature, and where while the language of the State could be used for similar purposes in the State Legislature, it was necessary for us, if we were going to perpetuate the existing satisfactory state of things as regards the text of our laws and the interpretation of that text in the courts, that English should be the language in which legislation, whether in the form of Bills and Acts or of rules and orders and the interpretation in the form of judgments by Judges of the High Court—these should be in English for several years to come. For my own part I think it will have to be for many many years to come. It is not because that we want to keep the English language at all costs for these purposes. It is because the languages which we can recognize for Union purposes and the languages which we can recognise for State purposes are not sufficiently developed, are not sufficiently precise for the purposes that I have mentioned, viz., laws and the interpretation of laws by Courts of law.

Then we have to recognise one broad fact, viz., that while we could recognize 'Hindi' as the language for the official purposes of the Union, we must also admit that that language is not today sufficiently developed. It requires a lot of enrichment in several directions, it requires modernization, it requires to be imbued with the capacity to absorb ideas, not merely ideas but styles and expressions and forms of speech from other languages. So we have put into this draft an article which makes it the duty of the State to promote the development of

Hindi so that it may achieve all these enrichments and will in due course be sufficiently developed for replacing adequately the English language which we certainly contemplate should fade out of our officially recognised proceedings and activities in due course of time. Those generally speaking, are the basis of this particular draft which I have moved.

Now in considering this draft, I wish to place before the House one or two facts. The first that I wish to place before the House is that this Draft is the result of a great deal of thought, a great deal of discussion. It is also—what has emerged—a compromise between opinions which were not easily reconcilable and therefore when you look at this draft, you have to take it not as a thing which is proposed by an individual Members like me or by three Members if I include my two colleagues whose names are set down here. It is not to be looked upon as something which we have put forth. It is the result of a compromise in respect of which great sacrifices of opinion, of very greatly cherished views and interests, these have been sacrificed for the purpose of achieving this draft in a form that will be acceptable to the full House.

Now I wish to draw the attention of the House to one or two of the basic principles underlying this draft. Our basic policy, according to the framers of this draft, should be that the common language of India for Union purposes should be the Hindi language and the script should be the Devanagari script. It is also a part of this basic policy that the numerals to be used for all official Union purposes should be what have been described to be the All-India forms of Indian numerals. Authors of this draft contemplate that these three items should be essential parts of the basic policy in this respect for practically all times. I wish to emphasize that fact because I know there is a school of opinion in this House that so far as the international forms of Indian numerals are concerned, they should be placed in this scheme on the same footing as the English language. Those of us who are responsible for this draft, we do not subscribe to this proposition. We consider that to the same extent the Hindi language and the Devanagari script for letters in that language should form a permanent feature of the common language of this country, to the same extent should the international forms of Indian numerals be part of this basic policy. That is at the root of this draft.

It is true that in order to effect a compromise with those who hold a different view we made one or two concessions in this draft which we thought would persuade the others to all into line with us. One concession was that though the international forms of Indian numerals would be a permanent feature, the President even during the first fifteen years during which the English language will continue to be used practically for all purposes, during that period he may direct that the Devanagari numerals also should in addition to the international forms of Indian numerals be used for one or more official purposes of the Union.

The second concession that was made was that the question of the form of Indian numerals to be used for particular official purposes should be one of those questions which the Commission which would be appointed under article 301-B—I think it is 301-B—and it will be one of the duties of the Commission to make recommendations on that subject. We certainly visualised the possibility of that Commission saying, “Let the international forms of Indian numerals be replaced altogether by the Devanagari form of numerals.” But we were willing to make this concession, because we thought it would be a gesture which would be appreciated by those who take a different view, and we also were perfectly sure that before an impartial Commission of the sort that will be constituted in the future, arguments in favour of the retention of the international forms of Indian numerals permanently will weight more

[The Honourable Shri M. Gopalaswami Ayyangar]

heavily than it might in the atmosphere of a House where opinion is so divided as it is today in this House. Well, we were willing to take those risks. I mention these facts to show how great a sacrifice those who stand for the basic policy which I have enunciated have had to make for the purpose of reaching an amicable understanding with the exponents of a different view.

Now, I do not think it will be necessary for me to recommend the claims of the international forms of Indian numerals to this House. They must have read a great deal about it already, and I am sure those who will follow me here will have a lot more to say about it, and so I do not go into the history of this question. I will only mention one or two facts. These forms of numerals originated in our country, and therefore, we should be proud to continue the almost universal use of these numerals which is now made in this country as a part of the future language set-up in this country. (*Hear, hear*). Secondly the whole world, perhaps with one or two exceptions, has adopted these numerals. It is but right that we should keep in step with the whole world, or it should be really the other way, the whole world is already ready to keep in step with us who really gave these numerals to the world. And shall we throw away this proud position in the world with all the attendant advantages that it brings to us? Shall we do so in order to take to something which is not universally used even in this country and which it is impossible for the world at large to use in the future? Those two facts I should like to place particularly before this House before they reach a conclusion on this matter.

Now, Sir, with regard to this particular point a number of alternatives have been proposed, but I would refer only to the latest which was put into your hands in the course of today, and that is the proposal which says it will place the international forms of Indian numerals practically on the same footing as the English language in the scheme of things. That means that for the first fifteen years, the international forms of Indian numerals will continue to be used and after that period Parliament might be left to decide for what purposes the international form or the Devanagari form should be used, or both should be used. It looks a very attractive proposition. But at the back of it is this feeling that you visualise the prospect of displacing that international form of Indian numerals altogether in this country. To those of us who are responsible for this draft, that is not a prospect which we can contemplate with anything like equanimity in the largest interests of the country and the world. And therefore it is because of this wrong approach to the whole problem that I am constrained to say that it is not possible for those who hold our particular view to consider this alternative.

Now, Sir, a few words as regards the provision we have made in Chapter III, that is, the language of the courts. We consider it very fundamental that English shall continue to be used in the Supreme Court and the High Courts until Parliament after full consideration, after Hindi has developed to such an extent that it can be a suitable vehicle for law-making and law-interpretation comes to the conclusion that it can replace the English language. My own feeling is that English will last in the form of bills and Laws and interpretations of such laws much longer than fifteen years. That is my own expectation. Now, it is important that we should realise why this chapter has been put in. Law-making and law-interpretation require an amount of precision; they require a number of expressions and words which have acquired a certain definite meaning; and until we reach that stage in regard to the Hindi language—and I do not think at present the Hindi language is anywhere near it, ignorant as I am of Hindi myself (*hear, hear*)—I have seen a good deal of the Hindi translation of what happens in this House and I am constrained to say that even the little Hindi I know does not enable me to make out anything form

that kind of translation. Perhaps people more versed in Hindi may be able to understand it; perhaps I do understand it sometimes, because of the large number of Sanskrit words that are used in these translations. But that is not Hindi, in the sense that you could use it for court or legislative purposes.

I can tell you a story within my own experience. Ten years ago, I was making a Constitution for the State of Jammu and Kashmir. The language of the Legislature had to be described in a section, and those who were drafting it, those officers had simply copied out the language in the Government of India Act, that is to say, English should be the language, but if any member was unacquainted with it or was not sufficiently acquainted with the English language he might be allowed to speak in any language with which he was familiar. Well, it so happened that the late Sir Tej Bahadur Sapru happened to be in Srinagar when I was considering this draft, and I thought that I might take advantage of his presence there for advice and sent this draft to him. The only portion to which he objected initially was this section about the language of the Legislature. He said, "What, in an Indian State where Urdu is the language of the courts and schools, and so on, could you really put in English language as the language of your Legislature?" I had a long discussion with him; I told him, "I quite see your point. I am willing to agree that the language of the Legislature should be Urdu to the extent that those people who are not acquainted with English should be permitted to speak in Urdu. But you are a great lawyer and supposing tomorrow I want you to appear before either the High Court here of the Privy Council and argue and interpret a section of the Constitution, if it is framed in Urdu would you feel happy?" He appreciated my point I told him as a compromise: "I will put in Urdu as the language of the Legislature for debates which a proviso that the authoritative texts of Bills and Acts shall be in the English language." He instantly agreed to my suggestion and thought that this was the most sensible solution of the problem that confronted us both.

I am mentioning that to you, because at the present moment in India we have to face a similar problem. Our courts are accustomed to English; they have been accustomed to laws drafted in English; they have been accustomed to interpret in English. It is not always possible for us to find the proper equivalent to an English word in the Hindi language and then proceed to interpret it was all the precedents and rulings which refer only to the English words and not the Hindi words. That is why we felt it absolutely necessary—almost fundamental—to this Constitution if it is to work that this Chapter should go into it.

Sir, I do not wish to go into other matters, because I am afraid I have already exceeded the time you have fixed for me. I would only appeal to the house that we must look at this problem from a purely objective standpoint. We must not be carried away by mere sentiment on any kind of allegiance to revivalism of one kind or another. We have to adapt the instrument which would serve us best for what we propose to do in the future and I for one agree with you, Sir, that it will be a most unhappy thing, a most disappointing illustration of our inability to reach an agreed conclusion on so vital a matter if on this point we have to divided the House. I am sure that good sense will prevail.

Sir, I move:

That after Part XIV, the following new Part be added:—

New Part XIV-A

CHAPTER I—LANGUAGE FOR THE UNION

301A (1) The official language of the Union shall be Hindi in Devanagari script and the form of numbers to be used for the official purposes of the Union shall be the international form of Indian numerals.

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(2) notwithstanding anything contained in clause (1) of this article, for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union, for which it was being used at such commencement :

Provided that the President may, during the period, by order authorise for any of the official purposes of the Union the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the international form of Indian numerals.

(3) Notwithstanding anything contained in this article, Parliament may by law provide for the use of the English language after the said period of fifteen years for such purposes as may be specified in such law.

301B. (1) The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of ten years from such commencement, by order constitute a commission which shall consist of a Chairman and such other members representing the different languages specified in Schedule VII-Commission and Committee of Parliament on official language.

A as the President may appoint, and the order shall define the procedure to be followed by the Commission.

(2) It shall be the duty of the Commission to take recommendations to the President as to—

- (a) the progressive use of the Hindi language for the official purposes of the Union;
- (b) restrictions on the use of the English language for all or any of the official purposes of the Union;
- (c) the language to be used for all or any of the purposes mentioned in article 301E of this Constitution;
- (d) form of numerals to be used for any one or more specified purposes of the Union;
- (e) any other matter referred to the Commission by the President as regards the official language of the Union and the language of inter-State Communication and their use.

(3) In marking their recommendations under clause (2) of this article, the Commission shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of the non-Hindi speaking areas in regard to the public services.

(4) There shall be constituted a Committee consisting of thirty members of whom twenty shall be members of the House of the People and ten shall be members of the Council of States chosen respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.

(5) It shall be the duty of the Committee to examine the recommendations of the Commission constituted under this article and to report to the President their opinion thereon.

(6) Notwithstanding anything contained in article 301A of this Constitution, the President may after consideration of the report referred to in clause (5) of this article issue directions in accordance with the whole or any part of the report.

CHAPTER II—REGIONAL LANGUAGES

301C. Subject to the provisions of articles 301D and 301E. a State may by law adopt any of the languages Official language or in use in the State or Hindi as the language or languages to be used for all or any of the languages of a state. official purposes of that State:

Provided that until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used at the commencement of this Constitution.

301D. The language for the time being authorised for use in the Union for official purposes shall be the Official language for communication official language for communication between one State and another between one State and another or State or between a State and the Union: between a State and the Union.

Provided that if two or more States agree that the Hindi language should be the official language for communication between such States, that language may be used for such communication.

301E. Where on a demand being made in that behalf the President is satisfied that a substantial proportion of the population of the State desires the use of a any language spoken by them to be recognised by that State he may direct that such language shall also be officially recognized throughout that State or any part thereof for such purpose as he may specify.

CHAPTER III—LANGUAGE OF SUPREME COURT AND HIGH COURTS, ETC.

301F. Notwithstanding anything contained in the foregoing provisions of this part, until Parliament by law otherwise provides—
Language to be used in the Supreme Court and in High Courts and for Acts, Bills, etc.

- (a) all proceedings in the Supreme Court and in every High Court,
- (b) the authoritative texts—
 - (i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,
 - (ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or a Governor or a Ruler, as the case may be,
 - (iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State.

shall be in the English language.

301G. During the period of fifteen years from the commencement of this Constitution no Bill or amendment making provision for the language to be used for any of the purposes mentioned in article 301F of this Constitution shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of

any such Bill or, the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under article 301B of this Constitution and the report of the Committee referred to in that article.

CHAPTER IV—SPECIAL DIRECTIVES

301H. Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

301I. It shall be the duty of the Union to promote the spread of Hindi and to develop the language so as to serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichments by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India, and drawing, wherever necessary or desirable, for its vocabulary, primarily on Sanskrit and secondarily on other languages.”

SCHEDULE VIIA

- | | |
|--------------|-------------|
| 1. Assamese | 8. Marathi |
| 2. Bengali | 9. Oriya |
| 3. Canarese | 10. Punjabi |
| 4. Gujarati | 11. Tamil |
| 5. Hindi | 12. Telugu |
| 6. Kashmiri | 13. Urdu |
| 7. Malayalam | |

Pandit Lakshmi Kanta Maitra : With regard to the draft to which the honourable members was just now referring, does he contemplate that any portion of the draft can be considered separately or in isolation?

The Honourable Shri N. Gopalaswami Ayyangar : I thought I said that the scheme should be looked upon as a whole. It was the result of a great deal of discussion and compromise. If I may emphasize it, it is an integrated whole. We cannot give up one part of it, unless it be a very minor or verbal correction

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that you want to make, or even a minor matter of substances. It does not matter very much. But the important things in this draft are an integrated whole and if you touch one part of it the other things fall to pieces.

Seth Govind Das : Sir, it has been a problem for me in which language I should Address the House today.

Mr. Naziruddin Ahmad : On a point of order, Sir. The honourable Member is supporting Hindi and he should not, therefore, speak in English.

Mr. President : I see no point of order in it. Any Member of the House is entitled to speak either in Hindi or in English, or in any other Indian language.

Seth Govind Das : I should like to say a few words to my South Indian Friends at the very outset. As I just now said, it has been a problem for me for a few days past and I have been thinking whether I should speak in English or in that official language which is going to be adopted by this House today.

I am convinced, Sir, that as far as well as are concerned, our views are made up and I do not expect that I shall be able to convert any Friend to my view. Therefore I do not want that it should go in the records of the history of our country that when I was speaking in favour of making Hindi as our official language I had spoken in English, in a foreign language and, therefore, I propose to speak in Hindi. I am sure that if my South Indian Friends will hear me attentively I shall try to speak in such language that they will be able to follow every word which I say.

Shri S. Nagappa : On a point of order, Sir. The honourable Member wants to carry the day without making us understand what he says. If he is to carry the House with him, is it not his duty.

Mr. President : There is no point of order in it. It is for him to decide whether he wants to carry the House with him or not.

Pandit Govind Malaviya (United Provinces : General) : May I make a request on behalf of those Members of this House who are supporters of Hindi that the honourable member may speak in English?

Seth Govind Das : *[Mr. President, I consider this to be the most important day in my life. Besides, the measure of my happiness at what is happening today is also very great. I express my gratitude to you, Sir, for the fact that you have always been kind to listen to whatever I have said here from time to time with regard to this issue. Also on the opening day of this august Assembly, when your Predecessor Dr. Sachidanand Sinha, who also hails from your province, was the provisional Chairman of this House, I had raised the question of National language. Thereafter, I have been raising this question here from time to time, which I feel may have caused annoyance to several of my Friends in the House. I have had too often to approach Members of this House with regard to this matter and it may not be an exaggeration to say that I must have covered miles upon miles in this House in doing so. I have visited them at their local residences; I have visited them in their home towns in connection with this question. I have been earnestly trying to persuade them to agree with our view-point in regard to this question.

I am very happy that agreement has been reached, as the Prime Minister puts it in respect of about 95 per cent. of the issues involved in this question. Nevertheless I would like to emphasize that on the question on which differences still exist, we should reach decisions in an amicable spirit. But if our

*[] Translation of Hindustani speech.

differences are not resolved and even if a division is demanded at the time these questions are put to the House no bitterness should be allowed to come in. We have accepted democracy and democracy can only function when majority opinion is honoured. If we differ on any issue, that can only be decided by votes. Whatever decision is arrived by the majority must be accepted by the minority respectfully and without any bitterness. You have made an appeal, Sir, to the House to this effect and Shri Gopalaswami Ayyangar has also made a similar appeal and I too make the same appeal to the House.

I express my gratitude to my friends from South India and from other non-Hindi regions for having accepted at least one thing—that is Hindi in Devanagari Script alone can be the language of the Union, whether we call it the National language or the State language. As I have just stated, accordingly to our Honourable Prime Minister, unanimity has been reached amongst us over 95 per cent. of the issues, involved in the language controversy. In the remaining five per cent. some questions of principles are involved. If honourable Members from South India or from other regions are unable to agree to our view-point in regard to these questions, we should allow them the liberty to stick to their own view-point and without allowing any bitterness in our hearts we should leave the decision to be taken by votes.

I may now take the question of numerals for consideration. It is a question that is causing strong excitement in the minds of all. I fail to understand as to why it should cause any resentment at all. I would like to recall to the mind of the honourable Members, the events in connection with language question that have taken place during the last two or three years. When for the first time I had raised the question of national script before them, the question of numerals was not raised by my friends from the South. At that time they had a different outlook about this question and it did not then appear to them to be of such momentous importance as it appears to them today. In order to refresh their memory I am going to read out the formula that was signed by a large number of them. I read it out both in Hindi and English. In Hindi it reads thus:

“हम लोग इस बात के पक्ष में हैं कि भारत के विधान में यह रखा जाय कि राष्ट्रभाषा और राष्ट्र लिपि हिन्दी और देवनागरी होगी। राष्ट्र-संघ पार्लामेंट में सब काम हिन्दी और देवनागरी अक्षरों के द्वारा अथवा उस समय तक के लिये जो संघ पार्लामेंट निश्चय करे, अंग्रेजी में हो।”

Its English version is thus:

“We support the view that the Union constitution should lay down that the national language and character shall be Hindi and Devanagari respectively, that in the Federal Parliament business shall be transacted in Hindi written in Devanagari character or, for such period as the Federal Parliament decides, in English.”]

Kazi Syeed Karimuddin (C.P. & Berar : Muslim) : On a point of order, Sir, what is that document that is being read out in the House?

Seth Govind Das : *[This is a document that contains the formula regarding the national language. It was accepted and signed by a number of Members of this House. It contains the signatures of some of the big personalities here. It bears the signatures of Shri Gopalaswami Ayyangar, Dr. Pattabhi Sitaramayya, Prof. Ranga, Shri Algesan, Shri Thirumala Rao, Shri Ananthasayanam Ayyangar and Shri Kala Venkata Rao.]

*[] Translation of Hindustani speech.

Shri Kala Venkata Rao : Why is my name being dragged? I do not understand the reference to me.

Seth Govind Das : You have signed this formula which I have just read. That is the reference in which your name has been dragged or has come in.

*[I submit, that when you had accepted Devanagari script you had accepted Devanagari numerals also, for otherwise you could have insisted on the introduction of international numerals even at that time.

Many of our Friends from Bombay also had given their acceptance to the formula and the signature of Sjts. Nijalingappa, Pataskar and Gupte are on the document.

Many of our Bengali Friends had also agreed to it. You will find on it the signature of Mr. Maitra, Mr. Majumdar, Mr. Guha and Shri Surendra Mohan Ghose and many others. Shri Bishwanath Das, Shri Lakshmi Narayan Sahu and Shri Yudisthir Mishra from Orissa had also given their consent to it. Shri Rohini Kumar Chaudhuri and Shri Chaliha from Assam too had accepted the formula. Signatures of almost all the Hindi-speaking Members of the House are to be found on this document. What I mean to say is that the question of numerals has very recently been raised. Nobody gave any importance to this question at that time when this formula was adopted. I do not dispute any one's right to raise this question at this stage. Of course a Member has that right. My only submission is that when they were ready to accept Devanagari script in its present form, it is plain that they should accept Nagari numerals also, for numerals are an integral part of a script and are not something extrinsic to it. When they were in favour of accepting the Devanagari script they should at least permit us without any rancour, bitterness or anger, the right of remaining firm in our original views.

Now I take up the other points. The article moved by Shri Gopalaswami lays down that Hindi in Devanagari script shall be the official language of India. But if you read the article carefully, you will find therein an attempt to keep the day, when Hindi will take the place of English, as far as possible. This House seems divided into two groups on this issue. One accepts Hindi in Devanagari script to be the official language of the country but it wants to postpone the replacement of English by Hindi to the remotest possible date. The other group wants Hindi to replace English at the earliest possible moment. I would like to draw the attention of the honourable Members to the resolution passed by the Congress Working Committee—in this respect. The Working Committee wants that every attempt should be made completely to replace English by Hindi within the period of fifteen years so that English may have no place at all here after fifteen years. But Shri Gopalaswami Ayyangar has told us in his speech today that English may have to be retained for long, even after fifteen years. I must tell him that we do not agree to this. Our definite opinion is that if English is at all to go from the country it must go at the earliest possible moment. We are accepting an interim period of fifteen years during which English should be replaced by Hindi. But this does not mean that during this period English cannot at all be replaced by Hindi in any sphere. Sir, you and also the Members of the House are aware that formerly we were of the opinion that the question of interim period should be left to the Parliament for decision. The formula that I have just quoted was accepted also by the non-Hindi speaking people; later on we agreed to a period of five years. We had then thought that English could be replaced by Hindi during five year, if we made earnest efforts in that direction. Thereafter a National Language convention was held in Delhi.

*[] Translation of Hindustani speech.

Though the convention was held under the auspices of the Hindi Sahitya Sammelan, learned persons from almost every region of the country were invited to it. I will content myself by saying that it was the first convention of its type in the country. Bengal was represented by Dr. Suniti Kumar Chatterji and Shri Sajni Kant Das, Secretary of the Bangiya Sahitya Parishad; Karnatak was represented by Shri L. Krishan Sharma, Secretary Kannad Sahitya Parishad. From Malayalam attended the great poet Vallathol who occupies the same exalted position in Malayalam literature as was occupied by the late Rabindra Nath Tagore in Bengali literature. Kunhan Raja of Malayalam also attended the convention. From Maharashtra, Mahamahopadhy Shri Kane was to come to it but being unable to undertake the journey he kindly sent a message for the convention; Shri Ale Ballabh from Orissa, Shri Nil Kant Shastri, Dr. Raghwan Bishwanath Satyanarayan, outstanding figures of Telugu had attended it.

Thus you will find that the convention, though convened by Hindi Sahitya Sammelan, was attended by scholars of almost all the regional languages of the country. It decided that Hindi should take the place of English within ten years. Thus the interim period of five years that was decided earlier, was extended at this stage to ten years. Thereafter, when our South Indian Friends expressed the view that the time of ten years appeared to them very short, we agreed to fifteen years. I do not claim that we have done them any favour in this respect; on the contrary we express our gratitude to them for the favour they have bestowed upon us by accepting Hindi in Devanagari script as the National language of the country. We have no objection at all to fixing the period at fifteen if it be convenient to them. A period of five, ten or fifteen years may be considered a long period in an individual's life, but in the life of a Nation it is not much. It is with this idea that we agreed to extend the interim period from ten years to fifteen.

Now the main question that concerns us is whether you are going to replace English within fifteen years or you require a still longer time. The Congress Working Committee has already given its verdict on this issue. The National Language convention too has stated its view in this respect in clear terms. Even then Shri Gopalaswami says today that he does not find any prospect of complete replacement of English by Hindi for a long time even after fifteen years. I beg to tell him frankly that we at least do not agree to this. This is the second point covered by my amendment.

The third point in my amendment is this. Why should the provinces, that have already adopted Hindi and where Hindi is already in use in High Courts, be forced to use English? Take for instance U.P. There everything is being done in Hindi. All the Bills and Resolutions are drafted in Hindi. Now, according to the article moved by Shri Gopalaswami Ayyangar, English will have to be used there for every purpose for fifteen years. It is plain that such a provision cannot take us forward in regard to the use of Hindi; it will only take us back in this respect. How can we accept a proposal which imposes English in the provinces where Hindi is already in use? In some States, Hindi has been in use, in Courts for all purposes, since long. But according to Shri Ayyangar's formula, Hindi should be replaced there by English. Well, there is wide difference between us and South Indian friends in this respect. We are unable to accept such a retrograde proposition.

Now I come to certain other points. A new charge has of late been levelled against the supporters of Hindi. We are accused of holding communal outlook in regard to language question. Even our great leaders have levelled this charge against us. I would like to tell them most humbly that so far as we are concerned, we do not look at this question from communal angle at all.

[Seth Govind Das]

We look at it, from a purely national point of view. I may point out that during my public life of the last thirty years I have never been a member of any communal organisation. Maulana Abul Kalam Azad is well aware of the fact that in 1921 when the Khilafat movement was afoot, I was a member of the Central Khilafat Committee. You may take the case of others also who are today taking any part in the Hindi movement. Tandonji's case is before you. Have we ever been connected with any communal organisation? In this connection, I may be permitted, Sir, to tell the House a few things about my own self. There was a time when Hindu-Muslim riots were frequent at Jubbulpore. During one of the riots a mosque was razed down. I got the mosque rebuilt at my own cost. At Khandawa, a town in my home province, my father has constructed a Dharamsala in memory of my respected mother at a cost of about few lacs of rupees. A temple of Shri Lakshmi Narayan had also been built in the precincts of the Dharamsala. The foundation of the temple was laid by Shri Vinoba Bhave. Almost all religious scriptures have been given a place in this temple. The Quaran is there; the Bible is there. Buddhist scripture, Guru Granth Sahib, Jain scriptures and Parsi scriptures are all there and their sanctity is duly mentioned. In view of this how can you accuse us, the supporters of Hindi, of communalism? It is a great injustice to accuse us of communalism.

I do not say that Urdu is used here only by Muslims. I do agree that many Hindu poets and scholars have also created outstanding literature in Urdu. Despite this, I cannot help saying that Urdu has mostly drawn inspiration from outside the country. If you want to verify the correctness of my observation, you may read the Urdu literature. I am not altogether a layman in this respect. I have some, though not profound knowledge of literature. In Urdu literature nowhere do you find any description of the Himalayas. Instead you find the description of *Koh Kaf*. You will never find your favourite *Koyal* (Cuckoo) in Urdu literature but, of course, *Bulbul* is there. In place of Bhima and Arjuna you will find there Rustom who is completely alien to us. Therefore, I must say that the charge that we hold communal outlook is absolutely unfounded. I do not say this because of any contempt for Urdu. We love Urdu and will continue to love it. I say so because it is a hard fact. To be frank, Sir, the supporters of Hindi have never been communal in outlook but the same cannot be said for the supporters of Urdu. They do have communal outlook.

Ours is a secular State and we all are one on this point. We treat every religion equally. We do not want to stand in the way of the development of any religion. But we do admit the fact, that in spite of our secularism there are different cultures in the country. There is Muslim population in China and Russia too but there is no difference at all among Muslim and non-Muslim population of these countries. There is no difference in their names; their dress, their language and their culture are all the same. It is true, we have accepted our country to be a secular State but we never thought that that acceptance implied the acceptance of the continued existence of heterogeneous cultures. India is an ancient country with an ancient history. For thousands of years one and the same culture has all along been obtaining here. This tradition is still unbroken. It is in order to maintain this tradition that we want one language and one script for the whole country. We do not want it to be said that there are two cultures here.

We have no hostility to any of the regional languages; we are well aware of the fact that the National language can never flourish unless the regional languages are fully developed and enriched. It is not to flatter my non-Hindi speaking friends that I am giving expression to this thought. In my Presidential address at the annual session of the All India Sahitya Sammelan held

at Meerut, I had made it clear that the regional languages must be given every encouragement to develop themselves and that they should be given the highest place of honour in their respective regions. Every State of the Union must use its own language in its schools and colleges, in its courts and Legislatures. It is not my intention in saying so that the languages other than the State language, but spoken by substantial persons of the people of that State should not be given any recognition. But, as has been laid down in the resolution of the Congress Working Committee, the language demanded should be recognised, only when twenty per cent of the people of the State want it to be recognised. But if one or two per cent of the population makes a demand for the recognition of a particular language, the State cannot afford to satisfy the demand, for it will retard the development of the State language. With this view I have put in another amendment also which lays down that if twenty per cent of the people in a State make a demand for the recognition of any language, that may be conceded. This is quite consistent with the resolution adopted by the Congress Working Committee in this respect.

Our ultimate object is that Hindi should take the place of English at the earliest possible moment and for this I have embodied certain suggestions in my amendments. I have suggested that there should not be appointed two bodies— one Commission and then one Parliamentary Committee—for the same purpose. There should be only one committee—Parliamentary Committee—for this purpose. This Committee should be assigned the task of finding out ways and means to replace English by Hindi within fifteen years.

Lastly, I have one more observation to make. We had, the people of India had, visualized a picture of free India and that picture will remain incomplete until the question of national language is resolved. The people of the country will understand the meaning of *Swaraj* only when this question is completely resolved.

I am very happy that every one of us is prepared to accept Hindi as a national and State language; we should make all possible attempts not to allow any bitterness to come amongst us with regard to this issue. Hindi had received already the blessing of Pandit Nehru. Some eighteen years ago he wrote me a letter which I am going to read out in Hindi. It is dated, Colombo, the 16th May 1931, and is to the following effect :

“I am sorry for not being able to come to Madura on this occasion. I wish I could come there and render some service which I possibly can, to my Tamil Nad friends. Particularly I wish I could take part in the deliberations of the Hindi Sahitya Sammelan. Hindi has now completely assumed the role of national language and most of the work of the Congress is being done in Hindi. It is gratifying to learn that Hindi is increasingly spreading in Tamil Nad. I would have come and gladly offered my co-operation in this pious task, but I am sorry that on account of compelling reasons I am unable to come there. I hope the session of the Hindi Sahitya Sammelan will be a success and will pave the way for the spread of Hindi in Tamil Nad.

Sd. JAWAHARLAL NEHRU.”

Panditji wrote this letter eighteen years ago and I am glad to find that we have assembled today to give concrete shape to the prophecy he made eighteen years ago.]

Mr. Naziruddin Ahmad : Mr. President, Sir,.....

Shri Deshbandhu Gupta : I hope the Honourable Member would speak in Sanskrit.

Mr. Naziruddin Ahmad : The subject before the House is of very great importance. I think in a matter of this great importance which affects thirty-four crores of people, there should be no quarrel, but at the same time I should say that there should be no unseemly or hasty compromise. It is not for as enlightened people as compared with the vast population of India to come here

[Mr. Naziruddin Ahmad]

and exchange courtesies and agree in a mere spirit of a compromise on something which affects many other outside. (*Hear, hear*).

I submit Sir, that we have not been taking into consideration what is compendiously described as the non-Hindi areas. It will not do to say that some Members have entered into a compromise, into an agreement. That agreement will not be binding on the people, and people will not accept it. I submit that in a matter like this, we should proceed with caution and from experience to experience. There should be no compulsion; there should be a national language on a free, voluntary basis. If Hindi is to be accepted as the national language of India, it should be free and voluntary choice. Its beauties and other virtues should be understood by the people before it would be possible to accept Hindi finally as our national language. While my esteemed Friend, the last speaker, was speaking in Hindi, I heard whispers even from those who understand a little bit of Hindi that the language was unintelligible. I submit, therefore, that we should not all at once try to make Hindi the national language of India.

The amendment which I have ventured to submit before the House is No. 277. It is not necessary to read the amendment, as I am sure many honourable Members have already read it. The main purpose of my amendment is that we should not make a declaration of an All India language all at once. My subject is that English should continue as the official language of India for all purposes for which it was being used, till a time when an All India language is evolved, which will be capable of expressing the thoughts and ideas on various subjects, scientific, mathematical, literary, historical, philosophical, political. I submit that this should be the way of approach. The suitability of the language for all India purposes for ever should not be a matter left to be decided without a mandate from the electorate, by 315 members. It is easy to be led away by courtesies and generousities. It is not a question of a marriage ceremony or a dinner party where we can afford to be generous. This is a matter which should be a matter of voluntary acceptance by the people.

I submit that so far as Hindi is concerned, it has yet to establish its claim. I have, however, heard the protagonists of the Hindi language say that this is the time when we should agree to have Hindi as our national language. I have also heard it said that if we do not accept Hindi now, the chances of Hindi would be gone for ever. If that is so, Hindi has no case for immediate acceptance. If it is a fact that this House, generously minded as it is, should agree in a voluntary manner without consulting the public convenience, without considering the necessary attributes of all All India language in a modern world, I think the voice of the people should be ascertained. But, I find that there is a tendency in this House to be overgenerous where they should be cautious and proceed on practical lines.

We have said that we want nationalisation. I hope it is already apparent that you cannot nationalise all at once and that it would be highly undesirable. We wanted to abolish the class distinction in the railways. We reduced the classes from four to three. I am sure now it is apparent to everybody that we have to revert to the four class system. We want to break capitalism all at once. I think there is already a realisation that though capitalism has its evils, it is a necessary evil. It should be modified, but should not be abolished. So also, in the field of industrialisation, much loose talk has dried the money-market. I should therefore think that in the matter of language, we should rather proceed in a cautious manner.

My suggestion is that English should continue for such a period till when an All India language is evolved. You cannot make a language suitable for

a modern world by a legislative vote. The suitability of a language requires a large number of things. It requires great writers, great thinkers, great men, scientists, politicians, philosophers, literateurs, dramatists and others. I believe without giving any offence, that Hindi is a language which is in a very rudimentary condition in this respect.

After all, India is free. We have to contend with modern forces in the international field. I submit in this modern world we cannot avoid English. We must have English whatever may be the other languages we may have. English is inevitable. But in this respect, we are showing a somewhat inferiority complex. We are really exhibiting what is called a compensatory behaviour. I should think there should be no inferiority complex in the matter of language.

An Honourable Member : Superiority complex!

Mr. Naziruddin Ahmad : It may be superiority complex which is even a bad thing. That would be a kind of weakness. I submit that the British have gone; British domination was a thing worth removing. But what about their language? Is the English language a British language? I submit it is a world language. Take the case of many other colonies and many other countries. Take the case of Japan. Japan thought that it must rise in the world. It adopted the English language as the official language voluntarily. They went to America and other places and learnt English and with the help of the English language, English science, modern thoughts and world activities were open to her. But for the unfortunate entry of Japan in the last war, Japan would have been one of the greatest nations of the world. That is why I submit that English should be compulsory. It may be a disagreeable necessity; but still, it is a necessity.

Now, the question of selecting a national language, in my opinion, should be dependent upon two conditions. Before putting down these conditions, I should like to ask honourable Members to consider the situation. If you have, I am speaking from the point of view of non-Hindi areas—if you have to learn Hindi, you have to learn it as a foreign tongue. You can learn your mother tongue without literacy; but a foreign tongue you can learn only through books. Now, in a non-Hindi area, a boy must be first of all literate in his own mother tongue before he can possibly learn an All India language, Hindi.

I submit, therefore, that before we impose upon the people of India compulsory all-India language, the pre-requisite should be their literacy in their own language. After fifty years of tremendous labour, and of over forty years talk about primary education, we have not been able to make literate more than 13 or 15 per cent. of our people. At least 85 per cent. of our people are absolutely illiterate. Does it stand to reason that you can teach Hindi as the official language to the people of India all at once? You cannot do so. The pre-requisite condition of imposing upon the people of India national language should, I submit, be mass literacy in the various areas. I should submit that the first condition is there should be a mass literacy campaign and there should be a minimum percentage of literacy in each area before we impose a foreign tongue upon an unwilling people.

The second condition which I should prescribe would be that you must re-group the provinces on a linguistic basis. The reason is simple. We recognise in this official compromise draft that there should be regional languages. If we have regional languages, there will be clashes between the various people talking different tongues huddled together in the same province. In order to avoid all troubles, people generally speaking one tongue should be placed in one province. If we do not proceed like this, the difficulty would be that there will be tyranny of the majority in a certain area over the minority.

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I do not wish to go into the various controversies which are now raging. I believe these controversies should die down when we re-group the provinces on that basis. If we do not do it now, it will never be done and endless troubles will arise. If the provinces are re-grouped on a linguistic basis, then, it would be possible for them to think of a foreign all-India tongue. I submit that for a modern State like India, we require a modern language. I submit that simple Hindi can not be the official language. It must be a mixture in which the various languages of India should contribute. I am not a man who does not believe in an official Indian language, but I am not to be blind to facts. I cannot permit myself to be blind to facts even out of patriotic motives. So, time should be given to evolve a suitable language. Our Constitution and our laws are in English and yet we provide only for fifteen years for a substitute. If you will try to translate only our laws, you will find how difficult it is to do it accurately.

After all there should be a realistic approach. I submit that if we proceed unrealistically the result would be reaction in the various non-Hindi provinces. It will be extremely difficult for them to pick up the tongue, and acquire sufficient mastery over that tongue in order to discharge the functions of an all-India language. The great thing to remember is that Hindi itself would have to be developed. It is not a question of fifteen years it is a question of experiment and experience. It will take long years' for great writers and thinkers to be born who will develop it; and secondly, it will require a long time for the people not merely to speak conversational Hindi—which is very easy—but literary Hindi which would be extremely difficult.

I submit that in one of the clauses of the proposed article 301B, clause (3) it is provided that as far as possible the claims of non-Hindi areas should be reconciled in choosing men for public services. I submit this would be productive of considerable amount of hardship. Take the case of a boy in a non-Hindi area. He will have to learn his own mother-tongue which may be different from the regional language. The boy may have again to learn a mother-tongue which may be different from the regional tongue. He has therefore initially to learn two languages. If he is to aspire for higher honours in the public services and in the internal political field as well as in external field, he will have to learn English and then he will have to learn the official tongue—Hindi. Just think of the huge waste of energy which our boys and girls will have to undergo to learn these languages. The result would be that middle-class men of poorer means will be deprived of the advantage of learning English. The result of accepting an all-India language all at once would be that there will be less English schools and more Hindi schools; richer people—though we aim at a classless society—will become richer and poorer people will get poorer. English will be available only to children of richer people and therefore activities in the foreign field, activities in all-India field requiring knowledge of English in order to avail of the sciences and the arts of the West will be open only to them. The poor and the middle-classes will be deprived of it. This would be the effect of this sudden change. When British came here Persian was the official language and they waited for sixty years before they introduced English as the medium of instruction. Then again, they did not make it compulsory, they proceeded cautiously. I submit that we should take a leaf out of their experience. I have said in my amendment that there should be compulsory primary education and when we find that in each State there is at least 60 per cent. Literates in their own mother-tongue and when also the provinces have been divided on linguistic bases, then there should be a Commission and the Commission's report should be debated in the Legislative Assemblies and Councils as well as in the Parliament and

then these debates would be before the country for a sufficient time, and then we will get a more true and real picture of what is to come. Then it would be easy for the people to select or evolve the national language. If we proceed like this, then acceptance of a national language and the selection would be easy otherwise it would be fraught with grave difficulties. It is not permissible to dwell at length on these matters since the decision on this question must depend on broader issues.

I submit that besides Hindi there are other claimants. I have tabled an amendment that Bengali should have its claims. This is only by way of suggestion that Bengali is the most advanced Indian language in the whole Dominion. That is accepted by persons competent to speak. I submit the first Bengali book 'Charya' was published in the 12th Century. That is the earliest Indian book traceable apart from Sanskrit. Then in the 16th and 17th Centuries there were a lot of Bengali books. Then there were a large number of writers Charu Chandra Dutta, Bankim Chatterjee and a host of others who enriched Bengali literature and, omitting a large galaxy of writers, the late lamented Rabindranath Tagore. He wrote enormously and enriched Bengali literature and it is the finest medium of thought; and I believe if you consider a language on merit, Bengali will have a prior claim. I do not wish to detract from the utility and excellence of other languages but I only put the claim of Bengali on a proper plane. I submit that Bengali language is highly developed and its only difficulty is that it is not spoken by a vast majority. But an official language should not be based merely by the fact that a large number of people speak it. Its suitability to express modern ideas, scientific literary and other, should also be an important factor. I do not want to take up the time of the House on the beauties of the Bengali language.

The Honourable Shri Ghanshyam Singh Gupta : We want to hear your views on Sanskrit.

Mr. Naziruddin Ahmad : I am extremely thankful to the honourable Member Mr. Gupta for anticipating me. If you have to adopt any language, why should you not have the world's greatest language? It is today a matter of great regret that we do not know how with what veneration Sanskrit is held in outside world. I shall only quote a few brief remarks made about Sanskrit to show how this language is held in the civilised world. Mr. W. C. Taylor says, "Sanskrit is the language of unrivalled richness and purity."

Mr. President : I would suggest you may leave that question alone, because I propose to call representatives who have given notice of amendments of a fundamental character, and I will call upon a gentleman who has given notice about Sanskrit to speak about it. The honourable Member had given notice of Bengali, English and also Sanskrit. So I think he can better leave it there. I think I had better allow a gentleman who has given notice of Sanskrit, independently of all other languages, to speak about Sanskrit.

Mr. Naziruddin Ahmad : Yes, Sir, I shall not stand in between. I will only give a few quotations. Prof. Max Muller says Sanskrit is the "greatest language in the world, the most wonderful and the most perfect." Sir William Jones said that "Sanskrit is of a wonderful structure, more perfect than Greek, more copious than Latin, more exquisitely refined than either. Whenever we direct our attention to the Sanskrit literature, the notion of infinity presents itself. Surely the longest life would not suffice for a single perusal of works that rise and swell, protuberant like the Himalayas, above the bulkiest compositions of every land beyond the confines of India". Then, Sir, W. Hunter says that the "Grammar of Panini stands supreme among the Grammar of the world. It stands forth as one of the most splendid achievements of human invention and industry The Hindus have made a language

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and a literature and a religion of rare stateliness." Prof. Whitney says, "Its unequalled transparency of structure give it (Sanskrit) indisputable right to the first place amongst the tongues of the Indo-European family." Professor Bopp says "Sanskrit was at one time the only language of the world." M. Dubois says "Sanskrit is the origin of the modern languages of Europe." Professor Weber says "Panini's grammar is universally admitted to be the shortest and fullest Grammar in the world. Prof. Wilson says "No nation but the Hindu has yet been able to discover such a perfect system of phonetics." Prof. Thompson, says "The arrangement of consonants in Sanskrit is a unique example of human genius". Dr. Shahidullah, Professor of Dacca University who has a world-wide reputation as a Sanskrit scholar says "Sanskrit is the language of every man to whatever race he may belong."

An Honourable Member : What is your view?

Mr. Naziruddin Ahmad : My own view is that it is one of the greatest languages and.....

An Honourable Member : And should it be adopted as the National Language or not? It is not spoken by any one now.

Mr. Naziruddin Ahmad : Yes, and for the simple reason that it is impartially difficult to all. Hindi is easy for the Hindi speaking areas, but it is difficult for other areas. I offer you a language which is the grandest and the greatest and it is impartially difficult, equally difficult for all to learn. There should be some impartiality in the selection. If we have to adopt a language, it must be grand, great and the best. Then why we should discard the claims of Sanskrit. I fail to see. If the non-Hindi people have to learn a language, they would rather learn Sanskrit than a language which is infinitely below Sanskrit in status, quality and rank. And then with regard to the script of Hindi. I have here an article by Professor of Benaras University—Mr. C. Narayana Menon who has written a pamphlet entitled "Script Reform". He has pointed out the script in Hindi is the most erratic. It has hands and feet proceeding in all directions like an octopus. The script is not smooth and rounded and the language is not capable of being speedily or easily written. Sir, this ease of writing is also one of the factors to be considered in a modern language.

Sir, I have taken some time but I submit the considerations are very serious and I submit that we should not take any hasty step. We should all evolve a language and test it before we adopt it. I submit Bengali, Sanskrit and other languages are so many candidates and their cases have to be considered.

Shri Sarangdhar Das (Orissa States) : May I just ask one question of the honourable Member, whether.....

Mr. President : No question need be put or answered.

Shri Sarangdhar Das : I only wanted to know—I did not hear him clearly whether he said English was the official language in Japan?

Mr. Naziruddin Ahmad : Yes.

Mr. President : I may explain to Members the procedure I am following in selecting speakers. I am taking amendments which are of a fundamental character and asking the Movers of those amendments to speak, so that all the points of view of a fundamental nature might first come before the House.

The Honourable Shri K. Santhanam (Madras : General) : I hope that giving an amendment is not the only criterion for calling speakers.

Mr. President : No, that is really no criterion at all. But I am selecting the speakers who have given notice of amendments of a fundamental nature so that they may speak on their resolutions. Shri Krishnamoorthy Rao.

Shri S. V. Krishnamoorthy Rao : Sir, I have tabled four amendments. No. 69 says—that the *status quo* should be maintained and the question of language should be left to be decided by the future Parliament. In fact, when the Honourable Shri Gopalaswami Ayyangar's amendment was distributed to us, I thought we had buried the hatchet and come to a decision about this language question. Sir, it is a most wholesome resolution which gives scope on the one hand for the Hindi protagonists to develop their language and to introduce it gradually as the common language in India. On the other hand it allays the fears of the other people of India that there will be no imposition of a language and that they will be allowed time to fall in line with their Hindi friends gradually and take their place in the Hindi speaking populations of India. But unfortunately the number of amendments of which notice has been given to this resolution makes me shudder, and I think it is better this question is left to the future Parliament to be decided. For the last two years, we have been wrangling over this question. It is unfortunate that we have not, though we have decided many questions by common understanding and adjustment, we have not been able to come to an understanding on this vital question. Sir, my submission, therefore, is that let the House accept my amendment to maintain the *status quo*.

My second amendment is about the clause which gives power to the President for the introduction of Devanagari form of numerals, in addition to the international form of Indian numerals in the common language of India. My submission is that this should not be to. In fact, as the Honourable Gopalaswami Ayyangar has already said, and as everyone knows, these international numerals are our numerals, and simply because they went out of India and others developed them and brought them up to their present form, that we should treat them as something foreign to us and that we should discard them, I think, will be the height of folly. Sir, are we going back or are we going forward with the rest of the world? It is the greatest contribution that India has made to the scientific thought of the world and revolutionised it, and I for one would never yield in my love of the international numerals which are Indian in origin and which are our numerals, and we should reclaim them as our own numerals and proclaim to the world that they are ours, and I think to discard them as something foreign is not in the interest of the whole country. So my amendment is that this power which has been given to the President in the proviso to clause (2) of 301A—the latter part of it—“Provided that the President may during the said period, by order authorise..... the use of the Hindi language..... and of the Devanagari form of numerals in addition to the international form of Indian numerals.” I mean the latter portion of it— “and of the Devanagari form of numerals in addition to the international form of Indian numerals” should be omitted, and we should stick to the international form of numerals only as it is really ours.

Then my next amendment is No. 188 that is, about the establishing of an academy to develop Hindi language so that it may be acceptable to the whole of India. My respectful submission is that today Hindi is only a regional language and a provincial language and just because it is being spoken by about ten crores of people out of thirty-two crores, we are raising it to the level of a common language. I would call all languages spoken in India as our national languages—Tamil, Telugu, Kannada, Malayalam, Bengali, Gujarati and all the other languages are national languages. But for the purpose of the Union, we want a common language and we are prepared to accept Hindi as our common language. But Hindi has to become such a language that its effect would be seen in all the ramifications of national life, and for this it should develop very much. My submission is that today Hindi has not yet developed to that stage. In fact I can quote from some of our own South Indian languages to show that they are far more developed than Hindi is

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today. To give a few instances. For certain scientific terms these are the words used in the Great Indian English Dictionary published in Lahore—

For Hydrogen, the words used are	<i>Udajan</i>
Mr. Banerjee used the word	<i>Aardrajan</i>
For Bromine	<i>Duroghree</i>
Mr. Banerjee uses the word	<i>Baramina</i>
For Nitrogen	<i>Bhooyathid</i>
Mr. Banerjee uses the word	<i>Netrojan</i>
For Iodine	<i>Janebukee</i>
Mr. Banerjee uses the word	<i>Yethena</i>
For Oxygen	<i>Jaraka</i>
Mr. Banerjee uses the word	<i>Akshajan</i>
For Carbon	<i>Prangara</i>
Mr. Banerjee uses the word	<i>Karajan</i>

So far hydrogen, nitrogen, oxygen and carbon we, in Kannada use 'Jalajanaka', 'Sarajanaka', 'Amlajanaka' and 'Ingala'. Thus, different words are used for different scientific terms. If that is to be the case, how are our students and scientists to deal with the rest of the world? I maintain that so far as scientific and technical terms are concerned we must use international terms. Take an article like 41 of the Constitution. It says, here would be a President for India. We have got four translations of it here and the terms used are quite different.

Shri Sundar Lal's translation gives	हिन्द का एक प्रजीडेंट होगा
Shri Rahul Sankrityayan says	भारत का एक राष्ट्रपति होगा
Mr. Gupta says	भारत का एक प्रधान होगा
Kaka Kalelkar translates President as parama panch	परमपंच

In the South Indian languages we use the word Adhyaksha which is quite easily understood. Why not use that word?

I may give you examples of some constitutional words from these four translations.

Compensation : In Kanarese we use the word 'parihara'.

Kaka Kalelkar uses the word	नुकसान भरी
Shri Rahul Sankrityayan uses	क्षतिपूर्ति
Guptaji uses the word	मुआविजा
Shri Sundar Lal says	यतजाना 'yethjana'.

Citizen : We say 'paura.'

Kaka Kalelkar says	नागर
Shri Rahul Sankrityayan says	नागरिक
Guptaji says	जानपद
Shri Sundar Lal says	नागरा

Republic : We use the words 'janta rajya'

Kaka Kalelkar says	लोकराज
Shri Rahul Sankrityayan says	गणराज्य

Guptaji says गणराज्य
Shri Sundar Lal says लोक राज

Oath : We use the word 'pramana'.

Kala Kalelkar says सौगंध, शपथ, हलफ़
Shri Rahul Sankrityayan says सम्बोधन, शपथ
Shri Guptaaji says निश्चयोक्ति, शपथ
Shri Sundar Lal says वचन भरना, हलफ उठाना

Take the word *Residuary powr* : We use the word Sheshadhikar.

Kala Kalelkar says बाकी बचे अधिकार
Shri Rahul Sankrityayan says शेषाधिकार
Guptaji says अवशिष्ट विधान शक्ति
Shri Sundar Lal says रही सही शक्ति

Take the word *Lgislation* : We use the words 'sasana; kanun

Kala Kalelkar says क़ानून
Shri Rahul Sankrityayan says व्यवस्था
Guptaji says विधान
Shri Sundar Lal says कानून

Take the word *Authentication* :

Kala Kalelkar says सचियाना, रपरमानन, सही करना
Shri Rahul Sankrityayan says प्रमाणित करना
Guptaji says प्रमाणिकता
Shri Sundar Lal says सही करना

I have taken only five words and for these each translation gives a different word. Then which of them are we to use in the Constitution? My submission is that constitutional terms have certain connotations in the international field. Take for example the word "Parliament" you may go anywhere in the world, it has got one particular meaning. What word are we to use for it? I submit that these terms have to be evolved by a committee of experts, not only Hindi speaking people, but experts from all the important languages of India. That is why I have tabled my amendment No. 188 which reads—

"That in amendment No. 65 above, the proposed article 301-I be renumbered as clause (1) of that article and the following be added as cause (2) :—

(2) The president shall appoint a permanent Commission consisting of experts in each of the languages mentioned in Schedule VII-A for the following purposes :—

- (i) to watch and assist the development of Hindi as the common medium of expression for all in India,
- (ii) to evolve common technical terms not only for Hindi but also for other languages mentioned in Schedule VII-A for use in science, politics, economics and other technical subjects,
- (iii) to evolve a common vocabulary acceptable to all the component parts in India."

I hope Shri Gopalaswami Ayyangar will see his way to accept this amendment. In fact, my difficulty is that we use the same word to mean different things in the different languages of India. I will give you a few samples of these.

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For the word aircraft the word given in this Kaka Kalelkar's glossary is *havagadi*. Why not use the word "viman"? It has been in common use. For bank the translation given in this is *sahukar*; *bunk*, whereas we have got a very fine word in Sankrit—it is *dhanakothi*. We use the word *mantri* for minister in South India, whereas in many of the invitations that we receive from our Hindi friends I find the word 'mantri' used in the sense of Secretary.

Then, for the Council of States the translation given is riyasat sadan. The States are gone now. Out of 582 States only two or three remain and still the old meaning of State is hanging over and is still being used.

The translation for the word 'court' is given as qutchery. We in the south use the word kutchery for office.

These are the words which are in common use in all the Indian languages. I began to learn *Devanagari* letters only when I learnt Hindi during my jail life. Hindi was for long called 'Musalmani' language in the South. This Hindi and Hindustani question is purely for the north. But we are prepared to accept Hindi. It was a great gesture when Maulana Abul Kalam Azad told us that Hindi in Devanagari script should be the common language of India. But a regular tirade is being carried on against him in some of the North Indian papers and he is accused of attempting to impose Urdu on the people of India. We cannot look at this question objectively at present. In the greater interests of the country this question should be decided in a dispassionate atmosphere when feelings have sobered down. That is the purport of my amendment.

So far as the time question is concerned, my submission is that there should be no relaxation of the fifteen years period. Sir, I have tried to learn Hindi. I have translated some books from Hindi into my own language Kannada also. But it is a very difficult language for me to make up my mind to speak before this House. We cannot learn the technicalities of the language, this idiomatic language of the Hindi-speaking people. It takes time. I would give a challenge. Let either Mr. Govind Das Tandonji or Guptaji live among the Tami people and learn to speak the Tamil language : the time taken, I will put it, as just enough for the introduction of the Hindi language for the south. They will take not 15 years, but 20 or 25 years. It is really a difficult problem. You cannot look at it only from your point of view. That is why I submit that a time lag is necessary and fifteen year is the minimum period that we can accept.

No language in the world can isolate itself. In fact I have got a glossary prepared by the Mysore Constituent Assembly for the technical terms. I just took out this book and tried to find out how many Urdu or Hindustani words were in this booklet. In fact this consists of 30 pages. We have got 67 words which are Urdu or Hindustani in origin. In our puritanism are we going to give up all these words? If you take English itself and study the history and development of that language, it has attained international importance because it has borrowed freely from other languages. If Hindi is going to be the common language of India and meet the needs of a growing nation, it should develop itself borrowing freely from all the languages. We cannot have any narrow outlook so far as the development of the language is concerned. Take the words 'bench', 'rail', 'table', etc. Many of these have become common words. What is the word that we can coin for bench in Hindi. Are we going to change them? I think that should be a most suicidal policy.

My next amendment, Sir, is about the connotation of the word 'Kannada'. In the schedule it is mentioned as 'Kanarese'. This is a hybrid form of Kannada and this was only used by the missionaries who no doubt have done yeoman's service to the Kannada language. Kannada is the word used by one of our

poets Nariapathunga in the 9th century. I hope Mr. Gopalaswami Ayyangar will accept my suggestion.

With these words, Sir, I commend my amendment for the acceptance of the House.

Mohd. Hifzur Rahman (United Provinces : Muslim) : *[Mr. President, my amendment relating to language is that in place of Hindi Hindustani should be the national language of India and it should be written in both the scripts—Devanagiri and Urdu. Moreover, wherever our esteemed Friend Shri Gopalaswami Ayyangar has mentioned “Hindi”, that should be replaced by “Hindustani” and for the word “Hindustani” “Hindi and Urdu” should be substituted. This Hindustani should be so developed that it may absorb Urdu, Hindi and all other languages of India and thus it may get an opportunity of full development.

The language problem is so important that we have to think over it minutely. Since we have got an opportunity for discussing this problem in the Constituent Assembly, I propose, because I think it necessary, to express my views relating to this problem.

At this juncture the language problem has assumed greater importance. When we look back, we find that during thirty years’ battle of freedom which we fought under the leadership of Mahatma Gandhi, whenever the language problem was taken up, it was discussed fully. Today I am confused and confounded because till yesterday, the whole Congress was unanimous regarding the solution of the language problem. There was no dissenting voice. All said with one voice “Hindustani shall be the national language of our country, which shall be written in both the scripts, namely, Hindi and Urdu.” But today they want to change it.

Freedom of the country and language are among those problems in which Mahatma Gandhi was keenly interested and to which he attached very great importance. In the beginning when the Language problem came before the country he (Mahatma Gandhi) was enrolled as a member of the Hindi Sahitya Sammelan and he tried to advance the cause of Hindi. But slowly and gradually he realized that it was not the Hindi of his liking. It was a separate language which was Sanskritized and its protagonists were trying to make it more and more Sanskritized and call it “Hindi”. He differed and proclaimed that to him, “Hindi” meant “Hindustani”. This is the reason why he propagated for the advancement of “Hindi”, that is, “Hindustani”. Whenever I had any talk with him regarding this question, he always said to me “By Hindi I mean the language which is spoken in Northern India and which is spoken and understood by the Hindus and Muslims throughout the length and breadth of India”. This was the language which was according to Mahatmaji, Hindustani or Hindi. But when he realized that his object was not gained by calling it “Hindi or Hindustani” he resigned his membership of the Sammelan and espoused the cause of Hindustani and said that only this plain and simple language could be the national language. He also said that he did not want Hindi as “Rashtra Bhasha” and that he wanted this position for ‘Hindustani’, the cause of which he would propagate. In this connection his efforts were crowned with success. He told the protagonists of Sahitya Sammelan that he accepted only Hindustani as the simplest language of the country. He did his best for the advancement of Hindustani. I still remember and cannot forget 30th January when the greatest tragedy occurred and a tyrant snatched away Mahatma Gandhi from us. Three days before this occurrence, I had a talk with Mahatma Gandhi in Birla House.

*[] Translation of Hindustani speech.

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It was 10 or 11 O'clock at night. He told me "it is a source of greatest pleasure to me that now there is peace in the country. You have helped me in restoring peace in Delhi. Now I have to propagate the cause of Hindustani and you have to help me in this task also." We assured him of our full support.

Gandhiji's one desire was to raise India to the highest summit of glory and greatness. Throughout his life he endeavoured for the achievement of this objective and eventually sacrificed his life for it and thus gained his object. It baffles me to this how anybody—high or low—who desires that India should be great and glorious, could forget the great principle propagated by Gandhiji, and how it is that they want to die away with this language for which Gandhiji lived and died. Now they want to replace it by Hindi. It confuses me to think how Congress could forget the principles preached by Mahatma Gandhi, although his name is associated with every thing that is being done. You may retort saying "Why do you associate Gandhiji's name with this problem?" To that, I would reply that I have mentioned Mahatma Gandhi in this connection only because this was a very important problem for Gandhiji. In addition to this, Congress, too, had accepted Hindustani as the *lingua franca*; therefore whatever Mahatma Gandhi has said and whatever principles he has laid down, should be followed, and nobody should raise any voice against his commandments.

The language problem is one of those problems on which Mahatma Gandhi had laid emphasis. When he was publishing his paper in Hindustani, he felt the necessity of closing the publication of his paper in Hindi. On that occasion he had said if his Hindustani paper was a source of displeasure for the people and if they objected to his doing so and they would not read his paper, they should not run away with the idea that he would only close down the Hindustani paper, nay, the Hindi paper shall also cease publication. At that time we had submitted to him that he need not close down any one of them, and that we shall tour all over India, raise funds and enrol subscribers for these papers and shall recompense the loss incurred. The result was that only in Delhi alone we had procured 100 subscribers in one day. In short, to him Hindustani alone was suitable for India. He called this language Hindustani and not Hindi. If ever he used the word 'Hindi', he changed his opinion later on. This shows that after hard thinking and research he had arrived at the conclusion that Hindustani should be the *lingua franca* of India.

But today here and now Hindustani is being replaced by Hindi and obviously steps are being taken against Gandhian ideology and against the thirty years' history of the Congress. Formerly Hindi was not considered to be outside the pale of Hindustani. But when the voice was raised that Hindi should be the language of the Union, then I realized the difference between Hindi and Hindustani. I learnt that by Hindi they mean that language which shall be Sanskritized and the words of Persian, Arabic and Urdu origins shall be excluded and they shall be substituted by new words.

Again and again assurances are forthcoming that this is not the case and that by Hindi they do not mean to exclude the current words and the words of Arabic, Persian and Urdu origins. They assert that such words shall not be excluded nay, they shall remain as they are. We are consoled that these words shall exist. But take the example of U.P. As I have already pointed out in the party meeting in U.P. they have already declared Hindi as the language of the province and the State. The result is that new words are being coined and new methods are being adopted. Urdu words have been excluded and have been substituted by new words. They have also excluded

the current words. The words 'Wazir' and 'Naib Wazir' are understood by every one. But today the use of these words is considered to be a crime. These words have been replaced by "Sachiv" and "Sabha Sachiv". This is not all. Even current words as Muqaddama, Misil, Muddai and Muddalay which even villagers speak and understand and use in their day to day conversation, are being replaced by such expressions which even Hindus neither understand nor speak. This shows that by Hindi they mean Sanskritized Hindi, from which thousands of Urdu words shall be excluded and substituted by new words. At the same time every effort is being made to eliminate Hindustani and Urdu words. My Friend, Seth Govind Das, has just said that he had a soft corner for Urdu but it was the language of Muslims.]

Seth Govind Dass : A word of explanation, Sir, I never said that Urdu was the language of Muslims.

Mohd. Hifzur Rahman : *[Then please repeat what you have said. You made the following statement only because you accept Urdu as the language of a particular community :—

"I am compelled to say that in Urdu we find foreign expressions." I would like to submit that Muslims did not bring the language from Persia, Spain, or Arabia. Urdu is the product of Hindu-Muslim unity; their conservations and way of life, the glimpses of which could be found in every market-place, in every house and every lane and by-lane. It was the product of their mutual love and affection. But today it is looked down with contempt because it contains foreign expressions, and for this reason it cannot be the language of the Union." But I say with all the emphasis at my command that this proposition is wholly incorrect; because in spite of the assertion to the contrary, in point of fact, Urdu is pregnant with Indian thoughts and expressions. If you would study Urdu poetry and Urdu poets, you would realize your mistake. One of the modern poets of Urdu, namely Muslim of Kakori, while praising the Holy Prophet of Islam says thus :—

"From Kashi clouds are proceeding towards Mathura. The cool breeze has brought the sacred waters of the Ganges on her shoulders. The news has just reached that clouds are coming for 'Tirath' (Pilgrimage) : on the wings of clouds, etc. etc." Even in a religious poetry like this 'Ganges' and 'Mathura' has been mentioned. The poet has substituted 'Kashi', 'Mathura' and 'Ganges' for 'Macca', 'Medina' and 'Zem-Zem'. This is the correct position and I would like to say that any assertion to the contrary is wholly incorrect."

Like Muhsim, Nazir of Akbarabad also draws his similes metaphors and inspiration from Indian background. Here is an example :—

He gives us a pen-picture of death and says :—

”سب ٹھانڈا ہوا رہ جائے گا جب لاد چلے گا بنجارہ
جب چلتے چلتے رستے میں یہ گون تری ڈھل جائے گی
اک بدھیا تیری مٹی پر پھر کھاس نہ چرنے پائے گی
یہ کھپ جو تو نے لادی ہے سب حصوں میں بٹ جائے گی
دھبی، ہوت، جنوائی، بیٹا کیا ؟ بنجارن پاس نہ آئے گی
سب ٹھانڈا ہوا رہ جائے گا جب لاد چلے گا بنجارہ ،،

The poet means to say that when the "Banjara" (grain merchant) puts his loads on his carriers to leave the place, he has to leave behind all his grandeur, That is to say, when a man would die, he would leave behind all his worldly

*[] Translation of Hindustani speech.

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things here. In these lines the following words are purely of Indian origin and have nothing to do with Arabic and Persian:—

“(bullock)	(worldly things)
(grain merchant)	(daughter)

In this connection I can also mention Amir Khusrau and the modern poets like Iqbal and Akbar of Allahabad, who were influenced by the thoughts and ideals of this country.

This will have to be accepted in clearest terms that the present Sanskritized form of language which is being proclaimed as the *lingua franca* of India can never be the national language of our country. Similarly that from of Urdu which is encrusted with Arabic and Persian words, can never be the language of our day to day life, market-place and business. This is the reason why Mahatmaji had rightly said “If there is any language which can be the language of the Union, it is Hindustani in which both Urdu and Hindi are incorporated.” Even Bengali words and expressions of other languages of India have been included in this language.

The protagonists of Hindi assert that the State language should be the language which has been developed through Sanskrit, and thousands of Urdu, Persian and Arabic words should be eliminated which are generally used and are included in the language of the country, and these words should be replaced by the words of Sanskrit origin and thus literary Hindi should become the language of the country. Similarly, adoption of Urdu, as *lingua franca* means, the adoption of that language which has been developed through Arabic and Persian and which has no place for the words of Sanskrit origin.

Both these assertions are faulty. And I say that the language which is spoken in northern India should be accepted as State Language. It is simple and easy and possesses the tendencies of smooth development and popularity throughout the country, because it is not the creation of any particular individual.

There is yet another point. Some of my colleagues, while talking of Hindi Sahitya Sammelan, have said that Mahatma Gandhi had said that India's language was Hindi : I want to inform you that he had changed this view, and consequently Mahatmaji, through the “Hindustani Pracharni Sabha”, advocated till his death that “Rashtra Bhasha” of the whole country should be Hindustani. Moreover, for the last thirty years, it has been declared over and over again from the platform of the Indian National Congress with unanimity that the State language of India would be Hindustani. And Hindustani has always been defined in these words :—“Hindustani is that language which is spoken from Bihar right up to Frontier”. If we leave the excluded area of the Frontier, even then the fact remains that this language is spoken and understood from Bihar up to East Punjab. Not only this, there are Hindus and Muslims all over the country who understand and speak this language. You are ignoring the principle of Mahatmaji and the thirty years old history of the Indian National Congress and compelling us to accept that thing which is against the history of language; and Congress and you want to impose it upon us and you tell us in authoritative tone that only that language can be and will be the language of the country which you decide to be the language of the Union. I had challenged it in the Party meeting and I am inquiring here also. Tell me why this baseless thing, which is against the principle of Mahatmaji and the thirty years' old decision of the Congress, is being put forward. But I regret to say that neither was I given a reply there nor have I received any reply here.

After all, tell me why this change has been made in the principles laid down by Mahatmaji and the decision of the Congress? I would like to say frankly

that unfortunately the partition has caused this bad effect on our minds and it was the result of this fact which has made us oblivious of such an important principle. This is the reaction of the partition. And it is due to this reaction that we are thinking in these terms. And in this state of grief and anger, which is the outcome of their own hands and for which all must share the blame, they are showing their narrow-mindedness against a particular community of the Indian Union. They want to settle the language question in the atmosphere of political bigotry and do not want to solve this problem as the Language problem of a country.

This is dangerous. I am astonished that in speeches this very sentiment is being expressed over and over again. And instead of settling this question amicably with mutual love, attempts are being made to overawe us with anger. But in my opinion, rather in the opinion of very wise man, this attitude is in no way helpful for the development of either the country or the language. In short, State language should be easily understandable and readily acceptable by the whole country. I should not be imposed by the majority, otherwise it would never attain popularity. For this very reason Mahatmaji had suggested Hindustani as the language of the Indian Union. The cause of Hindustani was espoused and advocated by the Congress for full thirty years before the whole world.

If we want to go back and decide to remain in the narrow sphere, as is happening today, we must not forget that in this world languages do not develop by putting limitations; on the contrary, they develop by expansion and by borrowing words from every language. They are not imposed on people. They attain popularity by their mode of expansion. History tells us that the languages of the world develop through expansion and by borrowing words from other languages. And if you coin and put forward new words for radio etc., it would become something like fun. The same sort of fun I find in the Assembly of U.P. As a member of the Assembly I have had chance to see that Ministers stand up and begin to read such words which they themselves find difficult to understand. But just after ten or twenty minutes when they stand to make a speech, they again begin to speak the same language which was declared by Mahatma Gandhi and the Indian National Congress as Hindustani.

Therefore, if you do not recognize the Hindustani language and adopt Hindi, it means that you are not following the right path. It is just possible that there would have been no intention to consider this matter on communal lines and this thing would have come to our minds spontaneously. But I think that the communal tinge is there. Sometimes it so happens that a thing enters into one's mind and he cannot explain how he conceived it. So it is quite possible that the change from Hindustani to Hindi would have occurred in this very way. Partition took place and created this bitterness and reaction. Today it is thought that to overawe a particular community, such a thing should be brought forward which might prove that the language question is being settled in a different way and not in the manner in which it ought to have been settled.

It has been said, we want only one Hindi language for this reason that we want one "Sanskriti". It fail to understand what you mean by that. In India some people speak Punjabi, some Bengali and other speak some other languages. If this thing affects and influences 'Sanskriti' then the languages of all the States and Provinces of India should be wiped out, because "Sanskriti" remains safe only when the language of the entire country is one. But I think that speaking of different languages does not affect culture. Switzerland is a small country, where four languages, namely, Italian, French, German and Swiss are spoken, and work is carried on in all these four languages which are recognized by the State. But this does not affect the culture of Switzerland. And if here it stands in the way of the cultural unity of India, then a pet language of a particular community should not be recognized by the State and a language easily understandable by all the communities and acceptable to all the communities and acceptable to all

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the citizens of India should be declared as the “Rashtra Bhasha” of our country. It is against justice and integrity to impose one’s “Sanskriti” on others.

Some people say that in Russia people have same names and they have the same way living. Excuse me, this is not the issue. This has been simply dragged in. You must know that in Russia’s several hundred different languages are spoken and all of them have been recognized by the State. In Russia people have still such names as Abdur Rahman etc. If somebody’s name is Abdur Rehman or Shanti Parshad, it does not effect the culture of any country. It does not make any difference if one religious ground somebody is named after

“Khuda” () or Ishawara” () If you talk of such a “Sanskriti” in which culturally all are one, I would submit that in this country I do not find that “Sanskriti”. The honourable Members sitting here are putting on different costumes, speak different languages, and have different names. Do these things affect their culture? No, this reaction is the product of Partition and under the influence of this reaction you are impressing upon a particular community in a roundabout way that they have to accept this particular way of life.

This is not the way of solving the language problem. Solve the language problem scientifically. Solve it reasonably. The arguments which have been put forward are neither in accordance with the principles of Mahatma Gandhi nor with that of the Congress. If you consider the language question in the right way, you will find that neither literary Hindi nor literary Urdu can be the language of this country. Only simple Hindustani can be the language of the country. Therefore, we should adopt this language (Hindustani) and only this can be the language of the people.

In so far as the question of script is concerned, I would submit that there is some difference between this question and the question of language. We find that in certain scripts some phonetic sounds cannot be expressed correctly. After declaring Hindi as the “Rashtra Bhasha”, will you not tell us, “you ought to say “Shakti” () and not “Taqat” () because the supporters of Hindi say that the word “Shakti” () should be used and not the word “Taqat” (). They say, use the word “Hirday” () and not “Qalb” () or “Dil” (); say “Samaj” () and not “Majlis” (), “Bhawan” () and not “Aiwan” () Hindi says use the word “Bhawan” and Urdu says use the word “Aiwan” then Hindustani comes forward and puts fourth the compromise. It says use “Samaj” as well as “Majlis”. Therefore, I say that the language ought to be such which contains all those words which are used generally. It should contain both the words “Taqat” and “Shakti”, “Hirday” and “Qalb”. It should accommodate all such words as “Samaj”, “Majlis” and “Society”. And it should be such a language which we can speak freely. If you want to adopt Devanagri script, I am not against it. But if you give Devanagri the first position, give Urdu script also an additional position.

For governmental information, communicate and court proceedings Urdu script, too, should be permissible.]

Shri Mahavir Tyagi : *[How will you accept numerals?]

Mohd. Hifzur Rahman : *[I feel if you solve the language question in this way, then certainly the language of the country would be such with

*[] Translation of Hindustani speech.

which every one would be completely satisfied, and it will be spoken and understood throughout the length and breadth of the country and people would be able to take part in the affairs of the country freely. Numerals are also connected with this question as has been pointed out by my Friend Mr. Tyagi. I have nothing to say on the question of retaining English for fifteen years. I have already spoken about it on a previous occasion. I say you may adopt the language of the country, whether you call it Hindi or Hindustani, as soon as you like. I am not against it. But I agree with the arguments that have been put forward in support of retaining English for fifteen years and adopting English numerals. By accepting English for fifteen years, English numerals would automatically come in.]

Shri Mahavir Tyagi : *[If you will write in Urdu seven hundred and eighty six, then you will have to write these figures in English numerals.]

Mohd. Hifzur Rahman : *[If you accept English numerals, I do not think there would be any difficulty in expressing these figures either in Urdu or English. Before hearing the arguments in support of the English numerals I was not aware of their importance. Of course after hearing these arguments, I have realized that it would be more convenient to adopt the numerals of a language which has been in use for a considerably long time than to adopt the Devanagari numerals. But with the gradual development of Hindustani and with the progressive replacement of English by it, you can certainly use the Hindustani numerals also. I mean to say, you can use Nagri numerals by all means.

As regards the directive principles in which you have said that Hindi ought to be developed in such a way that it may contain all the languages and cultures of India, I would like to submit that you give this status to Hindustani and not to Hindi. And it should be made clear herein that the language should be all-embracing, so that it may absorb literary Hindi, literary Urdu, Oriya, Punjabi and Bengali, etc.

I agree with the regional languages which are mentioned in this list. It has my full support. I accept that in various regions and Provinces these languages should have the second place as State language. This is my honest opinion that in Delhi and in U.P., which is a big Province, Urdu, the simple and easy language too, should have been the State language, for the simple reason that U.P. is the cradle of Urdu and it has been nursed and nurtured here. In the first place, Hindustani ought to be the State language in U.P. but if Hindi has been adopted, then Urdu also should be given the status of second language which like a State language should remain in use in educational institutions, High courts and Legislature. It may get a place there and may be used freely.

In conclusion I appeal to the House to accept Hindustani as the language of the Union and the country, because in comparison to other languages it is simpler and more appropriate to be the *lingua franca* of India. As I have told you that in Switzerland four languages are in use, in the same way, I do not think that there would be any difficulty if Hindi and Urdu script also remain in constant use for fifteen years with English. There would be no difficulty if in such a big country two scripts remain in use for ever.

If we recognize the secular State with all its implications, then I would submit that secular State is an ascertainment and no assertion can be true unless it has for its support some arguments and reasons. If we really believe in the secularity of the State then we should not consider such matters with a narrow outlook. And we should not give up those languages which we have nurtured here. We would not ignore Urdu which we even today own as ours.

*[] Translation of Hindustani speech.

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we ought to consider these matters with a clean heart. If you will consider this matter in this way, I am sure will with me that the language of this country ought to be Hindustani, Hindustani and nothing but Hindustani with Devanagri script, Urdu script should also remain.]

Mr. President : The House stands adjourned till 9 O'clock tomorrow morning.

The Assembly then adjourned till Nine of the Clock on Tuesday, the 13th September 1949.
