[Shri R. K. Chaudhuri]

present procedure we are having no recess. Many Members have to absent themselves from the House while important matters are going on. At least today and tomorrow we are expected to be here so that there may not be any chance of there being any want of quorum. I would request that a certain hour be fixed for today and tomorrow to enable the Members to go for lunch.

Mr. Speaker: The hon, Member will note that this is a convention which House has adopted and has agreed to follow for purposes of putting through the business of the House and having longer time for discussion. There has been a safeguard, however, that between the hours of 1 and 2.30 no voting will take place, so that any of the Members who wish to remain absent may remain absent during that hour, have their lunch and come back to the House. That is the only thing. I do not think it is possible now to revise the order, but the matter is entirely in the hands of the House.

I must modify my remarks in the light of the information the Secretary gives me. A voice vote is taken during that period, but if it is challenged no count is taken. That is the position.

Shri Bhagwat Jha Azad (Purnea cum Santal Parganas): Are we to understand that within these hours no quorum will be required also?

Mr. Speaker: I do not think should say that, because quorum is a provision made by the Constitution. But the real position is this: when the House starts its business it always with a quorum and it is that the quorum always presumed continues. Unless the attention of the Chair is drawn to the want of quorum, though the Chair has also powers suomotu to count and see whether the quorum is there or not, usually Chair will not do it and the convention has been that Members also will not try to draw the attention of

the House to the absence of quorum, if they really want that the business of the House should be proceeded with.

Shri Raghavachari (Penukonda): With your permission, Sir, may submit one point? The proposal that made before the convention was started was that if during that period, that is, between 1 and 2.30 P.M. the possessed the minimum House strength required for a quorum then voice votes could be taken and business could be carried on. Even when the strength fell short of the quorum and, as you said, nobody drew attention of the Chair to that, proceedings will still go on under the convention. Therefore, it reduced itself to this. Even when there is no quorum between those hours voice votes can be taken and the proceedings carried on unless where voting is required by a division. But if a division is forced and if the number present is less than the quorum. cannot proceed. That is how the convention is to be read.

Mr. Speaker: That is a matter of record and we shall consider it if a dispute or a difference arises.

CONSTITUTION (FOURTH AMEND-MENT) BILL

Mr. Speaker: The House will now take up consideration of the Constitution (Fourth Amendment) Bill as reported by the Joint Committee. As the House is aware 10 hours have been allotted for the consideration and passing of this Bill, out of which 6 hours will be devoted to general discussion, 3 hours to clause by clause consideration and 1 hour to third reading.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I beg to move:

"That the Bill further to amend the Constitution of India, as reported by the Joint Committee, be taken into consideration."

The House will remember that when this matter came up on the previous motion to appoint a Joint Committee, we had a fairly full and, if I may say so, a very profitable discussion in this House. As a result of that discussion, the House agreed to send this Bill to a Joint Committee and, if I remember aright, the House agreed by a rather unusually big majorityin fact, only 8 or 9 persons disagreed in all this House. When this matter went up to the other House also, connection with the appointment of the Joint Committee-it went there with our recommendation-that other House, if I may say so, went a step further and unanimously agreed to send it to the Joint Committee. mention these facts to show what an astonishing. almost unanimity opinion there has been in Parliament over this matter, and quite rightly so, if I may say so with all respect.

Constitution

One would imagine, sometimes reading or hearing some criticisms made outside this House, that this was measure over which opinion was rent in twain, that it was a highly troversial measure which proposed something to be done which was very extraordinary. And, yet, when one comes to see actually what has happened in this House or the other House, one finds that those who were most intimately connected with this matter in the sense that they are considering it directly. Members of this House, Members of other House, those who have listened to arguments for and against, have, by and large, nearly all of them, come to one broad conclusion in favour of this amendment of the Constitution. This should be remembered because an attempt is made-outside House, of course, outside Parliament -to create an impression contrary to this.

Now, this Bill went up to the Joint Committee and I am not, I think, saying anything that may be considered secret when I say that the proceedings of the Joint Committee were quite remarkable for their, shall I say, cooperative approach to this problem, for their understanding approach and for their near-unanimous approach to this problem. In fact, the Bill as it has emerged from the Joint mittee might almost be consideredbecause, naturally, every Member of the Joint Committee has the right to say what he has to say or may saybut, it may almost be considered to represent the opinion, the views of almost every Member of the Joint Committee, which consisted of people of various parties and various views. I merely mention this to place House in possession of the background, Now, after the report of the Joint Committee was prepared and passed in this co-operative manner by almost every Member of the Joint Committee, some Minutes of Dissent have been received. They are three. I think,-one by Mr. Chatterjee, one by Mr. Jaipal Singh and one by Chakravartty and others. So far as the Minute of Dissent of Shri Jaipal Singh is concerned, I would only say that I am sure that if Shri Singh had taken the trouble of attending any single meeting of the Committee, he might have been convinced otherwise. Because he did not attend a single meeting and he not there at all...

Shri Jaipal Singh (Ranchi West-Reserved-Sch. Tribes): May tradict the Mover of the Motion and say that I was present at some of the sessions?

Shri Jawaharlal Nehru: What?

Mr. Speaker: He says he present there on some occasions.

Shri Jawaharlal Nehru: I am sorry I made a wrong statement, but when presiding over it. I did not remember seeing him there—perhaps he at the first meeting. So, we might presume that Shri Jaipal Singh had erred in ignorance in presenting his Minute of Dissent. If he had discussed the matter with us, he might have been convinced to the contrary.

Then there is the Minute of Dissent of Shrimati Chakravartty and two other hon. Members. I think that

anyone who reads it will probably come to the conclusion that this what might be called a formal Minute of Dissent, without much faith or belief in it. They have to say something. The one thing that they say at beginning of that Minute of Dissent is that they felt that they have been returned to this House on a programme of acquisition without compensation. That may be so, but that certainly is not the basis of this Bill or the policy of Government. Therefore, there is no question of our considering that matter in connection with this Bill or otherwise.

Now, we come to the major and the longest Minute of Dissent of the hon. Member, Shri Chatterjee, in which has quoted from high authorities, apart from the fact that he is himself a high legal authority. Now, exactly what is this Bill? What is the attempt to amend this stitution? It is odd that words are thrown about confiscation of property, of expropriation when actually what the Constitution or the amended Constitution if you amend it, says is that there will be no such thing except by law and except on payment of com-The pensation. Remember that. quantum of compensation is to be determined by the legislature. there are so many quotations given by Shri Chatterjee about due process of law-for instance he says:

distinguished American Judge observed 'a great desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way....".

Well, I say, this is the constitutional way, and what is proposed is the definite, legal and constitutional of doing it and we are varying or amending the Constitution in the constitutional way. I do not quite understand this throwing about of words. about expropriation and confiscation and doing things apart from the law. Remember this that the sole change is to make clear one thing which I submitted on the last occasion. was clear to us at the time this Constitution was framed. That is say, according to the Constitution asput forward before the Constituent Assembly and as it emerged from the Constituent Assembly, the quantum of compensation or the principles governing compensation would be decided by the legislature. This was perfectly clear. Now, it is obvious that those who framed the Constitution failed in giving expression their wishes accurately and precisely and thereby the Supreme Court some other Courts have interpreted it in a different way. The Supreme Court is the final authority for interpreting the Constitution. All I can say is that the Constitution was not worded as precisely as the framers of the Constitution intended. What the framers of the Constitution intended is there for anyone to see. All that has been done now is to make that wording more precise and more accordance with what the framers of the Constitution at that time meant and openly said. That is the thing. So, I do not understand this measure of excitement and agitation in people's minds-not in this House, but elsewhere-about this matter.

May I say straight off that I think, with all respect, that the Joint Committee has certainly improved the Bill what it was previously? Naturally, I accept this Report and their recommendations completely. Of course, there might be one or two minor changes that we might agree to-we have one or two minor changes in view-but apart from that, I think that it would be a pity to amend this as it has emerged from the Joint Committee's consideration of it. emerged, as the House will see, in a much simpler form. It is shorter and simple than before and that itself is desirable. Because of a change made -I am sorry I forget the numbersto article....

The Minister of Commerce Industry (Shri T. T. Krishnamachari): Article 31(2).

Shri Jawaharlal Nehru: Yes. This slight change makes the point clear and as a consequence of that change, it was not necessary to add in the next clause, the third clause, a long list of matters. We have shortened that. That is practically all that has been done.

What exactly is our approach this basic question? Shri Chatterjee has written at length and has begun by referring to the makers of Indian Constitution having deliberately conferred certain Fundamental Rights. I was one of those humble individuals who had something to do with the making of the Constitution; there are others sitting here who had recorded their views in their speeches then. I do submit that those makers of the Constitution were perfectly clear as to what they and I do submit that what we putting before the House in this Joint Committee's Report is precisely exactly what they said at that time, so far as 31(2) is concerned. There is nothing new about it and there is nothing very terrible about it. The whole Constitution is based proposition that it must proceed by law and secondly, that compensation should be paid, except in specified cases of a small number. Generally speaking, compensation must be paid, but in regard to the determination of what the pensation should be, it is left to legislature. To repeat what I four or five years ago, if anything is done by the legislature which is considered a fraud on the Constitution, it is a different matter-then the Courts may come in-but otherwise it should not be open to the Courts to challenge the decision of the legislature on this point. It is a simple issue. Where does expropriation or the rest come in? I really do not understand it. The view in regard to property which Shri Chatterjee has put forward in Minute of Dissent and in which he is supported by some high legal authorities, is one with which I cannot agree. It may be that, as Shri Chatterjee says quoting a great political thinker, "men will sooner forget the death of

their relatives than the confiscation of their property". We rather not encourage such men in this country. It is a monstrous thing that property should be made a God, above human beings. To put it this way. whatever a man may do,-he may even commit murder-it is nothing. but property is a God and must worshipped-well, this Government is not prepared to accept that view of property at all.

Repeatedly, Shri N. C. Chatterjee refers to the use of the phrase "the of private property". though there was something divine or semi-divine about it. It is a right ---property. The possession of property is a thing which we recognise. which we protect, and it is defined here how compensation is to be given if a man is deprived of it. There it is. But to talk in these terms, if I may say so, of sanctity, divinity etc. being attached to property is very much out of date. It has no relation, not only to present days but to present-day facts. I am not referring to what may called socialistic or communistic countries, but to countries which are presumed to be capitalistic and the like. The whole conception, the whole is changing. Shri approach If Chatteriee quotes something from the judges of the middle of the 19th century, that may have been the way of thinking then. It is not so now. The whole idea and approach to this guestion is changing. These questions do not arise in this particular amendment to the Constitution.

Again, Shri Chatterjee quotesrather, he quotes someone quotes an eminent English jurist having said that "the public good is in nothing more essentially interested than in the protection of private property". I would like the House consider these words: "Public good is in nothing more essentially interested than in the protection of private property". That is what I call an astounding and amazing statementthat the highest public good is

protection of private property, more than everything else. I do submit that not only we should not agree to it but we should reject it summarily and absolutely—such a statement whoever might have made it.

Shri Chatterjee goes on to say that no one shall be arbitrarily deprived of his property. I agree completely. Who is doing so? Is this arbitrary deprivation of property? Firstly, the law does not do it. Secondly, the law lays down rules and regulations on the principles of compensation, Where does arbitrariness come in? I mention this because quite unnecessarily people do not see what is being done and I regret even some people who write in newspapers do not see exactly what is being done and they write about things without understanding the purport of them. They talk loosely and use these words: expropriation, confiscation, arbitrary action. There is nothing of the kind any where.

Then, Shri Chatterjee has referred to the United States Constitution in this respect. Now, the United States Constitution is a great document. but I do not think it is quite appropriate to compare it with our Constitution or to compare our Constitution with it or to say that Constitution is based on it. Of course, we have taken a good many things from it and many more things from the Constitution of the United Kingdom. But, nevertheless, our Constitution is neither the Constitution of the United Kingdom, less of the United States. The whole basis of the United States Constitution dates back to some time of the 18th century. It is not obviously a very recent document. It represents the idea of the fathers of the Constitution and the American nation at that time and they produced a very fine document, but for us to consider it in another country, in India, in the middle of the 20th century is hardly a reasonable Droposition.

So, I should like Parliament to remember these basic things. Here is something that is being proposed which in effect is clarifying, elucidating, the Constitution and bringing it completely in line with what makers of the Constitution intended. Unfortunately, they did not do so in clear enough language, and therefore have interpreted the courts differently. So, firstly, it is a matter of elucidation. Secondly, it is wrong to say that we are suggesting arbitrary action, any confiscatory action. action or any expropriatory In fact, the Constitution has said that there should be compensation by law. But it is true that the quantum compensation will be determined by the legislature. I cannot say hand what in a particular case the legislature might do. But, by and this large, if you have to govern country democratically, you have to trust the legislature not only in this but in a hundred other matters of far greater moment. This legislature might decide on some far-reaching change affecting, well, the question war and peace-a tremendous of thing. Surely the Supreme will not decide that. It may decide technical questions in other which directly or indirectly will even property, planning, and kinds of things may be done which will have a powerful effect on structure and economic social structure and everything. But it is the legislature's will in such matters that is bound to prevail. no way out of it. To single out this question of the compensation to given to property and to take it out of the purview of the legislature the sense of somebody else revising the legislature's decision seems to me a basically wrong approach, of course you think that property is something semi-divine and that protection of private property is the largest good of the nation which obviously hardly any one today can say.

I venture to place before this House this simple amendment which, I am glad to say, is an improvement in the Select Committee, and it is simpler and clearer. I should imagine that there is really not much room for argument left. After all, it is a simple provision.

Now, I do not know how one has to deal with the fears and apprehensions. There is no remedy for fear except the absence of fear. Today, in the larger context of the world, nations are afraid and because they are afraid they often say and do the wrong things, afraid of each other, and things get worse. I do not know what we shall do about it international sphere. It is true perhaps that some people in this country, may be some outside, have got manner of apprehensions. Also sometimes it is said that "well, it is right in the present Parliament Parliaments?" other what about right in the be all "It mav In fact. Government". present himself has Chatterjee of the hinted darkly at the picture time when this Government may be more. I am glad that Chatterjee appreciats the virtues and values of this Government. Now, at any time, for us to think of a distant future, a distant time as to what may happen is not a very useful or occupation at any time, profitable much less so at the moment it has become a truism to say that the world is in a state of great transitional stage. All those kinds of things may happen. Even if we manage to enormous big wars, other escape changes have happened and happen,-technological changes which are changing the structure of society, industrial as it happened when the revolution came and when it changed the whole relationship of human beings. The whole thing changes. everything. The idea of property changes with the coming of the technological revolution. It is changing. Now, these enormous technological changes are taking place and their pace becomes hotter and hotteratomic energy and the atom bomb. I am not thinking in terms of now, for the moment. But atomic energy is releasing enormous forces which are bound to change and which are changing human life.

In this tremendous age, to think in a static way and to imagine property has exactly the same place in human life as it used to, that you have stopped thinking at all. So, these apprehensions and fears appear to me completely unjustified. There is nothing to be apprehensive about in this world. Far bigger and far greater things and disasters might suddenly confront the world and context for somebody to afraid of some mill or plant of factory being acquired, seems to me to be a thing completely out of proportion. So far as this Government is cerned, so far as I am concerned, my mind is perfectly clear on this ject. Mind you, I have no respect for property. I have no respect for perty at all except perhaps some personal belongings. I respect the other person's respect for property occasionally; that is a different matter. But I am speaking—the House will give me-in a personal sense: I have no property sense. It seems a burden to me to carry the property; it is a nuisance. In life's journey one should be lightly laden; one cannot be tied down to a patch of land or building or something else. May be, I cannot auite appreciate this tremendous attachment to property—the property sense. But, while not appreciating I realise and recognise it is there. But, anynow, I think the proposition some hon. Members on the other side advanced about acquisition or fiscation without compensation seems to me a basically wrong proposition from the point of view of the public good—not from love of property anything like that. It is basically wrong proposition. In a particular case if a person misbehaves that is a different matter. I am talking in the broad sense: I do not want anything to be acquired except—normally speaking—on payment of just compensation.

I need not refer to any foreign capital here. I am always surprised to hear this proposal being put forward

repeatedly: confiscate or expropriate foreign capital. Anything which is more unthinkable, unthought of and unrealistic-I cannot imagine: it has no relation to reality-this kind thing-quite apart from what we may do within our country. Because country-I say and I repeat-whether it is socialist or communist or other country that may arise, except in a thunder of war or revolution which is a different matter-things happen there not because of law or decision but because of forces which are motion-no country does that to foreign country. I am quite certain that the Soviet Union will never do it in regard to any foreign capital that may be there; it will never do it cause it affects one's relations-international relations. No country wants to break its international relations or its credit in the world by doing kind of thing in order to save some money-a few crores or a few millions. It is an unthinkable proposition; it is not done in international society except as I said during huge commotions when nobody knows what may be done. In Soviet Russia-leaving the revolution aside-the Soviet Union has had dealing with other countries and it has developed a reputation of ways honouring its word-financial word. Sometimes, other countries had not done so in Europe but the Soviet Union has. It is very careful about preserving that reputation. Let us not talk about this mater of trying to get rid of ft by suddenly expropriating foreign capital or anything; that is not worth it. We are not such a country as to go about indulging these tactics and losing the good will and the credit of the world and may be, having a feeling of wrong doing in our minds and hearts.

Even in regard to our own country, when we consider any large scheme involving may be land, or may anything, wider considerations come We deal with the zamindari system; we deal with other schemes relating to land. Sometimes, this is referred to as a scheme of social engineering and all that. One can

understand that; it becomes quite impossible to deal with the situation in the normal way of land acquisition or actual property. We cannot do that: we cannot acquire the whole land in that way. It is not possible. Therefore, one has to go in graded one has to find out something of your capacity to pay. And then it is graded. That is, if you acquire the property, as we had done in the zamindari cases, the relatively poor zamindar gets full compensation-hundred per cent. The other person may get about 80 per cent. the third 70 and the fourth 60. As you go up this grading perfectly justified. Even Mr. Chatterjee agrees to that...

Shri N. C. Chatterjee (Hooghly): I object to the word 'even'.

Shri Jawaharlal Nehru: There is no trouble there. But take the cases. Let us see to the industrial ventures: other things-banks. that and the other. We are acquiring the Imperial Bank; we have cided and so far as I know we are paying pretty full compensation in whatever form it may be. I am going into morals or into the practical aspect of it: it is not worthwhile. It does not pay. It injures one not do so. You save a little money here and there. It will be completely wrong in the case of what may be called the small owners not to give them full compensation. Small owners-I talking about them. I am surprised that Mrs. Chakravartty in her note-I do not know whether it is she Mr. Chatterjee:...(Interruptions). am sorry to mix up the two-has thrown a hint that we are out to harm the small owner. I do submit that it is practically an unfair charge. can do it; how can we-this Parliament and this Government? Because the power is given to the legislature. Can one conceive this Parliament or even any other legislature to go out to harm the small owner? Even the petty self-interest of the average Member will shout out against it, if nothing else.

Take the big owners. I am talking about industrial property-plants and the like. My approach to industrial plants and the like is that the Government should never acquire anything-any old plant-unless for the purpose of planning or for the purpose of holding some strategic point, we have to acquire it. Why do say that? I have said that previously too, perhaps in a different context. Because whatever we are we are an under-developed country, industrially speaking; we want to industrialise the country; we want hundreds factories to go up-should I not use all the available resources at my hand to put up new factories-State factories-instead of acquiring old-may be worn out-plants of somebody else? I just do not understand it.

I am not going to acquire anything unless it comes in the way of planning. That is a different matter. But the idea which is sometimes put forward by some hon. Members opposite that a kind of a scheme of nationalisation would bring about great advance in the matter of equalisation, socialisation and all that is I think not correct. It will not. It is always bound to be by some drastic Whether you steps of equalisation. succeed or not is another That drastic equalisation in that way means equalisation of lowest stage of poverty. That is not good enough. We want to raise country's standard and yet to bring about this equalisation and try to towards as egalatarian society. The whole idea of nationalisation, of this plant and that, does not come into my picture at all except that when planning requires some measure, that is to say to take possession of a strategic point which comes in the way, the State should control it. Otherwise the State should go ahead and build up the State plants. The public sector becomes bigger and more and more important and there is more and more production, letting the private sector advance at all times. But if the public sector is nibbling and eating into the private sector. there

is no total advance, even though there might be some advantage from social point of view, because you are losing your resources, shifting factory from the private to the public sector. Unless that is desired and required by overwhelming reasons, I would not do it.

The House will forgive me, I often talking about atomic energy and the likes. Because I wish people to realise how the whole basis of our future industrial living paterns be affected. I have no doubt that just in the same manner as it was affected with the advent of steam and electric power, we are having something like atomic power in the next ten, fifteen or twenty years which again may make a vast difference to the running of all our factories and other things. Well and good. This is other reason why I should not about wasting national resources in mere acquisition of property when can build other plants and other things.

Therefore, these questions do come up. And if we have to acquire property I think we should pay and equitable compensation. I talking about individual properties. Normally there may be a number of rich men interested-there are here and there-but many of these properties, properties, are limited liability companies with a large number of small shareholders. We do not wish deprive them. So that, all apprehension and fear is completely misplaced, and it ignores not only existing conditions in India but the probable future line of advance.

It is true that inevitably if we have our way-when I say "we" I am not talking about myself nor even of the Government, but of this Parliament and I think of the overwhelming opinion of this Parliament and of the people—we go towards a pattern of society. Inevitably means building up the public sector. The private sector remains. The private sector always remains, I say. Because the private sector includes-as

I reminded the House, it includescottage industry, so many things. That itself is a huge chunk of the activity in this country. And it may include some big industries too. I do know twenty years later what will happen. But the dominating feature will be the public sector. And planning will be for the public and private sector. The private sector will have to function within the ambit of that plan too

In all these approaches we about, many words we use, good words, socialist pattern of society; we talk about industrialisation, removing unemployment, higher standards—all good things. May I put it somewhat that the thing that differently, really necessary is somehow to activise and dynamise the base of Indian social structure? I want you to appreciate this phase. The approach from the top has to be made. But there The top has to function. has been too much thinking of activising from the top all the time, that is activising the top layers of society. It has to be activised, and it activises other layers. But you do not solve the problem unless you activise base of Indian society, which means millions and millions of villagers, millions of workers and small earners. unemployed people on the land; this is the base of Indian society. If you merely grapple with it from the top, what happens? By that you gradually draw away people from that bottom into the middle layers, which is a good thing. You activise them, and gradually this domain increases, of people who are being activised. But the base, fundamentally the tremendous base cf population is not Therefore, while you do this from the top, which we have to do, you have to think in terms of affecting that vast base. Once you activise and make it dynamic to some extent, the progress of India would be rapid. Going from the top all the time, progress would be there, but not rapid. If I may, with all respect, refer to Gandhiji, his view always was to activise the lowest

strata. What way you should do it, we need not go into that now. bottom, the base of Indian that is the real thing. The view of many of our leading people, people. interested in industry and others, is that it somehow starts from activising the top and seeping down I am not criticising to the bottom. this, but I think that the emphasis and the outlook has to change. It has to be from the top, of course; we have to do it; but we have somehow activise this base. And in activising base one may have to numerous social steps of all kinds. To approximate this and so as not to have the big gap between the top and the bottom, all these things have to So that, that is the approach, not the approach of acquiring or depriving somebody of property and seizing it, and thinking you are doing good to the people because you are not paying compensation. I am entirely opposed to that.

So I would plead with this House that this particular amendment of the Constitution removes a slight obstacle that had come in our way, clears the path for us, as far as we can see the present moment, to go ahead with these vast schemes of planning, that we shall have to undertake, and is one which is eminently suited only for this House and the Parliament to accept but also for the people accept.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Constitution of India, as ported by the Joint Committee. be taken into consideration."

I have received notices of ments for circulation. The amendments of Mr. V. G. Deshpande and Mr. Vallatharas are identical. One wishes to have the opinion by 31st July, the other by 1st August.

Shri Vallatharas (Pudukkottai): am not moving the two amendments standing in my name. I have submitted a chit to the Chair.