

precedents in the past, conventions, whereby a Member raising a discussion of this kind has had the right of reply—some precedents. Therefore, I would earnestly appeal to you to make a categorical statement, not a ruling, as to whether the Deputy-Speaker yesterday when he was in the Chair was right or wrong in giving the ruling that he did. Of course, I am not requesting you to give it as an appellate court. Otherwise, the House would be helpless.

Mr. Speaker: Order, order. This House is supreme. I am not sitting here as a court of judgment. If I now declare that he (Deputy-Speaker) was right or wrong, then I am acting as a court of appeal. What else am I doing? On the one side, Shri Kamath says that I need not give a ruling as a court of appeal; on the other side, he says that I must declare whether the Deputy Speaker was right or wrong. These two things are contradictory. How can I give my opinion whether he was right or wrong? Whatever he did at that moment that was the correct decision and that has to stand for the moment.

Shri H. N. Mukerjee (Calcutta Central): Yesterday from what appears—I was not present—it seems the mover wanted to reply. Certain other members on this side of the House wished to impress upon the Chair that he should be given the right of reply, but the Chair merely disappeared and the House had to adjourn *ipso facto*. As the Chair was constrained to behave in that fashion, for good or bad reason, the House was left in a quandary and this kind of situation has taken place. So, we request some kind of guidance in this matter.

Mr. Speaker: I am very sorry I was not able to explain it though I tried to do it again and again. Firstly, the conduct of the Speaker or the Deputy-Speaker cannot be discussed in this manner. Without a substantive motion we cannot discuss it. Secondly, once a decision has been taken by the Deputy-Speaker, who was in the Chair at that moment....

Shri Bade (Khargone): No decision was taken. He just went away.

Mr. Speaker: That is also a decision (*Interruptions*). Order, order. We need not press it further. I have tried to make the position clear. It is my misfortune if I am not very clear in that respect.

Dr. M. S. Aney (Nagpur): Here I want to mention that in the Bulletin that is published by this Secretariat it is simply mentioned that after the speeches of the hon. Members the reply was given. Nowhere is it mentioned that the debate was concluded. Generally, whenever such discussions are referred to, a remark is made at the end that the discussion or debate is over. In this particular case, no remark like that has been put.

Mr. Speaker: The record that I have got shows that. Now this is over.

12.28 hrs.

LAND ACQUISITION (AMENDMENT) BILL

The Minister of Food and Agriculture (Shri S. K. Patil): I beg to move:

“That the Bill further to amend the Land Acquisition Act, 1894, and the validate certain acquisitions under that Act, be taken into consideration.”

The Land Acquisition Act of 1894 deals with two kinds of acquisition, *viz.*, acquisition of land for a public purpose and acquisition of land for companies. In the former case, compensation for such acquisition is paid out of the revenues of the State. But in the latter case, it is to be paid entirely by the company. Compensation payable for acquisition of land under the Act is ordinarily the market value plus fifteen per cent. as solatium. The provisions of Part VII of the Act of 1894 apply to acquisition of land for companies.

[Shri S. K. Patil]

The expression "company" has been used in the Act in a very comprehensive manner and not in a limited manner, as in the Company Law. It would also apply to companies registered under the Societies Registration Act of 1860 and Registered societies within the meaning of the Co-operative Societies Act of 1912. Before any land can be acquired for a company, it is necessary that the company obtains the previous consent of the appropriate State Government, which is the Central Government or the State Government as the case may be and executes an agreement with it as provided under section 41 of the Act. Further, as provided by section 41, land can be acquired for a company if the appropriate Government is satisfied under that Act of 1894. Under Chapter VII, the Government has got to be satisfied that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith or (b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public—mark these words—that such work is likely to prove useful to the public. In the case of acquisition of land for the purpose referred to in item (b), as I have said, the agreement to be entered into between the company and the appropriate Government under section 41 requires that the agreement shall provide for the terms on which the public shall be entitled to use the work.

The above provisions for acquisition have worked for the last 68 years. The interpretation has been so liberal and no difficulty had ever arisen during this period. During this long period, lands were acquired for companies not only for erection of dwelling houses for workmen, for the provision of amenities directly connected therewith or for works which are directly useful to the public such as hospitals, public reading rooms, libraries and educational institutions, but

also for the erection of factories, workshops, office buildings etc. for companies engaged in industry useful to the public. The above provisions recently came up for consideration before the Supreme Court in the case of *Aurora vs. the State of U.P.* In that case, some land was acquired by the Government of the U.P. for a company for the construction of textile machinery parts factory by invoking the provisions of part VII of this Act. The agreement entered into under section 41 did not, however, provide for any direct use of the work by the public. On this fact, the Supreme Court held by a majority decision, given on 15th December, 1961, that land can be acquired for a company under Part VII only when the work to be constructed would be directly useful to the public, and the public would be entitled to use the work as of right for its own benefit in accordance with the terms of the agreement. Further, the fifth term of the agreement entered into provided by section 41 does not contemplate the acquisition of land for a company simply because the products produced by the work to be erected thereon are likely to be useful to the public. The Supreme Court accordingly set aside the acquisition proceedings taken by the State Government in the above case. This has created a difficulty. Apart from the merits or demerits of this particular case that has been decided by the Supreme Court, the judgment is that the acquisition of land must correlate to the final use of it by any member of the public. That interpretation, right or wrong—that must be right because the Supreme Court has done it—has created a problem which did not arise in the 68 years of the operation of this Act. That would now mean that you have got to satisfy direct public use of that particular thing, otherwise, it is open to litigation. This has opened the floodgates everywhere for litigation.

Government have got representations from as many as 6 or 7 States as

to in how many cases this judgment is being used. The judgment itself in the case referred to has become of minor importance. But, the judgment that this public use has to be related to the public use in a sense in which the Supreme Court has adjudged it, creates a difficulty that you cannot acquire land for any co-operative society, you cannot acquire land even for a corporation of the Government of India, because a land that would be acquired for a fertiliser factory in the public sector is a corporation and therefore, it is an independent entity by itself. In the State of Bombay, we have been threatened with litigation that we could not have it until the court decides on it. Not only in one case, but, there has been such a fear everywhere in the States that this decision would now open channels where it will be impossible to do anything. So far as the implementation of the Plan is concerned, it will become difficult now, because, for the plan, both in the public sector and the private sector, if the allocations are made and if the land is not made available, difficulty arises.

Then, again, there can be also retrospective effect of this, because, certain people, who without knowing or before this judgment, had acquiesced in the process and have given their land, can go to a court of law asking compensation or for something which is worse. Lands have appreciated four or five times, any number of times. Over the whole period, this has been done. Therefore, a situation has been created where something has got to be very promptly done not merely for the case in the U.P. Whether that case in the U.P. was justified or not, I am not going into that, although the judgment particularly refers to that case, because of the interpretation of Chapter VII or sections 40 and 41, the whole case has got to be reviewed. Therefore, apart from this possible setback to industrial development to which I made reference, there was also the danger that acquisitions made in the past might be questioned in courts of

law and claims may be made by previous owners whose lands have been illegally acquired, according to this judgment, for restoration of land or for payment of damages in view of the enormous increase in the value of land during recent years. It was, therefore, necessary for the Central Government, immediately, to undertake proper legislation with retrospective effect to meet the situation which had arisen in view of the Supreme Court judgment in the above case that I have quoted.

The question as aforesaid arose not only in the case of companies in the private sector, but also in the case of companies in the public sector to which I have just now made reference. The matter had been accordingly examined in consultation with the Attorney General by the Ministry of Law who had advised that in view of Entry 42 in the Concurrent List, Parliament was competent to enact a law for the acquisition of property for a company whether in the public sector or in the private sector. Here, the question arises, if the matter was not in the Concurrent List, the position would have been different. The Government of India themselves would have undertaken legislation. This being in the VII Schedule item 42 in the Concurrent list, even the States are competent to legislate. As it is, the present position is, the law is not uniform in the whole of India. The erstwhile Part B States have their own things which we have not taken up and the Jammu and Kashmir State has not got it. We thought it proper that, instead of each State going in for a separate legislation, and may be for a variety of reasons different kinds of legislation, it would be worthwhile that we should have a legislation which would be of a uniform type. Therefore, the demand came as I said from the States. As I have said, it is not only one State; the States that have so far come are the Gujarat, U.P., Madhya Pradesh, Maharashtra, Orissa and Andhra. Not only that. The Ministry of Commerce and Industry

[Shri S. K. Patil]

of the Government of India has also come in because they have got many corporations which may be challenged for the acquisitions that they have done so far. The Ministry of Community Development and Co-operation have come in because land cannot be acquired for co-operative societies if the strictest interpretation of this particular section is taken. Therefore, attempt is being made now to enact a law. The Government passed an Ordinance because it was urgent. Now, since Parliament is meeting, it is up to us to enact it into law

Many amendments have been sent here because many people think that it is an important legislation. It is important in a sense. But, what is sought to be amended is a very small part, as I will presently point out. It is only one part. The other parts are consequential that are amended. What is amended is this. I shall again read it from the original Act itself. Under Chapter VII of the Land Acquisition Act, of 1894, after enquiry,

"Such consent shall not be given unless the appropriate Government be satisfied either on the report or the Collector under section 5A sub-section (2) or by an enquiry held as hereinafter provided,—

The inquiry is on the following points:

"(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or

(b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public."

It is the latter part of clause (b) which is attacked by the decision of the Supreme Court, namely the part which reads 'that such work is likely

to prove useful to the public.' Although during the last sixty-eight years there has been no case of such an interpretation, and the State Governments have been acquiring lands, as I said, for a variety of reasons, now, after the judgment has come, the trouble has arisen that not only will it be difficult in the future to acquire land, but there might even be the retrospective effect of it namely that people may go to courts of law on the ground of wrongful acquisition and claim damages; and those damages would not be small, but they would be very heavy indeed. The progress of our plans will also get stuck up, not only in the private sector, but even in the public sector, because the corporations that are there in the public sector will also have to face this difficulty, because the thing will have to be tested in a court of law whether the acquisition can be done or not. So, that is the main part of the Act which is sought to be amended in this Bill. Sub-section (1) of section 40 has now got two clauses, namely clause (a) and clause (b). We now propose to add a new clause (aa). Clause 2 of the Bill, therefore, accordingly provides:

"In sub-section (1) of section 40 of the Land Acquisition Act, 1894 (hereinafter referred to as the principal Act), after clause (a), the following clause shall be inserted, namely:—

"(aa) that such acquisition is needed for the construction of some building or work for a Company engaged or to be engaged in an industry which is essential to the life of the community or is likely to promote the economic development of the country; or".

This provision takes away the rigour or the consequences of the particular judgment that has been given, and provides that we need not necessarily correlate the acquisition with public use in the sense that it must be possible for everybody to make use of

it. There are many things which may not directly be for public use. It is not a garden, and it is not a school; in fact, even in a school, only some students can go; it is not something where everybody, as of right, can go. The things which we are contemplating are those envisaged in the Plan, which we expect will be of a type where the public in general will get the benefit out of them.

Many institutions, whether they are co-operative or otherwise, would be affected if this is not amended. That is why this amendment is sought to be made. There are a few other amendments which are sought to be made, but they are consequential. The most important among them is the amendment to section 41 of the principal Act, which is provided for in clause 3 of the Bill. In section 41 of the principal Act, instead of the words:

"the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company . . ."

we have now sought to provide that the same rules and the same provisions as in section 40 as it would be amended now would apply. Then, we have proposed the addition of a new clause (4A) in section 41 which reads thus:

"where the acquisition is for the construction of any building or work for a Company engaged or to be engaged in an industry which is essential to the life of the community or is likely to promote the economic development of the country, the time within which, and the conditions on which, the building or work shall be constructed or executed; and".

The other amendments are of a consequential nature.

Clause 4 of this Bill seeks to validate certain acquisitions that have al-

ready been done in the past. So, this is also a consequential thing. There are one or two other small amendments also which are consequential. So, I am talking of the Bill as it is and explaining the main amendments that we are seeking to make.

There is also another thing which has been pointed out. In the original Act, certain Acts of 1912 etc. have been mentioned. But, after the passing of the Constitution, this subject has become a concurrent subject, and, therefore, many States have passed their own Acts, to which a reference has not been made in the parent Act. In order to remove any doubt on this score, we have provided that the amended sections 40 and 41 of the Act would be deemed to have been in force at all material times when such acquisition was made, and so on.

There is also an attempt to have the word 'activity' introduced instead of the word 'industry', purely for the purpose of helping the co-operative societies. It was pointed out by the Law Ministry that merely providing the word 'industry' would not be enough, because a co-operative society may not be called an industry. Therefore, it is for no other purpose except that a co-operative society also has got to be covered, that we have introduced the word 'activity'. The House can consider whether the term 'activity' should be used, or whether any other better word could be found in its place, or whether we can use both the words 'activity' and 'industry' in respect of co-operative societies. That is quite a different thing altogether. But I am merely explaining that the word 'activity' has been proposed for no other purpose except that of introducing co-operative societies within the scope of this enactment.

These are the main provisions of the amendments that are now sought to be made in this Bill.

As for the urgency of this Bill being passed into law, as I have explained already, first we had thought

[Shri S. K. Patil]

it necessary to issue an Ordinance. That Ordinance will lapse within six weeks from the commencement of the session of Parliament. Therefore, the Ordinance can be in force only up to the 16th or 17th September. If the law is not enacted before that, then it will become difficult, and nothing could be done in the matter of acquisition. Therefore, the urgency of the case is that before this session comes to an end, we must pass this Bill into law, so that all those difficulties and all those misgivings that exist may disappear, and there can also be a uniform law covering the whole country.

It may be stated that hitherto we had no difficulties of this sort. But I may add that hitherto, the acquisition for a private company was also rare, and the occasions were few and far between when it was necessary to do so. But today, if the full Plan has got to be executed, it is not enough if we provide the funds or the foreign exchange required, but it is equally necessary for the completion of the Plan that land also must be made available. If it is possible for the company to get it privately, then it is well and good. But, it is not merely for the purpose of the private company that it is acquiring the land, but the private company has been asked by Government to fulfil a part of the Plan, and, therefore, it equally becomes the duty of Government as well to see that the company is enabled to acquire the land. Whether a particular land alone should be given and not the other land etc. is a different matter altogether. If the company secures that land without reference to Government, then also we do not come into the picture. But when we acquire land for the company, the difference arises this way. It is not very easy for a company to get land with Government's help, because under sections 40 and 41 of the Act as it stands and as it has stayed during the last sixty-eight years, several conditions have to be satisfied, to the satis-

faction of the State Government that the land so acquired is for a public purpose. We are only changing the wording and taking it beyond the ambit of ambiguity that has arisen today after the judgment of the Supreme Court and providing that that public purpose need not necessarily be correlated to the physical enjoyment of the land by every member of the public in the sense that he can go there and use it, but the purpose should be such that anything that is done would ultimately be in the interests of the public. It may not be so directly as in a garden or in a school or anything of that type. But it may be some kind of industrial venture, which may be a part of the Plan, and the results of it may be useful for the economic development of the country.

I would not like to go into those amendments, because we can discuss these matters when we take up the clauses. But there are two amendments given notice of by hon. Members in respect of which I would like to say something. One of these amendments is to the effect that the Bill should be sent to a Select Committee, and the other is that it should be circulated for eliciting public opinion. So far as the latter is concerned, unless we are prepared to face a situation where the Ordinance will lapse and the chaos will continue, it would be impossible to accept it, and, therefore, Government cannot accept it.

As regards the motion for reference of this Bill to a Select Committee, if there had been time enough, surely there would have been nothing wrong in accepting it. But as we see it, we have got only a few more days' time at our disposal during this session. Moreover, what is sought to be amended is only one little item. It is important, no doubt. I do not say that it is not important, but it is only one little item which is sought to be amended. Therefore, Government are unable to accept the motion for reference of the Bill to a Select Committee. If, in the course of the discus-

sion, any points emerge or any suggestions are made which would be really helpful in order to see that the land should be protected as well as the Plan or anything that we do under the Plan, then Government would be prepared to consider those suggestions. So, the reference of the Bill to a Select Committee or the postponement of the consideration of the Bill for the purpose of eliciting opinion thereon are matters which cannot be resorted to now, unless Parliament is prepared to sit for a little longer during this session and pass this Bill, but that is a different matter altogether.

So far as the amendments given notice of are concerned, many of the amendments are of a type which seek to protect the co-operative societies, which we ourselves have done. Government themselves will move the necessary amendments enabling acquisition of land for co-operative societies, because the Ministry of Community Development and Co-operation also has come into the picture, and so, this has got to be done. Therefore, amendments by other hon. Members would not be necessary in this behalf.

There are other amendments also which are there. As I see them, I find that some of them are such that certain people do not want to do anything for a private company. That is a different matter altogether. If that be so, then this House has got to take a decision as to whether the Plan should be restricted only to the public sector and not extended to cover the private sector. I am not saying that you should do it indiscriminately. By all means, do it in a manner which is provided for in the Act. There is an examination provided for prior to the acquisition. The company has got to apply to the Government, and the collector or any other person concerned will have to find out whether the acquisition is needed for that purpose or not. I have read those two clauses in which it has got to be proved satisfactorily that it is for a public purpose, and public purpose has got to be defined. Then alone the

1550 (A) LSD—7.

State Government issues the necessary order.

For all these reasons, therefore, the Bill has got to be expedited and passed into law.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Land Acquisition Act, 1894, and to validate certain acquisitions under that Act, be taken into consideration".

Shri Hari Vishnu Kamath (Hoshangabad): On a point of order. My point of order in regard to this Bill is two-fold, one on the ground of rules of procedure and the other on the ground of the Constitution itself.

I will first take up the point under the rules of procedure. I will invite your attention and the attention of the House to rule 71 (page 36 of the *Rules of Procedure and Conduct of Business in Lok Sabha*, 5th edition). It reads as follows:

"Whenever a Bill seeking to replace an Ordinance with or without modification is introduced in the House, there shall be placed before the House along the Bill a statement . . ."

mark the words—

"explaining the circumstances which had necessitated immediate legislation by Ordinance".

Now, how is a Bill defined? It is defined in rule 64 (page 34):

"The Speaker may, on request being made to him, order the publication of any Bill (together with the Statement of Objects and Reasons, the memorandum regarding delegation of legislative power and the financial memorandum accompanying it . . ."

That constitutes a Bill. Now, it is no justification for the Minister and no satisfaction us to say that in the

[Shri Hari Vishnu Kamath]

Statement of Objects and Reasons he has made a casual reference to the circumstances in which the Ordinance was necessitated.

Shri S. K. Patil: May I cut short the discussion? The hon. Member is really labouring under some kind of ignorance.

Shri Hari Vishnu Kamath: No ignorance.

Shri S. K. Patil: A statement has been placed before the House when the Bill was introduced.

Shri Hari Vishnu Kamath: Now he mentions it. When the Bill was circulated, I did not get a copy of the statement along with my parliamentary papers.

Mr. Speaker: I remember a statement was laid on the Table of the House.

Shri S. K. Patil: A copy of the statement was laid on the Table of the House when the Bill was introduced.

Shri Hari Vishnu Kamath: May I remind you that in the First Lok Sabha—I do not know whether there has been a laxity since then—Members in such cases used to get both the documents, that is, a copy of the Bill and a copy of the statement of Government regarding the circumstances in which the Ordinance was necessitated. I do not know what happened in the Second Lok Sabha.

Mr. Speaker: Simultaneously with the introduction of the Bill, a statement was laid on the Table.

Shri Hari Vishnu Kamath: Not circulated along with a copy of the Bill.

This is not fair to Members. The rules of procedure are categorical on the point.

Mr. Speaker: If it had not been circulated to Members at their residences, at least it was available at the Counter.

Shri Hari Vishnu Kamath: May I seek your guidance for the future? Rule 71 says, '... there shall be placed before the House along with the Bill a statement...'. Every Member is entitled to all papers laid along with the Bill.

Mr. Speaker: May I read the rule with the hon. Member?

"Whenever a Bill seeking to replace an Ordinance with or without modification is introduced in the House....

Shri Hari Vishnu Kamath: Yes.

Mr. Speaker: "there shall be placed before the House along with the Bill a statement explaining the circumstances which had necessitated immediate legislation by Ordinance".

Shri Hari Vishnu Kamath: I accept.

Mr. Speaker: When the Bill was introduced, a statement was laid on the Table. The only objection that the hon. Member is taking is that because the Bill was circulated to Members at their residences, the statement also must have accompanied the Bill.

Shri Hari Vishnu Kamath: My submission is that it used to be done regularly formally in the Provisional Parliament and the First Lok Sabha. I remember very well there were some Bills which replaced Ordinances and with the copies of those Bills we got also statements explaining the circumstances necessitating the Ordinance. I do not know why there has been a laxity after that in this regard.

Mr. Speaker: I am not sure about it. If it was being done, I will direct that in future that also might be done.

Shri Hari Vishnu Kamath: Without that, we would not be in a position to make an effective contribution.

Mr. Speaker: What is the rule that makes it necessary that it must be circulated to the Members? He is only drawing that inference and quoting a precedent that it used to be done. That is all what he is saying. I am telling him that I am not sure if it used to be done, but if Members desire it, I will certainly direct that in future it might be done. But so far as the requirements of the rule are concerned, they have been fulfilled because with the introduction of the Bill a statement was laid on the Table of the House.

Shri Hari Vishnu Kamath: May I submit that the rule does not say either that a copy of the Bill must be circulated to the Members?

Mr. Speaker: No.

Shri Hari Vishnu Kamath: Then we need not get a copy of the Bill either. You do not violate the rule if you do not circulate it.

Mr. Speaker: At least this rule would not be violated if the Bill is not circulated.

Shri Hari Vishnu Kamath: There may be other rules. But it is only this rule which refers to a statement. Unfortunately, there is no other rule referring to that.

Mr. Speaker: His point is that the statement also might be circulated to Members. I agree with his suggestion.

Shri Hari Vishnu Kamath: The second objection is on the ground of the Constitution itself. I take it that in moving for consideration of the Bill, the Minister also introduced—not for consideration immediately—amendments which stand in his name. Am I correct in this? Has he not introduced the amendments?

Mr. Speaker: No amendments have been introduced. There is no introduction of amendments.

Shri Hari Vishnu Kamath: What is the position? When you give notice of

amendments, are they not introduced automatically?

Shri S. K. Patil: I have not introduced any amendments. That will be during the clause by clause consideration stage.

Shri Hari Vishnu Kamath: In this respect, I suppose the Minister stands in a separate category, under rule 65 because that rule says:

"Any member, other than a Minister ..."

This distinguishes a Member from a Minister. Therefore, perhaps when a Minister gives notice of amendments, they are *ipso facto* understood to have been introduced in the House.

Mr. Speaker: Amendments are never introduced at this stage.

Shri Hari Vishnu Kamath: There must be a stage when the House is in possession of the amendments.

Mr. Speaker: Notice of amendments has been given and they are circulated. I cannot exactly follow what the hon. Member means by 'introduction'.

Shri S. M. Banerjee (Kanpur): He means circulation of the amendments.

Shri Hari Vishnu Kamath: They have been before the House.

Mr. Speaker: I could not appreciate what he means by 'introduction' of amendments.

Shri Hari Vishnu Kamath: You will appreciate the point as I proceed further with my argument.

The words used in article 31 of the Constitution, 'right to property', are specific, categorical and unambiguous—'for a public purpose'. Now, what the Minister wants to provide for is 'public interest' I therefore put it to you as the supreme authority in Parliament whether by seeking to do this he is not attempting to ask Parliament to do something which is *ultra vires* the Constitution, because

[Shri Hari Vishnu Kamath].

'public purpose', in my judgment, is quite different from 'public interest'. I appeal to you to consider this and rule that the Bill sought to be introduced, in so far as it concerns this aspect of the matter, is *ultra vires* of Article 31 of the Constitution.

Shri A. P. Jain (Tumkur): The words 'public interest' are not used in the Bill. They are used in the amendment of which the Minister has given notice. That amendment has not so far been formally introduced in the House. The point which Shri Kamath has raised can come up only when that amendment has been formally moved in the House and not at this stage.

Mr. Speaker: Which amendment is he referring to?

13 hrs.

Shri Hari Vishnu Kamath: The amendment standing in the Minister's name.

Mr. Speaker: Amendments would be taken up later on. The Minister may or may not move it at all. Who knows that?

Shri Hari Vishnu Kamath: I hope wisdom prevails, but in the Bill itself, see the wording of the clause—I am not talking of the amendments now, but the Bill itself:

"That such acquisition is needed for the construction of some building or work for a Company engaged or to be engaged in an industry which is essential to the life of the community or is likely to promote the economic development of the country;"

You, Sir, were also a Member of the Constituent Assembly, where elaborate arguments and discussions took place on this article 31. It went through several metamorphoses before it finally emerged in its present

form. You will recollect the trend of arguments in the Constituent Assembly during the discussion on this article, one of the vital articles of the Constitution.

Whatever has been done in clause 2 of the Bill I feel is not co-terminous with, not consistent with public purpose as defined and stipulated in article 31(2) of the Constitution. "Public purpose" has got a special connotation, and there is no synonymous connotation in the clause of the Bill before the House. I therefore seek your ruling on this matter whether it is not *ultra vires* of the Constitution.

The Minister of Law (Shri A. K. Sen): If on such a thing, you, Sir, have any doubt about the position, I certainly would be glad to assist you, but I do not think it admits of any doubt.

Shri Hari Vishnu Kamath: For you, of course, there is no doubt at all. You are a Minister.

Mr. Speaker: Doubts I may or may not have. There is another thing. The Chair has never decided the question of constitutionality. The hon. Member will remember that so many times we have taken a decision that it is for the courts. The Chair always leaves this question to the House, and the House takes a decision. Then it is for the courts to decide whether it is *ultra vires* or *intra vires*. The hon. Member would agree with me in this position.

Motion moved:

"That the Bill further to amend the Land Acquisition Act, 1894, and to validate certain acquisitions under that Act, be taken into consideration."

There are some amendments for circulation, one by Shri R. Barua.

Shri R. Barua (Jorhat): I am moving.

Mr. Speaker: There are three motions for circulation. Out of the three, as Shri R. Barua's motion gives a later date than the other two motions, I will take up only his, and I will deem it as having been moved.

Shri S. M. Banerjee: What about the others?

Mr. Speaker: The others are barred. This is moved. I am taking this up because this gives the latest date for eliciting opinion. That is the criterion.

There are two motions for reference to Select Committee, one by Shri Daji and the other by Shri Yellamanda Reddi. Shri Reddi is not present. It is also not in order because he has not given the names as yet. I will take Shri Daji's motion as moved.

Shri R. Barua: I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th November, 1962." (20)

Shri Daji (Indore): I beg to move:

"That the Bill be referred to a Select Committee consisting of Dr. M. S. Aney, Shri Ramchandra Vithal Bade, Shri S. M. Banerjee, Shri Shree Narayan Das, Shri Surendranath Dwivedy, Shri Ajit Prasad Jain, Shrimati Subhadra Joshi, Shri T. T. Krishnamachari, Shri Inder J. Malhotra, Shri Harish Chandra Mathur, Shri R. R. Morarka Shrimati Sharda Mukerjee, Shri S. K. Patil, Shri Indulal Kanaiyalal Yajnik and Shri Homi F. Daji, with instructions to report by the first day of the next session." (32).

Mr. Speaker: The original motion as well as the motion for circulation and motion for reference to Select Committee are before the House.

Shri Hari Vishnu Kamath: How is time allocated?

Mr. Speaker: We might allocate that also. It is four hours in all.

Shri Hari Vishnu Kamath: One hour is with you always. Make it five hours please.

Mr. Speaker: Really I have some apprehensions. I have got a very long list and there might be others who might not have sent in their names but might stand up later.

Shri A. P. Jain: I am one of them.

Shri Tyagi (Dehra Dun): Would it be possible for you, Sir, to have only the general discussion today, for many Members could not really study the significance of the Bill and they might like to send in further amendments. You may kindly postpone the second reading for some other day, and have only the first reading today.

Shri Hari Vishnu Kamath: By your leave, Sir, under rule 292, I move:

"That the time allocated by the House on the 7th August, 1962 (vide Third Report of the Business Advisory Committee) for consideration and passing of the Land Acquisition (Amendment) Bill, 1962, be extended from 4 hours to 6 hours."

Mr. Speaker: It is for the House. I cannot interfere. If it so desires, it can extend any time it likes. The question is:

"That the time allocated by the House on the 7th August, 1962 (vide Third Report of the Business Advisory Committee) for consideration and passing of the Land Acquisition (Amendment) Bill, 1962, be extended from 4 hours to 6 hours.

The motion was adopted.

Mr. Speaker: Then it is extended from four to six hours. Four hours today, up to the end then we will continue this general discussion.

Could I place a time-limit on speeches also? Fifteen minutes each should be enough.

Shri Hari Vishnu Kamath: With discretion to increase it to 20 minutes. You have got the discretion.

Shri Daji: While moving my motion for reference to Select Committee, I was aware of the argument that as the Bill seeks to replace the ordinance, the House should enact it during the current session itself, but I have moved this motion because I consider that the Bill, though simply and sweetly explained by the hon. Minister in charge, is neither so sweet nor so simple as it is sought to be made out. There are so many serious implications and ramifications which have to be considered in greater detail.

It would be necessary for the Select Committee mainly to go into two things. Firstly, it will have to consider the very principle involved, whether we are going to permit the compulsory acquisition of land for private industrial enterprise; secondly, if such acquisition is to be permitted, whether the principle of compensation should be different from the general principle of the market price plus 15 per cent, whether we should revise or change that formula and raise it. For both these reasons, it will be proper if the Bill goes to a Select Committee.

Let us examine the genesis which has led to the introduction of this Bill and the ordinance. The position prior to the ordinance was that while land could be compulsorily acquired for an admitted public purpose, it could be acquired for a private company only for certain activities which had relation to a public purpose, and it was further coupled with the objective that the public should have the unimpaired right of utilising it. The salutary effect of both these provisions together was that land could be acquired only if the private company wanted to start some school, hospital or edu-

cational institution or some such thing.

But, as the Minister in charge has pointed out, in fact, land was acquired not for any such public purpose, but for the setting up of industries, a textile machinery industry in a particular city, and the case went up to the Supreme Court. We have the learned judgment of the Supreme Court before us. It is a very clear, lucid and forceful judgement, if I may be permitted to say so with great respect, and both these aspects have been discussed in the judgment.

The Supreme Court has come to conclusion that it cannot be said to be a public purpose to allow a private entrepreneur to set up a factory. Because when it was said that land could be acquired for a public purpose the purpose should be directly correlated with the activity in view. It should not be remote. Remotely everything will be for public purpose. Without meaning any disrespect to the House, I may say that even a dancing hall would be said remotely to be for a public purpose. Similarly, a gambling den or a swimming pool or a billiards room could be said to serve a public purpose remotely. Every conceivable activity would have a public purpose. But the public purpose dominantly visualised by the Act was not remote public purpose but public purpose which would be directly related to it and therefore it was said in the Act itself that it should be public purpose and the public should have free access thereto. So, those two sections in the Act coupled together brought about a situation in which the public purpose was something more restricted and directly related to the public than the remote public purpose as is now sought to be enacted. An industrial establishment would like to establish a plant: that would become a public purpose. I cannot conceive of any activity permitted by this Government which is ultimately not for public purpose. Only illegal activity could not be for public purpose. For

the present I am confining myself to the legislation and I will later come to article 31 of the Constitution and show how it will have its ramifications. Now, what has the Supreme Court said? To acquire land and hand it over to a private enterprise for building an industry for private profit and call it a public purpose is turning the State into a land agent for capitalists.

Shri Tyagi: (Dehra Dun) Are these their words?

Shri Daji: Yes these are their words. The hon. Judges cannot be said to be political propagandists like me; they feel that such interpretation will turn the State into a land agent. The Supreme Court puts this beneficial interpretation consistent with the declared socialist objective of the State; the Supreme Court says that it is not prepared to accept their interpretation. What is now sought to be done is to endorse this interpretation and turn the State into a land agent for capitalists; they want the seal and approval of Parliament boldly, with the boldness which can be matched only by the Minister in charge of this Bill and no one else, they equate it with the purposes of the Plan. They say that it is consistent with our Plan. On page 12 of their judgment the Supreme Court says:

"The fact that the product of the company would be useful to the public is not sufficient to bring the acquisition for a company within the meaning of the relevant words in sections 40 and 41. In the present case all that the Government was satisfied about appears to be that the product of the company will be useful to the public and the provision in the agreement is merely that the public shall be able to go upon the works for purposes of business. This in our opinion is not the meaning of the relevant words under sections 40 and 41 and therefore the Government's satisfaction in that behalf is not enough to entitle it to use the

machinery of the Act for the purpose of acquisition in this case. We therefore allow the appeal with costs and setting aside the order of the High Court quash the notification under section 6 of the Act and the proceedings resulting therefrom."

They are now wanting to circumvent this provision. It is a question of principle.

I must say that the Land Acquisition Act is an expropriatory measure and an extra-ordinary measure whereby we forcibly take possession of land and fix the price thereof. If the party concerned is not satisfied, we allow him to go for litigation but meanwhile possession is taken and we ask him to go from court to court and from court to court, discussing what compensation should be. The compensation allowed is market price plus 15 per cent 15 per cent is merely an eyewash

जैसा कि हिन्दी में कहते हैं १५ परसेंट देना तो ब्राँसू पोंछने की बात है।

So, when such an important expropriatory measure is contemplated we have to see that the objective should be dominantly national interest or public purpose. Public does not mean any member of the public it means public as a whole, nation or society as a whole. That should be the only relevant consideration by which we can justify the abolition of the ordinary right of property vested in an individual and forcibly make him part with his property. It was, therefore, advisedly said in the Land Acquisition Act that land could be acquired for colleges, hospitals etc. This was introduced by an amendment because it was thought that it was good if any private individual wanted to run a school or a hospital the dominant objective was social and public and so that was allowed. But that was also the maximum limit to which we have gone. Now, we want to secure land and hand it over to the private enterprise for any activity.

[Shri Daji]

Land would be acquired for an industrial establishment to install a plant or to construct a godown or to set up an office or for use as a pig sty or a stable. Instead of passing such a complicated legislation as this, you could have a one-line legislation.

Mr. Speaker: The hon. Member should address the Chair.

Shri Daji: Yes, Sir. The Minister could say that if it is deemed fit by a Minister then he can acquire any land for any price at any time without any appeal. That would at least save us from litigation. Why have this complicated clauses and show of public purpose and say that it will ultimately produce good or it is ultimately to the welfare of the public good.

Shri Hari Vishnu Kamath: They will then have to amend the Constitution.

Shri Daji: They will do it. This amounts to this. When I am putting it so sharply the hon. Minister is smiling. But the effect or the ultimate result of this amendment is to expropriate an individual and take away his land for any purpose. The first question therefore is whether we are going to take away land from one hand and put it in the hands of another. If it is a co-operative society or any thing of some such character or a public sector corporation it can be understood because in that case too the evil is there but the benefit is much more than the evil and therefore, the evil has got to be tolerated.

Shri Tyagi: In the matter of public corporations, you have no objection?

Shri Daji: No; I will have no objection. That is why I say that it should go to a Select Committee. Let us examine its ramifications. I want to counter one argument of the hon. Minister in charge. I consider it a very intelligent way of saying that it will help our planning activities.

When you acquire land at market price plus fifteen per cent, do you guarantee the price that the industrial establishment would charge for the product produced. Will the Government guarantee the price he will charge? He, here, means the establishment. He takes the land at a very cheap price; he starts profiteering 10 times or even 100 times. Yesterday we discussed the drug adulteration. There was a report by a foreign expert that the selling price of some of these drugs is ten times the cost of production

Shri Tyagi: They are paying income-tax also.

Shri Daji: They are avoiding income-tax. They are avoiding more than what they have paid. Therefore in structure of our existing society, when we are unable to give any guarantee for the price that is charged, for the services that will be rendered, when we are unable to find out whether the industries have indulged in adulteration or not, and when we cannot guarantee these things, to take away, under these circumstances, the land from the poor man and hand it over to the industrial establishment is most unsocialistic. It is scandalous. It is an insult on the avowed doctrine of socialism. By the back-door, the Government is going to perpetuate the fraud on the Constitution. I say this is a fraud on the Constitution because these words, "public purpose" which have been defined in the legislation are also found in article 31 of the Constitution. If for the purpose of legislation, the Supreme Court has interpreted the words "public purpose" to mean a direct correlation between the purpose and the public, certainly, when this matter goes up to the Supreme Court, not *vis-a-vis* the interpretation of the clauses of the Act but *vis-a-vis* article 31 of the Constitution, the same reasoning will be applied, and it will be said that this is expropriation of property from a poor man.

Apart from the arguments that the courts may adduce, what is the moral justification for it? When the Constitution has permitted that you can expropriate property for a public purpose, did it mean that you should expropriate it from a poor man and hand it over to the rich man and allow the rich to profit themselves at the cost of the entire nation? Is that the meaning of the Constitution? Is that the meaning of the word socialism, which we are writing on the statute? It will be a sad day if we condescend to make the State act as a land agent for the industrialists, even without any brokerage"

Shri Hari Vishnu Kamath: Secret brokerage'

Shri Daji: The collectors of the districts in the States, the State ministries, the State Ministers, will all act as the legal agents, land agents, of private industrialists and make some secret brokerage at the time of the elections. Of course, that is another matter. But, is there any guarantee in the Bill that before this recourse is taken, all efforts for private negotiations shall be exhausted? Once this Bill is on the statute-book, every industrialist will come and say, "Please get us land. "Certainly, in private bargaining, the price will be more, but who is going to bargain? Everyone will apply, and who will get the benefit? Not even all the industrialists will get the benefit; only a chosen few—the Tatas of Bihar and the Birlas of Madhya Pradesh. They will be having a joy ride by this legislation, and it is they who can bring about the pull or the push on the Ministers concerned. This legislation is going to be used for their benefit—to rob the poor man of his land and hand it over to the big houses who wield their push and pull on the Ministers in the different States concerned and then say, "this is for the Plan and this is socialism."

So, with great force at my command, I say that this is a measure which should be taken back. Let us examine its provisions again in the

Select Committee and also examine as to whether this is absolutely necessary. Shall we not devise certain checks, certain measures, certain alternative schemes of compensation which will be fair to the persons concerned? Shall we not devise a certain measure of control over the industrialists in regard to these matters? The Bill must go to the Select Committee. The Bill, as it stands, is a sacrilege and democracy, is an insult to socialism. Plainly speaking, it is going to hand over the entire machinery of the State to pillage and loot of certain big houses. We shall be condescending to that State of affairs if we pass this measures as it is.

Shri R. Barua: Mr. Speaker, Sir I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th November 1962."

The Bill as it is seeks to depart violently from the spirit of the parent Act. Originally, the word "company" was defined as to include the public sector, the co-operative societies and so forth. There are two provisions; one for the acquisition of land for public purpose and the other for companies. So far as companies are concerned, the purpose was limited to a certain extent as provided under sections 40 and 41 of the original Act. The word "company" has been defined in the original Act of 1894 as follows:

"the expression "Company" means a company registered under the Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament of the United Kingdom or by an Indian law, or by Royal Charter or Letters Patent and includes a society registered under the Societies Registration Act, 1860, and a registered society within the meaning of the Co-operative Societies Act, 1912".

It also includes a company incorporated by an Act of Parliament, just as

[Shri R. Barua]

we are now having different corporations in the public sector. So far as these companies are concerned, in all cases, land could not be acquired. Certain conditions were to be fulfilled as provided under section 38A which reads as follows:

"An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part..."

Even an industrial concern was allowed to acquire land for the purpose of giving amenities to certain workmen because it is in the interests of the people that proper amenities are given to the workmen in the industries and also in the companies.

Under sections 40 and 41, certain processes have to be gone through before land can be acquired for the company. Section 40(1) says:

"Such consent shall not be given unless the appropriate Government be satisfied..." etc.

13.25 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

There is also provision regarding an agreement to be entered into. Therefore, so far as public purpose is concerned, that is also explained. In the case of companies, only to a certain extent that was done; the purpose was to see that the private property is not unnecessarily invaded upon by some interested persons.

The hon. Minister in charge of the Bill was very eloquent in saying that up till now we had no difficulty in acquiring land under the Act, and that only the Supreme Court decision brought about a trouble. I respectfully submit that it was not so. No-

body tried to acquire land for the purpose of a private company, for a private establishment, in the way it was done in the case of Uttar Pradesh, and that is why the stricture had to come in this case. Also, it has been seen that under the Constitution, article 31, as has been rightly pointed out the public purpose should be fulfilled. There is also a directive principle contained in article 39. It is the duty of the State to see that "ownership and control and the material resources of the community are so distributed as best to subserve the common good." It also says that the "operation of the economic system does not result in the concentration of wealth and means of production to the common detriment." Therefore, when you take the meaning of the expression "public purpose", we should also go back to the Constitution in which it is clearly stated that the State should protect or direct the policy in a way to see that the means of production are not concentrated in one hand. Therefore, to say that for the purpose of having industries in the country we should see that lands are acquired through the governmental agency for the purpose of private industries will be going too far, and it will be against the spirit of the directive principles of the Constitution which I have just now read.

Therefore, I submit that the Bill is not in accordance with the spirit of the Constitution. Let us also see the genesis of the case through which this has come in. We have got experience of land acquisition. This process takes months and months; even in government undertakings it takes a long time. In my part of the country, a fertiliser factory was sought to be established. Two years have elapsed; but due to delay the Government has not been able to complete the acquisition proceedings as a result of which the public is really suffering. In this case, you will find that the notification under section 4 was published on 25-6-1956 and under section 6 on 5-7-1956. On 31-7-1956,

and within a month's time, the possession was taken. Not only that. During this short period the procedure that was prescribed under Chapter VII of the Land Acquisition Act was not complied with and the company was so powerful to utilise the entire Government machinery so quickly that in a month they could take possession of the land, even without drawing up the agreement.

Shri Tyagi: That shows the machinery there is more prompt than in other States.

Shri R. Barua: During my experience, in no case could the land be acquired so quickly, however efficient the administration may be. But in this one case, the Government was so efficient. That shows that when private individuals or companies are interested, they can just manage things in a way so that the entire machinery could be moved. If that is the way of utilising the Government machinery for purposes of acquiring land, it also casts some aspersions on the Government machinery. For acquiring land, one has to go from the bottom. First one should obtain a report from the sub-deputy collector and go through different processes till it comes to the governmental level; it is very easy for business houses to get this done. That is why we do not feel happy that this should be extended to the companies. We have got no objection if it is extended to the public sector undertaken created by Acts of Parliament and also to the cooperative sector. But when it is extended to the private sector, nobody knows to what extent they will misuse the machinery. This is the context in which we have to consider the question of extending the provisions of the Act to include private companies.

In the case I was mentioning the writ petition was dated 31-7-1956 and on 14-9-1956 an enquiry was ordered. The report was submitted on 3-10-1956 and on 4-12-1956 a fresh agreement was drawn up. On 7-12-1956 a fresh notification was issued. This is how

the machinery was moving. Therefore it is in the fitness of things that we do not extend this provision to private companies or private industries for the purpose of land acquisition.

Even under the present Act, private companies can have the assistance of the Government to acquire land provide they conform to the provisions of Chapter VII. That is enough. If they establish an industry and afterwards if it is found that their workmen are increasing and it is necessary to provide sufficient accommodation for them, they can acquire land with the help of Government after going through Chapter VII. All these things are provided in the parent Act. But if this provision as is proposed in the Bill is extended to private companies, some industrialist will come with some finance and no matter what his credentials are, he would be able to acquire land. Once the land is acquired, we have got no control over the production machinery; there is nothing of that sort. That is why it was in the fitness of things that previously the law-makers never thought it fit to extend this provision to private companies unconditionally.

The hon. Minister says that the industrial development of the country will be impaired if this provision is not extended to private companies. But up till now we have not come across any report either from the Planning Commission or in the last budget session that the Government faced any such difficulty for not having the requisite power to acquire land for the private sector. This is a new thing which has just been introduced by bringing in this Bill. Therefore, this argument is not correct. The other day we discussed the reports of the National Industrial Development Corporation and we found that though the Corporation is made up of people having responsible positions in the industrial concerns, some remarks were made by Shri Ram Ratan Gupta, an hon. Member of this House. I am told he is also a very

[Shri R. Barua]

successful businessman. His observations were:

"One of the objectives with which the Corporation was created was to develop the production of those items which were not manufactured in India or were in short supply... Most of the loans had been granted to the companies in which some of the directors of the Corporation were interested. There could be no objection to that but it would be seen that most of those persons were resourceful industrialists having their own huge banks."

Therefore, when the private interest comes in, we find even a respectable organisation which was mooted by Government behaving in this way. This remark was made by an hon. Member of the House who is also a member of the loan advisory committee. Therefore, we have to be very cautious in framing laws so that private concerns do not unnecessarily create complications for the State, which is trying to achieve its object of a socialist pattern of society. If we introduce these things, apart from anything else, I am afraid they will create complications for the Government. I have already indicated the way in which the present case went up to the Supreme Court and created certain complications which would cast aspersions on the administration. If we allow the private sector to come in like this, I think the complications would be worse than ever.

Yesterday there was a debate on spurious drugs and we saw how the private business concerns were indulging in undesirable activities. Recently, we have also come across a report that there is a flight of Rs. 400 crores by way of under-invoicing in exports and over-invoicing in imports. The Government have not been able to catch hold of the persons yet who were responsible for the flight of about Rs. 400 crores out of India. Mostly this is done by the business concerns in the private sector.

Therefore, I would respectfully submit to you and through you to the Minister-in-charge to see these serious implications which would result if we extend the provision of acquiring land without any check to the private companies.

With these words, I oppose the Bill and submit that the Bill may be circulated for eliciting public opinion.

Shri A. P. Jain: Sir, there is no doubt that acquisition of land falls under the Concurrent List and the hon. Minister has done well in bringing forward a measure which will be applicable to the whole of India and thus save a complicated position that might arise.

One of the provisions of this Bill relates to cooperative societies. The law as it stands at present provides for the acquisition of land by the cooperative societies which are registered under the Cooperative Societies Act of 1912. Since 1912, a number of Cooperative Societies Acts have been passed by various legislatures. It is, therefore, necessary that all the societies legally constituted under any of the laws enacted in the country should have the same right as the societies registered under the Act of 1912. That part of the Bill, therefore, is unobjectionable.

The other part of the Bill relates to its retrospective application. A number of persons would be agitated about it, but having been in the profession for a long time, I think that provision is amply justified. Whenever the legislature wants to fill up a lacuna arising from the interpretation of the law, that lacuna must be made up retrospectively. I for one have no objection to the retrospective applicability of the law.

But, Sir, the main provision of the Bill relates to acquisition of properties for the companies. In regard to this we must have a clear understanding of the provisions of the Constitution in order to appreciate how far this Parliament should go in enacting

a law of that nature. I would draw your attention, Sir, to article 31 of the Constitution. Part (1) of article 31 provides that acquisition of land must be done under a law. Part (2) provides that it must be for a public purpose and that the law must provide for compensation. Now, the present amendment relates to the Land Acquisition Act. A look at the preamble of the Land Acquisition Act of 1894 will make it clear that it provides for the acquisition of land needed for (a) public purposes, and (b) for companies. This law makes it clear that the land acquired for a company may not be necessarily for a public purpose. There may, however, be cases where the land is acquired for a company and yet it may be for a public purpose. Therefore, any reference by the Minister to the corporations owned by the Government or to companies in which the Government is a principal shareholder and whose objective is to serve the public purpose, it totally irrelevant. It is open to the Government to proceed under section 4 of the Land Acquisition Act, where it has to be shown that the land is needed for a public purpose, it is also open to the Government to proceed under Chapter VII when there is no such necessity to show. Therefore, it will not be proper for us to confuse the issues as appears to have been done, I hope inadvertently, by the speech of the Minister.

Now, Chapter VII deals with land acquisition for the companies—presently I will come to what a company means because special meanings have been attached to it. But I would first like to point out that this Chapter VII would have been *ultra vires* of the Constitution but for part (5) of article 31 which says:

“(5) Nothing in clause (2) shall affect—(a) the provisions of any existing law other than a law to which the provisions of clause (6) apply, or”

My submission is that acquisition of land for the companies would have

been invalid, would have been *ultra vires* of the Constitution but for this special provision. Therefore, any law that we now enact will not be protected by part (5) of article 31. The Parliament must, therefore, be very circumspect and it must very carefully examine whether the purpose for which land is being acquired is a public purpose. If that is not so, the amendment is likely to be declared *ultra vires* of the Constitution. That is a precaution we must take.

The first point that arises is as to the person for whose benefit the land is to be acquired. That is a company. “Company” has been defined in the Land Acquisition Act in a rather broad manner, and I am not going into it. There may be a company which is a public limited company. I and my brother can constitute a private limited company and it comes within the definition of “company” as contained in the Land Acquisition Act. Therefore, we two will be entitled to acquire land under the provisions of Chapter VII. The hon. Minister has said that the law has been in operation for the last 68 years and no difficulties have arisen. I am very sorry I cannot support that contention. This law has given rise to great corruption and to a large number of misapplications. I have known of a case in which a certain society, an association wanted to acquire land at the rate of two to three pies per square yard. The land adjacent to this has been brought by the Rehabilitation Department of the Government of India at the rate of Rs. 3 to Rs. 4 per square yard. How did it happen? It has not been explained by the two speakers who have preceded me and who have raised the question of compensation.

Now, compensation under the Land Acquisition Act is assessed in two ways. One is the market rate, that is the rate at which the adjoining land has been sold. The other is a certain multiple of the land revenue; for instance, 25 times or 30 times the land

[Shri A. P. Jain]

revenue is considered to be the price of the land. There are a large number of cases in which lands included inside the corporation, lands included inside the municipalities are assessed to land revenue. Therefore, the principle of assessing compensation at a certain multiple of the land revenue has been applied in the case which has been referred to—the case of *Aurora vs. the State of Uttar Pradesh*. This land is situated within the limits of the Corporation. Everybody knows what are the values of the lands within the limits of the Corporation. This is a land which adjoins our Ordnance Factory. The value may be Rs. 30,000 an acre, Rs. 40,000 an acre or even Rs. 50,000 an acre. How was the value of land assessed? It was done at a certain multiple of land revenue which worked out to Rs. 500 or Rs. 1000.

Therefore, we have to be very careful, because there has been a great misuse of this law. I have known cases where joint stock companies have acquired land for their own use and shortly after they have let it out to others on quite a heavy rent. Therefore, to say that there have been no difficulties, no misuse, is not a correct statement. There are a large number of cases on land acquired for public purpose and on land acquired for the companies. Anybody who looks into any commentary—he need not go into case law—will know that there have been difficulties.

There is another point. In its application to Chapter VII, the definition of "company" has been further extended. Section 38(a) says:

An industrial concern ordinarily employing not less than 100 workmen owned by an individual or by an association of individuals and not being a company... (for certain purposes) shall be deemed to be a company."

This further extends the definition of "company". I do not know whether the Minister wants to give the right to an individual say a contractor who is employing more than 100 workmen or a group of contractors that is a partnership to acquire land under this clause. It is for him to make it clear because he did not make it clear in the beginning.

We have accepted mixed economy as the aim of our economic development. I am not one of those who will come in the way of the private entrepreneur building his factory quickly. We also know that sometimes difficulties do arise and suitable land is not available through negotiation. But the whole point is: who are the persons who should get that right? I am quite clear in my mind that none except a public limited company should have the right to acquire land under Chapter VII for the purposes mentioned in this amending law.

There is also another point. The amending law which the hon. Minister has brought before the House says:

"that such acquisition is needed for the construction of some building or work for a Company engaged or to be engaged in an industry which is essential to the life of the community or is likely to promote the economic development of the country;"

In this particular case of *R. L. Aurora vs. the State of U.P.*, Shri Aurora had bought this land for putting up a factory. Before this factory could be put up, the land has been acquired through the agency of the Government by a certain company which wants to extend its plant for the manufacture of some textile machinery. Which of the two undertakings will help the economic development—the undertaking which Shri Aurora wants to put up there or the undertaking which the textile machinery mill wants to put up?

Shri Tyagi: Shall I take it that this land was not acquired by the State Government for Shri Aurora?

Shri A. P. Jain: Shri Aurora had brought this land for the purpose of setting up a factory. It is given in the Supreme Court judgment. The State Government acquired this land for another private industrialist from Shri Aurora. I want to know which of the two will be conducive to economic development, the factory which Shri Aurora wanted to set up or the factory which this company wanted to set up. These are all complicated questions which need further consideration. How did this question arise? Though the Minister explained it, I would like to repeat it.

Mr. Deputy-Speaker: He should conclude now.

Shri A. P. Jain: If you want me, I can stop presently. But I want to bring out some very important points.

Mr. Deputy-Speaker: He can take another three minutes.

Shri A. P. Jain: I cannot finish it in three minutes. I will require at least ten minutes.

Mr. Deputy-Speaker: He should finish as soon as possible.

Shri A. P. Jain: The issue before the Supreme Court was whether the acquisition of land for the construction of a factory was a work which comes under sub-clause (b) of clause 1 of section 40. Sub-clause (b) reads as follows:

“that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public.”

It has been laid down by the Supreme Court, and I submit with all respect, quite correctly, that the putting up of a construction or building work of an industrial concern does not fall within the scope of this clause. Now that lacuna is intended to be made up by

this amending law. I quite agree that it should be made up. But the Supreme Court has raised a very very big principle concerning public morality and the functions of the State. The Supreme Court has summed up the issue in the following manner:

“It seems to us that it could not be the intention of the Legislature that the Government could be made a general agent of the companies to acquire land for them in order that the owners of the companies may be able to carry on their activities for private profit.”

The Supreme Court has answered that question by saying:

“If we were to give the wide interpretation contended for on behalf of the respondent for the relevant sections 40 and 41, it would amount to holding that the Legislature intended the Government to be a sort of general agent for companies to acquire lands for them so that their owners may make profit.”

I am prepared to be an agent of the private companies for acquisition of land, but only in a limited sense, provided that the object with which the company acquires land is meant for public good, for a public purpose. If there is any other object, whether Parliament enacts this law or not, I am sure it will again be declared invalid by the Supreme Court. Therefore, I want it to be examined.

Under the original Land Acquisition Act the acquisition of land is provided for two purposes. One is that the construction or work is needed to maintain the life of the community. I have no objection if it is needed for the economic development of the country. But what is economic development? The intention of the law is that it must have a nexus, im-

[Shri A. P. Jain]

mediate connection with a public purpose. I agree that economic development is a public purpose. But it must be safeguarded. I have already referred to one of the safeguards, viz., that the acquisition must be only for the benefit of a public limited company. It must be clearly seen by a technical examination whether the land is actually needed either for the putting up of the work or for the expansion of the work. Now no such examination is done. The Collector makes a report. The Collector is not competent to judge whether the land is needed technically for the putting up for the factory or the expansion of the factory. There must be a clear examination because we are giving the right to a private company to compulsorily acquire the land of others. I am going to be an agent of it, but let me be an honest and conscientious agent; not, merely because a company wants it, I just acquire the land and give it to the company. There must be a clear and thorough examination from the technical point of view as to whether the land is actually needed.

After all, it is very difficult to examine what will be conducive to economic development. We work under a plan and we have got all the targets fixed under the Plan. We have laid down how much we have to produce in the fields of iron, cement, textile etc. So, I would like that to be hedged in by another proviso that only for works which are provided in the Plan and for which a licence has been issued by the Controller of Capital Issues would be given right to acquire land under this clause. There must be certain other safeguards also so that we may find a satisfactory solution whereby we help the genuine companies but, at the same time, the dishonest and bogus companies are not able to take advantage of law.

One more point and I am done. The hon. Minister has referred to his amendment. Here it is necessary for

me to read out the original clause in the Ordinance which says:

"that such acquisition is needed for the construction of some building or work for a Company engaged or to be engaged in an industry which is essential to the life of the community or is likely to promote the economic development of the country;"

So, it must be either a construction or a work. In the amendment which the hon. Minister has given notice of, he has very much enlarged the scope. His amendment runs as follows:

"any activity....."

—now, activity is much wider than a mere construction or a work—

"...which is essential to the life of the community or is likely to promote the economic development of the country or is otherwise in the interests of the general public."

14 hrs.

The case which went before the Supreme Court was judged in terms of the expression 'useful to the public'. The term 'in the interests of the public' is a much wider expression than 'useful to the public'. 'Useful' means that I may go and enjoy the usufructuary right thereof. But the term 'interest' is a very much wider term. I am very unhappy that this amendment should have been tabled. If we accept this amendment, it will mean that land can be acquired for the purpose of putting up a cinema, a theatre, a dancing hall etc. I know that these are all useful activities, and a section of the public is interested in them. But, has the Land Acquisition Act ever been applied to acquire land for these purposes? I say 'No', and a definite 'No'.

Then, there are large trading concerns in India which have got their

branches all over the country, such as Lilarams, Chellarams and so on. Do we want to acquire land for building shops for them? That has never been the intention of the Land Acquisition Act. The Land Acquisition Act has been confined in its applicability only to industrial purposes. So, if this amendment of the hon. Minister is accepted I think that there will be no purpose left for which land cannot be acquired.

After all, it is a very serious thing that land should be compulsorily taken away from one person and handed over to another. I shall conclude my speech by just pointing out one more thing. Agriculture and industry both constitute part of our Plan. Agricultural development is being talked of every day, and particularly by the Minister of Food and Agriculture. There may be a good farmer, and there are good farmers, who may grow 400 to 500 maunds of potato, or 1500 to 2000 maunds of sugarcane, or 30 to 40 maunds of wheat. Are they rendering any less service to the country? Are their efforts not conducive to the economic development of the country? You are acquiring land, and most of the lands which are acquired for the industries, are situated in the vicinity of the big towns, many a time inside the limits of the corporation or the municipal area limits. Therefore, in all cases, when land is acquired for an industrial purpose, it is not necessarily more conducive to economic development than when it was being used for agricultural purposes.

These are all the issues, and I want these issues to be thrashed out. They have not been fully and thoroughly considered. It is not a simple Bill. Therefore, I submit that it is a very reasonable motion that this Bill should be referred to a Select Committee. We do not want to delay it. We know that it must be enacted before Parliament rises. But there is enough time, and we can sit and dis-

1550 (Ai) LSD—8.

cuss. We want to help the hon. Minister in ensuring that a reasonable and rational law is enacted which may not hinder the economic development of the country but at the same time which may not provide a paradise to speculators, to dishonest men and to men who want to thrive at the expense of others.

Shri D. D. Puri (Kaithal): The situation under the law since 1894 has been such that where the State Governments were satisfied they had the power to acquire land compulsorily, when it was required for the construction of labour quarters. There was not even the restriction there that those labour quarters were attaching to an industry which was doing any public or useful work. This right has always existed.

Then, there was also the right of compulsory acquisition of land for a purpose when the land was required for something which was to be of use to the public. Over the years, this expression 'use to the public' has been used to acquire land, where the State Governments were satisfied that a factory had to be put up, or where a public corporation needed the land; wherever it was necessary in their opinion, after making due inquiries that the land would be put to the use of the public, in Land Acquisition Act was resorted to.

But, now a new difficulty has been created by the judgment. I shall not go into the details of the case. I have read the judgment very carefully, and it seems to me that whereas section 40 of the Land Acquisition Act, 1894 provides for land to be acquired for these purposes, section 41 provides for an agreement giving the details of the terms on which the public will be allowed to make use of the particular object to be constructed on that land. Their Lordship have held that section 40 cannot be interpreted in isolation; and because of the existence of section 41, they have rolled

[Shri D. D. Puri]

the two together, and they have said that since there is a specific provision which provides for an agreement giving the details of the terms on which the public will be allowed to make use of the object on that land, therefore, it must obviously impose certain restrictions on section 40. The minority judgement has, however, stated that the two must be interpreted separately. But, anyhow, a difficulty has been created now on account of the majority judgement.

Over the years, the Land Acquisition Act has been used in a manner where not only the object itself but even the articles manufactured in that factory, for instance, were considered to be of use to the public. It is the new view which has now been imposed upon the interpretation that section 40 has to be read with section 41 and cannot be interpreted in isolation, and the work itself and not its products should be useable by the public. In that case, all the acquisitions made over the years, from the year 1894 up to-date would be called into question, and unless this amending Bill is passed, such acquisitions would be open to question, and it would be open to the owners of those lands, even where factories have been constructed, to ask for those lands to be restored to them on the ground that the acquisition was *ab initio* invalid.

I shall make a brief mention of the law regarding the holding of property. Article 19 (f) of our Constitution has created the right of acquiring, holding and disposing of property. But that right is curtailed by article 31, which says that no person shall be deprived of his property save by authority of law. That is to say, unless we pass a legislation, even for a perfectly valid purpose, land cannot be acquired; unless there is a due process of law provided, no person can be deprived of his property. Clause 2 of article 31 says:

"No property shall be compulsorily acquired or requisitioned save for a public purpose....".

That is the safeguard provided by the Constitution that it has to be for a public purpose. On this will hang all the other laws that we may pass, and every Act that the sovereign legislature may pass will have to conform to the over riding requirements of article 31 (2) before it can be enforced.

There are a number of rulings where it has been stated that the term 'public purpose' cannot be defined in a general away. In each case, the courts will be competent to go into the question whether it was a public purpose for which this right had been exercised or not. Therefore, this safeguard is always there, whatever this legislature may decide.

I want to make one other point, and that is that too much stress has been laid on who the owner is of a certain venture for which land is sought to be acquired. The only legal view where public purpose is called into question would be that the identity of the owner is not so important as the purpose to which the land is being put. There may be cases, not here but abroad, where there are governments running bars. A government may enter the business of selling liquor. There may be cases where an individual may operate a power supply company or a private limited or public limited company may operate a power house or electric supply company. The relevant thing is the purpose to which the land is being put after it has been compulsorily acquired. Therefore, all this stress about ownership and about what is and is not a company is not relevant. I would suggest that we give more attention to the purpose to which the land was being put rather than as to who was using it.

Shri Bhagwat Jha Azad (Bhagalpur): Ownership is also important.

Shri D. D. Puri: So far as the Constitution and the law go, they emphasise the purpose and not the ownership.

Shri Bhagwat Jha Azad: Law is for man and not man for law.

Shri D. D. Puri: It is not as if the law is creating a power in favour of an individual or a company to acquire certain lands. The law is enabling State Government, where they are satisfied after due inquiry that a certain land should be acquired, to acquire it for certain specified purposes. It is taking them out of their present state of helplessness. It is also correcting certain actions which, when they were taken, were taken under the belief that they had the power to acquire the land, because at that time the words 'of use to the public' were interpreted somewhat differently from what they are now.

I lay a lot of store by the overriding safeguard provided by article 31 (2). After all, the power with Government to acquire a land for the building of residential quarters came to it by the saving clause attached to article 31. No extension of that clause is going to save it from full exposure to article 31(2). Therefore, I would say that whatever we say in this legislature, nothing is going to override the provisions of article 31 (2). Any acquisition which is not for a public purpose will be struck down by courts of law irrespective of the laws that we may pass.

Shri Man Singh P. Patel (Mehsana): As far as the objectives of the Bill are concerned and as I have tried to listen to the explanation given by the hon. Minister, I personally do not differ much from him. But the fear as anticipated by hon. friends who preceded me is there that the Bill now brought forward widens further the scope of the Act and opens further the door to interference with the right to private property by mischievous interpretations put by the machinery enforcing the law. As the hon. Minister has explained, who is going to interpret the meaning of 'public purpose' or 'national interest' or 'development of the country as a whole'?

I have got experience of a mofussil area. The Act will be interpreted by State officials preferably for smaller purposes. Suppose an industrial magnate wants to have land for a cotton ginning mill for his area. Normally, the interpretation has to be done by the Collector, whether the Third Plan itself envisaged development of that part and whether he should be given this land in the name of development. He has purchased somewhere a particular plot and he wants to expand at the cost of highly industrialised or urbanised land at the cost of the landowners. That problem will be there. The question of the price to be paid will naturally come. I do not want to use a harsh word, but the Government may actually turn out to be the land agent of the industrialist or capitalist. With the scope thus widened, I am afraid this may be misused.

I can quote an instance of the area wherefrom I come. An industrial magnate has got 200 acres of land in the name of an industrial licence since 1947-48. I am talking of the Kalol area in Gujarat State. That land is even today lying fallow. The agricultural produce is being enjoyed by that magnate since 16 years. I want an explanation from the hon. Minister. There is scope in the original Act also to denotify and get such lands back to the original owners. Am I to understand that for this type of planning or for this type of people, the machinery of Government is likely to be used, which machinery has made no attempt to scrutinise what has happened in the past? After the land is acquired and compensation paid, what happens to the land? Who looks after what is done on the land? Do the revenue inspectors look into what happens to the land? Therefore, the words, as they are used, are also tried to be distinguished. Take clause 2, amending section 40, which reads as under—

“... work for a company engaged or to be engaged in an in-

[Shri Man Singh P. Patel].
dustry which is essential to the
life of the community”.

For this part at least we can find a judicial interpretation of the word ‘essential’ and it is not so risky to widen the scope. But then we read clause 3, amending section 41, the following words are there—

“ . . . and that such work is likely to prove useful to the public”.

And now, what is not useful? A big garden of 15 acres of land given to an industrialist in this country will naturally be useful to the public. Suppose he wants to have an industrial estate of his own, 15 acres more than what is required may be claimed, and then this mischievous interpretation will be there. What is not useful? A garden is a useful thing. I would say that an auditorium in a mill area is also useful to the public. My hon. friend, Shri Morarka, or others would naturally like that that there should be this amenity for workers in a socialist pattern of society.

So instead of replacing the existing Ordinance by the amending Bill as it is, we might have the Bill referred to a Select Committee, not the one proposed by Shri Daji but it may be another motion moved by another hon. Member or by the Minister himself. The heavens will not fall if we refer this Bill to the Select Committee. If by referring it to the Select Committee, it cannot be passed during the current session, I would, in the name of the agriculturists, in the name of private property not being mishandled by the official machinery, suggest that a special session of this House may be called, if necessary. The argument for sending the Bill to the Select Committee advanced by so many senior Members is a convincing one. In the present amending Bill, there is a mere jugglery of words which cannot be understood by others in this House. Besides us, there are others to

interpret this law, and senior lawyers who might be practising know that there is the Supreme Court, which interprets it otherwise. We have, therefore to see whether lands are likely to be mishandled. Therefore, if the scope of the law is likely to be misunderstood, if it is widened to such an extent that there is a fear created among the agriculturists, among the private property owners, we must see that it is removed. We are the custodians of the rights of those people, and Government should bring forward only such legislation that safeguards their rights, that is not likely to be misinterpreted or mishandled by the executive machinery.

The hon. Minister in charge of the Bill gives a very polished explanation, a very elaborate explanation, but will the explanation given by him be scrutinised by the Collector or the Commissioner who is likely to interpret the law and go ahead? In the name of planning, every man is going ahead with industrial licences and all other licences. Therefore, I appeal in the name of the agriculturists who produce 70 per cent of the consumer goods of this country that their rights are safe-guarded and we examine this more thoroughly.

I am sorry to cite another example. Land, three miles in length, was acquired by a small tramway company, but compensation was paid after 16 years. It is in my Mehsana district. If I am proved wrong, I shall withdraw what I say and seek the pardon of this House. Compensation was paid after 16 years for that small area of land taken for a private limited company. This happens, when once land is acquired.

Every one knows that people are not reluctant or against handing over their lands. At the intercession of social workers, they do hand over their lands for a public purpose, or for a governmental purpose, but thereafter

the whole procedure is such that compensation is fixed after three or four years. At what rate?—the then market rate. How is the market rate to be decided?—if there is no sale within three years, at the rate of the last sale.

Therefore, I would say that we are dealing with a special right, the right to private property, preserved by the Constitution. This Bill may therefore be referred to a Select Committee, so that it may be made tighter, so that there may not be a fear among the public and the agriculturists especially that this law is likely to act upon them very harshly or against their interest.

Therefore, accepting the objectives of the Bill, I would like to urge that it may be sent to a Select Committee.

श्री काशी राम गुप्त (अलवर) : उपाध्यक्ष महोदय, माननीय मन्त्री जी ने अपने भाषण में बताया है कि पिछले ६८ वर्ष से यह कार्रवाई चल रही है और इसको चैलेंज नहीं किया गया लेकिन अब चूकि सुप्रीम कोर्ट में यह मामला उठाया गया और वहां से एक फ़ैसला दिया गया इसलिये उनको यह कदम उठाना पड़ रहा है। मैं कहना चाहता हूँ कि पिछले ६८ वर्ष से इस मूल विधेयक में बहुत से संशोधन किए गए हैं किन्तु सरकार के सामने यह चीज नहीं आई और जब सुप्रीम कोर्ट ने एक मूल बात को पकड़ा, एक मूल अधिकार को पकड़ा है, तो बिना इस बात को सोचे हुए कि हमारा विधान बन चुका है जिस में प्राइवेट प्रापर्टी की रक्षा की बात को स्वीकार कर लिया गया है, वह इस बिल को यहां ले आए हैं। माननीय मन्त्री जी ने यह भी कहा है कि आर्डिनेंस लाने की आवश्यकता इसलिये महसूस हुई कि बहुत कुछ गड़बड़ी होने का अदेश था। मैं समझता हूँ कि यह अदेशा मालदारों के लिए हुआ—वे मालदार जो और भी मालदार बनते जा रहे हैं—और गरीबों के लिये कोई अदेशा नहीं पैदा हुआ।

अगर लिटिगेशन होता तो गरीब को तो लाभ ही होने वाला था। अब्बल तो लिटिगेशन होता ही बहुत कम क्योंकि गरीब की हालत ऐसी नहीं है कि वह लिटिगेशन में पड़ सके और फिर उसको तो बहुत सी बातों का पता ही नहीं होता है और जो बात आज इस सदन में कही जा रही है, वह उस तक पहुंचती भी नहीं है।

एक बात इस बिल से साफ तौर से जाहिर हो गई है कि जो बड़े बड़े मैगनेट्स हैं, उनका किस तरह से दबाव पड़ता है, स्टेट गवर्नमेंट्स की जो मशीनरी चलती है वह किस तरह से चलती है, किस तरह से मूव करती है। यह साफ जाहिर हो गया है इस कार्रवाई से कि जो मिल मैगनेट्स हैं वे स्टेट गवर्नमेंट्स पर दबाव डालते हैं और स्टेट गवर्नमेंट्स की मशीनरी यहां तक कार्रवाई करती है।

श्री त्यागी : दबाव नहीं अपील करते हैं।

श्री काशी राम गुप्त : इस लिये यह कार्रवाई की गई है। मैं आपको एक मिसाल देना चाहता हूँ। जल्दी में कोई भी काम किया जाए वह अच्छा नहीं होता है। अगर कोई चोर चोरी करके जल्दी में भागेगा भी तो कोई न कोई चीज वह छोड़ जाएगा। इसी प्रकार से जल्दी में इन्होंने एक आर्डिनेंस बनाया, जल्दी में यह बिल पेश किया और उसके दस पन्द्रह दिन के बाद ही इनको यह सूझा कि इसके अन्दर और एमेंडमेंट्स पेश करो। यह सारी कार्रवाई यह जाहिर करती है कि इसके पीछे मंशा कुछ और है। पिछली चीज को रैग्युलराइज करने के लिये, उन्होंने कहा है कि यह कार्रवाई की जा रही है और उसके लिये भी मैं समझता हूँ कि हमें जल्दी नहीं करनी चाहिये थी। जब इसको सिलैक्ट कमेटी में भेजने का प्रस्ताव किया गया तो कहा गया कि तब तक हाउस खत्म हो जाएगा और इस बिल को पास नहीं किया जा सकेगा।

[श्री काशी राम गुप्त]

अभी माननीय सदस्य श्री पटेल ने कहा कि यह एक अहम मसला है और अगर जरूरी हो तो इसके लिये हम फिर सेशन बुला सकते हैं। मैं समझता हूँ कि ऐसा करना कोई मुश्किल नहीं है।

कांस्टीट्यूशन के आर्टिकल ३१ का हवाला दिया गया है। वह आर्टिकल बहुत अहम है। माननीय श्री जैन ने अभी कहा कि सैक्शन ३८ (ए) जो कि लैण्ड एक्वीजीशन एक्ट १८४४ का है, उसमें जो इंडिविजुअल को राइट दिया गया है, उसको भी हटाने की कोशिश नहीं की गई है और इंडिविजुअल या एसोसियेशन आफ इंडिविजुअल्स उसमें विद्यमान है। हमारे मन्त्री महोदय के यह ध्यान में नहीं आया कि कोप्रोप्रेटिव सोसाइटीज को जब जोड़ने लगे तो उसके साथ इंडिविजुअल का मेल कैसे बैठता है। उसको कम से कम सुरक्षा देने की बात को तो न रखें सुरक्षा की बात को यहां से तो हटा दें। जब आप एमेंडमेंट लाने जा रहे हैं तो कम से कम उन बातों को तो देख लो जो जरूरी हैं। लेकिन उनका ध्यान सैक्शन ४० और ४१ पर ही क्यों है, सैक्शन ३८(ए) पर क्यों नहीं गया है? सम्भवतः इसका कारण यह है कि उनको यह फिक्र हो रही है कि जो कुछ पीछे हो गया, उसको दबाया कैसे जाए। उसको दबाने के लिये चाहे कितना ही नुकसान हो जाए, चाहे प्लानिंग जो है वह उल्टा ही पड़े, इसकी उनको चिन्ता नहीं है।

आज के युग में जब हम प्लानिंग की तरफ जा रहे हैं।

Shri Bade (Khargone): The Minister of Agriculture is not there.

Shri Daji: The Minister in charge is not present.

श्री काशी राम गुप्त : कोई और तरीका होगा सुनने का।

Mr. Deputy-Speaker: Government is represented.

Shri Daji: He is not in charge of the Bill.

Mr. Deputy-Speaker: Cabinet responsibility, joint responsibility.

श्री काशी राम गुप्त : आप कह सकते हैं कि नियमों के अनुसार गवर्नमेंट यहां पर रिप्रेजेंटेटिव है। लेकिन उपाध्यक्ष महोदय, मैं कहना चाहता हूँ कि मुझे अफसोस है कि इतना अहम मसला विचाराधीन है और कोई भी इस डिपार्टमेंट का मिनिस्टर या डिप्टी मिनिस्टर नहीं है। उनमें से किसी एक को तो अवश्य यहां होना चाहिये था।

उपाध्यक्ष महोदय, मैं माननीय मन्त्री जी का विशेष तौर से ध्यान इस ओर दिलाना चाहता हूँ कि आज का युग प्लानिंग का युग है। आज के युग में व्यक्ति विशेष को या कम्पनियों को बीच में लाने की आवश्यकता हा नहीं पड़ती है। आज के युग में अगर हम सिटी का मास्टर प्लान बनाते हैं तो उसके अन्दर अपने आप इण्डस्ट्रियल एरिया बनेगा, छोटे शहर का बनाते हैं तो उसमें बनेगा, देहात में भी इण्डस्ट्रियल एरिया बनेगा। जब हम इण्डस्ट्रियल एरिया अलग रखते हैं तो फिर किसी कम्पनी के लिये एन्बायर करने का प्रश्न इस तादाद में आया कहां से और खास कर उस कम्पनी के लिये जो कि प्राइवेट कम्पनी है? इस के अतिरिक्त आप शब्द चाहे कितने ही लिख दें, लेकिन यदि "प्राइवेट कम्पनी" का मोटिव प्राफिट है तो उस लाभ की बात को "पब्लिक यूज" के साथ जोड़ने से वह मोटिव पूरा नहीं हो सकता। दो चीजें साथ साथ नहीं चल सकती हैं। अगर प्राइवेट कम्पनी जो है वे कम्पनियां हैं, तो उन्हें सब अधिकार दे दिए जाएं। यह लम्बे चौड़े शब्द जोड़ने की जरूरत नहीं पड़नी चाहिए। लेकिन वह तो आप इस डर से नहीं जोड़ रहे हैं कि कहीं कांस्टिट्यूशन लागू हो कर उसे

निरस्त्र न कर दे। इतना कहने के बाद भी अगर कांस्टिट्यूशन निरस्त्र कर देगा तो फिर आप कौन सी बात ले कर हमारे सामने आयेंगे? अभी अभी इस हाउस के मनानीय सदस्यों ने बार बार इस बात को सामने रक्खा कि यह विधेयक जो जल्दी में लाया गया है, वह गलत है।

एक बात, जिस को और में सदन का ध्यान दिलाना चाहता हूँ, यह है कि जो हमारे गरीब लोग हैं, खेतिहर किसान हैं, उन पर इस विधेयक का मोघा असर पड़ता है, या उस आदमी के ऊपर इस का असर पड़ता है जो कि शहर के नजदीक है या शहर के भीतर हैं, जिस के पास छोटे छोटे जमीन के टुकड़े हैं। उस की जमीन को एक मामूली कोमत पर, साफ्ट प्रइस कह कर, ल लेने से, उस की प्रइवेंट प्रापर्टी की सुरक्षा कहां से होती है? असल बात यह है कि ऐग्रीकल्चर भी एक इंडस्ट्री है और बाकी इंडस्ट्रीज भी हैं।

श्री त्यागी : वह भी ले सकता है। अगर ऐग्रीकल्चरिस्ट चाहे तो वह भी फैक्ट्री के लिए जमीन एक्वायर कर सकता है।

श्री काशी राम गुप्त : यह हो नहीं रहा है। वह चाहे तो कर सकता है, लेकिन उस में भी आप न और बाधाएं डाल दी हैं। सोलिंग है, दूसरे तरीके हैं, जिन की वगह से छोटे छोटे लोग जो हैं वे फैक्टरी के लिए जमीन ले ही नहीं सकते। त्यागी जी स्वयम् जानते हैं कि यह व्यवहारिक नहीं है। इस लिए उस के लेन का सवाल ही कहां पैदा होता है ?

मेरा निवेदन है कि जो लोग छोटी छोटी जमीन रोजगार वाले हैं उन को एक तरफ तो कांस्टिट्यूशन गारैन्टी देती है कि उनको रोजगार देने की कोशिश होगी — रोजगार दे नहीं रहे हैं, देने की कोशिश होगी — जिसकी जमीन एक्वायर होती है, वह बे-

रोजगार हो जाता है। हमारे यहां भ्रमल में जमीन एक्वायर की गई है नगर को बढ़ाने के लिए, इस पर भी हमने कोशिश की कि जो लोग वहां से हटाए जा रहे हैं, उन्हें दूसरी जगह जमीन मिले। सब से बड़ी दिक्कत तो होती है जब जो किसान शहर के नजदीक होते हैं उन को हटाया जाता है। उन की जमीन जब उनके हाथ से जाती है तो उनको बड़ी दिक्कत होती है। आप देखिये कि जमीन ले लिए जाने के बाद उन की क्या दशा होती है। वे विलबिलाते हैं, उन के कुएं हाथ से जाते हैं, रोटी जाती है यह कोई तमाशा नहीं है कि नया कानून बना कर दे दी।

मैं अर्ज करना चाहता हूँ कि जो कलेक्टर वगैरह होते हैं, उन के न तो दिल होता है और न दया होती है।

श्री बड़े : दिमाग तो होता है।

श्री काशी राम गुप्त : दिमाग की तो कहीं क्या, तन्स्वाह बड़ी मिलती है, लेकिन दिल नहीं होता, दया नहीं होती। फिर इस तरह की बात तो एक तरफ, आज राजनीति भी चली गई है जो पहले नहीं थी। वे लोग दबाव डालकर जिस प्रकार चाहते हैं करा लेते हैं। आज दलबन्धियां होती हैं पार्टियों की। एक पार्टी तो इस बात में मिल जाती है कि इस को जरूर एक्वायर करना चाहिये और दूसरे लोग कहने लगते हैं कि इस की कैसे करोगे। यह एक नया झगड़ा पैदा हो गया है। इस पर वे जिस तरह से भ्रमल करने की कोशिश करते हैं वे ऐसे तरीके होते हैं जिनसे किसी का फायदा नहीं होता। मैं नहीं समझता कि जब आप मार्केट प्राइस की बात करते हैं तो इस के बजाय यह क्यों नहीं रक्खा जाता कि जो भी कम्पनीयां वगैरह हैं उन को पहले नेगोशिएशन करना चाहिये, और नेगोशिएशन से ही उन्हें लेना चाहिये, उन कम्पनियों को छोड़कर जो कि गवर्नमेंट की हैं। इस लिए यह कहना कि पहले वे बताए। गवर्नमेंट उनको देखेगी, यह सही नहीं है।

[श्री काशी राम गुप्त]

वह अष्टाचार बढ़ाने का तरीका है और कुछ नहीं। जिस का दांव लगेगा वह गवर्नमेंट की फाइल पर बहुत अच्छे अच्छे शब्द लिखवा लेगा और जिसका दांव नहीं लगेगा वह रह जायेगा। फिर इंडस्ट्रियजलिस्ट लड़ते फिरेंगे आपस में।

अभी लोक-सभा के सदस्यों के पास एक ऐसा लेटर आया कि कानपुर में कोई फर्म है, उस की जमीन कौड़ियों की कोमत में चली गई, और उस की जो मार्केट वैल्यू है वह उस से तीस गुनी या पचास गुनी या शायद सौ गुनी से भी ज्यादा है। यह स्थिति जहां पर हो वहां न्याय कहां से हो सकता है? इस लिए इस बात की तरफ ध्यान देना चाहिए कि जो एग्रीकलचरिस्ट आज है उस को पहले बनाये रखना है। जमीन हमारे पास पहले ही थोड़ी है, और उस जमीन में भी आबादी बढ़ती जाती है। उस को किसी नाम से लेने की कोशिश करना, बिना किसी प्लेन या योजना के, ठीक नहीं है। यह चीज आयोजना शब्द के विपरीत है। पहले यह बतलाया जाय किसी कम्पनी के लिये कि वह योजना के अन्दर शामिल है या नहीं। अगर योजना के अन्दर है तो उस के लिये लेने की जरूरत ही नहीं पड़ती। एक तरफ आप योजना के आधार पर चलना चाहते हैं, दूसरी तरफ उस योजना के आधार को तोड़ना चाहते हैं। फिर ऐसे ऐसे स्थान ले लिये जाते हैं जिन को नहीं लेना चाहिये। फरीदाबाद के पास जो मेंहदी के बाग है वह ऐक्वायर कर लिये गये। क्या वहां मेंहदी की इंडस्ट्री नहीं थी? कोई इस बात को सोचता नहीं है कि ऐक्वायर करना चाहिये या नहीं। अगर ऐक्वायर ही करना है तो किसी इंडस्ट्री का नाम ले लो, चाहे उस का उलटा ही असर पड़ता हो। ऐसी ऐसी इंडस्ट्रीज के बारे में कहा जाता है जिन का उल्टा असर पड़ता है।

श्री त्यागी : मेंहदी कोई इंडस्ट्री नहीं है, यह सिर्फ औरतों के काम की चीज है।

श्री काशी राम गुप्त : जब चोट लगती है तो वह हमारे काम की चीज भी हो जाती है। इस प्रकार से समस्याएँ एक दूसरे से जुड़ी हुई हैं कि किसी एक को देने में जनहित हो जायेगा और अगर किसी दूसरे के पास हो तो जनहित नहीं होगा, या यह कि अगर किसी प्राइवेट कम्पनी के लिये ली जायेगी तो विशेष जनहित में होगा। मैं कहूंगा कि प्राइवेट कम्पनी के मामले में तो एक स्पष्ट दृष्टिकोण होना चाहिये कि अगर यह सारे इलाके योजना में आने हैं तो गवर्नमेंट इन योजनाओं के अन्तर्गत देगी। प्राइवेट तौर पर इलाके ऐक्वायर करने का प्रश्न नहीं उठना चाहिये। गवर्नमेंट की भी अपनी योजना होती है। इस लिये जब योजना के आधार पर शहर बढ़ रहे हैं या गांवों की योजना लाई जा रही है उस को अलग रखने का जो प्रश्न है, वह केवल पिछली चीजों को ठीक करने के लिये है, आगे के लिये कोई बात नहीं है। चाहिये तो यह था कि गवर्नमेंट सब से, शान्ति से, इस बिल को नये सिरे से लाती। जिस प्रकार से इनकम टैक्स ऐक्ट हम को नये सिरे से बनाना पड़ा, उसी तरह से इस लैंड ऐक्विजिशन ऐक्ट को भी नये हालात को देख कर, नये रूप में लाना चाहिये।

सेलेक्ट कमेटी अगर आप बनाना चाहें तो वह भी कर सकते हैं, लेकिन मैं समझता हूं कि जितने बड़े परिवर्तन देश में हो रहे हैं उन के अनुकूल यह चीज नहीं आई है, किसी भी मूरत में वह उन के अनुकूल नहीं आती है। यह कहा जाता है कि अगर हम इस को पास नहीं करेंगे तो हमारी सारी स्कीम अपमेट हो जायेगी। इस की जांच कहां से कराई गई, कौन सा आधार दिया गया है? मिनिस्टर साहब ने कहीं पर भी आंकड़े दे कर नहीं बतलाया है कि क्या क्या नुकसान होने वाला है, अगर हम इस को रेगुलराइज नहीं करेंगे। और अगर नुकसान होने वाला है, और अगर

नुक्सान होता था और इस विधेयक को पास करने के बाद इस में अमेंडमेंट लाने की जरूरत पड़ी, तो शायद आगे इस में भी ज्यादा अमेंडमेंट लाने की जरूरत पड़ जाय। इस लिये मैं कहना चाहता हूँ कि पहले न्याय्या तो कीजिये कि किन का नुकसान होने वाला है। आठ साल पहले वालों का नुकसान होगा या आजादी के बाद वालों का नुकसान होगा, या गवर्नमेंट को होगा या किम को होगा ? बिना इस बात की जांच करवाये हुए कि इस से वास्तव में नुकसान कोई होने वाला है या नहीं, रिट्रास्पेक्टिव ऐफेक्ट की बात कर दी गई। क्या यह आप दो चार मिल वालों के लिये कर रहे हैं ? इस के लिये पहले आप को कुछ और एन्क्वायरी करनी चाहिये थी और एन्क्वायरी करने के बाद उस के आधार पर इस को रिट्रास्पेक्टिव ऐफेक्ट देने की बात होनी चाहिये थी। अन्यथा इस का मतलब यह होगा कि आज के पश्चात् जो लोग मुफ्रीम कोर्ट के फैसले से न्याय पा सकते हैं उन को न्याय से वंचित कर दिया जाय। जिन गरीबों को बड़ी मुश्किल से मौका मिला है कुछ न्याय पाने का, उन को वंचित कर दिया जाय। जो कुछ किया जा रहा है, उस का यही मतलब होगा।

अमल के सम्बन्ध में सब जानते हैं कि ऐक्वायर करने वाले जो लोग होते हैं वे कौन होते हैं। किस प्रकार से मशीनरी चलती है, पटवारी से लेकर ऊपर तक क्या होता है। किस प्रकार से जमीन ले ली जाती है और मआवजा नहीं मिलता। वर्षों तक लोग मारे मारे फिरते हैं। अब तो गांव के गांव उठा दिये जाते हैं मगर उन को फिर से बसाने की कोशिश नहीं की जाती। यह कोशिश तो दूर उन को बहुत सी और तकलोफ़ होती है। फिर भी पब्लिक इंटरैस्ट के नाम पर लोग उस को बरदाश्त करने के लिये तैयार रहते हैं। लेकिन जो पब्लिक इंटरैस्ट नहीं होता उसको पब्लिक इंटरैस्ट बना दिया जाता है। वहां इस का कोई प्रश्न नहीं होता कि हमें संविधान

को लागू करना है या हम संविधान के हामी हैं। इस से सोशललिस्टिक पटनं आफ सोसायटी की बात जो हम कहते हैं उस की कलई खुल जाती है।

एक माननीय सदस्य : वह सिर्फ वोट लेने के लिये है।

श्री काशी राम गुप्त : इस बात का सोशललिस्टिक पटनं आफ सोसायटी से क्या नाता है ? कोई नाता नहीं है।

अब रही वोट लेने की बात। वह लम्बी चौड़ी बात हो जायेगी, उस को यहां कहने से कोई लाभ नहीं है। एक बात मैं सिर्फ आप से निवेदन करना चाहता हूँ। इस हाउस में कल की तरह से आज भी हमारे बहुत से साथी, चाहे वे विरोधी पक्ष में हों या दूसरी तरफ हों, अन्तरात्मा से यह चाहते हैं कि यह विधेयक, जो बहुत गलत है, ठीक होना चाहिये। इस लिये मैं चाहूंगा कि गवर्नमेंट बहुमत का सवाल बना कर या पार्टी ह्विप दे कर वोट लेने की बात इस सम्बन्ध में न करे। अगर वह खुले वोट से इस अमेंडमेंट के बारे में यहां पर निश्चय करने की बात करे तो वास्तविक स्थिति सामने आ जायगी। इस लिये या तो वह सेलेक्ट कमेटी की बात को मान ले या फिर खुले वोट के आधार पर इस पर मत ले। यहां पर हमारे साथी भाषण तो बहुत अच्छे अच्छे देते हैं, लेकिन जब वोट देने का प्रश्न आता है तो उन को पक्ष में वोट देना पड़ता है। तो वह तरीका यह नहीं होना चाहिए। यह लाखों करोड़ों आदमियों की मूल जिन्दगी से सम्बन्ध रखने वाली चीज है। तो मैं यह निवेदन करूंगा कि प्रथम तो उनको सिलेक्ट कमेटी की बात मान लेनी चाहिए, और इस बात को नहीं मानते हैं तो राइट आफ वोट फ्री करवा देना चाहिए, ह्विप को हटा दीजिये और फिर देखिये कि उनका क्या रंग है, उस वक्त पता चल जायेगा कि जो लोग बोलते हैं वे कहां हैं।

यह नाजुक मामला है, इसे जल्दबाजी में पास नहीं करना चाहिए। उन्होंने दलीलें तो

[श्री काशी राम गुप्त]

अच्छी दी हैं, लेकिन इसको जल्दबाजी में पास करने से देश का नाश होगा, और उस नाश से बचाने के लिए ही मैं यह निवेदन करता हूँ कि इसको जल्दबाजी में पास न किया जाये बल्कि शान्तिपूर्वक सोच विचार करके पास किया जाये।

Shri V. B. Gandhi (Bombay Central South): Mr. Deputy Speaker, I did not expect that this Bill would give rise to such a controversy and generate so much heat. The Bill is simple. The present position in regard to land acquisition in this country is that land may be acquired for public purpose; land may also be acquired for purpose of companies. Now, the *raison d'être* of this Bill is that the Supreme Court has recently given a decision and in that decision the purposes for which land may be acquired for companies have been interpreted. The interpretation in this case in the view of some of us is rather narrow. The central problem therefore before this House is to decide whether we accept this interpretation of the Supreme Court or whether we reject it. If we reject it, what do we do?

So much has been heard in the House today about this decision of the Supreme Court. I have myself not read the decision; I confess to it. I do not know exactly what the context is in which the Supreme Court is reported to have said that the present machinery of land acquisition in this country leads to a position where the Government appears to be acting as a general agent of the companies. Now, I do not think that that statement could lead to a position which appears to be so on the face of it. Even supposing that our present machinery of land acquisition is such that it does lead to something which makes it appear that the Government is an agent of the companies seeking acquisition, what is the remedy? The remedy is to reform the Government procedures and to devise the right

type of machinery to handle acquisition. The remedy is not to give up our policy; or change our thinking or change the desire to help the industrialisation of this country and to help planning. To my mind a good deal of today's discussion has been devoted to the individual cases, to particular cases and I have a feeling that those who participated in this discussion have done themselves less than justice. This is not an occasion where we can go from individual cases to generalisations. Reasoning from particular to general is reserved for certain definite purposes. It seems to me that the tenor of the House and the present discussion had somewhat been vitiated by the fact that too much has been made of these particular instances. Too much attention has been given or perhaps too much magnification has been made. What can we really do as practical men? What is the course open to us? Can we just sit back and do nothing or can we withdraw this Bill? I hardly think that anybody in this House would suggest such a course. Actually what is the position today? Soon after the decision of the Supreme Court was given, States have all started examining their own position; State after State has started clamouring that the Central Government do take some action. Public institutions have become uneasy and have started searching their own cases . . .

Shri Kashi Ram Gupta: Have you got a statement of facts before you?

Shri V. B. Gandhi: I do not know if these were not facts which the hon. Minister himself stated a little while ago. Public institutions have also started searching whether their present position in respect of their properties acquired earlier is safe and many other people have started thinking on those lines. I say again that as practical men we should offer a suitable policy with a suitable machinery. We could not give up the policy because we find ourselves unable to

devise a suitable machinery. I suppose that is the gist of what I proposed to say. With these few observations, I unqualifiedly support this Bill.

Shri Himatsingka (Godda): Mr. Deputy-Speaker, Sir, I support the principles of the Bill as has been introduced today. The hon. Minister has explained in detail why this amending Bill has been necessary. This Act came into force in 1870 and the amendment came in 1894. Since then, so far as the interpretation of section 41 is concerned, the words in question do not appear to have created much difficulty in acquiring lands which were necessary for any industry or for the purposes contemplated by the Act. You will find that even in the last case which resulted in the judgment of the Supreme Court on the 15th December, 1961, the high court had interpreted it in a manner which would enable the State Governments to acquire the land. Most of the speeches that have been delivered in the House seem to have proceeded on the basis that the State Governments may not act properly. There are sufficient safeguards in the Act itself to allow the machinery to be utilised. The State Government has to be satisfied that the purpose is one for which it should proceed to acquire land.

I shall refer you to section 39 which says:

"The provisions of sections 6 to 37 shall not be put in force in order to acquire land for any Company, unless with the previous consent of the appropriate Government . . ."

Then, section 40 provides that—

"Such consent shall not be given unless the appropriate Government be satisfied, either on the report of the Collector under section 5A, sub-section (2), or by an enquiry held as hereinafter provided,—

(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or

(b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public."

The words, "such work is likely to prove useful to the public" have now been interpreted to mean that the land that is being acquired and which is being used for putting up a factory or a building or a school or college must be available directly to the public. If you strictly analyze that interpretation even the working of section 40 sub-clause (a) will become difficult. The "purpose of acquisition" is mentioned in section 40(1)(a). The houses that are constructed for workmen cannot be used for the general public. Those houses are confined for the use of the workmen. If you really interpret the words "useful to the public", as they have been interpreted by the Supreme Court in their judgment, then, even section 40(1)(a) will become inoperative and cannot be utilised for any purpose."

Shri S. M. Banerjee: Please read the judgment of the Supreme Court which has discussed it.

Shri Himatsingka: I have got it and I have read it very carefully. You find that in the judgment there is a dissentient judgment also and that has tried to show how the sections have been interpreted throughout by the different courts in cases where such occasions have come up.

The main suspicion proceeds from the basis that the State Governments may be induced to acquire for the purposes which are not intended by this Act. That, of course, is not the fault of the Act but of the persons

[Shri Himat singka]

who may be called upon to execute it. The hon. Member, Shri Man Sinh P. Patel, mentioned a case where compensation is said to have been given 16 years after, but the Act provides that so far as the land or anything that is to be acquired is concerned, the person for whom the thing is required has to deposit the money before the acquisition proceedings start. The delay is not on the part of the person for whom the land was given, but on the Government in that they did not pay the amount. That is what I understand. The deposit has to be made before any proceeding can be taken up. Therefore, the defect is not in the Act but in its application, in execution. For that, the proper remedy must be taken by the Union Government or the State Governments concerned. Therefore, unless this amending Bill is passed, there will be difficulty.

Now, what happens? Supposing a company has a licence for setting up a power plant. The plant is set up on the proper property that is acquired but that power plant cannot be made available for direct use by the members of the public. That is what the interpretation comes to. That can be only possible when you put up a playground or a school or a park or a swimming pool.

Shri Man Sinh P. Patel: Make them the shareholders?

Shri Himatsingka: They cannot help because it must be useful to the public. "Public" means anybody who wants to go there. It is not confined to the shareholders. In a limited company, there are shareholders, but that does not take away the difficulty that has been created by this judgment. Therefore, what we have to provide for is that the provisions of the Act are not allowed to be misused. If any restrictions are intended to be suggested, I think the State Governments may be told that the Land Acquisition Act should not be utilised

for certain purposes, say, for cinemas and theatres and so on. The policy may be laid down, and that will be a safeguard. But if this Act is allowed to remain as has been interpreted, then, useful industries cannot be set up, for objections will be raised by individuals.

Shri Tyagi: Cannot they buy lands? They can also buy.

Shri Himatsingka: I am just coming to that. Supposing a man requires 50 acres of land, and people owning 40 to 45 acres of land agree to part with their lands at proper prices. The man owning two acres of land in between stands out. So, the whole purpose will be frustrated because unless those two acres of land are acquired, or are made available along with the 48 acres, the industry cannot be set up. Here also, so far as the price is concerned, the price that is payable to the owners is the market price which has to take into account, a number of factors mentioned in the Act in favour of the landowner plus 15 per cent for compulsory acquisition. You will find from section 23 how many items have to be taken into consideration for fixing the value. Therefore, so far as the provisions of the Act are concerned, the safeguards are there. If they are not being properly applied the remedy lies elsewhere but not in stopping the passage of this Bill.

Therefore, I support the principles of the Bill. If there be any minor amendments or suggestions that may be necessary, there should be no objection and the Minister should be prepared to accept any suggestion that might be made. But so far as the necessity for removing the difficulty that has been created by the latest judgment of the Supreme Court is concerned, I think there is no doubt, and the House will support this Bill.

15 hrs.

Shri S. M. Banerjee (Kanpur): Sir, I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th September, 1962."

My hon. friends Shri Daji and Shri A. P. Jain have thrown enough light on this particular amending Bill. As I come from a place called Kanpur where the dispute of land still exists, I would like to enlighten the House and the Members with more facts about this case. The Minister of Food and Agriculture, for whom I have the greatest respect, with his usual eloquence wanted to impress upon the House that there would have been chaos in this country had this ordinance not been brought. May I remind this House that this judgment of the Supreme Court was delivered, with a dissenting judgment by Justice Sarkar, on 15th December, 1961. I would like to know from the Minister why this amending Bill was not brought either in the lame duck session or in the previous session of the new Parliament which lasted for 90 days or more. What is the history behind this?

I would like to quote certain things with your permission. When this Land Acquisition (Amendment) Bill was being introduced in this House, I rose. The Speaker was in the Chair and said:

"Motion moved:

"That leave be granted to introduce a Bill further to amend the Land Acquisition Act, 1894."

I immediately rose and said:

"I have a submission to make in this regard. After the Supreme Court's judgment, the necessary ordinance was promulgated on the 20th July for a particular case. When it was already announced that this House will sit from the

6th August, what was the necessity for it? Was it not due to...."

I had not concluded, when the Speaker said:

"He will kindly resume his seat. I have followed him."

I persisted and said:

"I have not finished yet. This has been done because this case pertains to an industrialist of Kanpur and it is to protect the interests of the industrialist that even the Government of India came forward with an Ordinance."

Fortunately or unfortunately, this case pertains to Kanpur and this entire ordinance was brought to protect the interest of a particular industrialist, who is fortunately a Member of this House. Mr. Aurora had 25 acres of land in a place called Nau-raiya Khera which is covered within the Corporation limits of Kanpur. About half or three-fourth of the land was taken under the DIR Act for the construction of an ordnance factory known as the small Arms Factory and other ordnance factories. This was necessary because in 1943 or 1944, when this country was being bombarded by imperialist forces, it was necessary to have temporary projects. It was necessary to shift some of the factories from Hyderabad, Ishapore and other places in Bengal and these two projects were known as temporary projects No. 1 and No. 2. Naturally, I can understand that that particular land was needed in the larger interests of the security of the country.

Mr. Aurora, the appellant in this case, was left with only 8 acres. In 1956, a notification was issued and this land was acquired. At what price? Normally the price of that particular land would have been Rs. 25,000 per acre. But this gentleman was offered only Rs. 1,000 per acre in 1956. He went in appeal to the High Court of Allahabad. The High Court did not decide the case in his favour. So, an

[Shri S. M. Banerjee]

appeal was filed in the Supreme Court. The Supreme Court Judgment is before me. Parts of it have been quoted by Shri Jain and Shri Daji. I am reading from page 5 of the judgment, which clearly says:

"...it shall require the company to enter into an agreement with it, providing to the satisfaction of the appropriate government for the following matters, namely—

- (1) the payment to the appropriate Government of the cost of the acquisition;
- (2) the transfer, on such payment, of the land to the company;
- (3) the terms on which the land shall be held by the company;
- (4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided; and
- (5) where the acquisition is for the construction of any other work, the time within which and the condition on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work."

Then, the judgment says:

"...these words do not carry the meaning that if the product of the company which constructs the work is useful to the public, land can be acquired for it. It is urged that on this interpretation the Government will be turned into a sort of agent for acquiring lands for all companies which pro-

duce something which may be used by the public."

On this particular land, a particular factory which will produce textile machinery was to be constructed. I have no objection to that. I sincerely believe that our third Plan and our planning in general must prosper in this country. I know that until we are able to achieve a socialist economy, mixed economy is going to continue in this country.

After the judgment was delivered in December, 1961, Mr. Aurora wanted his land to be given to him. He made representations and the Chief Minister of U.P. was approached, in May, 1962. There was some correspondence going on between this particular company known as the Lakshmi Rattan Engineering Works Limited, Kanpur and Mr. Aurora. Both the parties agreed that they would repose full confidence in the Chief Minister and accept whatever arbitration award he gave. It was simply meant to gain ground. The Chief Minister of U.P. was asked by both parties, especially by Mr. Aurora, that he should devote only two hours and this land dispute would be over. It was impossible for him to devote 2 hours and he mentioned the names of two ex-Judges, Mr. Chaturvedi and one other gentleman. So, Mr. Aurora, who lost every inch of his land, was left in a lurch. But he still had hopes that he would get back the land.

Mr. Deputy-Speaker: We are not concerned with the individual.

Shri S. M. Banerjee: It is the case of this individual that has been mentioned in the Statement of Objects and Reasons.

Mr. Deputy-Speaker: It is only, incidentally relevant. He should come to the provisions of the Bill. This case has gone to the Supreme Court and the House knows about it.

Shri S. M. Banerjee: I am saying why this delay....

Mr. Deputy-Speaker: He need not go into the details of the case.

Shri S. M. Banerjee: Mr. Aurora had referred the matter to the District Land Acquisition Officer, Kanpur saying that his land should be given back to him. On 28th May, 1962, the officer gave notice to the other person, which said:

"Consequent upon the Supreme Court decision in C.vil Appeal No....etc. the land as per attached details is to be taken over from you. The possession of this land was handed over to you on 31-7-1956 and 3-1-1957. The date fixed for taking over possession is 8-6-1962. I am to request you kindly to hand over possession of the above land to the Tahsildar, Kanpur on this date positively."

Then the excuse given was that this gentleman was not in Kanpur and two months would be needed. This was done purely to see that the ordinance was passed. With your permission, I can lay the entire correspondence on the Table of this House. I am happy the Prime Minister is here. It is for the Prime Minister of this country to decide whether Government can bring ordinances or amending Bills only to suit the purposes of particular industrialists. Then I am sorry to say that the entire legislation will be reduced to nothing but personal likes and dislikes or personal benefits to some people and the entire function of legislation will be lost.

Now, Sir, I will come to the other point. The point here is what the Supreme Court has said. What is the intention? The question is whether the Government should act as an agent for those capitalists. What is meant by "utility of the public"? I want to know whether the product of that mill or factory is going to benefit the public. My hon. friend has said very ably that even a cinema house is meant for the use of the public. Even a coffee house is meant for public use. But should the Government go to

that extent of acquiring land for the benefit, for the profit motive of certain industrialists in this country? I hope that is not our goal. If we are sincerely moving towards socialism, if our goal is socialism, if we are said to be moving towards a socialist pattern of society, then I hope that is not the intention of the legislation which is being brought before us.

Then, certain amendments have been brought about compensation. Certain amendments have been brought for referring this matter to a select committee. The hon. mover of this Bill, Shri Patil, said that it cannot be done because this Bill has to be passed in this session. I will put him a straight question. What was he doing in January? What was he doing in February? What was he doing in March when we had the 'lame duck' session? What was he doing in April, May and June? Sir, we worked here up to 22nd June, 1962? Is it not that when all negotiations failed and when the Chief Minister of Uttar Pradesh acted as Princess Salome and wanted to have the head of Ioknan that, unfortunately, the Food Minister of this country acted as the loyal slave of Princess Salome and has brought the head of Ioknan on the Table in the form of this amending Bill? This is really shameful. I should not have used this expression, but I am compelled to do so. I want mixed economy to thrive. I want the private sector to thrive. Until we are able to nationalise everything, until we are able to attain that stage of self-sufficiency, both the sectors are necessary. But it has been done in a very shameless way. I would appeal to this House, I would appeal to the hon. Minister, to refer this Bill to a select committee. Let all those aggrieved persons come before that select committee and place their view points. Let there be no feeling in this House, and through the House in this country, that we are going to hustle with this Bill or muzzle the voice of those whose land is being taken away.

[Shri S. M. Banerjee]

Sir, land was procured for the refugees in many places. What happened to those lands? The refugees were rehabilitated. Ultimately they were all uprooted and the entire land was given to the industrialists in this country. The same thing happened in Tatanagar. The Zamindari Abolition Act was passed. In every State a Bill was passed. But the Tata zamindari was kept intact. I am sorry to say—I am speaking subject to correction—that a legislation was brought by which the Tata zamindari was not touched at all. Why? Are we to rehabilitate the Tatas? Are they refugees? Are they poor people? Is it not that they have absolutely bled our country white? Have they not been sucking our blood at the cost of the poor. I am only sorry that these things have been done.

This is a pernicious piece of legislation. I can read the entire correspondence. I have no grouse against the industrialists of Kanpur. But the way in which this has been brought is strange. From 16th December, 1961 to 19th July, 1962 that poor fellow was kept in the dark about all these things till the Ordinance was brought. For the Indian Institute of Technology there was no land available in Kanpur. There was a resistance movement going on. The U.P. Government did not suggest the bringing in of any ordinance. When the prices were soaring high in this country, when there was racketeering going on in this country, when blackmarketing was rampant, no ordinance was thought necessary. Ordinance was necessary in this country only to crush the voice of the Central Government employees and to protect the interests of the industrialists. This is something strange in this country.

I would again beg of you and this House to kindly refer this Bill to a Select Committee at least for a week. Let there be no feeling that the genuine voice of those people who are being gagged is not being heard and they are not allowed to speak out.

With these words, Sir, I support the amendment moved by my hon. friend Shri Daji, that this be referred to a select committee. I do not impute any motive to anybody. I have used this expression because I know what is happening in Kanpur and how the land has been taken there. I am sorry this has been done. Sir, you are the custodian of democracy.

Shri Tyagi: My hon. friend has admitted that Shri Aurora was prepared to negotiate for that land. He was prepared to give it to the other party.

Shri S. M. Banerjee: He was kept waiting.

Sir, I would request the hon. Minister, for whom I have the greatest regard, to kindly refer it to a select committee. Heavens are not going to fall by that. If one ordinance is passed for one industrialist in Kanpur, thousands can be passed in the country. So, I again request that this may be referred to a select committee.

Shrimati Renuka Ray (Maida): Mr. Deputy-Speaker, Sir, one of the hon. Members who spoke before us asked why there is so much controversy and so much heat in a simple amendment that has been brought in this Bill. From the day this amending Bill has been before us, from all sides and all sections of this House many of us have felt very perturbed. We are perturbed because we feel that this amendment, whatever might have been its intentions and serve the purpose for which it is intended, is not what we want in this country, and is not at all in line with the socialist pattern of society.

Sir, when article 31 of the Constitution was framed—the hon. Minister was a member of the Constituent Assembly also—he will remember that a majority of the members were in favour of attaching a certain sanctity to private property. In article 31, it is laid down that except for a pub-

lic purpose private land cannot be taken away without undergoing the due process of law. It was only because of the zamindari abolition that at that time this one condition was laid down that private property could be taken away for this purpose. That referred to zamindari property and no other property. In fact, that amendment came later in this House. Therefore, taking into consideration what was intended in the Constitution, I think the Supreme Court has very rightly come to this decision. It is quite certain that it was never intended by the Constitution makers and it is certainly not in line with the policy of our Government, that we should anyhow get land acquired for private companies without any conditions attached to it for their own profit.

As some hon. Members have put it, what kind of conditions can there be if the clause is so vague as in the amending Bill. In the amendment to section 40, it is said:

"in an industry which is essential to the life of the community or is likely to promote the economic development of the country."

Other hon. Members have spoken about this. But I must reiterate this point. How can we possibly keep any check upon the type of company that comes up? As Shri A. P. Jain has very ably pointed out, it is already in the Act, that any company, not even a public company is intended to be included in this Act. I would like to ask the hon. Minister as to why he has not brought an amendment to that, if it was meant that only public companies which were doing some work in pursuance of our planned development were to be covered. That is not there.

Then, it is said: "It is likely to promote the economic development of the country". It may or may not promote the economic development of the country. As some hon. Members have already pointed out, you may take the

land for a cinema hall or a park. A park is a very important thing in the life of a city. At the same time, are Government going to acquire some land from agriculturists and others and give it over to private companies to make some parks, not for a public purpose but because some individuals want it, because some business concerns want a park and not houses for their workers or anything which is important? Of course, the hon. Minister is looking at me and I am sure he will tell me in reply that the Governments of the States will decide each case on merits. That point has already been dealt with by some of the Members. Certainly, I do not say that the Governments of the States are less qualified than the Government at the centre. I do not dispute their competence. But when we go into details, who is going to decide finally? Some Collector or his deputy. So, there are all sorts of avenues for corruption especially when some big industrialists are interested in it. So, it would be very much against all the things that we stand for, particularly the Government stand for, if we allow this clause to go into the Bill as it is without any amendment.

Extracts from the judgment of the Supreme Court have been read out by several hon. Members. I want to read out only one line out of the extract that Shri A. P. Jain has quoted. It reads:

"If we are to give the interpretation contended for on behalf of the respondent for the relevant words in sections 40 and 41, it would amount to holding that the Legislature intended the Government to be a sort of general agent for companies to acquire lands for them so that their owners may make profit."

We cannot deny the fact that the owners will make profit for themselves. Any kind of company will make profit for individuals unless it is a Government company. Therefore, the question we have to consider is

[Shrimati Renuka Ray]

whether it will be in the interests of the public or not. So, there should be some kind of restriction. I do concede here that since we believe in a mixed economy; we have to allow certain companies which are not public sector companies, or even companies where Government may hold the majority share, to acquire some lands. But such cases should be very rare and it should be resorted to only where it is absolutely impossible to get land otherwise.

No conditions have been laid down in this clause. Shri A. P. Jain has already laid emphasis on this point. I agree with him completely that if you are to take certain powers which are not in the Act as it is, certain powers to allow private companies to acquire land because they may be acting in the public interest, or because the Government may think they are acting in the public interest, if the Government want them to do something, it must be something which is essential not only to the life of the community—everything is essential to the life of the community—but it must be essential for the safety of the country. Suppose the public sector cannot do everything and we want the private sector to do something. All right, let us have some kind of clause for allowing or empowering Government to acquire land for them. But I do not think this clause, as it stands, more especially with the amendment that has been brought in by the hon. Minister, is going to serve that purpose. So, I would appeal to him, considering the view of this House as a whole, to refer this matter to a Select Committee. As some hon. Members have stated, a Select Committee can go into it and report even within five days. Whether a Select Committee is agreed to or not, in any case, certain essential amendments must be brought. Otherwise, it cannot fulfil the purposes or objects which we want to achieve. We generally want most of essential works to be done by public sector companies. But we are not able to do everything ourselves in which

case we have to entrust them to private companies. But they should be very rare cases. So, this amending Bill requires radical changes.

One hon. Member referred to "purpose". But what is the "purpose" here? The purpose in the case of private companies can only be private profit. Suppose some private firm does some very important work; it cannot be a good purpose if it is only a private purpose. If it is doing something more than that, then it is different. Therefore, we should look to the purpose. We have to see whether the purpose is only private profit. Considering that we have a mixed economy, as I have said, certainly we may have to entrust some work to some private firms. But it is essential that there is some change in the Bill so that resort can be had to this provision only in very deserving cases which will really help the planned development of this country. And when we say "planned development" we are not to open the floodgates for everything. For instance, any company can come forward and say that we are helping the planned progress. So, a rider should be there that the Government should only acquire land in very restricted number of cases for a special purpose.

I do not say that any State Government has less authority or less understanding than the Central Government. I do not make any distinction at all. But I do say that since the State Governments have so many minions to carry out the purposes of the Act, they are liable to act wrongly, as pointed out by Shri A. P. Jain.

I will refer to one or two more points before I close. First of all, the scope of the work that is to be undertaken by private companies must be laid down. What is the scope? "Planned development" is a wide term. We must include in its scope only such things which are really necessary and which cannot be or is not being done by the public sec-

tor. Then, the purposes must be defined in a proper way and the categories must be laid down. If all that is done, we can allow this change.

Personally, I was thinking of bringing forward an amendment, which I have tabled, to section 40 because I felt that this clause, as it stands, could apply only to a company where the majority of shares are owned either by the Government or by the co-operative sector. But I am willing not to bring in my amendment if the hon. Minister will promise to look into this and make the necessary changes himself. If it is not possible, then I think it should be referred to a Select Committee. In any case, in view of the feelings expressed in this House, I am sure the hon. Minister will do something about this. Because, if the clause is left to stand as it is in the present Bill, and the floodgates are left open, whatever we may be striving to achieve by the establishment of a socialistic pattern of society will be set at naught and hundreds of companies will take advantage of this provision.

Then, for example, a State Government may consider it in the interests of development to have certain minor industries. Even if they are needed for planned development, I do not think it is one of the purposes of this enactment and we should not acquire agricultural land for that purpose under this enactment. It is surely the duty of the Food and Agriculture Minister to look after and protect the interests of the agriculturists and see to it that agricultural land is protected from being given over to minor industries which are run by private concerns for their own profit. Is it fair that these people who are also producing food and other crops which are essential to the needs of this country should be dispossessed of their lands? I know that the hon. Minister will tell me that this is an exaggeration and that he is there to see that most of those lands are not taken away. But I do feel that if this Bill is passed as it is, and it is carried out

to its full extent, and interpreted in a loose way, as it will inevitably be, then the result will be that a lot of agricultural land which would have given cash crops as well as food crops will be taken away by the industries.

Lastly, I would say that I come from a city which has almost been taken over by the business community. I hope that at least the little that remains in that city will not be made over by this provision to the business community.

With these words, I hope that the hon. Minister will do something to change this Bill in such a manner that any industrialist who comes forward, and whose proposal has been approved for just any type of development purpose, may not get the land which is owned by agriculturists who are also doing essential work for the country.

श्री बड़े : माननीय उपाध्यक्ष महोदय, जब मैं ने इस लैंड एक्वीजीशन बिल को देखा तो मैं ने समझा कि इस को लैंड रिक्वीजीशन बिल का नाम देना चाहिए था। जब नादिर-शाही, तानाशाही या मनमानी प्रजातंत्र का कपड़ा पहन कर आती है तो उसका स्वरूप लैंड एक्वीजीशन बिल होता है। यह प्रजातंत्र का खून है ऐसा मैं समझता हूँ। उसका कारण यह है कि सुप्रीम कोर्ट ने लिखा है :

"Government will become the agent of the capitalist or the industrialist to make the profit."

ये शब्द जो सुप्रीम कोर्ट ने अपने जजमेंट में लिये हैं वे बताते हैं कि

Coming events cast their shadows before.

इसका मतलब यह है कि गवर्नमेंट आज एजेंट बन गयी है नहीं तो इस तरह के कानून को जरूरत ही न होती।

[श्री बड़े]

इस सिलसिले में मुझे बेकन का एक वाक्य याद आता है। उसने लिखा है :

"Law is a great organ through which the sovereign power of society moves."

श्रीर बेकन अन्त में कहता है कि एक ऐसा क्लास उत्पन्न होगा जो बड़ा कर्निंग और होशियार होगा और वह क्लास अपनी स्थिति का फायदा उठाकर अपने मतलब के कानून बनवायेगा प्रजातंत्र के नाम पर। बेकन ने तो इतने साल पहले यह कहा था लेकिन आज इस पार्लियामेंट में यह प्रतीत हो रहा है कि हम प्रजातंत्र के नाम पर काश्तकारों की जमीन की आहुति देने जा रहे हैं।

इस बिल के कारण आज गांवों में बड़ा असंतोष है। जैसे जैसे उद्योग बढ़ते जाते हैं पूंजीपति बढ़ते जाते हैं और जैसे जैसे पूंजीपति बढ़ते जाते हैं वैसे वैसे लोग देखते हैं कि वे सत्ताधारियों के ऋण्डे पहन कर और दबाव डाल कर बड़े बड़े काश्तकारों की जमीनों को ले रहे हैं। गांवों में आज बड़ा असंतोष है कि कांग्रेस सरकार लोगों की जमीनों ले रही है और इस कारण जिनके बाल बच्चों ने पहले कभी मजदूरी नहीं की थी आज उन की जमीन चली जाने के कारण उन को दर दर की ठोकर खानी पड़ती है। हम ने इस कारण किसानों के आंसू देखे हैं और मैं इस बात को लेकर मिनिस्टर साहब के पास भोपाल गया था तो उन्होंने कहा था कि जैसा तुम्हारे अन्दर किसानों के लिए दूष है वैसा हमारे अन्दर भी है। मैं ने कहा था कि तुम्हारा दूष तो सूख गया है कि किसानों की जमीन को उद्योग के लिए और दूसरे कामों के लिए दूसरे लोगों को दिया जा रहा है। आज आप जमीन तो पूंजीपतियों को दे रहे हैं और श्री मोर फूड का नारा लगाते हैं। किसान अन्न कैसे उत्पन्न करेंगे अगर उनकी जमीन ले ली जायेगी।

मैं ने देखा है कि शुरूआत में जो ऐक्ट है उसके सेक्शन ४० और ४१ के पीछे सेक्शन ३८ ए की बैकग्राउन्ड है। सेक्शन ३८ ए में लिखा है :

"An industrial concern ordinarily employing not less than one hundred workmen, owned by an individual or by an association of individuals, and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith, shall, as far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in sections 5A, 6, 7, 17 and 50 shall be interpreted as references also to such concern."

सेक्शन ३८ ए को सन १९३३ में जोड़ा गया है। इसके लिए सिलेक्ट कमेटी बैठी थी। सिलेक्ट कमेटी ने भी खतरे की घंटी बजायी थी। उसने अपनी रिपोर्ट में कहा है :

'The Select Committee Report makes the following significant remarks:

"Considerable apprehension has been expressed that extension of the definition of company to include concerns owned by individuals might lead to the Act being used in favour of mushroom concerns. In order to provide a safeguard, we have limited application of the new section 38-A to industrial concerns employing at least one hundred workmen. We have also made it clearer that the land may be acquired for the purpose of providing, sanitation, sewage and other services at any time."

और उन्होंने सेक्शन ४० और ४१ का बन्धन डाल दिया है। यदि सेक्शन ४० और ४१ में

पबलिक परपज के वास्ते जरूरत हो तभी जमीन लेनी चाहिए। कम्पनीज के फायदे के लिए जमीन नहीं लेनी चाहिए।

माननीय उपाध्यक्ष महोदय, साथ साथ में सेक्शन ४० के बारे में यह दिया हुआ है :

"The words 'either on the report of the Collector under S. 5(1), sub-s. 5(a) or' have been added by the Amended Act of 1923..... The old sub-clauses (a) and (b) ran thus :

'(a) that such acquisition is needed for the compensation of some work, and

(b) that such work is likely to prove useful to the public'.

ये जो शब्द हैं उस के बाद अमेंडमेंट में ये शब्द डाल दिये गये :

"Such acquisition may be made for obtaining land (a) for the construction of dwelling houses for workmen or for the provision of amenities directly connected therewith".

सेक्शन ४० और ४१ में ये जो शब्द लिखे गये हैं इन के पीछे सेक्शन ३८ ए है और ये शब्द इसलिये डाले गये कि इस का नाम कोई प्रोडवेट इंडीविजुअल कम्पनी बना कर न उठा ले।

हमारे मंत्री जी पाटिल साहब हैं। हमारे यहां पाटिल बड़े काश्तकार को कहा जाता है। लेकिन इन्होंने जो अमेंडमेंट रखा है उस में शब्द रखे हैं "एनी एक्टिविटी"। यह देख कर मुझे बड़ा दुःख हुआ और सदन के अन्य सदस्यों को भी इस से धक्का लगा है। एक्टिविटी का अर्थ है "मूविंग आफ लिम्ब्स", ऐसा डिक्शनरी में दिया गया है। तो हम मूविंग आफ लिम्ब्स के लिये जमीन ले सकते हैं।

Shri S. K. Patil: May I interrupt for a minute? I defined 'actively'. If a co-operative society is not covered by 'industry', then alone that word

is to be used. I am prepared to take it. It is not actively by any dancing that was referred to.

श्री बड़े : माननीय उपाध्यक्ष महोदय, मिनिस्टर साहब हाउस में बैठ कर यह कह रहे हैं कि इस का यह मतलब नहीं है, लेकिन जब कोर्ट में मामला जाता है तो कोर्ट देखती है कि ये लूज शब्द रखे गये हैं। इस में आप ने इंडस्ट्री का शब्द डाला है और लिखा है कि यह कानून न बना तो प्लान फेल हो जायेगा। आज प्लान का तो एक महा मंत्र हो गया है। प्लान का शब्द देख कर हर कोई चौकन्ना हो जाता है। इसी लिये आप ने बड़ी चतुराई से लिखा है कि यदि यह बिल पास नहीं किया जायेगा तो प्लान फेल हो जायेगा। आप कहते हैं कि प्लान खतरे में है। लेकिन मैं कहता हूँ कि प्लान खतरे में नहीं। प्लान पूरी होगी। लेकिन वास्तव में गवर्नमेंट खतरे में है, पूंजीपति खतरे में हैं, मंत्री जी खतरे में हैं, और कांग्रेस पार्टी खतरे में है, ऐसी बात कहते तो मैं समझता हूँ कि सच्ची बात कही है। लेकिन मंत्री जी ने कहा है कि पंचवर्षीय योजना खतरे में है, प्लान खतरे में है। मैं कहता हूँ कि यह बात गलत है। ऐसी स्थिति है कि आज सारे सदस्य चाहे वे अपोजीशन के हों या कांग्रेस पार्टी के उन में काफी चर्चा है और काफी असन्तोष है।

इस के बाद मेरे पास सुप्रीम कोर्ट का एक जजमेंट है जो कि अरोड़ा के केस के बाद का जजमेंट है। यह सुप्रीम कोर्ट आफ इंडिया का पिटीशन नम्बर २४८ का जजमेंट है जो कि २ मई, १९६२ को दिया गया था। मैं मिनिस्टर साहब की जानकारी के लिये इस की कुछ लाइन्स पढ़ देना चाहता हूँ।

उन्होंने ने अपने डिस्सटिंग जजमेंट में यह लिखा है :—

"We think that the Legislature, when they passed the Land Acquisition Act, did not intend that owners should be deprived of their ownership by a mere device of

[श्री बड़े]

private persons employing the Act for private ends or for the gratification of private spite or malice."

इस तरह के शब्द उस में लिखे हैं। अरोड़ा के जजमेंट का भी जिक्र किया है। मैं यह कहना चाहता हूँ कि यह अमेंडमेंट बिल जो आप ला रहे हैं उस में इस्तेमाल हुए शब्द इतने लूज हैं कि कोई भी एडवोकेट या वकील जो कि वकालत करता है वह जिस तरह का चाहे इन का अर्थ लगा सकता है और वह ऐसे लूज शब्द हैं कि उन में कोई भी बात आ सकती है। क्लॉज २ इस प्रकार है :—

"that such acquisition is needed for the construction of some building or work for a Company engaged or to be engaged in an industry which is essential to the life of the community or is likely to promote the economic development of the country".

आप के मन में आ गया अथवा कलक्टर साहब के मन में आ गया कि इस तरह के एक्वीजीशन से एकोनॉमिक डेवलपमेंट लाइकली टु बी प्रमोटेड है, और इस वास्ते बीच में कोई प्रीवेंटिव मॉडिसिन ले आये बीच में कोई अइचन आ गायी और वह सम्भव न हुआ तो भी जमीन तो ले ही ली जायेगी।

जहां तक मुआविजे का सवाल है उस का मिलना वड़ी टेढ़ी खीर है और हालत यह है कि १०, १० और १५, १५ साल तक वकीलों को फीस भरने के बाद भी उन बेचारों को कम्पेन्सेशन नहीं मिलता है। मैं इस सम्बन्ध में सदन में एक उदाहरण उपस्थित करना चाहता हूँ कि हमारे वहां एक बनजारिन थी। गवर्नमेंट ने उसकी जमीन ले ली थी। जब वह मुआविजे के वास्ते गई तो उसको यह कहा गया कि तेरी जमीन चूँकि तेरे पति के नाम है और इस वास्ते जब तक वारसा सर्टिफिकेट नहीं लाती तुझे मुआवजा नहीं मिल सकता। वह बेचारी अब इधर उधर रोती हुई फिरती है पैसे उस

के पास इतना कहां है जो कि वकीलों को फीस दे कर अदालत में जाये? कम्पेन्सेशन लैंड रेवेन्यू का दस गुना या बीस गुना दिया जाता है। लैंड रेवेन्यू सैटलमेंट जो कि १९०६ या १९२६ में हुआ था केवल दस या पन्द्रह रुपये निश्चित किया गया था। उसकी कीमत उस वक्त १०,००० किया गया था। उसकी कीमत १०,००० रुपये हो गयी लेकिन उसको जो मुआविजा मिलेगा वह १०० रुपये या २०० रुपये ही मिलेगा। अब वह कहां का उचित मुआविजा हुआ? वह मुआवजा सोशललिस्टिक पैटर्न के मिनिस्टर साहब दे रहे हैं और यह देख कर मुझे आश्चर्य होता है कि इस तरह का तरमीमी बिल और दूसरे कोई नहीं बल्कि हमारे फूड एंड एग्रीकल्चर मिनिस्टर ला रहे हैं। मैं सरकार को चेतावनी देना चाहता हूँ कि इस तरह का बिल यदि पार्लियामेंट में पास किया गया तो इस का बहुत बुरा नतीजा उसको भोगना पड़ेगा। सारे भारत में इससे असन्तोष उत्पन्न होगा और इसकी गम्भीर प्रतिक्रिया होगी।

यह तरमीमी बिल सुप्रीम कोर्ट का १९६२ में जो जजमेंट हुआ है उसकी वजह से गवर्नमेंट इसे लाई है। एक्वीजीशन की बलेडिटी के बारे में चूँकि शक और शुबहात जाहिर किये गये हैं इसलिये इस तरमीमी बिल को लाना जरूरी समझा गया। मिनिस्टर साहब ने बतलाया कि सात, आठ स्टेटों ने भी लिखा है कि इस किस्म का कानून पास होना चाहिये। अब मेरा कहना यह है कि इसके लिये ७, ८ स्टेटों ने इतनी जल्दी कैसे लिखा और अगर लिखा तो गवर्नमेंट ने इतनी जल्दी एक्शन कैसे लिया? जो वकालत करते हैं उनको मालूम ही होगा कि एक दफे जमीन दूसरे व्यक्ति में वैस्ट हो गई तो फिर वापिस मिलने के लिये ला और लिमिटेशन आड़े आता है और परिणामस्वरूप वैस्ट का डिबैस्ट होना बड़ा मुश्किल हो जाता है। मिनिस्टर साहब एक भी ऐसा केस बतलायें जिसमें अरोड़ा के केस में सुप्रीम कोर्ट का जजमेंट

होने के बाद कोई भी शक्स कोर्ट में फिर जमीन वापिस लेने को गया हो ? दरहकीकत हुआ यह है कि सन् ६२ में भरोड़ा केस में सुप्रीम कोर्ट का जजमेंट हो जाने के बाद पूंजीपतियों ने गवर्नमेंट को लिखा है कि इस रूलिंग से हम यहां डूब रहे हैं और चूंकि यह सरकार पूंजीपतियों के हाथ में सदा से खेलती आई है इसलिये उन को सैटिसफाई करने के लिये वह यह कानून यहां पास करा रही है . . .

Shri S. K. Patil: One of the States is the hon. Member's State.

श्री बड़े : मैं मध्य प्रदेश का नाम नहीं लेना चाहता था और किसी स्टेट विशेष का नाम यहां पर ले कर नहीं चलना चाहिये, लेकिन चूंकि मिनिस्टर साहब ने मध्य प्रदेश का नाम ले दिया है तो मैं बतलाना चाहता हूं कि हमारे इंदौर में काफी क्लाय मिलें हैं; ७, ७ और ८, ८ कपड़ा मिलें वहां पर हैं और वहां की मिनिस्ट्री उन पूंजीपतियों के हाथ में खिलौना बन हुई है। अब भरोड़ा केस के जजमेंट के बाद यहां के पूंजीपति भाई लोगों ने वहां के पूंजीपतियों को लिखा होगा कि समय रहते सावधान हो जाओ अन्यथा हम यहां डूब रहे हैं तुम भी डूबोगे। यही कारण है कि भरोड़ा जजमेंट होने के बाद ही मंत्री महोदय एकदम जागरूक हो गये और पूंजीपतियों के इशारों पर स्टेट गवर्नमेंट ने भी इस तरह का तरमीमी कानून लाने की मांग की।

कोल की हमारे यहां कमो हो गई। चूंकि हमारे यहां कोयला आया नहीं इसलिये हमारे कारखाने बन्द हो गये, हमारी स्टेट गवर्नमेंट ने सेन्टर को उस के बारे में लिखा लेकिन उस का कोई जवाब नहीं आता है और मिनिस्टर साहब जागरूक नहीं हुए लेकिन पूंजीपतियों के इस तरह के कानून के लिये मांग करने पर कांग्रेस गवर्नमेंट जागरूक हो जाती है क्योंकि यह कांग्रेस सरकार पूंजीपतियों के हाथों की कठपुतली बनी हुई है। टाटा, बिड़ला और बाटा इन तीन टीज के हाथों में कांग्रेसी सरकारें खेल रही हैं। इन

पूंजीपतियों और मिल वालों के बलबूते पर यह यहां पर आते हैं। आप यह कानून महज इसलिये लाये हैं चूंकि उन्हो ने आप को इध के लिये लिखा होगा। चूंकि इस बारे में मेरे पास डाक्युमेंटरी एविडेंस नहीं है केवल उन के बारे में सुना है इसलिये कोई स्पैसिफिक इंस्टांस नहीं दे सकता कि फलां पूंजीपति ने मंत्री को लिखा कि इस प्रकार का कानून पास होना चाहिये। लेकिन यह हकीकत है जिस से कि इंकार नहीं किया जा सकता है। मुझे इस बात का पूरा विश्वास है कि यहां के पूंजीपतियों ने वहां के पूंजीपतियों को इस के लिये लिखा होगा कि ऐसा कानून पास करवाओ वरना तुम भी डूबोगे और चूंकि कांग्रेसी सरकारें सभी जगह पूंजीपतियों के हाथ में खेलती हैं इसलिये वहां की सरकारों ने आप को लिखा होगा कि ऐसा कानून पास करवाया जाये

Shri S. K. Patil: I do not want to interrupt the hon. Member but it may escape attention. It has been done for the Bhilai plant lands. No capitalist is involved in it.

श्री बड़े : भिलाई प्लांट के लिये जो आप कहते हैं तो वहां के इंडस्ट्रियलिस्ट्स ने आप को लिखा होगा

श्री स० का० पाटिल : इंडस्ट्रियलिस्ट्स ने नहीं वरन् मध्य प्रदेश गवर्नमेंट ने लिखा है।

श्री बड़े : अन्न में और अधिक न कहते हुए मुझे केवल मंत्री महोदय से यही निवेदन करना है कि मैं ने सच्चे दिल से इस बिल को ले कर जो मन में एक सात्विक गुस्ता था उस का इजहार मैं ने किया है। मैं पुनः उन से अपनी अपील करूंगा कि वह हाउस के रूल को देखते हुए इस बिल को वापिस ले लें और अगर यह मुमकिन न हो तो कम से कम इस को सेलेक्ट कमेटी के सिपुर्व तो कर ही दें। इस तरमीमी बिल के बगैर यह लैंड एक्वीजीशन एक्ट पिछले २०० साल से चल रहा है और मैं समझता हूं कि उसे उसी तरह

[श्री बड़े]

से चलने दें और उस में कोई गड़बड़ नहीं आनी है। लेकिन अगर गवर्नमेंट इसे पास करने पर ही तृप्ती है तो कम से कम इस को अभी सैलेक्ट कमेटी के सिपुर्द तो कर ही दिया जाय।

श्रीमती सुभद्रा जोशी (बलरामपुर) :
उपाध्यक्ष महोदय, आज जब से यह बिल लोक सभा के सामने आया है बहुत कम सदस्य ऐसे हैं जिनसे इसको सपोर्ट मिली है यह बात ठीक है कि मिनिस्टर साहब ने कहा कि इस तरमीमी बिल को जल्दी पास करने की जरूरत है वरना बहुत नुकसान हो जाने का खतरा है। लेकिन जैसा कि बाकी मँम्बर साहबान ने कहा, मैं भी आप से यह निवेदन कर्हंगी कि अगर इस को पास करने की जल्दी भी हो तो भी इसको अभी आप सैलेक्ट कमेटी के सुपुर्द कर दें और सैलेक्ट कमेटी को आदेश दें कि वह इस पर विचार समाप्त करके हाउस में पुनः लाने की जल्दी से जल्दी कोशिश करें। सैलेक्ट कमेटी द्वारा विचार होने पर जल्दी से जल्दी हाउस में दुबारा यह बिल लाया जाये। मैं समझता हूँ कि इसको सरकार को मंजूर कर लेना चाहिये। अगर सैलेक्ट कमेटी द्वारा विचार किये जाने के बाद इस को हाउस में बहुत जल्द लाना मुमकिन न हो सके तो सेशन कुछ दिन के लिये और बढ़ा दिया जाये और यदि ऐसा किया जाता है तो मैं समझती हूँ कि सदस्यों को इसमें कोई ऐतराज नहीं होगा।

एक बात के लिए मैं आनरेबल मिनिस्टर को जरूर मुबारकबाद देती हूँ कि जब अरोड़ा का किस्सा आया तो उसके साथ कोआपरेटिव्स की याद भी आई। उपाध्यक्ष महोदय, मुझे याद है कि यहां पर पिछले दिनों जब कॉफी बोर्ड ने अपने कॉफी हाउसेज बंद कर दिये तो गवर्नमेंट की राय से और गवर्नमेंट के सजेशन से कॉफी हाउस के जो रिट्रैन्ड वर्कर्स थे उन्होने अपनी

एक कोआपरेटिव सोसाइटी बना ली और उस सोसाइटी ने सरकार को कहा कि हमारी कोआपरेटिव सोसाइटी के लिए यह जगह दे दीजिये। उन्होंने इसके लिये मिनिस्टर साहब का दर्वाजा खटखटाया तो उनसे जवाब यह मिला कि आपकी कोआपरेटिव सोसाइटी पब्लिक परपज में नहीं आती है। जो कॉफी बोर्ड कॉफी हाउसेज चलाता था जिसमें कॉफी भी कम विकती थी और एम्प्लाइज भी कम थे वह तो पब्लिक परपज में आता था लेकिन उसी कॉफी बोर्ड के कर्मचारियों ने अपनी नौकरी लगाने के लिये और कॉफी का काम चलाने का खुद बंदोबस्त किया और एक कोआपरेटिव सोसाइटी बना ली जिसमें खानसामा, बंदे, स्वीपर्स, कुक्स और मैनेजर वगैरह सब शामिल हैं तो वह पब्लिक परपज नहीं रहा और उनको वह जगह नहीं दी गई। अब जिस कारण से वह बिल आया है उस कारण में मैं नहीं जाना चाहती हूँ क्यों कि जो लोग इसको जमादा जाते हैं इन्होंने इस बारे में कहा है।

श्रीमाननीय सदस्य, श्री जैन, ने एक सवाल रखा और पूछा कि श्री अरोड़ा जो कारखाना बनाना चाहते थे, वह पब्लिक परपज में क्यों नहीं आया और जिस कारखाने के लिये जमीन दी जा रही थी, वह पब्लिक परपज में क्यों नहीं आया। यह बहुत दुःख की बात है। अब क्या कहा जाये? जितनी चर्चा इस बिल के बारे में इस हाउस में और हाउस के बाहर हो रही है, उससे यह मालूम होता है कि अगर अरोड़ा साहब अगली बार लोक सभा के मेम्बर हो जायें, तो शायद उनकी फेक्ट्री भी पब्लिक परपज में आ सकेगी और शायद उनकी तरफ ज्यादा तवज्जह दी जा सकेगी।

इस लिए मैं बड़े दुःख के साथ मिनिस्टर साहब से निवेदन करना चाहती हूँ कि जिस

तरह की चर्चा इस बिल के लाने के कारणों पर और डिटेल्स के बारे में हो रही है, उस को दृष्टि में रखते हुए यह और भी ज्यादा मुनासिब और उचित है कि इस बिल को बहुत जल्दी से पास न किया जाये। इस सम्बन्ध में लोक सभा के मेम्बरों का नाम लिया जा रहा है, हमारी सरकार और हमारी पार्टी का नाम लिया जा रहा है। इस लिए मुनासिब यह हो कि सब को इस बात का मौका दिया जाये कि वे ज्यादा डिटेल्स में जा कर इस पर विचार करें।

जहां तक प्राइवेट सेक्टर का ताल्लुक है, मैं मंत्री महोदय से यह पूछना चाहता हूं कि प्राइवेट सेक्टर में किस को प्राटेक्शन चाहिए। क्या इस बिल में कोई ऐसी डेफिनिशन है कि कम्पनी कौन सी होनी चाहिये, छोटी होनी चाहिए या बड़ी होनी चाहिए? जिसकी जमीन ली जा रही क्या इस बात को स्पष्ट किया गया है कि वह थोड़ी जमीन वाला होना चाहिये या ज्यादा जमीन वाला होना चाहिये? अगर इस बात को साफ न किया गया, तो इस का मतलब तो यह होगा कि सरकार जमीन के छोटे से छोटे मालिक से जमीन लेकर, जिस के पास थोड़ी से थोड़ी जमीन है, उस को एक्वायर कर के, उसको बेरोजगार क सकती है।

जहां तक कम्पनी का ताल्लुक है, यह डिफाइन्ड किया गया है कि ऐसी कम्पनी हो, जो सी से ज्यादा आदमियों को एम्पलाय करती हो। जहां तक मेरा स्थान है, मैं मंत्री साहब से निवेदन करना चाहती हूं कि अगर सरकार को बीच में पड़ कर किसी की हिफाजत करनी है, तो उनकी नहीं करनी चाहिए, जो कि सी से ज्यादा आदमियों को एम्पलाय कर सकते हैं, बल्कि उसको उन लोगों की हिफाजत करनी चाहिए, जो सी आदमियों से कम एम्पलाय कर सकते हैं। जो बड़े बड़े

कारखानों के मालिक हैं, बड़े बड़े रंजीपति हैं, जो सी या हजार आदमियों को एम्पलायमेंट दे सकते हैं, वे हर कीमत पर बहुत अच्छी तरह नेगोशिएट कर के जमीन खरीद सकते हैं और खरीदते हैं। लेकिन जो छोटे आदमी हैं—चाहे वह एक हो—जिनको अपने रोजगार के लिए मारे मारे फिरना पड़ता है, चाहे वह एक दुकानदार हो, चाहे उसने एक कारखाना लगाना हो और चाहे उसने घर बैठ कर कोई काम-बंधा करना हो, उसके लिए ऐसा कोई कानून नहीं है कि उसके लिए जमाने एक्वायर कर के उसको दे दी जाये। इस के मुकाबले में सरकार उन धनी आदमियों के लिए कानून ला रही है, जो कि सी आदमियों को एम्पलाय कर सकते हैं और उस कानून के मुताबिक सस्ती जमीन एक्वायर करके उनको दी जायेगी।

मुझे याद है कि यहां दिल्ली में स्लम क्लीयरेंस के लिए एक कानून बनाया गया, जिसके मुताबिक यह फैसला हुआ कि उन लोगों के लिए सस्ती जमीन एक्वायर की जाये, जो कि झोंपड़ियों में रहते थे, मजदूर थे, फुटपाथ पर पड़े हुए थे, जिन को कांफिरेण्ड के लॉग दिन-रात तंग करते थे और जिनकी झोंपड़ियां गिरा गिरा कर फैंक देते थे। उन लोगों के लिए उसी फार्मूले के अन्तर्गत सस्ती जमीन एक्वायर करने का प्राविजन रखा गया था, जिस फार्मूले के मुताबिक इस बिल में जमीन एक्वायर करने की बात हो रही है। जब वह बिल पास हो गया, तो मालूम यह हुआ कि जिस जमीन पर पहले से झोंपड़ियां बनी हुई हैं, वह तो स्लम क्लीयरेंस के अन्तर्गत आ जाती है, लेकिन दिल्ली शहर में स्थित धनी लोगों की वह बीसियों, सैकड़ों और हजारों गज जमीन, जो कि खाली पड़ी है, किसी काम नहीं आ सकती है। वह उस तरह से सस्ती एक्वायर नहीं की जा सकती है—न उस को गवर्नमेंट एक्वायर कर सकती है और न वह किसी को-ऑपरेटिव सोसायटी को दी जा सकती है। उसको किसी भी तरह

[श्रीमती सुमद्रा जोशी]

से सस्ता एक्वायर नहीं किया जा सकता है। मैं निवेदन करना चाहती हूँ कि जब छोटे लोगों के लिए सस्ती जमीन एक्वायर करने की कोई व्यवस्था नहीं है, तो बड़े बड़े लोगों के लिए सस्ती जमीन एक्वायर करने के लिए छोटे लोगों को बेरोजगार करके उन की जमीन लेना बहुत अन्याय की बात है।

एक अमेंडमेंट के द्वारा माननीय मंत्री ने जो शब्द "एक्टिविटी" जोड़ दिया है, वह भी मुझे एतराज की बात मालूम होती है। अगर वह यह समझ रहे हैं कि शब्द "एक्टिविटी" को को-ऑपरेटिव सोसायटीज को फवर करने के लिए डाला गया है, तो मैं निवेदन करूंगी कि जहाँ तक को-ऑपरेटिव सोसायटीज का ताल्लुक है, ऐसी खुली छूट उन को भी नहीं देनी चाहिए कि वे किसी भी परपज के लिए सस्ती जमीन खरीदें। जब यहाँ पर रीहैबिलिटेशन के कानून के मातहत बहुत सी जमीन छोटे आदमियों और छोटे किसानों से ली गई और कई हार्जिसिंग को-ऑपरेटिव्स को दे दी गई, तो वे उसका मनमाना दाम लेते हैं, बड़ी भारी कीमत चार्ज करते हैं, मनी-मेकिंग करते हैं और खूब मुनाफा कमाते हैं। उसकी कोई रोक-थाम नहीं है।

जैसा कि एक माननीय सदस्य ने कहा है, प्राईवेट सेक्टर के जो आदमी कारखाना खोल कर उसमें कपड़ा वगैरह जो भी चीज प्रोड्यूस करते हैं, जब उस की कीमत पर कोई कंट्रोल नहीं है, तब उसी तरह उनको जो जमीन देते हैं, बेचते हैं, उसकी कीमत पर कोई कंट्रोल नहीं हो सकता है। वे उसको जो चाहे करें, सरकार उसको काबू नहीं कर सकती है। इसलिए चाहे को-ऑपरेटिव हों, चाहे प्राईवेट लोग हों, उनको इस तरह की खुली छूट देना कि वे "एक्टिविटी" के लिए सरकार द्वारा एक्वायर की गई सस्ती जमीन हासिल कर सकें, ठीक नहीं है। मैं आपको

बताना चाहती हूँ कि आज "पब्लिक परपज" का बहुत मिसयूज होता है। मैंने एक स्कूल का कांस्टीट्यूशन देखा, जिसमें लिखा हुआ था कि "टू विल फार्म दि क्वोरम"। उस संविधान के मुताबिक दो आदमी क्वोरम पूरा करते थे और इसलिए वे पति-पत्नी घर बैठ कर रोज मीटिंग करके मिनट्स पर दस्तखत कर देते थे। कानसिलियेशन आफिसर ने उस स्कूल का एक डिस्पूट मेरे पास भेजा। चूंकि कायदे-कानून में लिखा था कि दो से क्वोरम होगा, इसलिए हर पेज पर पति-पत्नी ने मीटिंग के मिनट्स पर दस्तखत कर रखे थे।

मैं कहना चाहती हूँ कि कम्पनोज और सोसायटीज भी ऐसी ही हो सकती हैं और इस तरह का वेग कानून बना कर "पब्लिक परपज" का मिसयूज किया जा सकता है। अगर को-ऑपरेटिव्स की मदद करने के लिये "एक्टिविटी" को जेनरल छोड़ दिया जाये, तो मुनासिब नहीं होगा। यह डिफ़ाइन करना चाहिए कि किन लोगों को जमीन देनी चाहिए।

दिल्ली क्लाय मिल दिल्ली की सबसे बड़ी मिल है। इम्प्रूवमेंट ट्रस्ट ने कोड़ियों के मोल जमीन खरीद कर उनको दी, ताकि वे दिल्ली शहर के बाहर अपनी मिल ले जायें, क्योंकि शहर के अन्दर मिल कारखाने नहीं होने चाहिये। आज दिल्ली क्लाय मिल वहीं पर मौजूद है और आसपास के घरों में कोयला और धुआँ फेंक रही है और जो जमीन कोड़ियों के मोल उन को दी गई, वहाँ पर उन्होंने अपना दूसरा कारखाना बना लिया है। इससे साफ जाहिर हो जाता है कि जब एक बार किसी को जमीन दे दी जाती है, तो उस पर कोई काबू नहीं है। इसलिये "पब्लिक परपज" "पब्लिक इन्ट्रेस्ट" और को-ऑपरेटिव्स की मदद की बात करके ऐसा कानून पास करना मेरे विचार में बहुत अनुचित है।

इसलिये मैं निवेदन करूंगी कि, जैसा कि इस हाउस के ज्यादातर साथी मांग कर रहे हैं, इस बिल को सिलेक्ट कमेटी के पास भेज देना चाहिए।

Shri Krishnapal Singh (Jalesar): Sir, it is most surprising that a Minister who is in charge of Food and Agriculture should come forward with a Bill by which the land of agriculturists would be acquired, not purchased but acquired, by the Government for industrialists who have a capital of not lakhs but crores at their disposal; and the land which will be required, belongs to people who are left with a limited area, after the land ceilings have been fixed in practically every State. It is most astounding. I should have expected from a Minister who is in charge of Food and Agriculture that he should have preferred to resign from a Government, which entrusted him with the work of acquiring poor man's land for these fat people.

What is the situation about land in this country? Hon. Members probably know the figures. I will just read them out, in order that they may be able to judge whether a Bill of this nature is at all necessary. The position is like this. These figures relate to the year 1958-59. We have in this country about 300 million hectares of land of all types. Out of this we have 51.8 million hectares of forests. We have 46 million hectares which are not available for cultivation. We have 39.4 million hectares of uncultivated land. We have 24 million hectares of fallow land. The area sown is only 131 million hectares and irrigated area is only 23 million hectares. Now, with all these forests and uncultivated and unculturable land available in the country, why should the Government come forward with a Bill in order to deprive the poor agriculturists of their limited portion of land out of which they can hardly eke out a living. It is most astounding.

16 hrs.

When I talked about medieval history, some hon. Members did not approve of it. I would like, therefore, to read out one or two quotations from a book of an imaginary Republic. This is what it says:

"They hoodwink and cajole the poor, whose cause they ostensibly serve, arranging secret partnerships with the capitalist and the industrialist, who can always afford to pay for their co-operation."

The quotation is very appropriate. This is in relation to the Ministers of government. This is a very appropriate description of what is happening today.

It is most astounding, as I have said, that a Minister who is responsible for agriculture and food should take upon himself this task of depriving the poor of their land for the sake of industrialists. It is said sometimes that this worthy government does not want any intermediary. I wish to ask, how many of these industrialists work with their hands, how many of them work with spindles and other machines? Do they not sit in their cosy chairs with telephones round them? The only work they seem to do is to keep these ministers and Government satisfied, and that is why this measure is now being brought before this House to deprive the poor of their limited area of land.

I think, Sir, it would have been more proper if this Minister had brought another Bill declaring the possession of land and the cultivation of land as a crime in the country. That would have been more appropriate. It would have for ever settled this problem, and then he would not have to acquire land for anybody. Another amendment of the Indian Panel Code could easily have been inserted with their thumping majority in the House and agriculture and possession of land made a penal offence.

[Shri Krishnapal Singh.]

Well, Sir, so far as the merits of this legislation is concerned, I have said enough. I only now appeal to the House. I am very glad to see that this piece of legislation has not met with the approval of even the Members of the ruling party, Members who as a rule support every measure of this Government. Therefore, Sir, it is time that the Minister who has brought this Bill before us decides whether he should proceed with it or whether he should withdraw the measure. I think it will not do any credit to the present Government or to any Government to see that a measure of this type is passed.

Sir, I would not like to say very much more. Enough has been said by practically every section of this House and there will be no doubt that the opinion, if not of all the members, of a vast majority of members is in favour of its withdrawal.

Dr. M. S. Aney (Nagpur): The Bill before the House is a small one in appearance but, judged from the point of view of the consequences which are likely to follow, it is one of the most controversial measures that has come up before the House for consideration in this session. At the outset, I would like to say that I am not in favour of the motion for circulation of the Bill, as has been proposed by one of my friends over there, nor am I in favour of the Bill being considered immediately here without proper time being taken to consider the whole matter, because I want the House to understand what the Bill really means.

We are here to amend the Land Acquisition Act because of a judgment pronounced by the Supreme Court, and the idea is that by the amendment that is suggested here the effect of that judgment be negated. Everyone of us who is present in the House as a member of this House knows that Ministers as well as Members of this House have to take an oath, and that

oath is this that they shall be true to the Constitution and faithful to the Constitution. If the sanctity of the Constitution is to be preserved then one thing has to be very carefully borne in mind, and that is the supreme authority of the Supreme Court in the Indian Constitution. When we say that the supremacy of the judiciary is guaranteed by the Constitution and that we have taken an oath to properly and faithfully discharge or carry out or implement the provisions of the Constitution it means that we recognise that it is the tribunal which has the ultimate right to judge the validity or invalidity of the actions of the government which administer that Act. That is the greatest guarantee given under the written Constitution. Therefore, when the judgment of the Supreme Court is delivered on a particular issue, it must be in exceptional circumstances only that a legislation should be brought forward in this House with a view to counter the effect of the Supreme Court judgment.

The Supreme Court is appointed with a view to pronounce judgments. What is the real meaning of the law which is being administered here? We all acknowledge that our best legal advisers, the most eminent jurists are sitting there with all the authority to pronounce judgments. So, when an interpretation of law comes from such a body, by the very nature of things, it must become the law of the land. An interpretation of a particular provision of any Act by the Supreme Court becomes a law by itself and it becomes a precedent to be followed by other judicial courts in this country. If the judgment is such as to create a crisis, something entirely un contemplated or something entirely unthought of, if a situation like that arises, of course, it would be right for the sovereign Parliament to come forward to remedy the evil. Therefore, the one point which we have to consider in connection with this Bill is whether the Supreme Court judgment

is one which has created any crisis or not. That is not something which has to be accepted simply because some Minister on behalf of the Government says that a crisis has come, and it affects not only a particular class of people in a particular State but people in various States; and the hon. Minister has told us that even other persons, and even other State Governments have sent representations to the effect that if the law remains as it stands, a very serious situation will develop. I think that that is a point for examination. It is not a thing which has to be accepted because of the statement of this or that Minister. And who is to examine it, and how is it to be examined? The House is to examine it. But, though the House has got all the rights given to it, yet there are certain rights which the House cannot properly exercise when it sits as a House; it can only do it when it goes into a committee. Otherwise, it cannot exercise those rights. It is for that reason that we appoint several committees here even for ordinary work. Therefore, the suggestion or the motion moved by Shri Daji or some other Member, that a Select Committee should be appointed to go into this Bill is worth consideration. You may accept Shri Daji's motion, or the motion standing in the name of Shri A. P. Jain, but there must be a body of persons who are competent to understand the legal implications of the whole thing, who can devote sufficient time to this matter, give their time solely to the consideration of these issues, and then come forward before us with their report and give us the benefits of their considered opinion on the implications of this Bill, because, after all, the object of the amending Bill is to nullify the effect of the judgment of the Supreme Court which says that sections 40 and 41 of the L. A. Act must be read together. The Supreme Court has said that the powers under section 41 cannot be exercised unless it is read in line with section 40, or with what has been given in section 40 of the Land Acquisition Act.

It is alleged that this interlinking of the two sections has created a difficulty. The wide scope within which that particular section was being probably administered and understood by the people, in the matter of using the power or administering the Act in favour of private companies does not exist now, and the scope has now been narrowed down as a result of the judgment of the Supreme Court. But my point is this. Whether that has been the real object or not of the original Act itself is a point to be seen. When we read sections 38, 38A, 39, 40 and 41 together, we find that all these sections have to be read together. We find that sections 40 and 41 must also be read together, in order to understand the limited scope within which alone private companies can be given the benefit of the land acquisition power which Government possesses in matters of this kind. So, there must be somebody to examine the legal implications, to understand all these points, to properly discuss the real issues, and thrash them out and then give a considered opinion. That is my first point.

My second point is this. Another objectionable feature of this Bill is this. Generally, when laws are passed, they are meant to be applied from the date they come into force. But the object of the present Bill is not only to nullify the effect of the Supreme Court judgment, but to give retrospective effect to the law itself; it is sought to be applied even to those matters which have been decided long before. That is another objectionable feature of this Bill. It is only in exceptional matters that these things are done.

These points are all, in my opinion of such a nature, that a Bill containing provisions of this type must not be passed at one sitting where the Members do not get sufficient time to think over the matter coolly for themselves, and where the Members have not got the benefit of the considered

[Dr. M. S. Aney]

opinion of persons from among themselves, on whose judgment they can rely. The ordinary procedure for getting such an impartial opinion is by appointing a Select Committee. My hon. friend Shri A. P. Jain has elaborated upon this point at great length in his speech.

These are the points which I want to make, and I have just listed them here. Firstly, this Bill seeks to nullify the effect of the judgment of the Supreme Court. Secondly, it seeks to validate invalid acts. That is also another object of this Bill. Thirdly it widens the scope of 'public purpose' and makes it a vague expression. The words 'likely to be useful to the public' are so vague that anything can be brought within their scope. I believe a law which is going to be used in a way to compulsorily take away the land of private persons for the benefit of industry must be specific. The words used should be such as not to lend themselves to loose interpretation, but they should be precise and exact. Therefore, the wording, in my opinion also, is a very dangerous one.

There is another point to which I shall refer. The genesis of this law is also of a very peculiar nature. I think it is better even in the interests of Government that this law should be considered by a Committee of experts so that the Government will not be accused by some persons who have unnecessary suspicions because they are acting in the interests of some unknown body.

The thing is this. It is stated by eminent jurists that when a court gives a judgment, it is not enough that justice is done, but the persons concerned must feel that justice is done.

Shri Hari Vishnu Kamath: Must appear to be done.

Dr. M. S. Aney: That being the same, some such arrangement of allowing this Bill to be considered

colly by a Committee of expert and competent men will be, in my opinion, in the interest of Government themselves, so that Government can say that every opportunity was given for consideration of this matter and the Committee have come to certain conclusions and they are going to act upon them. That would make the position of Government very clear.

I understand the Government of India have got a big programme under the Third Five Year Plan. They may require acquisition of land in various places for various purposes. There is nobody who is against the economic development of the country or who wants that that programme should be held up. If we believe in the economic uplift of the country, we should support every effort that is being made to achieve that end. From that point of view, we can easily understand that there should be some facilities for acquisition of land etc.

We are on the horns of a dilemma. On the one side, there is the Supreme Court judgment. On the other, there is this difficulty that if things are left as they are, the programme of progress is likely to be held up. Under the circumstances, a situation is created when cool and impartial thinking is necessary and that too by persons whose judgment we can trust.

Therefore, I strongly support the idea of a motion for reference to a Select Committee. If the Select Committee already suggested is not acceptable for any reason, I do not mind if the Committee is constituted of some other persons. But do not rush this Bill through in this House at one and the same sitting.

Shri Jeehe (Baramati): I have given notice of an amendment regarding societies. I would like to say something in support of it.

Before starting the discussion, the hon. Minister explained the meaning

of 'company'. He also covered society in his statement. I would like to say one thing. When this Ordinance was issued, it was only because, as stated in the "Statement of Objects and Reasons" in this Bill, the Supreme Court judgment had referred that the work to be constructed on the land acquired should be directly useful to the public. That is, only a company which is useful to the general public can acquire the land, and so due to this the ordinance was issued that companies which are engaged in industries can also acquire lands. In this connection, I would like to refer to co-operative housing societies.

These societies are constituted only with a limited number of shareholders, and any person who is not a shareholder will not be eligible to get a share in the land acquired by these societies. Naturally, the meaning of 'public purpose' is not served at all, and hence I would request the hon. Minister to clarify and to explain the term "public purpose", and whether co-operative housing societies will be covered by this, particularly because the Supreme Court judgment has referred to this term 'public purpose.'

Secondly, in the Bill explanation is not given of the term "company". I would like the hon. Minister to explain whether co-operative housing societies will come under this term, and will also be covered by the expression "public purpose", so that they will be able to acquire lands.

Shri A. S. Alva (Mangalore): This amending Bill has been occasioned by the judgment of the Supreme Court, but it is not as if we are nullifying the judgment of the Supreme Court by this amendment; actually, it is in obedience to the judgment of the Supreme Court which has declared what the law of the land is, that we are making this amendment.

The Act was originally passed in 1894, and "Public purpose" which was defined at that time has undergone a

lot of change since then. Especially after Independence, we who are following a mixed economy want lands for factories and other purposes not only in the public sector but also in the private sector. That is the reason why this amendment has been brought in the light of the judgment of the Supreme Court.

There may be some doubt whether some companies or some people may not misuse the provisions of this Bill and whether the Government also will not sometimes come to blame. I particularly refer to the proposed addition to section 40(1):

"(aa) that such acquisition is needed for the construction of some building or work for a Company engaged or to be engaged in an industry which is essential to the life of the community...."

Up to this it is a very healthy provision and it can stand. There cannot be any objection to this. But further on when it says:

".....or is likely to promote the economic development of the country;"

it is really very vague. It will differ from State to State, and from district to district. After all, it can be said, the object of any company is to promote the economic development of the country, and Government may have no control over such a company. These companies, instead of purchasing lands from people direct and paying them compensation, may seek the help of Government in acquiring lands. The argument was advanced that if a company requires 50 acres, and if people owning 48 acres of land are prepared to sell the land, and if somebody who owns 2 acres is not prepared to part with it then difficulties arise. But these companies will be making huge profits which are not spent for public benefit. Why should not they pay adequate or even fancy prices to that two acres of land? If land is required for a co-operative society or some other such organisation, that stands

[Shri A. S. Alva]

on a different footing. So, what is contained in the proposed provision of section 40(1) (aa) is covered by section 41(4A). It says:

"Where the acquisition is for the construction of any building or work for a Company engaged or to be engaged in any industry which is essential to the life of the community or is likely to promote the economic development of the country, the time within which, and the conditions on which, the building or work shall be constructed or executed; and"

All these things only require when the work will be done. Apart from this there is no clause which will impose any conditions on such companies so that this part of the clause has to be carefully categorised. As I said in the beginning, the category may vary from State to State or from district to district. Whenever land is acquired, records are sent to the Deputy Commissioner or Collector or to some other officer. At that level, it is not unlikely that great pressure is brought on those officers or at least allegations are made to that effect. Government will be laying itself open to these charges that things are done through political influence etc. I do not subscribe to the wild allegations made by some hon. Members of corruption, etc. Still the allegations will be made; there will be suspicion. So, if these things are categorised, it will be better for them and also from the point of view of the Government. We should examine which are the categories of companies that will require the provisions of the Act so that lands may be acquired for them. Though the Government must have consulted legal advisers and others, it is necessary that these provisions are examined by a committee so that they may give a report as immediately as possible. The passing of this Bill will be necessary because otherwise it may unsettle a lot of acquisitions that have been made and it will open the flood-gates of litigation. Several people

may require their lands to be given back. If for any reason they could not get back their lands, they can file suits either against Government or against the companies. This will result in a lot of litigation. Several industrial companies are essential to the life of the community and for improving the economic conditions of our country and they may be upset. So, it is necessary that this has to be passed at the earliest moment and all those acquisitions which have been really made by a company which is engaged in an industry which is essential to the life of the community should be protected.

So, while generally supporting this amending Bill, I would request the Minister and the Government to categorise the latter part of the section saying which are the industries or companies which promote the economic development of the country, I request that the Bill may be examined by a committee and a report be had within a week or earlier.

With these words, I resume my seat.

श्री सिंहासन सिंह (गोरखपुर) : उपाध्यक्ष महोदय, यह भूमि अधिग्रहण संशोधन बिल जिस मन्त्री के द्वारा उपस्थित किया गया है वह एक आश्चर्य का विषय है क्योंकि वह हमारे खाद्य और कृषि मन्त्री हैं और काश्तकारों की जमीन बचाने वाले हैं लेकिन आज शायद वह उन के कुछ विरुद्ध जान पड़ते हैं। खाद्य मन्त्री महोदय ने इण्डस्ट्रियलिस्ट्स की तरफ से किसानों की जमीन लेने के लिये सदन के सामने यह विधेयक उपस्थित किया है। बिल में उनके भले हो कुछ हो लेकिन इस विधेयक से नतीजा यही निकलने वाला है। वह समझते हैं कि एक तरफ तो खाद्य की वृद्धि हो और दूसरी तरफ इण्डस्ट्रीज की वृद्धि हो, दोनों में सन्तुलन होना चाहिये, इस विचार से उन्होंने यह संशोधन विधेयक उपस्थित किया है या किस विचार से किया है वह तो वही बेहतर जानते हैं लेकिन इसका जो असर

पड़ने वाला है उसकी तरफ मैं आपका कुछ ध्यान दिलाना चाहता हूँ ।

सुप्रीम कोर्ट का जजमेंट मैंने देखा है । यहां ३ महीने में लैण्ड ऐक्वायर हुए थे जो कि मैं समझता हूँ कि दुनिया में शायद आज तक कहीं भी ऐसा ऐक्वीजीशन नहीं हुआ होगा । मई महीने में दरखास्त पड़ती है और जुलाई में लैण्ड ऐक्वायर कर लिया जाता है । हाईकोर्ट में रिट पंटीशन करते हैं । ३१ जुलाई को हाईकोर्ट यह कहता है कि जमीन पर कब्जा हो गया और वह अपील खारिज हो जाती है फिर उसके बाद पार्ट ७ की जो कार्यवाही है वह गवर्नमेंट ने बेकार की है । जमीन पर कब्जा कर दिया था । जब हाईकोर्ट ने कहा कि यह कार्यवाही होनी चाहिए तो बाद में कार्यवाही होती है । कार्यवाही होने के बाद फिर दूसरी रिट पंटीशन करते हैं कि यह कार्यवाही गलत है क्योंकि यह बाद को हुई और पुनः वह रिट खारिज हो जाती है । हाईकोर्ट में प्रार्थी को सुप्रीम कोर्ट में अपील करने की आज्ञा प्रदान की और सुप्रीम कोर्ट में अपील हुई । सुप्रीम कोर्ट कहता है कि सब गलत है अनियमितता हुई है । अब आज हमारे मंत्री महोदय ने कहा कि सुप्रीम कोर्ट के इस फैसले के कारण बड़ी उथल पुथल की सम्भावना है इसलिये आर्डिनेंस की जरूरत पड़ी और इस कानून को तुरन्त तबदील करने की जरूरत पड़ी । मैं बहुत श्रद्धा से कहना चाहता हूँ कि सुप्रीम कोर्ट का जजमेंट हुआ १५ दिसम्बर सन् १९६१ को और यह आर्डिनेंस बना २० जुलाई सन् १९६२ को । सात महीने का अवकाश मिला । इस सात महीने के अन्दर आपके पास कितने आंकड़े हैं जिन आंकड़ों से आप यह साबित कर सकते हैं कि सुप्रीम कोर्ट के जजमेंट के आधार पर इतनी उथल पुथल हो गयी ?

16-32 hrs.

[SHRI MULCHAND DUBE in the Chair]

श्री सिंहासन सिंह : कितने लोगों ने इस बारे में दरखास्तें दीं ?

Shri S. K. Patil: More than half the States in India.

Shri Sinhasan Singh: How many people have applied.....

Shri S. K. Patil: People do not apply to me. It is to the State Governments that they apply.

Shri Sinhasan Singh: How many people whose lands had been acquired under the provisions of the Act, have applied for restoration of the lands?

Shri S. K. Patil: That question must be put to the State Governments.

Shri Sinhasan Singh: When you bring a Bill, you must have certain figures.

क्या उथल पुथल हो गयी वह तो कुछ बतलाया ही नहीं जाता है अब जैसा कि आप कहते हैं कि स्टेट्स के पास इसके फीगर्स होंगे तो आपका यह कह देना ही काफी नहीं है बल्कि आप जब कि यह विधेयक ला रहे हैं तो आपके पास वह सब आंकड़े रहने चाहियें, मेटेरियल रहना चाहिये ।

जिस तरह से यह कानपुर में लैण्ड ऐक्वायर हुआ उस जल्दबाजी की ओर आप जरा ध्यान दें कि तीन महीने में लैण्ड ऐक्वायर हो जाती है । सुप्रीम कोर्ट के आर्डर को कम्प्लाइ करना चाहिये था सात महीने तक उस को कम्प्लाय नहीं किया जाता है । आप स्वयं देखें कि तीन महीने में लैण्ड ऐक्वायर हो जाये और कुल कार्यवाही हो जाय कानून के विरुद्ध और सात महीने तक सुप्रीम कोर्ट की आज्ञा का पालन न हो । अब यह सुप्रीम कोर्ट की आज्ञाओं का गवर्नमेंट द्वारा अवहेलना करना है या उसका पालन करना है ? उसकी आज्ञा का पालन नहीं हुआ । पालन किस रूप में हो रहा है ? आर्डिनेंस के रूप में पालन हो रहा है । अब आर्डिनेंस पास करने का भी जहां तक सम्बन्ध है संविधान की धारा १२३ में साफ दिया हुआ है कि ऐसे समय जब कि पार्लियामेंट का सेशन न हो रहा हो और देश में एक तरह के गैर मामूली

[श्री सिंहासन सिंह]

हालात पैदा हो जायें जिस से कि तात्कालिक कदम उठाने की जरूरत पड़ जाये तो प्रेसीडेंट उस दौरान में आर्डनेंस जारी कर सकता है। अब जहाँ तक सरकार द्वारा इस बारे में आर्डिनेंस जारी करने का सवाल है मेरा कहना यह है कि ६, अगस्त को पार्लियामेंट बैठने वाली थी और पार्लियामेंट उस के पहले भी हुई। हमारी पार्लियामेंट बैठी थी। जहाँ तक मुझे याद है ६ मई से जून तक हम पार्लियामेंट की कार्यवाही करते रहे। जजमेंट सरकार के सामने मौजूद था। पार्लियामेंट का लम्बा सेशन भी हुआ और फिर भी होने वाला था फिर बीच में क्या चीज हो गई जिस की कि वजह से २० जुलाई को सरकार ने यह आर्डनेंस पास कर दिया। मालूम एसा पड़ता है जैसा कि बनर्जी साहब ने बतलाया बीच में बातचीत चल रही थीं, चीफ मिनिस्टर से कार्सपोंडेंस चल रही थी। वह मामला तय नहीं हुआ फिर दौड़ कर यहाँ आये। अब सौभाग्य से या दुर्भाग्य से वह सम्बन्धित व्यक्ति आज पार्लियामेंट के मेम्बर भी हैं, और उन को और हम को आप को, गौर करना चाहिये कि जहाँ हमारा आप का नाम घसीटा जाता हो और उस का सम्बन्ध मेम्बर से हो, तब तो हमें इस तरह की जल्दबाजी नहीं करनी चाहिये, इस तरह की कार्यवाही करने में थोड़ा बहुत विलम्ब करना चाहिये था, सोच विचार कर लेना चाहिये था क्योंकि इस तरह से तो हम पार्लियामेंट के मेम्बरस बदनाम हो सकते हैं कि पार्लियामेंट के मेम्बरस अपने मुआफिक कानून भी बनवा लेते हैं। अपने मुआफिक आर्डिनेंस भी बनवा लेते हैं।

मंत्री महोदय ने अपनी स्पीच में बड़े जोरों से कहा कि गवर्नमेंट की जो कारपोरेशंस हैं उन में भी दिक्कत हो रही है और आगे भी हो सकती है। इस के सम्बन्ध में मैं सुप्रीम कोर्ट के जजमेंट का ही वह रेलेक्ट हिस्सा आप को पढ़ कर सुना देना चाहता हूँ जिस में कि सुप्रीम कोर्ट ने क्लियर और अनएम्बिगुएस

शब्दों में इस बात को कहा है कि गवर्नमेंट जो लैंड अपने परपज के लिये ले रही है उस के बारे में वह कोई राय नहीं दे रहे हैं। यह उन के शब्द हैं:—

“we may add that the works are not like Damodar Valley Corporation and that what we say in the present case may not necessarily be taken to apply to statutory corporations, like Damodar Valley Corporation, which is wholly owned by the State.”

इस तरह से आप देखेंगे कि उन्होंने ने स्टेट ऑर्ड कारपोरेशन के बारे में साफ कह दिया है कि यह जजमेंट उन के लिये लागू नहीं है। यह केवल प्राइवेट कम्पनियों के लिये लागू है। यही नहीं बल्कि लैंड एक्वीजीशन एक्ट का सैक्शन ३६ भी यही कहता है। उस में दिया हुआ है कि सैक्शन ६ से ३७ एप्लाइ नहीं करेंगे आम तौर पर यह प्राइवेट कम्पनीज के लिये एप्लाइ नहीं होंगे। सैक्शन ३६ इस प्रकार है :—

“The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any company unless with the previous consent of the appropriate Government nor unless the company shall have executed the agreement hereinafter mentioned.”

इस तरह जो कुछ कार्यवाही है अथवा रोकथाम है वह प्राइवेट कम्पनियों के लिये है। आप के लिये इस एक्ट में कोई रोकथाम और बाधा नहीं है। सुप्रीम कोर्ट ने अपने जजमेंट में भी आप के बारे में कुछ नहीं कहा। दामोदर वैली कारपोरेशन का सैक्शन ५० रैफर हुआ था। उस के ऊपर भी उन्होंने ने कहा कि हम कोई राय देने को तैयार नहीं हैं। लेकिन जहाँ तक गवर्नमेंट की कुल कार्यवाही का सम्बन्ध है उस के बारे में जब उनकी राय आती है तब आप कहते हैं कि हमारे काम में

बाधा पड़ रही है। सुप्रीम कोर्ट के जजमेंट साफ जाहिर है कि स्टेट ग्रॉंड कारपोरेशन के बारे में उन्होंने कोई बाधा नहीं खड़ी की है और उनके काम के बारे में वह कोई दखल नहीं दे रहे हैं तो भी आप प्राइवेट कम्पनीज और लोगों को बचाने के लिये कूद पड़े। मैं नहीं समझ सकता कि इस तरह से गवर्नमेंट क्यों जल्दबाजी कर रही है और हर जगह जो जल्दी की जा रही है वह किस उद्देश्य से और किस परपज को ले कर की जा रही है ?

अब आप वर्तमान संशोधन विधेयक पर थोड़ा विचार करें। अगर यह अमेंडमेंट बिल इसी रूप में पास हो गया तो इस कानून का क्या स्वरूप होगा। इस के पास हो जाने के बाद लैंड एक्वीजिशन एक्ट का जो सैक्शन ४० है और उस की जो ४० (१) (ए) और ४० (१) (बी) की दो उपधारायें हैं उनके बीच में अर्थात् क्लॉज (ए) के बाद जो आप (एए) क्लॉज जोड़ रहे हैं तो मेरा कहना यह है कि इस (एए) जिसे आप जोड़ रहे हैं यह ऊपर और नीचे के दोनों क्लॉजों के बिकार हो जाते हैं। मैं आप की आज्ञा से सैक्शन ४०(१) के (ए) और (बी) क्लॉज पढ़े देता हूँ :—

Section 40(a):

“(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen, employed by the Company or for the provision of amenities directly connected therewith, or

(b) that such acquisition is needed for the construction of some work and that such work is likely to prove useful to the public.”

(एए) क्लॉज इन दोनों को बेकाम कर देता है। उन के बीच में जो “और” बर्ड रक्खा गया है वह इन्हीं बातों की जांच करने को

रक्खा गया है। लेकिन यह बीच में आप क्या घुसेड़ रहे हैं? इस (एए) ने तो दोनों क्लॉजों को ही बेकाम कर दिया है। क्लॉज २(एए) जो आप नया जोड़ने जा रहे हैं वह इस प्रकार है :—

“(aa) that such acquisition is needed for the construction of some building or work for a company engaged or to be engaged in an industry....”

आप कहते हैं कि हम ने खाली कोआप-रेटिव्स के लिये किया है। लेकिन आप स्वयं गौर करें कि इस के रहते कौन सी कम्पनी ऐसी होगी जो कि पहले और दूसरे में ऐप्लाइ करेगी वह तो तीसरे में ऐप्लाइ करेगी और कहेगी कि हम डेवलपमेंट के लिये कर रहे हैं। नतीजा यह होगा कि सैक्शन ४० के ए और बी दोनों सैक्शनों को इनडायरेक्टली आप रिपील किये देते हैं। उन का कोई मतलब नहीं रह गया है।

सैक्शन ४१ को भी आप अमेंड कर रहे हैं। यह चीजें गवर्नमेंट देखेगी इस को आप कहते हैं कि गवर्नमेंट कुछ नहीं देखेगी। जो दरखास्त ए० और बी० में पड़ी है उसको ही देखा करेगी। अब (एए) में ही सारी दरखास्तें पढ़ेंगी कि मुझे जरूरत है जमीन पर हम फ़ैक्टरी बनायेंगे और गवर्नमेंट कहेगी कि जरूरी है तो वह पब्लिक परपज हो गया और जमीन एक्वायर कर ली जायेगी और कहीं पब्लिक परपज नहीं है।

यही नहीं, हमें दुख है कि सुप्रीम कोर्ट में हमारी गवर्नमेंट, उत्तर प्रदेश सरकार, की तरफ से अमरीका को वोट किया गया। हम तो एक सोशलिस्ट स्टेट बनते हैं, बज कि अमरीका कोई सोशलिस्ट स्टेट नहीं है, बल्कि वह पूरा कैपिटलिस्ट स्टेट है। अमरीका इंडिया को एड दे रहा है। उस की सेनेट ने कहा था कि हम इंडिया को पब्लिक सैक्टर की किसी योजना के लिये एड नहीं देंगे,

[श्री सिंहासन सिंह]

हम एंड देंगे प्राइवेट सैक्टर के लिये । आज अमरीका पब्लिक सैक्टर को एंड दे रहा है ।

जो स्टेट पब्लिक सैक्टर के बिल्कुल खिलाफ है, वहां भी पब्लिक सैक्टर है । हमारी सुप्रीम कोर्ट की इसी जजमेंट में कहा गया है कि वहां के कांस्टीट्यूशन में लिखा है :

"No private land is to be acquired unless it be for a public purpose."

इस का मतलब है कि वहां भी पब्लिक परपज का ध्यान रखा जाता है और हमारे कांस्टीट्यूशन में भी पब्लिक परपज की बात कही गई है कि बिना पब्लिक परपज के कोई प्राइवेट लैंड एक्वायर नहीं होंगी । जब वहां यह मामला पेश हुआ, तो वहां की कोर्ट ने भी आबजर्व किया कि अगर इस तरह से पब्लिक परपज के नाम पर सब जमीन एक्वायर कर लिया करें, तो सब कैपिटलिस्ट्स सब जमीनें ले लेंगे । हमारी सुप्रीम कोर्ट ने कहा कि इसी को हम एंडाइट करते हैं ।

इस सम्बन्ध में यह कहा गया कि सरकार को कम्पनियों का एजेंट नहीं होना चाहिये । लेकिन दुर्भाग्य है कि हम देखते हैं कि यह पार्लियामेंट ही इन कैपिटलिस्ट्स की एजेंट होने जा रही है । मैं निवेदन करना चाहता हूँ कि माननीय मंत्री, श्री पाटिल, काश्तकारों को रिप्रेजेंट करते हैं और हम भी काश्तकारों को रिप्रेजेंट करते हैं । हम में से अधिकतर यहां पर उन काश्तकारों के वोट्स से बैठे हुए हैं, शहर वाले पूंजीपतियों के वोट्स से नहीं । चुनाव के काम में भले ही हमें उन का पैसा मिला हो, लेकिन हम उन के वोट्स से यहां नहीं बैठे हैं, बल्कि हम काश्तकारों के वोट्स से यहां बैठे हैं, जिन की जमीन आज इस बिल के द्वारा छीनने का विचार किया जा रहा है ।

अगर हम ने इस विधेयक को पास कर दिया और इस रूप में उन काश्तकारों की जमीन ली जायेगी, तो पता नहीं, वे क्या सोचेंगे, क्या नहीं सोचेंगे, लेकिन एक बार वे यह जरूर सोचेंगे कि शायद यह गवर्नमेंट हम गरीब काश्तकारों का कम ध्यान रखती है और इंडस्ट्रीज के नाम पर पूंजीपतियों का अधिक ध्यान रखती है ।

सरकार मूल कानून, लैंड एक्वीजीशन एक्ट, के सैक्शन ४०(१) में (ए ए) जोड़ कर उस एक्ट को एनडायरेक्ली एकदम से रेपील कर रही है । उस एक्ट में कम्पनियों के लिये जमीन लेने का कहीं पर कोई प्राविजन नहीं है, सिवा सैक्शन ४० के, जिस में वर्कर्स के लिये डर्वीलिंग हाउसेज बनाने और पब्लिक यूटिलिटी के काम के लिये लैंड को एक्वायर करने की व्यवस्था की गई है । अब सरकार उस सैक्शन में ऐसा संशोधन कर रही है कि अब कम्पनी वाले कम्पनी के बनने पर शुरू में ही जमीन ले लगे, जब चाहे तब ले लेंगे और प्राइवेट नेगोशिएशंस की जरूरत नहीं पड़ेगी । पहले कम्पनी वालों को यह प्रूव करना पड़ता था कि वे प्राइवेट नेगोशिएशंस में जमीन लेने में फेल हुए हैं और उन को जमीन नहीं मिल रही है, तब गवर्नमेंट मदद को आती थी । अब यह होगा कि कोई प्राइवेट नेगोशिएशंस को जरूरत नहीं है । इस अमेंडमेंट के बाद विला किसी प्राइवेट नेगोशिएशंस के कम्पनी वाला सीधे लैंड एक्वीजीशन आफिसर को दरख्वास्त देगा कि मुझे जमीन चाहिये, मुझे जमीन नहीं मिल रही है और मुझे अमुक काम करना है, जिस से जन-समूह का लाभ होने वाला है । इस तरह जन-समूह के लाभ के अन्तर्गत आ कर सब जमीन चली जायेगी । वह किस भाव और दाम पर चली जायेगी, इस का एक उदाहरण दे कर मैं अपनी बात खत्म करूंगा ।

इसी दिल्ली शहर का मामला है । इस शहर के अग्रल बगल के काश्तकारों की जमीन

डेढ़ आना स्कवेयर फुट के हिसाब से यहां की कॉर्पोरेशन ने डेवेलपमेंट करने के लिए ली थी। वही जमीन उस ने दे दी यहां के पूंजी-पतियों को और वह जमीन सात आठ रुपये गज, कई रुपये गज, के हिसाब से बिकने लगी। प्रधान मंत्री ने पिछले होम मिनिस्टर स्वर्गीय पन्त जी, से इस के बारे में इस लोक सभा में मेरे द्वारा इस प्रश्न को उठाने पर कहा था कि यह बहुत अनुचित है और हमें इस की जांच करेंगे। जांच हुई और काश्तकारों को कुछ और दाम मिल गये होंगे, लेकिन वह जमीन उन के हाथ से निकल गई। इसी तरह सब जमीनें निकल जायेंगी।

इस बिल में यह भी कहा गया है कि यह जरूरी नहीं है कि कोई कंपनी इस प्रकार का काम कर रही हो, चाहे वह काम न करती हो, वह केवल सोचती हो कि आईन्दा काम करेंगे—इस बिल में ये शब्द हैं : “टु वि एन्वोर्ड”—, तो उस के लिए भी जमीन ले ली जायेगी। हम तो नहीं समझते कि यह बिल किसी उचित कानून या ला की परिधि या क्षेत्र से आता है, या न्याय की दृष्टि से इस योग्य है कि हम इसका समर्थन कर सकें।

उन काश्तकारों के नाम पर, जिन के हितों की रक्षा का माननीय मंत्री जी दम भरते हैं, जिन की कमाई और अन्न की उपज के बल पर वह कहते हैं कि हम ने देश में अन्न की पूर्ति करने का बीड़ा उठाया है और शायद दो चार बरस के बाद हम को इस सम्बन्ध में अमरीका की शरण नहीं लेनी पड़ेगी, हम माननीय मंत्रीजी से अपील करेंगे कि वह इस बिल के बारे में पुनर्विचार करें। वह इण्डस्ट्रीज कायम करें, लेकिन हमारी कास्ट पर नहीं, मुल्क के अन्न की कास्ट पर नहीं, इस तरह के कानून के द्वारा काश्तकारों के साथ अन्याय कर के नहीं।

मैं फिर अर्ज कर्हंगा कि हालांकि यह मूल कानून ब्रिटिश टाइम का है और ब्रिटिश सरकार हमारा कम ख्याल करती थी, लेकिन

उस ने भी प्राईवट ओनर्ज और काश्तकारों के हितों का ख्याल कर के यह कानून बनाया। हम ने अपना संविधान बनाया, लेकिन उस के आधार पर आज हम सब कुछ मिलियामेंट कर के उस कानून में ऐसा संशोधन करने जा रहे हैं, जिस से सिवा पूंजीपतियों के किसी को कोई लाभ नहीं होगा। इस संशोधन के बाद पूंजीपति जब चाहेंगे, तब कोई जमीन ले लेंगे। जहां तक दाम का प्रश्न है, पन्द्रह परसेंट क्या होता है ? उस का मिलना या न मिलना एक ही बात है और उस से कुछ बनने बिगड़ने का मामला नहीं है।

माननीय मंत्री जी यह भी सोच समझ लें कि उन के पक्ष और उन की पार्टी के आदमी ये विचार प्रकट कर रहे हैं। वे वह देखें कि कितने माननीय सदस्य बोले हैं और उन में से कितनों ने उन को सपोर्ट किया है। वह विरोधी दलों को छोड़ दें। हम तो उनके ही साथी हैं हम उन के विरोधी नहीं हैं। जब हम इस बिल के बारे में ऐसा अनुभव करते हैं, तो हम अनुरोध करेंगे कि वह भी हमारे साथ ऐसा ही अनुभव करें। इस बिल से न देश का कल्याण होने वाला है और न किसी और का कल्याण होने वाला है। हो सकता है कि पूंजीपतियों के एक वर्ग-विशेष का इस से कल्याण हो, लेकिन केवल उन के लिए ही यह पार्लियामेंट नहीं बनी हुई है। यह पार्लियामेंट सब के लिये बनी हुई है।

मैं माननीय मंत्री जी से फिर अर्ज कर्हंगा कि वह इस बिल को वापस ले लें। जहां तक आर्डिनंस के लैप्स होने का सवाल है, उस से दुनियां मिटन वाली नहीं है। जब पिछले सात महीनों में कुछ नहीं हुआ है, तो वह इस पर और विचार कर लें। वह इस को सिलेक्ट कमेटी को रेफर कर दें। अगर बहुत जल्दी है, तो चूकि यह सेशन ७ सितम्बर तक चल रहा है, इसलिये और बिजिनस को मुलतवी कर दिया जाये। सिलेक्ट कमेटी पांच दिन बैठ कर इस पर विचार करे और

[श्री सिंहासन सिंह]

सितम्बर के पहले हफ्ते में इस बिल को ले लिया जाये। इस बिल का रूप बदल कर इस को इस सदन में पास किया जाये, ताकि हम समझ सकें कि पूरा गौर करने के बाद हम ने इस को पास किया है।

श्री भू० ना० मंडल (सहरसा) : सभापति जी, अभी जो विधेयक हम लोगों के सामने आया है, उस के सम्बन्ध में कुछ बातें ध्यान देने लायक हैं।

16:47 hrs.

[MR. SPEAKER in the Chair]

अभी हाल में सुप्रीम कोर्ट में एक केस का फ़ैसला हुआ है, जिस का असर यह हुआ है कि इस देश के जो पूंजीपति सरकार के अस्थि किसी बहाने से ज़मीन एक्वायर करवाते थे, वे अब उस ढंग से नहीं करवा सकेंगे। इस का परिणाम यह हुआ कि उन लोगों ने सरकार के बड़े बड़े लोगों के बीच में आन्दोलन किया, जिस का नतीजा यह हुआ है कि सरकार की ओर से यह बिल इस हाउस में लाया गया है।

यह बिल जिस बजह से लाया गया है, उस सिलसिले में ध्यान देने की बात यह है कि सुप्रीम कोर्ट ने जिस बात की ओर इशारा किया था, वह बात सिर्फ़ प्रोसीड्यर की थी कि किस ढंग से काम होना चाहिये। सुप्रीम कोर्ट का कहना था कि ज़मीन एक्वायर करने से पहले यह बात निश्चित तरीके से साबित हो जाये कि जो ज़मीन ली जा रही है, वह पब्लिक परपज़ के लिये ली जा रही है और ज़मीन एक्वायर करने के बाद उस पर जो कुछ निर्माण किया जायगा, पब्लिक को उसे अपने हित के लिए उपयोग करने का राइट होगा।

मैं नहीं समझता हूँ कि वह सुप्रीम कोर्ट का जजमेंट किसी के खिलाफ़ था। लेकिन

सरकार ने उस बात को उस ढंग से न ले कर एक भिन्न प्रकार से कार्यवाही की, जिस के परिणामस्वरूप यह संशोधक विधेयक इस सदन के सामने लाया गया है। अगर सरकार यह समझती थी कि मूल ला के सैक्शन ४० और ४१ के साथ कुछ एक्सप्लेनेशन देने की ज़रूरत थी, तो वह एक्सप्लेनेशन भर दे देती, लेकिन ऐसा न कर के जो ला वह ला रही है, उस का यह नतीजा हो रहा है कि अब अगर पूंजीपति सरकार से कोई ज़मीन एक्वायर करवाना चाहेंगे, तो उन को इस बात को साबित करने की ज़रूरत नहीं पड़ेगी कि उन को उस ज़मीन की किसी पब्लिक परपज़ के लिये ज़रूरत है। अब वे सिर्फ़ यह एलान कर देंगे, अपने मूंह से सिर्फ़ यह कह देंगे कि जो कुछ हमारा कारोबार होगा, वह इस ढंग से होगा, जिस से देश की आर्थिक उन्नति होगी और देश के लिए जो ऐसॅशल काम है, उस में हमारा योग होगा। जो कम्पनी इस ढंग से एलान कर दे, उस के लिए ज़मीन एक्वायर हो सकती है। जो राइट पहले उन को नहीं था वह राइट अब उन को दिया जा रहा है। जिस ढंग से यह कानून बन रहा है, उस का सिर्फ़ एक ही मतलब हो सकता है कि आज देश का पूंजीपति वर्ग इतना प्रबल हो चुका है और उस का प्रभाव देश की केन्द्रीय सरकार तथा देश की राज्य सरकारों पर इतना जम चुका है कि वह जो कुछ भी चाहे, उन से करवा सकता है, अपने स्वार्थ के लिये कानून बनवा सकता है। इस में मुझे कोई आश्चर्य नहीं है कि आज की सरकार उन के इशारे पर चल रही है। आज की सरकार जो है वह पार्टी की सरकार है और पार्टी के ऊपर ही निर्भर करती है। जिस ढंग से वह कार्य कर रही है, उस से स्पष्ट है कि वह पूंजीपतियों की सरकार हो गई है, और इस में कोई सन्देह की बात नहीं है।

यह विधेयक जो हमारे सामने आया है, यह उस का एक उदाहरण है। मैं समझता

हूँ कि जिस देश में गिरोहबन्दी रहती है, अलग अलग तथा परस्पर गिरोह-स्वार्थ रहते हैं, और वे टक्कर खाते हैं तो देश की जो राजनीतिक पार्टियाँ होती हैं, उन को किसी न किसी एक गिरोह के स्वार्थ का साधन बन कर रहना पड़ता है। कांग्रेस पार्टी ने इस बात को कबूल किया है, अपने दिल से और अपने कार्य से और इस को हम देख भी रहे हैं, कि हिन्दुस्तान के पूँजीपतियों के स्वार्थ का साधन वह बनी हुई है और इसी-लिए उस ने इस बिल को इस हाउस के सामने रखा है। मैं समझता हूँ कि इस बिल से इस देश का अहित होने वाला है, देश की जनता का अहित होने वाला है, किसान का अहित होने वाला है। इस वास्ते यह जरूरी है कि इस बिल को वापिस लिया जाय। अगर सरकार इस बिल को वापिस नहीं लेगी तो मैं यही समझूँगा और देश की जनता यही समझेगी कि इस सरकार का कोई भी खयाल देश की बहुसंख्यक जनता की तरफ नहीं है और जो अल्पसंख्यक पूँजीपति वर्ग है, उस की ही यह सरकार है और उसी की खातिर इस की सारी की सारी कार्रवाई चलती है। इसलिये मैं समझता हूँ कि सरकार को इन सब बातों पर विचार कर के इस बिल को विदग्ध कर लेना चाहिये।

Mr. Speaker: Now, Shrimati Sarojini Mahishi.

Shri S. K. Patil: I thought that we were concluding the debate today. You, Sir, were kind enough to suggest this morning that this debate should go on for six hours instead of four hours. At 5 p.m. possibly about 41 hours would have been taken

I am not intervening in the debate, but I am making a suggestion to you, if the House accepts it. So far as the amendments are concerned, of course, they will come in their due course and will be considered. But before that, there were two suggestions. One was that this Bill should be circulated for eliciting opinion

thereon. Another was that it should be sent to a Select Committee. I have made some mention of that in my speech. So far as circulation of the Bill for public opinion is concerned, that is out of the question, because it has got to be done before the session ends. As for reference of the Bill to a Select Committee, I was myself very anxious, and if there had been time to have a Select Committee or a Joint Committee, I would do that, and that would be easier for me also. But, unfortunately, looking to the limited time at our disposal and the schedule of work which we have got it is not possible. In fact, I have asked the Minister of Parliamentary Affairs also as to whether it is possible to have any extension of the session etc. but that is not possible.

But there is a *via media*, which, with your permission, we can adopt. Most of the hon. Members who have spoken have suggested certain things. That means that we have the hang of the situation, if I may say so. Therefore, if the discussion on this particular Bill could be held over for three or four days, then it would be helpful, because that would give me enough opportunity to meet people etc. As for those who are opposed to it, they can oppose it when it is put to the vote. But as regards those who have got any constructive suggestions to make, if their misgivings or their fears could be removed by introducing any amendments which are acceptable to Government, Government would be prepared to do so.

Therefore, with your co-operation, I request that this Bill should be adjourned to some other day which you could fix, in accordance with the desire of the House.

Shri Daji: My submission is this. Why not accept the amendment standing in my name, for reference of this Bill to a Select Committee?

Mr. Speaker: The hon. Minister has already explained the position that there is not enough time.

Shri S. K. Patil: I am accepting nothing; I am merely making a suggestion.

Mr. Speaker: If we have to constitute a Joint Committee, that will take some time, because the other House also will have to discuss it, and when the Bill is sent there with the motion for concurrence, that will also take some time.

I think the House would agree that we might postpone this for four or five days.

Several Hon. Members: Yes, yes.

Mr. Speaker: Meanwhile, Government might consider all the suggestions made and criticisms levelled.

Shri S. M. Banerjee: I accept the suggestion. I have only to say that the postponement should be for at least a week so that that much time may be given for considering all these things.

Mr. Speaker: After the Bill is passed here, the Government have to take it to the other House and get it passed before the session ends. That is the difficulty.

Shri S. K. Patil: I leave it to you to decide and looking to the time at our disposal, fix any date.

Shri Surendranath Dwivedy (Kendrapara): I will only suggest this. Not only the opinion of those who have spoken or given notice of amendments but the opinion of all those who are interested in this might be ascertained by consultation.

Shri S. K. Patil: Leave it to me. I want to know the mind of all, apart from those whose mind is already known I would do that.

Mr. Speaker: May we take it up next Monday?

Some Hon. Members: Yes.

Shri S. K. Patil: Tuesday will be better.

Mr. Speaker: All right.

Shri R. S. Pandey (Guna): Before you adjourn discussion, I would like to make a request. Apart from those who have already spoken, there are a few Members—I am one of them—who have expressed a desire to speak. I shall be extremely grateful if you would give opportunity to them to speak before the discussion is adjourned.

Mr. Speaker: I would not conclude the discussion today then. That would be better, because when the proposals come probably a little discussion might be required. This would be continued the next day. Then we will see what the proposals are.

There are four or five minutes left. I will call upon Shrimati Sarojini Mahishi.

Shri Sonavane (Pandharpur): There are two hours still remaining out of the time allotted. We can continue discussion tomorrow.

Mr. Speaker: That is for clause by clause.

Shri S. M. Banerjee: We should not take up the clauses now.

Mr. Speaker: We are not.

Shri Daji: I very much welcome the suggestion for consultations. I do not insist upon a Select Committee. We are going to have consultations together to bring about something. So far so good. But my suggestion to you—submission almost—is that in case a new amendment is brought about, we should be allowed to discuss it in general discussion also.

Mr. Speaker: That we will see when it comes.

Shri Daji: It should not be limited to clause by clause discussion, but there should be general discussion also.

Mr. Speaker: Order, order. Unless something comes up before us, how can we in advance decide upon the course of action we would take?

✓ **Shrimati Sarojini Mahishi (Dharwar North):** Admitting the broad outlook

and the laudable object contained in this particular Bill that has been brought forward to amend the Land Acquisition Act of 1894, I must say that it would be better if it is submitted to a special committee for the opinion of experts.

Realising the significance of a developing economy and also acknowledging the importance of a socialistic pattern of society, I would say that acquisition of land for 'public purpose' is quite essential. At the same time, we should study the *pros and cons* of this also and see how far the Bill which has been introduced to amend the existing Act will be of help.

The cure for the disease must be above suspicion. If we think that the existing sections of the Act are creating complications and the decisions given by different High Courts and even by the Supreme Court are contradictory or express different opinions, we must have such a substitution of those sections as would be above suspicion. But is this particular clause which has been introduced in the amending Bill above suspicion? Or will it be in a position to give greater scope for a greater variety of interpretations by the different High Courts and the Supreme Court? That is the thing we have to consider.

17 hrs.

Article 19 of the Constitution gives an assurance of the fundamental rights of acquiring, possessing and disposing of property. That is an assurance given to every citizen by way of

fundamental rights. Article 31 says that no person shall be deprived of his property save by the authority of law. I do not think that it is necessary to read it in a positive way and say that every person may be deprived of his right to property with the authority of law. Here we find an assurance given in a negative way to the citizen. At the same time article 31(2) says that no property may be acquired or requisitioned save for a public purpose. If the property is to be acquired for a public purpose, and if the property is to be utilised for a purpose which has been recognised as public either by law or by usage or custom, then there may be no objection for the acquisition of that particular property.

What exactly the meaning of public purpose is has been a matter of great controversy. The courts have defined it in different ways, and the meaning of the expression may differ from State to State, from place to place.

Mr. Speaker: Would she like to continue next time, or would she like to conclude today?

Shrimati Sarojini Mahishi: I would like to continue next time.

Mr. Speaker: She may continue next Tuesday.

17.01 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday August 22, 1962/Sravana 31, 1884 (Saka).