

श्री शिव कुमार मिश्र : श्रीमान मैं विधेयक को पुरःस्थापित करता हूँ।

THE CONSTITUTION (AMENDMENT) BILL, 1987 (INSERTION OF NEW ARTICLE 30A (Etc.)

श्री सत्य प्रकाश मालवीय (उत्तर प्रदेश) : श्रीमान्, मैं प्रस्ताव करता हूँ कि भारत के संविधान का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति दी जाए।

The question was put and the motion was adopted.

श्री सत्य प्रकाश मालवीय : श्रीमान्, मैं विधेयक को पुरःस्थापित करता हूँ।

THE CONSTITUTION (AMENDMENT) BOX, 1985 (TO AMEND ARTICLE - SU)—Contd.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): We shall now take up further consideration of the Bill moved by Dr. Bapu Kaldate. on 13th March, 1987. Shri Bir Bhadra Pratap Singh to continue his speech.

SHRI BIR BHADRA PRATAP SINGH (Uttar Pradesh): Sir, last time, while, speaking on this Bill, I said that the proviso provided under the Constitution -was fully justifiable, was reasonable, was rational and was grounded upon substantial require*, ments and, therefore, I supported that proviso. So, in the general scheme, the opportunity has 'Been rightly abridged in the proviso. Now, I will place three provisos to justify my argument and I will explain how it is justifiable.

Now, the first, proviso says, "Where a person is "dismissed, removed or reduced in rank on the ground of conduct that has led to his' conviction on a criminal charge, etc etc.. Now, why should it be argued at all that a criminal should be allowed to continue in Government service? If, that is the only rationale behind this proviso then any argument to the contrary, that is, that a criminal person must

be allowed to continue in Government service would be a preposterous proposition and I think Dr. Bapu Kaldate will agree with my contention that in no case should a criminal be allowed to continue in Government service and if a criminal is allowed after conviction, a second innings is provided in the general scheme of (1) and (2), Then it will take another twenty years and by the time the superannuation comes, the criminal will continue in service. Therefore; - the proposition that this proviso is unreasonable is an untenable proposition., Now, Sir, I come to proviso (c) to article 311(2) which says like this:

where the Presidents or the Governor as the case may be 'is satisfied that in the interest of security of the State it is not expedient to hold such an inquiry. "

Now, the highest authority in the, State—not in any way a partisan authority, because both the President and the Governor, whatever may be the mode of their appointment to their respective posts, are supposed to be Constitutional. heads and impartial authorities—should be satisfied and the power vested in them requires that he is to be satisfied that in the interest of the security of the State it is not expedient to hold such an inquiry. So, I think no reasonable man in this country would question the wisdom which lies in such an authority who is the highest authority under the Constitution, who is the Constitutional authority in the State, and he does it for" a limited, purpose, that is, in the interest of the security of the State.

Now, I come to the most controversial part of it; that is, sub-section (b). Now, the power may be different, but the safeguard is provided in subsection (b) itself and If some statute provides a safeguard in itself, then it is a double" safeguard, Probably that was subjected to attack when Br. Bapu Kaldate enunciated this amendment under which the authority empowered to dismiss *tea* remove a person *or*