

[Shri Bhupesh Gupta.]

might make a brief speech; that is all. I know you need not say anything more, all the same you can have the Bill through. It is a profound Bill and we support it.

^MR. CHAIRMAN: The Bill, as you know, has been discussed and passed by us. These are just changes of detail in the figures.

SHRI BHAKT DARSHAN: Sir, this Bill has already been discussed by this House threadbare.

SHRI MULKA GOVINDA REDDY (Mysore): There are many Members who could like to participate in the discussion on this Bill.

MR. CHAIRMAN: But I would insist on relevancy if they want to speak. If they can speak relevantly, if they want '1963' to remain advancing cogent reasons, I would allow them.

SHRI BHUPESH GUPTA: We can speak on what they proposed to do for Hindi in 1964 compared to what they said in the matter in 1963.

MR. CHAIRMAN: I admit your resourcefulness, but I think I would be allowed to put the question.

(Shri M. Satyanarayana rose to speak.)

MR. CHAIRMAN: Everybody has had a say on this Bill. I can give you a whole day if you like, but it is not proper at this stage. These are just minor changes of detail.

The question is;

"that the following amendments made by the Lok Sabha in the Dakshina Bharat Hindi Prachar Sabha Bill, 1963, be taken into consideration, namely:

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Enacting Formula

(1) That at page 1, line 1, for the word 'Fourteenth' the word 'Fifteenth' be substituted.

(2) That at page 1, line 4, for the figure '1963' the figure '1964' be substituted."

*The motion was adopted.*

SHRI BHAKT DARSHAN: Sir, I beg to move:

"That the amendments made by Lok Sabha in the Bill be agreed to."

*The question was put and the motion was adopted.*

**THE GOA, DAMAN AND DIU JUDICIAL COMMISSIONER'S COURT  
(DECLARATION AS HIGH COURT)  
BILL, 1964**

MR. CHAIRMAN: We shall now take up the Bill relating to the Goa Daman and Diu Judicial Commissioner's Court,

THE MINISTER OF STATES IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRIMATI LAKSHMI N. MENON) : Sir, I beg to move:

"That the Bill to declare the Judicial Commissioner's Court for Goa, Daman and Diu to be a High Court for certain purposes of the Constitution, as passed by the Lok Sabha, be taken into consideration'.

Sir, this is a very simple Bill and I should not really attempt to make a long speech. But last time when I was moving the Bill on the Armed Forces, the Leader of one of the Opposition Groups complained that the introduction of the Bill should be a little more detailed. Therefore, I would like to point out, Sir that the purpose of this Bill is only to extend the powers of the High Court to the Judicial Commissioner's Court, which is functioning in Goa. Sir, this Bill

also repeals section 7 of the Goa, Daman and Diu (Administration) Act, 1962, which this House passed in 1962. The reason is this. Before the appellate power could be extended, before the appellate power of the High Court could be extended to Goa, there was a proposal to make the Judicial Commissioner's Court a High Court so that the Appellate Court which was already existing in Goa—the Tribunal—could be revived and the poor litigant would not have to go to Bombay with his appeal. Even the most violent opponents of this Bill have to admit that this change would be to the advantage of the poor litigant. The litigant will have his appeal moved in Goa itself and this is a great advantage. Of course, the appeal will lie from this Court to the Supreme Court. You know the number of people who would like to take their appeal to the Supreme Court is small and therefore, it is not really any hardship at all.

One thing I would beg to the House and that is that. We should not bring in any extraneous matter into the debate. In the other House when this Bill was discussed there was a good deal of discussion on the problem of merger and the question whether Goa should be merged with Maharashtra or some other State, was also asked, and also why we should talk repeatedly of consulting the wishes of the people before we determine the status of these former Portuguese territories, and this brought in a good deal of heat to the discussion. All this is completely irrelevant and outside the scope of this Bill. The question of the merger of this Union Territory with any adjoining State is a different problem and it will have to be tackled on a different level. As far as this Bill is concerned, we have only two problems. One is the repeal of section 7 of the Goa Daman and Diu (Administration) Act of 1962. The other is the investing of the Judicial Commissioner's Court

with the powers of the High Court. This is not anything contrary to the Constitution, because article 241(1) allows this and this in line with the practice prevailing in the other Union Territories.

The second thing that I would like to emphasise in this House is this. The question is asked as to why the External Affairs Ministry should be hanging on to this Territory, when the other Union Territories are being administered by the Home Ministry. I would say that we should not think of the External Affairs Ministry as something external to the Government of India. Under the Constitution, any Ministry can be given the responsibility as far as the administration of any part of India is concerned. Therefore, because of the background of these Territories and because of the problems which still remain to be tackled, we have done this. After all, we must remember that all the laws are not extended to Goa yet. They are being extended. Also because of the anxieties of the people with regard to the future of Goa it is necessary that the transformation of these territories as parts of India or as administration of the Home Ministry will have to go slowly and agreeably, without creating conflicts and violence in Goa. After all, all of us are interested, not in the question whether a particular part of India should belong to a particular State or not, but we are interested that all parts of India should develop, so that the country and our economy can be strengthened politically as well as economically. We are also anxious that the unity of India should not be disturbed or disrupted by outbursts of violence due to misinformed information about what is happening in the country. After all, Goa was a Portuguese colony for nearly 430 years or so and there, and in the adjoining States also, there were attempts of the people to liberate themselves. But they did not succeed and we had to take military action in order to li-

[Shrimati Lakshmi N. Menon.]  
berate Goa, Daman and Diu. AU these Territories have been outside the main stream of deveJopment in this coun try. There was no proper education al system. There was no democratic institution and there were no plans for economic development. They have now come within the fold of th2 larger Union and it is the responsibility of the Government now to see that these Territories are brought in line with the rest of India. All these problems are there which have to be tackled. Therefore we should not waste time discussing these things now. The im mediate problems that this Bill tries to contemplate are, as I mentioned, only two. One is the extension of the powers of the High Court to the Judicial Commissioner's Court. The other is the repeal of section 7 of the Goa, Daman and Diu (Administration) Act.

The question may be asked as to what was the Government doing in 1962 when this Bill was introduced and why this right of appeal is boing introduced in this way. This has led to the speculation, particularly in the other House, that this might be a sinister project of the Government to prevent this territory becoming part of the adjoining State.

SHRI G. RAMACHANDRAN (No-  
minated): Who has said it?

SHRIMATI LAKSHMI N. MENON: It was said in the other House and we receive memoranda and letters from various groups whether this should be done or should not be done, and I am sure hon. Members are aware of it if they are interested in the Bill and if they interested in what js happening in Goa Daman and Diu. But I would like to say that Government are interested only in making justice easily available to the people of Goa, Daman and Diu. This is also urgent, because a number of appeals are pending, appeals which normally go to Portugal. The Portuguese Government when they knew that the peo-

ple were not willing to abide by Portuguese rule, refused to take these appeals. Therefore, you find all these appeals which were pending before December 1991 are there and they have to be taken into account. Therefore this is necessary and it is urgent that these powers should be extended the powers of the High Court should<sup>1</sup> be extended, to the Court of the Judicial Commissioner, so that justice may be made easily available to the people.

Sir, I have great pleasure in moving for consideration of this Bill.

SHRI B. K. P. SINHA (Bihar) Is the strength of Judicial Commissioner's Court only one or more than one?

SHRIMATI LAKSHMI N. MENON: One.

Mr. CHAIRMAN: Could not be less.

*The question was proposed.*

MR. CHAIRMAN: There is an amendment standing in the name of Mr. Desai.

SHRI D. B. DESAI (Maharashtra): Sir, I beg to move:

"That the Bill to declare the Judicial Commissioner's Court for Goa, Daman and Diu to be a High Court for certain purposes of the Constitution, as passed by the Lok Sibha, be referred to a Select Committee of the Rajya Sabha consisting of the following members, viz.—

1. Shri Bhupesh Gupta.
2. Shri P. K. Kumaran.
3. Shri Mulka Govinda Reddy,
4. Shri R. S. Khandekar,
5. Shri A. B. Vajpayee,
6. Shri A. D. Mani,
7. Shri G. Murahari,
8. Shri J. Venkatappa,
9. Shri K. V. Raghunatha Reddy and;
10. Shri M. M. Dharia
11. Shri D. B. Desai (the mover)

With instruction to report by the  
5th May, 1964".

*Court!*

Sir, this Bill which seeks to declare the Judicial Commissioner's Court of Goa, Daman and Diu to be the High Court for the Goa Territory is brought under article 241(2) of the Constitution.

[THE DEPUTY CHAIRMAN in the chair]

Madam, the hon. Minister has explained the reasons and the background for bringing forward this Bill. She has said that the Bill is a simple one. She also gave the reasons which made Government come forward with a Bill of this type. She also came out "with another reason, a sort of apologetic defence. She said that no political arguments should be brought in. Perhaps the hon. Minister thinks that the entire legislative procedure of the Parliament or of this House is without politics. In fact, it is not so. The Bill that is before us seeks to declare the Judicial Commissioner's Court to function as the High Court overriding an earlier decision of Parliament. Government is thus coming forward with a Bill to repeal the original decision of the Parliament. Section 7 of the Goa, Daman and Diu Administration Act requires, the Government of India to issue a notification extending the jurisdiction of the Bombay High Court. While this Act was passed in 1962, such a notification extending the jurisdiction of the Bombay High Court to Goa, Daman and Diu has not so far been issued. Whatever may be the reasons, behind this decision, it cannot be denied that there are certain political reasons but before going into the merits, the political merits, of the Bill, I would like to deal with administrative and legal issues arising out of this Bill.

This Bill wants to declare the Judicial Commissioner's Court to be the High Court. What is the Judicial Commissioner's Court? This Judicial Commissioner's Court was established under the Regulations issued by the President. This Regulation was issued on

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the 11th December 1963 and this was notified under section 1(3) in the official gazette on the 16th December, 1963, that is to say, this Judicial Commissioner's Court came into existence in the month of December, 1963. The Regulation referred to by me was issued by the President under the Constitution which empowers him to issue Regulations for the good conduct of Government or peace and progress of a particular area. There is also another provision which says that President cannot issue any regulation after the date set for the meeting of the legislative authority of the particular area. The Goa, Daman and Diu Assembly was convened on the 9th January, 1964, while this Regulation was issued in the second week of December. There was a gap of hardly twenty days. May I ask the Minister of State whether there were any political reasons behind this move? When the Legislative Assembly of Goa, Daman and Diu was competent to declare any court in the particular area to be the highest judiciary machinery in a State why did the Central Government come in, with the help of the President, to prevent the people of Goa, Daman and Diu having a court according to their own wishes? The Minister went on to explain that there was no sinister motive. If at all I have to charge them with having motives, I can go still further. She herself has explained that there was no motive and as an honourable gentleman perhaps I may accept the fact that there is no motive but will the Minister explain why this has been done?

There are certain other things also. The present Bill, under clause 6(a) provides that the provisions of articles 216, 217, 218, 220, 221, 222, 223; 224, 224A, 25, 230 and 231 shall not apply in respect of the Judicial Commissioner's Court. The Bill seeks to declare the Judicial Commissioner's Court to be a High Court but that so-called High Court is to be restricted by not applying certain provisions of

[Shri D. B. Desai.] the Constitution which apply to the judiciary. These specific articles provide for the salary and status of the Judges of the High Court and certain powers of the High Court. The so-called Judicial Commissioner who is empowered to deal with cases under this Regulation will also be a man of status equal to that of a Judge of the High Court. That is true but who is to appoint him? Only the President can appoint him and under the Constitution the President appoints the Judges under his own seal but in the case of the appointment of the Judicial Commissioner, there is no mention of the President's seal. Thus there seems to be some difference in the status of a Judge of the High Court and the Judicial Commissioner of Goa, Daman and Diu. May I ask the Minister why such a distinction is being made? Is there any special reason or is the intention of the Government that the people of Goa should be degraded to the position of second class citizens?

The Regulations provide for advocates, pleaders and lawyers and those who were practising before in the original Portuguese Court in Goa are entitled to practice before the Judicial Commissioner's Court. And one more provision is there that only advocates can practise in this particular court. May I ask the Minister of State here is the Advocates Act applicable to Goa? According to my knowledge—I have gone through all the notifications possible in the library—the Advocates Act is not applicable to Goa. Will not there be any possibility of the lawyers the advocates or the pleaders practising in that court becoming liable for prosecution for some misconduct or something? If so under what procedure are they to be dealt with? There is no provision available. These are some of the technical legal and administrative matters which have been overlooked by the Government of India before bringing this measure before the House. Therefore I say that be-

hind this overriding of the extension of the Bombay High Court which had been intended by the Government previously is some political thinking in the mind of the Government of India and I want to know what that political thinking is. The Minister of State has said that the future of Goa, Daman and Diu should not be linked up with this Bill. She says this is a simple legislative piece but a peculiar position has arisen during the debate in the Lok Sabha. As the Minister herself declared none of the participants in the debate on the Bill supported the Bill. I say, leave aside political considerations but even on technical and legal grounds the Bill was opposed but still it has been passed. That is an anomaly.

AN HON. MEMBER: Party whip.

SHRI D. B. DESAI: May be party whip, but let us hope here it won't be so. This political background is quite important. The territory of Goa, Daman and Diu has got its own Assembly. There, there is one ruling party and one opposition party. At the same time there is the Congress Party which has not been represented in the Assembly. (Interruptions) Anyway both the parties in the Assembly, that is, the ruling party and the opposition party have expressed the desire that this Bill should not be adopted and they have requested the Government of India not to proceed with this. The United Goans Party and the Congress Party have urged the Government to carry this Bill through and put it into practice as early as possible. These are the two conflicting views in Goa and therefore I want to get myself clarified whether the Government of India which controls this territory of Goa, Daman and Diu is not going to consider the majority viewpoint there. Has the Government of India taken the advice of the Gov-

eminent of Goa? According to my knowledge they have not. The Government of India has not taken any advice; it has not consulted the Goa Government. What is the reason for that? I find from the speech of the Minister of State in the Lok Sabha that she has said that one Secretary of the Law Ministry had gone to Goa and he had reported that the High Court of Bombay would not be able to cope up with the business which might come up from Goa.

SHEIMATI LAKSHMI N. MENON: I never said that in the other He use.

SHRI D. B. DESAI: I think it is here. She has said this: "The Law Secretary said that it is extremely doubtful that the Bombay High Court would be able to dispose of the Goa cases as long as they are governed by the Goan and Portuguese law."

SHRIMATI LAKSHMI N. MENON: That is Law Secretary's opinion; not mine.

SHRI D. B. DESAI: I am telling the •amp  
ihing.

AN HON. MEMBER: He is quoting your quotation.

SHRI D. B. DESAI: But, Madam, you are well aware that High Courts in India can deal with any law. There are people conversant with almost all laws of the world; there are people who are conversant with almost all the legal systems in the world. And especially the Bombay High Court is supposed to be one of the best High Courts. The Bombay Bar traditions have been one of the best in the country. It is recognised the world over and still our Law Secretary reports to the Government of India that the Bombay High Court cannot cope up with the cases arising out of Portuguese law. Then how is it possible that any advocate or attorney-general in the Judicial Court will be able to dispose of cases or advise the Court?

If there is not a single person in Bombay, who else can deal with Portuguese law? Is there any other person in other High Courts or in the Law Ministry? Therefore I want to know why the Government of India has not consulted the Goa Government, why the advice of the Government of Goa has not been taken before proceeding with this Bill. May I also ask the Minister of State, was the Bombay High Court consulted because under the Goa Administration Act, section 7, the Bombay High Court's jurisdiction was to be extended to Goa? So I want to know whether the Bombay High Court has been consulted before that section was intended to be repealed. Under these circumstances there are some doubtful positions which the Government of India have taken and I want the Minister of State to explain all these things. I would like therefore that the Minister of State should either withdraw this Bill or refer this Bill to the Select Committee because in the Select Committee—the time may be short, I know—we can clear many of the doubts, we can clear the technical difficulties and we can clear the legal difficulties. If the Government of India feels that justice should be taken to the homes of the people let us at least see that we do full justice to the intentions of the Government and create a regular High Court in Goa. As far as my knowledge goes, the Bombay High Court was prepared to establish a Bench of its own in Goa. The Bombay High Court had a library and other things regarding Portuguese law. In spite of all these I want to know why this decision has been taken by the Government. As I said there are some political reasons. The Minister of State is probably thinking that these are irrelevant things. But in the peculiar situation they have been very relevant. This legislation which is supposed to be simple has been brought forward with a political intention, with a political motive and in a political background. I do not dispute about which Ministry should deal with the Union territory

[Shri D. B. Desai.] of Goa. If the Ministry of External Affairs wants to deal with it, I have no objection. They may do it. Perhaps there might be inter-Ministry bickerings. I do not want to go into them. That is a privilege of the Government. But in Goa there are certain trends which the Government of India is supporting and that is a purposeful support. It is not a support on grounds of good Government, on grounds of democracy and on grounds of secularism. No. The Government of India supports the claims of those who are trying to separate Goa from. . .

SHRI B. K. GAIKWAD (Maharashtra) :  
Maharashtra.

SHRI D. B. DESAI Not Maharashtra. I do not wish to go into the dispute whether Goa should be merged in Maharashtra or not. But the views of those who want to establish or perpetuate separatist tendencies in the Indian continent, in the Indian nation, are supported by the Government of India. The United Goans Party and their supporters for the last one year have been advocating that Goa's culture is independent. Are they not Indians? Suppose there are some Punjabis, there are some Bengalees, there are some Hindus, there are some Muslims and Christians, are they not Indians? Have they got a separate independent culture which overrides the whole Indian culture? But that stand has been supported by the Government of India. I will give you one or two instances. In the last four or five months the Government have sanctioned something like Rs. 70 lakhs on cultural demands, for renovating some churches, for renovating some buildings and some historical or archaeological things. I have heard this from the Chief Minister of Goa. He declared it at a public meeting in Kolhapur. May I know whether Goa started its culture after the Portuguese invasion?

Was there no culture before the Portuguese came to India? There were a number of archaeological places, but they have been neglected by the Government of India.

SHRI A. D. MANI (Madhya Pradesh) :  
What were the archaeological things?

SHRI D. B. DESAI: I do not know. The Government have sanctioned Rs. 70 lakhs.

SHRIMATI LAKSHMI N. MENON:  
'Seventy'?

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SHRI D. B. DESAI: Yes, it is Rs. 70 lakhs and not Rs. 17 lakhs. That has been told publicly by the Chief Minister. Moreover, since last January an organisation has been constituted in America to establish a Kie Eastern Centre of Roman Catholics in Goa. As there is one in Rome, one in Africa, they want one in India, in South East Asia. The centre for South East Asia is to be established in Goa. Mr Stevenson has sent his blessing for that organisation. They have started collecting funds. These funds have to be spent in Goa. They have already sent Rs. 12 lakhs for the election of the United Goans Party. The receipts have been forwarded to the Government of India. I am aware of it.

SHRI NIREN GHOSH (West Bengal): Is there politics also?

SHRI D. B. DESAI: Yes, not only politics, in fact, they are not cultural. They want that the Goa administration should be kept separate, so that there is a separate culture, separate territory and a separate everything. And this tendency has all along been supported by the Government of India. If at all the Minister of State or the Government of India does not want to mix up these issues, then at least the Government of India should try to see that legislative action and administrative action should not be in collaboration with those outsiders. If at all the original intention of the

Government of India was a separate High Court for Goa, in fact, the people of Goa would not have grumbled. They would have said: Sometime we will have our own High Court or the High Court of Maharashtra, whatever it may be. Look at the steps taken, one after another. That Regulation has been issued just twenty days before the Assembly's first meeting. Under that article the President cannot issue Regulations after the Assembly's first sitting. So, only twenty days before it has been done. Another thing is that section 7 of the Goa Administration Act has not been applied for one year and in the chain of circumstances this Bill is coming up. Does the hon. Minister of State here want to say that in spite of all this, the people of Goa or the entire people or the House here should consider that the intentions of the Government of India are such that there are no political motives behind all these? So, I again urge the Government of India to withdraw this Bill.

I think, Madam, I should amend some names here, because some people want to speak on this Bill. So, instead of Mr. Gupta, Mr. M. N. Govindan Nair and instead of Mr. Murahari, Mr. Kureel should be included.

SHRI M. M. DHARIA (Maharashtra): I want to speak on the Bill.

THE DEPUTY CHAIRMAN: Will you please read out your fresh list?

SHRI D. B. DESAI: I want 10 make only two changes.

THE DEPUTY CHAIRMAN: You may read out the new list.

SHRI D. B. DESAI: The new list is: —

1. Shri M. N. Govindan Nair
2. Shri P. K. Kumaran
3. Shri Mulka Govinda Reddy
4. Shri R. S. Khandekar
5. Shri A. B. Vajpayee.

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6. Shri A. D. Mani

7. Shri P. L. Kureel Urf Talib

8. Shri J. Venkatappa

9. Shri K. V. Raghunatha Reddy and

10. Shri D. B. Desai (the mover).

THE DEPUTY CHAIRMAN: I think, either you must consult the Member.\* concerned Mr. Desai before you put up their names or the Members should agree to be on the panel. Then alone you should give their names.

SHRI D. B. DESAI: Excuse me, Madam. I thought everybody agreed, but now they want to speak. After I have made some points they desire to speak here. It is barred by the inclusion of their names here.

THE DEPUTY CHAIRMAN: Anyway, I am accepting your amendments in the list of names.

SHRI D. B. DESAI: I beg to be excused. Mr. Mani wants some more explanation from me about the organisations which have been established in America.

THE DEPUTY CHAIRMAN: It is nearing one o'clock now and I hope you will wind up. There is only one more minute.

SHRI D. B. DESAI: I shall continue after lunch.

THE DEPUTY CHAIRMAN: You have taken almost over half an hour. Do you not want others to speak?

SHRI D. B. DESAI: Just five or ten minutes more.

THE DEPUTY CHAIRMAN: Do you want to exhaust all their points?

SHRI B. K. GAIKWAD: He is the main speaker. Please let him continue.

THE DEPUTY CHAIRMAN: You may wind up.



SHRI D. B. DESAI: This is an important point which I want to deal with here. This organisation, which has been established; in America, has circulated its literature in Goa now. They have declared that the Roman Catholic Christian culture is in danger, especially in the hands of non-Christian and non-religious people. They say if at all we want to save, we want to save the entire South East Asia and in India we cannot find a suitable centre except Goa. Those people are collecting millions of dollars for this purpose. (Interruption) It was blessed by Mr. Stevenson. In fact the members of the Working Committee of that organisation are 50 per cent Portuguese who are staying in America; the rest are some Americans, some Englishmen, some Italians and some from other countries. That is the organisation which is backed by American money and backed by Portuguese cliques. They want to re-establish their centre in Goa. That is the only information. If at all some Members want or the Minister of State wants additional evidence, I hope that the Government of Goa might assent to give that. They know it. We are prepared to give all the literature, if necessary, and I will bring all the literature in the next session.

*The question was proposed.*

THE DEPUTY CHAIRMAN: The House stands adjourned till 2-30 P.M.

The House then adjourned for lunch at one minute past one of the clock.

The House reassembled after lunch at half-past two of the clock; the VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) in the Chair.

श्री पंडरीनाथ सोताराम जी पाटिल  
(महाराष्ट्र): उपसभाध्यक्ष महोदय, यह जो  
गोआ, दमन और दीव के लिये अलग हाई कोर्ट

बनाने का विधेयक इस सभा के सामने आया है, उसके ऊपर मैं अपने कुछ विचार आपने सामने रखने का इरादा करता हूँ।

चार सौ साल पहले गोआ के ऊपर पुर्तगाल के लोगों ने अपना कब्जा किया, तब से उसके आजाद होने तक यानी गोआ भारतीय गणराज्य में आने तक, वहाँ के लोगों के ऊपर फिरंगियों का मनमाना राज्य चलता रहा। उसमें कोई तरक्की उस प्रदेश की हुई नहीं। दो साल पहले वहाँ के लोग आजाद हो गये। पिछले कुछ सालों में गोआ के उन लोगों ने अपनी आजादी की लड़ाई लड़ी। बड़ा भारी उन लोगों ने त्याग किया, धे जेल गये, कुछ लोगों को गोली से मार दिया गया और कुछ लोगों की ऐसी नीबट आ गई कि उनको अपनी इस्टेटों को और घरों को छोड़ देना पड़ा। बड़ी मुसीबत के साथ उन लोगों ने लड़ाई लड़ी। उस संघर्ष में वे लोग आजाद हो गये। आजादी के बाद अभी पिछले साल १९६३ में भारत सरकार ने वहाँ पर आम चुनाव कराया। उस चुनाव में वहाँ तीन पार्टियाँ लड़ीं। एक तो कांग्रेस, दूसरी महाराष्ट्रवादी गोमांतक पार्टी और तीसरी यूनाइटेड गोअन्स पार्टी। उस में महाराष्ट्रवादी गोमांतक पार्टी बहुमत से चुनी जा कर आ गई और उनकी गोआ में प्रादेशिक सरकार बन गई। वहाँ की जनता जो है वह ऐसा चाहती है कि गोआ का महाराष्ट्र में मिलन किया जाय, लेकिन अभी तक भारत सरकार ने उसके ऊपर ध्यान नहीं दिया और आज यह बिल ऐसा लाई कि जिस में गोआ का एक अलगवापन महसूस होगा। वस्तुतः गोआ केलिये एक स्वतंत्र हाई कोर्ट बनाने के लिये वहाँ की जनता की राय भारत सरकार को पहले लेनी चाहिये। लोक लोकशाही के युग में, गणतंत्र के जमाने में ऐसे महत्वपूर्ण आयोग पर लोगों की राय लेने का एक मात्र साधन है वहाँ की असेम्बली से पूछना तथा वहाँ के जो यहां

पार्लियामेंट में मेम्बर बैठे हैं उनसे पूछना तथापि इस प्रश्न में वैसा हुआ नहीं। पार्लियामेंट में गोआ के दो मेम्बर चुने जा करके आये हुये हैं जिनमें एक का नाम है श्री शीके और दूसरे का नाम है श्री पीटर अल्वारिज, ये दोनों भी गोआ के लिये स्वतंत्र हाई कोर्ट हो, इस ख्याल के नहीं हैं। उन्होंने लोक सभा में अपनी स्पष्ट राय गोआ में अलग हाई कोर्ट खोलने के विरोध में दी है। वे दोनों मेम्बर गोआ के महाराष्ट्र में विलय करने के पक्ष में हैं और उसी बुनियादी के ऊपर चुनाव लड़ करके भारी बहुमत से जाकर वे आये हैं। वहां जो लोकतंत्र सरकार बनी है पिछले साल वह महाराष्ट्रवादी गोमांतक पार्टी की है। उनकी पार्टी के नाम से यह स्पष्ट होता है कि वहां के बहुसंख्य लोग गोआ का विलय महाराष्ट्र में हो इसके पक्ष में है। वहां की जनता मराठी भाषीक है और वे अपनी भावी प्रगति के लिये महाराष्ट्र राज्य में मिलने की बड़ी उत्सुक है? अपना अलग हाई कोर्ट नहीं चाहती आज गोवा का इलाका बम्बई की हाई कोर्ट से जोड़ दिया गया है यानी महाराष्ट्र के हाई कोर्ट के नीचे वह आज है। बिल्कुल ठीक है ऐसी परिस्थिति होने के बाद यह बिल इस सभा भवन में क्यों आता है? शासन की तरफ से कहा यह जाता है कि वहां की जनता की ही यह मांग है इस लिये यह बिल हाउस के सामने आया है। मुझे नहीं समझ में आता कि वह कौन सी जनता है जिसकी यह अलग हाई कोर्ट होने की मांग है?

मैं आपके सामने इस संबंध में स्पष्ट बात रखना चाहता हूँ कि पुर्तगाल सरकार ने गोआ के लोगों में वहां के अल्पसंख्यकों का ऐसा एक वर्ग निर्माण करके रखा था जो शासन के सहारे वहां की जनता का आर्थिक शोषण करके पुर्तगाल सरकार की मदद करे। गोआ की जनता जब अजादी की लड़ाई पुर्तगाल के विरोध में लड़ रही थी तब उस वर्ग के लोगों ने जनता को कुचल डालने में पुर्तगीज सरकार

को पूरी मदद दी थी। अब अजादी के बाद जब गोआ में असेम्बली चुनाव के हुये उनमें जो पार्टियां लड़ी थीं उनमें एक यूनाइटेड गोअन्स पार्टी के नाम से कही जाती है। उस पार्टी के लोग वे हैं जिनका मैं ने अभी उल्लेख किया है कि वह सदा के लिये गोआ में पुर्तगाल का राज्य कायम रखना चाहते थे। आम चुनाव में जनता ने उनको हरा दिया। तो अब उन लोगों की मांग है कि वहां गोआ में एक अलग हाई कोर्ट हो। वस्तुतः उतने पर वे लोग संतुष्ट नहीं हैं। उनके दिल में दूसरी बात भरी हुई है जो आज परिस्थितियों के कारण वे लोगों के सामने बोल नहीं सकते। छुपाते हैं। उनके दिल में उनके मन में तो एक आजाद गोआ का चित्र है। वे इस तरह का स्वप्न देख रहे हैं कि आज नहीं तो कल या कुछ दिनों के बाद गोआ में पुर्तगीज वापस आयेगे अथवा गोआ का एक अलग स्वतंत्र राज्य बनेगा। उधर पुर्तगाल में भी वही खयालात है। भारत के गोआ लेने के बाद पुर्तगीज गवर्नमेंट ने यू० एन० ओ० के सामने जो अपनी कंफियत रखी थी उसमें उन्होंने यह कहा था कि गोआ पुर्तगाल का एक हिस्सा है यानी गोआ पुर्तगाल का एक अभिन्न अंग है इस तरह का दावा उन्होंने किया था। गोआ भारत का इलाका अथवा अंग है यह पुर्तगाल सरकार आज भी मानने को तैयार नहीं है। दुनिया की राजकीय परिस्थिति दिन प्रति दिन बड़ी बदलती रहती है। हमको और हमारी सरकार को यह ध्यान में रखना चाहिये कि जब यह सवाल यू० एन० ओ० के सामने आया था और हमारी सरकार ने गोआ के ऊपर पुलिस ऐक्शन लिया था तो उस वक्त हमारे भाने हुये दोस्त अमेरिका और इंग्लैंड पुर्तगाल की तरफ झुक गये थे। आगे कुछ दिनों के बाद अगर हमने यह आज की अलगवापन की नीति गोआ के साथ कायम रखी तो काश्मीर जैसा यह एक और नया संकट हमारे देश के सामने आयेगा।

[श्री पंढरीनाथ सीताराम जी पाटिल]  
मालूम नहीं हमारी सरकार ऐसा क्यों करती है। पिछला अनुभव होने के बाद तो उसे होशियार होना चाहिये उसे कुछ सीखना भी चाहिये। हमने १५ साल पहले काश्मीर का विलय किया होता संविधान की ३७०वीं कलम से उसे अलग नहीं रखते जैसे कि हैदराबाद, ग्वालियर, मंसूर अथवा बड़ौदा इत्यादि स्टेट्स को अपने देश में विलीन कर दिया था उसी माफिक काश्मीर को भी उस समय विलीन किया होता तो आज की जो ये उलझनें हैं झगड़े हैं वे पैदा नहीं होते। उस वक्त हमने काश्मीर के बारे में जो गलती की उसी माफिक गलती हम गोवा के बारे में भी करने जा रहे हैं ऐसा मुझे मालूम होता है।

गोवा तो एक छोटा सा प्रदेश है एक बड़ा जिला भी नहीं है महाराष्ट्र में, यू० पी० में, या हमारे देश के दूसरे प्रदेशों में बड़े बड़े जिले हैं जिनकी लोकसंख्या जनसंख्या २० लाख और १५ लाख तक की है उनके समान देखा जाय तो गोवा एक छोटा सा जिला है उनके आगे वे बराबर भी नहीं हैं तो इतने छोटे विभाग के लिये अलग से हाईकोर्ट बने उसको अलग से रखें अलगवापन हम कायम करें यह बोर्ड समझदारी की बात नहीं है यह भविष्य में संकट पैदा करने वाली बात है। हमारी सरकार की कुछ आदत सी मालूम होती है कि जानबूझ कर कोई एकाध संकट मोल लेता है ताकि आगे चल कर खुद भी परेशानी में गिर जायें और देश को भी परेशानी में डाल दें—ऐसी गोवा के बारे में भी सरकार की आज की बड़ी भूल की नीति मालूम होती है। भविष्य में यह एक संकट पैदा करने वाली है क्योंकि जगत की परिस्थिति कौन दिन कैसी होगी कुछ कहना नहीं जा सकता है। आज हम कुछ संकट महसूस नहीं करते जैसे १५ साल पहले काश्मीर के लिये हम संकट महसूस नहीं करते थे और आज वह पैदा हुआ है आज वह सामने खड़ा हो गया है वैसे ही गोवा का भी

कुछ दिनों के बाद एक दूसरा संकट हमारे सामने खड़ा हो सकता है। पुर्तगाल के लोग यह हमेशा कोशिश करते रहेंगे कि भविष्य में गोवा उनके राज्य में आ जाय वैसे विचार रखने वाले कुछ लोग आज गोवा में भी हैं जो भारत के बदले पुर्तगाल के साथ ईमानदार हैं। वह चाहते हैं कि गोवा पुर्तगाल में फिर वापस आ जाय और उन्हीं लोगों की मांग है कि वहां हाईकोर्ट अलग से होना चाहिये हो सकता है कि उनके हृदय-परिवर्तन के लिये उनकी इस मांग पर हमारी सरकार ऐसी कार्यवाही करती हो—तथापि उनका हमको अंदेशा है। वहां की लोक नियुक्त प्रशासक सरकार तथा वहां से चुने जा कर पार्लियामेंट में आये हुए सदस्य जो वहां के लोगों का सही प्रतिनिधित्व करते हैं उनकी राय ले कर यह बिल लाया होता तो हम कुछ भी नहीं कहते लेकिन उनको पूछ कर यह बिल आया नहीं है।

अस्तु अब मैं फिर अपने कांग्रेस के मित्रों को कांग्रेस पार्टी के अपने नेताओं को यह याद दिलाता हूं कि १९५६ ई० में भारत में भाषा के आधार पर प्रदेश बनाये उस समय मराठी भाषा वालों का एक महाराष्ट्र प्रदेश बनाना, इस तरह से वहां के लोगों ने जो मांग की थी उसको केन्द्रीय सरकार ने न मानकर मराठी, और गुजराती का मिलाकर एक नया द्विभाषी बम्बई राज्य निर्माण किया। उस वक्त मराठी विभाग में एक भाषीय राज्य का बड़ा भारी आन्दोलन हुआ, खास कर के बम्बई में, और उस वक्त बम्बई शासन से बंदूक की गोली चलाई गई, माननीय श्री मंत्रारजी भाई देसाई वहां के मुख्य मंत्री थे, १०५ आदमी गोली से मारे गये, बाद में वहां के असेम्बली के चुनाव हुए, परिणाम यह हुआ कि मध्य महाराष्ट्र में, जो पुराना महाराष्ट्र था, उसमें ११२ जगह थीं, कांग्रेस ने ११२ सीटों के ऊपर अपने उम्मीदवार खड़े किये लेकिन १०० जगहों पर कांग्रेस हार गई और कुल १२ सदस्य कांग्रेस के चुन कर आये, हमारी

1964

कांग्रेस पार्टी की ऐसी जब बुरी हार हो गई तब नेताओं ने सोचा कि भारी गलती हुई और बाद में माननीय श्रीमती इन्दिरा गांधी ने महाराष्ट्र का दौरा किया, वहाँ के लोगों की भावनाएँ वह समझ गई और फिर उन्होंने हमारे महाराष्ट्र को न्याय दिया। महाराष्ट्र को श्री यशवन्त राव जी चव्हाण जो आज इस देश के सुरक्षा मंत्री हैं, उनका एक प्रभावी नेतृत्व मिला, उन्होंने सारे महाराष्ट्र की परिस्थिति काबू में लाई और आखिर में, केन्द्रीय सरकार ने मराठी भाषा वालों का 'महाराष्ट्र' नाम का एक अलग भाषाई प्रदेश बना दिया। उसके बाद १९६२ के चुनाव में सारे महाराष्ट्र में कांग्रेस बड़े भारी बहुमत से जीत गई, कांग्रेस को वहाँ पर भारत भर में सबसे ज्यादा यश हासिल हुआ। ऐसी कोई गलती कहीं गोधा के बारे में भी नहीं। अगर गोधा का एक ऐसा अलगावपन रख दिया गया तो उसका परिणाम महाराष्ट्र में बहुत बुरा होगा, वहाँ की कांग्रेस के ऊपर एक भारी संकट आयेगा। मैं इस बात की जानकारी अपने कांग्रेस के नेताओं को इस वक्त देता हूँ और मैं अपनी केन्द्रीय सरकार से भी नम्रता के साथ कहता हूँ कि गोधा के जो लोग बहुत संख्या से महाराष्ट्र में आना चाहते हैं उन पर विश्वास रखो, उनकी भावनाओं तथा मांग का आदर करके उनकी इच्छा के माफिक महाराष्ट्र में गोधा का विलीनीकरण करो। अगर ऐसा किया गया तो वहाँ के लोग जब अपने देश पर कभी भी संकट का मौला आयेगा अपनी कुर्बानी करेंगे, अपना बलिदान देंगे, जैसा त्याग उन्होंने पहले लड़ते समय किया है वैसा ही आगे भारत की आजादी के लिये वे करेंगे। ऐसे लोगों को छोड़ कर जिन लोगों ने भारत के विरोध में पुनर्गाल का साथ दिया, उनका कहना सुन कर, ऐसा जो अलगावपन का कोई कोर्ट बना रहे है वह नहीं बनना चाहिये, ऐसी मेरी राय है।

अन्त में, मैं यह कहूँगा कि जैसे प्रथम बम्बई का द्विभाषिक राज्य देकर केन्द्रीय सरकार ने निकट काल में महाराष्ट्र, महाराष्ट्र राज्य बना दिया, वैसे ही यह अलग कोई कोर्ट देकर अगर गोधा का जल्द ही महाराष्ट्र में विलीनीकरण होने वाला होगा, अगर यह उसकी पूर्ण सुचना हो, उसका पूर्ण कदम हो, तो मैं इस विधेयक का स्वागत ही करूँगा। इतना कह कर मैं आपसे इजाजत चाहता हूँ।

SHRI BHUPESH GUPTA (West Bengal):  
Mr. Vice-Chairman, Sir, I am very glad that the hon. Minister, this time, while moving this Bill, agreed to explain a little the subject under discussion. I am glad, because she did that in deference to the wisher at least of some Members of the House.

SHRIMATI LAKSHMI N. MENON: Your wishes.

SHRI BHUPESH GUPTA: I think that she would not be right in claiming that the Bill is a simple one but that is the ministerial cliché to which we have been accustomed all these years. It is not so simple as it is sought to be made out, and this was seen when the matter came up for discussion in the other House; almost everyone who spoke on this particular Bill opposed it, more especially from the Opposition side. But then I know that the Treasury Benches do not have much respect for the opinions expressed from the Opposition Benches. But, for a change in this matter, Mr. Vice-Chairman, views contrary to those of the Government were also expressed by some Members belonging to the Congress Party. Ultimately, of course, as a result of the whip, the Bill was passed. I stand here again to oppose this Bill in point of principle and in point of practical politics as well.

[Shri Bhupesh Gupta.] First of all, I should like to know why suddenly the Government are rushing through a measure of this kind by which they want to invest the Judicial Commissioner's Court with the powers of a High Court. Now, as you know, the Judicial Commissioner's Court was constituted in ' 1962. Alongside, it was also provided that the Bombay High Court would have jurisdiction with regard to appeal matters. Obviously, the Judicial Commissioner's Court was not intended to be a High Court at that time, and this is clear from the fact that the Bombay High Court was called upon to discharge its functions as a High Court. This means that in the selection of the personnel of the Judicial Commissioner's Court and also in laying down the rules of procedure and other rules, etc. of this particular court, they did not have the picture of the same being transformed into a High Court. That is there for all of us to see. Now we find that the Government is asked to give the High Court's powers to the Judicial Commissioner's Court. I should like to know who is the Judicial Commissioner there, whether in the matter of selection, the same standard was applied as in the case of the selection or appointment of a High Court Judge. I should like to know whether the provisions of the Constitution relating to the appointment, etc. of the High Court Judge would apply in the case of the Judicial Commissioner. I should like to know whether it would be open to the Members of the Legislature there to impeach or to demand the removal of the Judicial Commissioner on the basis of a motion in the House as is provided for in the case of a Supreme Court Judge here in Parliament or, for that matter, in respect of a High Court Judge in the Assemblies concerned.

SHRI P. N. SAPRU (Uttar Pradesh): No, no.

SHRI BHUPESH GUPTA: These are relevant questions to be asked. Therefore, you are really superimposing the functions of a High Court on this institution which is called the Judicial Commissioner's court. That will be a very bad precedent.

We are told that justice should be easily accessible, that the people should not be troubled with the problem of coming to Bombay and so on. Well, that is a very hollow argument in the sense that it may be handled in a different way. For example, what was the difficulty in setting up, shall we say, a Circuit Court of the Bombay High Court in Goa in order to deal with the appeal cases? I should imagine that there are not too many, appeal cases. If, for example, that was the reason why the Government have now come forward with this Bill to transform the Judicial Commissioner's court into a High Court, I should like to say that this difficulty could have been met from the point of view of the people by having a Circuit Court of the High Court of Bombay in Goa itself. That was possible as has been done in the case of the Punjab High Court. Other examples are also there. In other countries, under the existing legal system, we have had Circuit Courts which go round the country to deal with these cases on the spot rather than compelling the litigants to come to distant places in order to have their legal matters dealt with. Therefore, that again is not a very valid argument.

Then as far as the appeals are concerned, well, from the Judicial Commissioner's court now the appeal will come to the Supreme Court because the Judicial Commissioner's court would have the powers of a High Court now. But at that level of the Judicial Commissioner's court, we would not have the legal competence of a High Court, although technically you may give them the **power**. I take

it that the court is not going to Junction in the same way as the High Courts function at least from the point of view of the experience, knowledge and legal wisdom. That is what I feel.

Then, who is going to appoint the Judicial Commissioner? The Constitution provides for the appointment of the High Court Judges in a particular way. It is not for any Ministry to make an appointment, or the Central Government to make an appointment. Certain procedures have to be followed. Now the appointment is made by the President under the Constitution on the advice of the Ministry, or the Government itself, the Cabinet. And the Cabinet, at the same time, seeks the advice of the Governor. Under the Constitution, the Governor gives the advice or other recommends the names and so on and the Governor, in turn, takes the advice of the Council of Ministers. And that is how the appointment is processed. But here in this case I think it will be the usual bureaucratic way. The Home Ministry will decide—I do not know exactly. I should like to know the position. I do not know exactly how he is going to be appointed. But as far as I remember, the procedure that is provided for, for the appointment of High Court Judges is not going to be followed in this case under the Act under which the Judicial Commissioner is appointed. That again is a point of departure from the practice in the matter of even the appointment of High Court Judges. Therefore, let us not be consoled with the facile statement that now the Judicial Commissioner's Court would be lifted to the status of a High Court and that, as a result of this arrangement, the people of Goa would have not only justice at a very high level but would have readily accessible justice. I am not prepared to accept a statement of this kind because of the reasons

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have already given. Therefore, I do not know if the hon. Minister has been properly advised on this subject.

Mr. Vice-Chairman, I feel when such matters are discussed, it is necessary for the Law Minister to be present in the House. Shrimati Lakshmi Menon is a very nice lady by all accounts. But certainly law is not her domain.

PANDIT S. S. N. TANKHA (Uttar Pradesh): She is a lawyer also. And she has practised.

SHRI BHUPESH GUPTA: Then she must be a lawyer like me.

SHRIMATI LAKSHMI N. MENON: Not like you.

SHRI BHUPESH GUPTA: She strayed into the University whereas I strayed into the Communist Party. She strayed into the Treasury Benches without (having practised and I fell in the Opposition Benches. That is our fate as far as law is concerned. Therefore, we are in the same boat, sailing in different directions. I do not know if she is a lawyer. You seem to know better, Mr. Tankha.

PANDIT S. S. N. TANKHA: She was practising as a lawyer in Ludhiana.

SHRI BHUPESH GUPTA: I am very glad to hear that she is also a lawyer. My name is also on the Calcutta High Court rolls but I am as much an unpractising lawyer as perhaps she is.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): She had many briefs.

SHRI BHUPESH GUPTA: Paid or unpaid?

SHRIMATI LAKSHMI N. MENON: Unpaid.

SHRI BHUPESH GUPTA: If they were unpaid, I had many also. If

[Shri Bhupesh Gupta.]

they were paid briefs, I should like to know. Anyhow, we have been here since 1952. And for the last twelve years at least she has not been practising. It is quite clear. And if you do not practise law for twelve years, you forget most of the things. I do not know, Sir, if you have forgotten, but we do forget. Therefore, anyhow, we would like to know about the position. If she has information, she will certainly give it. '

I have raised certain points in this connection. You say that the status is being lifted to 'the status of a High Court. I dispute your statement. Therefore, the quality of justice given at that level would not be very high as far as the people are concerned. Now the Government is upsetting certain arrangements in order to make the Judicial Commissioner's court fulfil this function but the people will be getting justice from that particular court the quality of which is not by all accounts likely to be such as one expects from a High Court. This is what I say.

Then, about the appointments and other things. I do not know whether they have any ulterior motive or not. But criticisms have been made after what you call the military action—I thought you called it police action. But we are now told that it was military action. Anyhow, we know what it was—after that was complete, when Goa was merged, integrated with the rest of the country, well, what was necessary there was to take there as quickly as possible our own institutions, respecting, of course, the legitimate rights and customs of the people there. Now a controversy arose as to what should be the ultimate fate of Goa, whether it should merge with a certain State or it should remain as an independent entity. That controversy has not been resolved. Yet it is an open thing, we know. But the Prime Minister has made a statement saying that for the time being

the present arrangement will continue. But, as you know, after the merger certain elections took place. The election results indicated that the people of Goa were not in favour of this kind of independent existence— I am not pronouncing judgment. In any case the results of the elections indicated that the people of Goa did not share the views of the Government in the matter. I think that will be agreed to, that will be accepted by all those who have studied the election results. After that the conflict was somewhat accentuated; it came into the forefront. Now it was necessary for the Government to act cautiously in this matter and take counsel with the people there, of the representatives there, in making arrangements which are open to suspicion. Now as far as this Bill is concerned, I do not know whom they consulted. But it seems that it was in a bureaucratic spirit, in a bureaucratic manner that it was brought forward before the House. Do I understand that the parties in Goa were consulted over this 3 P.M. matter? Do I understand that the parties in the Parliament including the Congress Party, if you like, were consulted before proceeding with a controversial measure of this kind. It seems that they had not been consulted, at least we have not been consulted. I do not know if any other Opposition Party here was asked to give its opinion because it was a controversial thing and we would not like controversies to be extended where they need not be extended at all, but the Government is going in its own way. The Government naturally are open to the charge that they are expediting this kind of measure or rushing through this kind of measure mainly with a view to more or less stabilising their position in Goa, namely, that Goa should remain as it is. I am not going into the question at the moment, the larger question of merger, but all I am saying is, these measures

and measures such as this give rise to suspicions and misgivings in the minds of the people and you cannot blame them if they believe that the Government is perhaps acting with a certain ulterior motive in the matter. Even if the Government are free from any motive, they are liable to be suspected of such motives. Therefore this needs to be properly explained. As far as the larger question is concerned, I would like to say, even without dealing with the question of merger at this stage, that the Government is trying to maintain some of the very bad institutions there, I some of the people who had been associated with the colonial regime of Salazar are being posted there by the present administration. The democratic rights and liberties are not "being extended to the people and that is not how we should integrate a part of the country liberated from long years of colonial rule and this is my complaint. I find that people who really should be outcasts in our political life because of their close and traitorous association with the alien rulers in the past are now being pitchforked into high positions and places of eminence or great responsibility. This is the complaint which is coming from the various cross-sections of Goa's democratic public opinion. As you know, recently there was a strike and some time back, last year, the Government used the repressive machinery and threatened to arrest, and indeed arrested, many people under the D.I.R. find so on. Marmagao strike or threatened strike is known to everybody. This is not the way they should function. I should like to know whether it is not a fact that some of the people who were really the henchmen of the colonial rule to-day occupy important positions or will the Government accept the challenge that if such names were brought, they would be ousted from such positions. If you do have such people occupying high and important positions, even after freedom

and liberation, people begin to leech that you are not really interested in their well-being, in democracy, in taking Goa in a right manner into India and integrating it but you are interested in somehow or other maintaining a shoddy facade of administration which will go the old way, not in the colonial way but in the new conditions, in the bureaucratic way. This is the feeling that is gaining ground there. The Government of India to-day has lost all prestige despite the fact that it liberated Goa by armed action which all of us supported. Why? Why are the people, who greeted two or three years back the Indian army there with open arms, to-day critical of the Government of India? It is because the Government of India there, through its agencies, is functioning in a manner which is undemocratic, which is bureaucratic, which does not take into account the legitimate aspirations and interests of the people. This is something which needs to be exposed in this House and the Government should certainly retrace its steps. You are ringing the bell. I do not want to say very much. Therefore I have to say this because I have seen the condition. Take Kashmir. Because of the failure in the administration, we are to pay a heavy price. The discontent of the people continues to mount. Again, we do not want to react that drama in Goa. Once we have got Goa liberated from the colonial yoke, we should see that the interests, rights and aspirations of the people have precedence over every other thing. There again we should not reproduce the drama of unfolding a bureaucratic and unbridled bureaucratic rule. That is what they are trying. Therefore the larger question comes in that respect. I do not know how far the people of Goa will feel relieved as a result of this measure but I do know that it has been opposed by many people, not merely because the measure itself is something intrinsically open to objection but because of the



[Shri Bhupesh Gupta.] manner in which the Central Government is functioning. '

One word more and I finish. As far as the Ministry of External Affairs is concerned, I have no particular fancy for the Ministry of Home Affairs or the Ministry of External Affairs. If I were to choose between Mr. Hathi and Shrimati Menon, I do not know whom to choose 'because they are good people. My difficulty will be because both are good but that is not point. The point is, the External Affairs Ministry remains there—for what? Certain things which they inherited from the colonial past from the Portuguese regime, they have to maintain them somehow or other to placate somebody somewhere else. Now the task there is to integrate Goa culturally, emotionally, through the legal institutions, through law and the system of law 'and administration and inte?rate without however taking away any of their rights that they were enjoying there. That is how it should be done. Eminently, it is a function of the Home Ministry if the Home Ministry does some such thing. I have no objection if you put the Ministry in charge of Community Projects in charge of this. I have no objection to that kind of thing. What I want, is that the problem should be tackled in a democratic manner and the very fact that the Ministry of External Affairs clings to this kind of thing gives room to the belief and suspicion that some of the peculiar institutions and systems and other things left there or bequeathed there by the colonial rule will be some what nursed, maintained at least for the time being. That is why they do such things so that they can tell some people outside that these things are being retained. I think the Government need not be afraid of criticism on the part of certain Western Powers, no matter what happens. We want Goa to be integrated in every way with the willing consent of the people, with

their co-operation in a manner that Goa becomes not only a part of the democratic system but brings in its own contribution to the strength and sustenance of our system. Thank you.-

SHRI M. M. DHARIA (Maharashtra Mr. Vice-Chairman, I heard the speech of the hon. Minister to-day very patiently and calmly and I had also the opportunity to read her speech in the Lok Sabha and I was trying to search for some valid grounds which would convince the Members of this House as to why this Bill should be brought before the House and the need for such a Bill to-day. I would like to submit that there is not a single ground which can convince the House about the need for such a Bill. As my friend rightly pointed out in the morning, the Judicial Commissioner came into existence on 11th December 1963. The first sitting of the recently elected body was to take place on the 19th January 1964 and when there was that period of 37 or 38 days of which the Central Government was aware. I do not know why the Judicial Commissioner was brought into existence when that democratic body was to be formed within the course of one month or so. After bringing that Judicial Commissioner into the picture, what do we see to-day? Cabinet is in existence there, the representative, the elected Members of Assembly are there in the Goa Assembly and without consulting the Assembly of Goa or the people from Goa, we are introducing this measure, without ascertaining the consent of those people. When we think of democracy, when we think in terms of establishing high traditions of democracy, will it be proper to introduce such a measure without consulting those people? Why should we introduce this when the representatives from Goa, in the Parliament, Shri Pete, Alvares and Mr. Shinkre, are here who have never been consulted? Both the Members

have opposed the Bill tooth and nail. The people have expressed their desire through votes that these are their representatives—why should they not be consulted? It was argued somewhere that it was because of the desire of the people from Goa that this measure was being introduced. But how are the desires of the people of Goa measured? In a democratic set-up the desire of the people is expressed through their elected representatives, and there are the elected representatives of the people of Goa sitting in the Assembly there and also here in Parliament. Well, were they consulted? Without making any reference whatsoever to the elected people, how can we say that it is because of the desire of the people that we are introducing this Bill here? It is most unfortunate, when we want to strengthen the hands of democracy, that we should not take into consideration the opinion of the people who represent Goa, and for this reason I feel that it cannot be argued that this Bill is because of the desire expressed by the people of Goa. It may perhaps be argued that, so far as the Maha-rashtrawadi Gomantak Party is concerned, it is not a party which has secured more than fifty per cent of the votes. I think, Sir, such sort of argument should not come forward from the hon. Minister, because it may even apply to my party as well here. It cannot be applied that way because, during the last General Election; of 1962, excluding Maharashtra, nowhere could we secure more than fifty per cent of votes. But even then we are ruling and we must rule, because, in a democratic set-up, those parties whose representatives are elected in a majority are bound to rule. Naturally, when that party, the Maha-rashtrawadi Gomantak Party, is ruling there in Goa, it should be taken for granted that it is the party of the people returned to power. And why should it not so happen? On the contrary, we have been trying, by such measures to strengthen the hands of

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those who are in parties like the United Goans Party. And what are these parties like the United Goans Party? I was there during the time of elections on behalf of my own party, and I can say before this House today, Sir, that there are many people in the United Goans Party who have love not for Delhi but who have love for Lisbon. And are we trying to strengthen the hands of those people by such measures? It cannot be. We want to integrate India. Well, there is that aggression from China and there may be aggression from Pakistan any time. Under these circumstances, when the country is passing through such dangers, and when we want to integrate the forces in this country, can we create such sort of feeling of disintegration among the masses of people, and that too against the desires of the people? I am really constrained to say all this even though I belong to the party in power, but it is because it is my duty to express the feelings of the people of Goa and of the people of Maharashtra. Otherwise, I shall be failing in my responsibility and my duty, and that is why I would like to urge on the hon. Minister concerned that—well—if such sort of measure is necessary because of the desire of the people of Goa, I have no objection whatsoever, but in that case their desire should at least be measured by a democratic gauge, and not by other means; I mean, because some letters were written by somebody or because the Law Secretary was sent to Goa and he met some people and came back with their opinion in favour of this Bill, we cannot say that it is the desire of the people of Goa. For all these reasons my fervent appeal to the hon. Minister would be to refer this measure to the people of Goa, I mean to the democratic body which now exists in Goa, and if that body says that such sort of measure is necessary, then of course some sort of consideration would be necessary for what that body says. It is not the appointment of the

[Shri M. M. Dharia.] Judicial Commissioner's Court that could be their desire, because there is much difference between the appointment of a Judicial Commissioner's Court and that of a High Court; these two institutions cannot be compared, Sir. The appointment of the High Court is made by the President in consultation with the Supreme Court—the executive has nothing to do with it—while the appointment of the Judicial Commissioner is made by the executive. For having good traditions of democracy, for strengthening the roots of democracy, separation of the judiciary from the executive is absolutely necessary. We have adopted that principle in several aspects. Under these circumstances, when we have adopted that principle elsewhere, why should we, in this matter, have a Judicial Commissioner, who will be appointed not by the President in consultation with the Supreme Court, but by the executive Government? Besides that, if we go through this Bill, what do we find? In clause 4 of the Bill it has been stated:

"An appeal shall lie to the Supreme Court under the provisions of article 133 from any judgment, decree or final order of the Judicial Commissioner's Court notwithstanding that such judgment, decree or final order is that of a single Judge."

My insistence is on this phrase "single Judge". Now what happens in a High Court? There, if there is any point which is of material importance, that point could be taken up to the Division Bench or Special Bench or Full Bench. But here we are depriving the people of Goa of this right. Here there will not be any other body besides the single Judge; he will naturally be the Judicial Commissioner and the appeal will lie to the Supreme Court. But in case of a High Court, if any matter is decided by a single High Court Judge, in

that case we can take the matter up to a Division Bench or a Special Bench or a Full Bench. Now that right is being taken away because of this measure. What is the Government going to say about it?

SHRIMATI LAKSHMI N. MENON: There will be three Judicial Commissioners.

SHRI M. M. DHARIA: You have not mentioned here anything, nor was there any statement to that effect made in your speech.

SHRIMATI LAKSHMI N. MENON: I shall clarify when I reply.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : Would you like to clarify anything now?

SHRIMATI LAKSHMI N. MENON: At the end; not now.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Then you continue, Mr. Dharia. There are other speakers and I hope you will finish your speech soon.

SHRI M. M. DHARIA: Yes, Sir. As there was no clarification to this **effect**, naturally I thought that the form of rendering justice in a High Court was not here, and if the hon. Minister says that there will be three Judicial Commissioners in Goa, then in that case, instead of the three Judicial Commissioners, we could have established there a branch of the Bombay High Court with a single Judge, and if there arose any appeals, they could have been taken to a Division Bench or a Full Bench in Bombay. It would have been more convenient to the people and they would have got fair justice. It is not only giving justice to the people at a cheaper rate from a nearby station; it is equally necessary that they should get fair justice. And in this case, because of the appointment of the Judicial Com-

missioner, justice is made available to the people of Goa at a cheaper price, but it shall not necessarily be • fair justice.

Then my third point is regarding, the divergence between the Home Affairs Ministry and the External Affairs Ministry. It had been said by the hon. Minister, "Well, all belong to the same Government all the same." Then why not hand over this matter to the Food and Agriculture Ministry? Naturally it cannot be done. When there are no foreign interests yet remaining in Goa so far as international affairs are concerned, when we say that it is part of this country, when it has no longer any international complications, why should it remain with the External Affairs Ministry? On the contrary, keeping this particular territory under the External Affairs Ministry shows that there may be some complications still present. At least we give a ground for suspicion to other people, people not only in this country of ours but also in foreign countries. Why should we do that sort of thing?

My last and fervent submission would be that, so far as the policy of the Central Government towards the Union Territories is concerned, it is not consistent with good democratic traditions. Why should we not respect the feelings of the people of Goa? They have expressed their explicit desire that they want to merge with Maharashtra. The Congress Party fought the elections on the ground that they should not agitate the issue at that moment. However, that issue came up, and when that clear verdict is there, why should we not respect "that? We are not prepared to respect the people and the representatives elected by the people. We are not prepared to give any respect to these representatives who have spoken against the Bill in the Lok Sabha. As per my information—I have gone through all the records of the Lok Sabha—there

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was not a single person except the hon. Minister who supported the Bill.

SHRIMATI LAKSHMI N. MENON: Then how was it passed?

SHRI M. M. DHARIA: I know that it was passed there and I know that it will be passed here also. My only submission is that the feelings of the opposition Members, the feelings of the Members elected by the people of Goa, namely, Mr. Peter Alvares and Mr. Shinkre and the feelings of the people of Goa should be taken into consideration. They should be respected, and the sooner we respect them, the better. Otherwise, instead of creating the feeling of integration in this country, we shall be creating the feeling of disintegration in the country, which will be absolutely harmful to the unity and freedom of this country.

Thank you very much.

SHRI CHANDRA SHEKHAR (Uttar Pradesh): Mr. Vice-Chairman, I may be permitted to make my observations on this Bill by quoting the hon. Minister who is piloting this Bill. In the other House the hon. Minister said:

"This is a unique Bill in the sense that not a single person who has spoken in the House has supported it."

This is the opinion of the Minister who is piloting the Bill—about this particular Bill. I do not know how after this observation of the hon. Minister the Bill is still being processed through and the hon. Minister is asking this House to pass this Bill without having much discussion. Not only the Opposition, but all the Members of the Congress Party, including my hon. friend who is the General Secretary of the Maharashtra Congress Party, say that it will be against the wishes of the people to pass this Bill. So many observations have been made by the hon. Minister.

[Shri Chandra Shekhar.]

She said there is no difference between the Home Ministry and the Ministry of External Affairs. The most serious objection that I take to this Bill is that it is being piloted by a Minister of the External Affairs Ministry. It creates a very wrong impression, not only in the country, but also outside the country. There is already a contingency arrangement in the Union Ministry and if the hon. Minister was anyhow apprehensive of the ability of the hon. Ministers in the Home Ministry, there was already a Minister without Portfolio who has all the persuasive manners and his humble ways to win support from all sections of the House. In order to create a good atmosphere in the country, in order to dispel all apprehensions that may arise in the minds of the people here in this country and also outside, it was desirable on the part of the Union Government to see that this Bill was not piloted by a Minister of the External Affairs Ministry. But this Government has an extraordinary ability to create confusion. When we talk of repealing article 370 of the Constitution in order to have a full integration of Kashmir, the Union Government comes with the plea that the article should remain there in the Constitution of India, because some question may arise in the U.N. and the hon. Sheikh Abdullah may go round the country and say that Kashmir is not on a par with other States in the Indian Union. But what happens in the case of Goa, Daman and Diu? In the Goa, Daman and Diu Act of 1962, they made a provision that the jurisdiction of the High Court of Bombay shall extend to Goa, Daman and Diu. But now the hon. Minister comes to this House and says that section 7 should be repealed. Why? Because the process of integration of Goa that was going on should suffer a set-back and now they want to stop this process of integration and they want to create confusion in the minds of the people of Maharashtra, they want to

create apprehension in the minds of the Goans and they want to perpetuate this mental and psychological crisis in the whole country. I do not know what benefit they derive by creating a ghost of their own imagination and then after a few months, or a few years or a few decades, proclaim that they are fighting the ghost. This sort of bravado is neither going to do any good to the country, nor bring any lustre or good name to the Government of India.

Sir I was emphasising that the hon. Minister was arguing that in order to facilitate and remove certain difficulties of the Goan people they are bringing in this measure. Is there any representation from the people of Goa? Is there any representation from the Government of Goa to the effect that this Bill should be brought in the House and a separate High Court for Goa should be made? I think there is none. I have been given to believe that the Government of Goa is against this measure. My hon. friend just now mentioned that only two representatives have come to the other House, to the Lok Sabha, and both of them are against this Bill. In the Union Territory of Delhi the Punjab High Court operates, if the Punjab High Court can operate here in New Delhi, I do not see any reason why a Bench of the Bombay High Court cannot be constituted at Panjim. If they were very much worried about the facilities, about the comfort of the Goan people, it was most desirable for the Government of India to have constituted a Bench of the Bombay High Court, say, in Panjim.

I don't know and I have never been in the legal profession, nor in close touch with that profession. But very able men like Shri N. C. Chatterjee and others have made very interesting observations about the efficiency and calibre of Judicial Commissioners. I do not know how far it is true, but he said

that when they were tried in the Kashmir case, the hon. Shri N. C. Chatterjee and the late Shyama Prasad Mukherjee, some Magistrate ehallanated them and the Supreme Court gave a very hard-hitting judgment against that Magistrate, and that Magistrate was made the Judicial Commissioner of Tripura. The hon. Shri N. C. Chatterjee had this observation to make about the calibre of Judicial Commissioners, and these Judicial Commissioners are going to decide the fate of the Goan people. The hon. Members from Goa in the other House have observed that the Judicial Commissioner there in Goa does not understand Gujarati. They never care to understand it, and they are going to decide about the fate of the people in Daman and Diu. The Bombay High Court Judges are equally conversant with Marathi and Gujarati. So this linguistic problem is also there. The plea has been given, quoting the Law Secretary, that because this Territory is being administered according to the Goan Portuguese laws, it is essential that a separate High Court should be constituted for this Territory. But what was the difficulty in amending the laws in Goa? Instead of moving this Bill, it would have been wiser for the Union Government to have brought in a Bill in this House bringing Goa on a par with the other Territories in the country. But instead of taking this sound attitude, the Union Government is today adopting an altogether adverse attitude regarding Goa.

[THE DEPUTY CHAIRMAN in the Chair]

Madam Deputy Chairman, I was just referring to the State to which you belong and now I have only to emphasise this point that if the people of Goa have given their clear verdict that they must go with Maharashtra, the Union Government should not come in their way because a certain person, a particular leader in the High Command of the Congress Party, had said that the question of the merger of Goa with Maharashtra was an open

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question and things should remain as they are. Let this question be a closed question. The sooner this question is closed the better it is for the people of Maharashtra and for the people of Goa. The Goan people are apprehensive of the intentions of the Union Government and they are not totally wrong. There is every reason for that apprehension. I hope, Madam, that the hon. Minister who has come to realise that this Bill has no support of any section of the House will, without any further discussion, withdraw this Bill and will not press for a Bill which is so unpopular, not only among the opposition Members, not only among the Members of her own *rashtra*, and which is definitely against the wishes of the people of the country party, but also among the people of Goa and among the people of Maha-and which is against the urge of integration that needs to be encouraged in the country. But if she still persists in pressing this Bill, I shall be forced to observe that this Government is deliberately pursuing a policy that is bound to retard the process of national integration in the country. I am very sorry to observe Madam, that if they still persist in this rulers' obstinacy, history will one day give its judgment that they were responsible, not only for offending the feelings of the people, but were also responsible for creating a sense of disintegration and frustration in the whole country and difficulties for the coming generation.

SHRI B. K. P. SINHA: Madam, I am afraid I shall be swimming against the current.

SHRI LOKANATH MISRA (Orissa): Kindly do not.

SHRI B. K. P. SINHA: This is an extremely simple measure which seeks to recognise the Judicial Commissioner's Court already operating in Goa as the High Court and place it under the jurisdiction of the Supreme Court of India. The question is whether this should be done at this stage or not. But then the scope or

[Shri B. K. P. Sinha.] the ambit of the discussion in this House and outside has been extremely wide and not very relevant, in my opinion. When the people of Goa voted for the Maharashtra Gomantak Party, they wanted to indicate that Goa should be a part of Maharashtra. There was no vote on the issue whether their laws should all at once change, their judicial system should be all at once scrapped and placed in the same position as the judicial system and laws of Maharashtra. Now, for four hundred years a judicial system has grown up in Goa. As far as I am aware, our judicial system is drawn from the Anglo-Saxon system, based on the British model and the system that operates in Goa is different.

SHRI D. B. DESAI: Is the hon. Member aware that almost all the laws are applicable now?

SHRIMATI LAKSHMI N. MENON: No, not all.

SHRI B. K. P. SINHA: I know that there are, broadly speaking, in England and in the Continent two judicial systems, one is the Anglo-Saxon system and the other is the Latin or the French system. The judicial system of Goa is really based on the latter system. These laws have been there, they require a particular type of interpretation. The basis of those laws is different from those of the laws that obtain in this country, in Maharashtra, Bihar, Madras or in any other place. In the circumstances, it is but appropriate that we should have judges—call them judges, call them Judicial Commissioners, whatever you like; and I will come to the status of the Judicial Commissioner later on—who have a knowledge of the spirit of the law, know how to interpret that law and whose sole function would be to administer that law. The judges of the Bombay High Court are very eminent people and I have no doubt that they are men of great learning but the point is

that they have been trained in a different system altogether. Would it be proper then all at once to surrender that system and place the interpretation and administration of that judicial system in the hands of judges who have life-long training in a different system altogether? Madam, we all want integration, we all want that Goa should be integrated with this country and integrated in every sense . . .

SHRIMATI LAKSHMI N. MENON: It is integrated. It is part of India.

SHRI B. K. P. SINHA: . . . even I judicially, even legally but integration cannot be a sudden process. You cannot have integration just by waving I a magic wand. Instead of integration, you will have opposition, you will have confusion and you will have all sorts of troubles.

SHRI LOKANATH MISRA: People from Goa have voted for merger with Maharashtra and you are the people who are standing in the way of integration.

SHRI B. K. P. SINHA: Nobody stands in the way of integration. I have already said in the beginning, Madam, they voted for administrative integration with Maharashtra. My hon. friend comes from Orissa and so let me give him an instance. In Orissa and Bihar there are vast areas peopled by the so-called Adivasis, the Scheduled Tribes. There a different system of law obtains and there are special courts to administer those laws. I am sure that even if administratively and politically Goa were integrated with Maharashtra today, the people of Maharashtra will have a different system of courts for the territories known now as Goa.

SHRI BHUPESH GUPTA: Why should it not be possible to appoint an additional Judge in the Bombay High Court, a person who has special knowledge of that law?

SHRI B. K. P. SINHA: I have already said that the judicial systems are entirely different.

SHRIMATI SHAKUNTALA PARANJ. PYE  
(Nominated): What would happen when the  
appeals come to the Supreme Court?

SHRI B. K. P. SINHA; I am coming to that.  
I am aware of the fact that the Judges of the  
Supreme Court are trained in a different  
system of law but then while you can have  
another Judicial Commissioner's Court, an-  
other High Court, you cannot have two  
Supreme Courts in the country. Therefore,  
you cannot have a different Supreme Court as  
the final appellate authority for cases coming  
from Goa. Therefore, as a matter of practical  
convenience, it is desirable that the Supreme  
Court should be endowed with powers to take  
up cases<sup>on</sup> appeal from Goa. Moreover, I do  
not mean any disparagement of the Judges of  
the High Court but the Judges of the Supreme  
Court are decidedly and necessarily of a  
superior and higher calibre; they have better  
judicial training, they have better judicial  
approach, they have wider knowledge of the  
different judicial systems of India.

SHRI G. MURAHARI (Uttar Pradesh) :  
May I take it that the Judicial Commissioner  
will be of a higher calibre than the High  
Court Judge?

SHRI B. K. P. SINHA; Not at all; that is not  
my point. You misunderstand me. I feel that  
so long as Goa is a definite political and  
administrative unit that is the best that could  
be done in the circumstances. I am afraid  
emotion in this debate has got the better of  
reason, and therefore this measure is being  
opposed from so many quarters.

Madam while saying this I also feel that an  
attempt should be made gradually to integrate  
the laws and the judicial system of Goa with  
the laws and systems obtaining in the neigh-  
bouring territories. Gradually, there should be  
a greater and greater approximation till at not  
a very distant future a stage comes when we  
have

the same laws operating in Goa and in the  
surrounding territories. When that stage comes  
, I am sure Goa, administratively, politically  
and judicially shall be a part of one of the  
bigger States of this great Union but till that  
stage is reached, I am sure the system has to  
continue. Many hon. Members, I do not know  
if in this House, in the course of the  
discussion, have pointed out the anomaly of  
placing Daman and Diu along with Goa  
because hundreds of miles separate these  
territories. While Daman and Diu are very  
near Gujarat, Goa is on the borders of two big  
States, Maharashtra and Mysore or Karnatak.  
As I said, the judicial system in Daman and  
Diu has been the same as that which obtains in  
the big territory of Goa. Therefore, for the  
time being we should have the same appellate  
court for all these territories but since a long  
distance separates Daman and Diu from Goa. I  
feel that Government should see that the  
Judicial Commissioner's Court which consists  
of three Judges sends out one or two Judges as  
and when necessary on circuit to Daman and  
Diu to administer justice. Otherwise for  
people of Daman and Diu to come before the  
Judicial Commissioner's Court in Goa will be  
a very expensive proposition which they  
cannot easily afford. I feel that in the  
situation that obtains today this is the best that  
could be done.

Motives have been attributed to our  
Government and assertions have been made.  
The classic in this respect was the speech of  
the hon. Member from West Bengal. It was a  
Communist classic. Madam, in our infant days  
we had studied mathematics. In Euclid there  
were certain problems. You started with a  
process of reasoning and after some reasoning  
came to the conclusion which really stated the  
heading of the theorem and then we wrote  
QED. The tactics and ways of the system in  
which the hon. Member from West Bengal is  
trained are different. They do not require any  
proof. The assertion itself is proof and  
without



[Shri B. K. P. Sinha.]

going through the process of ratiocination they write down QED. The hon. Member charged the Government with *so* many things. He said that it wants to perpetuate the rule of the colonialists, of the stooges of Salazaar in Goa. If our Government had that in mind, if our Government had that inclination, our Government would not have taken the action that they did in the year 1961 and make Goa after 400 years a part of the Indian Union. While Government wants that Goa should be integrated, should be brought on the same level as the other areas of this great nation, especially the surrounding areas in the surrounding States, our Government is also conscious that there are differences between the laws and the people of Goa and the laws and the people of the surrounding States. Therefore they proceed cautiously, they proceed slowly but they proceed all the same in the direction of integration. They are not in haste as some of our hon. Members on the opposite side are and I am sure that a time shall soon come, not in the distant future, when Goa will become part of the great States of the Union.

SHRIMATI SHAKUNTALA PARANJ-PYE:  
Madam, a lot has been said about this Bill. I would like to state at the beginning that I rise to oppose it. Why was this Bill brought in at the present moment? What was the necessity for this? All this has been discussed by many a Member who spoke before me. The Member who just preceded me, Madam, has put forward a new point, or a partly new-point, that justice in Goa was administered in accordance with Latin justice and not Anglo-Saxon justice and therefore he said that it was necessary to have a separate court in Goa and to give it the status of a High Court. Well, he talked about mathematical theorems and he came to Q.E.D. I would like to say this as I said while I intervened when he was talking; supposing some cases are decided by

the so-called—I hope it will never come into existence—hypothetical High Court in Goa that my friend, the hon. Minister, proposes to bring about, and supposing appeals are brought against those judgments, now, does my hon. friend want another Supreme Court having a Latin mode of administering justice or will our Supreme Court be considered enough? Madam, at some stage we have to draw the line and Goa will have to fall in line with the judicial ways of our country. Therefore I think that the plea he has put before the House is absurd and by *re-dvictio ad absurdum* I think I can say that the plea falls to the ground. Therefore I say, as many Members have said before, that a Bench of the Bombay High Court could have been established in Goa, or a High Court Judge of Bombay could have gone to Goa to administer justice as it is being done now in Andaman and Nicobar Islands from Calcutta and there is no necessity—at least I do not see any necessity and most of the friends here have not seen any necessity—for bringing forward this Bill at this stage. The hon. Minister said that the wishes of the people of Goa were taken into consideration. The Law Secretary was sent there and I suppose he contacted some lawyers or some advocates. They may have taken the wishes of some people into consideration but as has been said by so many Members the wishes of the legislative body in Goa were not taken into consideration or the wishes of the representatives of Goa who sit in the lower House were not taken into consideration. Then whose wishes were taken into consideration? Were the wishes of the defeated Congress candidates taken into consideration and this Bill brought before this House? I think the verdict of the last elections that took place in Goa was absolutely crystal clear. It has been said *ad nauseum* perhaps that Goa has given a clear verdict, an unequivocal verdict in favour of merging with Maharashtra and I do not know why it is being delayed, why this dilly-dallying tactics are being adopt-

ed. I want to know the आन्तरः कोऽपि

हेतुः in the mind of the Government.

My friend, Mr. Patil, also made another point and that; point was that in the case of Kashmir we gave it a separate status and we have come to grief. He pointed out very elaborately that we were suffering because we gave Kashmir a separate status when it acceded to India. Are we going to do that with Goa also? Do we want to go through the whole painful process over again? I hope not; I hope the Government will learn by its previous mistakes and withdraw this Bill.

There is another point I want to make, Madam, and that is in the case of Kashmir we tried to make a lot of capital out of the fact that the specific issue of accession to India was before the people when the elections were fought and won by the Government of Kashmir that acceded to India. Exactly the same thing has happened when the elections of 1962 took place in Goa. This issue, although the Government did not want to put it before the people, did come up and the elections were fought on this issue. And the people have given their unequivocal and clear verdict. Today the Maharashtra Gomantakwadi Party is in a majority and is running the Government. The verdict is clear and I think the Government should abide by it and be sportsmanlike and see that Goa is merged into Maharashtra and the sooner the better. Very often I find that the Government uses one yardstick for Kashmir and another yardstick for Goa. The sooner they give up using different yardsticks for different problems, I think, the better it will be for the country and for the Government.

Madam, I do not want to repeat the points that have already been

made by my hon. friends and so I shall conclude.

SHH D. L. SEN GUPTA (West Bengal):  
Madam Deputy Chairman I oppose the Bill on very fundamental grounds, namely, in the name of conversion of the Judicial Commissioner's Court into a High Court the people of Goa are in fact being denied the High Court which was promised to them. You are creating a myth; you are creating a legal fiction by a legislative enactment. Call a cottage a palace or vice versa, it remains what it is. We have our judicial system. If by any legislative enactment today we say that the Munsiff's Court will hereafter have all the powers of the High Court, what will be the position? The position will be, what we call the system of filtered justice—the judgment given by the Munsiff's Court is decided upon by the District Court Judge which again is decided upon by the High Court and again the High Court Judgment is decided upon by the Supreme Court—vanishes. By saying that the Judicial Commissioner's Court will function as High Court, you are destroying this process and the judgement from this Court will go direct to the Supreme Court. I will take up the words of the hon. Minister of State for External Affairs. She prefaced the Bill by saying that this provision has been made so that justice may be made easily available. Is justice being made easily available or is it being made more costly? While going to Bombay High Court or any court nearby one will not have to deposit Rs. 2500 as security money which is necessary for filing an appeal in the Supreme Court. How many people will have this sum of Rs. 2500 to deposit as security money. There is also another factory. Coming from Goa to the Supreme Court in Delhi will mean a heavy expenditure. And how many times? Once when special leave is granted, then again when it has to be opposed and again for the hearings?

, [Shri D. L. Sen Gupta.] Is this making justice easily available? First you are denying the people the High Court and you are also denying them the Supreme Court because of the cost involved. If they are keen to create a factual fiction that Bombay is more distant than Delhi from Goa, I have nothing to say.

So far as justice is concerned, you say you are making justice easily available by doing away with the whole process of justice. Then you wind up the whole show of justice. For making justice easily available you want to do away with the process of judicial pronouncements by the High Court. Then do away with the Supreme Court also. Therefore, you make another constitutional amendment of article 136. Bring forward the nineteenth amendment of the Constitution. Article 136 of the Constitution provides for appeal against all High Courts and Tribunals. If you want to make justice easily available, then make another amendment of the Constitution and say that against the judgment of the Goa Court no appeal shall lie to the Supreme Court,

SHRI S. S. MARISWAMY (Madras): It will be the twentieth amendment of the Constitution.

SHRI D. L. SEN GUPTA: Now, you will understand again how a bad case is tried to be made out. You will see the fun of it. Now, they say that the Bombay High Court Judges do not know the Goanese language or the Portuguese language or the Portuguese law. The position is that Mr. Justice Gajendragadkar, when he sat as a Judge of the Bombay High Court, did not know it, but having been promoted as a Supreme Court Judge or as the Chief Justice of India, now he will be all-knowing. This is an unacceptable proposition. You are first denying the High Court. Secondly, by creating a fiction, you are denying them a system of filtered justice as we

call it. Thirdly, you are making the judicial system, so far as the Goanese people are concerned, more expensive and more dilatory. These are my candid criticisms against the whole Bill. I have not introduced politics into it, I have shunned politics. So, it will not be said that it is a political criticism. Whether it will affect the integration of India or not, is a different thing. Whether foreign powers are behind it is a different thing. I am asking the hon. Minister of State in the Ministry of External Affairs whether she has any arguments against all the contentions that I have made here and if she has not, let her withdraw it.

**श्री गोडे मुराहरि :** मैडम डिप्टी चेयरमैन, मैं इस बिल के सरासर खिलाफ हूँ, इसलिये कि इस बिल के लाने के पीछे जो दिमाग है उसको मैं बिलकुल सड़ा हुआ दिमाग समझता हूँ, चाहे वह किसी का भी हो। यह कह करके इसमें कोई राजनैतिक मतलब नहीं है, इसके पीछे कोई गोआ या देश के किसी हिस्से का राजनैतिक दृष्टिकोण नहीं है और यह कह कर कि यह तो एक मामूली सा बिल है जो बहुत आसानी से गोआ के लोगों को न्याय दिलाने वाली चीज है, आप किसी को बेवकूफ नहीं बना सकते। मेरा यह दावा है कि यह बिल यहां पेश करके और यह करके कि यह बहुत ही मामूली बिल है, हम लोगों को बेवकूफ बनाने की कोशिश की जा रही है; क्योंकि अभी तक जो कुछ भी इसके बारे में आप लोगों ने सफाई दी है या इसके पक्ष में बोले हैं, उसमें कोई भी ऐसा कारण मुझे नहीं दिखाई देता है जो यह साबित करता हो कि बम्बई हाई कोर्ट या किसी दूसरे हाई कोर्ट के जरिये यह चीज नहीं हो सकती। तो फिर क्या वजह है कि आज इस तरह का बिल हमारे सामने लाया गया है? इसके पीछे सरासर राजनीति

है। मैं तो यह कहूंगा कि इस सरकार में, जो परिस्थिति आज देश में है उसका सामना करने की हिम्मत नहीं है। किसी भी मामले का सामना करके उसका हल निकालने की हिम्मत इस सरकार में नहीं है। इसके पीछे भी वही विभाग है जो हर मामले का उलझा करके और उसको एक बहुत बड़ा बाँझ बना करके हमारे सिर पर छोड़ना चाहता है। पिछले १७ सालों में जो भी हमारी सरकार की नीतियाँ रही हैं उनमें यही एक धारणा मिलेगी कि किसी चीज का सामना करके उसका हल न निकालना। हमारी सरकार हर मामले में डर जाती है। मैं इस सिलसिले में मिसाल देना चाहूँ तो हजारों दे सकता हूँ। हिन्दुस्तान में कोई ऐसा मामला नहीं है जहाँ हिम्मत से काम लिया गया हो। मैं यह कहना चाहूँगा कि गोआ के मामले में भी अगर उसी विभाग से काम लिया गया तो हमारे सामने एक और मसला खड़ा हो जायेगा। आज हमारे सामने वैसे ही काश्मीर का मसला है, नागालैंड का मसला है और भी कई मामले हैं और अब सरकार यह एक और गोआ का मसला हमारे सामने खड़ा करना चाहती है।

मैं यह भी कहना चाहूँगा कि हमारी सरकार की छोटी मोटी चीजों में भी अलगाव का बरताव रहता है। इसके साथ साथ हमारी सरकार पहले से गोआ को हिन्दुस्तान का एक हिस्सा नहीं मानती है। जब एक्सटर्नल एफेयर्स मिनिस्ट्री के अन्तर्गत गोआ को रख छोड़ा है और विदेश मंत्रालय के जरिये उसका सारा काम काज होता है तो उसका मतलब यह है कि गोआ कोई एक विदेश है, इसलिये वह विदेश मंत्रालय के अधीन आ जाता है। इससे आप सारी दुनिया को यह प्रगट करना चाहते हैं कि हमारा पूरा इंटिग्रेशन अभी नहीं हुआ है और गोआ अलग एक एन्टिटी है। वह

हिन्दुस्तान का एक हिस्सा है, लेकिन उसका कोई एक अलग अस्तित्व है। फिर साथ साथ सिर्फ गोआ ही नहीं, मैं यह कहना चाहूँगा कि पांडिचेरी है, नेफा है और नागालैंड है जहाँ पर एक्सटर्नल एफेयर्स मिनिस्ट्री के जरिये शासन होता है इसकी क्या बजह है? क्या हमारी होम मिनिस्ट्री यह नहीं कर सकती है। यह कहा जाता है कि ये सब एक ही सरकार के हिस्से हैं। यदि सब एक ही सरकार के हिस्से हैं, तो होम मिनिस्ट्री को मजबूत बना करके उसके जरिये इस काम को कीजिये। क्या बजह है कि आप इसको विदेश मंत्रालय के अन्तर्गत रखते हैं? दुनिया में कोई ऐसी सरकार नहीं है जो अपने ही देश के एक हिस्से के काम को एक्सटर्नल एफेयर्स मिनिस्ट्री के जरिये करती हो, लेकिन हिन्दुस्तान में यह सब खूब चलता है और जब मसला गंभीर हो जाता है तो फिर हम प्रचार करने लगते हैं और प्रचार का सब से पहला कदम यह है कि अपना घर ठीक करो और गोआ के मामले को उलझाने का सब से पहला कदम यह है कि इस बिल को हमारे सामने लाया गया है।

आप वहाँ के लोगों को न्याय देना चाहते हैं तो न्याय देने के बहुत से तरीके हैं। हमारा बम्बई हाई कोर्ट काम कर सकता था। यदि आप बम्बई हाई कोर्ट को यह काम देना नहीं चाहते थे तो मैसूर हाई कोर्ट को दे दें, इसमें मुझे कोई एतराज नहीं है। लेकिन यह अलग से जुडीशियल कमिशनर की कोर्ट को हाई कोर्ट का दर्जा देकर के उसके जरिये यह जो काम निकालने की कोशिश है, यह सरकार की एक मिस्वीनियस इन्टेंट है। तो इस बिल के अन्दर जो मिस्वीफ है वह सब की समझ में नहीं आता है और वह यह है कि जो बुनियादी चीज है वह न रहे और आगे जा करके यह मसला भी एक गंभीर रूप ले कर के हमारे सामने आये। इसलिये

[श्री गोडे मराहरी]

मैं यह कहूँगा कि जितना जल्दी हो सके, उतनी जल्दी आप इस बिल को वापस लें।

मैं यह देख चुका हूँ कि सरकारी पक्ष में भी बहुत से ऐसे लोग हैं जो इस बिल से सहमत नहीं हैं। जो भी थोड़ा बहुत दूरदर्शी होगा, जिसके दिमाग में हिन्दुस्तान की एकता की बात रहती होगी, वह इस ढंग के बिल का समर्थक नहीं हो सकता। इसलिये मैं विदेश मंत्रालय से यह कहूँगा कि इस तरह के हिन्दुस्तान के विभाजन के जो काम वह करती रहती है, उन को उसे छोड़ देना चाहिये। आज विदेश मंत्रालय कहीं डा० बैरियर एल्विन को ट्राइबल ऐडवाइजर बना करके एक पोस्ट बनाती है, कहीं गोवा में चाहती है कि वहाँ पुर्तगाल कानून चले। मैं यह समझ सकता हूँ कि जब पुर्तगाल का शासन था, उस वक्त वहाँ पुर्तगाल का कानून लागू था और आजकल भी कुछ ऐसे केंसल आ सकते हैं जिन का ताल्लुक उस जमाने से हो लेकिन बैसेज के बहुत कम होंगे और उनका हल निकालने को काबिलियत हमारे हाई कोर्ट के जजों में है, यह मैं जानता हूँ। इसलिये मैं यह चाहूँगा कि यह जो आजकल दिमाग चल रहा है कि पुर्तगाल कल्चर को कायम रखो, फ्रेंच कल्चर को कायम रखो और हिन्दुस्तान को एक चिड़िया घर बना दो, वह खत्म हो। हिन्दुस्तान में अलग अलग म्यूजियम बनाओ जहाँ कहीं फ्रेंच कल्चर का म्यूजियम हो, कहीं पुर्तगाल कल्चर का म्यूजियम हो, कहीं ट्राइबल कल्चर का म्यूजियम हो और इस तरह से तमाम म्यूजियम बना करके हिन्दुस्तान को तोड़ने की जो राजनीति चली जा रही है उसी का एक अंग यह बिल है और इसलिये मैं चाहूँगा कि यह बिल जल्दी से जल्दी वापस लिया जाये।

hon. Minister of State would have us believe, as simple or as innocent. In the first place this Bill ignores the obvious geographical facts, Diu and Daman are hundreds of miles away from Goa, and the residents of these tiny places would have to suffer untold hardships if justice is to be administered to them from Goa. Again, there is difficulty of language also which I need not mention. As a matter of fact it could have been more natural, rational and logical to place Diu and Daman under the Ahmedabad High Court. Secondly, the present measure cannot be considered or treated as an isolated gesture. It is part and parcel of the broader policies of the Government of India. If those policies be correct, this measure deserves our support. But if they are not correct, this deserves to be opposed and I am convinced that these broader policies of which the present Bill is just a part are thoroughly detrimental to national integration.

There is a general impression that the leaders of the Government are out to maintain Goa as a separate entity. They are trying to make out a case that Goa has a separate culture. Recently there was a report that one Mr. Chopra was found taking films of religious institutions or shrines of a particular community, which has given rise to suspicion in Goa that the Government of India is behind the move of maintaining Goa as a separate cultural entity. I want to know whether Government sincerely believes that Goa has its own culture. If not, there is no justification whatsoever for making arrangements which would perpetuate separation of Goa from the rest of the country. Before I speak anything on this point, I feel it is necessary that I should clarify my stand regarding Christianity.

I am a great admirer and even a follower of Jesus Christ. I fully be-

4 P.M.

SHRI D. THENGARI (Uttar Pradesh):  
Madam, this Bill is not, as our

lieve when the Son of Man asserts: I and my Father are one, I am the way, the truth and the life. But I cannot forget the fact that Il was Jesu> who said: Give unto God what is God's and unto Caesar what is Caesar's. By this he meant that religion is a relationship between man and his Maker and that it should not be allowed to interfere with the national and political loyalties. Therefore, Jesus never hankered after political power; not merely that, but he firmly rejected the plea of Satan who offered him a sway over all the kingdoms of earth. For his followers to conduct political manoeuvrings with anti-national bias is bringing his fair name into disrepute. Had Jesus been alive, he would have condemned it. First, he would have condemned the anti-national manoeuvrings of the so-called Christian Missionaries. He was not after political power. It was his lot to say: The foxes have holes, the birds of air nests, but the Son of Man hath not where to rest his head. Here is an attempt to carve out a State to the detriment of the nation. He could never have supported it. Here I am thinking of the so-called Christians or Missionaries who are conducting anti-national activities. I am not to be misunderstood as a disbeliever in Jesus. I am a good Hindu. Being a good Hindu I am automatically a good Christian because nobody can be a good Hindu without being a good Christian in the real sense of the term, not in its political sense. Therefore, I want to proceed to consider whether there is any justification for maintaining Goa as a separate cultural entity.

It is said that Goa has its own characteristics. I want to point out Madam, that every State, every city even, has certain local characteristics. These local characteristics are not to be confused with culture. If local characteristics be the criterion for conceding separate states, I fear we will have to concede separate

States for every city. I hail from Kanpur. I am sure that Kanpur has its own local characteristics which are distinct from other cities. Should I demand a separate City State for Kanpur on the pattern of Greek City States? No. Local characteristics are different and are to be distinguished from culture. The word "culture" to my mind denotes a trend of impressions on the mind of the society, which is peculiar to itself and which again is the cumulative effect of its passion, emotion, thought, speech and action throughout its history. According to this criterion I feel, Madam, that the entire India, from Sheikh Abdullah's Kashmir to Kanyakumari, is one cultural entity. (Interruption) It is one cultural entity. All the States, all the religious groups, castes and communities notwithstanding their distinct characteristics belong to one culture, and that is the Bharatiya culture. Therefore, this talk of separate culture of Goa is mischievous politics and has nothing to do whatsoever with the fair name of Jesus Christ. I am very unhappy to find that his name is being exploited by political agitators for carving out a separate State. Therefore, this is my request that the Bill which is just a step in the direction of a separate existence of Goa should be immediately withdrawn. The general trends in the country and the general policies that are being pursued by our Government are very disturbing. There was partition, then Kashmir, then Nagaland. Now regarding Goa, the Government has been forewarned, but it refuses to be forewarned. All these things are extremely disturbing. I am a great admirer of our beloved Prime Minister. I wish that the future historians should not be tempted to describe him as a partition specialist. After the Second World War, Mr. Winston Churchill firmly said that he had not become the Prime Minister of Great Britain to liquidate the British Empire. I want an assurance from our beloved Prime Minister that he is not continuing as Prime Minister of

[Shri D. Thengari.] India to liquidate the Indian nation. With these words, Madam, I conclude.

SHRI B. K. GAIKWAD: Madam Deputy Chairman, I rise to oppose the Bill which is meant to declare the Judicial Commissioner's Court for Goa, Daman and Diu to be a High Court for certain purposes of the Constitution. Madam, recently, in the year 1962 this very Parliament has passed the Goa, Daman and Diu (Amendment) Act, 1962 (Act 1 of 1962), section 7 of which runs as follows:

"As from such date as the Central Government may by notification in the Official Gazette specify the jurisdiction of the High Court of Bombay shall extend to Goa, Daman and diu."

If it was so, I fail to understand why Government is thinking of repealing that provision. I do not know why Parliament should be called upon to reverse its verdict.

Taking into consideration the merits and demerits of the problem, there is one thing which could be said in favour of constituting a Judicial Commissioner's Court, and that is that the Judge will sit in Goa and the people can immediately go to the Commissioner's Court there and get quick justice. As against this small advantage, the people of Goa are going to lose numerous other advantages which will flow to them if the jurisdiction of the Maharashtra High Court is extended to Goa. Maharashtra High Court; now only it is called the Maharashtra High Court. Who can deny that the justice meted out by the old traditional and well-established High Court like the Maharashtra High Court whose history and tradition and prestige are very well known in the country, will be a hundred times better than the justice meted out by the petty Judicial Commissioner? Secondly, if we go to the High Court in regard to those cases which are dealt

with by a single judge or a division Bench, in certain special cases there is provision for special leave of appeal to a larger Bench and for getting a more considered opinion of a larger number of judges. That advantage is also taken away from the people of Goa, Diu and Daman. Thirdly, to correct the decision of the Judicial Commissioner people will have to go straightway to Delhi, to the Supreme Court. We all know how costly and prohibitive appeals to the Supreme Court are. It is impossible for an ordinary citizen, excepting the big moneyed people, to approach the Supreme Court, if this is the context in which we are considering this Bill, how can we justify the setting up of separate Judicial Commissioners' Court for Goa? And what would go wrong if the jurisdiction of the Maharashtra High Court is extended to the territory of Goa? The status of the High Court is much higher than that of the Judicial Commissioner's Court.

Madam, when this Bill was under the consideration of the Lok Sabha, those who spoke on the Bill had opposed and even in this House what we find is that excepting one of the speakers, all those who have participated in the debate have opposed the Bill, and many of my friends have requested that the hon. Minister should withdraw the Bill.

Madam, we are suspicious that there must be some conspiracy behind, introducing this Bill to separate Goa from Maharashtra permanently. Our Government and our Constitution by which the country is governed are democratic. In this territory recently there were elections. The Congress which is ruling the country was defeated in Goa, Daman and Diu. The majority of the people who were elected contested the elections on the clear understanding and principle and policy of merging Goa with Maharashtra. It is the duty of the Central Govern-

ment to respect the views of the people elected but the Government is hesitating to merge Goa with Maharashtra.

I will quote another instance. The Government was pleased to appoint a Language Commission presided over "by the eminent educationalist, Dr. Amarnath Jha. The children of Goa voted, as once before their parents had voted, in regard to the merger by deciding that 54,000 of them would study in Marathi, while only 600 opted for Konkani and 2,000 opted for education in English. It is therefore obvious that the language of Goa is Marathi.

In spite of all these things, the Central Government is putting obstacles in the way of merging Goa with Maharashtra. Is this the integration about which our Government talks too much? Is this democracy which our Government praises so much?

Madam, while replying to the debate in the Lok Sabha, the hon. Shrimati Lakshmi Menon, the Minister of State, said:

"There was never an appeal from Goa court to the Bombay High Court at all at any time."

If this is the position in Goa, where was the necessity then to appoint a Judicial Commissioner having the power of a High Court and incurring unnecessary expenditure in that behalf. Not only that. You will find that while replying to the debate there the hon. Minister of State said that the views of the pleaders working in Goa were taken into consideration. I do admit that the views of the pleaders might have been taken into consideration but has she ever taken into consideration the views of the clients or the people who are living there? Generally speaking, the representatives of the territory of Goa are there in the Lok Sabha, there are two Mem-

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bers. They are not taken into confidence, they are not at all asked. The hon. Minister comes forward and says that the views of the pleaders were taken into consideration. Pleadors are pleaders, they are for money. I do not know whether they are fighting for real justice.

Then the second thing is—if I mistake not—that since December 1963, it has been gazetted, it has been announced, that hereafter all new cases of Goa, Diu and Daman will be conducted according to the Indian Penal Code and the Criminal Procedure Code, if this is so, why should the hon. Minister attach that much « of importance to cases being conducted according to the Portuguese law? I know that there are some cases which are going to the court of Goa. They might be conducted according to the Portuguese law; they are old cases. But all the new cases will be conducted according to the Indian Penal Code and the Criminal Procedure Code. If this is the position, the difficulties which are said to arise will not come in the way.

Moreover, Madam, you will find that the population of the territory of Goa is near about 5 lakhs. The area is nearly half of any district of Maharashtra State. It is not understood as to why there should be a High Court for such a small area.

Madam, therefore, I oppose the Bill both on principle as well as on the ground of logic; there is nothing there. Generally speaking, almost all the Members have opposed it, and I hope that the hon. Minister will be pleased to withdraw the Bill. If not, the House, as it has expressed its views by talking, will throw out, defeat his" Bill in this House.

SHRIMATI LAKSHMI N. MENON:  
Madam Deputy Chairman, to begin with, I would like to say that I am



[Shrimati Lakshmi N. Mjenon.] not going to withdraw the Bill or agree to the amendment that it must be referred to a Committee. Having said that and before I go to the points absolutely relevant, to the Bill, I would like to disnicc some of the issues raised by the speakers.

First and foremost there is the assertion of many Members that the election has proved very clearly that the majority of the people were for merger. Madam, I do not know how this conclusion was arrived at. Here I have before me the party position as well as the votes polled by the different parties. Out of the total polling of 2,49,516, the Maharashtrawadi Gomantak Party got 1,09,126 votes and the other parties that is, the United Goans, the independents and the Congress got the rest.

SHRI A. D. MANI: What are the rest?

SHRIMATI LAKSHMI N. MENON: One lakh forty thousand, three hundred and ninety.

AN HON. MEMBER: What is the view of the Congress Party?

SHRI P. K. KUMARAN (Andhra Pradesh): Do you include Congress in the "rest"?

SHRIMATI LAKSHMI N. MENON: There is a clear division of parties. The Maharashtrawadi Gomantak Party . . .

SHRI D. B. DESAI: Does the hon. Minister include the Congress in the Maharashtrawadi Gomantak Party?

SHRIMATI LAKSHMI N. MENON: I am putting Maharashtrawadi Gomantak Party on the one side and all the others as the rest. You will find that they do not have an absolute majority either in the number of members or in the votes polled.

SHRI LOKANATH MISRA: Would you apply the same yardstick to the Congress votes in the general elections?

SHRIMATI LAKSHMI N. MENON: I am not applying any yardsticks at all. I am only telling the facts about the issues raised by the Members. The Maharashtrawadi Gomantak Party got 14 out of 30.

THE DEPUTY CHAIRMAN: Fourteen out of thirty or 14 out of 28?

SHRIMATI LAKSHMI N. MENON: Fourteen out of thirty. Many allegations were made. Firstly, it was said that by this Bill we are really depriving a large number of the Goans of their democratic rights, and that the Government is bureaucratic, undemocratic and is intent on creating disruption. Madam, I do not really know how the hon. Members came to this conclusion because a Bill is introduced which limits its scope. It is a temporary measure to deal with the pending appeals from the Tribunal.

SHRI G. MURAHARI: These temporary measures go to form your policy of disintegration.

SHRIMATI LAKSHMI N. MENON: We know your views on Goa. Therefore, it is not necessary for me to waste the time of the House in repeating my argument again and again.

Then, Madam, we were told—in fact, the language used by the hon. Member is not even parliamentary—that the External Affairs Ministry should not have piloted the Bill and that by doing so we are only creating linguistic difficulty. I agree with the hon. Member that all legislation, should be piloted by the Law Ministry.

SHRI BHUPESH GUPTA: I never said that.

SHRIMATI LAKSHMI N. MENON: Because the External Affairs Ministry is not to pilot this Bill, naturally the suggestion is that all Bills should be piloted by the Law Ministry. I agree that the Law Ministry is the proper Ministry for legislative work. There seems to be some kind of feeling, a sort of personal animus against the External Affairs Ministry. And so they say that we are creating linguistic difficulties, that we are creating disruptive tendencies in the country. Why? Because the Goa, Daman, Diu and various other territories, which were formerly under colonial rule, are being taken up by the External Affairs Ministry. Madam, I would expect Members of Parliament to know something about the implications of foreign relations in these matters. Why is it that the Government of India felt necessary that the External Affairs Ministry should take over the administration of Pondicherry? Why did we feel that the External Affairs Ministry should also carry on the overall supervision of administration in Goa, Daman and Diu, or even in NEFA and Nagaland? It is not because we think that these places need any special status or they are outside the Indian Union. Certainly not. For a particular period of time we feel they have to be brought within the mainstream of our legal, political and economic systems. Now, for instance, in Pondicherry for a long time there was the difficulty with regard to appeals, with regard to the law administered there. The French law is different from the British law. The same thing holds true in the case of Goa. I would like to ask hon. Members one question. Why do we have British law in our country even after we are free? Why should we have the need of British law, the British legal system? And if we can have that sixteen or seventeen years after independence, Madam, there must be some logic in it when we say that these Portuguese territories should have the Portuguese system. (*Inter-*

*ruption by Shri G. Murahari*) I do not want to be interrupted.

SHRI G. MURAHARI: Do you mean to say that you want to continue the Portuguese law for ever?

SHRIMATI LAKSHMI N. MENON: I am not yielding, Madam.

THE DEPUTY CHAIRMAN: Mr. Murahari, Parliamentary interruptions are permissible, but Mrs. Menon is not giving way.

SHRIMATI LAKSHMI N. MENON: I am not yielding for the simple reason, and it is very plain to anybody, that a certain territory, which was a part of India, was being administered by an alien government, with an alien system of law for nearly 450 years. Now we want that part to be brought within our system. But it takes time to do so because any kind of sudden change would affect the people adversely, Madam.

SHRI NIREN GHOSH: How?

SHRIMATI LAKSHMI N. MENON: I am going to tell you how. The reorganisation, for instance, of the judiciary of Goa, Daman and Diu, Madam, was under consideration of the Government of India for a long time. In fact, when section 7 of the Goa, Daman and Diu Administration Act was discussed, there was quite a lot of difference of opinion. And then we assured the House that this was only a temporary measure; it is only an *ad hoc* decision. And before the notification for the extension of jurisdiction of the Bombay High Court could be issued, the Law Secretary had the opportunity of going there. We were asked: Why did you consult only the Bar Council of lawyers? You should have consulted everybody else. Certainly in the administration of law people should know something about law or Government should consult those who are involved in the administration of law. And then we were convinced that section 7 of the Goa, Daman and Diu

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[Shrimati Lakshmi N. Menon.]  
Administration Act has to be changed, and the Tribunal, the highest appellate court in Goa, should be given a different name and allowed to carry-on the duties.

Now, Madam, you will know that most of the cases pending before the Tribunal arose out of the Portuguese laws and there would be problems raised as a result of any other system of law. The Portuguese laws and the records were maintained in the Portuguese language. The lawyers were not conversant with the Indian law procedure or even the English language. After all, if the appeals were to be permitted to the Bombay High Court, the litigants naturally would be put to considerable expenses in the matter of translation of documents, engagement of lawyers, etc. Madam, you would recall that when we took up the case of the right of passage in the Dadra and Nagar Haveli to the International Court of Justice, the amount of foreign exchange involved was very heavy. Just for getting the documents translated into English we had to spend so much. We do not want the ordinary people in Goa, Daman and Diu to be *put* to that difficulty; they do not have the resources.

SHRI NIREN GHOSH: Let the Government pay the expenses.

SHRIMATI LAKSHMI N. MENON: The Union Territories of Manipur, Tripura and Himachal Pradesh also have Judicial Commissioner's Court from which appeals lie to the Supreme Court. As I pointed out earlier, Madam, this is in line with the arrangements that exist in the Union Territories or elsewhere.

Now the Regulation converting the Tribunal into a Judicial Commissioner's Court, as promulgated by the President, was brought forth in December 1963. Immediately a Bill was also introduced in Parliament. The Question of consulting the Bombay

High Court did not arise at all because the notification extending the jurisdiction of the Bombay High Court was never issued. Therefore, there was no question of consulting the Bombay High Court.

Madam, we were told that the kind of justice administered by the Judicial Commissioner's Court would not be fair. I think it is very unfair, Madam, to say that the kind of justice administered by any Judge appointed by the President is not fair or it will not be the same as the justice administered somewhere else. After all, justice is justice. It is not the judge that weighs, it is the evidence that weighs. He finds out who is the culprit, who is wrong, who is right. If I may be permitted to say so . . .

SHRI NIREN GHOSH: The laws do not matter. Only the Judge matters.

SHRIMATI LAKSHMI N. MENON: The law, the Judges, interpretation, everything matters. I am not denying that one matters and the other does not matter. But you cannot say that there is one kind of justice which is inferior and another kind of justice which is superior. Or when truth is told by a smaller person, it does not happen to be a truth. Truth is truth, justice is justice and therefore to say that a Judicial Commissioner's Court of three Judges will not be able to administer the kind of justice that the hon. Member wants is altogether wrong.

SHRI D. B. DESAI: On a point of clarification. Under the Regulation, the Judicial Commissioner's Court is an appellate court itself. Does the Minister imply that the original appellate position of the Judicial Commissioner's Court will be the same as that of the High Court or there will be any distinction? Will the same Judicial Court sit on its own judgment?

SHRIMATI LAKSHMI N. MENON: It is not the same as the High Court. I am sure the hon. Member knows that I have said that it is only for certain purposes that the Judicial Commissioner's Court becomes a High Court. That is why so many articles in the Constitution with reference to the High Court are omitted in this case because only in certain matter, for a certain purpose, it is constituted as a Judicial Commissioner's Court and if the hon. Member will read . . .

SHRI D. B. DESAI: My question is, the Judicial Commissioner's Court as it is is an appellate court. Will it sit as High Court on its own judgment?

THE DEPUTY CHAIRMAN: It *is* already an appellate court. That is what she said.

SHRIMATI LAKSHMI N. MENON: But it is not the highest appellate court. It is an appellate court but the highest is the Supreme Court.

SHRI D. B. DESAI: The Supreme Court /' the ultimate appellate court in the country.

SHRIMATI LAKSHMI N. MENON: No. Now by this Act the Judicial Commissioner's Court will be made an appellate court for certain purposes and those are the pending appeals . . .

SHRI D. B. DESAI: Even in those cases it will decide a case which has been decided prior by itself.

SHRIMATI LAKSHMI N. MENON: Yes, it will be deciding some cases.

SHRI D. B. DESAI: Who is to decide those cases?

SHRIMATI LAKSHMI N. MENON: If it is a case decided by one judge, then there will be a Bench of three Judges.

SHRI BHUPESH GUPTA: It may be only a question of one Judge and two Judges.

SHRIMATI LAKSHMI N. MENON: Yes. Just as a High Court can be having original jurisdiction as well as appellate jurisdiction.

SHRI BHUPESH GUPTA: Appellate? You said in your speech that this Court will be an appellate court having the functions of a High Court. The Judicial Commissioner's Court is also an appellate court. It will retain such functions. Therefore the same court will be in the case an appellate court in the capacity of a Judicial Commissioner's Court and from that again an appeal can go to it in the capacity of a High Court?

SHRI D. B. DESAI: In that case there will be a separate Bench?

SHRIMATI LAKSHMI N. MENON: That is exactly what I am saying.

SHRI BHUPESH GUPTA: Same people? Can we imagine a situation, anomalous situation?

SHRIMATI LAKSHMI N. MENON: We are always imagining that situation. That kind of situation happens all the time.

SHRI BHUPESH GUPTA: This is a High Court. A High Court may be Full Bench or a Special Bench and so on but here the upper layer of the people come in.

SHRIMATI LAKSHMI N. MENON: I would refer the hon. Member to Section 8 of the Regulation—Judicial Commissioner's Court Regulations.

SHRI BHUPESH GUPTA: I have not got it.

SHRIMATI LAKSHMI N. MENON: You better have it.

SHRI BHUPESH GUPTA: Why should I have everything.

SHRI D. B. DESAI: I am referring to the relevant clause. Please refer to the regulations and 8e. It is an appellate court and the same appeal will lie with the High Court.

THE DEPUTY CHAIRMAN: But to a different Bench? Is that what the Minister said?

SHRI BHUPESH GUPTA: What is a different Bench? This is a Court. Then it is an internal arrangement as to how it will be heard. Now we are having dual functions. In one case it functions as a Judicial Commissioner's Court. In another case with some arrangement it functions as a High Court which receives appeal from the Judicial Commissioner's Court.

SHRIMATI LAKSHMI N. MENON: The Court of the Judicial Commissioner shall be the highest civil and criminal court of appeal and revision in Goa, Diu and Daman and shall have all the jurisdiction as under the law in force immediately etc.—Without prejudice to the generality of the provisions under sub-section (i), appeal from judgment, decrees, etc., subject to the provisions of any law for the time being in force to the Court of Judicial Commissioner, the Court of the Judicial Commissioner may call for record, etc. Will you please read Section 8 of the Regulation?

SHRI BHUPESH GUPTA: We have read it—

SHRIMATI LAKSHMI N. MENON: Let me finish. Any further explanation, I think, the Law Minister is

here and he will give that. If you are not convinced by what I said, the Law Minister is here and after I have finished replying, he will explain further.

SHRI BHUPESH GUPTA: He cannot give another reply. He can speak at the Third Reading.

SHRIMATI LAKSHMI N. MENON: That is for the Chair to decide.

SHRI BHUPESH GUPTA: No. The Rules of Procedure are there. We cannot help it. He could have spoken before you. He cannot speak after.

SHRIMATI LAKSHMI N. MENON: He will speak after me. He is not speaking at all. A Question was asked as to the future of Goa.

SHRI D. B. DESAI: Now the Minister stated that the Minister of Law will reply to some questions.

THE DEPUTY CHAIRMAN: He is not replying.

SHRI D. B. DESAI: Or intervene . . .

THE DEPUTY CHAIRMAN: Not intervening.

SHRI D. B. DESAI: The Minister of State will have to reply then.

THE DEPUTY CHAIRMAN: The Minister of State said that he is not intervening or not replying.

SHRI BHUPESH GUPTA: It is not a question of his desiring or not. If the hon. Minister is giving the reply, after that the debate closes and the Second Reading, and in the next Reading, he can speak.

THE DEPUTY CHAIRMAN: I know that.

SHRIMATI LAKSHMI N. MENON: I have said again and again that the

*Court*

Members do not read either the Bill or the Regulation. What am I to say?

SHRI BHUPESH GUPTA: Why do you not read it?

SHRIMATI LAKSHMI N. MENON: I cannot read the whole thing. Clause 3 of the Bill reads:

"The Court of the Judicial Commissioner for the Union territory of Goa, Daman and Diu (hereinafter referred to as the Judicial Commissioner's Court) is hereby declared to be a High Court for the purpose, of articles 132, 133 and 134."

if you want I can read that also.

SHRI BHUPESH GUPTA: Every thing you should read.

SHRIMATI LAKSHMI N. MENON: I will read:

"An appeal shall lie to the Supreme Court from any judgment, decree or final order of a high Court in the territory of India, whether in a civil, criminal or other, proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution."

SHRI BHUPESH GUPTA: Tell us what point is made out by that quotation? Nothing except that something has been read out.

SHRI G. MURAHARI: You better withdraw the Bill.

SHRI BHUPESH GUPTA: You better withdraw the Bill.

SHRI C. D. PANDE (Uttar Pradesh): Goa is not Kashmir. Why do you worry the lady Minister?

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SHRIMATI LAKSHMI N. MENON: Before this Bill comes into force, there is no appeal from the Judicial Commissioner's Court to the Supreme Court but with this Bill . . .

SHRI BHUPESH GUPTA: With this Bill via the . . .

SHRIMATI LAKSHMI N. MENON: . . . an appeal will lie under Article 133.

SHRI BHUPESH GUPTA: That I understand

SHRIMATI LAKSHMI N. MENON: What is it that you do not understand?

SHRI BHUPESH GUPTA : With this Bill an appeal will lie where the Judicial Commissioner's Court functions as a High Court. This is the position. An appeal will not lie from the Judicial Commissioner's Court as it is to-day. It will lie from the Judicial Commissioner's Court to the Judicial Commissioner's Court again functioning under this as a High Court and then to the Supreme Court. This is the position.

SHRIMATI LAKSHMI N. MENON: Shall I proceed?

SHRI NIREN GHOSH: Reconsider the whole position. Defer it.

SHRI BHUPESH GUPTA: Confusion is worse confounded.

SHRIMATI LAKSHMI N. MENON: Confusion is there because you are not listening to me properly but you are trying to bring your own ideas into it.

SHRI BHUPESH GUPTA: Not at all.

THE DEPUTY CHAIRMAN: Let her explain.

SHRI BHUPESH GUPTA: The more she explains the worse the confusion.

SHRIMATI LAKSHMI N. MENON: The Judicial Commissioner's Court is the highest appellate court in Goa.

SHRI BHUPESH GUPTA: We have understood it. But what we are now disputing is the arrangement that you are making. The same court functions in a dual capacity.

SHRIMATI LAKSHMI N. MENON: What is wrong with it?

SHRI BHUPESH GUPTA: Nothing is wrong with it. How in the appeal justice is being meted out? Now, immediately you make some institution a high Court, so to say, which is what this Bill does—I concede it—then the same people, the same body of men will be dealing with the thing in a dual capacity—appeal from them to them; appeal against their decision to them again; this is the anomaly which is being created,

SHRI LOKANATHMISRA: I would suggest that since there is a lot of confusion

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SHRIMATI LAKSHMI N. MENON: There is no confusion.

SHRI BHUPESH GUPTA: There is very much.

(Interruptions)

SHRI ARJUN ARORA (Uttar Pradesh) : It seems you are confused, and if you are confused you may please keep quite. It is no good for a confused person to speak. If you are confused, please keep quiet.

SHRI BHUPESH GUPTA: I am sure you never understood the thing.

(Interruptions)

THE DEPUTY CHAIRMAN: Order, order. You will please clear the anomaly without further interruptions

SHRIMATI LAKSHMI N. MENON: Madam, I repeat again that the Judicial Commissioner's Court is really a new name for the Tribunal *de Relacao*, and it is the highest court. And now when this Bill is parsed, it will also be conferred with . . .

SHRI BHUPESH GUPTA: It is the highest and yet not highest.

SHRIMATI LAKSHMI N. MENON: And now the powers of a High Court will be conferred on it, so that appeal will lie from that High Court to the Supreme Court.

SHRI BHUPESH GUPTA: From the right hand to the left hand.

SHRIMATI LAKSHMI N. MENON: It is already a court of appeal. Now we were told that the functions of the Supreme Court were imposed on GOH this way, as if it was a crime to bring justice to the people and provide an easy way to their problems being solved by a court in Goa itself. The hon. Members who are insisting that the original Section 7 of the Goa, Daman and Diu (Administration) Act should have been maintained . . .

HON. MEMBERS: No, no.

SHRIMATI LAKSHMI N. MENON: . . . are the very persons, I regret to say, who want the merger of Goa with Maharashtra..

AN HON. MEMBER: No no, that is wrong.

SHRIMATI LAKSHMI N. MENON: It has already been pointed out, there is no doubt in my mind, because the hon. Members did say that the language of Goa was Marathi and therefore Goa must be a part of Maharashtra, etc.

SHRI D. B. DESAI: There was originally the proposal to have a Bench

of the Bombay High Court at Bombay.  
Why was it given up?

*{Interruptions}*

SHRIMATI LAKSHMI N. MENON; I do not want anything. I only want the Bill to be passed before 5 o'clock *(Interruptions)* Then there was the suggestion—irrelevant of course—that there was a group in Goa which wanted Goa, Daman and Diu to be a limb of Portugal and that we were encouraging them—one of the hon. Members did say that. Is it fair for anybody to think -so? It is a territory which is no longer under Portugal, it has been liberated, it is part of India; not only that, even the United Nations has, in a Resolution, admitted ] that Goa, Daman and Diu do not belong to Portugal but are a Part of India. Even so you find there are hon. Members here who want to perpetuate that myth of Goa be being a separate entity. Whatever cultural patterns there are in India—a 5 one hon. Member pointed out, of course, there are cultural patterns in India, a mosaic of cultural patterns—it does not matter; we may have different cultures; we may have different ways of living, but we are all Indians, and Goa long ago became part of India. I hate the words 'integration of Goa' there is no question of integrating any part of India with any other part of India, geographically, ethnically and otherwise . . .

SHRI BHUPESH GUPTA: You have a National Integration Committee. Why do you have it then?

SHRIMATI LAKSHMI N. MENON;  
Please sit down.

THE DEPUTY CHAIRMAN: Will you please li<sup>stenn</sup> without interruption?

SHRIMATI LAKSHMI N. MENON; I want to assure the House . . .

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SHRI C. D. PANDE: Shri Bhupesh Gupta cannot be the only Member to monopolise interruptions.

SHRIMATI LAKSHMI N. MENON;  
Madam, this Bill has no such motive; i want to repeat again and again that this Bill does not have any political motive at ail. All that it wants is to see that the appeals which are pending in the Tribunal de *Relacao* and which should have normally gone to Portugal in the old state of affairs, should be done with in this High Court which is being created by this law. That is all the purpose of this Bill and therefore we ask not only for this but also for the consequential repeal of section 7 of the Goa, Daman and Diu (Administration) Act, 1962. When Goa, Daman and Diu were under Portuguese rule, the appeals used to go to Lisbon, and after their liberation from Portuguese rule there was naturally no question of these things going to Lisbon. But then the appeals are still undecided; people are in difficulty because their cases have not been decided yet for want of a court.

*(Interruptions)*

THE DEPUTY CHAIRMAN: Order, order. I now put the amendment of Mr. Desai to vote. The question is:

"That the Bill to declare the Judicial Commissioner's Court for Goa, Daman and Diu to be a High Court for certain purposes of the Constitution, as parsed by the Lok Sabha, be referred to a Select Committee of the Rajya Sabha consisting of the following Members:

1. Shri M. N. Govindan Nair
2. Shri P. K. Kumaran
3. Shri Mulka Govinda Reddy
4. Shri R. S. Khandekar
5. Shri Atal Behari Vajpayee
6. Shri A. D. Mani
7. Shri P. L. Kureel Urf Talib



8. Shri J. Venkatappa
9. Shri K. V. Raghunatha Reddy,  
and
10. Shri D. B. Desai (the mover).

with instructions to report by the  
5th May, 1964."

*The House divided*

THE DEPUTY CHAIRMAN: Ayes—  
16; Noes—59.

AYES—16

Desai, Shri D. B.  
Dwivedy, Shri Bairagi  
Gaikwad, Shri B. K.  
Ghosh, Shri Niren  
Gupta, Shri Bhupesh  
Gurupada Swamy, Shri M. S.  
Kumaran, Shri P. K.  
Mani, Shri A. D.  
Misra, Shri Lokanath  
Murahari, Shri G.  
Reddy, Shri Mulka Govinda  
Shakuntala Paranjpye, Shrimati  
Singh, Shri Devi  
Singh, Shri Ram  
Thengari, Shri D.  
Venkatappa, Shri J.

NOES—59

Abid Ali, Shri  
Abraham, Shri P.  
Anis Kidwai, Shrimati  
Arora, Shri Arjun  
Bhargava, Shri M. P.  
Chatterji, Shri J. C.  
Chavda, Shri K. S.  
Chengalvaroyan, Shri T.  
Das, Shri N. K.  
Dasgupta, Shri T. M.  
Desai, Shri Suresh J.  
Dharia, Shri M. M.  
Dikshit, Shri Umashankar  
Doogar, Shri R. S.  
Dutt, Shri Krishan  
Gujral, Shri I. K.  
Karmarkar, Shri D. P.  
Kathju, Shri P. N.  
Khan, Shri Akbar Ali

Khan, Shri M. Ajmal  
Koya, Shri Palat Kunhi  
Kulkarni, Shri B. T.  
Lakshmi N. Menon, Shrimati  
Maniben Vallabhbbhai Patel, Kumari  
Mary Naidu, Miss  
Mehta, Shri Om  
Mir, Shri G. M.  
Mishra, Shri S. N.  
Mohammad, Chaudhary A.  
Mohinder Kaur, Shrimati  
Momin, Shri G. H. Valimohmed  
Muhammad Ishaque, Shri  
Nandini Satpathy, Shrimati  
Pande, Shri C. D.  
Panjhazari, Sardar Raghbir Singh  
Parthasarathy, Prof. (Mrs). G.  
Patil, Shri P. S.  
Patra, Shri N.  
Pattabiraman, Shri T. S.  
Phulrenu Guha, Dr. Shrimati  
Prasad, Prof. B. N.  
Punnaiah, Shri Kota  
Ramaswamy, Shri K. S.  
Ramaul, Shri Shiva Nand  
Ray, Dr. Nihar Ranjan  
Ray, Shri Ramprasanna  
Reddy, Shri M. Govinda  
Reddy, Shri N. Sri Rama  
Sapru, Shri P. N.  
Shanta Vasisht, Kumari  
Shyam Kumari Khan, Shrimati  
Siddhu, Dr. M. M. S.  
Singh, Dr. Anup  
Singhi Thakur Bhanu Pratap  
Tankha, Pandit S. S. N.  
Tara Ramchandra Sathe, Shrimati  
Tariq, Shri A. M.  
Varma, Shri C. L.  
Vijaivargiya, Shri Gopikrishna

*The motion was negated.*

THE DEPUTY CHAIRMAN: The  
question is:

"That the Bill to declare the Judicial  
Commissioner's Court for Goa, Daman and Diu  
to be a High Court for certain purposes of the  
Constitution, as passed by the Lok Sabha, be  
taken into consideration."

*The motion was adopted.*

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THE DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill.

*Clauses 2 to 8 were added to the Bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

SHRIMATI LAKSHMI N. MENON; Madam, I move:

"That the Bill be passed."

*The question was proposed.*

SHRI BHUPESH GUPTA; Madam Deputy Chairman, I shall speak very slowly to the advantage of the hon. Minister.

THE DEPUTY CHAIRMAN; Slowly and briefly.

SHRI BHUPESH GUPTA: No, very slowly to begin with, briefly tomorrow.

AN HON. MEMBER: Be brief.

SHRI BHUPESH GUPTA. We expected that after the debate in this House the hon. Minister . . .

SHRI ARJUN ARORA: Please be relevant.

SHRI BHUPESH GUPTA: Of course, I will be relevant. We expected that when we opposed this Bill irrespective of party affiliation, the hon. Minister would at least think as to whether she should proceed with this highly objectionable legislation. But instead of that she decided to press on with her claim that the Bill be passed even before 5 o'clock. I will tell you that the Bill is not going to be passed, as far as I can see, before 5 o'clock.

Now, the arguments that have been made from both sides of this House, Madam Deputy Chairman, I must

say, have not at all been met. As you saw, as you realised, and I think you felt it surely, that as the hon. Lady Minister was trying to do the impossible, to justify the unjustifiable, to defend the indefensible, she was getting stuck up at every stage. When we asked her, through interruptions, as to what was the position with regard to the Judicial Commissioner's Court vis-a-vis the functions of the High Court and the mutual co-ordination and relations between the two, no satisfactory answer was given, and the matter has been left where it was when we started. It is pointless to tell us that the Law Secretary went there. We know that the Law Secretary went there. We believe in what you say. But there is a Legislative Assembly in Goa, in Daman and Diu. The question arises; Was that body consulted? We may be clear that it has not been consulted at all, and yet it is a body which has been created as a result of popular choice. In the case of the High Court Judges being appointed, the State Government comes in by way of advice to the Central Government. When the Governor seeks the advice of the Council of Ministers, the Council of Ministers functions on behalf of the Legislature and is responsible to the Legislature. But in the present case, the Council of Ministers as well as the Legislature have been completely dispensed with. The decision is being taken arbitrarily, by the bureaucratic institutions of the Central Government and the appointment is being made accordingly. To call this democracy would be abusing the term "democracy". That is what I say. It is fantastic that when we have got two representatives from Goa, Daman and Diu, sitting in the other House, the Government did not have the elementary courtesy of consulting them before formulating this Bill. What prevented, them from inviting Mr. Peter Alvares and the other hon. Member and to consult them so that

[Shri Bhupesh Gupta.] before the final decision was taken their opinion was before them? That was not done. As far as the other Parties are concerned, nobody was consulted. This shows how they function. They rely more on their Secretary—however important he may be—than on the elected Legislature, than on the Council of Ministers, elected under their Constitution, on the representatives who come from the particular constituency to the House of the People, or Lok Sabha. Is that the proper approach? I want to know.

There is no use telling us that they are doing this for the people of Goa. Did you ascertain what the people of Goa wanted? On the contrary we have seen clearly that public opinion in Goa is, to a large measure, opposed to this kind of a measure. At least you will agree that it is a highly controversial measure. Are we then to proceed, with regard to such controversial matters in this dictatorial and authoritarian manner? Somebody in the Secretariat says that this is the law and this is going to be the law, and the law must be passed in the manner in which they have conceived it. I think this is not very right.

It is pointless to tell Us that we are being guided by a kind of political designs or desires in the matter. Whether they should take up the question of merger of Goa or not, is a different matter altogether. What we

are concerned with is whether we are giving a fair deal to the people of Goa and whether

SHRI A. M. TARIQ (Jammu and Kashmir): We are.

SHRI BHUPESH GUPTA: You are not, Mr. Tariq. I do not know whom you are supporting now. But I am not prepared to support this thing. You say that justice will be easily available to the people of Goa. But are you not giving them perverted justice?

SHRI A. M. TARIQ: No.

SHRI BHUPESH GUPTA: How do you say that?

SHRI A. M. TARIQ: We know

SHRI BHUPESH GUPTA: I tell you, Mr. Tariq how, because you are passing a law

THE DEPUTY CHAIRMAN: Mr. Gupta, can you tell it in five more minutes?

SHRI BHUPESH GUPTA: No, not at all. Tomorrow.

THE DEPUTY CHAIRMAN: All right. Then I think it is 5 o'clock.

The House now stands adjourned till 11 A.M. tomorrow.

The House then adjourned at five of the clock till eleven of the clock on Tuesday, the 5th May, 1964.