

**THE DRUGS AND COSMETICS
(AMENDMENT) BILL, 1963**

THE DEPUTY MINISTER IN THE
MINISTRY OF HEALTH (DR.
D. S. RAJU): Sir, I move for leave to
introduce a Bill further to amend the
Drugs and Cosmetics Act, 1940.

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

DR. D. S. RAJU: Sir, I introduce
the Bill.

**THE DRUGS AND MAGIC RE-
MEDIES (OBJECTIONABLE AD-
VERTISEMENTS) AMENDMENT
BILL, 1963**

THE DEPUTY MINISTER IN THE
MINISTRY OF HEALTH (DR. D. S.
RAJU): Sir, I move for leave to in-
troduce a Bill to amend the Drugs
and Magic Remedies (Objectionable
Advertisements) Act, 1954.

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

DR. D. S. RAJU: Sir, I introduce
the Bill.

**THE GOVERNMENT OF UNION
TERRITORIES BILL, 1963**

THE MINISTER OF STATE IN THE
MINISTRY OF HOME AFFAIRS
(SHRI R. M. HAJARNAVIS): Sir, I
move:

"That the Bill to provide for
Legislative Assemblies and Councils
of Ministers for certain Union terri-
tories and for certain other matters,
as passed by the Lok Sabha, be
taken into consideration."

Sir, the Bill as it has emerged from
the Joint Committee is to be taken
into consideration. The Joint Com-
mittee which sat on the Bill has made
certain important changes with a view
to advancing the grant of local auto-
nomy to the local administration. Be-
fore I come to those clauses I might
refer that clauses 12, 18, 34, 54, 56 and
57 have been amended but the amend-
ments are more or less of a clarifica-
tory nature. May I come to clause 2
where again, the substance is not
changed but the form is changed be-
cause as originally drafted it said that
the 'Administrator' means 'Adminis-
trator of a Union Territory? A view
was expressed that since he was go-
ing to be the Head of the Administra-
tion he ought not to be called an Ad-
ministrator but as in some territories
he is called a Governor that designa-
tion should be continued. That is not
prohibited by the Constitution but the
Constitution itself uses the word 'Ad-
ministrator' under article 239 and goes
on to say 'or by whatever designation
he may be called'. That definition is
now reproduced in the amended clause
so that no doubt would remain and
the President may employ any designa-
tion to describe or to designate the
Head of the Local Administration. In
clause 3 the number of persons nomi-
nated has been enhanced from 2 to 3
But the real clauses in which change
has been made and there has
been an augmentation of the local
autonomy, are clauses 10 and 44. In
the Bill as it was originally framed
the Administrator could address the
Assembly, could take part in the de-
bate and could also answer questions.
Under clause 44 he was also to pre-
side over the Executive Council meet-
ing of the Council of Ministers. It was
expected that normally he would
preside over the meetings of the
Council of Ministers. It was repre-
sented to the Joint Committee that
this was derogatory to the autonomy
which was sought to be conferred
upon the Local Administration and it
ought to be removed. Consequently
the clauses have been amended and
the Administrator will not partake in

the debates of the Assembly. He has no right to address the Assembly except of course as the Head of the Administration, as happens elsewhere in Part A States, when he expounds the policy of his Government. Then his right to preside over the Council of Ministers has also been taken away. Consequently the questions relating to special responsibility can no longer be discussed in the Assembly because that responsibility will be discharged by him and he will no longer be present in the Assembly to answer criticisms in respect of acts done in pursuance of his authority in regard to his special responsibility. That is the consequential amendment. These are the main changes. I hope they will commend themselves to the House as they commended themselves to the other House. With these words, I move that the Bill be taken into consideration.

The question was proposed.

SHRI ANAND CHAND (Himachal Pradesh): I want to raise a point of order. This point was raised in the other House and here I want to draw the attention of the hon. House and your attention to the wording of article 239A under the provisions of which this Bill is now being moved. Article 239A says: "Parliament may, by law, create...." Now, under the provisions of clause 54 of the present Bill before us, what we are trying to do is to continue the Territorial Councils which were established in some Union Territories like Himachal Pradesh, Manipur, Tripura by the Act of 1956 as the new legislature for all practical purposes. My point is whether this is a continuance or whether it is a creation because if we are to create, I think the dictionary meaning of the word 'create' is to create out of nothing like God creating Heaven and Earth, nothing existed when He created but here what we are trying to do under this Bill, what the Government is trying to do under this Bill is to continue the existing Territorial

Councils and by a fiction of law we are turning it into the new Legislative Assembly.

MR. CHAIRMAN: There was only one act of creation like what you mentioned; all the subsequent creations were always out of something.

SHRI ANAND CHAND: I want to submit this. Will this come under the provisions of this Bill or whether it is not a continuance of something which exists and is being converted into a legislature? I think this is fundamentally opposed to article 239 and is, therefore, out of order. It should not be passed.

SHRI R. M. HAJARNAVIS: Sir, the constitutional provision is that Parliament may, by law, create a body, that is to say, Parliament may bring into existence by legislation. Then follows the phrase, partly elected or partly nominated. This expression, I submit, does not limit the character of the body. It is merely in parenthesis, that is to say, it need not conform to either one clause or the other; it may be of a third variety but I will not take my stand on this. I submit for your consideration, Sir, the fact that there was an election to the Himachal Pradesh Territorial Council along with the General Elections. The members are, therefore, elected, elected on adult franchise. The wording is that the body which is to function as the Legislative Assembly shall be constituted of persons elected. Now, these persons are elected. It is nowhere stated in article 239A that they shall be elected after the body comes into existence. All that the Constitution requires is that they shall be elected and they are so elected.

Secondly, as regards the word "creation" the words used are, "shall be deemed to be". Now, this is a well-known expression in law which creates a legal fiction. When a legal fiction is created, you cannot say that fiction is fiction and not a reality

MR. CHAIRMAN: Where are these words?

SHRI R. M. HAJARNAVIS: Clause 54(2) (c):

"every person who immediately before the commencement of this Act is a member elected from a constituency to fill a seat in the Territorial Council of Himachal Pradesh, Manipur or Tripura or in the Representative Assembly of Pondicherry shall, on and from such commencement, represent the assembly constituency of the same name in the Legislative Assembly and shall be deemed to have been elected to the Legislative Assembly from that constituency, and every person who immediately before such commencement is a member nominated to the Territorial Council by the Central Government shall be deemed to have been nominated to the Legislative Assembly; and accordingly on the commencement of this Act, the Legislative Assembly of the Union territory shall, without any further action or step being taken in this behalf, be deemed to be duly constituted."

All that article 239A requires is that the persons who constitute the body must be elected; they are elected. The authority they get to act as Members should be by law and that is what we seek to do because we are now legislating. The lurking fear in the mind of the hon. Member who raised this point is whether the elections should take place after the law is made. That is not necessary.

MR. CHAIRMAN: What is the implication of the point he has made about the word 'creation'?

SHRI R. M. HAJARNAVIS: What he means to say is that creation can take place only after elections take place, after the law comes into force. That is the implication.

MR. CHAIRMAN: Is that your meaning?

SHRI ANAND CHAND: The hon. Minister is confused about the bodies being partly elected and partly nominated. This was raised in the other House also. There is no doubt that these Territorial Councils are partly elected and partly nominated. The point is this: Even in the other House, the hon. Home Minister, when he moved this Bill, he is not here unfortunately, said that what was being done was to continue the old Territorial Councils which were elected as recently as 1962; they were being converted into new legislatures. My contention is that the Territorial Councils are already there. For that matter, in Punjab elections took place in 1962. Because of this, can we say that as the elections took place only in 1962, henceforth . . .

DIWAN CHAMAN LALL (Punjab): May I, with your permission, say, Sir, a few words with regard to the objection that has been raised? I do not think that objection has any substance whatsoever. Article 239A says that Parliament by law can create for the Union Territories a body, whether elected or partly elected and partly nominated. It is merely to create a body and the creation of a body could be either continuation of an existing organisation or creation of a new one.

MR. CHAIRMAN: That is his difficulty. He thinks creation has got to be creation anew.

DIWAN CHAMAN LALL: That is his difficulty but there is no doubt that that difficulty has no real substance in this context.

MR. CHAIRMAN: I rule that there is no substance in this. Conversion is also creation.

SHRI BHUPESH GUPTA (West Bengal): Mr. Chairman, as far as this Bill is concerned we all welcomed it

even in the original form, the principles of it, when this matter came to the House because it signified victory of the people of the Union Territories in the struggle for expansion of democracy and for establishment of responsible government, responsible to a popularly elected legislature. Naturally, we also extend our support to it generally and also to many of the provisions of this Bill but we have certain serious reservations, objections to certain clauses of this Bill. I wish, Sir, proper modifications had been made in the Joint Committee. We had been somewhat disappointed by the performance of the Joint Committee in this matter but right at the beginning, Sir, I should like to invite your attention to page 41 of the Report of the Joint Committee. It says:

"Some members said that Shri Dasaratha Deb, M.P., who had been included in the Joint Committee, had been in detention for some time and that they had hoped that he would now be released at least to enable him to attend the sittings of the Committee. The Minister of Home Affairs explained that names of members for appointment on the Committees are suggested by the respective parties concerned and included in the motion on that basis. The Committee felt that it was not for them to take any decision in the matter."

That is to say, the Committee was not in a position, due to the intransigence of the Home Ministry, to take any decision to get Mr. Dasaratha Deb to participate in the work of the Joint Committee. Yet, he is a representative of the tribal people from Tripura and Tripura has only two representatives in Lok Sabha, both of whom happen to be now in detention. Fortunately, we have in this House

Mr. Tarit Mohan Dasgupta, a member from Tripura. I am glad that he belonged to the Congress Party and was not in detention. That enabled the people of Tripura at least to have one representative, though indirectly elected, on the Joint Committee but both the representatives of Tripura in the Lok Sabha were denied either participation in the debate on this Bill when it was first taken up for consideration in the other House or participation—even though one of them had been elected to the Joint Select Committee—in the deliberations of the Joint Select Committee. *This, Sir, is a situation which hon. Members of Parliament at least should seriously consider whether such a thing is right.* Nothing would have been lost if Mr. Dasaratha Deb had been allowed to come and participate in the deliberations of the Joint Select Committee. It was open to the Government to release him, I am very glad that the Home Minister is coming because my words are precisely addressed to him. Nothing would have been lost, if I may tell the Home Minister through you, Sir, if he had released Mr. Dasaratha Deb to come and participate in the Joint Select Committee. If he would not release him outright unconditionally, he could have released him on parole, allowed him to come here only to participate and then if the Home Minister so desired, he might have gone back to jail again but the fact remains that he was not allowed. The tribal people of Tripura whom he represents—and these people are an important factor there especially when you deal with such people—would have felt very much hurt by the fact that when a matter of this kind was discussed, their representative had not got a chance to make their voice felt on the Select Committee. And earlier in the debate even when the Bill was discussed in the other House, he was not there. I do not know what we gain by such things except that we satisfy certain political vindictiveness of ours. I refuse to believe that Shri Lal Bahadur Shastri is vindictive. If it was so, then I would have easily come

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to this conclusion, 'All right as long as vindictiveness remains in him we have to suffer'. But personally, I am not inclined to think that he is vindictive. I may be wrong; people may think that I am suffering still from illusions about him. But that is what I feel at the moment. I cannot understand why it was not done, why this little gesture was not shown. Sir, if the afternoon we shall be discussing the opinion of the former Attorney-General of India, Mr. Setalvad, which would go to show that Mr. Dasaratha Deb, like many others, is in illegal detention today. Whatever the Government may say, Mr. Setalvad has spoken, I think, clearly and categorically and to that we shall return in the afternoon. However, I am not going into this at the moment but I think that was most unfortunate. Therefore, Sir, I would like a certain amendment to be proposed in our Constitution or a certain Bill to be passed so that some immunities are guaranteed to Members of Parliament at least. Sir, you and the Speaker of the House should have a say in this matter and should not be bereft of some powers when it comes to the question of Parliament Members. Members of Parliament in other countries enjoy certain wide immunities but in our country, we do not have any such thing; on the contrary Members can be helped in detention. And, mind you, Mr. Dasaratha Deb was elected to the Committee on a motion by Shri Lal Bahadur Shastri and his name was proposed by him. Mr. Lal Bahadur Shastri might say, that we gave him his name and therefore he proposed it. It was so nice of him but the fact of the matter is that it was the Home Minister who proposed his name and the House accepted his name knowing fully well that at the time of acceptance of this proposal the person concerned, namely, Mr. Dasaratha Deb, was in detention. Therefore the implied will of the House was—when they accepted the proposal—that he should be set at liberty and should be made available to participate in the deliberations of

the Joint Select Committee. Normally, I would like to know whether such a thing does not cause a breach of privilege of the House or at least of the rules of propriety governing parliamentary institutions and system. I should like the whole world to know where we stand. I cannot think of such a situation in the House of Commons at all but we have got such things here. I am very very sorry that it happened and it happened under a person for whom we have considerable regard, namely, the hon. Home Minister, Shri Lal Bahadur Shastri. I was still feeling that he would set him free. I think from Calcutta I sent a telegram to the Union Home Minister, still harbouring—some people may say illusion but I would say—legitimate expectation that he would act rightly in this matter and release Mr. Dasaratha Deb. He could have released him. When we was here, he lived in my house and I do not know what subversion he was doing here. Sir, I hate to think that Mr. Lal Bahadur Shastri feels happy about it but if he is sorry for it, then he has the power to act and get the cause of his sorrow removed; it lies within his power. And, mind you, he is not a detenu under any State Government; he is a detenu under him because the Union Territory comes under the charge of the Home Minister. So he is a detenu under him and he could have released him. I say this thing in great sorrow and disappointment only to draw your attention to this fact and consider whether we should not have proper constitutional amendments or legislation to guarantee some immunity. That is for the House to decide, for Members of Parliament to decide whether there should not be some immunity to Members of Parliament and State Legislatures.

Now, another defect in the work of the Joint Committee has been that it could not consult the Opposition in Tripura. As you know, there are 30 elected Members in the Territorial Council, 17 belonging to the Congress

Party and 13 belonging to the Communist Bloc as it is called. In the dispensation of our Home Minister, and not with your blessings, Sir, out of the 13 belonging to the Opposition twelve Members are at present in detention.

SHRI C. D. PANDE (Uttar Pradesh): National duty.

SHRI BHUPESH GUPTA: Only one happens to be out now. You can well understand that in this matter, which vitally concerns them, nearly half of the Territorial Council which would now transform itself into a Legislative Assembly was not in a position to come and give its opinion or make representations to the Select Committee or to the Home Minister or to Parliament. This again is not good for our parliamentary institutions. I do not know whether, when the Assembly is coming, they will still be kept in jail so that half the Assembly is incorporated and the other half will be in jail. Maybe a Department of the Assembly will be opened in the Hazaribagh Central Jail where they are detained. I do not know whether they will do such a thing. These are bad things. And the Assembly is coming after so many months of emergency. They are having everything. They are having elections. They are passing controversial laws. They are giving rise to certain matters of controversy and so on. All these were suspended in November or December. But when it comes to the question of doing such little things as I have suggested, I regret to say, the generosity is not shown.

Now, Sir, with regard to the Bill, two important improvements have no doubt been made by the Joint Select Committee. One is the Administrator will no longer preside over the meeting of the Council of Ministers. I agree it is an important, good change. I welcome this change. The other is the Administrator will not have the right to participate in the proceedings of the Assembly. This was provided for in the original Bill,

but now this right has been removed. These are about, in fact, the only two important amendments that have been made by the Joint Select Committee and I welcome both these modifications. Even so, the Bill is highly defective. Why do I say that it is highly defective? First of all, it is a throw-back, as we have said in our Note of Dissent, to the concept of Part 'C' State. We are giving them a responsible government, and yet not giving them a responsible government. I think the Joint Select Committee should have found its way and the Government should have agreed to it that they get really a responsible government, as under our Constitution it provides for responsible governments to the States in our country. That is how it should have been approached. I am sorry that it was not done. What is going to happen here is that this so-called responsible government or democratic set-up would be something like a glorified district board. Behind the facade of responsible government what shall be functioning in Tripura, Manipur, Himachal Pradesh or Goa will be a branch of the Home Ministry. Now, that is what we are going to get here. The Home Ministry may be very satisfied about it that it is running a branch office, but certainly, the people who wanted a democratic set-up will not be satisfied, because justice has not been done to their very just demands and urges. Therefore, this is one general aspect of the matter to which I wish to draw the attention of the House.

Secondly, we do not know exactly when this measure will come into force. It is left to the Central Government. Will the implementation of this measure be held in abeyance under the Defence of India Rules or under some such thing? Now, what is ruling the country in the political life is the Defence of India Rules. Therefore, I say I should have some idea as to when it is coming into force. I think, before the 15th August or better on the 15th August, 1963, on

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the Independence Day, all those Assemblies should come into existence, so that they may be inaugurated, if you like, on that auspicious day when the country shall be celebrating the Independence Day. Let these people in the Union Territories join in the celebrations with a sense of at least partial fulfilment of their long cherished desire of having a democratic institution, even though curtailed or truncated as it is.

SHRI ANAND CHAND: I have given an amendment to that effect.

SHRI BHUPESH GUPTA: Very good. I fully support your amendment. Take the case now of the Administrator. Now, we are told that the President will designate him. He may be called a Governor, Lieut.-Governor, Chief Commissioner and what not. But in the Bill he is called Administrator. What we are concerned with is not so much the nomenclature as the substance of his power, what powers he is going to have. It seems to me that he is given more powers than the Governors in the States. I would not like it. It is a super imposition from the Home Department in the Union Territories, a thing which should have been avoided, for all practical purposes, Administrator—whether his name is—will be functioning as the agent of the Union Ministry of Home Affairs and there is no doubt about it. Even the Governors cannot so function because the Constitution has stripped them of their powers to do so, although we know from our experience of what happened in Kerala that attempts are made to pit Governor against the Ministers. But here at least under the Constitution the Governors have no powers that way. But here the Administrator is given ample powers under this legislation. What I fear is that the Administrator will be functioning over the heads of these people, lording it over in the Union Territories, trying to condition the affairs of Union Territories in the way he likes or distorting in a manner that

would suit the Central Government. That would be neither democracy nor responsible government. That is to say he is an imposition on the concept of responsible government.

MR. CHAIRMAN: As you know, time is limited. I would allow to the leaders of Parties from 15 to 20 minutes and ten minutes to others. You have already taken 15 minutes.

SHRI BHUPESH GUPTA: In five minutes I shall finish. As far as the legislative powers are concerned, whatever is given to the States in the Seventh Schedule, in List No. II, should have been given to the Union Territories and I do not see any reason why their powers should be curtailed in the manner in which they have been curtailed here.

Therefore, these are the two main criticisms. On the one hand, the Administrator is an imposition, not merely a titular head to fulfil some rituals of the Constitution. He will be an imposition and the legislative powers have been curtailed. So have the powers of the Council of Ministers been curtailed. I do not like the concept that their powers should be curtailed. You will find in the various clauses of the Bill that those powers have been drastically curtailed. For example, why should we get the permission of the President on all matters, for introducing a Bill or even an amendment and so on? As far as the Administrator is concerned, he must function under them. Here the President is the head so far as the Union Territories are concerned. We need not have two heads. We need not have delegated powers from the President to the Administrator. The Union Territories remain within the scope of the Central Government that way. Let the President also remain and function in addition to his general functions. The Administrator, whatever you call him, should be under the Council of Ministers to discharge certain executive functions, something like an executive officer, an executive officer with certain additional func-

tions that are given to him. I do not go into that matter. We have got serious objections to these undemocratic provisions in this Bill and I hope the amendments that we are proposing will be accepted by the Government, so that we can make it a little more democratic and more acceptable to the people. Let us not give what we want to give grudgingly. Let us give it with good grace and with generosity. This is all that I have to say.

MR. CHAIRMAN: Before I call upon the next speaker, I would like to tell you that we would have to sit through the lunch hour today. I want to give this warning in time, so that you may make necessary arrangements. Then, I would not be able to allow more than ten minutes to speakers, except leaders of Parties who may have a little more time.

SHRI ANAND CHAND: May I plead that Members from Union Territories may be given a little more time, because we have a stake in this Bill?

MR. CHAIRMAN: It is my conviction that the best case can be made out in a shorter time than in a longer time.

12 NOON

RAJKUMARI AMRIT KAUR (Punjab): Mr. Chairman, Sir, I rise to make a few comments on the Bill for Union Territories now under discussion. I am not in any way against giving elected representation in our legislatures to the people in every corner of our country; nor am I against giving subsidies to such backward areas as certainly do constitute what are known as our 'hill areas'. I am only sorry that I was not given a chance of serving on the Joint Committee of the two Houses that considered this Bill because I did have the privilege of representing Himachal Pradesh as an elected member in 1952 and I am familiar with that territory and its people in a special manner.

Now, when Himachal Pradesh and PEPSU were first constituted by the late Sardar Vallabhbhai Patel and I went to him in distress to ask as to why he was sub-dividing the Punjab which State had already had to cede a very large portion of its territory to Pakistan, his reply to me was in clear terms that this was a purely temporary measure. He said, "PEPSU represents the Sikh States and Himachal Pradesh the territory partially administered to date by the hill chiefs. But both territories, belong to the Punjab and to the Punjab they must return." This happened to PEPSU but not to Himachal Pradesh. After the experiment of Himachal Pradesh had failed in the years 1952 to 1957, the Government there was dissolved as it was in Delhi. I had prayed at that time that Himachal Pradesh, like PEPSU, should return to the Punjab to where it really belonged.

Mr. Chairman, Himachal Pradesh is really an anomaly. Sabathu, Sanawar, Kasauli, for example, are in the Punjab, and Solan, a few miles away, is in Himachal Pradesh. Simla is in the Punjab; Mahasu and Mashobra next door are in the Punjab. And so on, I could give instance after instance *ad nauseum*.

I, therefore, feel that the hill areas in all our States whether they lie in the Punjab, U.P. or Bengal, as the case may be should be parts of those States. Give them all the representation they are heir to in the legislatures of the State concerned. Give them all the subsidies that they want because they are backward and they have been neglected. And I plead in a special manner for the Himachal Pradesh with whose territory I have been extremely familiar. But at a time when you talk of the national emergency, when you talk of curtailing expenditure wherever possible, you are adding to the administrative expenditure. You are creating Governors or Lieutenant-Governors or I do not know what—in these areas. All this expenditure could be eliminated.

[Rajkumari Amrit Kaur.]

You can even divide the Punjab into two in the sense that you can have the hill areas of the Punjab and the plain areas of the Punjab. Give the hill areas all the moneys that they need, give them all the facilities that they need. I know that they have not got water, that they have not got schools and that they have not got medical aid and relief as the plain areas of the Punjab have. Give them all that but do not give them separate Governors. Do not separate them and say to them that they do not belong to the Punjab. I can speak the language of the hill areas and I say to you that it is more akin to Punjabi than to Hindi. But somehow or other, it is not right, when we say that we want to have emotional integration, to divide them and drive a wedge into the State of Punjab. I cannot plead that this Bill be dropped, because it has gone through a Select Committee and it has been passed by the Lok Sabha, but I plead that the Home Minister will see to it that further divisions and sub-divisions in any State do not take place. I can quite well imagine the feelings of the hill areas of the Punjab. If you wish to constitute them into another State I can understand that. But taking out only a tiny little portion is not right. As I say, the families of these places come to Simla for their work and pass through Jutogh, for example, which is next door and which is in the Punjab. The hill chiefs administered those areas but under the British, all these places, the Sikh States as well as the hill areas, were all in the Punjab. And I do plead for further consideration later on and not to rule out the points that I am making. It is a bad thing, especially today when we want the unity of the country, to divide us further. If you say to a hill man, "Where do you come from?" "वहाँ से आये हो" he will say "ऊझांथी आया" If you say to a Punjabi, "कहाँ से आये हो", he will say, "आर्यों आया" Neither of them will say, "वहाँ से

आया हूँ" in Hindi. You keep up this difference for no rhyme or reason. Therefore, I plead very very humbly with the Home Minister that he will not rule out of consideration that some time or other in the near future, this whole question of the hill areas of these States may be taken into consideration. Either separate them completely or you give them to the States in which they lie. Personally, I feel that they should lie in the Punjab. Why should we have a Lieutenant-Governor as well as a Governor sitting in Simla? Why cannot the same job be given to the same Governor, to bring our people together, to help them? As I say, I plead for more money to be given to them because I know how backward these areas are but I do also plead against disintegration. I think a Bill like this will not really bring about that integration that is so badly needed in our country today.

SHRI C. D. PANDE: One question I want to ask of the lady Member whether the people of Himachal Pradesh are at all willing to be governed by Punjab or not? They do not want to be assimilated into Punjab. Therefore, this question arises. If you think that it should be amalgamated with Punjab, it is not right.

MR. CHAIRMAN: She has expressed her view.

RAJKUMARI AMRIT KAUR: May I say that if ever you give to any little area legislature or ministership, aspirants to those will, of course, say that they do not want to be merged? But I ask you whether it is possible for families, for a brother living here and a brother living just a mile away, to say that they do not care whom they are governed by? They want to be together. And may I say this also that if you have all the hill areas in mind, I will not object. That is another matter.

SHRI C. D. PANDE: That is the position.

RAJKUMARI AMRIT KAUR: Here you are driving a wedge and it is the wedge that I object to.

PROF. M. B. LAL (Uttar Pradesh): For long, the people of the Union territories were demanding a representative system of government. The Bill under our consideration meets their demand partially. The Bill that was presented to Parliament and referred to the Select Committee was very defective. It was improved by the Select Committee in certain directions, and as a member of the Select Committee, I am glad that certain recommendations of the members of the Select Committee and demands of the people of the Union territories were accepted by the Government and by the Lok Sabha and they are embodied in the Bill that is placed for our consideration today. I am, however, sorry to say that the Bill as it stands needs to be further modified. If it is not modified, I fear that the provisions of the law, instead of facilitating the smooth working of the administration of these territories, may lead to a deadlock and constitutional difficulties. I apprehend that responsible Ministers having the confidence of the majority of the legislature in the territories concerned will not be prepared to stand the interference of the Administrator and of the President to the extent provided in this legislative measure.

I feel even the Home Minister will agree that a deadlock can be created. I know very well that the mover of this Bill and the Home Minister would not like a deadlock to be created and may like the President and the Administrator to so exercise the powers and functions entrusted to them that that deadlock may be avoided. But when we are preparing a law—we are preparing a law to be administered not only by the present

incumbents—I feel, Sir, that the representative system is likely to be reduce to a farce if the Administrator is empowered not only to refer all decisions of responsible Ministers to the President, in case he happens to differ from the Council of Ministers, but also to act, as he thinks fit, in the name of urgency. I do not know whether any respectable gentleman in these Union territories will be prepared under these circumstances to shoulder the responsibility of discharging the duties of a Minister responsible to the Legislature and to the people. I feel a respectable man will hesitate to shoulder the responsibility to the people and to the Legislature in case he is liable to be ignored, to be deterred by the Administrator in all matters, in the name of urgency.

Sir, under this legislative measure matters regarding the security of the border are placed under the discretionary authority of the Administrator. It is provided under this law that the Council of Ministers is to advise the Administrator in all matters except those with regard to which he is to exercise his discretion. In other words the question of border security, which is made a special responsibility of the Administrator to be discharged at his discretion is not within the purview or the jurisdiction of the Council of Ministers. Sir, I beg to point out to this House that the Government of India Act of, 1935 conceived of special responsibility of Governors but under that Act, that special responsibility was to be exercised by the Governor in his individual judgment, and matters relating to his special responsibility did form part of the jurisdiction of the Council of Ministers; they were within the purview of the Council of Ministers. The Governor was only allowed to exercise his own individual judgment; he may differ from his Ministers and act according to his own judgment with regard to matters concerning special responsibility.

SHRI SANTOSH KUMAR BASU (West Bengal): May I just put a question to the hon. Member? Is it not a fact that under the Government of India Act of 1935, the Council of Ministers included the Governor, which is not the case under our present Constitution?

PROF. M. B. LAL: I am sorry to say that we are not repeating here the Government of India Act of 1935. I am only pointing out to you that matters pertaining to special responsibility are matters which ought to be under the jurisdiction of the Council of Ministers.

Take the case of border security. Are we going to absolve the Council of Ministers of all responsibility with regard to border security, or do we wish the Council of Ministers of Himachal Pradesh, Manipur and Tripura to shoulder such a responsibility with regard to border security as has to be shouldered, for example, by the Chief Minister of U.P.? I feel the Council of Ministers of Himachal Pradesh must be made to shoulder the responsibility with regard to border security.

SHRI SHEEL BHADRA YAJEE (Bihar): Those are States but these are Union territories

PROF. M. B. LAL: I beg to submit, Sir, that the people of Union territories must be as much involved in the matter concerning the border security as the people of U.P. are to be involved in their border security, and if the people of Himachal Pradesh, Manipur and Tripura are to be involved in matters regarding border security, it is necessary that the administration that is set up by the people there must have certain responsibility with regard to the question of border security. For that, it is but necessary that these matters should be under the jurisdiction of the Council of Ministers in the manner and to the extent they are under the jurisdiction of the Council of Ministers

in various States. I understand, Sir, that the security question is a very important question over which the Central Government should have special authority and therefore I can understand the Administrator, as the agent of the President, being given special responsibility and the right of individual judgment.

Then I wish to point out to you that it is hardly advisable to mix up executive and judicial functions at any level. If you read the Bill under consideration, it seems that under certain clauses the Administrator has been entrusted with certain judicial or semi-judicial functions, or the promoter of the Bill wishes to entrust the Administrator with judicial or semi-judicial functions. I completely agree that if the Administrator is to exercise judicial or semi-judicial functions, he should exercise them independently of the Council of Ministers. But I feel, Sir, that the two functions—judicial functions and executive functions, should not be entrusted to the same person—the Administrator.

Lastly, Sir, I feel that people of the territories concerned should be afforded an opportunity to elect new Legislative Assemblies at the earliest possible moment so that it may be possible for them to return persons whom they think fit to shoulder the responsibility as Ministers. Mr. Bhupesh Gupta has pointed out today that 12 out of the 30 members of the Tripura Territorial Council are under detention. We are converting this Territorial Council into Legislature. That means that the Territorial Legislature will function with 18 Members out of these 30. Will it not be fit and proper, Sir, to afford an opportunity to the people of Tripura to send to the Legislature persons who are not under such suspicion of the Central Government as to be kept under detention? Anyhow, that opportunity must be afforded to the people there. If they do not avail of that opportunity . . .

SHRI BHUPESH GUPTA: After hearing him I very well understand what some Professors are like.

PROF. M. B. LAL: I am sorry, Sir, I am not in a position to sit in judgment over the decision of the Government in the matter of detention

MR. CHAIRMAN: You might also consider the possibility of there being fewer opportunities.

PROF. M. B. LAL: I do not deny that if election opportunities are afforded and persons under detention are elected a fourth time the Government will have to consider whether its action against them was right or wrong or whether certain other actions are needed with regard to administration. But I do feel that when 12 out of 30 Members are in detention, because they are suspected by the Government of acts prejudicial to national integrity, the people at least must be afforded an opportunity to return other persons so that the Tripura Council might be a truly representative body, and may truly function as a legislative body.

SHRI T. M. DASGUPTA (Tripura): Mr. Chairman, Sir, I welcome the Bill as it is going to give shape to the democratic aspirations of the people of the Union Territories. From the time of Maharajas, long since 1938 the people of the Union Territories have been agitating for a fully responsible Government. Even during the reigns of the Maharajas, many people courted jail. They were even externed from the State of Tripura by the then Maharajas. Now when this new Bill is going to be passed, I express my sincere thanks to those people who have agitated in Tripura for the democratic rights of the people. In this connection I like to make special mention of late Shri

Hari Ganga Vasak who was the Secretary of the Tripura State People's Conference and was detained in the Pakistan jail and ultimately died there while in detention. During the partition of the country, just before independence, he at one time worked for a responsible Government in Tripura and at other time he faced the threats which came from the side of Pakistan. As a journalist and as Secretary of the State People's Conference he moved the Central Government and due to this reason, probably, he was arrested by the Pakistan Government and ultimately died in the Pakistan jail I pay my sincere tribute to him.

Sir, coming to the Bill I find that the number of members in the Assembly has been fixed abruptly because we find that for Himachal Pradesh the number of seats allotted is 40 while for Tripura it is only 30. It has neither been made on the population basis nor on area basis. While the population of Tripura is 11,42,000; that of Himachal Pradesh is 13,51,000, of Manipur it is near-about eight lakhs, of Pondicherry it is about 3,69,000; all are given seats in the same proportion. It would have been better if the seats had been given on population basis because we see that in the case of Nagaland though their population is less, they have been given 60 seats. Therefore, we think that it would have been better if in this Bill seats could have been allotted on population basis and in a reasonable proportion.

Sir, I am glad that the provision for nominations is there in the Bill because this Territory has got special problems. The population consists of tribal people of different sects and other backward communities. They form a peculiar problem. From the times of the Maharajas there are some communities which could not fully develop themselves. In elections also it might be that some section of the

[Shri T. M. Dasgupta.]

people might not get proper representation as we see in the general elections that women could not get any representation, neither some sections of the tribal communities nor the Manipuris. Now we find that nomination has been given to women and to Manipuri communities who form an appreciable number of population and for whom there is no possibility to come out successful as a community. So, in this backward region, this system of nomination, I feel, should continue for obvious reasons because in that case weaker sections of the people, who could not otherwise be represented, will get an opportunity.

As regards reservation, Shri Bhupesh Gupta believes that the only tribal leader, Shri Dasaratha, Deb, was not represented. So, interests of tribals were not looked into. But even without Shri Deb's presence the Select Committee looked to the interests of the tribals. Though there was no provision in the original Bill for reservation for tribals or Scheduled Castes, this reservation has been included in this Bill. So, in spite of his complaint, the Joint Select Committee has looked to the interests of all the people from a general standpoint and they have considered their cases. Therefore, it cannot be said that the interests of the tribal people are not looked after.

In this connection I may mention that even though there was no reservation in the last three general elections the tribal people are being elected in Tripura according to their population, sometimes even more than that. So also was the case of the Scheduled Caste people. Though there was no reservation in Tripura in its Territorial Council, these communities could send proper representation. Though people of Tripura are backward, they have developed a sort of understanding amongst themselves that proper representations of the

Scheduled Castes and Scheduled Tribes could be made by the people themselves. And as the major political parties in Tripura are the Congress and the Communists they also look to their interests.

(Time bell rings.)

MR. CHAIRMAN: You can make another point in two minutes.

SHRI T. M. DASGUPTA: Personally I feel that even without this reservation these communities could be duly represented in future. In the Bill the Administrator has been given some special powers and is allowed to exercise his individual judgment. In those respects he is not bound to consult the Ministers even. I feel that as the clause is there in the Bill the full democratic right is not vested in the Council of Ministers and which of the matters are urgent would also depend on the Administrator but I also feel that there is scope for smooth working of the present Bill provided the hon. Minister takes special interest for the smooth development of a convention in those Union Territories and sees that unnecessarily no intervention is made in the working of the Council of Ministers. Of course, these are border territories and for that reason special responsibilities have been entrusted to the Administrator for the security of the border and the Joint Select Committee also approved of it but I feel that a convention should be found so that the popular Ministers are at least consulted before any action being taken by the Administrator.

Regarding elections, some Member asked for fresh elections. I do not find any necessity for this because only about a year ago one election was there and the wish of the people had been ascertained fully and during the election the demand for popular Legislative Assembly was there and people also knew that some change was going to come soon. So from that

point of view the people of those areas are quite conversant with the position that some change is to come and a new Bill is going to come in the Parliament soon. So I feel that there is no necessity for any fresh election. The Members who have already been elected about a year ago should continue. With this, I again convey my thanks to the hon. Minister Shri Lal Bahadurji who has very sympathetically taken up the cause of these Union Territories and I am confident that whatever shortcomings are there in the Bill, will be rectified by his sympathetic handling of the whole situation. With these words, I support the Bill.

SHRI ANAND CHAND: Mr. Chairman, I must thank the House for having given my name to the Select Committee when one was appointed to consider this Bill but unfortunately owing to the illness of my son, I was out of India and I could not participate in the deliberations thereof. It is my misfortune therefore that I could not place these matters before the Select Committee which I would have done if I were there. The very first thing which the hon. lady Member referred to was about the merger of Himachal Pradesh with Punjab, about which the hon. Minister also quoted in the other House in his opening remarks, and in the closing remarks, the hon. Mr. Hajarnavis also referred to this matter.

[THE DEPUTY CHAIRMAN in the Chair.]

About the merger of these territories at some time or the other with the contiguous States is a matter which I would like the attention of the House drawn to in the very beginning. When the S.R.C. was appointed, when its recommendations were before the Parliament, when the S.R. Act was passed in 1956, all these were a sequence of events and in the recommendations of the S.R.C. definite emphasis was laid that henceforth, in India there would be States and Territories and only two territories within the geographical

limits of India, that is the Union Territory of Delhi and the Union Territory of Manipur. Of course there was to be the Union Territory of the Laccadive Island and also of the Andamans but those are outside India and they are islands. In spite of that, the Government gave another decision. It retained not only the Union Territory of Himachal Pradesh but also the Union Territory of Tripura and now with the legacy of history, we have got the Union Territory of Pondicherry and we have taken over the territory of Goa which is also now enumerated as one of the Union Territories in our Constitution. Now the problem that poses itself before me when we talk about these mergers is, are these Union Territories to be allowed in due course of time to develop in their own way, develop a Government which is being conferred on them or on their people under this Bill and in due course of time, are they to be admitted into the brotherhood of the States of the Union as has been the case in the U.S. for example? We had the Union Territories of Hawaii, we had the Union of Alaska with a population of less than 200,000 which have both now been admitted as full-fledged members of the U.S. Is that our idea? Or is it our idea that these Territories have one by one to disappear and lose their entity to be merged into the adjoining States? Is that our idea? I do hope that in reply to this debate the hon. Home Minister, who is sitting here and who does not mince words and who is absolutely honest in every thing that he does—that is my impression and I am happy that my friend, Mr. Bhupesh Gupta, in spite of his apprehensions, also shares that belief—I hope he will give a categorical reply to this question because we cannot, in the Union Territories, develop the genius of the people, we cannot develop a democratic way of life confined to the borders of those Territories if the Sword of Damocles in the name of merger of these Territories with the adjoining areas is to hang on our

[Shri Anand Chand.]

heads for all time to come. That, to my mind, is the very first point and that should be decided. I know that the Government will not be able to decide it here. It is a matter of policy, it is a matter for the people. The hon. Minister who is very well conversant with law said in the other House in reply to or in winding up the debate that no merger could be effected without the consent of the Territory. I welcome that assurance but it finds no echo in our Constitution. Under our Constitution even States can be united against the wishes of the Legislatures of the States. All that article 3 envisages is that when making such a move, the President shall consult the Legislatures of the States. He is not bound by the advice. The consent for the merger even of the States is not necessary. Hence the case of the Union Territory is even much weaker in that regard and any assurance given by the hon. Minister here or in the other House that such a merger will not be brought about without the consent of the people—if I might respectfully submit—has no legal force. So this is the first point that I wanted to make out.

I will not go into the other things which the hon. lady Member said. She said something about the people of Himachal Pradesh and Punjab being very near each other and asked why the merger should not be there. For that matter, in the Punjab, there is the district of Kangra which is a hill district. I do not think even the people of Kangra today are very happy as they are situated in the State of Punjab. So I do not think that is a point and I do not think the people of Himachal Pradesh—that is my impression and that is the impression of anybody who goes to Himachal Pradesh—are in favour of a merger with Punjab because ideologically they are different and their habits and customs are also different. Regarding language—of course the hon. lady Mem-

ber was a little misguided—it is a distinct western Pahadi which when it reaches the Indo-Tibetan border, merges into the Indo-Tibetan language. It is entirely different from Punjabi. I do not know from where she got the conception that the language is one. Perhaps she got it, sitting in Simla. About the enclaves, the demand of the people of Himachal Pradesh is that these enclaves should be merged in Himachal Pradesh to make it one unit, that Simla should be in it, that their houses should be in it, that all these small enclaves like Kandaghat which, by accident of history, has gone into PEPSU and has therefore been inherited by Punjab should be returned to Himachal Pradesh so that it is made into a compact unit. It is this way that we look at the problem rather than in the reverse that Himachal Pradesh should itself disappear. That is what we feel about the matter.

Now, Madam Deputy Chairman. I will only say that this Bill is a welcome measure. While agreeing with Shri Bhupesh Gupta to a certain extent that the Administrator has been invested with more powers than the Governors, I welcome this measure especially because it is a very great improvement on the old Part C States Act of 1951 and for bringing about this definite improvement, I would offer my sincere thanks to the Home Minister and the Joint Committee who worked so laboriously and whose labours we are considering today. I have been very elaborately and very cautiously going through the constitutional provisions and I find, Madam Deputy Chairman, that the main provisions which are embodied in this Bill relating to the administration are identical with those relating to the States embodied in our Constitution. Identical powers have been conferred under the provisions of this Bill on our Legislative Assemblies, Council of Ministers, etc., as exist in respect of the States in regard to the composition of the Legislatures, election of their Speaker, Deputy Speaker, etc., with very

minor differences and so I feel that there has been no hesitation, there has been no holding back. With your permission, Madam, I will speak on three or four points which, to my mind, have not been considered or, if they have been considered, they have been glossed over. One, Madam Deputy Chairman, is the principle of nomination. My hon. friend, I believe he comes from Tripura, was saying that nomination was good because that way the interests of the weaker sections of society would be safeguarded. Now, when we have made provisions in this Bill for reservation of seats for the Scheduled Tribes and for the reservation of seats for the Scheduled Castes, which will be the other backward communities which will not find representation? The other point which I would like to make in answer to his observations, is that these are small areas and the constituencies would hardly have a voting strength of more than thirty thousand or even less. I cannot visualise any particular interest, excepting the backward classes, for whom we have reserved seats who would go unrepresented and hence I for one am totally opposed to the system of nomination. When I was a Member of the other House in 1956 and the Territorial Councils Bill was on the anvil, the late Home Minister, in moving the clause about the nominations to these Territorial Councils, was pleased to say that these nominations shall not be used except solely for the purpose of giving representation to people who are not otherwise elected. With your permission, Madam, I would like to read this out because it is important. I would like to read the relevant part of his speech which was delivered on the 20th December, 1956. This forms part of the printed debates of the Lok Sabha, page 3776. Shri Pant said,

"As to the rest, as I said at the outset . . ."

I am quoting.

... we have no desire to nominate people unless it is necessary to do so. I might again repeat that it is only when representation of the relatively weaker sections of the community is not adequate that we will have recourse to nomination. Otherwise, if they are properly represented, no occasion for nomination will arise."

But what happened, Madam Deputy Chairman, in 1957? No sooner had we elections to the first Territorial Council in Himachal Pradesh, two nominations were made by the Home Ministry and both those nominees did not represent any special interest. One was from my district, I will not name people, he is a Congressman of longstanding and one was a lady from Mahasu, also a Congress Member, but there was no question of . . .

SHRI SHEEL BHADRA YAJEE: Weaker sex means ladies and they are weaker section of the society.

SHRI ANAND CHAND: Well, if the Congress becomes the weaker section of the society, if this is the interpretation, if Congress is the weaker section of the society in Himachal Pradesh . . .

SHRI LOKANATH MISRA (Orissa): Then Shri Yajee should have been there.

SHRI ANAND CHAND: I am only making this point . . .

SHRI BHUPESH GUPTA: It would be good if the Congress developed some feminine qualities.

SHRI ANAND CHAND: I have given notice of an amendment but even in spite of that, if this idea of nomination were still to be there, it should be qualified. The first draft of the Report of the Joint Committee contained a line but the draft which was eventually accepted by the Joint Committee did not contain that. The line said that nominations would be

[Shri Anand Chand.]
made only to represent special interests but that does not find mention in the final Report. I do not know why, but Members who were present at the meeting may be better able to say something about this matter.

The second point that I would like to make, with your permission, is about the conversion of these Territorial Councils into new Legislatures. I personally feel it is a wrong thing. It is a wrong thing on account of two reasons. Madam Deputy Chairman, it is wrong firstly because these Territorial Councils were elected under a specific Act, for a specific purpose. They had powers which were very limited. They had powers, for example, to run High Schools up to the Higher Secondary stage, they had powers to look after dispensaries, they had powers to run the veterinary services. That was all and I know that in my own Union Territory of Himachal Pradesh, the Territorial Council had an income of Rs. 3½ lakhs and an expenditure of Rs. 150 lakhs. In other words, they never really worked and they were put in simply as a stop-gap arrangement. People were elected. My hon. friend said that they knew that Legislatures were soon going to be set up by Parliament, and, therefore, the people who were elected were elected knowing full well that they were going to be converted into Legislatures. I beg to differ from him on this. It was a specific Act and elections were held under the supervision and control of the Administration, not under the supervision and control of the Election Commission. Then, people could seek entry into the Territorial Councils even if they were within the age of twentyone; there was no question of the age being twentyfive or over. Over and above that, I do not know why, when we are establishing these Legislative Assemblies in these Union Territories, we are giving Legislative Assemblies to these Union Territories, why we should wholesale convert these Territorial

Councils into Legislatures. Their functioning henceforth will be entirely different, their composition remaining the same. Therefore, I would beg of the hon. Home Minister, even at this late stage, if he finds some force in the argument, even if he thinks that it is not correct to change the law, to do something. Of course, the Territorial Councils Act will go as soon as we pass this measure. In the States Reorganisation Act of 1956, everything that existed before the date fixed went and a new leaf began and I do not see why, when we are giving Legislatures to these Union Territories, we do not say that whatever was up to the date of the Act coming into force will go. A new thing is going to happen; you are going to have a Legislature. If an election is held, they will elect people of their choice, people will come up who want to serve the people in that capacity. I do not see any difficulty except perhaps if it is a political difficulty. If that is so, I hope the hon. Home Minister will be able to eliminate this point or to tell the House what it is.

Lastly, I have only one or two words to say and I am done, so far as this speech is concerned or whatever I have to say here is concerned. When I say, I am done, it does not mean that it is for ever, I repeat that.

Now, Madam, about the administrative structure in these areas, I have always voiced the feelings, so far as I could gauge them, of the people. The Administrator is there; the Administrator would still be there. I have nothing against the Administrators as such or the way that they have discharged their functions but I certainly feel that in the Union Territory no hard and fast rule is observed so far as the term of office of these Administrators is concerned. I know, in my own Union Territory of Himachal Pradesh now, we have an Administrator who was appointed way back in 1955. It is eight years now; eight years he

has served and now he will go on for some time more. Under the provisions of the Constitution although the Governor is appointed for five years in the first instance, he can be reappointed. That is another matter, but here in the Union Territories the position of the Administrator is entirely different from the position of the Governor.

The Governor in a State administers constitutionally. In a Union territory the Administrator administers directly. So if we have a law or a sort of convention that a District Magistrate cannot stay in the same District for more than three or four years, I think it is very wrong that the same Administrator should continue for eight, nine or ten years because he administers directly and he is not a constitutional head to be equated with the Governor of a State. So I do hope that something would be done about this matter and that the hon. Minister will let us know what he proposes to do. What his views are in this matter and also about the question of wholesale reconversion of the Territorial Councils into new Legislatures we should have rather fresh elections so that people's wishes and aspirations may be met, so that people may elect their own representatives to the new Legislatures. But for this I give my general support to this Bill and I welcome this Bill.

SHRI D. P. KARMARKAR (Mysore): Madam Deputy Chairman, justification for my intervening in the debate is that I happen to be a member of the Select Committee. Though I was acquainted with these areas for some time it was only when I was in the Select Committee that I fully appreciated the enormous difficulties and the enormous anomalies in the present situation. When we are considering the Constitution for these Union Territories sometimes we are tempted to apply to them the standards of the States. As the House is already well aware, these areas have certain very peculiar features. Look at the situation. Himachal Pradesh has

about 14 lakhs, Manipur 7 lakhs. Tripura, I understand, 11½ lakhs, Goa 6½ lakhs and Pondicherry 3 lakhs. And the increase in population rate is not as great as in the plains. So that is the limit in the population and for these areas we are trying to evolve a Constitution. Then again, Madam, as it happens the finances of these Territories have to be heavily subsidised. In the Himachal Pradesh, I understand, as against a revenue of about Rs. 5 crores the expenditure is about Rs. 20 crores. In the case of Manipur the income is about Rs. 87 lakhs this year but the expenditure is Rs. 7 crores. In Tripura it is Rs. 62 lakhs against an expenditure of about Rs. 12 crores. So these States are heavily subsidised.

Madam, it is very obvious that many of these areas are what you call strategic territories of high importance from the defence point of view; not so much Pondicherry and Goa, but certainly the northern hill areas and the Home Ministry and the Government of India are set with the task of evolving a Constitution for them. And this elaborate document here naturally is not satisfactory if we are to apply the standards of what you call ordinary democratic ideas to it. But I should like also to say that I agree with the spirit of what Rajkumariji said, the anomaly particularly of Himachal Pradesh. You go to Simla with the idea that it is part of Himachal Pradesh and you then understand that the Lieut. Governor of Himachal Pradesh is in Simla as the guest of the Punjab Government in the sense that the Police and everybody belong to the Punjab Government. Then you cross over to one territory and part of it is in Punjab. So I entirely agree with the spirit of what she said but I hope she also appreciates that on a rational thinking of these matters if Punjab were asked to cede a few villages to Himachal Pradesh, that might be difficult, but I agree that something should be done to rationalise these territories, particularly as between Punjab and Himachal Pradesh. My sympathies are all with the Himachal Pra-

[Shri D. P. Karmarkar.]
 desh Government and so long as Himachal Pradesh Government is a separate unit, till then at least Simla should form part and parcel of Himachal Pradesh. There is no meaning in keeping Simla apart from Himachal Pradesh, if Himachal Pradesh is to function. It is as if you give the heart to someone and give the body to somebody else.

Apart from that I congratulate the Government on the way they have brought forward this measure. Firstly they had to respect the popular sentiments which wanted to have Legislative Assembly, Ministers and the like. My friend, Mr. Bhupesh Gupta, said that they were glorified District Boards. Well, there is all the glory in the Constitution because the task was difficult and it is really an achievement that they have so evolved a Constitution as not to put in jeopardy the security of the particular areas and at the same time respect the sentiments of the people.

Then you have got certain special responsibilities of the Administrator or by whatever name you may call him. In that matter he has the supreme say and in all other matters of development it is really the popular Ministry that will have their say. And I think in the circumstances it will evolve into a really very satisfactory arrangement.

Then another friend—I think it was Mr. Anand Chand—asked, "What is our idea? Is it to incorporate these into the States or is it to keep them separately for all time to come?" As the Home Minister was pleased to put it in the other House there is much to be said for the idea of assimilating these in the nearby areas. Pondicherry would be an anomaly as a separate unit no doubt in theory but then we are bound with the French Government to keep it as a separate cultural unit. A time may come when the citizens of Pondicherry will unanimously ask—also the French Government may agree to it—to be assimilated in Madras. A time might come

when Goa might be assimilated with the adjacent territories. But then even before Goa could come over to us, even before the police action, there began a fight between the Mysore Government and the Maharashtra Government; even before the child was born they began to fight on how to name it before they knew whether it was a boy or a girl. So there are such quarrels. In Himachal Pradesh there is a touchy sentiment that the Himachal people should have a separate Government for themselves, they should not be assimilated in Punjab. They say, 'We are a separate stock, a separate people' and so on.

SHRI LALJI PENDSE (Maharashtra): Was there a quarrel for Diu and Daman?

SHRI D. P. KARMARKAR: There is no quarrel between us in any case.

Madam, there are all these practical difficulties. Therefore this is not the proper time. It would precisely raise unnecessary trouble if we try to assimilate them now. Things will happen in their own time and adjacent areas will have their own influences and am quite sure that in the fullness of time some rational arrangement would be evolved.

Now, something was also said about the Administrator's power, and being merely the agent of the Government of India. Now, under these circumstances can an Administrator have the same powers as the Governor of a State. My friend said there that in the United States at the beginning there were States of 500,000 and 200,000 but those began as independent States. They did not begin as territories and before in the United States it is a federation in the real sense, the word, where the States for a long period of time conceded their powers in favour of the Federation. Here we are trying to clothe territories with some of the virtues of the appellations of a State, they are not States in any sense they

still continue to be Union Territories and they are honestly called Union Territories. And here is a Constitution being framed for the Union Territories. It was a mighty and formidable task. In the amendments that were suggested in the Committee there was some strong feeling about the powers of the Administrator that he should not attend the Legislatures or the meetings of the Council of Ministers. And the Home Ministry very graciously conceded these two points. Of course as a logical corollary to that it is provided that the Legislature could not discuss, that the Ministers could not discuss anything that pertains to the special powers of the Administrator. Therefore it is, Madam, that I humbly feel that this is a correct compromise between what might have been ideally and what can be realistically. Therefore I should like to congratulate the Government on the way in which they have proceeded with this and I am quite sure that with the enormous funds of the Government of India as subsidies, all these areas will be fully developed and it will be the time, when the development takes place with the aid of the Government, for these territories and the Government to think in terms of greater democracy and independence. It is no use taking money from the Government of India and asking to be completely free from control.

Thank you very much.

1 P.M.

SHRI B. D. KHOBARAGADE (Maharashtra): Madam, this Bill is not consistent at all with democratic ideals and principles. When we were discussing the Constitution (Amendment) Bill, which empowered us to create such Legislatures in those Union Territories, we were given to understand that more powers would be given to the local people. High hopes were raised in the minds of those people who belonged to these Union Territories. But what do we find today? There are certain powers

given. But I must say they are not completely democratic. We have given concurrent powers to Parliament as well as to the Legislatures in the Union Territories to pass any law. In case there is any inconsistency between these two laws, in case the law passed by the Legislature of a Union Territory is repugnant to the law passed by Parliament, the law passed by Parliament will prevail. It means that the Legislatures of Union Territories have no power to legislate. It means that they have no power and authority to decide their own affairs, as they desire.

Apart from that, the Administrator will be there and he is also given powers to overrule certain decisions of the Legislature as well as the Cabinet. It means that we are not completely and entirely fulfilling the cherished ambitions of the people coming from these Union Territories.

Apart from that, there are certain other provisions about which I would like to say a few words. Firstly, the question has been raised regarding nomination. I entirely disapprove of this provision. It is a most undemocratic one. What is the total strength of these Legislatures? In one Legislature the total strength of the House will be 40, while in others it will be only 30. In the case of those Union Territories where they have to nominate, power is given to the Government to nominate three members. What would be the effect of this provision? Suppose out of 40 members, there are 21 on one side and 19 on the other side. The party which has secured 19 seats in the Legislature will be able to convert its minority into a majority if the Government supports that party. They can nominate three members who would support that party. This is not a mere conjecture. We have experienced this in the past also. In the Nagpur Corporation we have experienced it. The other party secured the majority of seats in direct elections. The Congress Party was in a minority. There was a provision for nomination of members representing a variety of inter-

[Shri B. D. Khobargade.]

rests. Some mill-owners, some industrialists, some Chambers of Commerce got representation and on two or three occasions the minority of the Congress was converted into a majority and they got into power in the Corporation. The same may happen in this case also. I do not understand the propriety of making a provision for nominated members. If the hon. Minister has apprehensions in his mind that some proper persons will not be able to face the hazards of an election, if he feels that some social workers will not be able to secure victory in the elections, then, I suggest that there should be another provision to enable them to be in the legislature. Let there be a provision for selected members. As the Members of Rajya Sabha are elected on the system of single transferable votes by the Members of State Legislatures, let us make a similar provision in this Bill that the elected members of the Legislatures of Union Territories will be allowed to elect three members by means of the single transferable vote system. So, if any reasonable, patriotic persons are left out, they can be elected on this basis. They can still be members of the Legislatures of Union Territories. If we have the provision for nominations, I have no doubt in my mind that the Government will ultimately exploit this provision for their own ulterior motives, as they have done in the case of the Nagpur Corporation. Therefore, I oppose this provision for nominations.

Then, I would refer to another issue regarding representation given to the Scheduled Castes and Scheduled Tribes. Just now an hon. Member spoke about it. He referred to certain elections. He said that some Scheduled Castes and Scheduled Tribe members were elected, even though there was no provision for reservation of seats. It is a good thing that the Scheduled Caste and Scheduled Tribe far as the Republican Party is concerned people in those territories are making considerable progress. They can contest general seats and get elected. So

cerned we have advocated since long that the reserved seats should be abolished immediately. Unfortunately, this point of view of the Republican Party has not been accepted by the Party in power. Now, in this Bill provision has been made for reservation of seats for Scheduled Castes and Scheduled Tribes. According to our Party's view I would like to say that there should be no provision for reservation of seats for Scheduled Castes and Scheduled Tribes. But it does not mean that I do not want Scheduled Caste and Scheduled Tribe members to get elected to those Assemblies. I do desire it. I do want them to be elected, but there should be a different provision. As I had suggested earlier, let there be multi-member constituencies, double or treble member constituencies, with the cumulative voting system. The Scheduled Castes and Scheduled Tribe candidates can contest these seats from the general constituencies under the cumulative voting system. They can send their own representatives elected there. This will enable the Scheduled Caste people to send their proper representatives. What happens now is that even though there is a provision for reserved seats, the voting system is entirely defective. It is the joint electorate system where the Scheduled Caste and Scheduled Tribes people vote along with other caste Hindus. As you know, everywhere they are scattered, except for a few territories where the Scheduled Tribe population is concentrated because of certain social and historical circumstances. In respect of other areas they are scattered and they are in a minority. Therefore, if it is joint electorate in spite of the seats being reserved, it is not possible for the minorities, for the Scheduled Caste people to send their true representatives. It is necessary to abolish this system and to adopt the cumulative voting system with double or treble-member constituencies. Madam, I will ultimately refer to one problem and that is about what the future of those territories would be. This question has been raised just now

by my hon. friend, Mr. Anand Chand. I also would like to know what would be the ultimate fate of those territories. My own view is that all those territories should be merged with the adjoining States. It has been our experience that those small units cannot be economically viable and there will not be any economic progress due to want of resources. This fact has been mentioned by the States Reorganisation Commission also. It is clear that these territories cannot be economically viable. Therefore it is essential that these territories must be immediately merged with their neighbouring States. I do not know what difficulty is there. When Chandernagore became free and independent, it was immediately merged with the State of West Bengal. But Pondicherry cannot be merged with Madras. Goa cannot be merged with Maharashtra; Diu and Daman cannot be merged with Gujrat. I do not understand the logic of these developments. The experience of Part C States was not favourable. was not an encouraging one. The States Reorganisation Commission has stated in its report that the experience gained was that the working of the administration in Part C States was not satisfactory. They worked very unsatisfactorily. And, therefore, they suggested that that state of affairs should be ended and all those territories must be merged with their adjoining States.

So far as the question of Goa is concerned, I suggest that it be merged with the State of Maharashtra. In this respect, I would like to quote Dr. Gaitonde who has been nominated by the Government to represent Goa in the Lok Sabha. The other day, speaking in the Lok Sabha, he said that there were already two or three political parties organised in Goa and they were demanding that Goa should be merged with Maharashtra. They have started an agitation, if I remember correctly, in January and in February, there were demonstrations by the people of Goa . . .

SHRI LALJI PENDSE: Not all political parties.

SHRI B. D. KHOBARAGADE: The people of Goa demand that Goa should be merged with Maharashtra and what Dr. Gaitonde said in the other House was this that if the people wanted to join Maharashtra or . . .

THE DEPUTY CHAIRMAN: I do not think you can quote from the proceedings of the other House, but you can refer to them.

SHRI B. D. KHOBARAGADE: I will refer to his remarks only. He said that if the people of Goa wanted to join Maharashtra, they should be allowed to do so. This is the general feeling, general sentiment in Goa also. Of course, just now, Mr. Karmarkar said that there is some sort of a dispute between Maharashtra and Mysore. I do not know whether Mysore State is entitled to raise this dispute because there are very few Mysoreans there. If we consider the number of the primary and secondary schools, there are hundreds of Primary and secondary schools which are teaching Marathi and where the medium of instruction is Marathi. But there are only a very few schools. I do not think that there are more than five or ten schools—there is not even a single school, I am told by my friend here, which is teaching through Kannada. Therefore, in view of these circumstances, I would suggest that Goa should be merged with Maharashtra. Not only Goa but all those territories should be merged as early as possible with their adjoining States and it will be better. All those people have been agitating for that merger.

श्री शिवानन्द रमोल (हिमाचल प्रदेश) :

उप सभापति महोदया, आज हम यूनियन टैरीटरीज के लोगों के लिये बड़े संतोष का दिन है कि यूनियन टैरीटरीज के लिये हम एक विवेक ला रहे हैं जिससे कि उन लोगों के ऊपर अपने इलाकों में अपनी हकूमत चलाने के लिये, वहाँ की प्रगति करने के लिये, जिम्मेदारी होगी। खास कर मैं लाल बहादुर

[श्री शिवानन्द रमोल]

शास्त्री जी और उनके साथियों को हार्दिक धन्यवाद देता हूँ कि उन्होंने वहाँ के लोगों की जो काफी श्रमसे से इच्छायें थीं उनको मद्देनजर रखते हुए और काफी कुछ अड़चनों का मुकाबला करते हुए यह कानून संसद् में स्वीकृति के लिये रखा है, जिससे कि अब वहाँ के लोगों को मौका मिलेगा कि अपना कामकाज, अपनी सारी प्रगति की योजनाएं अपनी देखरेख में, अपने निरीक्षण में, और सब लोगों की राय से पूरी करें और आगे बढ़ सकें। और इस कानून का सबसे ज्यादा महत्व यह भी है कि चूंकि ज्यादातर ये टेरीटरीज जो हैं मनीपुर, त्रिपुरा और हिमाचल प्रदेश, ये बार्डर एरिया में हैं और इस संकट के वक्त में यह बहुत आवश्यक था कि बार्डर के इलाकों के लोगों को कान्फिडेंस में लिया जाय और वहाँ की हिफाजत का काम उन्हीं लोगों के सुपुर्द कर दिया जाय। तो यह हमारे लिये एक बहुत संतोष की बात है और मैं शास्त्री जी को विश्वास दिलाता हूँ कि यूनियन टेरीटरीज के लोग, जैसा कि इन इलाकों के लोग ईमानदार और सच्चे हैं, वे बड़ी ईमानदारी के साथ, मेहनत के साथ, अपने इलाकों का डेवलपमेंट करेंगे और बड़ी ईमानदारी के साथ कोशिश करेंगे कि वहाँ का काम काज वे चलायें, बशर्ते कि होम मिनिस्ट्री, शास्त्री जी तथा केन्द्रीय सरकार का पूरा सहयोग उनके साथ चले और कोई रुकावट वहाँ से उनके रास्ते में पैदा न हों।

इसके अलावा इन यूनियन टेरीटरीज की वायबिलिटी के बारे में चर्चा की गई कि आमदनी कम है, इस वजह से उनको पास के इलाकों में मिला दिया जाय। मैं एक सीधा सवाल यह करना चाहता हूँ उन मित्रों से कि आज कौन सा स्टेट, आज के डेवलपमेंट को मद्देनजर रखते हुए और उस स्टेट की आमदनी को मद्देनजर रहते हुए, वायबल कहलाया जा सकता है कि वह अपनी आमदनी के मुताबिक ही खर्च कर रहा है? केन्द्रीय सरकार

का यह फर्ज है कि जो पिछड़े हुए प्रदेश हैं, पिछड़े हुए इलाके हैं, उन को वह हर तरह से मौका दें कि वे अपनी तरक्की करें और वहाँ पर जो उनके आय के साधन हैं उनको मजबूती के साथ आगे बढ़ायें ताकि उनकी जो कुछ आमदनी हो उसमें वह अपना खर्च चलाने के लिये पूरी तरह समर्थ हो सकें।

यह संतोष की बात थी कि पिछली दफा जब इस बिल पर डिस्कशन हुआ तो बहुत कम मुखालिफत हुई। एक माननीय सदस्य ने महज एक ऐतराज किया कि आज के जमाने में जब तमाम दुनिया के संगठन की तरफ हम जा रहे हैं तो ये छोटी छोटी टेरीटरीज को अलग हुकूमत देना, यह नामुनासिब है और उनकी राय के मुताबिक हिन्दुस्तान में चार या पाँच से अधिक स्टेट्स नहीं होनी चाहिएं। मैं उनको विश्वास दिलाता हूँ कि अगर भारतवर्ष किसी वक्त यह निश्चय करे कि तीन या चार यूनिट ही भारतवर्ष में रहेंगी और हम सब लोग उसके साथ सहमत होंगे तो यूनियन टेरीटरीज के लोग कभी पीछे नहीं रहेंगे, वे इसका पुरजोर समर्थन करेंगे।

मैं सेलेक्ट कमेटी का बहुत शुक्रगुजार हूँ कि उन्होंने इस बिल के ऊपर बहुत तनदेही से गौर किया, दूरदर्शिता के साथ गौर किया और हम यूनियन टेरीटरी के आदमी जो इस में एक बड़ी रुकावट समझते थे कि एडमिनिस्ट्रेटर कार्जन्सल आफ मिनिस्टर्स पर प्रोसाइड करें, वह रुकावट उड़ा दी गई। और भी छोटी छोटी डीटेल्स हैं जिनकी उतनी अहमियत नहीं, वे सुधारी गईं, लेकिन यह कि एडमिनिस्ट्रेटर कार्जन्सल आफ मिनिस्टर्स पर प्रीसाइड करें सबसे बड़ी अनुचित चीज थी जो संशोधन द्वारा सेलेक्ट कमेटी ने दूर की। उसके लिये हम यूनियन टेरीटरीज के लोग कमेटी के बहुत आभारी हैं। और शास्त्री जी ने उसको स्वीकार किया, उनकी यह बड़ी कृपा हुई।

कुछ लोगों का ख्याल है कि जो नया डेमोक्रेटिक सेट-अप बनने जा रहा है, उसमें ज्यादा खर्चा होगा। लेकिन अगर पिछले

आंकड़ों को देखा जाय तो मालूम होगा कि यह बात गलत है। मैं मिसाल के तौर पर सदन को यह बतलाना चाहता हूँ कि पहले हिमाचल प्रदेश पार्ट "सी" स्टेट के रूप में था, वहाँ पर मिनिस्ट्री थी, कौन्सिल आफ मिनिस्टर्स थे और उसके बाद यूनियन टेरिटरी की स्थापना हुई। मैं इस सदन की वाकफियत के लिए उसके सामने कुछ आंकड़े रखना चाहता हूँ। उस समय जो टेरिटरी का सेट-अप था। आज के मुकाबले में कहीं ज्यादा एक्सपेन्सिव था। मिनिस्ट्री खत्म होने के पहले साल में सालाना खर्चा ४.४५ लाख था जबकि उसका टोटल बजट ५२१.७० लाख था। उसका मतलब यह हुआ कि इतने भारी बजट के मुकाबले में जबकि कौंसिल आफ मिनिस्टर्स थे, लेजिस्लेटिव असेम्बली थी, उसका ४.४५ लाख खर्चा रहा। इसके अतिरिक्त १९५६-६० में टेरिटोरियल कौंसिल का खर्चा ६,१०,३५२ रुपया सालाना था जबकि असेम्बली का खर्चा ४.४५ लाख रुपया सालाना रहा। इसके अलावा एकजी-क्यूटिव का खर्चा जो हेडक्वार्टर में हुआ तथा जो खर्चा चेयरमैन और टेरिटोरियल कौंसिल के मेम्बरों के इम्यूनिटी में हुआ वह ५,८६,६९४ रुपया था यानी पहले लेजिस्लेचर के खर्च से १.५ लाख रुपया अधिक था। तो इस चीज से साफ मालूम हो जाता है कि टेरिटोरियल कौंसिल का जो सेट-अप था, वह काफी खर्चीला था और जो नया सेट-अप बनाया जा रहा है उसमें पिछले के मुकाबले में कम खर्चा होगा।

मझे राजकुमारी जी का भाषण सुन कर काफी खेद हुआ। वे सन् १९५२ से १९५७ तक हिमाचल प्रदेश की रिप्रेजेंटेटिव बन कर पार्लियामेंट में आईं। उनका शिमला से काफी सम्पर्क रहा है और उनकी वहाँ पर कोठियां भी हैं। हमें आशा थी कि वे पिछड़े हुए हिमाचल प्रदेश की कठिनाइयों को पार्लियामेंट के सामने रखेंगी, उनको सुलझाने में सहायता देंगी और उस प्रदेश के लिए इमदाद लेने में

मदद देंगी। इन सब कामों की वजह से उन्हें पार्लियामेंट में भेजा गया था। लेकिन उनका जो कार्य इस बीच रहा वह संतोषजनक नहीं कहा जा सकता है। आज इस सदन में उन्होंने इस बिल के संबंध में जो खयालात प्रकट किये वे उनके अपने हो सकते हैं न कि हिमाचल प्रदेश की जनता के। मुझे दुःख इस बात का है कि राजकुमारी जी ने हिमाचल प्रदेश की जनता के जो विचार हैं, जो उनके खयालात हैं जो उन की मर्जी है उसको मद्दे नज़र नहीं रखा। मुझे इसमें कोई आपत्ति नहीं है कि वे पंजाब का पक्ष लें, क्योंकि पंजाब से उनका ताल्लुक है। उन्होंने पंजाब के बारे में खयालात पेश किये वे ठीक हैं। लेकिन हिमाचल प्रदेश के लोगों की जो विचारधारा है, जो फीलिंग्स है उसको उन्होंने बिल्कुल ही मद्दे नज़र नहीं रखा। मैं उन्हें आज इस बात की दावत देता हूँ कि वे हिमाचल प्रदेश में जायें और वहाँ के लोगों की विचारधारा को मालूम करें कि वे क्या चाहते हैं, आया वे पंजाब में शामिल होना चाहते हैं या उससे अलग रहना चाहते हैं? मैं इस बात को भी छोड़ देता हूँ। हमारे मित्र श्री आनन्द चन्द जी ने कहा कि कम से कम कांगड़ा का जो पहाड़ी इलाका पंजाब में है, वहाँ की जनता की राय ले ली जाय कि आया वह पंजाब में रहना पसन्द करती है या नहीं। मैं भी उनकी राय से सहमत हूँ कि वहाँ की जनता से मालूम किया जाना चाहिये कि वे पंजाब में रहना चाहते हैं या पास की टेरिटरी में मिलना चाहते हैं। लेकिन मैं शास्त्री जी से यह जरूर कहूंगा कि उन्हें इस चीज को स्पष्ट कर देना चाहिये कि आखिर में यूनियन टेरिटरीज की क्या स्थिति होने वाली है, क्योंकि कोई अन्तिम फैसला न होने की वजह से हर वक्त उनके सिर पर तलवार लटकी रहती है। कोई कहता है कि इन टेरिटरीज को इस प्रान्त में मिला दिया जाना चाहिये और कोई कहता है कि उस प्रान्त में मिला दिया जाना चाहिये। इसका नतीजा यह होता है कि इन टेरिटरीज में डेवलपमेंट का काम अच्छी तरह से नहीं हो पाता है।

[श्री शिवानन्द रमोल]

एक सवाल यह भी उठाया गया कि अमरीका में इस तरह के छोटे यूनिट्स को इस वास्ते सूबे का दर्जा दिया गया है कि वह स्वतंत्र थीं। मैं यह अर्ज करना चाहता हूँ कि हिमाचल प्रदेश की रियासतें भी पहले से ही इंडिपेंडेंट स्टेट्स थीं और जब सारे स्टेट्स का मर्जर हुआ, एकीकरण हुआ, उस समय भी हिमाचल प्रदेश सामूहिक रूप से "हिमाचल प्रदेश" के नाम से एक अलग स्टेट ही रहा। हिमाचल प्रदेश के लोग भारत सरकार के आभारी हैं कि उसने वहाँ की सरकार को काफी रुपया दिया और वहाँ पर काफी डेवलपमेंट का काम हो रहा है। लेकिन इसके साथ ही साथ मैं यह भी कहूँगा कि अगर वहाँ के लोगों की मर्जी के मुताबिक काम किया जाना है ताकि भविष्य में उन्हें और भी अधिक से अधिक फायदे हों तो जिस तरह की बात राजकुमारी जी ने कही है उससे मैं सहमत नहीं हूँ। उन्होंने इस संबंध में जो दलील दी है वह हिमाचल प्रदेश के लोगों की राय से मेल नहीं खाती। मैं तो इसका दूसरा पहलू आपके सामने रखना चाहता हूँ और कहना चाहता हूँ कि जो छोटे छोटे पाकेट्स पंजाब के हिमाचल में हैं जैसे डलहौजी, शिमला और कसौली आदि, उन्हें हिमाचल प्रदेश में मिला दिया जाना चाहिये। ये छोटे छोटे पाकेट्स हिमाचल प्रदेश के इलाके के बीच में हैं। राजकुमारी जी ने जो सुझाव दिया है कि इस इलाके को पंजाब में मिला दिया जाय मुनासिब मालूम नहीं देता है। मैं इस बारे में यह निवेदन करूँगा कि सरकार को आज नहीं तो बाद में इस बारे में गौर करना पड़ेगा कि ये जो छोटे छोटे पाकेट्स हैं उन्हें हिमाचल प्रदेश में शामिल करना ही फायदेमन्द होगा। मुझे आशा है कि माननीय शास्त्री जी मेरे सुझाव पर गौर करेंगे और भविष्य में इन पाकेट्स को हिमाचल प्रदेश में मिलाने के लिये उचित कार्यवाही करेंगे।

मैं शास्त्री जी से एक बात और अर्ज करना चाहता हूँ। जैसा कि वे हिमाचल प्रदेश

की प्रगति के लिये उत्सुक हैं और वहाँ की सरकार को काफी रुपया पैसा भी दे रहे हैं, इसके साथ ही साथ मैं यह अर्ज करना चाहता हूँ कि यूनियन टेरीटरीज को काफी अक्षितयार दिये जाने चाहियें, काफी इमदाद दी जानी चाहिये ताकि वहाँ पर कारखाने खोले जा सकें और उसके जरिये वहाँ के रेवन्यू बढ़ सकें। आज हालत यह है कि जो पड़ोसी स्टेट्स हैं उनको तो फायदा हो जाता है मगर छोटी छोटी स्टेट्स को कुछ फायदा नहीं होता है। मैं आपके सामने एक मिसाल देना चाहता हूँ। हिमाचल प्रदेश में भाखड़ा डैम बनाया जा रहा है और केन्द्रीय सरकार उसको बनाने के लिये पंजाब को काफी रुपया दे रही है लेकिन उसका फायदा पंजाब को ही ज्यादा पहुँच रहा है जबकि वह हिमाचल प्रदेश की जमीन पर बनाया गया है। अभी तक वहाँ के लोगों को अच्छी तरह से रिहैबिलिटेड भी नहीं किया गया है। इस डैम से पंजाब को हर तरह से फायदा पहुँच रहा है लेकिन हिमाचल प्रदेश को नुकसान हो रहा है। मेरा निवेदन इस बारे में यह है कि अगर सेंदल गवर्नमेंट इस बारे में इच्छुक है कि यूनियन टेरीटरीज भजबूत हों तो उसका यह कर्तव्य हो जाता है कि वहाँ पर स्कीम चलाने के लिये पैसा वहीं की सरकार को दिया जाकर उसके ही द्वारा स्कीम बननी चाहियें। जिससे इन टेरीटरीज की रेवन्यू बढ़ सके, इस वक्त भी जो डैम बनायें जाने की योजना जिला सिरमौर में पंजाब सरकार द्वारा ही चलाई जा रही है, जिससे वहाँ की जनता में काफी नाराजगी तथा असन्तोष पैदा हो रहा है जो कि अत्यन्त अनुचित है। अगर सरकार हिमाचल प्रदेश में छोटे छोटे कारखाने तथा योजना बनाने के लिये पैसा कर्ब में देगी तो वहाँ की जनता को कई तरह का फायदा पहुँचेगा तथा रेवन्यू का एक सोस पैदा हो जायगा। इसका नतीजा यह होगा कि वहाँ की जनता अपना कारोबार अच्छी तरह से चला सकेगी। इसलिये मेरा आखिरी निवेदन होम मिनिस्टर साहब से यह है कि वे इस

बात की ओर ध्यान देंगे तथा वहां पर छोटे छोटे युनिट्स की स्थापना होगी, जिसके जरिये वहां का रेवन्यू बढ़ सके। वहां पर छोटी मोटी स्कीमों भी केन्द्रीय सरकार को चलानी चाहियें। सरकार को ऐसा काम नहीं करना चाहिये कि जो एडजस्टिंग स्टेट्स हैं, सम्पन्न हैं, वे तो फायदा उठा लें और छोटी छोटी टेरीटरीज को कोई फायदा न पहुंचे। सरकार को इस बात का ध्यान रखना चाहिये कि जो कोई भी स्कीम इन यूनियन टेरीटरीज में शुरू करती है उसका फायदा उन्हीं को मिले और वहां का रेवन्यू वही रहे। इन शब्दों के साथ मैं इस बिल का समर्थन करता हूं और आशा करता हूं कि जो निवेदन मैंने यूनियन टेरीटरीज की प्रगति के लिये किये हैं उनको ध्यान में रखा जायेगा और यह हाउस भी और शास्त्री जी भी आइंडा के लिये हमेशा इसी तरह की इमदाद की दृष्टि से यूनियन टेरीटरीज को खुशहाल बनाने की कृपा करेंगे।

श्री विमलकुमार मन्नालालजी चौरड़िया : (मध्य प्रदेश) : उपसभापति महोदया, जो बिल प्रस्तुत हुआ है वह यूनियन टेरीटरीज के बारे में है। ये छोटे से हिस्से हैं और इनका प्रशासन केन्द्रीय शासन के माध्यम से एडमिनिस्ट्रेशन नियुक्त करके कुछ रायबहादुरों की जमात कायम करके, चलाया जाये, ऐसी व्यवस्था इसमें की गई है।

उपसभापति महोदया, वैसे तो सन् १९३५ में कांग्रेस ने इस व्यवस्था का विरोध किया था, १९३५ का जो एक्ट बना था और उसके अन्तर्गत जो ए-बी-सी स्टेट्स बनी थीं उसका उस समय उसने विरोध किया था, फिर हमारे यहां नया कांस्टीट्यूशन बना और उसके अन्तर्गत कुछ दिनों तक उसको चलाया गया, फिर १९५६ में उन सबको समाप्त किया और रिअर्गनाइजेशन कमीशन बना और उसने भी रिपोर्ट दी कि ये टुकड़े कुछ कान के नहीं और जहां तक बन सके इन सबको मिलाकरके अच्छे एडमिनि-

स्ट्रेशन के लिहाज से और एकानामिक प्वाइंट आफ व्यु से जो ठीक हो सके वैसे प्रांत बनाये जायें, मगर इतना ज्ञान अर्जन करने के बाद आज फिर अपना कसम पीछे उठा रहे हैं और ये छोटी छोटी अलग अलग प्रशासनिक व्यवस्थाएँ कायम कर रहे हैं—यह कहां तक उचित है, समझ में नहीं आता। उपसभापति महोदया, गोआ, दमन, ड्यू, हिमाचल प्रदेश, पांडोचेरी, छोटे छोटे से हैं और समझ में नहीं आता है कि हमारा क्या लक्ष्य है और इनको कितने दिनों तक इसी स्थिति में चलाते रहना चाहते हैं।

श्री शिवानन्द रसोल : स्टेट आफ नागालैंड के विषय में आपकी क्या राय है ?

श्री विमलकुमार मन्नालालजी चौरड़िया : जब वह बिल आया था तब उस समय उसके बारे में राय दी थी। समय कम है इसलिए अभी कुछ नहीं कह सकता।

श्री शीलभद्र याजी : रायबहादुर का इससे क्या संबंध है ?

श्री विमलकुमार मन्नालालजी चौरड़िया : कान बहादुर तो मुझे याजी जी ही दिखे और बाकी तो रायबहादुर हैं, उनके हिसाब से। तो निवेदन है कि वहां के रहने वालों को स्वभावतः इन छोटे छोटे हिस्सों के प्रति मोह होना आवश्यक है, जैसा कि पूर्व वक्ता महोदय ने बताया। किन्तु, कुएं का मंडक यह सनसता है कि सारे का सारा संसार इस कुएं में ही है और इसमें ही उन्नति, अवन्नति, प्रगति, अप्रगति सब कुछ है, लेकिन वैसा कुछ नहीं है, अपने सारे भारत को एक जान कर बचने से एडमिनिस्ट्रेशन आदि में जो खर्चा होता है उसमें भी कमी होगी और जगह जगह की जानकारी का और विद्वान लोगों को लाभ भी मिलेगा—इस दृष्टि से यह अत्यन्त आवश्यक है कि जिन प्रांतों के नजदीक ये हिस्से हैं, जिनसे ये लगे

[श्री विमलकुमार मन्नालालजी चौरड़िया]
हुये हैं उनमें इनका मर्जर हो जाय। झगडा केवल गोआ के बारे में रहता है क्योंकि मैसूर वाले कहते हैं कि यह मैसूर में मिले और महाराष्ट्र वाले कहते हैं कि यह महाराष्ट्र में मिले—तो इसका भी बैठ कर निर्णय किया जा सकता है। तो इनका निर्णय करके इन को मिला दिया जाना चाहिये।

जहां तक इस कानून को लागू करने का सवाल है, इसमें कोई तारीख वगैरह निश्चित नहीं है, जब प्रकाशन इसका कर दोगे तभी हो जायेगा। फिर चुनाव के बारे में भी इसमें बताया है : "As soon as practicable after the commencement of this Act, elections shall be held . . ."

तो पहले तो कानून लागू करने की तारीख तय करनी होगी और फिर जब प्रैक्टिकेबल हो सकेगा तब चुनाव कराये जायेंगे, ऐसी व्यवस्था इसमें रखी है। इसके साथ साथ यह भी निवेदन है कि इसमें हाउस आफ दि पोपुल के लोगों के लिये तो व्यवस्था रखी है कि वे कब रिटायर होंगे, उनका टाइम है, मगर कौंसिल आफ स्टेट्स के लिये जो चुन कर आने वाले सदस्य हैं उनके बारे में कोई ऐसी व्यवस्था नहीं रखी है। जब संशोधन पर चर्चा होगी तब इसके बारे में चर्चा करूंगा, इस वक्त इशारा-मात्र कर देता हूँ।

धारा ५४ में यह दिया है कि टेरिटोरियल कौंसिल को कनवर्ट करके जो असेम्बलीज बना रहे हैं उनका कार्यकाल ५ साल तक रहेगा लेकिन उन सबकी तारीखें अलग अलग हैं, ३ अगस्त, १९६२ है, १ अगस्त, १९६२ है और २५ अगस्त, १९५९ भी है। तो इनका कुछ रिलेशन समझ में नहीं आता। वैसे धारा ५ के अन्तर्गत जब सारे जेनरल इलेक्शंस होंगे तब ये डिजाइन्ड हो सकेगी मगर यह अलग अलग तारीखों को रखने की व्यवस्था क्यों करते हैं और एक निश्चित डेट दे देते हैं तो क्या कोई टेकनिकल आपत्ति आती

है—इसके बारे में स्पष्टीकरण करेंगे तो ज्यादा अच्छा होगा।

इसी तरह से जहां तक मैं जानता हूँ टेरिटोरियल कौंसिल के सदस्यों की उम्र २१ वर्ष की है, २१ वर्ष का आदमी भी उसका सदस्य हो सकता है, लेकिन धारा ४ में—
Qualification for membership of Legislative Assembly के अन्तर्गत २५ वर्ष की एज रखी है। अब जो टेरिटोरियल कौंसिल के मेम्बर्स हैं वे ही लेजिस्लेटिव असेम्बली के मेम्बर्स होने वाले हैं और खुदा न खास्ता ऐसा हो कि उमका कोई सदस्य २१ साल का हो तो फिर क्या स्थिति होने वाली है। क्या हम इसको अपवाद स्वरूप मान कर चलने वाले हैं—इसके बारे में भी स्पष्टीकरण हो सके तो ज्यादा अच्छा होगा।

पहले जो मूल बिल प्रस्तुत किया था उसमें धारा ३ के अन्तर्गत केवल २ के नामिनेशन की व्यवस्था रखी थी। लेकिन अब इसके अन्तर्गत ३ सदस्य नामिनेट किये जा सकेंगे। इसमें किसी प्रकार का खुलासा नहीं है कि किस योग्यता वाले लोगों को नामिनेट किया जायगा, वे केवल कांग्रेस की योग्यता वाले होंगे, बैकवर्ड क्लास की योग्यता वाले होंगे, जन सघ की योग्यता वाले होंगे, या अपनी मर्जी की योग्यता वाले होंगे या रिलेशन प्लस रिकमेडेशन इज ईक्वल टु क्वालिफिकेशन की योग्यता वाले होंगे? वैसे मुझे पूरा ही विश्वास है कि जो स्टेट के हित में होगा उसी के लिये प्रयास करेंगे फिर भी मनुष्य मानवीय कमजोरियों से घिरा हुआ है, सम्भव है कि शास्त्री जी उससे ऊपर हो? प्रान्तों में चलती कार्यवाहियों से मैं ऐसी कल्पना करता हूँ कि मानवीय कमजोरियां घेर करके ऐसे लोगों के नामिनेशन के लिये प्रेरित कर दें, जिनसे स्टेट को लाभ नहीं हो बल्कि व्यक्ति को लाभ हो, अगर ऐसे लोगों को नामिनेट करे जो कुछ ठीक नहीं होगा। इस दिशा में भी मंत्री महोदय प्रकाश डालेंगे तो अच्छा होगा कि किस

टाइप के, किस योग्यता के, किस प्रकार के लोगों को नामिनेट करने वाले हैं—इसका कुछ इशारा कर देंगे तो बड़ी कृपा होगी।

अब जो एडमिनिस्ट्रेटर साहब हैं उनको बहुत व्यापक अधिकार दे रखे हैं। रायबहादुर के बारे में हमारे माननीय याजी जो ने आपत्ति उठाई थी लेकिन यह बिल्कुल सही बात है कि जितने लेजिस्लेटिव असेम्बली के सदस्य रहेंगे वे केवल रायबहादुरी ही कर सकेंगे और जहाँ थोड़ी सी भी तीखी ज़बान निकाली तो एडमिनिस्ट्रेटर कह देंगे कि आपको ऐसा बोलने की जरूरत नहीं है, इससे व्यवस्था में गड़बड़ी होगी। कौंसिल आफ मिनिस्टर्स भी बनाया है लेकिन वह भी रायबहादुरों की ही जमात होगी, वह भी केवल राय देने का काम कर सकते हैं।

श्री शीलभद्र याजी : एडमिनिस्ट्रेटर के बारे में ऐसा कौन सी धारा में लिखा हुआ है ?

श्री विमलकुमार मन्नालालजी चौरड़िया : सच पूछिये तो मुझे याजी जी को यह कहने देने के लिये सरेन्डर करना नहीं चाहिये था; क्योंकि उनके इन्टरपेशन किसी आधार पर बेस्ड नहीं रहते। तो यह जो कौंसिल आफ मिनिस्टर्स बनायी है, उनमें और एडमिनिस्ट्रेटर में कुछ मतभेद हो तो फिर मामला राष्ट्रपति महोदय के पास निर्णय होने के लिये जायेगा और तब तक एडमिनिस्ट्रेटर की राय ही चलने वाली है, जब तक राष्ट्रपति महोदय की अन्य राय न आवे। हम दलील देते हैं कि प्रजातंत्र को चलाते समय हमको थोड़ी गलतियाँ भी सहन करनी पड़ेंगी, प्रजातंत्र को अच्छी तरह से डेवलप करने के लिये, उसका विकास करने के लिये हमारे लिये आवश्यक है कि हम गलतियों को भी सहन करें, ऐसी स्थिति में हमारी समझ में नहीं आता कि प्रजातंत्र के हमारी माननीय मंत्री महोदय जिन्होंने कि १९४२ के आन्दोलन में खूब त्याग किया, इसके लिये लाठी भी खाई, जेल भी गये, क्या कारण है कि फिर भी वह एडमिनिस्ट्रेटर को

इतना व्यापक अधिकार देने जा रहें हैं। एक तो जो जनता द्वारा चुने हुये लोग टेरिटोरियल कौंसिल में हैं उनकी राय नहीं मानते हैं और दूसरे इसमें नामिनेशन भी रखते हैं। खैर, काम चलाना है, ट्रांज़िशन पीरियड है, तीन चार साल में कोई विशेष फर्क नहीं होता, लेकिन एडमिनिस्ट्रेटर को व्यापक अधिकार देना तथा नामिनेशन करना दोनों ही ठीक नहीं है। धारा ४४ के अन्तर्गत कौंसिल आफ मिनिस्टर्स के बारे में दिया गया है कि कितने प्रतिबन्ध लगा रखे हैं और वैसे ही लेजिस्लेटिव असेम्बली के जो रुल्स आफ प्रोसीजर होंगे, उसमें भी खास तौर से दिया है :

“(c) for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of the functions of the Administrator in so far as he is required by this Act to act in his discretion.”

तो एडमिनिस्ट्रेटर को इतने व्यापक अधिकार न देकर के इसको कम करेंगे तो बड़ी कृपा होगी।

SHRI LALJI PENDSE: Madam, to begin with, I wish to associate myself with the views expressed by my colleague, Mr. Anand Chand, in regard to the ever-increasing number of the Union territories which, I am afraid, is creating a sort of dyarchical state of affairs. The time is very short at my disposal. I will not enlarge upon it. I will therefore start with my suggestions that the reference to the Union territories of Diu, Daman and Goa be eliminated from the purview of this Bill. I make that suggestion because it differs in its features from the rest of the territories referred to in this Bill. I am afraid the Select Committee did not lend its thought to these features, at least I did not find anything in its report. I give my reasons why I make that suggestion and suggest what to do with the eliminated units I just referred to. The formation of this Union territory of Diu, Daman and Goa flouts and ignores all that was achieved in our political thinking

[Shri Lalji Pendse.]

and maturity during all these years which reflected in the States Reorganisation Act of 1956 and finally culminated in the bifurcation of the bilingual Bombay State in 1960. My submission is that in passing this Bill we will be trying to revive all that we rejected in accepting those two Acts to which I referred. It has been recognised all these years that whatever the extent or nature of an administrative unit, call it State or Union territory or by any other name, there are certain conditions laid down in that States Reorganisation Act. In particular, one consideration is that such a unit ought to be well-knit and contiguous. The other consideration is that it must enjoy the emotional integration of the people in that Union. Thirdly, there ought to be linguistic affinity between the people governed by that Unit and fourthly, there must be unity of political and economic aspirations. If you consider from all these four standards, the Union Territory of Diu, Daman and Goa—may I refer to the map—you will see that it combines three small entities—Goa, Diu and Daman and each one of them separated by long distances covering several hundred kilometres. If you look at the map, here is Goa, here is Daman and the distance between the two is at least 500 kilometres, as the scale of the map goes. In between this distance exists a separate State. Now between Daman and Diu, there is a distance of about 300 kilometres. Thus these three are separated, not contiguous, are not well-knit. Linguistically speaking, this revives again the bilingual formula that we had rejected by educating ourselves, by re-thinking seriously or if you please, by long-drawn agitations. Diu and Daman speak 100 per cent. Gujarati. Goa speaks a different language. We will come to that as to what that language is but the two speak different languages, are separated by hundreds of miles. Their affinity is divided. Naturally, Diu and Daman look to Ahmedabad for political aspiration, feel themselves to be a

component part of the Gujarat economy. Goa feels otherwise. Therefore bringing them together will not form a well-knit homogenous Union Territory or State, whatever you call it.

Then we are told under the provisions of this Bill that the Legislature is to consist of 30 members, 3 of whom will not speak about them. Of the others have also referred to them. I will not speak about them. Of the remaining 27, the representatives to be elected from these three entities on a population basis will work out like this roughly—Diu will have one member, Daman will have 2 Members and Goa will have 24 Members if 25,000 population is supposed to be the constituency. You can see the colour, the import of that Union Territory and its legislature. Anything that these 24 representatives decide will be the law and whatever may be the justification in favour of the other three will not be granted unless the 24 overlords are gracious enough to grant. Now the first round of trouble will start when the Legislature will decide upon the official language of that Unit and my friend Mr. Karmarkar, will hold peace for a while, and when the question of deciding the official language comes, the claim that he made on behalf of some other State will have been eliminated in the first round. There will not be 2 per cent. of the votes for the State which briefed him to plead its case.

Thus the three are not contiguous. Their political and economic aspirations are different, their languages are different. Why then bracket them together and create a source of trouble? together and create a source of trouble? instead of attempting an impossible thing and refusing to learn by the past experiences, Diu and Daman should have been merged with Gujarat. Goa should have been merged with Maharashtra. It has been contended that there is a difference in location of Goa. Agreeing for the sake of argument, I ask, has there ever been any difference about Diu

and Daman? Why are you holding them back because of the supposed difference over Goa? That perhaps shows your intention and your mentality. Therefore, it will not help us. Don't create points of trouble to start with in these new territories which have come over to us after slavery and ordeal of four hundred and fifty years or so.

With these words, I would request the Home Minister to drop out this Union Territory from the Bill and prefer another Bill shortly whereby these Territories are merged with their natural hinterlands.

THE MINISTER OF HOME AFFAIRS (SHRI LAL BAHADUR): Madam Deputy Chairman, the Bill has been returned by the Joint Committee after adopting certain important changes. I need not recount them but, as has been said, the amendments made in the Joint Committee provide for additional powers to the Ministers; they get increased powers and secondly the power of the Administrator has been curtailed. Formerly, the Draft Bill contained a provision for the Administrator to address the Legislative Assembly or to take part in the debate. Secondly, the Administrator could preside over the Cabinet meetings. In both these matters, it has now been agreed that the Administrator will not take part in the proceedings of the Legislative Assemblies nor will he preside over the Cabinet meetings. The Cabinet meeting will only be presided over by the Chief Minister and, in his absence, by one of his nominees, who must be his senior colleague in the Cabinet next to him. In the Assembly, he will not take part in the proceedings but it followed, when we decided this, that matters which are in a way to be exclusively dealt with by the Administrator should not be discussed in the Legislature. If he is not present, there will be no one to reply on his behalf and hence it was considered advisable not to discuss these matters with which the Administrator will have to deal exclusively. We have also, under this Bill, increased the

nomination from two to three. The proposal came up in the Joint Committee and it was, except perhaps for a few, by a sizable majority agreed that the number should be increased from two to three. Another important change made in the Joint Committee was to make provision for reservation of seats for the Scheduled Castes and Scheduled Tribes. We had reservation for the Scheduled Castes in Pondicherry and Himachal Pradesh but there was no reservation provided for the Scheduled Castes and Tribes in others. In fact, it is for the first time that this has been done although I might like to clear it up that what we had before was something very good. In Manipur, about nine candidates belonging to the Scheduled Tribes were elected from the general constituencies. They came from the general constituencies because there was no reservation. Similarly, in Tripura, ten of them came from the general constituencies. So, there was adequate representation already for the Scheduled Tribe and the Scheduled Caste Candidates in Manipur, Tripura, etc. However, there was a desire and a demand from the Members, from some of the Members belonging to the Scheduled Tribes, that this reservation should be given. So, in accordance with the general pattern as it prevails in the country, we agreed that reservation should be given in Tripura and Manipur also to these communities. Goa is the only exception. The reasons are known as to why the Joint Committee did not agree to give this reservation to Goa.

Now, some of the points raised are about nomination and fresh election, Administrator and also something about the merger of these Territories. Even in this august House, nomination is made by the President and we have some of our distinguished countrymen in this House as nominated Members of the Rajya Sabha, nomination made by the President. There are nominations in the Legislative Assemblies.

SHRI SHEEL BHADRA YAJEE: Also in the Lok Sabha.

SHRI LAL BAHADUR: Yes, there are nominations in the Legislative Councils in many States. So, nomination as such need not be considered as something wrong or something undemocratic. In fact, nominations, especially for these areas, are very important. There are various Tribes belonging to different castes or communities, I do not know what words are exactly used but there are different tribes in Manipur and in Tripura. Some of them may not be elected. It would be worth while—if their number is large—giving nomination to such communities or to such tribes as do not get a place in the Assembly by means of elections. Besides that, we do want to give representation to women also. We might, in case no woman is elected to the Assembly, give representation to them. Then, it should also not be ruled out, it need not necessarily be confined to the backward communities or to women . . .

THE DEPUTY CHAIRMAN: Do you consider women backward?

SHRI LAL BAHADUR: No, no.

SHRI BHUPESH GUPTA: The only occasion where women have not been favoured is the recent election to the Congress Parliamentary Party.

THE DEPUTY CHAIRMAN: I am asking the Minister.

SHRI LAL BAHADUR: If it had been so, Madam, you would not be occupying this august Chair and we are proud that you preside over the Council of States, and I must say, since 1930, when Gandhiji gave that tremendous call, the women of India have played a great part in the freedom struggle and since we attained freedom, they have been doing exceedingly valuable and good work.

SHRI BHUPESH GUPTA: All that was forgotten on the 6th May.

SHRI LAL BAHADUR: In the backward areas, sometimes it might become necessary to give representation to women. As I said, I do not

want to confine myself to giving representation to only these two classes but there may be educationists, there may be engineers, there may be other more qualified people who may not take part in the elections and it would be worth while giving representation to them in the Assembly. As things are developing, the importance of technical people is also on the increase and in places which are not developed like Himachal Pradesh, Manipur, Tripura, etc., I have no doubt the advice or the suggestion given by such technical people or qualified people or those interested in education, etc., will be helpful. If they are in the Assembly, they will certainly be able to make a valuable contribution. As regards the number, it was left to the Joint Committee. We had proposed two as it was there before but the Joint Committee, in its wisdom, decided to increase it by one and naturally we have no way but to accept the recommendation of the Joint Committee.

In regard to the question of the Administrator, Madam, it has been said that the Administrator has been given enormous powers and that he might interfere with the working of the Cabinet or the working of the Government. I do not know how all that is being suggested. In so far as the special responsibilities are concerned, the Bill does provide that the Administrator shall act in his discretion. This does not in any way preclude the Administrator from consulting the Council of Ministers even in cases which are within his own jurisdiction or where he has his own responsibility. For example, in the matter of border security, it would be open for the Administrator to consult the Government, to consult the Chief Minister or to consult the members of the Cabinet. Of course, the decision he will have ultimately to take and he will have to share the burden and responsibility of taking that decision. Or even in regard to such other matters which he has to deal with I do not think that

this Bill in any way rules out consultation with Ministers, etc. Security of the border undoubtedly is an important matter and I do think that there should be no diffusion of responsibility which is implicit in the scheme of compulsory consultation or individual judgement as was mentioned by Prof. Mukut Behari Lalji. In this connection I remember the Government of India Act, 1935 where the Governor had to function in two ways, function in his discretion and function in his individual judgement. Here we do not go by that. In his individual judgement in old days the Governor could, after having discussed with his Minister, arrive at his own decisions and issue necessary directions or orders. In his discretion of course he had to consult . . .

2 P.M.

PROF. M. B. LAL: Not necessarily.

SHRI LAL BAHADUR: Not necessarily, it is true. In this case what are the main responsibilities of the Administrator? It is only two. What the hon. Members have to keep in mind is that there are only two matters in which the Administrator will have special powers. One is in regard to border security and the other is in regard to the Standing Committee which would be formed or constituted in Manipur only. The Standing Committee is not going to be formed in any other territory. A Standing Committee will be formed in Manipur with a view to preserving the rights, customs, traditions, etc. of the Scheduled Tribes living in Manipur. And it was on the wish and desire of the members of the Scheduled Tribes that it was felt that matters pertaining to the Scheduled Tribes should first be considered by a Standing Committee to be constituted out of the Members of the Legislative Assembly; that is to say, Members who are elected from the Scheduled Tribe areas will form a Standing Committee. The Standing Committee will naturally consider the various matters pertaining to the

Scheduled Tribes and only after the Standing Committee has considered them the Assembly will take them up and legislate. Or if there are matters which concern the Government, the Government will also try to implement them in accordance with the wishes of the members of the Scheduled Tribes. Now, the Administrator comes in because there might be difference of opinion. Sometimes it might crop up between the Government and the Standing Committee or sometimes between the Legislative Assembly and the Standing Committee and the Administrator will intervene and settle matters amicably as far as possible. His role will be not that of an Arbitrator he will function sometimes as Arbitrator—but he will play the role of conciliator and try to negotiate and settle matters. So this is one matter in which the Administrator will have special powers. I do not know how it can be said that the Administrator will be interfering with the work of the Government.

The second matter is about border security. And about that I have already said that I do want that there should be no diffusion of responsibility so far as that matter is concerned. Especially these areas are very vital and important and some of them vulnerable also and in the present situation it is absolutely essential that the main responsibility should be that of the Administrator. Of course he is free to consult . . .

PROF. M. B. LAL: Should not the Ministers have a minor responsibility?

SHRI LAL BAHADUR: Minor responsibility in what way? For example, if the Administrator considers it advisable to post or to raise a Special Police battalion and post it near the border—the army also might possibly be there—or if the army is not there or if our forces are not there and if the Administrator considers it advisable to raise a special corps or a special battalion or to get it from

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some other place and post it there, and if he considers it urgent and necessary, he should be free to do so.

PROF. M. B. LAL: Should not the Ministers be allowed to have some say in regard to this matter?

SHRI LAL BAHADUR: Certainly there can be consultation. This matter can be discussed but the final decision will have to be taken by the Administrator and the ultimate responsibility of implementing it must be his. Of course for raising the battalion the Minister or the Government can help a good deal and the Administrator would like to take their assistance. And I might inform the hon. Member that even in Part A States there are areas where the Defence has taken over the responsibility of security of the borders. I mean there are situations and situations in which special steps have to be taken. So there is nothing new and these areas are mostly border areas, especially Manipur, Tripura and Himachal and we have to be very careful about both our neighbours and keep a constant watch.

In regard to the question of conflict between the Administrator and the Government, well, it happens in other places also. Generally our past experience has been that there has been no special conflict between the Chief Commissioner and the government there or the Lieut-Governor and the government. But sometimes differences do crop up as they crop up in Part A States also, in bigger States also there are differences sometimes in certain matters between the Governor and the Chief Minister. Sometimes these differences also occur on account of either some temperamental differences or they might be connected with the personality of this gentleman or that gentleman. So these difficulties are often there but in a democracy what is most important is that the various

elements concerning the Government have to function and work together. There has to be co-operation and unity in the ranks of all, whether they are governing as Governor or governing as Administrator, or as I said the other day, the judiciary. There has to be co-operation and not competition between the different wings of the Government. So it is a collective responsibility and partly that collective responsibility will have to be shared by the Administrator. Both the Administrator and the Minister and the Government will have to work and function together and I have no doubt that no special difficulty will develop. However if the Government will not function properly, naturally it would be the duty of the Administrator to report to the President. It was done in the case of Punjab, it was done in the case of PEPSU, it was also done in the case of Kerala and Government have made no distinction in this matter. In Punjab it was the Congress Government and the Chief Minister was of the Congress Party and yet the President decided to take over the Government of the Punjab and there was afterwards fresh election and a new Government formed. Mr. Bhupesh Gupta smiles when I mention Kerala.

SHRI BHUPESH GUPTA: We know how you took over PEPSU and Punjab.

SHRI LAL BAHADUR: There has been, to my mind, no better case for the President to take over than in the case of Kerala, but I do not want to go into that. So, he should not feel offended.

SHRI BHUPESH GUPTA: No, I do not. It is all past history.

SHRI LAL BAHADUR: Then, the other question was about fresh elections. It has been objected to that the

Territorial Council will be converted into the Legislative Assembly. I am glad that this House did not raise any constitutional objection. It was raised, of course, in the other House. I am sorry I was not present here. I am told now that it has been raised here also. Anyhow I need not go into the constitutional aspect of the matter. But there can be no other practical step. The practical proposition at the present moment is only to allow these Territorial Councils to become Legislative Assemblies or if you like they might be converted into Legislative Assemblies. How is this a nominated body? Who has nominated whom? Which member of the Territorial Council of Himachal Pradesh or Tripura or Manipur has been nominated, except for two members, after the elections were over? After, I think, eight or nine months, two nominations have been made for Tripura and Manipur and Himachal Pradesh. I want to know which member has been nominated other than these two. Is there any other single nomination? And what is nomination? Nomination has to be made of an individual and it has to be made by the executive, by the Central Government or by any other appropriate authority. Who has made it? In accordance with the Territorial Councils Act, two nominations are made by the President. It comes to the Home Ministry from the Territorial Council. The Lieut.-Governor or the Chief Commissioner sends the names. They sometimes consult the persons concerned. But as there was no local Government, they sent the names. They were considered by the Home Ministry and more or less—not more or less but completely the recommendations made by the Lieut.-Governor or the Chief Commissioner were accepted and they were nominated. This can be called nomination. I do not know, but I am amazed to hear that the members of the Territorial Councils, who were elected at the time of the last general elections, are all nominated members of the Territorial

Councils. Further, they have been elected on adult franchise, as Members of the Lok Sabha and Members of the State Legislatures have elected on adult franchise. So, it is adult franchise, the biggest franchise you can have. Secondly, the constituencies more or less remain the same. There may be minor changes here and there when new delimitation takes place as it does take place in the case of other States also. I have no doubt that the present constituencies, with minor changes as I said, will continue to be there. So, they have been elected from their appropriate constituencies and on adult franchise. They are all elected members.

SHRI ANAND CHAND: May I intervene for a moment? Although I did not raise this point, since the hon. Home Minister has referred to it I raise it now. It was also uppermost in my mind. My difficulty in understanding is not that the Territorial Councils as such are not elected on adult franchise. The position as I see is that the Territorial Councils were elected on adult franchise under the provisions of the Territorial Councils Act to perform functions for the purposes of that Act. Now, by a fiction of law, they are wholesale being nominated as members of the Legislatures of these Union Territories. The Territorial Councils are not Legislatures. Now, by a fiction of law, I would say under clause 54 they shall be deemed to be elected legislators of these territories. They are not elected legislators of these territories. What I submit is they were elected plus two nominated members, as the hon. Home Minister has said, of the Territorial Councils and as such there is no grouse. But then now they are being wholesale made the legislators of these Union Territories. So, when they are all put in there as new legislators, that process is a process of nomination. It is not a process of election. That is what has been confusing me also but I did not put it as such.

SHRI LAL BAHADUR: Well, Madam, Raja Saheb has spoken more as a lawyer. I do not know whether he has ever practised before, but I shall leave that matter.

SHRI ANAND CHAND: I have not argued it. I only put forward my difficulty.

SHRI LAL BAHADUR: You did argue it very well indeed. I am sorry—I could answer those points but it may not be possible for me to do so as effectively as my colleague. The hon. Member has proposed certain amendments and he may raise this matter when the clause by clause consideration is taken up. I think then my colleague will answer some of the points. I want to save time and, therefore, I do not want to go into that just at present. As a practical proposition I merely wanted to say that if you delay everything, the new set-up will not come into being. We will have fresh delimitation, then fresh electoral rolls, then adequate time to be given for various other processes and then the polling. I do not know, it may take a year or even more than that. My point is: Are the people in these territories prepared to wait that long? Are they willing to accept the suggestion made by some of the Members that there should be fresh elections? Not only that. In fact, it would mean additional expense and unnecessary waste of energy. People generally do not like to have general elections frequently, unless it becomes absolutely essential. So, even from the point of view of the people living in those areas, it is essential that these Assemblies should come into being as early as possible, so that they have their own Government.

SHRI BHUPESH GUPTA: Agreed.

SHRI LAL BAHADUR: Thank you very much.

PROF. M. B. LAL: All are not agreed.

SHRI LAL BAHADUR: Then, the last point was about the merger. I do not want to create misapprehensions at this time when we are considering the new set-up. The question has to be considered as a long-term measure and as a short-term one. 'Short term' here does not mean a few years. Ultimately what should be our objective is a different matter and what we have to do today is entirely different. Only yesterday we were discussing the Constitution (Sixteenth Amendment) Bill. In that connection many things were said concerning the unity and solidarity of the country. It was felt that we need not have small areas and small territories, separate, new territories and States coming up in this country. As far as possible the number of States should remain, more or less, the same, except as I said in very abnormal cases Government may have to decide something else. So, from that point of view it would not be wrong to suggest that some of these Territories should be merged in the neighbouring States. As the hon. Member was just now suggesting, Daman and Diu, small areas, bits and pieces will be lying in isolation somewhere at some remote point. How will they and how long can they function in that way? These matters will have to be considered. Whether they are to be merged with Gujarat or Maharashtra or Madras or certain other areas, these are matters which will have to be looked into, and carefully considered at the appropriate time. Certainly, I did not use the word 'consent', that these areas will be merged with the neighbouring States only if we obtain their consent. But what I said was that we would naturally consult them, that it would have to be done in consultation with them. We need not impose it. The important point is, why do we keep these areas separate? There may be historical reasons also. Besides the historical reasons, these areas are backward and they have to be economically developed, developed agriculturally,

industrially and in all other matters. They need our concentrated attention. Secondly, the border areas are exceedingly important for strategic reasons also. They are in other ways too very important. If the Centre continues to take an interest in them, it would definitely help those areas. They can become parts of the States no doubt. And in them they will naturally be given more or less the same equal treatment. The States cannot give very special preference to them because they have not got the necessary funds and the resources to make a very special provision for these backward areas, border areas and the hill areas. And may I say that even in a State like U.P. in the Garhwal District, Uttar Kashi and other new districts have been formed. The Centre is giving a sizeable amount to help those areas for building roads, for the supply of water, for dispensaries and for other matters. Various things are being done with the sizeable help given by the Centre to the U.P. Government. I mean, if we keep that thing in view, I do not think any objection could be taken to our decision, to the decision which we have taken that we should keep these territories separate, try to develop them, build them up and ultimately—I have no doubt—they will themselves decide that they should merge with the neighbouring States, areas, and help themselves and help the other parts of the country.

In the end I would like to say only this. I know that those who come from the Union territory areas do welcome this measure and they have on the whole expressed their great satisfaction. Even the Rajah Saheb of Bilaspur also said that it is an improvement on the old Part C States Act. Well, I think that nothing more could be said when it has come from the Rajah Saheb of Bilaspur. I mean he has no special admiration for the Government. Yet, he was good enough to pay this compliment and I am glad that the other leaders of the Opposition have also agreed with it.

I was a bit surprised to hear the speech of Mr. Chordia. His remarks are generally sober but I was a bit surprised that he made the speech as if he was speaking somewhere in Old Delhi or making a speech in a public meeting. I would request him to examine the provisions of the Bill and then he will—I have no doubt—agree that what is being given to the territories—the new set-up—is something definite, something positive, and it will undoubtedly greatly help the people of those areas. I might add that there is an amendment put forward by the Rajah Saheb of Bilaspur that this should be introduced or given effect to from the 15th August. May I tell him that some of the provisions of the Bill will be given effect to immediately, for example, in Goa? But may I also tell him that in Himachal Pradesh, Tripura, Manipur and Pondicherry, this would be given effect to much earlier than the 15th August? We will try to do it, if possible, in July.

THE DEPUTY CHAIRMAN: The question is:

“That the Bill to provide for Legislative Assemblies and Councils of Ministers for certain Union territories and for certain other matters, as passed by the Lok Sabha, be taken into consideration.”

The motion was adopted.

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

Clause 2—Definitions and interpretation

SHRI BHUPESH GUPTA: Madam, I move:

2. “That at page 1, line 15, after the word ‘territory’ the words ‘functioning under the Council of Ministers and’ be inserted.”

Just one word. I wish to make it absolutely clear that the Administra-

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tor, whatever his designation, would be functioning under the Council of Ministers. He may derive certain powers from the Central Government for some special reasons but ordinarily he will be functioning under the Council of Ministers. I do not wish to say very much because the last part of the Home Minister's speech was very good, when he said that these things would come into effect long before the 15th August.

The question was proposed

THE DEPUTY CHAIRMAN: Are you pressing it?

SHRI BHUPESH GUPTA: As you know, generally I do not give notice of amendments which I do not press.

THE DEPUTY CHAIRMAN: Would the Minister like to reply?

SHRI R. M. HAJARNAVIS: I oppose the amendment. The Administrator does not function under the Council of Ministers. He functions with the aid and advice of the Council of Ministers.

SHRI BHUPESH GUPTA: I want to make him answer.

THE DEPUTY CHAIRMAN: The question is:

2. "That at page 1, line 15, after the word 'territory' the words 'functioning under the Council of Ministers and' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—Legislative Assemblies for Union territories and their composition

SHRI ANAND CHAND: Madam, I move:

3. "That at page 2, for lines 24 to 27, the following be substituted, namely:—

'(2) The total number of seats in the Legislative Assembly of a Union territory to be filled by persons chosen by direct election shall be fifty in the case of the Union territory of Himachal Pradesh, forty in the case of the Union territory of Tripura and thirty in the case of any other Union territory.'

4. "That at page 2, lines 28 to 30. be deleted."

(This amendment also stood in the name of Prof. M. B. Lal.)

SHRI BHUPESH GUPTA: Madam, I move:

5. "That at page 2, after line 30, the following proviso be inserted, namely:—

'Provided that the Legislative Assembly of the Union territory has passed a resolution recommending such nomination.'

The questions were proposed.

SHRI ANAND CHAND: Madam Deputy Chairman, the amendment that I have moved is that the number of seats in the Legislative Assembly of Himachal Pradesh be fifty, not forty, as it is provided in the Bill, and they may be forty in the case of Tripura and thirty in the rest of the Union territories. I was rather heartened when my friend from Tripura spoke in the same strain.

I think one thing has been overlooked. Though it is rather too late

a stage, still I want to make a reference to it. It was mentioned in the Select Committee that the population of the territories had moved from 1951 onwards. Whereas in the Himachal Pradesh the population was ten lakhs and in Tripura, I think, it was even less than six lakhs in 1951, in Himachal Pradesh it has gone up to fourteen lakhs and in Tripura the population has gone up to ten lakhs. If we equate Tripura, for example, with Pondicherry, it would be wrong and so they would have to have forty seats. In the same way, I do not see why Himachal Pradesh should have forty seats, because we have already fortyone seats selected in the Territorial Council which, according to the Bill, is going to be converted into a Legislature. Then we have another two making it fortythree. I do not know whether another three would get nominated making it fortysix. That point I would come to later on. So, my amendment is that it should be proportionate to the increase of the population.

SHRI BHUPESH GUPTA: Only one word. My amendment reads —

“Provided that the Legislative Assembly of the Union territory has passed a resolution recommending such nomination.”

Why do I say this thing? It is not as simple as the Home Minister wanted to make out. He almost made out that in the Territorial Council by way of nomination, some Cosmonaut will be sitting, experts and scientific people will get scientific knowledge and so on and that all this will come. Nothing of the kind will be there. What happens is that the Congress Party there puts on these people when there is a little trouble there. After the second General Election, I think the opposition parties and the Congress got an equal number of votes and immediately two nominations were given to upset the balance just to have the Ministry. That is all. There was no question of an engineer or foreman or a Cosmonaut or some

such thing or anything of the kind. It was that just two people were brought in in order to see that the Congress Party in Tripura got a majority. Therefore, I wanted an assurance of this kind against such a thing. If people are not represented—since we have accepted the principle of nomination if people like certain tribal people and others are not represented, well, let it be discussed in the Assembly and by a resolution, let the recommendation be made. The Assembly can make recommendations to the Government, and then the nominations should follow. It will have some check on this kind of partisan nomination. Madam Deputy Chairman, you know very well what happens with regard to nominations even in bigger places. We have never known a nominated person sitting in the Opposition sitting in the Opposition being a part of us, either in that House or in this House, or in the Assemblies or in the Councils. Generally they sit with the Congress Party—good company.

SHRI SHEEL BHADRA YAJEE: No, no.

SHRI BHUPESH GUPTA: Generally, there may be one or two exceptions.

SHRI SHEEL BHADRA YAJEE: Many of the nominated Members sit on the side of the Opposition.

SHRI BHUPESH GUPTA: No, no, not that way. You can sit here that way, many Congressmen can sit here on this side. I am not talking about the physical location in this House, I am talking about the political location as between the Opposition and the Government. Therefore we have not been fortunate, in all these thirteen years, since the Constitution, to have—we are in the Opposition, I am not talking about our party—very many people nominated. The President nominates twelve people. How many we get? (Interruptions) And I think that nomination business is an instrument in the hands of certain people in the Congress Party, it is an instru-

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ment that leads to a little corruption with a view to precisely upsetting the Parliamentary equations, the normal equations that come up after the elections. Therefore I say let it be discussed in the Assembly and let us face the music. After that have nominated persons.

PROF. M. B. LAL: Madam, I rise to support the deletion of the sentence as well as to oppose the proposition moved by Mr. Bhupesh Gupta. If Mr. Bhupesh Gupta's amendment is accepted, then the party which is in a majority of one in the Assembly may recommend the nomination of three persons and may thereby further strengthen its own position. I do feel, Madam, that three nominations in a House of thirty members is surely fraught with considerable danger.

SHRI BHUPESH GUPTA: I could not give an amendment to that . . .

PROF. M. B. LAL: So far as our own House is concerned, 12 persons out of about 250 Members are nominated. So far as the Lok Sabha is concerned, only a few are nominated.

SHRI SHEEL BHADRA YAJEE: About a dozen.

PROF. M. B. LAL: I think not more than two or three are nominated to the Lok Sabha consisting of about 500 Members. Now this provision of 3 out of 30 may lead to considerable manipulation. It is not a question of the Congress Party or this party or that party. This party may be in power today and that party may be in power tomorrow, and if the Congress people are tempted to use this provision in their interests, the other party that may come into power tomorrow will in no way be less inclined to use this provision in the interests of its own party. So I am not speaking, Madam, against this party or in favour of another party. I feel that democracy may be vitiated if three are allowed to be nominated in a House of thirty Members.

SHRI ANAND CHAND: This is my amendment also. Since it stands in the name of my hon. friend and myself, I shall say a word; I would only like to add this much that when the hon. Home Minister said that he would draw people of experience, like engineers or professors, or other people, whose views would be useful to the Legislature, I agree with him to that extent. But the point is that the Ministry is formed out of the members, or out of the majority party which is in the Legislature. So, if the nomination was purely for the purposes of enriching the knowledge of the Members of the Legislature, we could lay down a provision saying that the nominated members will be there but they shall have no right to vote. If that provision were there that they would have no right to vote, I for one would be satisfied. But when people with technical knowledge are brought there only for purposes of enlightening or enriching the knowledge, howsoever limited it may be, of the other Legislators, then why should they also be full-fledged members? And if they are full-fledged members, they have the right to vote, and if they have the right to vote, then they have also the right to join a political party of their choice. It is on those grounds, therefore, that I for one oppose this system of nomination.

श्री शीलभद्र याजी : मैडम डिप्टी चैयरमैन, अभी जो नामिनेशन की प्रथा है उसके खिलाफ कुछ माननीय सदस्यों ने कुछ तरकीबें दी हैं और अपने भाषण में भी उन्होंने इसकी विरोधता की है। हमारे गृह-मंत्री जी ने इस हाउस में बताया कि नामिनेशन की प्रथा बहुत दिनों से है। और उस हाउस में भी है। जब मैं वहां के बारे में एक दर्जन का नाम लेता हूं तो लोग घबड़ाने लगते हैं लेकिन जब मैं लिस्ट पढ़ता हूं तो मैं देखता हूँ कि लोक सभा में १२ नुमिनेटेड मेम्बर हैं। बिहार असेम्बली में भी हैं, बंगाल असेम्बली में भी हैं और प्रान्तों में जितनी कौंसिलें हैं उनमें भी १२, १२

नामिनेटेड मेम्बर्स होते हैं। तो यह नामिनेशन की प्रथा बराबर है।

अब मैं कामरेड भूपेश गुप्त की बात करना चाहता हूँ। जिस रूस की वह प्रशंसा करते हैं। वहाँ कामरेड ख्रुश्चेव एक बार बैठते हैं तो ५०० की लिस्ट का नामिनेशन कर देते हैं, वहाँ एलेक्शन भी नहीं होता है और सब नामिनेटेड होते हैं।

SHRI BHUPESH GUPTA: Do you mean to say that like the Jantar Mantar Road here, where before the elections there is fisticuff fight, there is one there?

श्री शीलभद्र याजी : अब, आप महिलाओं के बारे में देखिये। मर्दाने उन सबको दबा कर के रखा है तो बहुत सी महिलायें चुनाव द्वारा नहीं आ सकती हैं। हम यह नहीं कहते कि उनके लिये ऐसा करो लेकिन यह बात सच है कि महिलायें बहुत नहीं आ सकती हैं। इसी तरह से त्रिपुरा में चकमा जाति है, युकी हैं तो उनका रिप्रेजेंटेशन नहीं आ सकता है, मनीपुर में १२ तरह के नागा होते हैं लेकिन उनका रिप्रेजेंटेशन नहीं होता है। इसलिये मैंने तो सेलेक्ट कमेटी में यह सुझाव दिया था कि ६ से कम नामिनेटेड नहीं होने चाहियें। तो मैं कहता हूँ कि यह देखते हुए कि महिलायें नहीं आती हैं, विशेषज्ञ नहीं आते हैं, सोशल वर्क्स नहीं आ पाते हैं, शेड्यूलड ट्राइब्ज क जो लोग हैं, जो हरिजन महिलायें हैं—ये सब चुनाव में नहीं आते हैं, इसलिये जरूरी है कि नामिनेशन की जो प्रथा है वह रहनी चाहिये और इसकी तादाद भी बढ़नी चाहिये, और यह गवर्नमेंट के ऊपर, होम डिपार्टमेंट के ऊपर छोड़ देना चाहिये कि असेम्बली में किसका किसका नामिनेशन हो। अब, उनको अगर बोट देने का अधिकार नहीं होगा तो फिर वह नामिनेटेड मेम्बर हो कर क्या करेंगे। इसलिये जं. अमेंडमेंट कामरेड भूपेश गुप्त ने और राजा साहब आनन्द चन्द ने रखा है, इसकी मैं सख्त मुखातिफ करता हूँ।

SHRI R. M. HAJARNAVIS: I have not much to add to that which had fallen from the Home Minister when he was replying to the debate about the nominations.

As regards the suggestion for increasing the number of seats in proportion, having a common denominator for all the Union territories, I do not think it can apply because, if we apply the common denominator which applies to the rest of India, then Himachal Pradesh will hardly get 12 seats and the others will get very much less, but since an Assembly must have at least a sizeable proportion, they have been allotted representation far excess of that to which they are normally entitled.

SHRI ANAND CHAND: Madam, I beg leave to withdraw my amendment No. 3.

*Amendment No. 3 was, by leave, withdrawn.

THE DEPUTY CHAIRMAN: The question is:

4 "That at page 2, lines 28 to 30 be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

5. "That at page 2, after line 30, The following provision be inserted, namely:—

'Provided that the Legislative Assembly of the Union territory has passed a resolution recommending such nomination.'

The motion was negatived.

*For text of amendment, vide col. 984 supra.

THE DEPUTY CHAIRMAN: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 and 5 were added to the Bill.

Clause 6—Sessions of Legislative Assembly, prorogation and dissolution

SHRI BHUPESH GUPTA: Madam, I move:

6. "That at page 3, line 29, after the word 'shall' the words 'on the advice of the Council of Ministers of the Union territory or under directions from the President' be inserted."

Madam Deputy Chairman, if the hon. Minister will remember what he said with regard to an earlier amendment, he should have no difficulty in accepting it. When I proposed an earlier amendment to clause 2 that the Administrator shall function under the Council of Ministers, he said, "No. He shall act, he shall function on the advice of the Council of Ministers". I say this is the amendment. Accept it. And if he really means what he said, he should accept this amendment. I say this because this thing should be clarified. I want him to make it absolutely clear that the Administrator has to function ordinarily on the advice of the Council of Ministers just as we have here in our Constitution; the President has to function on the advice of the Prime Minister. I have put in a broad, collective way the words "Council of Ministers" because, I think, otherwise the tendency will be—and indeed it has been provided that the Administrator will be functioning outside the normal scope of the responsible Government—that he will be an arbiter of many things, functioning more on behalf of the Central Government, from above, as a bureaucrat than as a representative

or a functionary of the Government of the Union territory. I think it would be a constitutional irritation. It is possible that there may not be any conflict. If you are just a sycophant, you have no conflicts at all. But suppose there is a progressive Chief Minister and in matters which relate to him he has independent views and here we have a conservative Government and the Home Minister also is very conservative, then certainly conflicts will arise. And such conflicts are not to be viewed as matters of temperament, when conflicts are political conflicts relating to administration and so on. Therefore, what we need here is to delineate the powers and functions of it. I say he should accept it. Anyhow, that is what he said in his speech, though I have no doubt in my mind that Ministers do not mean always what they say and they do not say always what they mean

The question was proposed.

SHRI R. M. HAJARNAVIS: Madam, Ministers, in spite of what Mr. Bhupesh Gupta says, mean what they say. If he refers to article 174(2), he will find that it is exactly the same as clause 6(2) of the Bill:—

"The Governor may from time to time—

(a) prorogue the House or either House;

(b) dissolve the Legislative Assembly."

Just as article 174 is subject to the advice of the Ministers, similarly clause 6 is subject to clause 44

THE DEPUTY CHAIRMAN: The question is:

6. "That at page 3, line 29, after the word 'shall' the words 'on the advice of the Council of Ministers of the Union territory or under directions from the President' be inserted"

The motion was negatived

THE DEPUTY CHAIRMAN: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7—Speaker and Deputy Speaker of Legislative Assembly

SHRI BHUPESH GUPTA: Madam, I move:

7. "That at page 3, after line 40, the following proviso be inserted, namely:—

'Provided that no member shall be chosen as the Deputy Speaker of the Legislative Assembly if such member happens to be a member of the party to which the Chief Minister of the Union territory belongs.'"

SHRI ANAND CHAND: Madam, I move:

8. "That at page 4, lines 20-21, for the words 'by such member of the Assembly as may be determined by the rules of procedure of the Assembly' the words 'by such member of the Assembly as the Administrator may appoint for the purpose' be substituted."

The questions were proposed.

SHRI BHUPESH GUPTA: Madam, my amendment is a very simple amendment. But it is slightly embarrassing situated as we are.

AN HON. MEMBER: Then you need not have moved it.

SHRI BHUPESH GUPTA: I say that the Deputy Speaker of the Legislative Assembly should not be a member of the party to which the Chief Minister of the Union territory belongs. It is a very simple thing. I want somebody independent—without meaning any reflection on anybody. I want that we should develop the practice of having the Deputy Speaker of the Assemblies from amongst the Opposition.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Why not say, "belonging to the Communist Party"?

SHRI BHUPESH GUPTA: I say if the Communist Party is on the Treasury Benches, he must not belong to the Communist Party. This is the amendment. Do you not see? It is a simple amendment.

SHRI R. M. HAJARNAVIS: I just want to know whether there is such a provision in the constitutions of people's democracies.

SHRI BHUPESH GUPTA: Mr. Hajarnavis is developing knowledge about people's democracies.

SHRI R. M. HAJARNAVIS: My name is not "Hajranavis". My name is Hajarnavis.

SHRI BHUPESH GUPTA: I think you are more mistaken about the people's democracies than I am mistaken about the pronunciation of your name. Why do I say this thing? Let us develop this thing which had been done even in Parliament at one time in the Lok Sabha. I think hon. Mr. Hukam Singh was at one time chosen from among the Opposition as the Deputy Speaker. And then this changed. Anyhow, it has been done in certain other Assemblies also, and I think that this practice should be adopted. After all the Speaker or the Deputy Speaker does not run the Government. They conduct the business of the House and it will bring understanding between the two sides of the House if a link is established through election of the Speaker from, naturally, the majority and that of the Deputy Speaker, by convention, if you like, or otherwise. If the Opposition is in a majority, it would not be opposition. I think there should be two-way traffic. I want a situation to be created in the country where we shall be providing presiding officers who are absolutely free from the influence of the ruling party, whether it is the Communist Party or the Congress Party, would have no exploita-

[Shri Bhupesh Gupta.]

tion whatsoever from the ruling party, would know how to make Ministers behave according to the standards of Parliamentary institutions in democracy, would know how to compel them to make statements and do things when the Chair likes it to be done. Therefore, Madam Deputy Chairman, how excellent it would be for our Parliamentary institution if we had today in all our Assemblies Deputy Speakers—well, I say all the Assemblies, of course, except this House because we would like you to be here . . .

SHRI R. M. HAJARNAVIS: Will they be able to keep certain Members of Parliament within time, within relevant . . .

THE DEPUTY CHAIRMAN: You will get a chance to reply.

SHRI BHUPESH GUPTA: There you are. That is why I like you, Madam, because you have stopped him at least twice. How excellent it would be . . .

THE DEPUTY CHAIRMAN: Now I shall have to stop you. I think you are going to finish.

SHRI BHUPESH GUPTA: I am within order. He was completely out of order. I say that we can have a convention whereby we elect people from various parties. We do not contest; we drop the list . . .

SHRI SATYACHARAN (Uttar Pradesh): I would like to know from the hon. Member—he said that as a matter of convention the Deputy Speaker should be from the Opposition, that is your contention—Madam, I wish to ask will it not run counter to the very fundamentals of a democratic Constitution? If you want to establish such a convention, it could be by way of charity only which is not permissible. This thing cannot be missed that when there is a candidate, you cannot ask other candidates to withdraw. In that case the majority vote would decide. How are you going to establish a convention? I want to have a full picture of it.

SHRI BHUPESH GUPTA: I cannot give a full picture in such a short time. That is why I am providing for it here because what the hon. Member says is right. But then I create a disqualification, and that disqualification is that if you belong to the ruling party, you cannot be Speaker just as in case of an office of profit you cannot be a Member of Parliament if you hold it.

(Interruption.)

THE DEPUTY CHAIRMAN: I think Mr. Bhupesh Gupta should be helped to wind up.

SHRI SATYACHARAN: But if he clarifies the position . . .

THE DEPUTY CHAIRMAN: The Minister will reply.

SHRI BHUPESH GUPTA: He need not reply very much because the suggestion is a good suggestion and he should consider it.

In that case we can try to see how things happen. You have in the P.A.C. the example where you take people from the Opposition. It is good. For example, Dr. Ahmed, who was a Member here, is the Chairman of the P.A.C. of the U. P. Assembly. It is a good thing and we join and there is no controversy. Therefore I say you accept this.

SHRI R. M. HAJARNAVIS: If he wants a convention to develop, it can hardly find a place in the statute. If there is a personality who wins the confidence of the Members of the House, he will certainly be elected as he has been elected as Speaker. Such a thing happens in all democratic countries except where we have a monolithic State run by a super-monolithic Party which does not tolerate any difference even within its own Party.

THE DEPUTY CHAIRMAN: Are you pressing your amendment, Mr. Gupta?

SHRI BHUPESH GUPTA: I thought of withdrawing but after hearing his speech, I press the amendment.

THE DEPUTY CHAIRMAN: The question is:

7. "That at page 3, after line 40, the following proviso be inserted, namely:—

'Provided that no member shall be chosen as the Deputy Speaker of the Legislative Assembly if such member happens to be a member of the party to which the Chief Minister of the Union territory belongs'."

The motion was negatived.

SHRI ANAND CHAND: I have given my amendment because I have visualised a situation where the Assembly is sitting for the first time and neither the Speaker nor the Deputy Speaker is elected. In such a case our Constitution under article 180(1) provides that in the case of a State Legislature the Governor gives the oath when there is a new Legislature elected and appoints one person and he presides over the meetings until the election of the Speaker and the Deputy Speaker is over. I do not know why here in this particular clause, it has been laid down that when there is no Speaker or Deputy Speaker elected or till such time as they are elected, such member of the Assembly as may be determined by the Rules of Procedure of the Assembly will be in the Chair. These rules of course under clause 33 are to be borrowed from the U. P. Assembly. I am not clear as to what these rules provide but I should have thought that the better way would have been that till the election of the Speaker and the Deputy Speaker takes place, the Member who occupied the Chair in the first meeting of the Assembly would be such a person as the Administrator appoints to work till the elections are over. That is all the purpose of my amendment.

SHRI R. M. HAJARNAVIS: I think in the absence of a specific provision either by law or rules, the general law of meetings applies. It is competent for the meeting to elect its own Chairman.

SHRI ANAND CHAND: I am not pressing my amendment. I beg leave to withdraw my amendment No. 8.

**Amendment No. 8 was, by leave, withdrawn.*

THE DEPUTY CHAIRMAN: The question is:

"That Clause 7 stand part of the Bill".

The motion was adopted.

Clause 7 was added to the Bill.

Clauses 8 to 17 were added to the Bill.

Clause 18—Extent of legislative Power

SHRI ANAND CHAND: I move:

9. "That at page 8, lines 11-12, the words 'in so far as any such matter is applicable in relation to Union territories' be deleted."

Here in clause 18(1) the words are:

"Subject to the provisions of this Act, the Legislative Assembly of a Union territory may make laws for the whole or any part of the Union territory with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution . . .

Up to that it is quite clear that the Legislative Assembly of a Union territory can make laws subject of course to the superintendence or control of the Parliament in so far as matters in

**For text of amendment, vide col. 2993 supra.*

[Shri Anand Chand.]

the Concurrent List and in the State List are concerned. But I do not understand why the words—

"in so far as any such matter is applicable in relation to Union territories."

have been inserted because when we are giving power to the Legislatures to enact legislations according to the Schedule in the Constitution, why that power should be circumscribed by the addition of these words? That is why I am putting this amendment that these words may be deleted and the Minister may make the position clear as to why they were incorporated.

The motion was proposed.

PROF. M. B. LAL: I also feel that these words are redundant. After all the Legislatures of the Union territories can only pass laws concerning their own territories and can only pass laws on a matter which pertains to them. These words are therefore redundant.

SHRI R. M. HAJARNAVIS: What Prof. Lal says is true and I think he is quite correct that the legislative or territorial jurisdiction of the Assembly is confined to those areas and this makes it quite clear that the limit of their territorial jurisdiction is confined to their own limits. There is no harm done in making it expressive.

PROF. M. B. LAL: It is redundant.

SHRI R. M. HAJARNAVIS: Some people think it ought to be there.

SHRI ANAND CHAND: I beg leave to withdraw my amendment No. 9.

**Amendment No. 9 was, by leave, withdrawn.*

**For text of amendment, vide col. 2998 supra.*

THE DEPUTY CHAIRMAN: The question is:

—"That clause 18 stand part of the Bill."

The motion was adopted.

Clause 18 was added to the Bill.

Clauses 19 and 20 were added to the Bill.

Clause 21—Inconsistency between laws made by Parliament and laws made by Legislative Assembly

SHRI BHUPESH GUPTA: I move:

10. "That at page 8, after line 37, the following proviso be inserted, namely:—

'Provided that any such law so made in respect of any subject specified in List II of the Seventh Schedule to the Constitution shall not be void'."

This is about the law-making power of the Legislative Assemblies of the Union territory. I said in the beginning that we did not understand why there should have been an encroachment upon the domain of the Union territory with regard to matters that normally fall within the purview of a State or in this case, within the purview of a Union territory. Therefore I say that in regard to matters in List II if the Union territory Assembly passes any law, that shall not be void. As far as the Concurrent List is concerned, I have not made any change although I would have liked to have the Union territory to have the same right as the States have in regard to the Concurrent List.

With regard to subjects which are exclusively in the jurisdiction of the States, these subjects should be retained in the hands of the Legislative Assembly of the Union territory. That is what I propose here. As you will see, powers are being curtailed step by step in the various provisions. I press it—that is all I can say here.

Then it will be that for every little thing the Union territory Assembly may do or like to do, it will have to depend on the Central Government but the Central Government may negative that or may not give them permission to have that thing. It may pass certain other measures here which would be contrary to those measures passed by the Union territory Assembly and as such they will be void. Such a situation I would like to avoid. I do not know what answer Mr. Hajarnavis has over such matters but I believe now he will talk about something else. He has finished with 'people's democracies' and he may talk about some part of the world.

The question was proposed.

SHRI R. M. HAJARNAVIS: Even if clause 21 is not there, the position is that the Parliament has power to make law in respect of Union territories and the President has the executive authority. This is part of the legislative authority and executive authority that is delegated. Yet Parliament does not abdicate its responsibilities, nor does the President lose his responsibility. That is all that clause 21 says and unless we amend the Constitution or undertake legislation under clause 3 and make it into a State as the other States are, I submit the position should remain as it is in clause 21.

3 P.M.

THE DEPUTY CHAIRMAN: The question is:

10. "That at page 8, after line 37, the following proviso be inserted, namely:—

'Provided that any such law so made in respect of any subject specified in List II of the Seventh Schedule to the Constitution shall not be void.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 21 stand part of the Bill."

The motion was adopted.

Clause 21 was added to the Bill.

Clause 22—Sanction of the Administrator required for certain legislative proposals

SHRI BHUPESH GUPTA: I move:

11. "That at page 9, line 5, after the word 'amendment' the words 'which in the case of Parliament shall require the sanction of the President' be inserted."

This clause says:

"No Bill or amendment shall be introduced into, or moved in, the Legislative Assembly of a Union territory without the previous sanction of the Administrator . . ."

It is said that the sanction of the Administrator should be sought. When you have responsible Government and a Chief Minister there, I cannot understand why such a provision should be there. I have, therefore, suggested that you should follow the procedure that is followed here in Parliament. There are certain matters in regard to which, either it is a question of moving a Bill or moving an amendment, the sanction of the President is required. Only such matters should be placed before the Administrator, if you like, for his sanction. All the other matters should not be brought in. There are two items given here, (a) and (b). I think these are minor matters. Why should they not be left in the hands of the Legislative Assembly itself rather than introducing them in this Bill. I do not see any need for this kind of restriction.

The question was proposed.

DIWAN CHAMAN LALL: May I, with your permission, say one or two words in reply to what Mr. Bhupesh Gupta has said? I think he has missed

[Diwan Chaman Lall.]
the significance of this particular clause. He says (a) and (b) are minor matters. Quite right, they are minor matters and that is why the sanction of the Administrator is required only in respect of these two matters, (a) and (b), and not in regard to all Bills or all amendments. It is only in reference to the Constitution and organisation of the court of the Judicial Commissioner and jurisdiction and powers of the court of the Judicial Commissioner with respect to any of the matters in the State List or the Concurrent List in the Seventh Schedule to the Constitution that the sanction of the Administrator is required.

SHRI R. M. HAJARNAVIS: It is done in order to preserve the independence of the judiciary about which we heard such an eloquent speech from Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: The Administrator is an executive organ.

THE DEPUTY CHAIRMAN: The question is:

11. "That at page 9, line 5, after the word 'amendment' the words 'which in the case of Parliament shall require the sanction of the President' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 22 stand part of the Bill."

The motion was adopted.

Clause 22 was added to the Bill

Clauses 23 to 32 were added to the Bill.

Clause 33—Rules of Procedure

PROF. M. B. LAL: Madam, I move:

12. "That at page 14, lines 12 to 15 be deleted."

(This amendment also stood in the name of Shri Anand Chand):

SHRI ANAND CHAND: I beg to move:

13. "That at page 14, for lines 16 to 22, the following be substituted, namely:—

'(2) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect to the Legislative Assemblies of the State immediately adjoining such Union territory shall have effect in relation to the Legislative Assembly of that Union territory:

Provided that in case of the Union territory of Himachal Pradesh which adjoins both the States of the Punjab and Uttar Pradesh, such rules of procedure and standing orders may be of the Legislative Assemblies of either of these States, which the Speaker of the Legislative Assembly of the Union territory may, in consultation with the Administrator, decide.'

The questions were proposed.

PROF. M. B. LAL: The provision in the Bill is that the Administrator can make rules for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of the function of the Administrator in so far as he is required by this Act to act in his discretion. Now, one of the matters which is placed at the discretion of the Administrator is the proper functioning of the standing committee. I do not think that the Legislative Assembly should be debarred from even asking any question on the proper functioning of the standing committee provided for perhaps Manipur or debarred from asking any question with regard to border security. This will be stultifying the Legislative Assembly considerably. I beg to submit, Madam, that in the Act of 1935 the Governor was entrusted with certain special responsibilities but the matters which were placed . . .

SHRI R. M. HAJARNAVIS: No, there was a similar rule there.

PROF. M. B. LAL: . . . the matters that were placed in his special responsibility could, I think, be discussed in the Legislative Assembly. If those matters could not be discussed in the Legislative Assembly, I do not see how under the Act of 1935 they could function, because under this Act, questions regarding minority interests and so many others were brought in. I beg to submit, Madam, that this particular clause be deleted. We must also remember that we are not functioning in the year 1935 when the Government of India Act was passed. The year 1935 and the year 1963 are two very different things. Therefore, I feel that the Legislative Assembly should have more powers than the Legislative Assembly had even under the Government of India Act, 1935. I therefore move the deletion of this sentence.

SHRI ANAND CHAND: Madam, I support my hon. friend. There is a little confusion in my mind because it says:

"(c) for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of the functions of the Administrator in so far as he is required by this Act to act in his discretion."

I am not quite clear in my mind whether these words "acting in his discretion" have relationship to clause 44 under which he is given special responsibility for the border areas. If it is a question of special responsibility for the border areas being involved in this, I do not see why, even if he passes certain Ordinances, they could not be the subject of discussion but if the discretion is only limited to the independence of the judiciary or the quasi-judicial functions, it is a separate matter and it would not affect the powers of the Legislature so much.

DIWAN CHAMAN LALL: It is always a pleasure to hear Prof. Mukut Bihari Lal if for no other reason certainly for this reason that one hears correct English spoken in this House. That is why I am rather astonished that he should have given notice of this particular amendment. Now, let us look at this amendment. What Prof. Lal wants is that at page 14, lines 12 to 15 should be deleted. Now, page 14, line 12 begins,

"until rules are made under subsection (1), the rules of procedure, standing orders with respect to the Legislative Assembly of the State of Uttar Pradesh in force immediately before the commencement of this Act in any Union territory shall be . . ."

SHRI ANAND CHAND: I think the hon. Member is reading a line below. It is clause (c). He has perhaps got another copy of the Bill.

DIWAN CHAMAN LALL: I have got page 3 of the amendment.

SHRI ANAND CHAND: It is line 33.

SHRI R. M. HAJARNAVIS: The hon. Member has got the original Bill, as introduced.

DIWAN CHAMAN LALL: Is there any other amendment?

SHRI ANAND CHAND: Prof. Lal's amendment is number 12.

THE DEPUTY CHAIRMAN: You have got the wrong Bill.

DIWAN CHAMAN LALL: I am sorry.

PROF. M. B. LAL: I am much obliged to the hon. Member for his appreciation of my language.

DIWAN CHAMAN LALL: I have not got that copy.

PROF. M. B. LAL: That is perhaps the only wisdom left in me.

DIWAN CHAMAN LALL: I suggest then that this particular amendment which has reference to clause 33 . . .

PROF. M. B. LAL: What are we considering, Madam?

DIWAN CHAMAN LALL: Clause 33 says:

"The Legislative Assembly of a Union territory may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business :

Provided that the Administrator shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President, make rules—

(a) for securing the timely completion of financial business;

(b) for regulating the procedure of, and the conduct of business in, the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Union Territory;"

SHRI R. M. HAJARNAVIS: We have introduced the clause at the Joint Select Committee stage.

DIWAN CHAMAN LALL: Then I have nothing to say.

SHRI R. M. HAJARNAVIS: Madam, it is an accepted principle that in the Legislature an action can be defended by the person who is responsible for it. Therefore the original provision was that the Administrator shall speak in the Assembly defending his actions, but it was decided by the Joint Committee that he will not speak in the House and he will have

no right to take part in the debates of the House. That being so, there will be nobody in the House who will defend his actions because he will be acting in the exercise of his special responsibilities. Mr. Anand Chand is right because he refers to 44(3) and where he acts on his own it will not be proper for any Minister to take the responsibility and answer questions on his behalf. All the answers of the Minister would be that the Administrator has acted in his own discretion and that he is not responsible. This, I believe, is in accordance with the 1935 Act. But the question can always be raised but it will be raised in Parliament. Questions can be asked and the matter can be a subject of discussion but it will be the subject of discussion here in Parliament and not there in the Assembly.

PROF. M. B. LAL: If a question is asked in the Assembly, the Minister may not shoulder the responsibility for the decision of the Administrator but the Minister may explain what is done by the Administrator. At least the Legislative Assembly must be entitled to know what is done and why it is done.

THE DEPUTY CHAIRMAN: Are you pressing your amendment?

SHRI ANAND CHAND: Madam, I do not know how this will function. With due respect to . . .

THE DEPUTY CHAIRMAN: You have commented on that. Are you pressing?

SHRI ANAND CHAND: Of course, I press my amendments because of the fact that if that special responsibility is . . .

THE DEPUTY CHAIRMAN: All right, I will put them to vote.

SHRI R. M. HAJARNAVIS: May I, Madam . . .

THE DEPUTY CHAIRMAN: What again?

SHRI R. M. HAJARNAVIS: Here is section 84(c)—for prohibiting the discussion of, or the asking of questions on, any matter connected with any Indian State.....There was a provision there under 84(c).

PROF. M. B. LAL: 1935 Act? That was subject . . .

THE DEPUTY CHAIRMAN: I think that is enough.

The question is:

12. "That at page 14, lines 12 to 13 be deleted."

The motion was negativea.

THE DEPUTY CHAIRMAN: The question is:

13. "That at page 14, for lines 16 to 22, the following be substituted, namely :—

'(2) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect to the Legislative Assemblies of the State immediately adjoining such Union territory shall have effect in relation to the Legislative Assembly of that Union territory:

Provided that in case of the Union territory of Himachal Pradesh which adjoins both the States of the Punjab and Uttar Pradesh, such rules of procedure and standing orders may be of the Legislative Assemblies of either of these States, which the Speaker of the Legislative Assembly of the Union territory may, in consultation with the Administrator, decide,"

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 33 stand part of the Bill."

The motion was adopted.

Clause 33 was added to the Bill.

Clauses 34 to 41 were added to the Bill.

Clause 42—Associate members—

SHRI ANAND CHAND: Madam, I move:

14. "That at page 17, lines 14 to 17, the words 'and three members of the Legislative Assembly of that Union territory to be nominated by the Speaker of the Assembly from among the members thereof' be deleted."

15. "That at page 17, for lines 21 to 24, the following be substituted, namely :—

'(d) In respect of the Union territory of Pondicherry, two members of the Representative Assembly of that Union territory to be nominated by the Speaker before its dissolution under section 58.'"

The questions were proposed.

SHRI ANAND CHAND: These amendments are connected with the scheme of things whereby in my amendment to clause 54 I have said that elections should be held and the Territorial Councils should not be converted. If elections are held and the Territorial Councils are not so converted, then the question of nominating three members out of the Legislative Assemblies does not arise. Therefore, I have given notice of these amendments to clause 42 where these words will have to be deleted. In respect of the territory of Pondicherry it would have to be two members of the existing Representative Assembly before its dissolution as provided under clause 58. That is my second amendment here.

SHRI R. M. HAJARNAVIS: I oppose the amendments because we are converting. This runs counter to clause 54 of the Bill.

THE DEPUTY CHAIRMAN: The question is:

14. "That at page 17, lines 14 to 17, the words 'and three members of the Legislative Assembly of that Union territory to be nominated by the Speaker of the Assembly from among the members thereof' be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

15. "That at page 17, for lines 21 to 24, the following be substituted, namely:—

'(d) in respect of the Union territory of Pondicherry, two members of the Representative Assembly of that Union territory to be nominated by the Speaker before its dissolution under section 58.'"

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 42 stand part of the Bill."

The motion was adopted.

Clause 42 was added to the Bill.

Clause 43 was added to the Bill.

Clause 44—Council of Ministers

PROF. M. B. LAL: Madam, I move:

16. "That at page 18, lines 8-9, the words 'or by or under any law to exercise any judicial or quasi-judicial functions' be deleted."

19. "That at page 18, lines 13—17, the words 'and pending such decision it shall be competent for the Administrator in any case where the matter is in his opinion

so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary' be deleted."

20. "That at page 18, after line 17, the following further proviso be inserted, namely:—

'Provided further that nothing in this sub-section shall be construed as preventing the Administrator from exercising his individual judgment in any case where by or under this Act he is entrusted with special responsibility.'"

23. "That at page 18, at the end of line 22, after the word 'necessary' the words 'in his individual judgment' be inserted."

24. "That at page 18, line 25, for the words 'in his discretion' the words 'according to his individual judgment be substituted.

25. "That at page 18, line 28, after the word 'discretion' the words 'or individual judgment' be inserted."

26. "That at page 18, lines 30 to 33 be deleted."

SHRI BHUPESH GUPTA: Madam, I move:

17. "That at page 18, line 9, after the word 'functions' the words 'and the Administrator shall be ordinarily bound by such advice' be inserted."

18. "That at page 18, lines 10 to 17 be deleted."

22. "That at page 18, line 21, after the word 'may' the words 'after consultations with the Council of Ministers' be inserted."

SHRI ANAND CHAND: Madam, I move:

21. "That at page 18, for lines 18 to 36, the following be substituted, namely :—

'(2) In the exercise of his functions the Administrator of each of the Union territories of Himachal Pradesh, Manipur and Tripura shall have special responsibility for the security of the areas lying on the border of each such Union territory and for that purpose he may issue such directions and take such measures as he may think necessary :

Provided that the exact extent of the border areas for the security of which the Administrator of any of the Union territories of Himachal Pradesh, Manipur and Tripura has been vested with special responsibility shall be clearly defined by the President by order, as soon as may be after the coming into force of this Act; and

Provided further that such directions and measures issued or taken by the Administrator are not repugnant generally to the provisions of this Act.

(3) If and in so far as any special responsibility of an Administrator is involved by or under this Act, he shall, in the exercise of his functions, act in his discretion :

Provided that where the exercise of such functions affects or has repercussions in the administration of areas other than those for which he has special responsibility, it shall be incumbent on the Administrator to take his Council of Ministers into confidence before he issues any instructions or takes any other measures in this behalf."

The questions were proposed.

PROF. M. B. LAL: Madam, I have moved my amendment No. 16 which

seeks to delete the words 'or by or under any law to exercise any judicial or quasi-judicial functions'. I do recognise that any judicial or quasi-judicial functions entrusted to the Administrator must be exercised by the Administrator independently of the Council of Ministers. But I do feel that the Administrator himself must be allowed to function only as an executive authority and to him must not be entrusted any judicial functions. The separation of judicial and executive functions is an essential principle of healthy democracy and our Constitution also requires the State to promote the separation of judicial and executive functions. I am sorry that despite that directive in the Constitution the Government proposes that the Chief Executive authority, the most important Executive authority of the Union Territory, that is, the Administrator, may continue to exercise judicial and quasi-judicial functions and that under any other law he may be subsequently entrusted with some other functions.

I have further proposed the deletion of the words "and pending such decision it shall be competent for the Administrator in any case where the matter is in his opinion so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary." I have pointed out in my speech that if you entrust to the Administrator the power of differing from his Ministers to the extent of referring the matter to the President and to the extent of acting according to his judgment in urgent cases, then you are reducing the entire system of representative government to a farce. The respected Home Minister said that a deadlock might arise even in other States which have Governors. I do admit it but under our Constitution when due to incompatibility of temperament or due to differences of opinion the Ministers and the Governors differ and it is not possible for the two to come to a common agreement, the will of the Ministers prevails and the only power that

[Prof. M. B. Lal.]

the Governor has is to be kept informed of the affairs of the State and to encourage, advise and warn the Ministers and ultimately to report to the President that the situation has so developed that the entire Constitution has to be suspended. If we allow the Administrator to function in the way it is provided for in this Bill, the incompatibility of temperament may lead to explosions and considerable constitutional difficulties.

Then, the other amendments of mine are to the effect that with respect to special responsibility; the Administrator should exercise his individual judgment. That is to say, the matter should be within the purview of the Council of Ministers. The respected Home Minister pointed out to us that there are only two special responsibilities of the Administrator. One is regarding the proper functioning of the Standing Committee. I beg to submit that the proper functioning of the Standing Committee must be as much the responsibility of the Council of Ministers as that of the Administrator. If the proper functioning of the Standing Committee is a special responsibility of the Administrator, it must also form part of the general responsibility of the Council of Ministers. The Council of Ministers should not be absolved of the responsibility to see that the Standing Committee functions properly.

In the same way, with regard to border security, I understand that border security may be made a special responsibility of the Administrator. I may also concede that on certain occasions the Centre may take over the entire responsibility for border security. But I do feel that unless that situation arises when the Central Government has to shoulder the entire responsibility for border security to deprive the territorial administration of that responsibility is not proper. It should be as much the responsibility of the Council of Ministers as that of the Administrator. The respected Home

Minister invited our attention to the fact that some police force for border security may have to be recruited and may have to be posted. Why should not that be the responsibility of the Council of Ministers? Why should it be the exclusive responsibility of the Administrator? If I know a word of constitutional law, I can say that under this legislative measure the Administrator may take all such action as he may deem necessary with regard to border security without any reference to the Chief Minister or to any Minister whatsoever. This, I think, should not be the case. That is my submission.

While I was speaking earlier, Mr. Basu invited my attention to the fact that the matters relating to the special responsibility of the Governor were under the jurisdiction of the Council of Ministers because the Council of Ministers might be presided over by the Governor under the Act of 1935.

SHRI SANTOSH KUMAR BASU: I did not put it that way. I think the Council of Ministers also included the Governor because he was the President of the Council. So far as his special responsibility was concerned, I do agree that it was a separate matter.

PROF. M. B. LAL: As Mr. Basu agrees with me, matters of special responsibility were placed under the jurisdiction of the Council of Ministers not because the Council of Ministers could be presided over by the Governor, but because they were important matters, which could not be excluded from the jurisdiction of the Council of Ministers without reducing responsible government to a farce.

SHRI SANTOSH KUMAR BASU: They could discuss it.

PROF. M. B. LAL: I, therefore, beg to submit that while special responsibilities may be accepted, the Council of Ministers must also have jurisdiction over these two matters, subject to the Administrator's special responsibility.

SHRI BHUPESH GUPTA: Madam Deputy Chairman, my amendment relates to the powers of the Council of Ministers *vis-a-vis* the Administrator. Now, what I say here is that the Administrator shall be ordinarily bound by the advice given by the Council of Ministers. It may be said that such a provision does not exist in our Constitution with regard to the Council of Ministers either at the Centre or in the States. But then we have not got also in these Chapters an institution like the one that is being created here, namely, the Administrator. Therefore, I say that the whole thing should be clarified. As you know, controversies arise even with regard to what are the powers of the President of the Union. Some people say that the President is bound by the advice and other people say that he is not bound by the advice of the Council of Ministers.

PROF. M. B. LAL: He is bound.

SHRI BHUPESH GUPTA: But here we wish to make it explicit, more especially when you are giving the Administrator certain extraordinary powers which the British used to consider as reserved subjects and so on. I do not see any reason why, first of all, the subject should be reserved. If a little Administrator could look after the border, why not the Council of Ministers? I cannot understand it. There is no logic in it except a kind of intransigence that has come about in certain quarters in the Central Government. Now, after having provided for that, after having given ample powers to the Council of Ministers *vis-a-vis* the Administrator, I wish to delete the proviso. My next amendment is for the deletion of the proviso. What does the proviso say? In the event of a conflict of opinion between the Administrator and his Minister, the matter may be referred to the President. And then pending the decision of the President, if the Administrator so desires, he can pass any directions or orders or take any action whatever he likes. There you will see that in the event of a situation

where a conflict has arisen between the Administrator, an individual officer, and the Council of Ministers who are responsible to the Assembly, it is the Administrator who is the better of the situation. In the first place he can withhold the implementation of measures or decisions by saying that he is referring it to the President. That is number one. Secondly, if he wants to get something done, if he wants to have his own way, he can so let this thing be decided by the President. In the meanwhile I, the Administrator, act and not you, the Chief Minister, of the Union territory. Is it a democratic principle? Or, is it a bureaucratic principle? Is it in conformity with the standards of responsible government or is it in conformity with the dictates of the Home Ministry? I should like to know it. It is patent in this for all to see that at every point, in the various clauses what has been done is this. First of all, a facade has been created. Very good. Even facade is good. After that powers have been crippled in different clauses, so that the Council of Ministers always suffer from an inferiority complex, so that the Administrator has always the advantage of at least a superior position in certain matters. Such a situation should not be allowed to exist in any legislation which is supposed to create a responsible government. It seems that the Administrator is more responsible to New Delhi than to the elected Council of Ministers or the Assembly which will come into existence in all the Union territories. That I believe, is the way of the Home Minister to do. Therefore, I press my amendment. Anyhow, I tabled this amendment only to expose the hollowness of the claim of the Government that they are really creating a responsible Government without impinging on the normal functions of a responsible Government.

SHRI ANAND CHAND: I am very unhappy about the special responsibility which is embodied in this clause 44(2) because, if I might read the

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words, they run, "shall have special responsibility for the security of the border." Now, my amendment really aims at defining what that border means. This special responsibility vests in the Administrator in three territories, Himachal Pradesh, Manipur and Tripura. Himachal Pradesh has a common border with Tibet which is now under China. Tripura has a common border, I think three-fourths of it being bounded by East Pakistan. And Manipur has a border with Burma. Now, the question is this. What we have put in this clause as it stands at present is 'for the security of the border'. Now, would that border in actual effect be translated by the administration later or by an over-ambitious administrator to mean the whole State as such or the whole area? It is because we have not defined it. Unless we define that border, unless we are prepared to say that this border in the case of Himachal Pradesh shall be the district of Kinnaur which is now on the border of Tibet which is under China, it will be vague. Or are we to say that in so far as the question of the responsibility of the Administrator for the security of the border in Manipur is concerned, it shall be this and this, that these are the sub-divisions of Manipur which are adjoining Burma? Are we to say that in the case of Tripura, it shall be those areas which adjoin East Pakistan? We say only 'border' and then read with this clause 33 which we have already passed in which he has the power of prohibiting the discussion of or the asking of questions, about the special responsibility of the Administrator, it might boil down to this that he might say that this whole area is a border area and therefore what he is doing he is doing under the provisions of section 44(2) in the exercise of his special functions. Therefore, neither the Council of Ministers nor anybody comes into question. He may say, "I am wholly responsible for the entire administration of the territory, without abrogating the Assembly, without doing anything."

[[[I am not sure if I should take that view. Therefore, the amend-

ment that I have put forward is that within a certain period after the passage of the Act, the President may define what the border areas actually mean, so that there may be no clash and even in the case of the border areas, if the Administrator takes any action in regard to his special responsibility and if that special responsibility when it is exercised in that particular instance, affects or has repercussions in other parts of the territory, he should also consult his Council of Ministers because he is only responsible for the border and they are responsible to him for the administration of the entire area. So, if there is a conflict, it has to be the case that he should also take the assistance of the Council of Ministers rather than take up all these responsibilities on himself and thereby nullify, I think, all the powers that we are giving to the Council of Ministers, because when this border is not defined, it can be construed to mean the whole territory and thereby it may create a conflict between the Council of Ministers and the administrator.

SHRI R. M. HAJARNAVIS: As regards the first point raised by the hon. Member, Prof. Mukut Behar Lal, it is not this aspect which vests the administrator with judicial or quasi-judicial functions. There are Acts actually operative within the Union territory which give judicial or quasi-judicial powers to the Administrator. They exist and if the law is changed, the Administrator will not continue to exercise those functions. Now, what this Bill makes clear is that in respect of those functions, he will act not on the advice of the Council of Ministers but in his own judicial or quasi-judicial capacity. The directive principle of separation of judiciary from executive requires that he should completely dissociate himself from the Council of Ministers when he sits in a judicial or quasi-judicial capacity. It is open to the Assembly of that State to create another authority, authority other than the administrator,

to discharge those functions. That is what they ought to do but today the laws do give him that power and therefore that is the function of the clause.

About the other clause about individual judgment and discretion, as Sir Donald Sommervell has pointed out, in his speech in the House of Commons when he moved the Government of India Act, 1935, these are not words of art. They were introduced for the first time in 1935 and probably they may have been repeated in the sense in which Prof. Mukut Behari Lal mentioned them. But, as the Home Minister made it clear this morning, in the exercise of his special responsibility, the Administrator will be wise, will, as far as possible, try to carry out the wishes of the Council of Ministers. It is only in the last resort that he will keep the power in reserve and may act, but as far as possible, he will certainly in his wisdom take the advice, the consent, of the Council of Ministers. That is not excluded at all. For, however much we may treat a problem in an abstract manner, it will be a problem of ordinary administration. Life is too complex to permit any such division being made, because the problem would be one which will involve several elements, that is, of ordinary administration as well as special responsibility. Take a simple case. Suppose a sub-inspector's post is to be created or a police station is to be created at the border. Should one police station and should one sub-inspector be there? Or should there be two police stations and two sub-inspectors? Looked at one way, it will be a question of ordinary administration; looked at from the other point of view, it will certainly be the question of the security of the State. Therefore, these questions are likely to be intermingled, inextricably mingled together. Therefore, as the Home Minister pointed out, the Administrator will certainly discuss the matter with the Council of Ministers, he will not keep these things separately to himself and as far as possible . . .

SHRI BHUPESH GUPTA: It will be at the sweet will of the Administrator.

SHRI R. M. HAJARNAVIS: . . . take their co-operation.

Thirdly, as regards Mr. Anand Chand's amendment, if what he says is true, then it will mean that the security of the border States, except to the limited extent which the President of India mentions, will be confined completely to the Union territory. That is not the view that I take either of the danger to the State or of our responsibility. What he says is, just mention the border States, limit the border States. You keep that to yourself and the rest you give to the Union territory. I submit, both by virtue of the division of power and by virtue of the express mention of article 239—and I believe under article 356 also which makes the defence of India the special responsibility of the Centre—we cannot part with that responsibility at all. What the Act tries to do is to emphasise that this power can under no circumstances be regarded as devolving upon the local administration.

THE DEPUTY CHAIRMAN: Prof. Lal, are you pressing your amendment?

PROF. M. B. LAL: I am pressing some, not others.

THE DEPUTY CHAIRMAN: Which are the ones that . . .

PROF. M. B. LAL: I am not pressing No. 16 hoping that the advice of the Minister will reduce . . .

THE DEPUTY CHAIRMAN: You need not comment on your amendment. Which are the ones that you are pressing and which are those which you are not pressing?

PROF. M. B. LAL: I am just giving the reason why I am withdrawing it. I stand for the separation of executive and judicial functions but I

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am withdrawing this amendment because the Minister agrees with me that the functions should be separated.

SHRI R. M. HAJARNAVIS: They are being separated under the Bill.

PROF. M. B. LAL: But they are not separated by this Bill, adequately. They are separated to the extent that the Council of Ministers remain free from judicial responsibility. Therefore, I withdraw this particular amendment.

THE DEPUTY CHAIRMAN: Number sixteen?

PROF. M. B. LAL: Number sixteen.

THE DEPUTY CHAIRMAN: Which is the other amendment which you withdraw and which . . .

PROF. M. B. LAL: I press my amendment No. 19. I press my amendment No. 20. If the other amendments are not carried, then amendment No. 23 will fall down and I will withdraw my amendment Nos. 23 and 24. I withdraw my amendment No. 26.

THE DEPUTY CHAIRMAN: About amendment Nos. 26 and 16?

PROF. M. B. LAL: I beg leave to withdraw my amendments Nos. 16 and 26.

**Amendment Nos. 16 and 26 were, by leave, withdrawn.*

PROF. M. B. LAL: I request you to put to vote my amendment Nos. 19 and 20, because, if they are lost, then I may have to withdraw my other amendments. The fate of the other amendments depends on these.

THE DEPUTY CHAIRMAN: You are an optimist, I should say. I shall put those amendments to vote now.

**For text of amendments, vide cols. 3011-12 supra.*

The question is:

19. "That at page 18, lines 13-17, the words 'and pending such decision it shall be competent for the Administrator in any case where the matter is in his opinion so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary' be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

20. "That at page 18, after line 17, the following further proviso be inserted, namely:—

'Provided further that nothing in this sub-section shall be construed as preventing the Administrator from exercising his individual judgment in any case where by or under this Act he is entrusted with special responsibility.' "

The motion was negatived.

PROF. M. B. LAL: I beg to withdraw all other amendments, Nos. 23, 24 and 25.

**Amendment Nos. 23 to 25 were, by leave, withdrawn.*

THE DEPUTY CHAIRMAN: The question is:

17. "That at page 18, line 9, after the word 'functions' the words 'and the Administrator shall be ordinarily bound by such advice' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

18. "That at page 18, lines 10 to 17 be deleted."

The motion was negatived.

**For text of amendments, vide cols. 3012 supra.*

THE DEPUTY CHAIRMAN: The question is:

22. "That at page 18, line 21 after the word 'may' the words 'after consultations with the Council of Ministers' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: What about your amendment, Mr. Anand?

SHRI ANAND CHAND: Madam, I did not catch the words of the hon. Minister when he replied to this amendment. Does he mean that in this special responsibility of the Administrator the border will be construed to the entire territories of Himachal Pradesh, Manipur and Tripura?

SHRI R. M. HAJARNAVIS: I cannot predicate that a certain geographical area alone is concerned in the question of the security of the border areas.

SHRI ANAND CHAND: Then I press my amendment.

THE DEPUTY CHAIRMAN: The question is:

21. "That at page 18, for lines 18 to 36, the following be substituted, namely:—

(2) In the exercise of his functions the Administrator of each of the Union territories of Himachal Pradesh, Manipur and Tripura shall have special responsibility for the security of the areas lying on the border of each such Union territory and for that purpose he may issue such directions and take such measures as he may think necessary;

Provided that the exact extent of the border areas for the security of which the Administrator of any of the Union territories of Himachal Pradesh, Manipur and Tripura has been vested with special responsibility shall be

clearly defined by the President by order, as soon as may be after the coming into force of this Act; and

Provided further that such directions and measures issued or taken by the Administrator are not repugnant generally to the provisions of this Act.

(3) If and in so far as any special responsibility of an Administrator is involved by or under this Act, he shall, in the exercise of his functions, act in his discretion:

Provided that where the exercise of such functions affects or has repercussions in the administration of areas other than those for which he has special responsibility, it shall be incumbent on the Administrator to take his Council of Ministers into confidence before he issues any instructions or takes any other measures in this behalf."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 44 stand part of the Bill."

The motion was adopted.

Clause 44 was added to the Bill.

Clause 45 was added to the Bill.

Clause 46—Conduct of business.

SHRI BHUPESH GUPTA: I move:

27. "That at page 19, line 19 after the word 'shall' the words 'on the advice of the Chief Minister' be inserted.

28. "That at page 19, line 27, the words 'or otherwise' be deleted."

The questions were proposed.

SHRI BHUPESH GUPTA: Here again I have to say the same thing. Whatever the Administrator does, he must do so on the advice of the Chief Minister, even under this clause.

As far as the other thing is concerned, here again I want the deletion of the words "or otherwise". These are simple amendments. I want to extend the power of the Council of Ministers. This is all that I want. In the Bill clause it is:

"Save as otherwise provided in this Act, *** whether taken on the advice of his Ministers or otherwise***".

Therefore this should go—"or otherwise. "Or otherwise" means that he can, at his discretion take action even if such action is not liked by the Council of Ministers. I do not want such a position to be retained.

SHRI R. M. HAJARNAVIS: I oppose the amendments, because they run counter to the scheme of clause 44.

THE DEPUTY CHAIRMAN: The question is:

27. "That at page 19, line 19, after the word 'shall' the words 'on the advice of the Chief Minister' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

28. "That at page 19, line 27, the words 'or otherwise' be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 46 stand part of the Bill".

The motion was adopted.

Clause 46 was added to the Bill.

Clauses 47 to 52 were added to the Bill.

Clause 53—Provisions for election to Parliament from Goa, Daman and Diu, and Pondicherry,

SHRI V. M. CHORDIA: I move:

29. "That at page 24, after line 18, the following be inserted, namely:—

'(3) The term of office of the member elected for the first time to fill the seat allotted to the Union territory of Pondicherry in the Council of States shall expire on the 2nd day of April, 1968."

SHRI M. P. BHARGAVA (Uttar Pradesh): That is self-explanatory.

श्री विमलकुमार मधालालजी चौरडिया:

माननीय भार्गव साहब विशेष बुद्धिमान हैं इसलिये उनको सेल्फ एक्सप्लनेटरी लगता है, मगर मैं साधारण बुद्धि वाले लोगों की दृष्टि से कह रहा हूँ।

माननीय उपसभापति महोदया, यह संशोधन इस आशय से आता है कि इसमें हमने हाउस आफ पीपुल के बारे में तो स्पष्टीकरण दे रखा है मगर काउन्सिल आफ स्टेट्स के लिये जो मेम्बर चुना जाने वाला है उसके बारे में कोई स्पष्टीकरण है नहीं कि कब उसका टर्म खत्म होगा और इसी दृष्टि से मैं ने यह संशोधन दिया है। इसमें जो क्लॉज़ ५३ है उसमें बिल्टुल माफ दिया है कि "नाट-विदस्टैन्डिंग एनीथिंग....." तो उसमें हाउस आफ पीपुल के बारे में ही दिया है, काउन्सिल आफ स्टेट्स के बारे में कुछ दिया नहीं है। जब पांडिचेरी में असेम्बली काम करने लग जायगी और वहाँ से एक आदमी काउन्सिल आफ स्टेट्स के लिये इलेक्ट करने वाले है तो फिर उसका टर्म आफ रिटायरमेंट भी दिया जाना अत्यंत आवश्यक है। अगर वह दिया जाता है तो यह मानकर चला जायगा कि जब में वह निर्वाचित होगा तब से छः साल की उसकी नियुक्ति होगी और उसके अनुसार २ अप्रैल,

१९६८ को उसका कार्यकाल समाप्त होगा और इसमें ठीक कोरिलेशन भी रहेगा। इस लिये अत्यन्त आवश्यक है कि इस संशोधन को स्वीकार करे अन्यथा बाद में अमेन्डमेंट लाकर इस चीज को दुरुस्त करना पड़ेगा।

The question was proposed.

SHRI R. M. HAJARNAVIS: I oppose the amendment because we do not consider it to be necessary.

THE DEPUTY CHAIRMAN: The question is:

29. "That at page 24, after line 18, the following be inserted, namely:—

'(3) The term of office of the member elected for the first time to fill the seat allotted to the Union territory of Pondicherry in the Council of States shall expire on the 2nd day of April, 1968.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 53 stand part of the Bill."

The motion was adopted.

Clause 53 was added to the Bill.

Clause 54—Provisions as to provisional Legislative Assemblies of certain Union territories

SHRI ANAND CHAND: I move:

30. "That at pages 24-25, for clause 54, the following be substituted, namely:—

'54. After the expiration of a period of six months from the commencement of this Act, elections shall be held in accordance with law to fill the seats in the Legislative Assemblies allotted to

each of the Union territories of Himachal Pradesh, Manipur, Tripura, Pondicherry and Goa, Daman and Diu.'

PROF. M. B. LAL: I move:

31. "That at page 25, after line 24, the following further proviso be inserted, namely:—

'Provided further that within six months of the commencement of this Act, the Legislative Assemblies of each of the Union territories of Himachal Pradesh, Manipur, Tripura and Pondicherry shall be reconstituted after first elections under and in accordance with the provisions of this Act.'

The questions were proposed.

SHRI ANAND CHAND: In the general discussion I have already said about this point and I will not again take the time of the House. I personally feel that the wholesale conversion of the Territorial Councils into Legislative Assemblies for these Union territories is a fiction. But then there is a fiction of law.

Only one other point I would like to mention. I was rather surprised to see that my friend, Shri Bhupesh Gupta, was in line with the Government, that the Territorial Councils be converted into Legislative Assemblies. I do not know whether the 13 Communist people from Tripura are weighing heavily on his mind but certainly, Madam, in Himachal Pradesh we do not have 13; we have, from the party to which I belong, a smaller number, but even there, I might submit, on the floor of the Territorial Council itself a resolution was moved by the Opposition and it was supported, I think, by all the members of the Opposition except the member from the Communist Party, not that he did not want to . . .

SHRI BHUPESH GUPTA: He was in jail then.

SHRI ANAND CHAND: I was about to say that. Of course the Bill was welcomed but in that resolution it was pressed, on behalf of the Opposition, that fresh elections should be held so far as the Legislatures were concerned, because they were different bodies with different powers, and a fresh mind should be brought to bear upon that, especially because—it was not that we are giving them a life of six months or two years—they will continue till August, 1967 as is inherent in the scheme of this clause. So it is with that thing in mind that I have moved my amendment. There is one thing more which I wanted to seek clarification on, that whereas we have said something about Himachal Pradesh, Manipur, Tripura and Pondicherry, this particular clause of the Bill is absolutely silent so far as Goa, Daman and Diu are concerned. Now, I would like to know from the hon. Minister that when amending the Second Schedule and the Representation of the People Act we have given 30 Members to the Legislative Assembly of Goa, Daman and Diu, and when elections are proposed to be held after delimitation of Parliament seats that are not in the Union Territories, what is to be the provision? Or is it the intention of the Government not to enforce the provision so far as elections to the Legislature of Goa, Daman and Diu are concerned and put it in cold storage? If it is not so, because there are no representative Assemblies or Territorial Councils in this area, what is the intention of the Government? May I know whether it is to hold elections and, if so, when?

PROF. M. B. LAL: Madam, I do agree with the Home Minister that if the implementation of this Bill is postponed until fresh elections are held as provided in the law, the implementation of the Bill would take time. I also concede that by law Parliament is quite capable of converting the Territorial Councils into

Legislative Assemblies. But I do feel that the Territorial Council be converted into Legislative Assembly only for a short period, for a period of six months. I have no doubt in my mind that if the Government so desire, it would be possible for the Government to delimit constituencies, to prepare voters' list, to hold fresh elections within six months. I do maintain that though some expenses will have to be incurred, democracy will be fostered in case fresh elections are held under this law and the people of the territories concerned are afforded an opportunity to choose their representatives for purposes laid down in this particular law. I do not think that fresh elections would cause such embarrassment that they should not be held. I, therefore, move my amendment, and I hope that the Government will accept it. I do not mind if the Government says that fresh elections will be held not within six months but, say, nine months or so.

SHRI SHEEL BHADRA YAJEE: Four years.

PROF. M. B. LAL: That does not serve any purpose.

SHRI R. M. HAJARNAVIS: Madam, I oppose the amendment. I will not repeat because the Home Minister in his reply has dealt in *extenso* and, I believe, adequately with the contentions raised. As regards Goa, certainly elections will be held but that must pend delimitation. After that is done the elections will be held.

THE DEPUTY CHAIRMAN: The question is:

30. "That at pages 24-25, for clause 54, the following be substituted, namely:—

[54. After the expiration of a period of six months from the commencement of this Act, elections shall be held in accordance with law to fill the seats in the

Legislative Assemblies allotted to each of the Union Territories of Himachal Pradesh, Manipur, Tripura, Pondicherry and Goa, Daman and Diu."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

31. "That at page 25, after line 24, the following proviso be inserted, namely:—

'Provided further that within six months of the commencement of this Act, the Legislative Assemblies of each of the Union territories of Himachal Pradesh, Manipur, Tripura and Pondicherry shall be reconstituted after first elections under and in accordance with the provisions of this Act.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 54 stand part of the Bill."

The motion was adopted.

Clause 54 was added to the Bill.

Clause 55 was added to the Bill.

Clause 56—Power of President to remove difficulties

SHRI ANAND CHAND: Madam, I move:

32. "That at page 26, for clause 56, the following be substituted, namely:—

'56. If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty.'

Madam, Deputy Chairman, my sole purpose in moving this amendment is to bring before this House inconsistency which exists in this present clause 56 compared to the other clauses of similar nature in the other statutes which Parliament has by law laid down. For example, if we take the States Reorganisation Act of 1956, it is so simple:

"If any difficulty arises, the President may, by order, do anything not inconsistent with such provisions of this Act which may appear to him to be necessary or expedient . . ."

In other cases we limit these powers. But removing difficulties does not take more than one year. Here the Select Committee has made this clause not only more understandable and more reasonable but if I might be allowed to say so, by the amendment made in the Select Committee this clause has been redesigned further, strengthened further, because of the present Territorial Council to continue as legislature in spite of whatever judicial difficulties there might be inherent in the system itself. Therefore we find the words here:—

"and in particular, in relation to the Constitution of the Legislative Assembly for any Union territory."

That, to my mind, is a clear reflection that the Government itself, in spite of the explanations, is not clear as to whether the conversion of the present Territorial Council into Legislature is a Constitutional Act. Therefore, to provide that in the eventuality of its being so declared, the President may, under section 56, validate it still further, I think that is all that has come out of this clause. It has been put there specifically for the purpose of removal of all such difficulties as arise in interpreting laws or in giving effect to such laws as are passed by Parliament from time to time. Therefore, Madam Deputy Chairman, I have given my amendment which

[Shri Anand Chand.]

stands in consonance with the established practice in other laws and is different from the one incorporated in section 56.

The question was proposed.

SHRI R. M. HAJARNAVIS: Madam, in view of the experience which we gained in operating other Acts I might inform hon. Shri Anand Chand that if ever the courts were to hold that any of these provisions are invalid, a situation which has confronted more than once, this House as Parliament, has adequate powers to deal with that situation. Therefore, we need not resort to this new clause.

SHRI B. K. GAIKWAD (Maharashtra): On a point of information. Except Goa, in all other territories there have been no elections. By this Bill we have provided certain number of seats to the Scheduled Castes and the Scheduled Tribes. I do not know what is the present strength of the Scheduled Caste and the Scheduled Tribe people in all these territories. If there are no representatives of the Scheduled Castes and the Scheduled Tribes, how will these representatives be taken there as provided for in this Bill?

THE DEPUTY CHAIRMAN: Have you any answer to give?

SHRI R. M. HAJARNAVIS: Madam, I believe the hon. Member was a Member of the Select Committee where the matter was discussed in very great detail and any impressions that he has formed there are correct impressions.

SHRI ANAND CHAND: In view of the explanation of the hon. Minister that he would come to the House rather than go to the President in case the Territorial Councils were declared invalid, I beg leave to withdraw my amendment.

*Amendment No. 32 was, by leave withdrawn.

THE DEPUTY CHAIRMAN: The question is:

"That clause 56 stand part of the Bill."

The motion was adopted.

Clause 56 was added to the Bill.

4 P.M.

THE DEPUTY CHAIRMAN: Now it is 4 o'clock. If the hon. mover Mr. Gupta agrees, we may finish this and then take up his motion.

SHRI BHUPESH GUPTA: I agree.

THE DEPUTY CHAIRMAN: After this we will take up his motion. The question is:

"That clause 57 stand part of the Bill."

The motion was adopted.

Clause 57 was added to the Bill.

Clause 58 was added to the Bill.

THE DEPUTY CHAIRMAN: We come to the First and Second Schedules. Amendment Nos. 33 and 34 are out of order because they have been defeated. The question is:

"That the First Schedule and the Second Schedule stand part of the Bill."

The motion was adopted.

The First Schedule and the Second Schedule were added to the Bill.

THE DEPUTY CHAIRMAN: I take up clause 1. There is one amendment which also is disallowed as it is incomplete because if this is allowed, the proviso to clause 1(2) will have to be deleted. Therefore it is disallowed.

*For text of amendment, vide col. 3033 *supra*.

The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The Enacting Formula and the Title were added to the Bill.

SHRI R. M. HAJARNAVIS: I move:

"That the Bill be passed."

The question was proposed.

SHRI ANAND CHAND: In spite of all the apprehensions that we have expressed and in spite of all that has been said, I personally, as I said in the beginning, feel that it is a great step forward towards democratisation of the administration of the Union territories and I am absolutely certain that it is a great improvement on the old Part C State set-up. My only fears, as I have expressed in the amendments, are that an over-ambitious Administrator may try to sidetrack the issues, may try, when he functions, to do things in such a way that the popular representatives of the people are not consulted in matters of importance and I do hope that in that matter the Home Ministry will take special care and will see that whatever Parliament is enacting to-day is not carried out only in the letter but also in the spirit and the people of the Union territories also feel the same glow of freedom and association in the Administration of their own affairs which they had till now. With these words, I conclude.

THE DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up Mr. Gupta's motion.

MOTION RE SITUATION ARISING OUT OF THE ORDER MADE BY THE PRESIDENT UNDER ARTICLE 359(1) OF THE CONSTITUTION

SHRI BHUPESH GUPTA (West Bengal): Madam, I move the following motion:

"That the situation arising out of the continued suspension of the right to move any court for the enforcement of the rights conferred by article 21 and article 22 of the Constitution under the order made by the President under clause (1) of article 359 of the Constitution on November 3, 1962, and laid on the Table of the Rajya Sabha on November 8, 1962, be taken into consideration."

THE DEPUTY CHAIRMAN: I wanted to draw the attention of the House that there is a certain matter *sub judice* in the Supreme Court. Therefore I wanted to caution the hon. Members . . .

SHRI BHUPESH GUPTA: I understand. I do not know what is *subjudice* . . .

THE DEPUTY CHAIRMAN: The D.I.R. . . .

SHRI BHUPESH GUPTA: Please do not anticipate. How do you know what I am saying. I know what is *sub judice* and I know the Parliamentary rules well enough to avoid those things.

Hon. Members will remember that ever since the state of emergency was proclaimed and the arrests and detentions without trial started under the D.I.R. . . .

THE DEPUTY CHAIRMAN: You have not moved.

SHRI BHUPESH GUPTA: I have moved . . .

THE DEPUTY CHAIRMAN: Then I have to put the motion.