

SHRI B. R. BHAGAT: But they have not found it possible to accept the suggestion. So, I would request the hon. Member to persuade at least his State Government to give a lead in this respect.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

"That the Bill be returned."

*The motion was adopted.*

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

THE MINISTER OF STATE IN THE  
MINISTRY OF HOME AFFAIRS (SHRI Ft.  
M. HAJARNAVIS): Mr. Vice-Chairman, I beg  
to move:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to provide for Legislative Assemblies and Councils of Ministers for certain Union territories and for certain other matters and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee, namely:—

1. Shri Abid Ah
2. Shri Anand Chand
3. Shri Tarit Mohan Dasgupta
4. Shri R. S. Doogar
5. Shri B. K. Gaikwad
6. Shri Jairamdas Daulatram
7. Shri D. P. Karmarkar
8. Shrimati Lakshmi N. Menon
9. Prof. Mukut Behari Lai

10. Shri Mahesh Saran
11. Shri M. N. Govindan Nair
12. Shri G. Rajagopalan
13. Shri Shiva Nand Rarnaul
14. Shri L. Lalit Madhob Sharma
15. Shri Sheel Bhadra Yajee."

Mr. Vice-Chairman, some time last year, Parliament amended the Constitution so as to enable this House, or rather Parliament, to provide Legislative Assemblies in the Union

territories and to create local administrations and to provide for certain ancillary matters. Out of the Union territories only Himachal Pradesh as a Part C State had a Legislative Assembly and <sup>a</sup> Council of Ministers whereas Manipur and Tripura had Councils of Advisers to advise the Administrators. Their continuance was considered by the States Reorganisation Committee and according to the recommendations of that high-power Committee consisting of very distinguished public men, these local administrations were abolished.

[THE DEPUTY CHAIRMAN in the Chair]

There was, however, still a demand from the Union territories that they should have a larger voice on questions of local importance and they should have powers which the other people have, that they should have powers comparable to the powers enjoyed by the Indian States, and it was with that purpose that a Committee was appointed under the chairmanship of the Law Minister. This Committee gave us the benefit of their recommendations; the present Bill is framed after the recommendations of that Committee were received.

The first thing that the Bill tries to do is to create a Legislature. That matter is dealt with in Part II of the Bill. There clause 3 says:

"There shall be a Legislative Assembly for each Union territory."

the term "Union territory" itself has been defined in clause 2:

(h) "Union territory" means any of the Union territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Pondi-cherry.

Out of these I have already referred to Himachal Pradesh. Manipur and Tripura. Goa. Daman and Diu joined us in 1961 and by the Treaty of Cession we acquired the *de jure* right for Pondicherry in 1962. In sub-clause 3(2) it has been provided here

that Himachal Pradesh shall have forty members and the other territories will each have thirty members. Clause 3 empowers the Central Government to nominate not more than two persons who are not persons in government service, and it is intended that this power shall be utilised to nominate persons from the weaker sections of the community, provided they have not been able to get any representation as a result of elections.

The width of the legislative powers of these Assemblies shall be as extensive as that of the State List, except that under the Constitution, the primary responsibility to administer these territories is firstly that of the President, that is to say, the executive power, and the legislative power is that of Parliament. That being the position, there can be no provision of law by which Parliament can abdicate its function of making laws for these Union territories. That authority remains so that if in any case Parliament is so minded and makes a law in respect of a matter which is covered by a law made by the local Legislature, then the law made by the local Legislature yields to the law made by Parliament. The difference between a State Legislature and this Legislature would be that even in respect of matters which are transferred, which are committed to this Legislature, the legislative power of Parliament will remain. It is not intended that it shall be exercised. But if it is exercised then it shall prevail as against the power of the local Legislature. Then again it also follows logically from this constitutional position that if there is any law made by Parliament which is repugnant to the law made by the local Legislature, then the Parliamentary law will prevail, will supersede any provision contained in the local law passed by the local Legislature.

I will not detain the House about the other provisions, because the rest of Part II consists of provisions with which we are familiar, *i.e.* about the functions of the Legislature, how Bills

are to be introduced, how the proceedings of the Legislature shall be conducted, how members shall be sworn in and so on. They are provisions with which we are familiar. I may, however, just mention that this Legislature also shall have the same limitations in respect of certain matters like industry, trade and commerce etc. as other State Legislatures. All these provisions are contained in clauses 19, 20 and so on.

There are certain other provisions which are irrelevant in this context. Because the Union territory cannot have a Public Service Commission of its own, those provisions will not apply here. Then we come to part III which deals with the delimitation of constituencies and Part IV creates the executive of the territory; it says that there shall be a Council of Ministers in each Union territory. There is a clause to which, I am sure, some reference is bound to be made in the debate and I am now merely mentioning it. The clause says that the Administrator shall, when he is present, preside over the meetings of the Council of Ministers. I am sure this will become a subject of debate but to start with, I might mention that here the position of the Administrator cannot be likened to that of the Governor. Here the Administrator shall be administering on behalf of the Union and his power will be as extensive as that of the President because he will be administering on behalf of the President. If a subject comes up before the Council of Ministers for discussion, it is quite possible that it may have certain repercussions, it may have certain impact upon matters which are not committed to the State Legislature. Now, he will be very happy, indeed he will be grateful if he receives advice from the Council of Ministers in respect of matters which do not normally come up for discussion there. This is one aspect of the matter which I wish the House will take into consideration. The whole Bill is going before the Joint Committee and I can assure the hon. Members that we shall go to the

[Shri R. M. Hajarnavis.]

Joint Committee with an absolutely open mind. As a matter of fact, we are transferring some of our own powers, powers which belong to us under the Constitution to the local people so that it is not as if there is any other authority, which is going to exercise them. If they misuse, if they abuse the powers, if they do not run the administration according to the law which we have made, then certainly our responsibility will revive. We shall always be answerable. I am sure hon. Members of the opposition will always be asking questions as to how the powers which this Parliament gave are being used by the local representatives. Therefore, our responsibility, as I said, shall always continue. The Administrator who will be functioning is not some person who has come from Mars. He will be one of our own officers functioning under the Government and we shall be responsible in Parliament here for all his acts.

SHRI A. B. VAJPAYEE (Uttar Pradesh): Under the Home Minister and over the Chief Minister.

SHRI R. M. HAJARNAVIS: Not over the Home Minister because, so far as matters in the State List are concerned, he will normally accept the aid and advice of the Council of Ministers but, as I said, the Administrator will also have to administer subjects which are not committed to the charge of the local authority. Is it suggested that in these matters he will not avail himself of the advice of the Council of Ministers?

SHRI A. B. VAJPAYEE: He may or may not.

SHRI R. M. HAJARNAVIS: I am merely stating one side of the proposition. We have not yet made up our mind!

SHRI BHUPESH GUPTA (West Bengal): Then I suggest, the hon. Minister should add. we speak, you

listen, those who are not going to the Joint Committee.

SHRI R. M. HAJARNAVIS: I am sure Mr. Bhupesh Gupta will give us the benefit of a speech to give out his views and I can assure him on my behalf and on behalf of the other Members of the Joint Committee that we will give full consideration to everything that falls from him.

For a long time to come, it appears that financially these areas will not be viable. They will have to spend a good deal of money and we shall have to place large funds for their development and for these funds we shall have to come to this House. We shall owe a responsibility to this House to see that that money is properly being spent for the development of those areas. That being so, it has been provided that whenever the Budget, comes before the local Legislature, it shall receive the previous assent of the President because as I said, a large component of that Budget, a large portion of that Budget on the asset side will consist of the grants which this House will, in its discretion, make to them and all Bills, of course, consistent with the provisions of the Constitution, will not become law unless the President has assented to them.

Then there are miscellaneous and transitional provisions. Being local governments, they must be provided with a Consolidated Fund and a Contingency Fund for which provision has been made in part V.

These, Madam Deputy Chairman, are the essential features of this Bill and these are the branches of the administration which we intend to create under the Bill. Again, I repeat that we are going to the Joint Committee with an absolutely open mind where we shall listen carefully to the debate and the views of the Members, and then we will come before this House again.

*The question was proposed.*

THE DEPUTY CHAIRMAN: I have *m* all nine names on the list of those who want to participate. I shall leave it to the Members to be reasonable about time.

SHRI BHUPESH GUPTA: Ajid I also, Madam, leave it to you to decide about the reasonableness of continuing this particular sitting. Now, we are extremely reasonable otherwise.

Generally we welcome this measure although it has very serious defects and lacuna in it, both on points of principle and on matters of practice and precedent. I hope the Joint Committee will, with an open mind, consider all the points that will be made and come to a final conclusion with a view to meeting the points and improving the measure in a true democratic principle.

Madam, as I speak on this subject, naturally I cannot but recall the great agitations and movements, that had been made ever since the reorganisation of the States, by the people of Manipur, Tripura, Himachal Pradesh, Goa and other places and Delhi, for having a democratic set up, Assembly, and a Council of Ministers responsible to the Assembly. You will remember that in this House from this side we had voiced these popular demands time and again but had been rebuffed by the Government with the argument that such demands were unreasonable and impracticable and that there should be no Assemblies and Council of Ministers in those small areas which were not viable and which were under the control of the Central Parliament. But the people win once again. It is the people who have won and the Treasury Benches have yielded. Naturally, our congratulations should go to the people of those Union territories but for whose struggles, unity, sacrifice and resolution such a Bill, as it 'is, would, not have been possible in this Parliament. Therefore, we pay a tribute to those men and women who united for championing the just cause of democratic self-governance and fought

against the stiff resistance on the part of the powers that be. When I congratulate people, I have in mind all people irrespective of which political party they support, because the people are always larger than the political parties and it gives me great satisfaction to state that although in Tripura the Congress Party did not, for its own understandable reason, bring itself <sup>to</sup> supporting openly this demand for a democratic setup, in Manipur many Congressmen came out in support of this demand. My tribute therefore goes also to those Congressmen who took courage in both hands and stood up for a right cause. Similarly, in Himachal Pradesh again, I am happy to say that Congressmen also voiced openly this demand for a democratic set-up. I have also in mind naturally Delhi which has been fighting for a democratic set up, for a responsible Assembly and a responsible Council of Ministers. Unfortunately, their demand is not met by this Bill. Well, it seems to me therefore that it will be necessary for the people of Delhi, irrespective of their political and party affiliations, so long as they are democratic, to join in the common struggle, endeavours and efforts so that the Government yields to the very legitimate demand of the citizens of Delhi that they too must have a democratic set-up and a Council of Ministers responsible to it.

Having said that, I must express my profound regret that as we are discussing this Bill today here some of our colleagues who had been in the forefront of this fight for a democratic set-up are behind prison bars, detained without trial under the Defence of India Rules. From Tripura, for example, we have got only two Members elected to the Lok Sabha. Tripura has got only two seats and whether you like it or not, both these seats this time, as in the first general election, had been won by the Communist Party with 51 per cent votes on its side. But you will be sorry to hear—because I feel that this is a

[Shri Bhupesh Gupta.] matter of good democratic conscience—that both these MPs of the LoK Sabha are behind prison bars in Hazaribagh Central Jail whereas they should have been in the Lok Sabha to participate in these discussions and in the formulation of this measure. What is still surprising is that Mr. Dasaratha Deb who is the undoubted leader of the tribal people of Tripura, who won all the three general elections from the same constituency—not a usual record for many in the country and it only shows how beloved he is of the people—is today still behind prison bars. Although his name has been proposed by the Government in the other House and included in the Select Committee—we welcome this gesture on the part of the Government—may I not today in all humility ask that he should be set free so that he can participate in the discussions in the Select Committee? Or is it the contention of the Government that if they were to release him today, the heavens would come down and the security of India would be endangered and everything will be rack ruin? No; it is not the argument of the Government. I would say, therefore, that we are working in a contradictory way. On the one hand we want such people to participate in these discussions, want them to play an important part in making this measure possible, want them to participate in the Select Committee, while on the other hand we hold them in detention without trial. It is a most curious situation, a strange situation. I would ask the hon. Members not to introduce political prejudices in such matters. If Mr. Dasaratha Deb were to be released today, he will toe with you participating in the work of the Select Committee, working with you and you will be able to judge whether any of his activities are in favour of national defence or are against national defence, in favour of the country or against the country, and it will be open to you to take whatever step you want to take. Why then vindictiveness should be carried to a point

of such absurdity as this, I cannot simply understand. The other Member, Mr. Biren Dutta, who is elected from Agartala which now happens to be the capital—it will remain the capital of this particular Union territory, if you would like to call it by that name—is also in prison, again under detention. Therefore, as you see, Tri-pura did not have any actual physical representation to make its voice heard in the Lok Sabha when this matter was discussed there on a motion for reference to a Joint Select Committee. I say it is not merely a denial to the Communist Party it is a denial to the people of Tripura. You are taking away from the people of Tripura their right of representation even on a matter which vitally concerns them, on a matter which has been sponsored by these two Members themselves, on a matter where the intimate knowledge of the representatives of Tripura, Himachal Pradesh and other places should be brought to bear. Is it right, I ask you? Now, who is to determine the policies of the country, the C. I. D. or the Prime Minister of India, in such matters, I would like to know. In Parliament and in Assemblies consisting of elected representatives of the people there is a coterie of police officers. Everybody knows that. They were here until the end of December when Parliament adjourned. I advised them, "Don't go" because I do not trust many people in the Government. They went; they thought why they should be arrested. Now, the moment they went there within four days they were taken. They could have been arrested here also. This is how the Government behaves. After the ceasefire, after so many things had happened, after they had participated in debates and discussions, after they had made their contribution to the Defence Fund, after they had made their position well known in the country, they were arrested. So far as the Tripura administration was concerned, their grudge was satisfied but democracy last. That is what I say. I "hope, therefore, they will all be released. I would like the Select Committee

Members to consider this point. When you will be reflecting over the provisions of this Bill, half the Tripura Territorial Council will not be there to come and approach you and to say what they like because that half is in prison. The Territorial Council has 30 elected Members out of which the Congress has 17 and the Communists 13 and you will be surprised that here it is a wholesale deal. Twelve of those Members belonging to the Communist Party are behind prison bars. One has been left out as a matter of gesture, small mercies done to us. It is not to be expected that when a measure of this kind is discussed, which involves a lot of procedure and various other aspects of administration of those areas, these Members of the Territorial Council who have acquired a lot of experience ever since the set-up of the Territorial Council came into existence should be available for consultation? Does it not stand to reason that they should be given a chance to come here and tell the Select Committee and through the Select Committee the Parliament as a whole as to what their views are with regard to the provisions of the Bill, in what way they would like the Bill to be changed, what modifications should be done in the Bill? Why are you denying that right to them? On the one hand we are making provisions for these things and yet on the other we are shutting people out from making their representation. And surprisingly enough under this Bill this same Territorial Council will be transformed into a Legislative Assembly and half of the Legislative Assembly will have been born in jail because those 12 Members of the Territorial Council after the enactment of this measure will be *ipso facto* Members of the Tripura Legislative Assembly and they will have been born as such in prison. Democracy in our **country** gets born in prison.

SHRI A. D. MANI (Madhya Pradesh):  
Yes, yes. It does.

SHRI BHUPESH GUPTA: It is a strange thing; it is unthinkable. It is thinkable only when you have a confusion of ideas, when you have a mixture of good sentiments and bad apprehensions; good sentiments for the defence and protection of the country and bad apprehensions that the Communists might come in the way. That is the position today. I say, change this mentality. Have a little confidence in the parties. It is essential for the shaping of democracy that there is some workable co-operation, in fields where such co-operation is possible and necessary, between the Opposition and the Government. If such co-operation is not possible between the principal Opposition in the country, whether in the Territorial Council level, State level or in Parliament, on the one hand and the Government on the other, I think talk of democracy then becomes a mockery. I would not like democracy to flourish in this country or sought to be made to flourish in conditions such as these because these conditions are negative conditions, unhelpful conditions, inimical conditions, very prejudicial to the heart and soul of democratic institutions. Similarly, in Himachal Pradesh a Territorial Council Member is in jail. Why should he be in jail?

SHRI AKBAR ALI KHAN (Andhra Pradesh): Security.

SHRI BHUPESH GUPTA- Now, the Select Committee should consider these points. I would appeal to the Members of the Select Committee to go into the reasons. If it is not done in other quarters, it is the task of the Members of the Select Committee to do so.

SHRI AKBAR ALI KHAN: My friend should remember that it is a tentative measure for the security of the country. I am sure, *when* he is

[Shri Akbar Ali Khan.]

discussing, he will not forget that China has committed aggression.

SHRI BHUPESH GUPTA: I am surprised that you have not put me in jail. I should like to be put in prison as a hostage and see how these people behave after they come out of prison. I would like to walk into the Delhi Central Jail and place myself in jail so that you can satisfy yourself, by letting them out. that they are as much patriots as you are. They love the country as much as you love the country. It is not a good thing to cast aspersions all the time on people. Today you have the Dower. Tomorrow, someone else may come and make the same aspersions and put you behind prison bars. And day after tomorrow what will go down is democracy itself and the future of the country. That is how the future of the country is ruined step by step, sometimes wittingly, sometimes unwittingly, sometimes in a state of absent-mindedness and sometimes with cold calculations. I would not like this. That is what I can tell Mr. Akbar Ali Khan.

SHRI AKBAR ALI KHAN: We have full confidence in you. That is why we do not touch you.

SHRI BHUPESH GUPTA: I am very grateful that he has. But I have greater confidence in those people who are in jail than I have in myself when I declare it in Parliament. Therefore, I am a person in whom you should have lesser confidence than in those persons who are in prison.

SHRI M. P. SHUKLA (Uttar Pradesh): May I suggest that the hon. Member should advise them to create better confidence about them in the minds of those who govern the country?

SHRI BHUPESH GUPTA: Anyway, do not interrupt me. Let me come to the Bill. I have said enough on the subject. If I cannot touch the sympathetic cord in your heart, the blame

is on me. I will not blame you. It is my job to convince you of the incorrect path that you have taken. Well, I am a small man. I shall go down unsung and unwept, but I would not like . . .

SOME HON. MEMBERS: No, no.

SHRI BHUPESH GUPTA: . . . -our country's future to be ruined in this manner because of some wrong ideas and prejudices on your part. That is what I say.

As I said, the Bill is generally welcome. Therefore, I demand the release of all these people. Let them come out and participate in this, which is the common work of all of us, regardless of parties. As I said. I do not speak in a partisan spirit because the Congress leaders have put us in jail. I did not hesitate to pay my tribute to many Congress men and women who have made possible this enactment or a measure of this kind to be discussed in this House. I hope my attitude would be reciprocated by Members opposite, instead of making these pointless interruptions, which is neither in good taste nor in good grace. It certainly is not one that really befits a democratic situation that we want to create in this country.

Now, I should say immediately that Delhi's case should have been considered. Why keep it pending? Now, in Delhi if the Communist Party was stronger, I assure you we would have made it a little difficult for you. Unfortunately we are weak here, because I know that in Tripura we had to win 13 out of 17 seats and capture two parliamentary seats before we could convince the authorities that the people are for a democratic set-up. That was our main election campaign. Unfortunately, to the misfortune of the people of Delhi and our own failures, Delhi does not have a strong Communist Party. That is one of the factors.

SHRI A. D. MANI: There are fellow-travellers in Delhi.

SHRI BHUPESH GUPTA: I think the road of democracy is broad enough for all to travel and life has shown, history has shown, that either we travel hand in hand together, shoulder to shoulder, or we get beaten down together again by the forces of counter-revolution. Experience of all contemporary history shows it. I should like to have Mr. Mani by my side, if he would kindly travel with me, to gain a fellow-traveller. Now, if you travel with me by train, do you become my fellow-traveller? We go to the same destination. I would like Mr. Vajpayee with me over this matter of Delhi. What is wrong there? I do not have untouchability in politics. It is a common issue. Let us work together to gain it. Do not practise untouchability, which is prohibited under the Constitution in one respect, and practise it in the political life in another respect. We, Communists, do not believe in untouchability either in the social life or in the economic life or in the political life. We, Communists, believe in the unity of the people, of all democratic forces. That is our stand, if you like the Communist philosophy to be expounded by such interruptions of Mr. Mani that way. Therefore, I would ask the Congressmen in Delhi to take the lead in this matter because they are the biggest party here with tremendous influence and support. Let them take the initiative. Others will be with them. If they think that they can do it alone, let them do it. We shall be watching and admiring them from a distance. And for doing this kind of thing we shall offer garlands to the victorious Congressmen rather than be jealous of their achievement. This is not the Communist way of thinking. I say, do it. if you can alone. But I think it is, necessary on such occasions to bring about the unity of the people when we agree.

Now, coming to the provisions of the Bill—I am speaking always on the Bill—my first objection is to the first part of the Bill. As it is, I should have thought that having

accepted, in principle, that these Union territories should be given a democratic set-up, Assemblies and responsible Governments, they should have put these on the same footing as the States under our Constitution. This is my first point. It is somewhere in between. And the odds are against the Assemblies in the set-up that will be created in the Union territories. I would not like that. They should be put on the same footing. They may be small places. It is not a good reason to say that you should not give them the same status as the other constituent States of India. It is said they are not viable. Which State in India today is viable? The States together owe to the Centre Rs. 2,000 crores, that is to say, the Central loans to the State Governments, repayable loans, amount to Rs. 2,000 crores. Many of them are major States. Huge amounts are involved. They are not in a position to pay. Their annual payment comes to about Rs. 125 crores. Therefore, today it is no good saying that the States are viable and these Union territories will not be viable. This is a fallacious, out-dated logic in a modern economy and social set-up. If you have development plans you will have to advance moneys to the States. Compared to the task and needs of the Plan, every State, even State like Bombay, West Bengal, Madras and so on would be deficit and these deficits are to be met by Central assistance, especially when the Centre has the financial resources under the provisions of the Constitution in its hands. Therefore, this viability or otherwise of a State is the old British way of thinking. We should give it up. It was understandable when it was only a question of running the police show and magistracy. Today, when it is a question of planning and planned development of our country, we cannot harp on the argument in the same way as it had been advanced in the past. Suppose, in some of the Union territories it is found that a big textile mill or some other industry could be started due to the natural resources, you will invest money there, advance



[Shri Bhupesh Gupta,]

them loans to start it themselves or you may do it. Therefore, this argument is no good. Therefore, I say the Select Committee should consider that this is a major defect in the Bill. They give responsible Government, a Council of Ministers and an Assembly and at the same time take away the powers and jurisdiction that are normally available to the States under our Constitution. This is not fair. This is not giving things with good grace to the people. This is not right, and this is not in conformity with democratic principles and standards of responsible government. That is why I say that the Select Committee should go into the relevant clauses and see how they can best remedy the situation. I should like the new set-up in these territories to be put on a par with the States of our Republic. That is what I should plead in the beginning.

Now, we have a Concurrent List in our Constitution and we have a State List. We have a State List also where they have exclusive power. You have your Concurrent List also. Now, you make it as if whatever laws they pass have no validity and Parliament should decide. Suppose, in Parliament there is a conservative Government and in those States there is a progressive Government. What happens in such cases? A needless conflict will develop. Today it is not so. Suppose, it is the other way round, and here we have a progressive Government and in a State there is conservative Government. Then you may say that the progressive thing will prevail. It is better to leave it there. You give here the political direction, the example, and let them fight out their battle, because democratic principles will be so well established in our country that once the people are given the rights, they know how to exercise them. It may take time, but ultimately it is the people who decide. This is one point I make very clear. Therefore, the selection of subjects should be more or less on the same basis as the allocation of subjects has

been in the case of the States and the Union as far as the Constitution is concerned.

Then, Madam, the Administrator is there. Why this if you want to make it a nominal thing? Since there will be no Governors, you now have little Governors or Administrators. Before there used to be Lieutenant-Governors, but that seems to be a dying species. Now, we are going *to* revive, I do not know by which law of Darwin, a new species called the Administrator.

SHRI R. M. HAJARNAVIS: That is the Constitution.

SHRI BHUPESH GUPTA: Why? I do not know.

SHRI R. M. HAJARNAVIS: That is under the Constitution which you are supposed to have read and which you have sworn to follow.

SHRI BHUPESH GUPTA: I know, but the hon. Minister knows very well that Constitutions are not immutable thing. You have made fifteen amendments to the Constitution.

SHRI R. M. HAJARNAVIS: We are not by this Bill going to amend the Constitution.

SHRI BHUPESH GUPTA: Here I am saying that my objection is this. Assuming, for the sake of argument, that you keep your Administrator, a decoration, a nominal figure-head, a constitutional showpiece, you have it; but why are you investing him with such power, a bureaucratic overload, to deal with the Council of Ministers? Here, you will see that he can attend the meetings of the Council of Ministers and do whatever he likes. In our Constitution if you see the relevant article, article 175, you will find that the position is given with regard to the Governor—the Members of the Select Committee may kindly note this:

"The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may for that purpose require the attendance of members".

This is the position under article 175 of the constitution. Clause 10 of the Bill here says:

"The Administrator and every Minister shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the Union Territory", etc.

Why? Why is it so? Why should he have this power? Put it in the same way as it is under the Constitution. Do not put it in this form that he can come and ask supplementaries—"the Administrator and every Minister shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly". What does it mean? Is the Administrator to sit by the Ministers and deal with the Assembly in the same way as Mr. Morarji Desai deals with us sometimes? Why this provision? Put it in this form that the Administrator may address the Assembly. If he comes, let him sit in the high pedestal. Why make him sit there in the Treasury Benches and start interrupting and saying all kinds of things? It is neither good to our administration nor good to our parliamentary system, and it is certainly embarrassing to the Ministers and annoying to the Opposition. This is all I can say. This is one most objectionable feature. You are giving the Administrator more power than the Governor. Then you see he is the protégé of the President. Is it said in the Constitution that the Administrator has the same power as the President *vis-a-vis* the Assemblies of Tripura, Manipur, and so on? You are putting the Administrator in a better position than the Constitution

has put the President *vis-a-vis* the Indian Parliament. May I ask the Law Minister through you, Madam, is it a new-found sense of democracy or is it a perversion of democracy? Why is it so? This is a very plain thing.

Then again you will find that very many laws are to be passed, and the consent of the Centre should be obtained. Why? Please do not make them glorified municipalities or glorified bodies like the London County Council. If you are so minded, give them powers with good grace and bring them as near as possible to the State Assemblies. I know that the Council of Ministers will be adorned by members of the Congress Party. They are the gainers in Tripura. So, I would like them to be given ample powers under the Constitution. We do not grudge that, we do not like to take advantage of the situation in order to deny them the power. Let them have the power, let them run the territory. Give them the opportunity. Here, it is a question of principle, not of expediency. Here it is a question not of opportunism but of fundamental approach in regard to freedom and democratic institutions. I want them to be given full powers. Therefore, I would ask the Select Committee to scan very carefully the powers that have been given to the Administrator and to see that the powers are curtailed as they appear in the Bill, that his wings are clipped, so that he cannot fly too high and above us all. That should be done.

Madam Deputy Chairman, you will find that the Legislature also is crippled in many ways. We would like the Legislature to have the full power. Then again there is the question of the Council of Ministers. As I have said, the Council of Ministers should have the full power as in the case of the States. The judiciary should be fully independent. Why should the Council of Ministers and the Legislature not be given certain powers which they have in regard to certain administrative matters under the

[Shri Bhupesh Gupta.] Constitution in the States? This also is another aspect of the matter which should be seriously considered. I think Chapters II, III and IV need to be very carefully modified and considered by the Members of the Select Committee.

Then comes the nomination. Why should there be nomination? You will say that nomination is provided for in the Constitution for Parliament and State Assemblies. I can understand it for Parliament. I can also understand it in some respects for State Assemblies where the Assembly constituencies are large and where certain communities may not have representation. Take the case of Anglo-Indians, for example. This community is so small that if you give numerical representation to them, they would not make a parliamentary constituency. I can understand nomination being given for a while. Also in principle that should go. But why should it be so in the case of the Union territories? Their constituencies are much smaller. Therefore, if you have the Scheduled castes or backward classes, you will have them represented as a matter of course in the Assemblies concerned. Suppose, after the elections it is found that nobody is there, you can give the discretionary power. In view of the fact that nobody from a particular community, which should be represented in the Assembly of the Union Territory concerned has come, you nominate somebody. It should not be an overall power of this kind. It should be a discretionary power contingent upon the failure of the electorate to return a member of a particular community if you think that such a community should be represented. Therefore, the provision is no good as it is. Then there are the seats reserved. Again, the same thing applies. You can do so when there are large constituencies. Here, we have to deal with constituencies which in the nature of things will be much smaller than the Assembly constituencies. As we have them in the States,

normally every community will have been represented through the normal democratic process and election. Suppose, somebody does not come in, some community is not represented. Say, a tribal section is not represented. Then you can have the reservation. But there is no need for reservation especially in the case of Pondicherry where under the French, they did not have reservation or nomination. Why are you imposing something new? The French thought that reservation should not be given because the idea of reservation is alien to some of the noble ideals of the French Revolution and French parliamentary institutions. That is why even when the French imperialism came to rule this part of the country, they did not introduce this reservation or nomination when they set up an Assembly in Pondicherry. Why then are you importing it?

SHRI R. M. HAJARNAVIS: Is it the impression of my hon. friend speaking now that, when Pondicherry was their colony, the French were concerned with the weaker sections of the community?

SHRI BHUPESH GUPTA: Well, that is an interpretation on the low side of what it should have been. This is not what I am saying. What I am saying is, I do not support this institution. But I say that from the point of view of the set up of an Assembly at that time, those representative institutions subserved the French imperialism. I understand it. But they did not have reservations or nominations of that type. They manipulated otherwise. We had also certain things. You see the gentlemen in the Lobby who used to decorate the Council in the old days. They in a particular way served the British. Some were nominated, some were elected and even the elected ones were like those who were nominated. In the picture you will find them. All I say now is, they did not accept the principle of nomination and reservation. Then why are you exporting from

Delhi an alien concept to Pondicherry When the people of Pondicherry did not have it? Strengthen the form, add more substance to it. Do not try to strike at the form and take away the substance from it. This is what I say. I say, utilise that form of no nomination, no reservation; add democratic, solid substance to it. That should be your approach in this matter. Therefore, I say that the -whole thing, here again, is wrong.

Clause 22 reads: —

"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, if such Bill or amendment makes provision with respect to any of the following matters, namely:— \_\_\_\_\_"

Here the Administrator is being given a wide power. We can move certain Bills in this House, certain amendments in this House. Most of the amendments in this House can be moved without reference to the President at all except in the case of certain things which are prescribed, two or three items. Why should it be like that . . .

SHRI R. M. HAJARNAVIS: That you cannot do even here in respect of financial matters. No.

SHRI BHUPESH GUPTA: I know. It goes on—

"(a) constitution and organisation of the court of the Judicial Commissioner;

Ob) jurisdiction and powers of the court of the Judicial Commissioner with respect to any of the matters in the State List or in the Concurrent List."

It is the jurisdiction of power. it is the delineation of power. Why should it be referred again to the Administrator I do not know. Suppose I say . . .

4RS—4.

SHRI P. N. SAPRU (Uttar Pradesh): You cannot touch the High Courts by State legislation and therefore, so far as this provision is concerned, it preserves the present position in regard to the future set up of the judiciary in these areas.

SHRI BHUPESH GUPTA: With all respect to Dr. Sapru, it is not so. When you are dealing with High Courts, give them the status of High Courts. First of all, you have not given that. Now, secondly, in regard to the question of courts, certainly in so far as the Constitution deals with the powers of the High Courts and the Supreme Court, I cannot come in. But certainly with regard to the powers of the magistrates or the judges and so on, the State can legislate. Here you are taking away this power. I say consider it from that angle. I do not know if Dr. Sapru is in the Select Committee. If he is there, he should consider it or give advice. I say, put it on a par with the States. Don't take away the powers which are normally available to the States.

Then comes clause 23 which says—

"(1) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly of a Union territory except on the recommendation of the Administrator, if such Bill or amendment makes provision for any of the following matters, namely: —

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Union territory;

(c) the appropriation of moneys out of the Consolidated Fund of the Union territory;

(d) the declaring of any expenditure to be expenditure charged

[Shri Bhupesh Gupta.] on the Consolidated Fund of the Union territory or the increasing of the amount of any such expenditure...."

Here, you are more or less keeping to the provisions of the Constitution but I think you are going beyond it also. That point should also be considered. It should not be less, certainly it cannot be less. I say, keep it within the four corners of the Constitution. Don't go beyond it. But certainly give as much as the Constitution enables you to give. Mind you, the powers of the States are enumerated in the Constitution. They are the provisions of the Constitution. These territories will not be getting their set-up if there is no law for it. It will only be done by an Act of Parliament liable to be changed by Parliament at any time it can, by a bare majority. In the case of the States, because the powers are given in the Constitution we have to go through a certain procedure before we can think of an amendment of the Constitution. Here it is not so. Anyone can come and have a law passed here by a bare majority and can upset the whole thing. The Constitutional aspect does not come in here. Therefore, you must be also in mind that already they are in a disadvantageous position with regard to their powers because they emanate not from the Constitution—with the safeguards and guarantees with regard to amendment and so on—but from an Act of Parliament which is liable to be modified and altered in a particular way, which is an easy way compared to the ways available for changing the Constitution. This is again another suggestion.

Therefore, I say that these are vital matters. Firstly, the Council of Ministers should have the full power. I would ask the Select Committee to consider whether the powers are less than what they enjoy in the States. If so try to bring them on a par with the States. Assemblies should be the same as the Assemblies in the States.

The administrator should certainly not have more power than the Governor has. On the contrary, you can do away with the Administrator. If you think that it is the President who matters, then do this thing, you can abolish the post of the Administrator and get the consent of the President. Let one head be there. Let it not go by proxy in this manner. The Council of Ministers can forward this thing for Constitutional assent by the President instead of the President acting through another person, the Administrator? Why do you have this paraphernalia, expenses and so on? It is not necessary to have them. There are States in Europe where one head is there. The President is there; at the other levels you do not have this kind of sub-heads and so on. What really we should think of is whether it is feasible and possible for us to do away with the post of the Administrator and leave the matter, as far as Constitutional formalities are concerned, to the President, since they are the Union territories. I think that is how the mind should be directed in this matter.

Therefore, the Administrator has gone. About the Council of Ministers I have spoken. I want more powers for the Legislature. Reservations and other things should not be there. And as far as other aspects are concerned, they are matters of detail which should certainly be considered by the Select Committee in every respect, and I hope that the Select Committee will find the necessary solution. I would request the Select Committee to go to those places hold some of their meetings in these Union Territories, Manipur and Tripura. You follow the same line and it should be possible in one trip to cover them. Then go to Himachal Pradesh and then you can go to Pondicherry. Discuss with the people there, people belonging to all parties, public men and others and cause the legislators, the members of the Territorial Councils, and others to come and tell you what should or should not be done,

suggest amendments and so on, so that those people might have a sense of participation in formulating this matter. This is very very important. We do so in regard to certain other Select Committees. Why can't we do so in the case of a Select Committee such as this? Mr. Mani is very anxious to speak, and certainly he should be given a chance. Therefore, I finish.

SHRI A. B. VAJPAYEE: Provided you conclude.

SHRI BHUPESH GUPTA: Certainly. He should be given a chance.

SHRI A. D. MANI: I will say progressive things.

SHRI BHUPESH GUPTA: Mr. Mani has given the assurance that for once he will say progressive things in this matter. Certainly I should yield to him.

Madam, everybody should speak, and I hope that the Select Committee will consider these points. I make the suggestion that the Select Committee should go to these places. Once again I say that all those members in the Union territories who are in jail and others indeed, should be set free so that the inauguration of this measure is not tainted with this kind of attitude and injustice to them.

This is a very modest request to make to the Government, and I hope the Government will listen to it. Once again I say that the Select Committee should also consider including Delhi within the provisions of this Bill for a democratic set-up, for a responsible Government to the people of Delhi so that Delhi is not left behind. They have also to march along with these others and Delhi was once a separate State; in the case of Delhi they had some kind of a democratic set-up. This should come again in Delhi—not though in the same form as it was then—an Assembly and a Council of Ministers, and I think we can complete the process. We can do the justice which has been denied to many people now in the

Union territories and certainly has been denied to all since the States' reorganisation. That is how we should view this problem and do our best in the Select Committee to improve the legislation in order that it becomes satisfactory and acceptable to all and that, with the goodwill of all concerned, we are in a position to bring into existence the new set-up implementing the measures that will be ultimately passed.

Thank you.

SHRI VIJAY SINGH (Rajasthan): Madam Deputy Chairman, I rise to make certain observations on the Bill that is before us, but I might say at the very outset that what I am going to state may not find favour with the trend of thought that I see now. Also I would like to make it clear at the very beginning that this business of States reorganisation is going on in our country for the last ten years, and when the history of this country will be written, then, the way in which we have tackled the problem of States reorganisation will not stand to our credit. This House discussed this problem of the reorganisation of States, especially the reorganisation of these Union territories, and it will not be out of place if I just remind the House what the States Reorganisation Commission that was appointed has said. They toured round the country and they discussed all these problems. And what were their conclusions? They have said:

"The democratic experiment in these States, wherever it has been tried has proved to be more costly than was expected or intended and this extra cost has not been justified by increased administrative efficiency or rapid economic and social progress. Quite obviously these States cannot subsist at separate administrative units without excessive dependence on the Centre, which will lead to all the undesirable consequences of divorcing the responsibility for expenditure from that for finding the resources."

[Shri Vijya Singh.]

In the course of my speech, Madam Deputy Chairman, I would like to point out what will be the actual financial burden that the taxpayer will have to bear for this democratic experiment that we are going to have for these Union territories. For the present I would like that we just have a view as to what is the trend of events in our country. I do not want to take you and this House through the long course of Indian history though it is very relevant because, when we are going to legislate, we must not only think of some small adjustments here or there, but see the general trend, see what is there, and in this connection, again I would like to refer to what the States Reorganisation have said at one place:

"Another important feature of the States of the Indian Union is that none of them represents a pre-existing sovereign unit. The units corresponding to the Part A States, namely, Governors' provinces, were administered unit 1937 on a unitary basis, although from 1919 there was a certain measure of devolution of powers to the provinces."

We all know that the provincial autonomy that was introduced by the Act of 1935 was misused by the representatives of the people who were Ministers there at the time of partition. Most of the communal riots that we see in the country were due to the fact that the provincial Governments at that time did not behave under the direction of the Central Government, I mean the Central Government was powerless to direct them. That was the state of affairs at the time of 1947, and because of that there was a sudden change in the thinking of the Constituent Assembly. The Constituent Assembly which was thinking in terms of a federal Constitution began to think in terms of a unitary Constitution afterwards. It is not proper to speak about the Constitution of any country in mathematical terms, if I may so, but if we just look into pur

Constitution, we will see that more than 75 per cent, of our Constitution is unitary in character, and it is only 25 per cent, of the Constitution which is federal. This is the trend that was to be observed at the time of 1947, and thereafter what we saw was the abolition of the princely States and their integration with the Indian Union, which Sardar Vallabhbhai Patel brought about with signal success, and then came the country's development that we see today.

Now, we are talking about this great measure in 1963. Here I am reminded of a very important event which, I believe, we might not have so much cared about, I mean the peace march that some of our leaders undertook from this place on the 1st of March this year. Shri Shankarrao Deo, while speaking on that occasion, made a significant remark. He said that modern science was going to demolish the boundaries of ideology and nations. Now, this is the scientific trend. We are not for smaller units; we are for bigger units. We may not look to the wider question, but if we look towards our own country, we will see that here also the trend is towards the unitary form of Government. We are all thinking of the engineering service on an all-India basis, of educational service on an all-India basis. What is this? This trend is towards unity, and here we are passing a legislation which will go in the opposite direction. Now, see where is the similarity of approach between them. I saw before a few days a news item, which is about the power experts who met in Delhi. It is a very significant news item that I like to read. The experts met and wanted to bring into being an all-India grid system. The news item reads:

"The experts, whose attachment to independence in planning in their respective States is well known, did not allow their jealousy for their independent action cloud the issue before them. They conceded that by interconnecting the transmission system of Kerala, Madras, Mysore

and Andhra Pradesh, where arrangements are already under way for constructing inter-State links during the present plan period, a saving of 265 mw in installed capacity would result along with a saving of Rs. 22.73 crores in the capital outlay. "

Now, this is the trend which we observe in the country. Experts meet and decide that we should build for more and more all-India Services. Experts meet and decide that we must have an all-India grid system and here we legislate for the power of some of our friends that we must have a democratic set-up. It is true, Madam, that we must respect the wishes of the people. But there is a limit beyond which we should not go. This question about respecting the wishes of the people was discussed once in the Jaipur Session of the Congress and a committee was appointed at that time consisting of three distinguished leaders of our nation, namely Pandit Jawaharlal Nehru, Sardar Vallabhbhai Patel and Dr. Pattabhi Sitaramayya. It was known as the JVP Committee and they make a very significant observation in this connection;

"A democratic form of Government must submit to the wishes of the people but only when it does not clash with a rival feeling, and that is the unity and freedom of the State."

Therefore, in the name of democracy, to take the thing to its logical conclusion is not correct. I was hearing my esteemed friend, Mr. Bhupesh Gupta, who was saying that we should give all the power that we are giving to the Part A States to these Union territories. Well, the thing does not sound logical. He made the suggestion that none of these States is viable and he quoted a figure. He just said that all these States owe around Rs. 2,000 crores to the Centre. But has he cared to see that the analogy does not fit at all? Just see at the end of this Bill that has been given to us.

and there they have given the figures. It is on page 40. For Himachal Pradesh, the revenue is Rs. 432 lakhs, expenditure is Rs. 2,156 lakhs, just five times. For Manipur, revenue is Rs. 79 lakhs and expenditure is Rs. 904 lakhs. For Tripura, revenue is Rs. 55 lakhs and expenditure is Rs. 1,149 lakhs. For Goa, Daman and Diu the revenue is Rs. 501 lakhs and the expenditure is Rs. 577 lakhs. In all, I have calculated that there is a deficiency to the tune of Rs. 38.73 lakhs. To compare the position of these tiny units with the bigger States of Bombay, U.P. or Madhya Pradesh is not really logical. The trend, as I said, is for the unitary form of Government and all these steps that we are taking are not in the right direction.

I may just point out one or two things, though I know, as I said in the beginning, that they are not going to be considered very well. What is the international situation in which we are placed? We must see that the disappearance of the British Empire has created a vacuum in the vast land mass of Asia and Africa. What is there? On the one side has appeared Soviet Russia, a mighty centralised State and the emergence of Soviet Russia as a mighty centralised State has made a lot of difference in the power politics. Then we come to China. The big factor in China is the emergence of a centralised State. We may call it the Communist State. Now, we see in the Arab world there is a move for unity that is going on between Syria, the U.A.R. and Lebanon, going right up to Algeria. We are living in this world, where mighty centralised Governments are coming up. There is the move for Malaysia. Where are we going in India?

SHRI P. N. SAPRU: In the Arab world they are thinking in terms of a loose federal State and in Malaysia also they are thinking in terms of a federal State.

SHRI AKBAR ALI KHAN: The bigger the unit the greater is the attachment to it.



SHRI VIJAY SINGH: Dr. Sapru has been my teacher and I do not want to cross any sword with him but I may just point out that I was just reading in some article that . . .

SHRI BHUPESH GUPTA: Poet Tagore spoke about *guru* and *chela* and the pupil who kills his teacher.

SHRI VIJAY SINGH: The difference between a federal sort of Government and a unitary sort of Government is already disappearing. Even the move that they are going to have for all the federation will—ultimately in due course, as I said, the forces of science and other things, will—bring about a unitary form of Government. Nevertheless, I do not mean that way, what I mean to say is that looked at against this background of the vast development on the international side, we must see where we are going. These are few observations which I have just cared to make and I am thankful that I was given time and indulgence by the House to air all these things and, as I had expressed in the beginning, I am doubtful whether anything will come of that but nevertheless. I think that the time has come when the country must pay attention towards these thoughts rather than discussing this thing here and there.

SHRI A. D. MANI: Madam, I support the reference of the Bill to the Select Committee and I should like to say that I wish the Minister of State had not made certain remarks on the corrective measures which are in the Bill to prevent the misuse of power by the Union territories. For the first time after the inauguration of the Constitution, we are giving these Union territories a sort of representative form of Government and it is not proper . . .

SHRI K. SANTHANAM (Madras): This is the second time.

SHRI A. D. MANI: Yes. It is not proper that on the initiation of this scheme of reform, there should be scepticism about the possible misuse of power. It

is my hope that there will be no misuse of power by the Council of Ministers of these Union territories and they will function . . .

SHRI A. B. VAJPAYEE: They do not have any power.

SHRI A. D. MANI: . . . as satisfactorily as other responsible States.

SHRI R. M. HAJARNAVIS: Like you I hope that the powers which are in the Bill will fall into desuetude . . .

SHRI A. D. MANI: Then you also said that you have the corrective powers. The President has got this—that is what the Minister said.

SHRI R. M. HAJARNAVIS: The powers are there in the Bill. I hope there will never be any occasion to use them.

SHRI A. D. MANI: I hope there will be no occasion but I am glad that the Minister agrees with me there.

I promised my friend, Mr. Bhupesh Gupta, that at least for once I will show myself to be progressive. I do not like being a fellow-traveller but I do not mind travelling with him on this limited question of State Legislature for Delhi. I do not think that Delhi should have . . .

SHRI AKBAR ALI KHAN: I do not think my friend. Mr- Vijay Singh, will be a better companion.

SHRI A. D. MANI: I prefer Mr. Gupta . . .

SHRI BHUPESH GUPTA: But he may like to be a fellow-traveller with her . . .

SHRI A. D. MANI: No. I do not mind travelling with either but rather my preference is for Mr. Gupta because there are so many fellow-travellers going with him always. I would like to say that there are provisions in this Bill which require modification in the Select Committee.

SHRI P. N. SAPRU: I think Mr. Mani is a very prominent member of the Servants of India Society and the recommendations of the S.R.C. are the work of his leader and Chief, Dr. Kunzru, and in that historic report he took the view that a metropolitan city like Delhi should be treated on a footing different from other territories. I suppose he disowns Dr. Kunzru and the Servants of India Society of which Dr. Kunzru is the Chief.

SHRI A. D. MANI: The Servants of India Society is not the Communist Party. We have got freedom of opinion I have got freedom to disagree from Dr. Kunzru.

SHRI AKBAR ALI KHAN: The only thing we want is to take an objective view.

SHRI A. D. MANI: Yes.

SHRI AKBAR ALI KHAN: Because these are very small places. Do not follow Mr. Gupta.

SHRI NIREN GHOSH (West Bengal): But follow Shri Akbar Ali Khan.

SHRI A. D. MANI: If the law and order situation has not been controlled in Delhi, it is not a little due to the absence of a responsible Government in Delhi. The Government of India and the Central Intelligence Bureau have not been so far able to detect the murderer of the journalist who was murdered two days ago. There have been many murders which are undetected and unless there is a responsible Government, it is not possible for the police forces to cooperate with the administration and find out the culprits wherever there is crime.

SHRI AKBAR ALI KHAN: At least some of us will agree and let them have all powers .

(Interruptions.)

SHRI A. D. MANI: I would pass on to other point about the powers of the

Ministers under the Bill. I do not like the word 'Administrator' to occur in any part of the Bill. Article 239 of the Constitution was drafted in 1951 and 12 years have passed since that article was adopted by the Constituent Assembly. The reference to the 'Administrator' is under article 239 of the Constitution. If we are going to have democratic institutions in these Union territories, it is not fair that the Union territories should start their work with a feelings of inferiority. I would rather like the Government to think in terms of amending even article 239 and replacing the word 'Administrator' with the words 'Representative of the President'. We do not want also the term 'Lt. Governor' to be used because Lieutenant also implies a feeling of certain inferiority—with very great respect to my friend, Shri Santhanam, who was Lt. Governor of Vindhya Pradesh but I should like the words 'Representative of the President' to be used in place of 'Administrator' and if this calls for an amendment.

SHRI K. SANTHANAM: You don't want Governors for the State? 'Representative' also will be inferior.

SHRI A. D. MANI: The Governors have a historic tradition. I do not like the word 'Agent' also. Mr. Vajpayee used the word 'Agent'.

SHRI BHUPESH GUPTA: It is a Constitutional knot.

SHRI A. D. MANI: There are many knots elsewhere but let us not put it there.

SHRI P. N. SAPRU: The Uttar Pradesh or the United Provinces as it was then called was the biggest State in point of population in India and it was governed by a Lt. Governor and when the question arose as to whether it should be given an Executive Council, the Opposition was led, to the formation of an Executive Council, by Lord MacDonald.

SHRI B. K. P. SINHA: (Bihar): So was Bihar.

SHRI A. D. MANI: I would like to proceed by saying that the Lt. Governor of UP.—United Provinces at that time—behaved like the old Governors and not as the Lt-Governors of the States after the inauguration of the Constitution. There is a lot of difference between those times and the present times.

Madam, I would like to say that the provisions in this Bill relating to the attendance of the Administrator at the meetings of the Council of Ministers will act as a deterrent to the development of democratic institutions in these territories. If these territories are to function satisfactorily, there should be no attendance of the Administrator at the meetings of the Council of Ministers.

SHRI BHUPESH GUPTA: He will be spying on the Council.

SHRI A. D. MANI: He will be a spy on the Council. I am afraid in his presence the Council of Ministers will not be able to express their views freely, because he will be acting as the agent of the President. I would like the Select Committee to consider the removal of that provision which makes it possible for the Administrator to attend the Council of Ministers' meetings.

I would also like to say that the clause in the Bill relating to the Administrator having the right to address the Legislative Assembly should also be deleted. We do not want to create or commit the mistake which the British Government under the diarchic scheme of theirs created, where the Members of the Executive Council who were officers, were permitted to address the Legislatures of those times. That creates a spirit of irresponsibility, a sense of resentment. The Administrator should not figure anywhere as

far as the Legislature is concerned and he should act always as the agent of the President with regard to the discharge of his responsibilities, since the ultimate responsibility for the administration of these territories that have these legislative Assemblies would continue to be that of the President.

Madam, I would like to say that if it is the desire of the Government that these democratic institutions should be developed, they should not appoint any official as the representative of the President or the Administrator of the Union territory. I may recall here that in Orissa, as far back as 1938, Mr. Biswanath Das who was an hon. Member of this House here, resigned once, because an official of the Central Board of Revenue was appointed as the acting Governor of Orissa—Sir Hery Dean. The Congress Parliamentary Board \* asked him and Mr. Das tendered his resignation because an official was appointed as the acting Governor of that State.

AN. HON. MEMBER: Yes, yes.

SHRI A. D. MAM: The hon. Member from Orissa here remembers that incident with great satisfaction. That ought to be the principle, namely, that the position of Governor should be held by a public man. Madam, I do not want—and I say it with great respect—that the office of Governor or the office of Administrator should be made a back room refuge to people who have not been elected to the Legislature or for people who have got to be found jobs somehow. There are public men who are qualified to fill these posts with distinction and I hope it will be laid down in the Bill that the position of the representative of the President will always be held by a person who is not in the service of the Republic of India. We do not want a government servant to be the Administrator. It will be stultifying and humiliating the Council of Ministers if a government servant is sent as the rep-

representative of the President, to correct them wherever they go wrong.

Next, I should like to pass on to clause 34 of the Bill relating to the official languages of these territories. Surprisingly enough, in clause 34 we have shown a certain softness for French. We have said that with regard to the Union territory of Pondicherry unless the Legislative Assembly of the Union territory so decides, the French language shall continue to be used as the official language of the Union territory.

"for the same official purposes for which it was being used in that territory immediately before the commencement of this Act."

I realise the historical precedents that lie behind this clause. I realise also that we have signed a treaty with the Republic of France. But then if we are going to develop a national language of India . . .

SHRI R. M. HAJARNAVIS: It is part of the commitment and it is in that treaty itself that it shall so remain until it is displaced by a resolution of the local Assembly. It is a commitment which we are going to honour.

SHRI A. D. MANI: In other words, even if Parliament decides that Hindi shall be the official language in this Union territory, until the Legislature of Pondicherry accepts that position, French would be the official language there?

SHRI R. M. HAJARNAVIS: Yes, in that territory.

SHRI K. SANTHANAM: There is a second proviso also in the same clause.

SHRI A. D. MANI: Yes.

"Provided -further that the President may by order direct—

(i) that the official language of the Union shall be adopted for

such of the official purposes of the Union territory as may be specified in the order;"

Madam, I should like to raise this point about Goa. The territories of Goa, Daman and Diu had been incorporated into the Union and they form an integral part of India. There is also the history of continuous Portuguese language infiltration in that territory I do not want that for a transition period of five or ten years there should be a dislocation. I would request the hon. Minister to consider the question of Goa also in respect of the Portuguese language being used for a limited period, say, five years, as a transitional measure, because when once you give this concession to Pondicherry . . .

SHRI R. M. HAJARNAVIS: There is no such provision about Goa.

SHRI A. D. MANI: Yes, I have also said that there is no such provision and that is why I want this thing to be considered in respect of Goa also when the time comes for it.

Next, Madam, I should like to mention something in respect of the representation of these territories in Parliament. Goa has been omitted as far as the Rajya Sabha is concerned. Pondicherry gets a place, but Goa does not get a place in the Rajya Sabha. I had raised this matter in the form of an amendment at the time the Constitution! (Amendment) Bill was being moved here. There was a good deal of excitement in the House at that time, when I drew attention to this anomaly. I should like to know why Goa has been singled out for this exceptional treatment in regard to its representation in the Rajya Sabha. I was told privately that one of the reasons why Goa was excluded from the Rajya Sabha was that Goa had got two seats in the Lok Sabha, and therefore, it should not get one seat here. If this is the basis of the argument, then a large number of States would

[Shri A. D. Mani] like to get more seats in the Lok Sabha and less seats in the Rajya Sabha. Madam, the Rajya Sabha is the Council of States and no legislation with regard to the services of the States can be taken up without initiative action on the part of the Rajya Sabha. Such action has already been taken in respect of the creation of the all-India Services. Why should Government discriminate against the people of Goa in respect of Their representation in the Rajya Sabha? We do like to have . . .

SHRI P. N. SAPRU: That does not apply to Goa because it is not a State. It is a territory.

SHRI A. D. MANI: Why not Goa also?

SHRI P. N. SAPRU: Yes, the people of Goa also should have representation here. I am with you there.

SHRI A. D. MANI: But in this table of seats there is no mention of Goa.

Madam, I should like to make a further point, namely, that we do not want the nominated element to continue in these territories. Largely speaking, I feel that the composition of the Legislative Assemblies should be by elections. But if for any purpose the Government decides that there should be an element of nomination, then there should be some qualification regarding the persons to be nominated to these positions. They must be representatives of the administration, who have got great administrative experience, or representatives of art or culture or men of great political experience. Some sort of qualification should be there for the nomination of persons to these Legislatures. We do not want a blank provision to enable the Government to appoint any person it desires as the nominated member of the Legislative Assembly of these territories.

Madam, there is also a reference to the Territorial Council of Tripura becoming the Legislative Assem-

bly of that State. If one goes through the amended articles of the Constitution one would find that there is reference to the Legislatures being constituted as partly elected and partly nominated. This is the provision in the Constitution. What they are saying in the Bill is that the present Territorial Councils shall be deemed to be the constituted Legislatures of these areas.

It is a very technical way of getting over the constitutional provision. If there is a constitutional provision that they shall be partly elected and partly nominated it follows naturally that there should be some sort of election. I do not suggest that the election should be held immediately the Bill is passed, but after six months or a year when the constituencies are delimited, there should be a fresh election. When the elections to the Territorial Councils were held, there was no question, of a Bill of this character. Many problems might have arisen after that date and it is well therefore that the parties have an opportunity of putting forward their points of view before the people. Madam, I should like to say, in regard to the special provisions in the constitution concerning the special responsibility of the Administrator, I do not agree with Mr. Bhupesh Gupta in regard to the special responsibilities. Many of these areas are border areas and there will be problems of law and order. At least for the period of the transition, as we have done in the case of Nagaland, there should be some kind of special responsibility which has got to be discharged by the Administrator in respect of security.

SHRI BHUPESH GUPTA: That we get in the Constitution.

SHRI A. D. MANI: Yes, but then a proclamation has got to be issued and all that sort of thing. It is made very clear that only in regard to the security of these areas the Administrator shall have the responsibility to the President,

SHRI BHUPESH GUPTA: Which border is there near Pondicherry?

SHRI A. D. MANI: Pondicherry is no border area but it has got very special circumstances. It has come as a legacy of history.

SHRI BHUPESH GUPTA: At least Goa has Pakistan near.

SHRI A. D. MANI: Pakistan can be very troublesome.

I hope all these provisions will be very carefully scrutinised and Government would liberalise these provisions regarding the position of the Administrator. We do not want the peoples of these territories to 'feel that they are starting with a handicap, that they have been given an inferior type of parliamentary government. There are several problems in these areas which require special provision but the spirit of parliamentary government should be there. I would like to draw the attention of the Minister to one of the provisions of this Bill which says that the Members of these Legislative Assemblies will have the same privileges and immunities as are applicable to the Members of the House of the People. This means that it is the intention of the Government that these people should feel that they have a genuine parliamentary government at work and it is my hope that when these Legislative Assemblies are constituted that will be a further step in the path of representative and responsible government in these areas and these areas will feel that they are also self-administering areas of the Indian Union.

Thank you.

SHRI GOPIKRISHNA VIJAYVARGIYA (Madhya Pradesh): How long are we sitting?

THE DEPUTY CHAIRMAN: We shall have to sit after 5 p.m. There are still a number of speakers.

KUMARI SHANTA VASISHT (Delhi): Madam Deputy Chairman, at last this Bill has come and the various territories are going to have a democratic set-up and their own Legislatures. I welcome this Bill and I do not want to say anything about Delhi because that Bill will be coming later on but because we have some experience, very little and limited experience of the functioning of Part C States, as they were then called, the powers and facilities given to those States are going to be given to these areas of Manipur, Tripura, Himachal Pradesh, etc, I would like to give here some of our own observations and experiences and I do feel very strongly that when a new State is given responsible government, which people are supposed to look after their own affairs and govern their own areas or territories, they should be given full powers and full authority to manage their own affairs adequately. If any reservations are made as has been made in this Bill, I think the people, to begin with, will start with a handicap and it will become very very difficult to make things go on smoothly. There will be many people, many authorities in these territories functioning and these authorities will be making pulls in different directions and then the functioning of the government will become very difficult indeed. I might even quote here the views of some of our officers. In 1952 and 1953, they used to say that the Part C States were the unwanted children of the Government. They themselves felt the handicaps; they were never getting anything done and all the powers were kept with the Central Government. Anything that had to be done by the State had to be first given prior approval by the Government of India and later on sanction had to come from the Government of India and so on and so forth so that the functioning was really almost impossible, if I may say so. For anything and everything, even for the opening of a school in a Part C State, the sanction had to come from the Government of India and

[Kumari Shanta Vasisht.] this sanction, unfortunately, used to come sometime in the month of February or March and the schemes had to be put off, schemes which were included in the First Five Year Plan. The first year's plan had to be put off to the second year, the second year's plan to the third year and so on. Sanctions never came in time from the Government of India. If this handicap remains still then this will, I think, always put a very great hindrance in the proper functioning of the States and their Governments. Even if a clerk's post had to be created, then all the papers had to be sent to the Government of India. If a small plot of land had to be bought for constructing a school building or dispensary, sanction had to be sought from the Government and this always came very late. There should be a cell or unit in the Home Ministry exclusively to look after the legislation from these territories and to look after the sanctioning of items. Even this year, I might say, the various sanctions of the Government of India have not come so far though we are nearing the end of March. Schemes had been approved by the Planning Commission, the Government of India and the authorities in these places but the technical sanction has not come even today. How can then any government function? How can you push forth your plans and your schemes when this sort of handicap is there? It is very difficult to function. You are answerable to the people at the State level, at the territory level while the various schemes and proposals are held up by the Government of India. This is a very big problem and I think something serious needs to be done as far as decentralisation of power is concerned.

In this Bill, unfortunately, I have not been able to find very much about the powers given to the Ministry, the Legislature except in the case of Mani-pur where these things are specifically pointed out. About the others, I do hope that they will not be treated as

sort of ornamental things, very nice and good people who are there in the Assemblies or in the Ministries to be given all honour and dignity but no powers. That will be very bad and make it very difficult for them to function and without powers they will feel like dummies. They will not be able to get out of these Assemblies nor will they be able to function efficiently. Therefore, they should really be made to function efficiently and properly to be able to deliver the goods. The purpose of having these things is that they should be able to serve the people of these areas. The drafting of the Bill, I am afraid, is not good. Generally, I think there is something wrong with the drafting done by the Ministry; they seem to need more experience. For example, one of the many things . . .

SHRI R. M. HAJARNAVIS: I have very great respect for the hon. Member but I do not agree with her at all about the quality of drafting.

KUMARI SHANTA VASISHT: I will point out what is wrong. I will read out clause 16 on page 7.

"Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly, there shall be freedom of speech in the Legislative Assembly of every Union territory."

Could we have said that there will be no 'freedom of speech'? This need not have been put in at all. They will have freedom of speech and it is presumed, under the Constitution and otherwise also, that they will have this 'freedom.

SHRI R. M. HAJARNAVIS: This is not a Legislature created by the Constitution. This is a Legislature to be created by this Bill which will become an Act and in the absence of this provision, any speaker in the Assembly would have been liable for action, including defamation, contempt of court and other things. This is absolutely

necessary and I might assure the hon. Member that the dravidisthan who has drafted this Bill is one of our best draftsmen in this country and can compare favourably with any in the world.

SHRI BHUPESH GUPTA: With good ideas you will produce a better draft.

KUMARI SHANTA VASISHT: I appreciate the clarification given by the hon. Minister. If this provision has been made so that they will not be sued for having made speeches. I appreciate it but I may point out that in respect of the earlier Assemblies, many years ago, the drafts prepared by the Ministry had to be corrected again and again because the drafting was not so happy. I have always presumed that people have the freedom of speech.

Another point I would like to make here is that the word 'Administrator' does not sound very happy. Either he should be called Lieut. Governor or even Chief Commissioner or something else. We have some association with this word 'Administrator'. With so many Administrators, the Administrator of a Municipal Communes, the Administrator of a Corporation, the Administrator of something else, it does not seem very happy that we should call him 'Administrator' here. He will also preside over the Council of Ministers. His presiding over the Council of Ministers is not going to help matters much. The Council of Ministers should have their own independent meetings and come to independent decisions. We should not have the Administrator—or whatever he is called—presiding over these meetings because this creates a lot of practical difficulties. Ordinarily, I think, here in the Government of India as well as in the States, the President of India or the Governors respectively never participate in the Cabinet meetings or the meetings of the Cabinets of the States.

AN, HON. MEMBER: They can.

KUMARI SHANTA VASISHT: But they should not. Even if they can, they should not.

SHRI A. B. VAJPAYEE: They do not.

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KUMARI SHANTA VASISHT : Because it does not work well. The Home Ministry and the Government of India should have full faith in those Ministries and in their functioning satisfactorily on their own. Have only good and honest people there but have faith in them and give them the freedom to function. Otherwise it becomes very difficult and all the time they are not sure as to where they stand. A lot of politics is also created by playing one man against the other. All sorts of difficulties have been experienced in Ajmer and in some other States of Rajputana when they were Part C States. So the experience is that it has not worked and I would suggest . . .

SHRI BHUPESH GUPTA: Is it a fact that one of the reasons why the democratic set-up in Delhi did not work to the satisfaction of the people is that it had very limited powers and there was interference from the Executive?

KUMARI SHANTA VASISHT: Today we are not talking about Delhi.

And the Administrator is also the representative of the President. May I also point out some other limitations and reservations made here in this Bill? Sub-clause (4) of clause 44 says:

"If and in so far as any special responsibility of the Administrator is involved under this Act, he shall, in the exercise of his functions, act in his discretion."

And further on it is said:

"If any question arises as to whether any matter is or is not a matter as respects which the Administrator is by or under this Act required to act in his discretion, the



Provided that in case of any difference of opinion between the Administrator and the Minister on such question it shall be referred for the decision of the President and his decision thereon shall be final."

Many things we are leaving to the discretion of the Administrator and his decision is final. This is also going to create a lot of practical difficulties and of course it will be seen in a couple of months or even in a year or two as to how it functions. I am pretty sure in my mind that this will not work out properly with all these reservations and limitations unless a convention is created that the Administrator will not interfere, that he will not attend these meetings and that he will generally abide by the advice of the Council of Ministers. If such a convention is created then this may function. And it also depends on the personality of the Administrator also because personality always makes a lot of difference whatever provisions there may be. The uncertainty as to whether he is going to interfere or not, whether he is going to report to the Government all the time about all sorts of things, all this is really going to affect the functioning of these Councils. In the past this has not worked satisfactorily. Therefore I feel that the Administrator should not preside over these meetings and I say that there should be a clear-cut demarcation as to what are going to be the powers and responsibilities of the Ministers and what are going to be the powers and responsibilities of the Administrator and to what extent the Ministry can function absolutely freely and unhindered. Otherwise, all the time they will be spending only in arguing as to whose domain a particular thing is, whether it is for the Council of Ministers to decide the issue or whether it is for the Administrator to take care of that particular matter.

Here, it is also said that the Chief Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Chief Minister. I think the Chief Minister should be there as in all the other States. I do not know how this fits in with the concept of democracy when the President appoints the Chief Minister and the other Ministers on his advice. Then it is said that the Council of

j Ministers shall be collectively responsible  
l to the Legislative Assembly.

j Of course, they have to be. But as I said, those  
l reservations should not be there because they really stand in the way of their adequate and effective functioning. The Home Ministry should have full faith in them. Let them take them to task in case anything goes wrong. Let them be removed or dismissed; I have no objection to that. But so long as the Ministry is there they should have the full support and backing of the Home Ministry and also full facilities to be able to function properly.

they will have their chances of promotion here itself and when it is there they will also function better.

SHRI P. N. SAPRU: That too would be against the concept of State loyalty. How would a person serving in Delhi be a better civil servant in Manipur than a person from Uttar Pradesh?

KUMARI SHANTA VASISHT: Apart from all-India Services there are various other Services in the Agricultural Department, Fisheries, Animal Husbandry, Co-operation, etc., which will be common to all the Union territories. Of course, the I.A.S. and I.P.S. can be taken care of by the all-India Services. But for other Services, getting good officers is a problem and you are not always able to get good officers. When you borrow officers from other States they are not always attached to the territories. They have no stake while working in the territories. They should have some stake while working there so that they develop a sense of loyalty to the people there. They should have the feeling that this is 'our' territory and that they are responsible to the people. Therefore, it is necessary that they should have this sense of belonging to the territories, that they are part and parcel of the Services in these territories.

Then the hon. Minister said that the Administrator will normally accept the aid and advice of the Council of Ministers but that also implies that very often he will not. That will again create a lot of tussle, unpleasantness, unhappiness and bickerings which will not make for their proper functioning. Also, it would be very embarrassing to the Council of Ministers to be in that position, not being autonomous and not being able to function independently. All the time they will have to be looking up either to the Administrator or to the Home Ministry or to the President or to some official in the Home Ministry. Of

course, they can look up to the Home Ministry and the President. Personally I feel that these bickerings and for the people to be looking up all the time to somebody or other here, there or somewhere else does not make for efficient functioning or happy functioning either. They will always have to look up to so many people, build up good relations with so many people so that thereby you can get something done, some plan approved, some scheme sanctioned and so on. That creates an endless problem. None of them are really bothered about how your schemes are going to be implemented, whether they are going to be sanctioned or not. That creates difficulties. They should be able to function well. They should have very good liaison with one particular unit to take care of those areas so that people do not have to contact so many Ministries and so many officials of Government in the various Ministries. That itself is a very great handicap. It should be necessary for the Administrator to accept the aid or advice of the Council of Ministers. It is left to his discretion to accept or not to accept it. This will create some difficulties.

[Kumari Shanta Vasisht.] which are independent, which have their own Governments. They have their own small provinces. They are also members of the United Nations. It applies practically to most of the States in the world. They are almost equal in size to some of our bigger States. They are even smaller than our ordinary States for that matter. I feel personally, it is my own humble opinion, that very large States make for difficult administration. I do not say inefficient administration. Sometimes even to have communication with certain backward areas of our States, which are covered with vast forests or which have bad roads or bad transportation, it is difficult. Sometimes disturbances or troubles may take place and it takes days and days even to get there. Even to send people to make enquiries on the spot it takes a week or five or six days to reach the place. If that particular spot happens to be at a longer distance from the capital of that particular State, that creates more difficulties. Therefore, the criterion of a small viable area, which could be administered very efficiently and well, is necessary. We can have the whole of India as one State. But then at least some of us in the North will not be able to understand! the problems of the South and some of the people in the South will not be able to understand the problems of Bengal and so on and so forth. Therefore, to say that there should be only bigger units will not solve the problem. That was one of his arguments. There can be smaller units. Much can be said for smaller units. Some of our States in India are bigger than some of the other countries of the world.

troubles are not looked into. If we want to give the people a very good Government, some of these expenses will be there. If you are spending a couple of thousands or even lakhs of rupees in publishing, say, some new textbooks which ordinarily would involve lakhs of rupees changing hands, that, I think, is a great saving to the country itself whereby you may be able to give a good set of textbooks, to the children at a cheaper cost and of good quality. At the same time it will remove corruption to the tune of lakhs. That, I think, is a saving to the country, although it may mean that the Ministry is there, the Assembly is there, their salaries are there, their houses are there and their transport is there. Those expenses will be there, but you may be improving the various types of services to the people at large. By making some industrial progress in the area I think the Ministry may be doing a greater service to that particular State, though some of the expenses connected with the Ministry and Legislature will be there. Therefore, to think only in terms of all that expenditure is not proper. The Budget shows that the expenditure has increased tremendously all over India because of the developmental projects and other projects and it is only natural that in a welfare State it should be so.

THE DEPUTY CHAIRMAN: How much more time you want to take? You have already taken 25 minutes.

function with some autonomy independence and effectiveness. Now, Mr. Vijay Singh said that for the sake of economy, etc., we should not have these States. I feel that because we want a democratic set-up that implies that every citizen of the country must be looked after and given at least certain minimum facilities. Therefore, it is absolutely necessary that efficiency and effective Government should be there. A welfare State does not always go only by economy in expenditure on administration. To say that we are able to serve the people or they are being looked after properly, it is necessary to see that a Government is there which is responsive to the people of the area, which understands the problems of the people. Recently, I was in Madhya Pradesh. There the people of Vindhya Pradesh had one type of problems, while the people of Madhya Bharat had another type of problems. Some other parts of the erstwhile princely States had another type of problem. So, in regard to all those States which now form Madhya Pradesh, each area has its own type of problems, peculiar to each area. They were not feeling very happy because they felt that their problems could not be understood by the Government as such. This is a very small problem. I do not think it is a fundamental problem. They will learn to accept each other and understand each other's way of life and of doing things. It is good to integrate, but I think integration comes, only when all your units are happy and satisfied. There will not be integration if people are dissatisfied and are not looked after. Only when they feel happy and they accept other people or their ways of life and culture they can become a part of another State. Otherwise, the clash remains and they are trying always to pull in their own different directions. So, even to unite them in a federation or a unitary form of Government, even to bring about integration, the satisfaction of each unit is very necessary. The people in each territory should be looked after properly and given a satisfactory Government. That is very

4RS—5.

श्री ए० बी० वाजपेयी : महोदय, इस विधेयक की बड़ी चर्चा थी लेकिन जिस रूप में यह विधेयक संसद् के सामने आया है वह बड़ा निराशाजनक है। केन्द्रीय शासन इन क्षेत्रों में किस प्रकार का शासन हो, स्वतंत्रता प्राप्त के १५ वर्ष पश्चात् भी यह ठीक तरह से निश्चित नहीं कर सका है। पहले यह क्षेत्र पाट "सी" स्टेट्स कहे जाते थे परन्तु राज्य पुनर्गठन आयोग ने उस ढाँचे को समाप्त कर दिया और अब फिर से कुछ नये राज्यों को जन्म दिया जा रहा है। यह केन्द्रीय सरकार के अनिश्चय का प्रतीक है और मैं नहीं समझता कि इन क्षेत्रों के शासन को जो रूप दिया जा रहा है वह अन्तिम रूप होगा क्योंकि केन्द्र में जो महानुभाव बैठे हैं वे इस प्रश्न पर कोई ठोस निश्चय करके उसे प्रभावी रूप से कार्यान्वित करने का फैसला नहीं कर सके। अच्छा होता कि इन क्षेत्रों को निकटवर्ती राज्यों के साथ मिला दिया जाता। हिमाचल प्रदेश को पंजाब के साथ, गोवा को महाराष्ट्र के साथ और पाण्डिचेरी को मद्रास के साथ मिलाया जा सकता था। यदि पाण्डिचेरी के सम्बन्ध में फ्रांस के साथ केन्द्र की कोई सन्धि बाधक बनती है तो हिमाचल प्रदेश और गोवा के सम्बन्ध में इस प्रकार की कोई रुकावट नहीं है। राज्य पुनर्गठन आयोग के सदस्यों ने यह सुझाव भी दिया था कि हिमाचल प्रदेश पंजाब के साथ मिला दिया जाय, लेकिन शासन ने उसे स्वीकार नहीं किया। आयोग बनते हैं, किन्तु उनकी

[श्री ए० बी० वाजपेयी]

सिफारिशें मानी नहीं जाती क्योंकि शासन के मन में स्वयं अनिश्चय है और राजनैतिक दबाव में आ करके निर्णय बदले जाते हैं।

पंजाब में हमने दो क्षेत्रीय समितियां बनाई हैं, एक हरियाणा के लिये और एक पंजाबी भाषी क्षेत्र के लिये। हिमाचल प्रदेश को पंजाब में मिला करके एक पहाड़ी क्षेत्र के लिये समिति बनाई जा सकती थी लेकिन अब इन क्षेत्रों के नये राज्य बन रहे हैं। कहा जाता है कि उन्हें लोकतन्त्रात्मक अधिकार दिये जायेंगे। लेकिन इस विधेयक को देख कर तो लगता है कि शासन वास्तविक अधिकार देना नहीं चाहता। यदि इन क्षेत्रों में पृथक शासनों की स्थापना होनी है, तो फिर जनता पर भरोसा करके उसे पूरा अधिकार दिया जाना चाहिये। लेकिन विधेयक का जो स्वरूप है उसे देख करके तो अंग्रेजी राज्य के दिनों में बनाये गये शासन के ढांचे का स्मरण होता है। जो प्रशासक है उनका नाम कुछ भी रखें, उसमें फर्क नहीं पड़ता। आप उसे उपराज्यपाल कहें, राज्यपाल कहें या इससे भी अच्छे नाम की रचना करें...

श्री भूपेश गुप्त : यशपाल कहें।

श्री ए० बी० वाजपेयी : प्रश्न नाम का नहीं है, उसे किस ढंग से सम्बोधित किया जाय इसका नहीं है। प्रश्न यह है कि लोकतन्त्रात्मक ढांचे में उसका स्थान क्या होगा। मुझे तो ऐसा लगता है कि वह सर्वोत्तम होगा। कुछ दृष्टियों से वह राष्ट्रपति से भी बड़ा होगा। वह मंत्रिमंडल की बैठक की अध्यक्षता करेगा। वह विधान सभा में जा करके भाषण देगा। वह सदस्यों से शपथ लेगा। वह स्पीकर भी होगा, राज्यपाल भी होगा, राष्ट्रपति भी होगा और वह मुख्य मंत्री के सिर पर बैठेगा। कोई भी स्वाभिमानी आदमी मुख्य मंत्री बनना पसन्द नहीं करेगा।

SHRI BHUPESH GUPTA: Ultimately he will become a joker.

श्री ए० बी० वाजपेयी : उसके बीच में और जनता के निर्वाचित प्रतिनिधियों के बीच में निरंतर संघर्ष चलेगा। यह जो बोहरा प्रबन्ध किया जा रहा है, यह जो 'डायार्की' को फिर से पुनर्जीवित किया जा रहा है, यह नये असंतोष को जन्म देगा और मुझे आश्चर्य नहीं है कि नया असंतोष जागे, राजनैतिक दबाव काम करे तो फिर एक नया विधेयक लाया जाये। केन्द्र जनता की भावनाओं के अनुकूल अगर काम करना चाहता है तो फिर प्रशासक को इतने असाधारण व्यापक अधिकार देने की आवश्यकता नहीं है।

इस विधेयक में यह भी स्पष्ट नहीं किया गया है कि प्रशासक का कार्यकाल कितना होगा। अभी जो हिमाचल प्रदेश के उप-राज्यपाल महोदय हैं उनको नवां साल चल रहा है, वे आठ साल से निरंतर उप-राज्यपाल बने हुए हैं—मुझे उनसे कोई शिकायत नहीं है, वे भले आदमी हैं, उत्तर प्रदेश से आते हैं। लेकिन एक व्यक्ति ६ साल तक लगातार एक पद पर रहे तो यह कोई अच्छी परम्परा नहीं डाली जा रही है। इतने काल में जो परिवर्तन की हवायें चलती हैं व्यक्ति उनके अनुरूप अपने को ढाल नहीं सकता। यह स्पष्ट किया जाना चाहिये कि प्रशासक का कार्यकाल कितना होगा और मैं इस मांग का समर्थन करता हूं कि जहां तक संभव हो सार्वजनिक कार्यकर्ताओं में से, नेताओं में से व्यक्ति इन पदों पर नियुक्त किये जायें, जो बदली हुई परिस्थिति के अनुसार जनता के प्रतिनिधियों को अपने साथ लेकर चल सकें।

विधेयक के अनुसार विधान मंडलों में नामांकन करने का अधिकार दिया गया है। हमारे मंत्री महोदय ने कहा कि जो समाज के दुर्बल और उपेक्षित वर्ग हैं उनमें से नामांकन किया जायेगा। क्या यह संभव नहीं है कि राजनैतिक दल जब उम्मीदवारों का चयन करें तो इस बात का ध्यान रखें कि सभी वर्गों

को प्रतिनिधित्व दिया जाय। इसके लिये शासन के हाथ में नामांकन का अधिकार देने की आवश्यकता नहीं पड़नी चाहिये। और इस बात की गारंटी नहीं है कि इस अधिकार का दुरुपयोग नहीं होगा, चोर दरवाजे से लोगों को लेने की प्रवृत्ति बल नहीं पकड़ेगी। लोकतन्त्रात्मक ढांचे में नाम-जदगी के लिये स्थान नहीं होना चाहिये। राजनैतिक दल ऐसी परम्परा डालें, इसके लिये प्रयत्नशील हों कि सभी प्रकार के वर्ग विधान-सभाओं में स्थान पा सकें। मेरे मित्र ने कहा था कि पांडिचेरी की विधान-सभा में इस प्रकार का नामांकन नहीं होता था। उसका उत्तर यह कह कर दिया गया कि पेरिस में बैठी हुई सरकार को उपेक्षित और दुर्बल वर्गों की चिन्ता नहीं थी। नई दिल्ली में बैठी हुई सरकार इन वर्गों की चिन्ता कर रही है—यह बहुत अच्छा है, मगर इसके लिये नामजदगी का तरीका अपनाया जाय यह आवश्यक नहीं है। उन वर्गों को प्रतिनिधित्व देने के ढंग को राजनैतिक दल निकाल सकते हैं। और अगर नामांकन करना है तो ऐसे व्यक्तियों का किया जाय जो राजनीति के पछड़े में नहीं पड़ना चाहते, जो साहित्यकार हैं, समाज-सेवी हैं, रचनात्मक कार्यकर्ता हैं, जिनका परामर्श कानून के निर्माण में सहायक हो सकता है, जो अपने व्यक्तित्व और कुतिल्व से विधान-सभा के वातावरण को एक नई दिशा दे सकते हैं लेकिन पिछड़े वर्गों के नाम पर नामांकन का अधिकार लेना और फिर उसके दुरुपयोग की सम्भावनाएँ पैदा करना उचित नहीं कहा जा सकता।

हिमाचल प्रदेश में जब टरिटोरियल काउंसिल बनी तो जिला परिषद समाप्त कर दी गई—अब नये ढांचे के अन्तर्गत जिला-परिषद् फिर से पुनर्जीवित की जानी चाहिये। स्थानीय शासन की संस्थाएँ समुचित रीति से चलें—इस विधेयक में इस तरह का प्रबन्ध नहीं है। मुझ विश्वास है कि संयुक्त प्रवर समिति इसके बारे में विचार करेगी।

विधेयक के अनुसार गोआ में, दमन में, ड्यू में फिर से चुनाव होंगे लेकिन मनीपुर में, त्रिपुरा में, हिमाचल प्रदेश में चुनाव नहीं होंगे। कहा गया है कि १९६२ ई० में वहाँ चुनाव हो चुके हैं, यह बात सही है लेकिन एक नये ढांचे का निर्माण किया जा रहा है उचित होता अगर इन क्षेत्रों में भी फिर से चुनाव की व्यवस्था की जाती। राज्य सभा में गोआ, दमन और ड्यू को प्रतिनिधित्व मिलना चाहिये। उन्हें राज्य सभा से वंचित किया गया है, इसका कोई उचित कारण प्रतीत नहीं होता।

इस विधेयक में अगर मुझे कोई सब से अच्छी बात लगी तो यह जो शपथ ली जायेगी, नये सदस्यों के लिये नये मंत्रियों के लिये जो शपथ लेना आवश्यक होगा, उसका स्वरूप ही सचमुच में अच्छा है—बाकी विधेयक आमूल-चूल परिवर्तन की मांग करता है। न यह जनता को शांत करेगा और न राजनैतिक महत्वकांक्षाओं की पूर्ति करेगा, यह न इधर है न उधर है—“रामाय स्वस्ति रावणाय स्वस्ति”—लोकतंत्र एक हाथ से देना मगर दूसरे हाथ से प्रशासक उसके ऊपर थोप देना, यह कोई ऐसी बात नहीं है जिसका वहाँ की जनता बड़ा स्वागत करेगी। मुझ सन्तोष है कि दिल्ली को इससे अलग रखा गया है। दिल्ली की सदस्या चली गई लेकिन हमारे भूपेश गुप्त महोदय विराजमान हैं...

**श्री भूपेश गुप्त :** हम तो दिल्लीवाला नहीं है, कलकत्तावाला है।

**श्री ए० बी० वाजपेयी :** आप तो हर जगह वाला है, हर जगह अपनी टांग अड़ाता है।

दिल्ली की एक विशेष स्थिति है और यह बात किसी राजनैतिक उद्देश्य से नहीं कही जा रही है, प्रारम्भ से ही मेरा दल, भारतीय जनसंघ, इस बात पर बल देता रहा है, कि दिल्ली केन्द्र प्रशासित होना चाहिये। यह

[श्री ए० बी० वाजपेयी]

भारत की राजधानी है, राजधानी में दो तरह के शासन चलें, उनमें संघर्ष पैदा हो, विग्रह की नीबत आये, तो यह हमारे देश की प्रतिष्ठा के लिये ठीक नहीं है। जिन नागरिकों को भारत की राजधानी के नागरिक होने का सौभाग्य प्राप्त है उन्हें कुछ मर्यादायें स्वीकार करने के लिये तैयार रहना चाहिये लेकिन राजनीतिज्ञ, नेता, मर्यादायें नहीं मानेंगे। पद बड़ी चीज है, और पद की लिप्सा उससे भी बड़ी चीज है। दिल्ली में अगर पार्ट 'सी' स्टेट का प्रयोग विफल हुआ है तो इसलिये नहीं हुआ है कि मंत्रियों को अधिकार नहीं थे—वह इसलिये विफल हो गया कि मंत्री आपस में सत्ता के लिये संघर्ष करते थे और उनके संघर्ष के कारण जो केन्द्र में मंत्री हैं, जो उन्हीं के दल के थे, उनको भी चोट लगी, उनके गौरव को भी ठेस पहुंची, देश की प्रतिष्ठा गिरी और इसलिये निर्णय करना पड़ा कि दिल्ली को वाशिंगटन की तरह से एक अलग केन्द्र शासित प्रदेश के रूप में रखा जाये। आज गृह मंत्री महोदय ने लोक सभा में यह घोषणा की है कि दिल्ली का शासकीय ढांचा क्या होगा इसके संबंध में वह एक महीने में जानकारी देंगे। मैं उनसे निवेदन करूंगा कि दिल्ली के संबंध में कोई भी निर्णय करने से पहले दिल्ली के सभी राजनैतिक दलों से विचार विमर्श करें और किसी ऐसी व्यवस्था को निकालें जिससे कि दिल्ली की जनता शासन में अधिक से अधिक भाग ले सके किन्तु सत्ता के संघर्ष की बुराईयों से बच सके। अगर दिल्ली के कारपोरेशन को व्यापक अधिकार दिये जायें और टोकियो के ढांचे से मिलता-जुलता यहां का शासन गठित किया जाय तो दोनों आवश्यकतायें पूरी हो सकती हैं।

मुझे विश्वास है कि संयुक्त प्रवर समिति इस विधेयक में काफी परिवर्तन करेगी और इन क्षेत्रों की जनता को यह अनुभव नहीं होने देगी कि केन्द्र में बैठे हुये लोग उस पर पूरा विश्वास नहीं करते हैं। इस विधेयक

की धाराओं को पढ़ने से लगता है कि जैसे वे घटिया दर्जे के नागरिक समझे गये हैं। उन्हें व अधिकार क्यों नहीं दिये जा सकते जो कि बाकी क्षेत्रों की जनता को दिये गये हैं और अगर केन्द्र का यह निर्णय है कि उन्हें पूरे अधिकार देना ठीक नहीं है तो उसे इन क्षेत्रों को निकटवर्ती प्रदेशों में मिलाने का निर्णय करना चाहिये था। वर्तमान विधेयक उनकी मांगों को पूरा नहीं करता, यह नये असन्तोष को जन्म देगा, नये आंदोलन खड़े होंगे और फिर मुझे डर है कि केन्द्रीय सरकार एक नया विधेयक ले आयगी। ऐसी परिस्थिति उत्पन्न न हो इसलिये इस विधेयक में संयुक्त प्रवर समिति आमूल परिवर्तन करे—यह निवेदन करते हुये मैं समाप्त करता हूं।

SHRI M. RUTHNASWAMY (Madras): On a "Bill like this which seeks to confer democratic self-government on very small pieces of territory it is possible to have two opinions, well-grounded and well-argued. One school of opinion would be represented by Shri Vijay Singh who said, quoting very frequently from the Report of the States Reorganisation Commission, that these small territories would not be either politically or economically viable and that it would be best to merge them, as I think Shri Vajpayee suggested, with the neighbouring areas. There is a good deal to be said for such a point of view. There was a French philosopher who advised that the heart has reasons which reason does not know. The political heart also has reasons which political reason does not know and so, when there is a popular demand for self-government, we are inclined to grant that gift if gift it may be called. It is not that democracy symbolises efficiency, progress and a better system of administration than that which is displaced by democracy. But it is recommended because it- is a training

ground for people in self-government. It may not be efficient at the beginning but it is hoped that in course of time by learning from their errors, they will be able to evolve an efficient system of government. Especially, thanks to the play of public opinion upon democratic government, it may be possible that even democracy may be efficient. And it is through a process of trial and error that people learn their political lessons, the Ministers making the trials and the people suffering from their errors. So, it is that there is unanimity in regard to the grant of self-government to these Union territories. But having decided to grant self-government to these territories, why should there be a postponement of the grant of that gift as is contemplated in clause 54 (2) (c) because under that part of the clause the present members of these Territorial Councils may continue to be members of the new Legislative Assemblies?

And almost at the end of that part of the clause the very important provision is made that the new Legislative Assembly may be the old Territorial Council without any further action;

"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 the duly constituted Legislative Assembly of the Union territory."

Now, there is an old saying that he who gives a gift soon gives it double. Having promised the people of these Union territories that they will be given democratic self-Government why should there be any postponement beyond the usual administrative lag that may be necessary in order to prepare the delimitation of the constituencies and the preparation of the electoral lists?

And then there is the position and power of the Administrator, which has received sufficient knocks from all sides of the House. Why should he be a Member of the Council of Ministers? Of course, something may be said for it, because the Union territories are beginning their road to democratic self-Government, and it may be necessary for an experienced public man to preside over the Council of Ministers. But why should he be a Member of the Legislative Assembly also? His position would be very anomalous, because he is the Head of the State, the Representative of the President. There will be a Speaker presiding over the Legislative Assembly, and he, the Head of the State, the Representative of the President, will have to take his seat by the side of the Ministers on the floor of the House. That is a most anomalous position. It is almost a throw-back to the system of Governors in British days, the Governor as he existed and operated after the introduction of the Montague-Chelmsford Reforms, because then he was President of the Council of Ministers; he took part in the deliberations of the Council of Ministers. Not merely that, it goes back to even pre-Montague-Chelmsford days, to the days when the Governor, and the Viceroy and Governor-General were Members of the Legislative Assembly, presided over the Legislative Assembly, took part as Lord Curzon used to take part against Mr. Go Kikhale, in the deliberations and in the debates of the Legislative Assembly. And the system under which they operated had the good sense not to make him a Member of the Legislative Assembly while there was another President to preside over the deliberations of the Legislative Assembly. I do not see any reason why the Head of the new Union territory should not be like the Governors of other territories. Give him the same position, the same constitutional position, and if they really want, guidance. It would be profitable, as some Member has suggested, if he



[Shri M. Ruthnaswamy.] were a public man recruited from the public life of the country, an independent man who is known for his political experience, if possible some administrative experience, and who holds an eminent place in the public life of the country. That is the reason why the old Governors and Governors-General were recruited from among the eminent public men of England.

And with regard to the Council of Ministers also may I suggest that the opportunity offered by this Bill may be made use of to put a limit to the number of "Members of the Council of Ministers? Now, in the Constitution no limit was placed on the number of Members of the Council of Ministers. This Constitution took for granted that some common sense would govern the fixing of the number of Members of the Council of Ministers. The makers of the Constitution never looked forward to the day when a State Ministry like the Punjab Ministry would consist of about thirty Members and when the Union Ministry would consist of about fifty Members. These are appointed not for administrative reasons, not even for political reasons; they are appointed for communal reasons, for regional reasons, in order to satisfy this community or that region or that group, and that is why we have this large Council of Ministers. And I hope and trust that we will take a lesson from our past experience and put a limit on the number of Members of the Council of Ministers. We cannot, after the experience that we have had all these fifteen years, trust to the common sense of the Heads of the States or of the Chief Ministers of these new Union territories. They also will be Subject to the same reasons, to the same communal considerations, the same regional considerations, and they will also, in order to keep their party in power, in order to keep their Government, as constituted, in power, be tempted to increase the number of Members of the Council of Ministers.

A suggestion was made, I think by Mr. Mani and others, that Delhi should also be given this privilege of self-Government, and Mr. Mani advanced the curious argument that the murders that take place in Delhi are due mainly to the absence of a responsible Government, as if crimes and murders do not occur in other States where we have full responsible Government. There is no intimate connection between responsible Government and the absence of crime. It all depends upon the efficiency of the administration, upon the integrity of the administration, upon the confidence which police officers have in their Ministers, upon the trust which the police Ministers repose in the police officers. It is these things that contribute to the efficiency of administration, and not the character of the Government.

As far as I could follow Mr. Vajpayee, in his Hindi speech, I think, he argued that Delhi should be placed on the same political footing as Washington. I agree heartily with him, because the capital of a country should not have the same system of Government as other parts of the country. It stands in a peculiar position: it has peculiar problems; the fact that it houses the Central Government gives it a peculiar position, a dangerous position, and I think it is well that the administration of Delhi should be in the hands of the Central Government.

These are all the observations that I wanted to make upon this Bill and I hope and trust these observations will be borne in mind by the Select Committee, and they will not only make a political gift of this Bill to these Union territories but show them the way to real effective, efficient self-Government.

SHRI P. N. SAPRU: Madam Deputy Chairman, it has not been an easy matter for me to decide my attitude towards this Bill. But on reflection I think that the Bill has been conceived-

ed on right lines and it deserves- the support of the House. Before I proceed further with ray arguments I would like to say that the emergency has not prevented us from undertaking constitutional legislation of a far-reaching character. I might express the hope that it would be possible; for the Government to review the cases of those who are interned so that they may also be able to participate in the new era which is going to dawn in these territories.

Having said this let me say that I do not agree with the view that Delhi should be included within the purview of this Bill. Very cogent reasons have been given by the S.R.C. why Delhi as a metropolitan city should be treated differently from the other territories. I need not refer to those reasons. They have referred to the special position occupied by Paris, Tokyo, London, Canberra and Washington and I would say that while Delhi should have a new set-up, the set-up should be of a character different from that visualised in this Bill.

The second point that I would stress is that I do not like the word 'Administrator' and for special reason. The word 'Administrator' has been used by the South African Constitution in regard to the heads of their provincial governments. I do not like our country to borrow anything from South Africa. I would, therefore, suggest that the word 'Lt. Governor' should be substituted for the word 'Administration' wherever it occurs.

On the question of the position of the Administrator, I would make my position clear. Undoubtedly, under a system of full responsible Government, the Chief Minister would be presiding over the Council of Ministers but we are visualising a sort of diarchy for the administration of these territories. Having regard to the conditions prevailing there—some of these territories are strategically important as has been pointed out by the S.R.C.—it is not possible for us to go as far as the complete self-government which

the other States of the Union enjoy. Therefore, I have come to the conclusion that since we are going to have a diarchic arrangement, it will make for the smooth functioning of the Government, if the Administrator presides over the Council of Ministers.

SHRI BHUPESH GUPTA: No, it is most insulting.

SHRI P. N. SAPRU: The basis of the constitutional arrangements is that the Administrator shall have certain special responsibilities. It will be, therefore, in the interest of the smooth working of the Constitution if the Administrator presides over the Council of Ministers. The decisions taken will be those taken by the Ministers and there will be no occasion for him to exercise his special powers.

SHRI BHUPESH GUPTA: Would you like to be a Chief Minister in such a situation?

SHRI P. N. SAPRU: I would not like to be Chief Minister under any Constitution under any circumstance.

SHRI BHUPESH GUPTA: Now, you see his position.

SHRI P. N. SAPRU: That is the conclusion I have arrived at after some reflection and thought and I could argue the matter at length but as my time is limited, I will not go into this any further.

I would also say that I am not opposed to a few nominated Members in the Legislature in these territories. After all, we have 2 or 3 nominated Members in the House of the People. There are interests which go unrepresented and it is but right that the Central Government should have the power of making nominations to these bodies. I would also suggest that I am not in love with the institution of Judicial Commissioners. I know that Mr. Fazl Ali, in the able Minute he wrote on the Himachal Pradesh reorganisation, was in favour of the institution of Judicial Commissioners. He did not agree with the Commission that Himachal Pradesh should be

[Shri P. N. Sapru.] attached to Punjab and I am glad that Himachal Pradesh was not attached to the communal State of Punjab.

SHRI A. B. VAJPAYEE: Is the whole Stat© communal?

SHRI P. N. SAPRU: It is the battleground of disputes between Mr. Vajpayee's Party and the Arya Samajists as well as the Akali Sikhs. I am very glad that Himachal Pradesh was kept as a separate unit but I know it is impossible for these States to be provided with full High Courts. I would, therefore, like to make a compromise suggestion and I suggest that they should have what used to be called Chief Courts in the old British days. I attach importance to this matter because I think for appellate jurisdiction Boards of Judges are necessary. It is not right that appeals should be disposed of at the final stage by a single judicial authority, howsoever able he might be.

Then I would say that responsible Government is a difficult •affair and our civil servants have not got the experience to work a system of responsible Government. They are a very efficient lot of men. They do the sort of work that they are required to do extremely well but I would like the Administrator or the 'Lt. Governor' as I would call him—the word 'Lt. Governor' is used in the Canadian Constitution and the word 'Lt. Governor\*' has an important significance under the old Government of India Act— to be a person drawn from the ranks of public life. I think he will be able to . . .

SHRI SATYACHARAN (Uttar Pradesh): I.C.S. men happen to be Heads even in big States.

SHRI P. N. SAPRU: I am sorry that the ICS people are in that position but I cannot help that. I have always felt that the headship of a State should not go to a civil servant.

Then I would say that there is a case for retaining the name 'territories'

for these units. The constitution of these units is going to be determined not by a special procedure but by the Parliament sitting in its ordinary capacity. These States will be delegated powers of Legislation and the words "Part B State" will not satisfy their vanity. They will think that there is a distinction made between them and Part B States. Therefore, I would retain the word 'territory\*' as it more correctly describes the position they occupy under the Indian Union. It has been suggested that the tendency today in the world is towards large units and therefore that States like Goa and Pondicherry should be attached to neighbouring States. Now, we had to take Goa by the sword from the Portuguese but so far as Pondicherry is concerned we are under certain special obligations to the French Government. We have undertaken to respect the culture of Pondicherry and it would be a grievous blunder on our part to attach Pondicherry to Madras, and it would be a grievous blunder on our part to attach Goa to Mysore or Maharashtra or to any other State. These States have acquired during the course of their separation a distinctive culture of their own and it should be our effort to respect the distinctive cultures that are the pride of this country. Madam Deputy Chairman, I have given some thought to the question of national integration. I am one of those who is not enamoured of this term "national integration". I believe in regional co-operation. I look upon our country as one having a plural society and there should, therefore, be room in our country for the development of all the cultures that are represented in it There should be opportunities for the fullest regional co-operation possible and a strong Centre or a quasi-federal Centre, with a strong unitary bias, is not inconsistent with the type of regional co-operation that I visualise so far as the future is concerned,

I may say that diarchic arrangements, generally speaking, are objectionable. Ministers cannot be respon-

sible at one and the same t'm<sub>e</sub> to two different authorities, Diarchy did not work in the old days because Minis-

ters had to be responsible to the Governors and they had to be responsible to the Legislatures also. But even so the diarchic arrangements have been found to be useful halfway houses in some of the countries of the Commonwealth which have progressed towards full self-government, and in the present stage of their development I can see no way out of this diarchic arrangement for these States.

SHRI SHEEL BHADRA YAJEE (Bihar): Mr. Mani has to be called to order for standing there. Two hon. Members cannot be standing at the same time.

SHRI BHUPESH GUPTA: Did you advise him to arrest more persons or to release them, Mr. Mani?

SHRI P. N. SAPRU: I should also like to refer to the clause relating to the Standing Committees for Manipur. I am not opposed to Standing Committees, but our experience with Regional Committees in Punjab has not been a very happy one. I do not know whether the Regional Committees have worked satisfactorily in Andhra Pradesh. My friends from Andhra Pradesh will be able to throw more light on the working of those Regional Committees than I can. But I am all in favour of Standing Committees and I should like the Manipur administration as also th<sub>e</sub> administration of Tripura and of Himachal Pradesh to be in non-official hands.

Then there is another point which was raised by my esteemed friend, Prof. Ruthnaswamy. He is a scholar of great distinction and that point has considerable validity. He pointed out that under clause 54 of the Bill the Administrator will not only preside over the Council of Ministers—he did not object, to that, as far as I could understand him—but he will also be the Speaker of the Assembly.

4 RS—6.

SHRI M. RUTHNASWAMY: No, he will be a member of the Assembly.

SHRI P. N. SAPRU: He will be a member and the Speaker also?

SHRI M. RUTHNASWAMY: No, there will be another Speaker.

SHRI BHUPESH GUPTA: He will be a member and he can participate in the proceedings of the Assembly.

SHRI M. RUTHNASWAMY: That is the anomaly that I pointed out, that he will be the Head of the State and also sit in the Assembly.

SHRI P. N. SAPRU Which clause is that?

SHRI M. RUTHNASWAMY: I was referring to th<sub>e</sub> old days when the Governor was both Speaker and member of the Assembly.

SHRI P. N. SAPRU: And you want 'hat system?

SHRI M. RUTHNASWAMY: No, no.

SHRI P. N. SAPRU: I do not think What the Administrator should be the Speaker.

SHRI BHUPESH GUPTA: He is not. Mr. Sapru, that is not the provision.

SHRI P. N. SAPRU: The Administrator should not be the Speaker of the Assembly.

SHRI M. RUTHNASWAMY: He is not the Speaker even under this Bill. The anomaly that was pointing out was that he would be a member of the House and also the Head of the State at the same time. That was the anomaly.

SHRI P. N. SAPRU: I agree with you that the Administrator should not be a member of the House and also the Head of the State. The Administrator may preside over the Council of Ministers. That is one thing.

SHRI R. M. HAJARNAVIS: I do not want to interrupt the hon. Member, but I may just patet out that it is not the intention of this measure to establish any State. It would not be quite correct to describe the Administrator as the Head of the State or liken him to that.

SHRI P. N. SAPRU: The Head of the State will be the President and the Administrator will be the agent of the President in these States.

SHRI R. M. HAJARNAVIS: I may also invite the hon. Member's attention to clause 7 which says that the Speaker shall be elected.

SHRI BHUPESH GUPTA: He can participate and take part in the proceedings of the Assembly as any other Minister.

SHRI P. N. SAPRU: Which is that clause?

SHRI BHUPESH GUPTA: Dr. Sapru is confused.

SHRI A. B. VAJPAYEE: See page 5 of the Bill.

THE DEPUTY CHAIRMAN: You were on the right track, Mr. Sapru.

SHRI A. B. VAJPAYEE: It is clause 10.

SHRI BHUPESH GUPTA: Yes, it is clause 10 which says:

"The Administrator and every Minister shall have the right to speak in, and otherwise to take part in the proceedings of the Legislative Assembly of the Union territory."

So, you see, he is put in the same category as the Minister.

SHRI P. N. SAPRU: Now I follow. The position which is visualised for the Administrator is the position which has been visualised by us for

the Attorney-General in our Constitution. I can see.

SHRI BHUPESH GUPTA: Under the Constitution you can see the Attorney-General's position is described in, I think, article 88, but . . .

SHRI P. N. SAPRU: I can see objection to his presiding. Now, Mr. Gupta, you are so full of yourself that you do not allow anyone to speak. I think this egocentric habit which our Communist friends are inclined to develop is not helpful to the successful functioning of democracy.

SHRI BHUPESH GUPTA: But you were confused in this matter.

SHRI P. N. SAPRU: Probably I was because I could not hear Prof. Ruithna-swamy clearly. I should say that I can see no objection to the Administrator participating in the deliberations of the Assembly. There may be some advantage in allowing him to do so because these territories are on the way to full self-government. I am not one of those who think that there is something sacred about this Constitution, that the Constitution must not be amended under any circumstances. Five years hence we may have to review the position that we are finalising for these territories today and I think that this constitution satisfies the requirements of the hour and, therefore, it is deserving of support and I hope that the few remarks of a desultory character which I have made will be borne in mind by the Members of the Joint Committee when they come to discuss the clauses of this Bill.

Thank you very much for the latitude that you have given to me.

SHRI R. M. HAJARNAVIS: Madam Deputy Chairman, I did not intend to speak at any length because after all the Motion which I had moved this afternoon is merely for the reference of the Bill to a Joint Committee where most of these matters will be given the consideration that they deserve. I

would only, if possible, at this stage again try to remove certain misunderstandings which appear to have crept in in some of the speeches of the hon. Members.

Before I come to that, I will wholeheartedly agree with the last speaker, an authority on constitutional law, that the law like this can also be amended but without any Constitution being amended, without the law being amended conventions can grow and those which are regarded as not healthy can by disuse be allowed to fall into scrap heap that the whole scheme may be so worked with understanding on both sides that the freedom broadens from precedent to precedent and that the brakes within the Bill on the misuse of the power by the popular representatives will never come into operation. In this connection, I might remind the hon. Members of the Constitution of Canada which has not been amended in the last seventy years. There are restrictions within but those restrictions have ceased to be operative at all. I hope and trust that the same may be said about this Bill, that with the powers which have been given to the local representatives, they will be able to enjoy them without any kind of restriction. I need not assure the hon. House because this House is quite familiar with, shall I say, the vision and the understanding and the consideration which the present Home Minister brings to bear on all questions; the great democrat that he is, I am quite sure and I need not assure the House that if ever under his guidance the Home Ministry is called upon to interfere, it shall be in a gross case of abuse of powers of which we have seen one example during the working of this Constitution. As a matter of fact, when at last we were compelled to interfere in Kerala, we were accused of having done it tardily, having waited too long.

SHRI A. D. MANI: And clumsily.

SHRI R. M. HAJARNAVIS: Now, I hope such a thing, will not happen but I might remind Mr. Maui who accused me of mentioning those facts that, when the Bill was being explained to the House, he did not find it quite attractive. In explaining the Bill, I consider it my duty to bring to the notice of the House the salient features. Now, he will find that the provisions of the law to which he tried to draw attention is exactly parallel with the Constitution. Even where the State Governments have far larger powers which have been completely transferred to them, the Centre does not normally interfere—they have almost got powers of a federal constituent, I said 'almost' not complete, even there, the Constitution gives the President a right and casts a duty upon him to interfere in a case where under the guise of democracy powers are abused as they were in Kerala. Such a responsibility is cast upon the President and it exists with greater force in a Union territory. Therefore, that provision had to be put in so that in a given case we might go as far as suspending the arrangement made but I do hope and pray that such an occasion will never arise. Therefore, my feeling and hopes are the same as that of Shri Mani.

SHRI BHUPESH GUPTA: Pray to whom?  
(Interruption)

SHRI R. M. HAJARNAVIS: There is also the power to give direction. Now, that power also exists in respect of the States also. Normally, we always convey our views to the States. In most cases they are carried out and in some cases we are convinced that our advice need not be carried out. The process of constant consultation goes on.

Now, there is one phrase being used, democratic set-up. Mr. Bhupesh Gupta takes credit for all the good things that have happened in this country and he says that this is because of the activities of the Communists.

SHRI BHUPESH GUPTA: No, no. I never said that.

SHRI R. M. HAJARNAVIS: He said that even this Bill has come as a result of the activities of the Communist Party and I do not want to join issue with him.

SHRI BHUPESH GUPTA: No. I say, the Congress can also come in.

SHRI R. M. HAJARNAVIS: I seriously object to the phrase "democratic set-up" being used by him. Here, we are Members elected on adult franchise . . .

SHRI BHUPESH GUPTA: Bureaucratic tyranny exists there.

SHRI R. M. HAJARNAVIS: Why is he so pessimistic about his own performance? He is a good democrat. He has ventilated all the grievances of the Union territories very well and ought to be satisfied with his performance.

SHRI BHUPESH GUPTA: But under a responsible Government.

SHRI R. M. HAJARNAVIS: We are all responsible. You can turn us out tomorrow.

SHRI BHUPESH GUPTA: But they are bureaucrats.

SHRI R. M. HAJARNAVIS: Therefore, if by "democratic set-up" what he has in mind is that there should be more of local autonomy, then we should also be clear as to how much of autonomy we should give or we should confer on these administrations. Now, it is certainly not intended that the autonomy will be larger than that which is enjoyed by the States and the quantum of autonomy given to these administrations is as large as that of the States.

In respect of the remaining matters, as I said, it is not as if the Administrator is somebody who will come from some far-off place, from another world, from some other planet to

govern here but he will be somebody who works under this Government which is responsible to this Parliament. It would not be correct, therefore, to use the word "diarchic" in connection with this arrangement at all. In respect of some matters he is responsible to the Parliament and in respect of the other matters which have been delegated under the Bill, he will be responsible to the local legislature.

SHRI A. B. VAJPAYEE: This is diarchy.

SHRI R. M. HAJARNAVIS: That being so, for an experienced constitutional lawyer like Mr. Sapru it appeared inevitable that the person who administers the rest of the subject? should sit with the other administrators. Then, matters will arise which border on both sides and it is often difficult to say whether a problem belongs to this side or that.

SHRI BHUPESH GUPTA: Madam, -n a question of propriety.

SHRI R. M. HAJARNAVIS: Don't interrupt. I am not yielding. Please sit down.

SHRI BHUPESH GUPTA: On a point of order. The matter is for the Joint Committee. The hon. Minister said that he had an open mind and now he is dealing with the whole thing and disposing of all the arguments. He could say that he would communicate them to the Committee. He should not do like that. Else, he should not have said that he had an open mind.

SHRI R. M. HAJARNAVIS: I did not say anything. I am merely saying that this is how the Administrator will be responsible and will take certain decisions. And we have said that in certain matters, especially in view of the present emergency, he will have special responsibilities in respect of some matters. Here, the responsibility will

be his, not that of his advisers. Therefore, it is necessary that he should get a hearing in the Legislature so that he can explain his point of view. Otherwise, what will happen is, the whole Legislature will be on one side and the Administrator will be on the other side and the entire representative institution will fall into disrepute. It cannot work. Therefore, we are trying to make him answerable in the Legislature because he will go there and expound whatever his decisions are. This is the scheme and as I said it is for the Select Committee to consider whether the scheme will work or will not work. They can suggest some other scheme if they so desire. Therefore, in reality, there are no real checks upon the views of the popular representatives in the local Legislature and I can assure the House, through you Madam, and the people of the Union territories that it is not the intention of Government to interfere unless they are compelled to do so and the situation which I have in mind, where we will interfere, is the situation as happened in the case of a State which was administered by my hon. friend's party. Where in the name of democracy one-party rule and tyranny are sought to be thrust upon the people we shall certainly interfere because we are democrats.

SHRI BHUPESH GUPTA: Madam, such remarks should not have been made and . . .

THE DEPUTY CHAIRMAN: The question is

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to provide for Legislative Assemblies and Councils of Ministers for certain Union territories and for certain other matters and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee, namely: —

1. Shri Abid Ali
2. Shri Anand Chand
3. Shri Tarit Mohan Dasgupta
4. Shri R. S. Doogar
5. Shri B. K. Gaikwad
6. Shri Jairamdas Daulatram
7. Shri D. P. Karmarkar
8. Shrimati Lakshmi N. Menon
9. Prof. Mukut Behari Lai
10. Shri Mahesh Saran
11. Shri M. N. Gevindan Nair
12. Shri G. Rajagopalan
13. Shri Shiva Nand Ramaul
14. Shri L. Lalit Madhob Sharma
15. Shri Sheel Bhadra Yajee."

*The motion was adopted.*

THE DEPUTY CHAIRMAN: The House stands adjourned *sine die*.

The House then adjourned *sine die* at one minute past six of the clock.