

[Shri Bhupesh Gupta.]

for the sake of humanity, and if that voice is made abundantly clear and assertively voiced before the Chief Ministers of the States concerned, I am almost certain that the next day, the gates of the prisons will be flung open and these prisoners will come back to us to serve the nation, as we all want, to make our institutions successful, to take part in the remaking of the nation. It is a tragedy that in independent India today, these people who are ready to serve the country, who have dedicated their lives for the building up of the nation, who participated in the remaking of our national life along with you, today, they should be kept in prison indefinitely, behind prison bars, for no other reason than that political vendetta must have its way. Nothing can do a greater injury to the moral code of the country. Nothing can be greater shame for a civilized administration. Nothing can be a more severe blow to the cause of human compassion. This is what I say.

Sir, I appeal to you again, if I may, I do not know as the Chairman of the House, whether you have any power or not, but I appeal to you again standing here and in the name of those prisoners, their relatives and friends, that the time has come to rise above pettiness and vindictiveness and see our way to releasing them. I appeal to you, Sir, to carry what I have been saying here and convey in your own way, the feelings of this House for the release of these political prisoners so that they are released even before the next President steps in. This is what I say. Before the new Government is sworn in, let this Government release the political prisoners or cause them to be released. Let the second Parliament know that during its tenure the political prisoners have been released so that the third Parliament starts with a clean slate in this matter.

This is all that I have to say. I regret, and I am extremely sorry, that although two months have passed

since we spoke and so much support was given to the cause, the Chief Ministers of the States still live in the old world of theirs with, what I say, some malevolence towards the prisoners, they live in a world of vindictiveness. Certainly men in high positions should show some humane, good, consideration and should rise sometimes above, if only for the sake of human compassion, petty political considerations and do justice and show more mercy in such matters.

That is all that I have to say, and thank you, Sir.

MR. CHAIRMAN: The question is:

"That the Bill further to amend the Constitution of India be taken into consideration."

The motion was negatived.

THE CONSTITUTION (AMENDMENT) BILL, 1960 (TO AMEND ARTICLE 333)

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): in the Chair.

SHRI BHUPESH GUPTA (West Bengal): Sir, I move:

"That the Bill further to amend the Constitution of India be taken into consideration."

I believe all of you will support me because this exactly is a Bill which the late Home Minister, Shri Govind Ballabh Pant, moved in the other House but which could not be passed because, as he said in the House, of some confusion. Members did not know and did not vote in the manner he expected them to vote. In this connection, he said that the Communist Party also fell into that confusion. Well, if we fell into that confusion, I am here making amends for it by

sponsoring the same Bill as he did in the other House and I hope, Sir, the confusion will be overcome.

SHRI AKBAR ALI KHAN (Andhra Pradesh): The Communist Party gets confused frequently.

SHRI BHUPESH GUPTA: It does sometimes, I do not deny, but at least we have the humility to come here and to make amends for the alleged confusion from which we were supposed to have suffered. Now, it is for you to take up the cause which the late Home Minister took up in the other House but could not be fulfilled due to certain confusion on the part of some Members. It is a very simple thing. Now, the purpose of this Bill is simply this. Shri Govind Ballabh Pant, the late Home Minister, wanted to restrict the number of nominations of the Anglo-Indians. This is what he said, bodily lifted from his bill.

"In article 333 of the Constitution, for the words 'nominate such number of members of the community to the Assembly as he considers appropriate' the words 'nominate, in the case of the State of West Bengal, not more than two members, and, in the case of any other State, one member of the community to the Assembly' shall be substituted."

The present position in the Constitution is this. One can nominate any number of them; there is no restriction. That is to say, in West Bengal, you can nominate three, four, five or six, in other States also. The late Home Minister, and rightly so, wanted to restrict the nomination of Anglo-Indians, in the case of West Bengal to two—two was his ceiling—and he wanted to restrict it to one in the case of other States—one was his ceiling. I think it was a very constructive and democratic approach in this matter. We are sorry that on account of our failure this amendment could not be passed at that time but we can pass it here in this House and send it to the other House to be passed so that the matter is set right. Therefore, on that

principle there is no debate because Government itself was committed to it and I believe is still committed to it, that there should be restriction. There is no controversy between us on this issue. The only question remains to be settled is whether we should now pass this Bill in order to give effect to the thoughts and ideas of the late Home Minister. This is the only consideration. I say, there is need for it. First of all, it is an unfinished task of the late Home Minister and let us finish it. He wanted to have this Constitution (Amendment) Bill passed and if he did not do it, let it not be said that after his death there was no one to translate his desire in this matter into practice. Therefore, let us fulfil his last thought over this matter. This is a ground which has its own moral appeal. Then there are other reasons also. Today, Sir, Parliament and the State Assemblies, the Lok Sabha and the State Assemblies, should be strictly representative. In Parliament, as you know, we have nominated Members, some come from Jammu and Kashmir—they are virtually nominated—then we have certain other nominated Members coming from Nagaland and so on. Maybe, up to a point it is necessary when certain new arrangements are made but there it is, nominated element is there. In the States also there are nominations. The Anglo-Indian community does not have a sufficient number to constitute an electorate and, therefore, I am not opposed to nominations being given to them. I would like this community to be represented because I feel that they have legitimate grievances too. In the British days it was thought that the only services they could join were those of the police and railways. Every avenue should be open to them and they should be employed in the public sector, in government service and so on. I am all for it. Since they are not in sufficient number or since they are spread over, they cannot constitute an electorate and for the interests of the community being looked after, at least for the time being, they should be nominated. They do participate in the general election. It

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is not as if they do not vote and so you are making provision for nomination in order to get a representative from that community. They share the franchise in our Parliamentary and Assembly constituencies along with others. On top of it, there is the arrangement for nomination. It is understandable. May be that none from that community comes from any general constituency and, therefore, there should be provision for the nomination of one or two, two in the case of Bengal and one in the case of other States. I have no quarrel with it but it should be restricted.

DIWAN CHAMAN LALL (Punjab): What is wrong in leaving it open to the Governors?

SHRI BHUPESH GUPTA: Sometimes Diwan Chaman Lall asks questions which he should answer better than I ever can. Leave it to the Governor, he says.

DIWAN CHAMAN LALL: And that is what the Constitution says.

SHRI BHUPESH GUPTA: Yes, you are very right, leave it to the Governor but where are the Governors? You know very well those ladies and gentlemen. I have got the other Bill and I shall come to it. Governor is not the Governor but it is the Council of Ministers.

SHRI P. N. SAPRU (Uttar Pradesh): What is the number of Anglo-Indians actually in the various Legislative Assemblies of India?

SHRI AKBAR ALI KHAN: Not many.

SHRI BHUPESH GUPTA: I am not opposing. I am only restricting.

SHRI P. N. SAPRU: On a point of information, Sir, I want to know the actual number of Anglo-Indians nominated to various State Assemblies. That information is necessary for forming an opinion on the Bill.

DIWAN CHAMAN LALL: None in Punjab.

SHRI BHUPESH GUPTA: It is nowhere less than two; I believe in West Bengal, it does one better.

SHRI AKBAR ALI KHAN: The number is not so big, so disproportionate as to justify your bringing forward this Bill and taking the time of this House.

SHRI BHUPESH GUPTA: This is again Prime Minister's logic. When Rajaji said that there are rajas and ranis in the Congress also, the Prime Minister said in Mysore, "Yes, there are but their number is not big. They are only a pocketful, rajas and ranis, whereas it is oceanful in the Swatantra Party". It is a question of the principle of representation, the nominated element should not come in unless it becomes absolutely essential but here it is not necessary and, as Shri Govind Ballabh Pant himself thought, two would be enough for West Bengal. This is said not by me nor by the Communist Party but a very case-hardened conservative Minister like Shri Govind Ballabh Pant.

DIWAN CHAMAN LALL: But he did not proceed with it.

SHRI BHUPESH GUPTA: He wanted to proceed with it; he said so in this House.

SHRI N. M. ANWAR (Madras): For the information of my hon. friend, I might state that we have got only one Anglo-Indian nominated in our State Assembly.

SHRI BHUPESH GUPTA: How many Anglo-Indians have you got? You must tell that also; otherwise it is no use. There are some places where one may be enough but why should they have four in Calcutta? I will tell you.

SHRI P. N. SAPRU: You are asking us to legislate for the whole of India and, therefore, we are entitled to know the number of Anglo-Indians nominated by Governors in the various State Assemblies of India.

SHRI BHUPESH GUPTA: I think the latest information can be furnished by my friend, the Deputy Home Minister, but I can tell you: It is two in some States and four in my State. He says that it is one in his State. I stand corrected but my State has four.

DIWAN CHAMAN LALL: None in Punjab.

SHRI ARJUN ARORA (Uttar Pradesh): In Uttar Pradesh it is only one.

DIWAN CHAMAN LALL: None in Punjab.

SHRI BHUPESH GUPTA: You have got enough. There must be other places where you have also none.

SHRI AKBAR ALI KHAN: And it is only because they cannot get elected in the general constituency.

SHRI BHUPESH GUPTA: All these things were taken into consideration by the late Home Minister. He certainly had better information of the representation of the Anglo-Indian communities in the different States. Having thought over this matter, he came to the conclusion and this Bill was brought forward.

Diwan Chaman Lall asked why he did not proceed with the Bill. He wanted to proceed but there was confusion and people did not know what they were voting, for or against. They pressed the wrong button. We have got a push-button democracy, as you know, and sometimes the push-button democracy misbehaves and this is what happened at that time. When he came here, he accused me and said that my party had also turned it down and did not help

him to proceed further. I say now that I will help you in this matter. I am very sorry he could not be amongst us today; otherwise, he would certainly acknowledge that I am making amends for the allegation that was made in regard to the Members of our Party in the other House. The Bill is the same: it is only the name that is changed and the House is Rajya Sabha. Instead of the great name, Shri Govind Ballabh Pant, it is Bhupesh Gupta from the Opposition. That is all the difference, nothing else. Therefore, the Home Minister took all that into consideration. Like the Ministers I can say, "We did take into due consideration—by their Ministry not my Ministry—and we came to this conclusion that this is what should be done". Why should it not have been done immediately after that? It was not done, and some people felt very happy and the West Bengal Government, I tell you, has got a vested interest in bigger representation being given to the Anglo-Indian Community.

SHRI AKBAR ALI KHAN: No, no. Question.

SHRI BHUPESH GUPTA: Then why should they have four nominations when Tamilnad is having only one?

DIWAN CHAMAN LALL: Probably the largeness of the community.

AN HON. MEMBER: They might be serving the country better there.

SHRI BHUPESH GUPTA: I am sure the Anglo-Indians in Tamilnad are not doing disservice to the country. They are also serving and you are also serving. That is not the question but even that also was taken into account by the late Home Minister, that they were serving the country.

SHRI N. M. ANWAR: On a point of information, Sir. Let not Mr. Bhupesh Gupta get away with the impression that we are not for adequate

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representation of the Anglo-Indian communities. We would like even fifty or sixty to come from the Anglo-Indian community but the question is that the nomination is restricted to one in the State of Madras.

SHRI BHUPESH GUPTA: We would like a lot more Anglo-Indians to come here elected. Let them take part in the political life of the country through the Congress, Communist or other parties but we do not like vested interests to be created, to be politically exploited by the Government, the Government of West Bengal. That is what I say. Why did not Dr. B. C. Roy contest from Bow Bazaar but changed to Chowringhee? He knows that there are Anglo-Indian votes which he could count upon; he could tell them, "Give me vote and I shall send four people from amongst you to represent you in the Assembly as nominated Members"

SHRI AKBAR ALI KHAN: It seems you are objecting to a little over-representation to a minority community. It is very deplorable.

SHRI BHUPESH GUPTA: Mr. Akbar Ali Khan, then you charge Shri Govind Ballabh Pant of it; it would be all right.

SHRI AKBAR ALI KHAN: I am charging you.

SHRI BHUPESH GUPTA: Have I committed any crime that you should charge me as a principal in the second degree or accessory to the crime? You charge Shri Gobind Ballabh Pant, the late Home Minister of the country, for whom at least you have got greater regard.

SHRI ARJUN ARORA: The late Home Minister never objected to a little over-representation of a minority community in West Bengal and that is what you are doing now.

SHRI BHUPESH GUPTA: These are his words. He said that it should not be more than two.

(Interruption.)

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): One at a time.

SHRI EBRAHIM SULAIMAN SAIT (Kerala): Why do you want nomination for Anglo-Indians, not for other minorities?

SHRI BHUPESH GUPTA: You are extending the scope. Now, that is a point you may make. (Interruptions.) All interruptions will be answered; unlike the Ministers I answer all interruptions.

SHRI P. N. SAPRU: Are you prepared to accept the verdict of the Home Minister or his say on all matters? You are taking the stand that the Home Minister took and you are quoting him as a scripture. Are you prepared hereafter to accept what the Home Minister says as valid?

SHRI BHUPESH GUPTA: It is strange that a learned man like Dr. Sapru should be asking me a question of this sort which should be better heard in the Kindergarten classes than in this august House, "Will you accept what I say, if you say you accept all that I say" (Interruption). I accept because it is reasonable; I would not accept if he said something unreasonable. Do you want me to accept things from a person irrespective of whether they are good or bad? Will you go to a shop and buy from that shop everything that you need irrespective of whether it is genuine or adulterated?

SHRI P. N. SAPRU: May I ask Mr. Bhupesh Gupta why he is laying so much stress on what was said or not said by the Home Minister? Why is he not putting the case on its merits?

SHRI BHUPESH GUPTA: Again this learned former Judge has not understood. You should understand;

this is my strong point and your weak point. He does not understand; he should understand that this is my strong point and I deal with my strong points and harp on your weak points. Simply, I would like you to respect the wishes of the Home Minister when you tend to forget them even if you don't respect my wishes. Dr. Sapru generally makes very very stimulating interruptions; this time he asked me some question out of kindness towards me, maybe. And here my friend, Mr. Arjun Arora, asked me: "Am I opposed to the representation of Anglo-Indian community?" No; not at all. I am in favour of giving them representation but not in this form.

SHRI ARJUN ARORA: As you said, the Governor of West Bengal has nominated four persons and you say that all of them are Anglo-Indians representing a tiny minority community and you object to that.

SHRI BHUPESH GUPTA: Then why not 10? Why not 12? What I say is, this power is politically exploited. May I ask if in this matter of nomination others are consulted? Nomination is not the property of any one party. If this is to be judged from the point of view of the interests of the community itself, then does it not stand to reason that whoever the authority may be which nominates should consult all the important parties in the State and select the names? But they don't do it. It is done in partisan interest; not even in partisan interest but in the interest of the ministerialist group. Today in the ruling party you have got a ministerialist group and you have a dissident group. Bipartisanship has come about in the party so far as Congress is concerned.

SHRI ARJUN ARORA: It is there in every party. Even in the Communist Party there is the rightist group and the leftist group, and my friend is in the centrist group.

SHRI BHUPESH GUPTA: That is a matter of opinion. You may have any opinion about us but you have declared yourself to be two groups. You come to Delhi and claim portfolios saying that you are in the dissident group. You have declared yourself, and you have given a name and an affiliation. It is quite clear. in Mysore in the Chintaman constituency there were two candidates. One was a dissident nominee and the other candidate was a nominee of the A.I.C.C. and I had to ask the local Congress who the Congress nominee was. Such things happen. You have officialised this institution.

SHRI ARJUN ARORA: We have not officialised it. But do you deny that you belong to the centrist group of the C.P.I.?

SHRI BHUPESH GUPTA: You are on the threshold of becoming a dissident yourself; you are hovering on that. It will take you a few days more to become a dissident. So don't talk about these things. The ministerialist group wants to get the advantage. In the Chowringhee area Anglo-Indians live; there are only 6,000 Bengalis in that area. And Dr. Roy who is supposed to lead West Bengal, champion of West Bengal, left his own constituency of Bow Bazar and came to Chowringhee, although he could have won in Bow Bazar itself, counting on the support of the Anglo-Indians there and the *quid pro quo* for that was that you nominate four persons from that community.

SHRI AKBAR ALI KHAN: Sir, these are matters for the West Bengal Assembly and I think it is not fair and proper that such matters should be raised here because Dr. B. C. Roy is not here.

SHRI BHUPESH GUPTA: If Dr. B. C. Roy is not here, the Minister is there. My hon. friend is very very touchy, it seems.

SHRI AKBAR ALI KHAN: He is making personal observations against one of our best Chief Ministers.

SHRI BHUPESH GUPTA: The hon. Member should not raise such points. When the Kerala Ministry was discussed in Parliament, Mr. Namboodiripad was not sitting on the Treasury Benches here. He was in the Kerala Assembly when you fired at him every day in this House and that House. What happened to your sense of fairness then? Sir, double talk, double standard is the business of the day.

SHRI ARJUN ARORA: What is wrong in Dr. B. C. Roy seeking election from a predominantly Anglo-Indian constituency? The Anglo-Indians are also good citizens and they are entitled to have a place in our democracy.

SHRI BHUPESH GUPTA: You know how to make a good citizen a bad citizen and a good Congressman a dissident Congressman. I agree with you there that the Anglo-Indians are good citizens. I do not deny it. But they want to use this power of nomination to seek political advantages, to throw baits to certain self-seeking people. Do you mean to say that the entire community will back those people? People who are *persona grata* with the Chief Minister will be nominated no matter how the other people of the community feel about them, let alone the members of the Opposition.

DIWAN CHAMAN LALL: May I suggest to my hon. friend, Mr. Bhupesh Gupta, that he might wind up his remarks in regard to this particular matter because the House is fully aware of his point of view? There are a large number of other Bills, rather important Bills, still to be taken up.

SHRI BHUPESH GUPTA: I am sorry Diwan Chaman Lalji is not likely to get his chance. There is

no earthly chance of his Bill being taken up today because there are a number of my own Bills. I would like to accommodate but there are my other Bills relating to the Governor's salary, President's salary. They are important ones and certainly I want to take them up.

DIWAN CHAMAN LALL: This is a measure which is not so very important from the point of view of my friend. This is purely electioneering point of view that he wants to put before us. Now, may I make a suggestion? Having put forward his point of view, he may now wind up.

SHRI BHUPESH GUPTA: I shall take his advice and I shall wind up. But again the same person will be there. I thought I should appear again after a lapse of 1½ hours during lunch time. That is what I wanted to do. But as you said, it is not electioneering. Elections are over now. Therefore, I would say that this representation should obviously be restricted. I suggested that the Government should accept my Bill because it is really their Bill which they wanted to pass in the other House. This nomination business should be kept to the minimum, to the absolute irreducible minimum and the State Government should not be given any opportunity to exploit this power of nomination in order to gain political advantages or to corrupt certain leaders and certain community and draw them within their fold in a wrong way as is being done now in certain parts of the country.

As far as the Anglo-Indian community is concerned, lest I should be misunderstood, I want not only to be given special advantages in this matter but shown special favours in many matters because they really suffer.

SHRI ARJUN ARORA: That is the right view.

SHRI BHUPESH GUPTA: I know they suffer in very many ways today in respect of jobs in many places. I want jobs and employment to be open to them as they are open to any other citizen of India and they should not be made to feel that if they do not have an employment in the Police Service or in the Railways they do not fit in in other jobs. I want them to be like others. This we can do by drawing them into the democratic efforts and struggles, by making them M.Ps and M.L.As electing them from the various constituencies where they live. It is quite open to any political party, Congress, Communist or any other party, to choose an Anglo-Indian candidate and call upon the electorate to vote for such a candidate and that would be symbolic of the unity between the Anglo-Indians and the rest of the community. How fine would it have been, for example, if we had got an Anglo-Indian elected, shall we say, from the Chowringhee constituency rather than Dr. B. C. Roy getting elected from there? Therefore, I say it was done hurriedly at the time of the Constituent Assembly and practice shows that it is not working satisfactorily. And that is why the Home Minister brought forward this Bill. I would therefore appeal to hon. Members to accept this Bill of mine which is in fact the Bill of the late Home Minister and if I wish to give effect to one of his last thoughts, I hope I won't be denied this opportunity simply because I happen to be a Communist. As I said this is the late Home Minister's Bill and it is my privilege today when he is no more amongst us to sponsor the cause which he himself sponsored but which he could not succeed in getting passed due to some confusion. Since there is no confusion in this House unless one creates and invents confusion, there should not be any difficulty in passing this measure. Sir, I take Diwan Chaman Lall's advice in this matter and I conclude. Thank you.

The question was proposed.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Sapru can speak in the afternoon. We adjourn till 2:30 P.M.

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

The House reassembled after lunch at half-past two of the clock, the VICE-CHAIRMAN (SHRI M. P. BHARGAVA) in the Chair.

SHRI P. N. SAPRU: Mr. Vice-Chairman, I have always looked upon Mr. Bhupesh Gupta as a champion of the rights of minorities. I have always looked upon him as a person who is prepared to give his support to regional groups which are claiming to have States of their own. He is a supporter, for example, of the Punjabi Suba, which has a communal basis about it. Mr. Bhupesh Gupta is an absolutist in politics. May I explain just what I mean by a saying that he is an absolutist in politics? The Marxist-Leninist doctrine—I have great regard for Marx—is an absolutist doctrine. Marx was a very great thinker and speaking for myself I respect him as a writer of great works. Apart from the Marxist-Leninist doctrine, shall I also add the Stalinist doctrine, perhaps also Khrushchevite and also...

SHRI N. M. LINGAM (Madras): Maoist.

SHRI P. N. SAPRU: Thank you very much for the word... is an absolutist doctrine, that is to say holds that truth cannot have many aspects. Communists hold that they have the entire monopoly of truth. There is, therefore—I say so without meaning any disrespect to my Catholic friends—this common bond between them. They are absolutists and the Vatican also claims to be absolutist in its thoughts. Now, our difficulty is that we are not

[Shri P. N. Saprū.] absolutists in our outlook and we think that problems are discussable and that no authority, no person howsoever high and howsoever eminent he may be, is an infallible guide. I am glad that Mr. Bhupesh Gupta has now discovered that Pandit Pant can be looked upon as an infallible guide. He did not discover it in the lifetime of Shri Govind Ballabh Pant, who was one of our revered leaders. Mr. Bhupesh Gupta has now discovered that Shri Govind Ballabh Pant . . .

SHRI BHUPESH GUPTA: May I interrupt? When the Bill was moved by Shri Govind Ballabh Pant here, I wanted to give an amendment, but it was ruled out of order because I could not amend an article which was in the original Bill. But I told him that I would bring forward this Bill. I discovered it at that time.

SHRI P. N. SAPRU: I am rather paid to the memory of Shri Govind Pant. Now, Mr. Bhupesh Gupta, after Shri Govind Ballabh Pant's death, has discovered that Shri Govind Ballabh Pant was an infallible guide and, therefore, he has relied almost exclusively on what his interpretation of Shri Govind Ballabh Pant's mind was. In his case it is not even a case of progressive revelation. The revelation was there in 1957 and he accepts the revelation of Shri Govind Ballabh Pant in 1957 as right. Many things have happened during these five years, of which we have to take note. One of the things of which we have to take note is that the Bill before us or the principle of the Bill before us was considered by the other House which could claim to speak with authority about the currents of opinion in this country. That Bill was not acceptable to the other House. Would it be right, would it be wise just after the elections are over and a new Lok Sabha is about to meet, for us to pronounce in ad-

vance on any views to which the new Lok Sabha might come that the other Lok Sabha was wrong in the view which it had taken with regard to the provisions of this Bill? I think that the procedure that he proposes that this House should adopt is a wrong procedure. I do not think that it would be right, that it would be proper for us to review a question which was decided for us, for the next ten years at all events, in 1957. Rightly or wrongly, the other House came to the conclusion that the privilege which has been given to the Anglo-Indian community, which has a particular cultural pattern in this country, should be allowed to continue for the next ten years. I do not think that we wish to add to the complexities of the many problems that we have to face in our country. The most important work before us is that of national and emotional integration. Anglo-Indians in this country represented a culture which was a blend of East and West. In many ways, they, in the days of the British, adopted an attitude which was not to our liking. They were the victims of circumstances. Many of them have migrated to Pakistan. It was a mistake on their part to do so. Many of them have gone to Australia and I feel that many of them would soon discover that Australia is not an ideal place for coloured people or people of mixed descent. But some have chosen to stay in this country, and the process of assimilation in their case cannot be quickened, cannot be hastened. They speak the English language. They have not given up their English dress. They have not given up their English style of living. The Anglo-Indians have their own particular style of living, and it is difficult for them to find a place in our political set-up. It is not easy for an Anglo-Indian candidate to go to our villages and towns, address meetings in the regional language, and carry the people with him. The people have not forgotten that we was a *Sahib* a *Chota Sahib* if not a *Burra Sahib*. And it is the glory of our Constitution that

we wish to assimilate all the cultures that are here. We wish to give scope for the development of all the cultural groups that we have in this country. We do not believe in one pattern of culture. This has been the peculiar contribution—and may I say it without meaning any disrespect to my friends who claim inspiration from other sources—of the Aryan people in this country, of the civilisation which was built up thousands of years ago by Hindu sages. I do not like the word Hindu, I do not like the word Muslim, I do not like the word Christian, but I am just using it to denote a period of our history to which we can trace the beginnings of our civilisation. I do not want, therefore, this principle of unity in diversity to be disturbed. I think that that is a definite contribution that we have made to humanistic thought, and that is a contribution of which we should be proud. Apart from our being socialists, that is the basic difference between us and communal groups.

Now, Sir, I know that Mr. Bhupesh Gupta is not communal in the slightest degree, but unfortunately the result of the constitutional amendment that he has proposed before us will be to rouse communal controversies. It will give a sense of insecurity not only to the Anglo-Indian community but also perhaps to other minority communities. Let me just glance through the article which he wants to amend. It is article 333, which reads:

“Notwithstanding anything in article 170, the Governor of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate such number of members of the community to the Assembly as he considers appropriate.”

The first things that this article requires is that the Governor must satisfy himself that the community needs re-

presentation and that it has failed to secure adequate representation through the ordinary legislative or electoral process. This is incumbent on the Governors to remember, Anglo-Indians are free to seek election in the general constituencies. It may be that a time will come when they will be able to secure adequate representation in our Assemblies and in our Parliament. They have kept aloof from politics or their politics has been of a variety which old Colonels in the British Army used to be enamoured of. Now they have to change their ways, they have to change their thinking, they have to fit themselves with the times. They have to recognise that there is a wind of change, as Mr. Macmillan put it, in this country, and they have to adapt themselves to the ways of this country. It takes time for a communal or a cultural group to adapt itself to changing conditions. That is an evolutionary process and we believe in the evolutionary process. We have given them time to adjust themselves to changing conditions. They have some leaders of vision, of imagination, of knowledge, and I think it should be their duty to educate the Anglo-Indian to take a real, living interest in politics. He should actively identify himself with the party with which he is in ideological sympathy. The Congress was and still is the strongest political party. There is the Communist Party, there is the Praja Socialist Party, and there are other groups in this country and he needs to learn that he must have in these days a definite political philosophy. He cannot just be indifferent to the currents and cross-currents of opinion in this country, and that is the first thing that he has to learn. He has not acquired that capacity as yet and he needs protection for that reason.

The second thing is that this article does not make him automatically entitled to protection. It is only when he fails to secure adequate representation that the Governor can nominate him to the Legislature of State. Mr. Bhupesh Gupta's grievance is that his

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own State of West Bengal has as many as four Anglo-Indian members and that that great Indian, the Chief Minister of West Bengal, for whom we all have unstinted admiration uses the Anglo-Indian vote to beat the Communists. That is hardly a fair assessment of the situation in West Bengal. The largest number of Anglo-Indians are to be found in West Bengal just as the largest number of Parsis are to be found in Bombay. The Parsis need no protection because they have wealth, they have initiative, they have enterprise, they are educationally advanced and some of the leaders of the Parsi community were leaders of the Indian national movement. The first picture that we have in our Central Hall among the patriots who have built up the India of the day is that of a great Parsi, a patriot who wrote that great book 'Poverty and Un-British Rule in India' and who worked selflessly for the advancement of Indian independence. The Parsis have had that tradition. Unfortunately, the Anglo-Indians have not had that tradition. They got mixed up with the British. They were looked upon with scorn by the British. The British would rather have an Indian to dinner than an Anglo-Indian. They would hesitate to go out with an Anglo-Indian lady in public. John Masters in some of the novels which he has written has described the life of the Anglo-Indian community in a manner which is not quite fair to that community. And you cannot expect this small community which has had a sheltered existence so far, which never felt the urge for independence as the Parsis did or as even the Indian Christians did, to suddenly become politically conscious, Indian-minded and take its place in electoral contests in the country with any fair chance of success. Unfortunately, we also know that we have, despite the rapid progress that has been made during the last fifteen years, not been able to get over our caste mentality, and therefore it is right that the Anglo-

Indian should be given a few seats so that he may begin to take pride in the land of his birth. We want him to develop the imagination and the will to feel pride as an Indian citizen. That, I think, was the reason why the founding fathers who were men of stature, who had worked for the emancipation of this land from foreign yoke, took a broad view of what is called the communal problem, and they reserved a few seats for the Anglo-Indians. In 1957 we came to the conclusion that the reservation for the Scheduled Castes which was for a period of ten years should be allowed to continue for another period of ten years. The Scheduled Castes too deserved some special attention. They were an oppressed community and they were feeling that at the end of the tenth year, they would not be able to stand on their own legs. Pandit Govind Ballabh Pant, with that far-sighted statesmanship which was a marked characteristic of him throughout his career as a politician and which made him respected as a force to reckon with not only in the life of U.P. but in the life of this country, came to the conclusion that the reservation for the Scheduled Castes should be continued for another ten years. And when the question whether the reservation for the Anglo-Indians should be reduced or not came up for discussion in the Lok Sabha finding that it was a matter of two or four seats, he came to the conclusion that its verdict should be respected and the House gave its verdict in favour of the retention of the clause as it exists today. It, therefore, boils down to this—should the Anglo-Indians have four seats in West Bengal or two seats? Well, I find that ministries in our country which have fairly comfortable majorities—they would be regarded as good majorities in normal Western countries with a democratic process—find that they cannot be stable without increasing their ministerial strength. Well, will the fact that Anglo-Indians will have four instead of two seats very much matter in the

life of Bengal? Well, let us imagine that the Communists could have one seat more if the Anglo-Indians were not there. Will the addition of one seat more to the Communist Party bring it into power in Bengal through the constitutional process? And Mr. Gupta cannot answer that question in the affirmative.

3 P.M.

SHRI BHUPESH GUPTA: It is hardly a question, because my case is that you should not nominate more. They do not have votes, as you know. In many cases they do not have even votes. Therefore my suggestion was: "Do not nominate more than two even in the case of West Bengal".

SHRI P. N. SAPRU: Well, I can understand the point of view that there should be no nomination at all to the Lower House; that is quite an understandable position; that is a position which can be supported on grounds of logic. You can say that in a democracy the Lower House should be completely elected; I understand that. But you do not say that; you are prepared to accept the principle of nomination, and what you want is a reduction of the number of persons.

SHRI BHUPESH GUPTA: It is not a question of acceptance of the principle. Even in the Constituent Assembly it was said that in view of certain specific conditions prevailing at the time there should be some temporary arrangement, and I think this arrangement should continue still, for some time to come. Only I say: "Do not have unlimited power of nomination".

SHRI P. N. SAPRU: Well, I do not know whether there is any unlimited power given to the Governor. I suppose the Governor, in appointing his nominees, consults the Anglo-Indian community in ways which may be open to him. He generally nominates persons who are . . .

SHRI BHUPESH GUPTA: I would request Dr. Sapru to bring his wisdom to this matter dispassionately and forget that he is a Congress Party member. What is the restriction on the Governor so that he cannot nominate more than 2—3, 4, 5, 6, 7,—or any number? What is the restriction except his good sense or some other virtue? What is the constitutional provision?

SHRI P. N. SAPRU: Now I do not think that you want a very rigid constitution. I do not think that every thing must be written down—something has to be left to the growth of healthy conventions—and there is no evidence before us that the Governors have in utilising this power, not borne in mind certain considerations.

SHRI BHUPESH GUPTA: That is a different matter. We want to know whether there is any legal restriction.

SHRI P. N. SAPRU: Legal restrictions do not matter. If I may just digress for a moment. I will put it like this. The British Parliament is a sovereign Parliament. The House of Lords and the House of Commons, if they are agreed on a particular measure, can, within twenty-four hours, change the entire constitution of Britain; it can be turned into a dictatorship overnight, and yet a thing like that will not happen, because the British people are vigilant; there is public opinion in Britain which will not allow that sort of thing to be done; there are conventions which the parties will not disregard; they know how to play the game. That is how conventions develop. Let me tell you that no major change in the constitution will be undertaken until the issue has been submitted to Parliament or until in the electoral programme of the party there is a reference to the possibility of a change. Now, remember this. There are no Fundamental Rights there such as we understand them in this country. We

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have various provisions; we have borrowed them from the British Constitution to check executive vagaries.

SHRI BHUPESH GUPTA: We have a detailed Constitution which says that the Judges must retire at the age of 60 and 65 years.

SHRI P. N. SAPRU: There is, Mr. Gupta will forgive me; I would say that there is scope for growth of conventions even in written constitutions. In the written constitution of the United States the President is an indirectly elected person but we know, as a matter of fact, that he is more or less directly elected, because the indirectly elected representatives have to vote according to the mandate of the electorate given to them.

SHRI J. S. BISHT (Uttar Pradesh): Not exactly; the State votes as a block.

SHRI P. N. SAPRU: Yes I know that the electoral college votes as a block.

SHRI BHUPESH GUPTA: It is all very complicated.

SHRI P. N. SAPRU: It is a very complicated matter; I can explain the complications of it if they were relevant for our purpose, but I am just pointing out that even in a written constitution there is scope for the growth of conventions, and I can refer my friends to books on this point and I have got here with me a book on the growth of conventions in the United States. Therefore, I say that something has to be left to conventions. Because a constitution is written or has been reduced to a written form it does not follow that there is no scope for the development of conventions in that constitution.

SHRI BHUPESH GUPTA: May I point this out? When the old article 61—the corresponding new article is 74—was discussed, it was decided, rather, some people suggested that there should be restriction on the

number forming a Council of Ministers. Many hon. Members said: "Let us not have it; leave it to convention." Dr. Ambedkar said it would be 15 or so not more—the Council of Ministers. And what has happened to that convention? Your U.P. has now 44 Ministers.

SHRI P. N. SAPRU: Well, Mr. Vice-Chairman, U.P. has unfortunately a growing population.

SHRI BHUPESH GUPTA: Which one is greater, the Ministers, or the population? Which one is growing greater? Will he tell us?

SHRI P. N. SAPRU: It is the biggest State with many complicated problems. We are living in an age of planning, and my own view is that each department, particularly a welfare department should have as its political head a Minister.

SHRI BHUPESH GUPTA: No, no.

SHRI P. N. SAPRU: Otherwise you get the growth of bureaucracy in order that . . .

SHRI BHUPESH GUPTA: Ministers get bureaucrats.

SHRI P. N. SAPRU: Well, my friend's party is bureaucratic even without any ministerial responsibility. The tragedy is that I find more bureaucratic centralism—I would not use the word 'democratic centralism'—in the party of my friend.

SHRI BHUPESH GUPTA: We had only 11 Ministers in Kerala. No Deputy Minister, no Parliamentary Secretary.

SHRI AKBAR ALI KHAN: In fact, it is dictatorship.

SHRI ARJUN ARORA: What is the population of Kerala compared to that of Uttar Pradesh?

SHRI BHUPESH GUPTA: Allowed at the rate at which Shri C. B. Gupta is doing, there will be 100 Ministers.

at the end of four years, before the next general elections.

SHRI GOPIKRISHNA VIJAIVAR-GIYA (Madhya Pradesh): Sir, this question is hardly relevant.

SHRI P. N. SAPRU: Take, for example, other States in India, the State of Punjab . . .

SHRI BHUPESH GUPTA: Take Bengal . . .

SHRI P. N. SAPRU: I have already dealt with Bengal.

SHRI BHUPESH GUPTA: Thirty-six Ministers

AN HON. MEMBER: That is not a relevant point.

SHRI P. N. SAPRU: Bengal has some very difficult and peculiar problems because part of the problem is yourself.

SHRI BHUPESH GUPTA: Do I understand that if we are less in number there will be less Minister? In Uttar Pradesh we are very few, just 12 or 14 in the Assembly, but you have got 44 Ministers, a dozen Ministers more than what it was last time.

SHRI P. N. SAPRU: The United Kingdom with a population of 54-55 millions has got 90 Ministers in both the Houses.

SHRI BHUPESH GUPTA: In the House of Lords you have some Ministers wearing big gowns, no job. Do you want to have here Ministers like that? I have been to the House of Lords. You will find that they have no utility left excepting to sit in the House of Lords wearing long gowns.

SHRI P. N. SAPRU: There are people who change with the Ministry and if you count them all, you will find that their number is about 90. When you talk of Ministers here, you include also Parliamentary Secretaries. Some of them are like private Parliamentary Secretaries some of them are

like Deputy Ministers and so on. I do not want to go into those figures. What I want to say is that in Uttar Pradesh we have got just one Anglo-Indian representative. In the Punjab . . .

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Just one minute Mr. Sapru. It seems that the hon. Members are drifting away from the discussion of the Bill. I would suggest that we keep to the discussion of the Bill.

Another thing which I have noticed is that there is intervention by hon. Members sitting from their seats. I would request them to intervene only after standing.

SHRI BHUPESH GUPTA: Very good, Sir. It would do some physical good also.

SHRI P. N. SAPRU: Well, Sir, what I was saying was that we have not been supplied with any figures by Mr. Gupta to show that in States other than Bengal—because I have dealt with it—there is any over-representation of the Anglo-Indians. He has not been able to point out to us the instance of a single Anglo-Indian who has got into Parliament or any of the State Assemblies through the legislative process. His party has not been able to secure a seat for an Anglo-Indian. I do not know whether it ever put forward an Anglo-Indian for contesting a Parliamentary or Assembly seat. Therefore, these are the circumstances, and it is a mere assertion that this number 4 is intended to exploit the political situation in Bengal, the party situation in the Bengal legislature. There is no proof before us. Even if it has been done, in exercising his powers the Governor has taken special care to see that all shades of opinion in the Anglo-Indian community are represented among his nominees.

Then, Mr. Gupta has not told us what the number of nominated Anglo-Indians is in Kerala or in Madras or

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in Bombay. We know it for a fact that in Punjab there is no Anglo-Indian. We do not know whether there is any Anglo-Indian in the Delhi Corporation or in the Territorial Councils which are to be formed in our Union Territories. And without supplying us with this data, without giving any reason why this House should review the decisions taken in 1959, even before the new Lok Sabha has met, without assigning any reasons why the initiative in this matter should not come from the State Assemblies because they are going to meet shortly, he has come before us with this Constitution amendment Bill.

Sir, a Constitutional Amendment Bill is a serious matter. The Constitution should not be amended in a light-hearted manner. It should not be amended to satisfy the whims of any political party or any political leadership. Thought has got to be given to a Constitutional amendment and the verdict of Parliament given only a few years back has to be respected. These are, in my opinion, very important reasons why there should be no change. There is a duty cast upon the Governor that in nominating any Anglo-Indians if they are adequately or otherwise represented—I am not sure, I will not venture an opinion on this point but if he misuses his power, and if it can be demonstrated that the action taken by him under article 337 is of a *mala fide* character, even a writ cannot lie.

SHRI BHUPESH GUPTA: No.

SHRI P. N. SAPRU: You have not understood my point. I am not venturing a final opinion on this point. I am just thinking aloud. I am not certain whether, if a Governor deliberately and with improper motives uses this power to give political advantage to any particular party, a writ cannot lie in our courts of justice. This is a thought which often escapes attention.

SHRI BHUPESH GUPTA: Would he support me if I bring a Constitution (Amendment) Bill to make an explicit provision for the writ to apply? I am prepared for it. According to me it does not apply but make it absolutely clear that a writ applies. Then we can go to the Supreme Court against Dr. Roy.

SHRI P. N. SAPRU: What I am suggesting is that regarding misuse of powers the courts have ample authority under the Constitution and . . .

SHRI J. S. BISHT: It is use of discretion.

SHRI P. N. SAPRU: I know the word 'discretion' and I am tentatively putting forward a view which has legal support. I can assure my friends that I am not talking nonsense but something which has legal support. If my friends will care to read the great judgment of Lord Atkins in *Anderson and Liveridge* it is a minority judgment—or if they will care to read the great minority judgment of Lord Shaw in *Rex versus Halliday*, they will find that the courts have the right of intervention where they have reason to believe that there has been a misuse of power. I have not got those cases before me. Therefore, no change of law is necessary and the question has never arisen in that form in our courts. I think it would be a mistake on the part of this House to create ill-feeling between the majority community and the Anglo-Indians by changing the law within three years of a contrary decision. Shri Bhupesh Gupta is a far-sighted man in many ways. I confess that I have a soft corner for him and it is a personal confession of faith—this is probably my last utterance in the Council—that if I have to choose between the Marxist way of life and the Fascist way of life, I would choose the Marxist way of life but fortunately I have no such choice to make.

SHRI BHUPESH GUPTA: Yes.

SHRI P. N. SAPRU: Because there is the radical socialist, humanistic Gandhian way of life still in the field

and I am certain that that is right goal and the right policy for us.

SHRI BHUPESH GUPTA: The Swatantra way is eating into you. It is now eroding.

SHRI P. N. SAPRU: Reference has been made to the Swatantra way as my way. I do not like to be classed as a conservative.

SHRI BHUPESH GUPTA: I never classed him like that. I have a softer corner for him. I would never put him in that category of rajas and ranis. All I say is the humanistic socialist way to which he subscribes is being steadily bartered away to the Swatantra way.

SHRI P. N. SAPRU: My friend has needless apprehensions about the way that we are going. We are pursuing a path, a middle-of-the road path leaning towards the left . . .

SHRI BHUPESH GUPTA: Partly to the right . . .

SHRI P. N. SAPRU: In every political party there is a left, there is a right and there is a centre . . .

An Hon. MEMBER: You belong to the centre.

SHRI P. N. SAPRU: I do not use the word 'centre', I do not use the word 'left', I do not use the word 'right'. I describe myself as a radical in the sense that I believe in Parliamentary democracy. I believe in civil liberties. I believe in the rule of law. I style myself as a socialist . . .

SHRI BHUPESH GUPTA: A person who would have been long ago a Marxist but for the force of habit.

SHRI P. N. SAPRU: . . . a socialist in the sense that I believe in an egalitarian society and I do not believe in an acquisitive society. I do not believe in the profit motive in industry. I do take an inspiration from Marx. I have very great admiration for Marx and I accept his interpretation of history upto a point. I have no dogma,

I do not believe in any dogma and therefore I find that the most important fact about man is that no human being was ever born except in a community of human beings. That is the basis of our creed and I say that having regard to the creed of our Party, the creed which was given to us by Gandhiji and which has been followed . . .

SHRI BHUPESH GUPTA: By Morarji Desai . . .

SHRI P. N. SAPRU: . . . by our leader, Pandit Jawaharlal Nehru, I say that that creed is the right creed and that is the only creed which will save the country from the disaster of rightist reaction and leftist totalitarianism. The attitude that our Party has adopted towards minorities, towards small minority groups, is the right attitude. It is an attitude in consonance with the traditions which we have inherited from the builders and the fathers of our national movement. We are not going to depart from that attitude. We are, for party advantages or for currying favour with the masses or classes, not going to depart a line from the policy determined for us by those who have left their stamp on the organisation to which we belong. Thank you very much, Sir, for the courtesy you have shown me.

SHRI K. K. SHAH (Maharashtra): Mr. Vice-Chairman, when article 331 and article 333 were made part of our Constitution, the Constituent Assembly appointed an Advisory Committee on minority rights, and it was on the recommendations of that Advisory Committee that the minority rights in articles 331, 333 and 334 were enacted as part of our Constitution. It is true that in 1959, the Eighth Constitution (Amendment) Bill was introduced and clause 2 of that amending Bill provided what my hon. friend has today moved for and I am happy to remind him that it could not get through because two-thirds of the Members present and voting could not be had in its favour on account of the attitude taken up by his party and other friends.

SHRI BHUPESH GUPTA: That was about that Bill.

SHRI K. K. SHAH: Yes, in that Constitution (Amendment) Bill.

My hon. friend has been pleading before this House that if for nothing else, at least as the last wish of the hon. Shri Govind Ballabh Pant, this Bill should be accepted. May I remind him if he could not honour him in his lifetime, at least he should honour his wisdom after his death? In 1959, when this Constitution (Amendment) Bill did not go through, he decided to accept the wisdom of the House. He decided to accept the verdict of the people, because you will find that during the course of the discussion, articles 331, and 333 were discussed at very great length and you will be pleased to observe that in article 331 there is this restriction, so far as the President is concerned, about the number of Anglo-Indians who can be nominated to the Lok Sabha, there is no such restriction so far as article 333 is concerned. Article 333 says that if they are not adequately represented, then the Governor may nominate such number of members of the community as he considers appropriate. The two words used are "adequate" and "appropriate" and they have been very wisely used. Both these words are used in article 333 whereas in article 331 the restriction is laid down that the number shall not be more than two. In article 333 the Governor is called upon to extend it in two ways. First of all, he must be satisfied that the Anglo-Indian Community has not been adequately represented. It is not enough if they are not adequately represented. The wisdom lies in choosing the word "appropriate" also for this article. If you lay stress on the words "adequate" and "appropriate", and if they are taken together, the object will be clear. It will be obvious that the object was not only to do justice to our minorities which have to face new circumstances, but also to utilise the knowledge and the

talent that they had acquired during the past. Therefore, the word "appropriate" also was used. When the eighth Constitution (Amendment) Bill was decided on the 30th November, 1959, and the first of December, 1959, a number of statistics were produced before the House. Some of them related to the population numbers at that time of the Anglo-Indians in the different States, and what was their representation in the different States? Kerala had a population at that time of 14,947, Madras 22,277, Mysore 11,569 and West Bengal 31,922.

SHRI BHUPESH GUPTA: They are population figures.

SHRI K. K. SHAH: Yes, they are figures of population, based on the census of 1951. Madhya Pradesh at that time had a population of 2,173, and still Madhya Pradesh had nominated a representative from Anglo-Indians because it was not only a question of adequate representation, but if appropriate people were available, then they had representation. I am trying to point out that where there was a population of about 2,100, if an appropriate person representing that community was available, he was nominated. And now, surely, you will not like to curtail the discretion of the Governor and say to him, "You shall not nominate more than two." All this was brought out at the time of the discussion and it was only when the full House took all these into consideration and when the two-thirds majority could not be had, the idea was dropped. If for political advantage that might accrue to you, you say that instead of 4 there must be 2, is that a right consideration? I think when my hon. friend asks for the acceptance of this clause, a clause which was rejected in 1959, he should have advanced some new arguments. Otherwise, would it be wise not to accept the verdict of the House?

SHRI BHUPESH GUPTA: That is what I tried to make out in this very House, if you refer to those proceed-

ings, and the late Home Minister said that due to certain confusion in the other House, a two-thirds majority could not be got. He said people wanted to vote for it, but due to the confusion some Members pressed the wrong button or voted in the wrong manner and he could not do anything there. In that connection he said: Your party people also acted in the confusion. And so we said that we could put it right in this House and sent it back.

SHRI K. K. SHAH: I am sure the hon. Member does not want to argue that it took him two years or so to clear that confusion in the minds of those who voted. Surely it would be very unfair to the Members who voted. He could have brought in his proposal before Shri Govind Ballabh Pant and argued for the acceptance of his Bill. Instead of waiting all these days he could have pleaded before him. Now to bring this in his name and to say that he is trying to respect his last wishes, as if our Party does not feel respect for him, is no good.

SHRI BHUPESH GUPTA: It looks like that.

SHRI K. K. SHAH: That is not fair and proper for the simple reason that if he had advanced new arguments, that confusion could have been cleared up and Shri Govind Ballabh Pant knew ways and means of doing it and it would not have been necessary to wait for such a long time.

The hon. Member ought to have pointed out the special reasons, if there were any. Unluckily we did not find anything more than what was discussed in 30th November, 1959 and the 1st of December, 1959. No additional ground has been given as to why this House should go out of its way and recommend to the Lok Sabha saying that they were wrong in rejecting that amending Bill and so they should reconsider their decision. And all this he has said, as Dr. Sapru rightly pointed out, when the new Parliament is about to meet.

SHRI BHUPESH GUPTA: We will go to the new Parliament.

SHRI K. K. SHAH: I am sure, in all fairness to the electorate, to ourselves and to the verdict of the Lok Sabha, it would not be right to accept this proposal. It is absolutely irrelevant, to say that in Bengal they have four instead of two. Does it make any difference? Is it right? In the morning my friend was arguing for more discretion to the Head of the State.

SHRI BHUPESH GUPTA: Shri Govind Ballabh Pant's wording; not mine.

SHRI K. K. SHAH: In the morning my hon. friend was arguing that you should give more discretion to the President so far as commutation of a sentence was concerned. Now in the afternoon we have got a paradoxical appearance and he now says that the discretion of the Governor should be restricted. Surely, there must be some basis.

SHRI BHUPESH GUPTA: How is it a paradox? One is to open the fountain of human sympathy in Rashtrapathi Bhavan and the other is to plug the loophole in Raj Bhavan. There is hardly any paradox in this.

SHRI K. K. SHAH: There is no question of anyone trying to win over the sympathy of anybody. It is a question of reasonable attitude being brought upon the subject. Ultimately, it is a question of discretion being exercised by the Head of the State. Either you think that it is in the interests of the population of this country, that the Head of the State must be given a certain discretion, or you in view of the experience of the last thirteen years.

SHRI BHUPESH GUPTA: Who is the Head of the State?

SHRI K. K. SHAH: The Governor represents the Head of the State.

SHRI BHUPESH GUPTA: The Governor is not the Head of State. Under which provision of the Constitution do you say that?

SHRI K. K. SHAH: I am not talking about the State of India or the Union of India. But the Governor represents the President and to the extent he does so, he represents the Head of the State in that State.

SHRI BHUPESH GUPTA: Tell me in which article of the Constitution is the Governor described as the Head of the State?

SHRI K. K. SHAH: You look up the Constitutional provision. When the administration breaks down or when there is any emergency the last authority is the Governor and he is the Head of the State.

SHRI N. M. ANWAR: He is the Head of the State.

SHRI K. K. SHAH: When it does not suit him, he will not accept. We have seen that. What I have been pleading before my friend is a simple proposition. It is always advisable that in matters connected with minorities the Head of the State should have certain amount of discretion and we should not try to restrict his discretion. I think even in the National Integration Committee and on all occasions my hon. friend . . .

SHRI BHUPESH GUPTA: On a point of information, Sir.

SHRI K. K. SHAH: I do not yield.

SHRI BHUPESH GUPTA: Sir, he has complained that when I do not want, I do not see. Article 153 of the Constitution says that there shall be a Governor for each State. It does not say Head of the State or any such thing. Do not try to import your meaning into it.

SHRI K. K. SHAH: It is always from the functions exercised that we

judge the powers and status of anybody in an administration.

SHRI BHUPESH GUPTA: So what?

SHRI K. K. SHAH: We are here on the amendment that you have moved and the point is whether he should be given discretion to nominate or whether his discretion should be restricted. And I am sure what was argued on the floor of the House, as I have said before, in Lok Sabha has only been said again. Nothing more than that has been added here. Surely, if you want even a case to be reviewed, you will point out something more, something additional than what was said in the lower court. Therefore, my only request to my hon. friend is that till he is able to find out better grounds or some new reasons as to why what was not accepted—I won't say rejected—by Lok Sabha should be recommended by this House for its acceptance, we cannot take this up. That is the reason why I say that this amendment should not be accepted.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Bisht.

SHRI BHUPESH GUPTA: All lawyers.

SHRI J. S. BISHT: Mr. Vice-Chairman, I regret I have to oppose this Bill moved by my friend, Mr. Bhupesh Gupta. Unfortunately, this debate is getting rather lopsided because the Opposition benches are all empty and except for Mr. Bhupesh Gupta no one seems to be interested in supporting the Bill that has been sponsored.

SHRI BHUPESH GUPTA: My friends think that I can look after him.

[THE VICE-CHAIRMAN (SHRI K. K. SHAH) in the Chair.]

SHRI J. S. BISHT: Now, I oppose the Bill firstly because an amendment of the Constitution should not be taken up light-heartedly. Either you

have a Constitution or you don't have a Constitution. There is no half-way house.

SHRI BHUPESH GUPTA: Do I understand that Shri Pant brought this Bill light-heartedly?

SHRI J. S. BISHT: If you have a Constitution then you must at least respect it so that people at large may also respect it. You must attach some sanctity to it here. Or you don't have a Constitution. As my friend, Mr. Sapru, rightly pointed out, the British Parliament has been governing England and at one time an Empire in which they said that the Sun never set for the last 500 years without a written constitution; not a word written at all, yet they managed it somehow. But if you have a written constitution, you must respect it. I do not say that you should not amend it from time to time if necessity arises but there must be a patent necessity. Everybody realises that there is a just cause for amendment if there is some lacuna which has been overlooked or if there is some difficulty which cannot be overcome except by a change in the wording of the law. For instance, we had an amendment of the Constitution recently in order to incorporate Goa, Daman and Diu and last time I think to incorporate Dadra and Nagar Haveli. These are important matters which are non-controversial and no one in the whole country would raise his finger against an amendment of the Constitution purely for these technical reasons. But to bring in an amendment of the Constitution for a very paltry reason is, I say, very inadvisable. If he had cared to look at articles 331 and 333 he would have realised that a certain representation has been given to the Anglo-Indian community for a very short period. Article 334 says:

"Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—

(b) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination

shall cease to have effect on the expiration of a period of twenty years from the commencement of this Constitution."

Originally it was ten years and then it was changed to 20 years. Now, ten years have already gone. The Constitution was started in 1950 and in 1970 this provision will lapse automatically without any amendment of the Constitution. Just now general elections have taken place, that is in 1962. Another general elections will take place in 1967. The utmost that can happen is that in 1967 also some Anglo-Indians will be nominated. And since it is said here that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, they will be there up to 1972. I would ask my friend, what is the urgency, what is the reason why such an amendment should be now passed for such a paltry affair which is to last for a short period, hardly eight or nine years? In effect this would lapse after the next election which means it is only five years. We have already gone through with it for ten years. His complaint is that in West Bengal . . .

SHRI BHUPESH GUPTA: One of the complaints.

SHRI J. S. BISHT: . . . more than two members are nominated. There you have, as you have yourself pointed out, the largest concentration of the Anglo-Indian community in Calcutta; most of them are in service especially in the foreign firms, and in the British firms. Then there is another place, that is Madras and yet another is Bangalore. Now, if four or five or even six of them are nominated what great harm is it going to do?

[Shri J. S. Bisht.]

The population of West Bengal has increased very much. It has gone up. According to the 1961 census it is 3½ crores and under the new delimitation of constituencies that will take place because of the 1961 census, there will be some more seats and if there are four or five nominations what great harm are they going to do? As I said, in the 1962 elections we have got a certain number and the Communist Party, I think has got a very small number this time, much smaller than they had in the elections in 1957.

SHRI BHUPESH GUPTA: For your information, we have got 52, the Communist Party, in a House of 252, and the Front—the Communist Party with others—has got 83 seats.

SHRI J. S. BISHT: You may have 100 next time. Even so, four or five Anglo-Indians are not going to make any great difference one way or the other. That seems to be the only reason. Here in Travancore by some fluke they got a position in which they had to have two or three independents in order to get a majority in the House. Otherwise, they could not form a Communist Government there at all. These two or three members were very helpful. So, they think that in Bengal the Congress Party may be put in such a position in 1967 that they may be dependent only on these four or five members. Except for this reason, what is the urgency, I ask, for bringing forward an amendment to the Constitution for changing the number to two?

SHRI BHUPESH GUPTA: You are forgetting rather fast all good things. Therefore, before you forget it, as soon as the opportunity came, you should put it in the Constitution.

SHRI J. S. BISHT: We are not forgetting anything. As I said, the Constitution has provided that it would automatically cease after twenty

years, which means that by 1970 this thing will have no value. Even if there is any interim election, after 1970, it is not going to survive. After the 26th January 1970, this provision lapses automatically. Therefore, for a period of six or eight years, when you have already passed through nearly twelve years, there is no ground for supporting this particular amendment. And then he wants to bring in an invidious distinction here. In article 331 it says:—

“The President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.”

Because the House of the People is only one for the whole of India, naturally the number has to be limited to two, more so because a parliamentary constituency consists of a population of more than eight lakhs or nearly eight lakhs, of five Assembly constituencies and has more than four lakh voters, whereas in the case of Assembly constituencies they are much smaller. An Assembly constituency has got about 1,20,000 persons with a voting population of about 65,000 or 70,000. So, this discretion is left to the Governor.

My hon. friend, Mr. Sapru—although it is not quite relevant to this Bill, I may refer to it in passing—raised a very interesting academic point, namely, that a writ might be moved in order to check a Governor from nominating Anglo-Indians more than appropriate. He is a great judge and a jurist and I would humbly suggest to him that it can only apply where there is a misuse of power. Where there is no question of power, where it is at the discretion of the Governor . . .

SHRI P. N. SAPRU: May I just say that on this question of discretion there is a conflict of opinion in the British courts? The minority view as represented by Judges of the eminence of Lord Atkins, Lord Shaw . . .

SHRI BHUPESH GUPTA: And the like.

SHRI P. N. SAPRU: . . . is that courts can, to a certain extent, substitute an objective test. For these objective tests, Lord Wright in his judgement says what those words imply. Now, so far as our courts are concerned, they are so precedent-ridden that they have not cared to examine carefully the arguments

SHRI BHUPESH GUPTA: You put Lord Atkins in the hands of Congress rulers. They would make mincemeat of him. Therefore, what is the use of bringing in such things?

SHRI J. S. BISHT: Mr. submission is this. Wherever it is a question of the opinion of a Governor, the jurisdiction of the courts does not come in at all. It says:—

"If he is of opinion . . ."

The Governor is the sole Judge of this opinion. It is an opinion whether the Anglo-Indian community is adequately represented at all. That is number one. Number two, it is an opinion where it is to be adequately represented, whether he should nominate such a number of persons of the community to the Assembly as he considers proper. Everything is dependent entirely on the sweet will of the Governor, to his unfettered discretion, and the courts cannot be allowed to enter into this matter. But as I submitted, the Governor are appointees of the President on the advice of the Government of India.

SHRI BHUPESH GUPTA: And the proteges of the Chief Ministers.

SHRI J. S. BISHT: No, not at all. I am sorry to say that the hon. Member is trying to denigrate the high office of Governor. They are the representatives of the Government of India in the affairs of the States. There my friend will remember that originally in the draft Constitution the proposal was that the Governor should be elected.

SHRI BHUPESH GUPTA: We still want it.

SHRI J. S. BISHT: Later on it was substituted, because it was found that in a quasi-federal Constitution, it was necessary that the President should have his representative in the States. And I think it was wise on the part of the Constituent Assembly to have done that, because we do not know what would have happened in many States. It happened later on in the Punjab twice and in Kerala too, mainly because the Constitution broke down and the Governor's Rule had to be imposed.

SHRI BHUPESH GUPTA: I agree that the Congress Party would have been in difficulty if the Governor had been elected.

SHRI J. S. BISHT: My hon. friend is absolutely mistaken. It is not a question of any party at all, neither the Congress Party nor the Communist Party. It is a question of the State. It is a question of the people. What happened in PEPSU? The position of law and order had so much deteriorated that people said that they could not go from the station to their homes without some sort of escort, without somebody to accompany them. The police itself was so much demoralised because there was a small majority, two or three people, and they were constantly crossing the floor of the House. The Ministers were at the mercy of some people who were adventurists there. That was the sort of situation. Therefore, I submit that it was only right and proper that this thing was retained.

[Shri J. S. Bisht.]

In view of these considerations, I would urge that my hon. friend, Mr. Bhupesh Gupta, will in his wisdom see it proper to withdraw the Constitution (Amendment) Bill. He must remember that he has got a number of other Bills today and it would be a waste of time. He should withdraw this Bill for which he cannot find even a supporter on all the Opposition Benches, which are all empty, as you will see when the debate on this Bill of his is going on. I, therefore, have no choice but to oppose this Bill.

SHRI AKBAR ALI KHAN: Mr. Vice-Chairman, I have heard Mr. Bhupesh Gupta always with deep interest. I have always found him and his Party fully prepared with the case. They have marshalled and collected facts and figures sometimes from sources which are not available to us. Anyhow, in preparing their case, they have always been A1. But today and especially as regards the present amendment which is under consideration of the House, I was really surprised. I am sure if he had argued his case in a court of law, the judge would not have called the other party to answer.

SHRI P. N. SAPRU: Quite right.

SHRI AKBAR ALI KHAN: Because he did not make out a case at all. There are certain fundamental, clear and important things. First of all, the Constitution, as quite rightly pointed out by my other learned friend, has the cumulative wisdom of the whole country which bestowed their best thoughts to draw up the 4 P. M. Constitution. I think, Sir, the House will agree with me when I say that we are proud of our Constitution, because it is one of the best Constitutions in the world. So, when we want to bring certain amendments to the Constitution—here I am not speaking as a Partyman of the Congress or of any other party but as a citizen—I think you will share my view that in introducing any amendment to the Constitution a very serious occasion should arise, and through hard facts and figures the

case should be so weighty and so strong that the House should be inclined to amend the Constitution. Now, what is the case that my learned friend has made out in this instance? He says that the discretion given to the Governors should be curtailed. He accepts that according to the Constitution the number is limited, so there is no question of discretion.

Again, Sir, he has brought this amendment to curtail the rights of a very very minor, negligible minority of Anglo-Indians. He has always been, we have noticed with great interest, championing the cause of minorities. But so far as this unfortunate Anglo-Indian minority is concerned, I think his obsession outweighs his sense of proportion, of right thinking, with the result that although he is a champion of minorities, so far as the Anglo-Indian minorities are concerned he wants to oppose the little consideration and concession that are being given to them.

Then, Sir, as was very correctly pointed out by my friend, Mr. Bisht, he has not read all the provisions. This provision is only for twenty years. As in the case of the Scheduled Castes it was for ten years, this is for twenty years and it will end by 1970. So, it is only a case of one more election. Taking all these things, as was very elaborately pointed out by Dr. Sapru, there are certain cultural considerations, there are certain political considerations there are many considerations and we want everybody every element to be fully satisfied. With those considerations in our mind we have made this provision in which we have given discretion to the Governors.

And again, Sir, as you very rightly pointed out in your speech, if you take stock of the whole situation, taking each State do you mean to say that in the Constitution we should mention so much number for each State? And then also with the growing population, what would be the position? If you think a little calmly and dispassionately, you will come to the conclu-

sion that he has brought in such an amendment which does not hold water at all either from the point of view of reason or from the general political point of view or from the factual point of view. He has not established that Governors have misused their discretion or have wrongly exercised their discretion. I can understand it if he has established that the Governors in so many cases one after another have abused their power and their discretion, and certainly we should have considered it. But there is nothing like that, and the only thing which he has said and which I can appreciate is his difficulties and his failure in the recent elections. I would, with your permission, Sir, appeal to my friend that he must take these defeats gracefully. It is no use after the elections trying to just say things which would not add credit to your Party. You must understand that on account of the great achievements of the Congress Party, on account of the able leadership of all India of Jawaharlalji and on account of the able leadership of the Chief Minister, Dr. B. C. Roy, we have succeeded and the country has placed its fullest confidence in the Congress Party. Because of that position, I think my friend should be the last person to try to say something against that eminent and able and one of our best Chief Ministers, Dr. B. C. Roy. I do not know him very intimately. We have met of course on certain occasions, but I do say from the record of his service to that State and to India that we all have got great respect for him. My friend says that in order to get the support of the Anglo-Indians and in order to get himself elected from this constituency or that constituency, he has abused this power. I am sure Dr. B. C. Roy is not a man of that type, and he has never abused it. But I can tell you this much that so far as even these two constituencies are concerned, to the great dismay and discomfort of my friend, he was successful in both the constituencies. These are things which show what a great record of service what popularity and what affection of the people Dr. B. C.

Roy enjoys. You are a leader of a Party, but you should not take advantage of your position to say things about great people whom the State and the country hold in great respect. So, this Bill was brought only to express the frustration of my friend at the defeat that he and his Party have suffered.

SHRI BHUPESH GUPTA: May I for his information tell him through you, Sir, that the Bill was introduced in the beginning of 1960, and it has been pending because of the Rules of Procedure of this House? What can I do? Why do you say that I have brought it in due to frustration in the elections? You should have some sequence of time.

SHRI AKBAR ALI KHAN: When he brought the Bill, I concede that he had no such motive. But I am taking his speech today. What was in his speech and what was the impression that he created in his speech? All through he was going round and round West Bengal. That is what I am saying. I am just meeting your point. All have got a soft corner for you and I have got the softest corner for you, but my only difficulty is that in such matters of some importance, where you should give serious thought, you sometimes for the sake of Party or for the sake of something in West Bengal you lose your balance, and I want you in such matters also to keep up to your standard, and when the question of Party comes, you should not become allergic. Here we are to give serious consideration to serious matters in a serious way. Sir, no speech was necessary on my part to meet the arguments or the facts of Mr. Bhupesh Gupta, but as the matter was before the House, I thought we all had to say something, and I would say that there is no justification for bringing in this amendment. The privilege given to the Anglo-Indians should be maintained till 1970, and then of course will be the occasion when we should review the whole position. We will consider this prob-

[Shri Akbar Ali Khan.]

tem then, and according to the conditions of the time we will best decide it.

Sir, my friend has also been taking repeatedly the name of our revered and respected leader, Pantji. But as it was very correctly pointed out, when he did move and when the House gave its verdict against it, he accepted it. My friend does not accept the verdict. I am glad that today at least he has shown so much respect for my departed leader, no matter for what reason or on what ground. But anyhow, these things should not be mixed up in order to get a point. That is what I am saying. You take advantage of our leader just to get a point. That is not the way

With these observations, I oppose the amendment.

श्री गोपीकृष्ण विजयवर्गीय . उपसभा-ध्यक्ष महोदय, यह बिल वास्तव में पुराना है। मुझे बड़ा अफसोस है कि जबकि मिस्टर भूपेश गुप्त हमेशा अल्प संख्यकों की दुहाई दिया करते हैं, तब भी इस प्रकार अल्प संख्यकों को दी हुई सुविधा को वे थोड़ा कम करना चाहते हैं। इसके सम्बन्ध में जिस संशोधन का उन्होंने जिक्र किया, जो पन्त जी ने सन् १९५९ में पेश किया था, उस पर उस समय निर्णय लिया जा चुका है। अब इतनी जल्दी उसी सवाल को फिर उठाना मुनासिब बात नहीं है। जब तक कोई गम्भीर परिस्थिति उत्पन्न न हो, तब तक एंग्लो इण्डियन्स के प्रतिनिधित्व के सवाल का फिर से उठाना ठीक नहीं है। पन्त जी ने किसी खयाल से भी उस समय यह सोचा हा कि उस संस्था को सीमित कर दिया जाये, किन्तु जब हाउस में एक निर्णय ले लिया गया तो उसको उन्होंने माना। अगर हमारे विरोधी पक्ष के नेता भूपेश गुप्त जी का यह खयाल है कि पन्त जी एक बुद्धिमान आदमी थे और उन्होंने हाउस के निर्णय को मान लिया था तो उनकी बुद्धिमत्ता

को मान कर अब फिर उस सवाल को नहीं उठाना चाहिये। मैं यह समझना हूँ कि असेम्बलीज और लोकसभा के लिये जो एक संस्था निश्चित की गई है कि इतने लाख पर एक प्रतिनिधि हो, वह एक अच्छा विधान है। जैसा कि सप्रू साहब ने शुरू में कहा कि इस देश में जहाँ नाना प्रकार की संस्कृतियाँ, नाना प्रकार के वर्ग रहते हैं, वहाँ हमारा सबसे पहला कर्तव्य यह होना चाहिये कि उन छोटी संख्या वाले वर्गों के हितों के लिये हम कुछ खयाल करें ताकि उनको मालूम हो कि उनके साथ कोई भेदभाव नहीं होता है, उनके साथ अच्छा बर्ताव होता है, उनके साथ सहिष्णुता का बर्ताव किया जाता है। ऐसी हालत में यह ठीक ही किया गया है कि हमारे अल्प-संख्यकों, शैड्यूल्ड कास्ट्स और शैड्यूल्ड ट्राइब्स को जो सुविधा दी गई है, उसकी अवधि बीस साल बढ़ा दी गई है और उसी के साथ साथ एंग्लो इण्डियन्स की सुविधा भी आगे बढ़ा दी गई है। अगर कुछ दिनों तक उनको यह सुविधा मिलती रहे, तो यह कोई बड़ी बात नहीं है। आर्टिकल ३३१ में जो उनका रीप्रजेंटेशन लोकसभा में मिला हुआ है, वह दो का है। उस पर हमारे मित्र भूपेश गुप्त जी को कोई आपत्ति नहीं है। आर्टिकल ३३३ के विषय में उनको आपत्ति है। किन्तु न कोई बात सिद्ध हुई और न कोई ऐसा केस पेश किया गया कि गवर्नरों ने कहीं अपने अधिकारों का दुरुपयोग किया हो। अगर उनको कोई विशेष बात चुभती हो या उन्होंने कोई विशेष अनुभव किया हो, क्योंकि वहाँ बंगाल में चार मेम्बर हैं तो मैं यह कहूँगा कि उन चार मेम्बरों से न मिनिसिट्रियों बन सकती हैं और न हटाई जा सकती हैं। वह चीज चुनाव के परिणाम पर निर्भर करती है। इसलिये यह बिल मेरे खयाल से कोई मुनासिब और उचित आधार नहीं रखता।

सप्रू साहब ने यह भी बतलाया था कि पारसी लोग अधिकतर बम्बई में हैं, किन्तु एंग्लो इण्डियन्स अगर कहीं कंसेंट्रेटेड है तो

कलकत्ता में ज्यादा है। अंग्रेजों के दो सौ वर्ष के सम्पर्क से जो एक समुदाय यहाँ उत्पन्न हो गया है, उसको अगर हम थोड़ी सी सुविधाएं कुछ समय के लिये दे देते हैं तो यह कोई विशेष आपत्ति की बात नहीं है। कुछ वर्षों में वे अपने आप को यहाँ की परिस्थितियों के अनुसार अडाप्ट कर लेंगे और फिर वे सीधे जनरल सीट पर चुन कर के आ सकेंगे। लेकिन इस समय जबकि वे जनरल सीट से चुन कर आ नहीं सकते, उनको यह सुविधा दी गई है। अगर कहीं उनकी कुछ संख्या ज्यादा हो तो आपको उसका खयाल नहीं करना चाहिये। इसके साथ साथ जो सवाल सन् १९५९ में एक बार अस्वीकार कर दिया गया, उस सवाल को फिर से उठाना मेरे विचार से कोई बहुत उचित बात नहीं है। मैं समझता हूँ कि अभी न कोई ऐसा प्रसंग है और न कोई ऐसी आवश्यकता है कि हम इस प्रश्न को लें। इस लिये मैं इस बिल का विरोध करता हूँ।

THE DEPUTY MINISTER OF HOME AFFAIRS (SHRIMATI VIOLET ALVA): Mr. Vice-Chairman, Sir, we listened to the hon. the mover of this Bill, Shri Bhupesh Gupta, and as is very evident, he did not find any support from any section of the House. He is the lonesome supporter of this Bill that is before the House this afternoon, and even from the Opposition Benches also he found none that could think like him on this . . .

SHRI BHUPESH GUPTA: Of course, there are many.

SHRIMATI VIOLET ALVA: They are not there to support you. anyway.

Sir, he seeks to do what we sought to do in 1959 but we believe in constitutional propriety. I call it constitutional propriety because he has cited the late Home Minister so often during his speech, and he has made reference to that esteemed leader who is no more with us. And he even tried to sway the House when he said that he had given him some kind of assurance

that what was lost in the other House would be put right. We do not know when and where such an assurance was given to the hon. the mover. But if we could know the late Home Minister's mind, we knew very well that he was the greatest believer in constitutional propriety, and he could take even the verdict of the House when it went against the Government. And so, there is no question, no doubt, at all that Pantji was very clear in his mind when the Lok Sabha did not give a verdict for the passage of this amendment of the Constitution, that constitutional propriety had to be observed for another ten years. In any case, as has been pointed out by the worthy Members of this House one after another, nothing great has been lost. The Anglo-Indian community is a microscopic community in India. It has its own background, educational, cultural, socio-economic and political. The political heritage that we had at the time of the framing of the Constitution was laid down for ten years. Of course, when the Constitution has to be amended, it has to be considered from every angle, time has to be taken over it, the confidence of the Members also is to be taken, and then the Bill is presented for passage to Parliament. So, it was after serious consideration that the Government had decided that this provision that is cited in this Bill and which the hon. mover wants to amend was put forward before the Lok Sabha. And it should have gone through in the sense that the amendment should have been voted and there would have been no necessity for this. But if I am not wrong, there was a certain amount of confusion in the minds of those who belonged to Shri Bhupesh Gupta's political party and it was they who did not know what they were doing at the time of voting. If their minds had been clear at that moment when the Bill was being discussed and when voting took place, then he should have had no difficulty at all. But now to attribute motives and say that . . .

SHRI BHUPESH GUPTA: I have not.

SHRIMATI VIOLET ALVA: But you have cited the elections in Bengal. You have cited the name of Dr. B. C. Roy. I know that you did not have it in mind because the Bill was there before the general elections, but what was not in your mind has come on your tongue, and today you add one more argument to say something against the election of Dr. B. C. Roy, a great patriot, as has been said by more than one Member here. We consider him a great patriot. He has been able to pilot not only the problems of his State but also the general elections there in such a way. Now to say that he went to a predominantly Anglo-Indian constituency is not correct at all, because I have the figures with me. It is true that West Bengal had 31,922 Anglo-Indians at the time of the 1951 elections. It may be wrong, it may be right, but I feel that the numbers must have gone down, not gone up, and I cannot say whether they are all voters or not. There are in Madras 22,277 of them and we have one nominated member. I may here read out the other figures. Andhra Pradesh has 5,502 of them and one nominated member. Bihar has 14,947 of them and one nominated member. Bombay has 7,857 of them and one nominated member. Kerala has 14,047 of them and one nominated member. Madhya Pradesh has 2,173 of them and one nominated member. Madras, as I said, has 22,277 of them and one nominated member. Mysore has 11,569 of them and one nominated member. Then we come to U.P. Uttar Pradesh has 6,343 of them and one nominated member. West Bengal has 31,922 of them and has four nominated members. But then this number, 4 nominated members from the Anglo-Indian community, seems to raise a kind of scare in Mr. Bhupesh Gupta. It is a matter of discretion that is given to the Governor of a State, as has been laid down in the article that was read out here by some hon. Members. Mr. Bhupesh Gupta should have taken great care to convince the House that this power was abused by the Governor. But no such thing has happened. It is a small community. We

want to observe the constitutional propriety. The Lok Sabha threw out this amendment. We are not in a hurry to put it right. We are prepared to go another ten years, and the community being small we shall continue in the manner in which we have continued, because nothing is going to be lost and nothing which is going to be gained. They are a small community and even to a small community we want to assure them that though we had decided to rationalise this in the 1959 Eighth Amendment to the Constitution, since we were not able to carry the House with us, we shall leave it at that and it will remain on the statute book till 1970. Mr. Akbar Ali has just said and also Mr. Sapru has said that by 1970 it will solve itself; we will not even have to come before Parliament to solve this problem that appears to loom so large in the eyes of Shri Bhupesh Gupta.

SHRI AKBAR ALI KHAN: Mr. Bisht said it.

SHRIMATI VIOLET ALVA: Mr. Bisht. Yes.

Now Sir, the historical background of this measure has been gone through, how the problems of and the safeguards for the different minorities were looked into. There were minorities that gave up both reservation and safeguards, but to the Anglo-Indians we had to give some kind of a safeguard and we gave them, and therefore I do not think that this is the appropriate time for Mr. Bhupesh Gupta to bring such a measure before this House and take its valuable time, because nothing much is going to be achieved, and as Mr. Bhupesh Gupta always reads through the debates, he must have also read through the observations made by the late Home Minister. It was his view then that since Parliament had decided against the amendment, the decision should not be reopened so soon, that there was hardly anything of great importance and that therefore the Constitution should give the Anglo-Indians ten more years as the House

had decided, not as the Government had decided, but as the House had decided; it could have amended the Constitution at that time, but perhaps those who voted against it were perhaps mainly Members of the Communist Party. If there was a mistake then, if it was their mistake then, then it is better that they wait till 1970, when the problem will solve itself.

I do not wish to go into other greater details but to refer to this. Mr. Bhupesh Gupta has cited the Anglo-Indian community, has referred to the safeguards and the assurances extended to them, how it should be rationalised. But the Union Territories did not have; there are Anglo-Indians—small numbers—but they did not have this privilege. The Anglo-Indian community is concentrated only in certain places. Bombay is one of them; Madras, Kerala, West Bengal and Mysore, others. It is I think Mr. Sapru who said that the Parsi community, which is smaller than even the Anglo-Indian community, has never sought safeguards, has never sought any kind of assurances but had the courage and the faith in the progress the country was making even when she was not free, and even after, to go along the current of national progress, and therefore that community deserves our compliments—not that the Anglo-Indian community does not deserve—because, whoever needs safeguards, we must give them; whoever needs some kind of protection, we must give them. That is laid down in our Constitution, and as such I feel that this safeguard, that will continue for another ten years, will do no harm, and no Governor has yet abused the discretion that he is given under the Constitution, and therefore the small community should not be disturbed. The general elections are just over. We do not know what nominations will be done in the various States. After all that even the West Bengal Government may think otherwise. Let us wait and see; let us not comment

on anything. Let us give due respect to those who run the States and wait and watch for the progress of India.

Sir, with these few words I would request the hon. the mover to withdraw this measure.

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, Sir, towards the end of her speech the hon. lady Minister said that the Bill was rejected by the House and that it was not decided by the Government that the Bill should be rejected—to that effect she said, that is to say, that the Government was of that mind, that the Bill should be passed. Otherwise they would not have brought up this Bill before the House. Then the hon. lady Minister wanted to make out that out of respect for the decision of the House the late Home Minister did not want to have it further proceeded with, or amended. Only she did not tell us what else he said then when we asked her in this House how it came to be defeated—the Government motion—because they had a majority; always they get things passed. And then it was said that things were not properly understood, that there was confusion. The hon. lady Minister here, just speaking, has admitted that there was a confusion, but she went to blame us for this thing. Now, she knows very well that we are only 30 in the House and even if all of us had voted, probably two-thirds majority would not have been there. I do not know how everybody voted from our side. But there was confusion and what happened actually was there. The Members of the Government who were piloting this thing or speaking on the subject did not make things clear and therefore people did not know exactly what they were supporting or opposing. That is how the voting went on. Anyway, if it were a case of confusion, as you yourself said, then it is all the more reason that you should restore the old position, because if a Constitution (Amendment) should not be passed frivolously, neither should it

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be passed in the midst of a confusion, and the confusion is something to which the hon. lady Minister has just now confessed. Therefore, are we to stick to an arrangement that we have arrived at in the midst of a confusion? This question can also be put to you, or are we to overcome the confusion and restore the position which would have been accepted had there been no confusion in the other House? This is also logical. Now, what do you want, please tell us? You cannot have it both ways, eat the cake and have it too. Either you say, "Yes, there was confusion and we go by confusion." or you say that the Government wanted to have it passed but confusion came in their way. Then eliminate that confusion and have it passed. Is it illogical? Now, they mix up things. Therefore, that point is clear.

Coming to Constitutional propriety, it is precisely because of the Constitutional propriety that I have brought it, because I do not like an amendment brought forward by the Government to be lost which I think is a right amendment but which was lost on account of confusion. Is the Constitutional propriety maintained if an official amendment gets lost in the midst of chaos and confusion? If it is so let them tell us and we shall create a lot of confusion here from this side of the House so that things get lost. In that case they should encourage such things. Please tell us. But Sir, if I do this thing, the hon. lady Minister sitting over there would get up and say "It is a serious matter, that we are discussing the Constitution of the country and its amendment. How dare you create confusion in the House? It should be discussed in solemnity and seriousness". Now, tell us where do we stand. There must be one set of arguments, one set of logic. There should not be mixed set of logic, arguments to suit convenience and reasonings which can be manipulated without actually leading anywhere near substance. Therefore, Sir,

I say that Constitutional propriety demands that this should be done.

Then, Sir, she did not like my taking the name of the late Home Minister. Well, Sir, what wrong have I committed if I have taken the cue from him and tried to press what he wanted to pass but could not succeed in his efforts? If I took the name of the late Home Minister, I did it because I thought that you believed in personality cult . . .

SHAH MOHAMAD UMAIR (Bihar):
Not you?

SHRI BHUPESH GUPTA: When we are giving it up, you believe in it. You believe in the Nehru cult. I have brought in the late Home Minister's name so that you understand it because you have faith in his wisdom, not in us. Therefore, you should give a little of arguments. But, Sir, it seems that I must lose on both counts. If I bring his name here, I am to be blamed. If I do not bring his name, again I am to be blamed. If I gave his name and use the words used in his speeches, which were originally used by him in the other House, I am to be blamed. Sir, if you look at the proceedings of the other House, you will find that many Congress Members, while speaking on this Bill, said more or less just what I have said. Even there I am to be blamed. All that was said is forgotten. I do not know which standard the country is laying down in this matter.

Sir, I brought in the late Home Minister's name because he was the person who sponsored this measure and he was being supported by a large part of the party which he was leading when he was alive, but now it seems they do not like that.

Now, Sir, another thing was said and that struck me rather surprising, namely, that while I did not pay tribute to him when he was alive, I am doing it when he is no more. We are not a set of people who forget people and their ideas after their death. I would ask the hon. Home Minister, how many of the ideals of

Mahatma Gandhi remain except on paper? Going to Rajghat once in a year does not mean that you are cherishing the ideals of Mahatma Gandhi. They are being assassinated almost every day in the Secretariat of the Government and in the high councils of the Congress Party. That is the tragedy of our time. Therefore, I brought it.

Now, Sir, another interesting thing. The hon. Mr. Akbar Ali Khan discovered some interesting thing. He must always discover something spectacular even if it is without any substance. He discovered at once, since I was speaking, that I must have brought forward this Bill because of my frustration in the election. I may tell you that we are not frustrated.

SHRI AKBAR ALI KHAN: I said that your speech was intended to get something during the elections but you could not get it. Hence your speech today.

SHRI BHUPESH GUPTA: I may tell you that our mind is not so elastic as the mind of some hon. Members. When we brought it we brought it in good faith, in 1960 when the elections were at least one year away. We brought it because that was the earliest opportunity we got. Now, if I have to wait, do not blame me. It has to go through the lottery. Now, Diwan Chaman Lal has got his Bill to wait because lottery did not favour him and next session, when he gets his chance, he will move it. For that you cannot blame him. Therefore, do not blame me for that. This is the first chance I got and I am here. Of course, the intervention of elections is a situation that I could not help. It has nothing to do with the elections at all.

Sir, I know that these four members do not make any difference although in some cases they did use them. I gave you the example of Tripura. The Territorial Council result was 15-15. The Communist Party was 15 and the

Congress Party was 15 in the last general election. As a result of the tricks played here on the Treasury Benches, they nominated two people and they immediately joined the 15 of the Congress Party and this 15 became 17 and we became a minority. So, that kind of thing they do. But, here in West Bengal I am not complaining on that score at all.

Now, Sir, here she has given the figures. These should be clear to any one. Madras has got 22,000 members of the Anglo-Indian community and they have got only one nominated member. Now, West Bengal has got 31,000, but has got 4 members, four time. Is it reasonable? Is it not weightage, weightage in favour, not of this community, ordinary people in the community, but weightage in favour of certain people who enjoy the patronage of the Congress Government there because the former are not made Ministers?

Now, Madras people may say that if West Bengal with 31,000 Anglo-Indians can get 4, they are entitled to get 3. What will you say? On what ground can you deny the Anglo-Indian community in Madras 3 seats? You cannot play unfair to them, and I for one cannot say anything because you have one standard for the Chief Minister of West Bengal, who should have weightage given in his favour and not in favour of the Chief Minister of Madras. This is what I ask.

SHRI AKBAR ALI KHAN: You could ask that the nomination in Madras should be more. That I could understand.

SHRI BHUPESH GUPTA: No, No. Why should West Bengal have more? Which one, you tell us—Mr. Kamaraj or Dr. B. C. Roy—is doing the wrong thing? One of the two must be doing the wrong. Will you tell us?

SHRI AKBAR ALI KHAN: It is according to the circumstances. It is quite possible that in Madras we may have 2 next time.

SHRI BHUPESH GUPTA: Quite right, because the hon. Member, Shri Akbar Ali Khan, does not have the courage to condemn either of the Chief Ministers and, therefore, he goes in for circumstances. Have you enquired of Shri Kamaraj why he is given only one and why Dr. B. C. Roy is given four? You have not. You may be nodding your head but I am sure, I can bet that you have not talked to them over this matter.

SHRI AKBAR ALI KHAN: We know the circumstances.

SHRI BHUPESH GUPTA: That is the trouble. You would not have the courage to speak against a Chief Minister when you think that something is to be spoken. Criticise one at least. That is the trouble.

DIWAN CHAMAN LALL: Is not that argument fallacious? The representation depends upon the importance of the community in a particular area; the importance of the Anglo-Indian community in West Bengal is obvious.

SHRI BHUPESH GUPTA: If it is so obvious, then why was it not seen by such far-sighted men as the late Govind Ballabh Pant when he brought up that Bill? He should have seen that. Will you give me the calendar date when it became obvious? Is it after his death or before his death? Therefore, it is not so obvious as it might seem just for the sake of interruption to hon. Diwan Chaman Lall. It is not so obvious.

DIWAN CHAMAN LALL: Why harp on what Pantji did? Why not take the issue as it is today and this has been explained by the Deputy Minister for Home Affairs that we are quite convinced that in the interests of the Anglo-Indian community the representation should remain what it is.

SHRI BHUPESH GUPTA: No. The issue is that the statistics that you have given were the same statistics

which were given by the late Home Minister and it is precisely on the same set of statistics, he built up the case for restricting it to two. The statistics remain . . .

SHRIMATI VIOLET ALVA: It is clear in the Constitution.

SHRI AKBAR ALI KHAN: The figures were of 1950. He mentioned that.

SHRI BHUPESH GUPTA: That is what I am saying. These are not 1961 figures. Shri G. B. Pant came with his proposal for restriction. I agree with the 1951 statistics. She has now given the same statistics, not of 1961, to oppose my Bill. Therefore, the statistics remain. The Deputy Minister remains. The wording of the Bill remains. The only difference is there that it is being moved from this side of the House. That is the only material difference in the whole parliamentary drama that we have gone through over this Bill.

DIWAN CHAMAN LALL: Obviously if the hon. the late Home Minister had wanted to press this point, there was nothing to prevent him from pressing that point and he would have had it carried in spite of the confusion caused by the hon. Member's Party in the Lower House. That is not the point. The point is that he was convinced thereafter that in view of the due importance to be given to the Anglo-Indian community the representation should remain what it is.

SHRI BHUPESH GUPTA: Again Diwan Chaman Lall has said something about which he is not quite clear in his mind it seems to me. He must be clear. If the Home Minister wanted, he could have done it, I know, because the Congress Party moved with the movement of his little finger. I know that. He would have got it passed, I know

but the trouble there is when the matter was discussed in the midst of the confusion, the buttons were pressed and votes were recorded and once it is done, it is done for the present. That is what happened. Naturally he could not say that there should be another division, screening and so on. We had this thing in our House . . .

DIWAN CHAMAN LALL: It could have been done again. My hon. friend should realise that if he really wanted it, in spite of the confusion caused, he would have brought in another Bill.

SHRI BHUPESH GUPTA: He could have certainly done it in this House and sent it back, I agree. Then what did he say? When we raised this point, why did not he get it done? When he moved his Constitution (Amendment) Bill with regard to article 331, I moved an amendment. That amendment could not be given because the original Bill moved by the Home Minister did not contain article 333. Therefore, I could not give any amendment to that. It was ruled out. You may say that he would have moved a separate Bill or he would have moved an original Bill here. You might say that but the Home Minister had the idea of respecting the confusion and I had always the idea of not respecting it. That is the difference perhaps, if I may say so. Otherwise, being a veteran man, he thought: "All right, it had been passed, let it come here and be discussed and we shall see later". May be so but he never detracted from his position as far as argument was concerned. That is my point. Maybe out of consideration for the other House he agreed but he never resiled from the main argument, the principle on which he wanted to move that amendment to have it passed in the other House. That is the substance of my case. Can you show from the proceedings of this House that while speaking here, the Home Minister disowned

the arguments that he gave in the other House while sponsoring a Bill of this kind? Nothing of the kind he did. Now do not try to make much capital out of the fact that the Home Minister respected the verdict given by the other House in a state of confusion. I think this is something which must not be made capital of in parliamentary politics or in private or public life. This is what I say. If on the other hand I was shown that the Home Minister or second thought came to the conclusion that his original arguments in support of a measure of this kind were wrong or were not warranted, then of course I am entitled to accept his latest position but that is not so. The proceedings of this House would never show that he changed fundamentally from the position which he had taken when he sponsored this amendment in the other House. That is the substance of my case. Naturally, if the hon. Members would not allow me to appeal to them and ask them in the name of the Home Minister or cite his words or his way of reasoning, I need not trouble them. I have given my things also in addition to what he said but I agree with him when he said so many things in regard to this matter and I thought why I should not express my agreement.

So you see why it should be four. Regarding abuse of authority, Dr. Sapru was telling us here that if anybody thought that there had been abuse of authority or power—and he quoted Lord Atkins to suggest that—one could seek redress through a writ in a court of law. First of all I do not think that power is open. If it were possible for us to go to the court of law in order to seek remedy from the abuse of authority or power on the part of the State Government, then I may tell that the Supreme Court and the High Courts would have been crowded all the time because there is so much of abuse of authority and power. The Constitution does not allow. The laws

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do not allow except in certain specific cases—making it absolutely difficult even at that—to go to the court of law to secure any remedy against abuse of authority. Abuse of authority is becoming more and more a practice rather than an exception and our Constitution does not have adequate—we shall give amendments to that effect—safeguards in order to fight the abuse of authority. Therefore, it is no use saying this kind of thing.

Shri J. S. Bisht got up and refuted him by saying that there is no such power given under the Constitution to any citizen of India who could go and seek remedy on a writ petition against the Governor. I think on the whole he is right because the Constitution on that point is rigid. Besides how are we to prove the abuse of authority there? The Governors will say: 'I have nominated because I think I should nominate'. But the other thing he will not say because the Governor will not tell before a court of law in his or her affidavit as to what the Chief Minister had told him or her for making the nomination or increasing the nomination. That will never be said. Therefore, we are helpless in this matter even from the point of view of law. Dr. Sapru raised another rather interesting point and said ours is a written Constitution but leave it to conventions. I can understand it because even in a written Constitution, there should be room for conventions. I am not opposed to creating good conventions but I am opposed to creating bad conventions. Conventions may be good and conventions may be bad. In that connection I may point out that when the corresponding article—article 74—was discussed in the Constituent Assembly, many members felt that the Council of Ministers should be restricted to fifteen and not more. And then it was left to convention to observe it and Dr. Ambedkar said that there was no need for limiting it, no need for put-

ting a limit on the number, although he was in sympathy with the contention that the Council of Ministers should not be big, should not be more than fifteen, may be a little more or may be a little less. It was left to convention. We have travelled ten years from the Constituent Assembly days or, say, twelve years, to be exact. Where have we come in the matter of convention? In Uttar Pradesh the number is already 44, or three times fifteen, or nearly so. In Punjab it is twice the number although there is a diminishing return of the Congress M.L.As. Such is the position now. These are bad conventions so much so that what I said in my speech against big-sized ministries even the Prime Minister has supported. I do not say I am a great man. If the Prime Minister and Dr. Sapru had said the same thing, I would have said: Great men think alike. So this is the position.

SHRI AKBAR ALI KHAN: The Prime Minister does not like these big Ministries. If I remember a right, that is what he said.

SHRI BHUPESH GUPTA: Yes, that is exactly what I also say, only I said it before he said it. That is my fault.

DIWAN CHAMAN LALL: Great minds think alike.

SHRI BHUPESH GUPTA: Be it far from me to claim any such distinction. I leave it to other parties who are themselves great or who shine in the reflected greatness of others. I leave this matter there. Now, where is the convention? Dr. Sapru, being a very eminent jurist, he has not decided when he should be a Marxist. You see, he is like a lover who has not yet decided when he will consummate his love.

SHRI AKBAR ALI KHAN: How do you speak of love?

SHRI BHUPESH GUPTA: Because you have been excellent lovers and I am in close proximity to you.

Therefore, I say, I stand here for good conventions. But do not leave it at that, when even in a written Constitution, as you know, it is liable to be used rather in a wrong way, seemingly it would be wrong. Now in Madras it is one for 22,000. The voters will be perhaps 12,000. In West Bengal for 31,000 of population and perhaps for 15,000 voters you have four. For some 3,000 Anglo-Indians apart from the fact that they are voters for the Assembly, you have one Assembly representative. It is weightage and it would be a wrong type of weightage. If you let this kind of a precedent to continue needlessly, then others may claim the same thing. Just now, when I was speaking, one Muslim asked, "What about the Muslims?" He wanted me to say, perhaps, that the Muslims also should get special representation. I will not walk into the trap easily. I can understand it. But the Muslim League will be sitting here and I believe in the other House also and they may say, "We want special representation". They may say that. Therefore, you should not make it look like that. When you are doing something extraordinary, you ought to do it for some good reasons. You may continue it, but reduce the number.

I will finish in a few minutes, because my other Bill also I would like to take up, so that next session I can get a chance. Therefore, I do not wish to say very much now, especially since the time is short. I recommend this Bill for the acceptance of the House. Finally I have only to say that I have the greatest concern for the Anglo-Indian community. I wish them prosperity. I wish them well. I wish them integration with the entire nation. Therefore, we are prepared to walk an extra mile to meet the legitimate demands and aspirations of the Anglo-Indian community. They suffer it, not because there is no such provision, but they suffer because the Government and the authorities do not make it possible for them to join other government services, business and so on. I think

the best way to bring this community closer and also serve them would be to throw open all avenues of life to the daughters and sons of that community, in the public sector, in the administration and in trade, business, commerce and industry. That is how I would like to draw them closer. Let us draw them with kindness and get them closer. I would give them my culture and also get their culture integrated with mine, language and so on, so that we become part of the same nation in every way, with the same identity in every possible way. Therefore, please do not misunderstand us. I stand solidly for the rights of the minorities. I stand second to none in championing the rights of the minority. But the minority rights should not be made the small coins for internal party politics of the Congress Party, much less of the ministerial groups. Sir, I press this motion for the acceptance of the House.

THE VICE-CHAIRMAN (SHRI K. K. SHAH): The question is:

"That the Bill further to amend the Constitution of India be taken into consideration."

The motion was negatived.

THE CONSTITUTION (AMENDMENT) BILL, 1961 (TO AMEND ARTICLES 74, 123, 124, 217 AND THE SECOND SCHEDULE)

SHRI BHUPESH GUPTA (West Bengal): Sir, I move:

"That the Bill further to amend the Constitution of India be taken into consideration."

Sir, this is a very important Bill and I move it today and the speech will be made next session, because I want this matter to be thoroughly discussed and by moving it now I am