MR. DEPUTY CHAIRMAN: 1 will first put this amendment to the House. The amendment is that in the place of Shri Janardan Desai, Shri K. S. Hegde be substituted; and in the place of Shri K. P. Madhavan Nair, the name of Dr. P. Subbarayan be substituted. Does the House accept the amendment?

(No hon. Member dissented.)

MR. DEPUTY CHAIRMAN: The amendment is accepted.

The question is:

"That this House concurs in the recommendation of the Lok .Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to provide for the reorganisation of the States of India and for matters connected therewith, and resolves that the following Members of the Rajya Sabha be nominated to serve on the said Joint Committee: —

1. Shri Chandulal P, Parikh
2. Shri Biswanath Das
3. Shri K. Madhava Menon
4. Capt. Awadhesh Pratap Singh
5. Dr. Anup Singh
6. Shri A. Satyanarayana Raju
7. Shri M. D. Tumpalliwar
8. Shri K. S. Hegde.
9. Shri Tarkeshwar Pande
10. Shri T. R. Deogirikar
11. Dr. P. Subbarayah
12. Shri J. V. K. VaUabharao
13. Shri V. K. Dhage
14. Shri Kishen Chand
15. Shri Surendra Mahanty
16. Kakasaheb Kalelkar
17. Shri Govind Ballabh Pant *(the Mover),"*

The motion was adopted.

THE CONSTITUTION (NINTH AMENDMENT) BILL, 1956

THE MINISTER FOR HOME AFFAIRS (SHRI GOVIND BALLABH PANT): Sir, I move:

"That this House concurs in the recommendation of the Lok Sabha that Ihe Rajya Sabha do join in the Joint Comittee of the Houses on the Bill further to amend the Constitution of India, and resolves that the following Members of the Rajya Sabha be nominated to serve on the said Joint Committee: —

1. Shri Chandulal P. Parikh.
2. Shri Biswanath Das.
3. Shri K. Madhava Menon.
4. Capt. Awadhesh Pratap Singh
5. Dr. Anup Singh.
6. Shri A. Satyanarayana Raju.
7. Shri M. D. Tumpalliwar.
8. Shri K. S. Hegde.
9. Shri Tarkeshwar Pande.
10. Shri T. R. Deogirikar.
11. Dr. P. Subbarayan.
12. Shri J. V. K. VaUabharao.
13. Shri V. K. Dhage.
14. Shri Kishen Chand.
15. Shri Surendra Mahanty.
16. Kakasaheb Kalelkar.
17. Shri Govind Ballabh Pant *(the Mover)."*

This Bill has only a few provisions which are not related to the question of reorganisation of States. I do not think it is necessary for me to make any elaborate statement at this stage. The Bill, on the whole, seeks to make certain amendments in order to implement the scheme of States Reorganisation. There are certain provisions relating to High Courts and High Court judges, the executive powers of the Union and the States and a few entries in the Legislative Lists also. 1 will not say anything about matters pertaining to States reorganisation. About the judges of the High Courts,

[Shri Govind Ballabh Pant] the Bill provides that the judges will be entitled to practise after their retirement in areas which they had not to serve in their capacity as judges. Additional and officiating judges might also be appointed and certain entries in the Lists appended to the Constitution may also be made.

I do not consider it necessary, Sir, to take more time.

MR. DEPUTY CHAIRMAN: Motion moved:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Constitution of India, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee: —

1. Shri Chandulal P. Parikh.
2. Shri Biswanath Das.
3. Shri K. Madhava Menon.
4. Capt. Awadhesh Pratap Singh
5. Dr. Anup Singh.
6. Shri A. Satyanarayana Raju.
7. Shri M. D. Tumpalliwar.
8. Shri K. S. Hegde.
9. Shri Tarkeshwar Pande.
10. Shri T. R. Deogirikar.
11. Dr. P. Subbarayan.
12. Shri J. V. K. Vallabharao.
13. Shri V. K. Dhage.
14. Shri Kishen Chand.
15. Shri Surendra Mahanty.
16. Kakasaheb Kalelka-
17. Shri Govind Ballabh Pant *Othe Mover)."*

SHRI P. N. SAPRU (Uttar Pradesh): Mi'. Deputy Chairman, I would like to welcome the Bill which has been introduced by our eminent leader, Shri Pant, who has suggested that it should go to a Joint Select Committee. I would particularly like to welcome the proposals regarding the removal of the ban on practice by High Court judges after retirement. The present, position is that there is an absolute ban on their practice and the result is that courts are finding it increasingly difficult to get a suitable class of lawyers to accept seats on the benches of the courts. It is necessary—it is vital— for the preservation of democracy in this country, for the preservation of human freedom and for the protection of the average citizen in this country, that our High Courts should continue to have the confidence, the respect and the esteem of the people. But if, as a result of existing provisions, the "quality of our courts goes down, the quality of our democracy will suffer.

It is a tribute to the patriotism of our bars that so far there has been no deterioration in the quality of our recruitment to the bench. Members of the bar who are enjoying good practice have considered it in most cases a patriotic duty to accept a judgeship when that has been offered to them. But after all a man has to think of his future and the position is that a member of the bar, when he is offered a judgeship, does not know what he will have to do with himself after he attains the age of sixty. It is demoralising to see retired High Court judges seeking re-employment after their retirement. The foundation of judicial independence in England, or in any other democratic country for that matter, is the life-tenure of judges. It is not suggested that we can have a life-tenure in this country. It may be that there was a case for a higher age-limit when the Constitution was being framed. But we know that as people age quickly in our country, it will not be possible to have a life-tenure.

The foundation of the independence of the judiciary is that, once a judge is appointed in Britain, he does not get any increment in his salary, even when he is promoted to a court of appeal. He does not get any financial preferment. He continues to receive the same salary, because it is not considered right that he should have something by way of pecuniary advancement to look forward to at th«

hands of the executive government. I i think the removal of the ban on prac-tice will improve the quality of our judges and will also go to strengthen the independence of our courts. It is not right that a judge should practise in a court of which he has been a member. But I fail to see what advantage can a judge, say, of the Allahabad High Court, get if he were to practise, for example, in the State of Mysore or Patna or the Punjab. What the article in question does is to enable retired judges to practise either before the Supreme Court or High Courts other than their own. I would have liked to go a little further and I would have liked judges to be allowed to appear before tribunals which were not within their jurisdiction, which were outside the jurisdiction of the courts of which they were members. For example, as the article stands, it will not, I fear, be possible for a retired High Court judge to practise before a district judge belonging to another State. I do not, however, press this point very far. It is a question which may be taken into consideration by the Joint Select Committee.

Now, I should like to say a few words about the provisions regarding additional or temporary judges. The present provisions regarding *ad hoc* judges are very unsatisfactory. Our courts are in huge arrears. In the court with which I was associated, for more than seven years, we have, I believe, over 25,000 cases in arrears. Now, these arrears are largely a legacy *at* the past, and I can tell you that, with all the speed that judges may possess, it is not possible for them with the existing number of judges to cope with the amount of work in our courts. Criminal work has increased. Writ work has increased. Other classes of work has also increased. It is necessary to have additional judges for the disposal of arrears. These arrears, I hope, represent a temporary situation, but I cannot be sure of this. I do not think they represent a permanent phenomenon. Once these arrears have been cleared off, it will be possible for us to fix or to determine the permanent strength of our courts with some degree of assurance. I am therefore glad that advantage is being taken now that, the Constitution is being amended, to provide for the appoint-ment of additional judges.

There were some legal doubts about what an *ad hoc* judge could or could not do and it was therefore necessary that provisions for additional judges should be included in the amending Bill. I hope that in appointing addi-tional judges, care will be taken to appoint members of the bar who are not likely to revert to the profession after their term as additional judge is over. That is to say, appoint a man whom you are going to appoint as a permanent man, in the initial instance if, you like, as an additional judge and then confirm him as a permanent judge, when the permanent vacancy occurs. Another suitable class of persons to be appointed as additional judges are our district judges. If you want a district judge to become ultimately a permanent judge of the High Court, you may appoint him in the initial instance as an additional judge or as a temporary judge. You can also invite retired High Court judges for defined periods to act as additional judges. Particularly, this should be the case when a judge goes on temporary leave or on leave for a few months, for in that case, it may not be desirable to appoint a member of the bar to act in his vacancy. Because after the judge comes back to the bar, he gets a possible advantage which his colleagues do not possess and that feeling should not be generated among the members of the bar or the litigant public. Therefore, I am all for the provisions regarding the appointment of additional judges. I would like t* say one or two words about common Governors. I am glad that the Constitution is/being amended to provide for the appointment, where necessary, of common Governors. We do need to reduce the expenditure on our Governors and Raj Bhavans in our Socialistic State, and it is good that it will be

[Shri P. N. Sapru.] possible hereafter to have common Governors for more than one province.

Before I close, I would like to invite attention to article 19 which says:

> "The executive power of the Union and of each State shall extend to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose."

Now, this is a point which arose before a Full Bench of the Allahabad High Court of which 1 was a member. It came up for consideration before us in Motilal's case which is reported in the Indian Law Courts and the argument which was advanced was that it was not competent for the executive government to carry on any trade or business without express legislative sanction and that the words 'executive power' did not include the power to carry on business or trade. That argument was repelled by me in a separate judgment which I wrote but I believe there was a difference of opinion in regard to this matter in the Bench.

SHRI K. S. HEGDE (Madras): It is covered by a later decision of the Supreme Court. Later, there is the decision of the Supreme Court in the Punjab Text Book case. They upheld your point.

SHRI P. N. SAPRU: But I think, it is desirable that there should be no controversy about this matter. Now after this legislation, it should not be open to counsels to advance long arguments regarding the impossibility or undesirability, under the Constitution, of the executive carrying on trade or business. I think that this is a change which is in the right direction.

Then, I have nothing to say except to make it clear, which I did not do very well yesterday, that while the Constitution empowers a judge to be transferred after consultation with the Chief Justice of India, this power of transfer should be used sparingly and only where the Chief Justice of India consents. That should be the normal convention. It is not desirable to constitute judges into a sort of civil service. In an article which was written by Sir William Holdsworth years ago in the Law Quarterly Review, the question was considered whether judges were servants of the Crown. That was with reference to British judges. His conclusion was that they were not servants of the Crown. It was a view which I held when I was a member of the bench that we are only servants of the Constitution and not Government servants. A judge's first allegiance and last allegiance is to the Constitution. He has to interpret the Constitution. Often, he has to act as the guardian of the Constitution, as the protector of the rights which have been conceded by the Constitution, and it is necessary that we should create psychological conditions which would enable judges to function in a free society with absolute independence, for it is only in that way that the interests of democratic socialism can be advanced.

Thank you for giving me this opportunity of making a few remarks in regard to a matter in which I feel a little interested, having served on the bench of a High Court for a number of years.

DR. R. B. GOUR (Hyderabad): Mr. Deputy Chairman, this morning we had the opportunity of listening to the winding up remarks of the hon. Home Minister. As the Constitution (Ninth Amendment) Bill is only a consequential Bill to the States Reorganisation Bill, and as many of the provisions of this Bill have a direct relation with the States Reorganisation Bill itself, I think, I will be justified if I say that the hon. Home Minister has not touched many of the very important, points that have been raised in the discussion on the previous Bill. Unfortunately, the Home Minister caught hold of what I might call a weak link in the debate—Dr. Ambedkar's speech— and has dilated on it. His •ntir* r«ply,

rather most of his reply, was occupied with a reply to Dr. Ambedkar's points. For example, I do not think anybody in this House, except Dr. Ambedkar, believes or was ever led to believe that there would be a war between the North and the South; but the hon. Home Minister devoted a lot of time in replying to this very point. Similarly he took a lot of time replying to the other points raised by Dr. Amber-kar, and not the points that were raised by other Members during the debate.

I think the hon. Home Minister has said something about Bombay and his reply about Bombay is not in accordance with the consensus of opinion in both the Houses or in the country, or in Bombay itself.

SHRI R. C. GUPTA (Uttar Pradesh): Sir, how is this relevant?

DR. R. B. GOUR: It is all relevant because in this amending Bill, Bombay is to be constituted as a Union Territory. Therefore, my remarks about Bombay are absolutely relevant when I am talking on this Bill today.

Sir, Dr. Kunzru said here in this House that Bombay should either be a bilingual State as was suggested by the Commission, or it should, logically and practically, go to and belong to Maharashtra. When Dr. Kunzru says that, when such a statement comes from such a person like Dr. Kunzru, we may fairly take it that the people, that the people of Bombay arid the hon. Members of this House are now thinking in a particular direction about Bombay. As I have already said in this House, things have now sobered down, matters have cooled down, and the case of Bombay for 'Maharashtra has become a little stronger and many more people are now in support of the case of Bombay for Maharashtra. But the Government, judging from the Home Minister's speech of this morning, it seems, is rather adamant, is rather dogmatic about its decision in regard to Bombay, and unfortunately, I am again pained to see that Government is rather intimidated by certain sections in Bombay itself, or by certain other sections, which I feel, are in a minority. The industrial sections in Bombay or some other sections in Gujarat, may say that Bombay must not belong to Maharash tra, but.....

MR. DEPUTY CHAIRMAN: You need not have another discussion on the States Reorganisation Bill. This is the Constitution (Amendment) Bill which is consequential to the S.R.C. Report. You have had your say on the earlier motion.

DR. R. B. GOUR: Excuse me, Sir. In this Bill, Bombay is to be a Union territory and .....

MR. DEPUTY CHAIRMAN: Whatever it be, it is only incidental and it is only incidentally relevant. It cannot be the main thing here. So whatever consequential amendments you want in this Bill, you may suggest to the Select Committee. Please do not make it another speech on the States Reorganisation Bill

DR. R. B. GOUR: But, this point k very relevant, because the Home Minister has spoken about it and .....

MR. DEPUTY CHAIRMAN: All right, but the Bill is coming up again after the Select Committee has reported.

DR. R. B. GOUR: Sir, I do hope the Government will change their mind on this question, that the decision about Bombay will be changed in the direction of the wishes of the people.

Sir, in this amending Bill, the question of Union territories is being dealt with, and here I am referring to Union territories excepting Bombay from them. These Union territories, how long they are to remain as such, we do not know. Himachal Pradesh, we are told is to go to Punjab, but we do not know when. I submit that so long as they remain as Union territories, the Constitution must guarantee a democratic set-up in these territori««

[Dr. R. B. Gour.J also. Let them not be like the Part C States of old. Let them have a democratic set-up. Let there be elections there and let them have their own Assemblies and their own democratic administration.

Sir, I come to the question of the minorities. In this Bill, a certain amendment is proposed to article 350 •f the Constitution in that a new article, article 3 50A is to be added, which says:

> "It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities."

Now, so far as the Government of India is concerned, they have also tackled the question of secondary education. On page 210 of the Report of the States Reorganisation Commission, they have referred to certain notification or decisions or resolution adopted by the Central Advisory Board of Education. In their paragraph 777, the Commission say:

> "So far as secondary education is concerned, the policy of the Government of India, as embodied in the Resolution of the Central Advisory Board of Education adopted in 1949, has been that regional languages should be introduced at the secondary stage, with provision for instruction in the mother-rtongue even at this stage, if the number of pupils in the area is sufficient to justify establishment of separate schools."

The S.R.C. has also argued against the medium of instruction in the secondary stage for the minorities being the language of the minority. I do not think there is any necessity to change the Resolution of the Central Advisory Board of Education, adopted in 1949, and therefore, in my opinion, this Bill also must have a provision in consonance with that particular Resolution of the Central Advisory Board. It is not merely a question of education for the minorities Our Constitution in clause (2) of article 16 says:

> "No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office vnder the State."

Here is a specific provision in our Constitution against any discrimination. Here, the S.R.C. Report says:

> "Recruitment to the services is a prolific source of discontent amongst linguistic minorities.

Paragraph 786 and also subsequent paragraphs of the Report deal with this problem of recruitment and the linguistic minorities. In every State— and here I am not talking of any particular State but of all States in our country—you have linguistic minorities. In Uttar Pradesh, you have the Bengali-speaking people, the Urdu speaking populations. In Bihar, you have the Bengali-speaking population. In Andhra, you have those that speak Hindi, those who speak Urdu, and so on. In Maharashtra, there are those who speak Gujarati and still others who speak Telugu and so on. Therefore, I submit that this question ol linguistic minorities should not remain as it is, but it should be dealt with as a national question. The regional language should not be adopted as a stick to beat down the candidate belonging to the linguistic-minority. Therefore, the States Reorganisation Commission have said that in matters of recruitment to-services, the question of knowledge of the regional language is a handicap because the person whose mother-tongue is the regional language is at an advantage over the one whose mother-tongue is not the regional language but a different language

Therefore, they have suggested that i there should be a test of proficiency in the State language. What they \ have suggested is not an expert know- j ledge of the regional language, but that the student, or candidate, or the applicant, whose mother-tongue is not the regional language, should have to undergo a test of proficiency in the language of the State where he is to | serve. This proficiency test also, I : think, should mean working knowledge | of the State language or the language of the region. In the Constitution Amendment Bill that is before us, we should provide an explanation, proviso saying that in recruitment to services, for a person whose language is not the same as the regional language, or the State language, it should be enough if he possesses a working knowledge of the State language concerned. I think such an exemption is necessary. From our experience of the working of this Constitution, it is not merely necessary to say that the President or the Governors will see to this, that they will be the special agency for implementing these safeguards. Therefore, these safeguards must become part of the Constitution itself, and must become part of the legislation that is before | the Joint Select Committee. This is in relation to the minorities and the services.

Even though the hon. Minister has not said anything in his reply, I want *to* speak two sentences on these points. Let us have equal representation in the Council of States for all the States. There is nothing undemocratic about it; in fact, it is the only democratic way. We are not representing here any particular constituency; we are not representing a particular district or a taluka, but we are representing a State. Therefore, it would be quite in the fitness of things to say tfiat every State will be represented in the Council of States equally, because all these States are equal before the Parliament and before Government. That would create a psychological atmosphere also and that would be a practical attitude towards the Council of States. Therefore, when seats in the Council of States are to be allotted under the amending Bill, this point must be considered by the Joint Select Committee that there should be equal representation to all States and Union territories. Of course, Union territories will have less number than the States.

Lastly, Sir, I would suggest that the provision of Legislative Councils; must go. Let us not have a Legislative Council for Madras State which is a smaller State now than what it used to be before; let us not have a Legislative Council for Maharashtra or Gujarat State. Let us not have a Legislative Council for West Bengal. It must go. Let us not have a Legislative Council for U.P. That must also> go.

SHRI H. P. SAKSENA (Uttar Pradesh) : I agree.

DR. R. B. GOUR: This idea of having legislative councils must be dropped. I have already mentioned this in my earlier remarks that legislative councils are not necessary. There was a trend of thought both before the Congress and the country that this idea should be dropped. There was, if I remember aright, some sort of an enquiry about this and some recommendations had also come in. I think they should be implemented and these legislative councils should be done away with.

With these few remarks, I conclude my speech and I hope that the suggestions that we are making will be considered with all seriousness both by the Government and the Joint Select Committee.

PANDIT S. S. N. TANKHA (Uttar Pradesh): Mr. Deputy Chairman, the present Bill is to implement the recommendations of the Report of the States Reorganisation Commission, a Bill for which purpose bas just now been sent up to a Joint Committee for its consideration. It is gratifying to.

[Pandit S. S. N. Tankha.] find that the storm which had swept over the entire country over this question of the reorganisation of States has subsided and that sanity once again prevails in the country. Except for a few matters of controversy, the Report of the States Reorganisation Commission has been welcomed and agreed by the people of the country as a whole. It is very heartening indeed to find that the fissiparous tendencies which were visible in the country by the feelings which were created by this Report have subsided, and the people generally have begun to feel that the country as a whole is theirs, and not a particular part of it only. Personally, Sir, I am of the view that this storm was not a storm really which was created by the ' recommendations of the Report of the States Reorganisation Commission, but was due to the pitch to which the leaders of the various States had driven the people because of their own interest and because of the fact that they considered that if a part of a certain territory went into another territory they would stand to lose. It is only these politicians who brought about that storm and the moment they were prevailed upon to change their mentality, you find that the country is now sobering down.

Clause 2 of the present Bill abolishes the three categories of States which exist in India today, namely Part A States, Part B States and Part C States. All the States are now to be known as States and the other areas shall be known as Union Territories, that is such portions of the country as are to be centrally administered. The effect of this change js that in the place of 28 Part A, B and G States as also a Part D States, we shall have now 22 States in the Union. If some changes are made by the Select Committee, there is every possibility that these States may be reduced to a smaller number. I am glad, Sir. that the view in the country has veered round to the point of view that it is in the economic interest, and the cultural interest of the country as a whole, that the States should be as large as possible. At one time it was the view—and perhaps it was the view of the Members of the States Reorganisation Commission also—that the States should not be too large, but now it is considered to be of advantage if the States are of a larger size rather than smaller. From that point of view, I welcome the provisons of clause 2. I would urge upon the Joint Select Committee, when it considers the States Reorganisation Bill as also this allied Bill, that it will make every earnest effort to reduce the number of States and to get as many States united together as is possible.

We know, Sir, that it is a well recognised principle that States should be established on the principle of self-determination of the peoples which live in it. Therefore, Sir, if the people can be made to agree to unite together in the common interest, every effort should be made to bring them together and to lessen the number of States. I think, Sh-, that this wiH not only be in the interest of the Government from the administrative point of view but it will also be in the interest of the Government from the military point of view, and from the security point of view of the country.

I have no fears. Sir, that the larger States will at any time become inde pendent States as was done during the days of the Moghul empire when their governors became too powerful and they broke away from the Centre. I think, Sir, that as long as the Central Government is strong and capable and deals with the situations firmly as it has been doing, I shall have no fears on this score. Dr. Ambedkar yester day said that he saw danger in the larger States and as such it was necessary that a big State which he named, I think, as the serpentine State or something like that .....

SHRI H. P. SAKSENA: Reptile.

PANDIT S. S. N. TANKHA:... .as the reptile State should be divided up into three, but, I do not see bow the situation can improve. R«

thought that because of the fact that U. P. was too big, it could domineer over the South and that the time may come when the North and the South may go to war. But, the hon. the Home Minister has told you today that if U. P. was divided into three States, its representation in the Council of States would be still greater than what it is to-day. Apart from that fact, Sir, I have not been able to understand the reasoning of the learned Doctor, because, if there is ill-will between the North and the South, and the North is broken up into various smaller States, what is there to prevent those smaller States combining together again because of the common enmity with the South, and trying to crush it? If one united U. P. can do it, why not the three broken pieces of U. P. combining against the South?

What are the matters which could give rise to enmity between the North and the South, I have failed to understand. The Government of India is treating all States alike and it is doing its duty in trying to better and improve the lot of all such areas which are deficient or which have not developed to the extent the other States have. If this policy of theirs' is to continue—as I have no doubt it will—then where is the danger of the North crushing the South? The only thing which I can imagine, which may be a cause of friction between the North and the South, is the question of language. Although the South has accepted the principle that Hindi shall be the *linqua franca* of India, it seems they are dissatisfied and do not want implementation of that policy.

You may have read, recently the remarks of our respected Prime Minister that he was prepared to extend the time during which English is to remain a language in which work can be transacted in the Indian Union. Now, if that is so, if the period is extended for another 15 or 20 years, it would mean a generation during which the men of the North and South, who do not know each *other's* language, or who find difficulty in transacting their business, can adjust themselves and can take part in the administration of the country with as much ease as other parts can. Then, where is the danger, and where is the point of one State fighting against the other? In the olden times, you will remember that these small States had their own armies, but now the position has changed altogether. Army is centrally administered and so long as the army remains in your hands, there is no danger of any State thinking of going *to* war with another State. Can it be imagined for a moment that the State police of one State will fight against the State police of another State? Even if they are foolish enough to do so, it will take no time for the Government of India to establish law and order again within the smallest space of time.

Therefore, Sir, all these fears are imaginary and no weight should be attached to them. Considering all these matters, I am definitely of the view that the lesser the number of States that are formed, the better it would be. I should have been very glad indeed if the States of Bombay, Maharashtra and Gujarat had been united and formed into one State rather than into three separate States but, Sir, seeing the situation as it is, I am afraid, there is no alternative left for the Government of India but to respect the wishes of the various peoples living in that State of Bombay and to decide upon having one Maharashtra State, one Gujarat State and a centrally administered Bombay city.

The objection is made that it is very hard that Bombay should be taken away from the Maharashtrians or the Gujaratis or from the other people living in that area but, Sir, I beg to submit: How is the Government of India responsible for it? Who ' is at fault? Is it not the parties themselves who could not come to terms, who could not agree to any particular formula? It is they who had to decide, either that the three States should be formed into one and

[Pandit S. S. N. Tankha.] Bombay should continue as it does to-day or it may be made over to one section of the people, the Maharash-trians or the Gujaratis. But, if that is not possible, what other alternative is there except to separate Bombay from Maharashtra and Gujarat? Because if the Government of India

2 P.M.

Because if the Government of India gives Bombay city to the Maharashtrians, the Gujaratis cry and do not like the idea; if it is made over to the Gujaratis, the Maharashtrians cry hoarse over it. Then what else is to be done? As far as I am aware, the decision which the Government of India has now taken in respect of this State was accepted by both the Maharashtrians and the Gujaratis and it is not a fact that this formula is being imposed upon them.

[THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA) in the Chair]

If the Maharashtrians and the Gujaratis had agreed to have Bombay centrally administered, then why now blame the Government of India for having taken this step? I think, it is wholly unjustified on the part of the people of those areas to blame the Government for having Bombay as a centrally administered area. Madam, you will remember that the hon. the Home Minister gave the assurance that if any common formula for Bombay were evolved, even now he would be prepared to follow that. Therefore, I do not think that it would be right on the part of any of these people to object to what has been decided upon by the Government.

In the same way, I would have liked the State of Himachal Pradesh to have been made a part of the Punjab. This would have reduced the number of States by one. I think that culturally, from the language point of view and from other points of view also, the people of the Punjab and , Himachal Pradesh are more or less akin and they have common interests in that locality. But since they have preferred to stay out of the Punjab for the time being, the Government of India had to accede to their wishes. I have every hope that, as is contemplated by the Government, no sooner are the people of that area agreeable to joining the Punjab then the Government will be prepared, will be only too willing and too happy, to> have that State included in the Punjab.

Coming now to State No. 13 mentioned in the Schedule to the Bill, I find that in the definition of Uttar Pradesh it has been mentioned that Uttar Pradesh means:

> "The territories which immediately before the commencement of this Constitution were either comprised in the Province known as the United Provinces or were being: administered as if they formed part of that Province."

Now, as you are aware, there Ls ai unanimous voice of the people of a section of Vindhya Pradesh which wants to be allied with Uttar Pradesh, rather than with Madhya Pradesh. If the wishes of those people are *U>* be respected and are to be given effect to, then it will be necessary for this definition to be altered. Otherwise, it will not be possible for any part of any other State to be merged together with Uttar Pradesh. As regards the question how fac it will be just to take away Bun del-khand area from Madhya Pradesh and to join it with U. P., I would submit, that the principle upon which the States Reorganisation Commission was formed was that a demand was made by people living in various areas of the country that the States should be formed on the basis of language.

The Indian National Congress which liberated the country from the yoke of Britain had in its pledges given from time to time said that it was of the view that States should be formed on the basis of language and it was the inherent right of people speaking one language to be united and to be formed into one

State, rather than to be broken up | from the administrative or other j point of view. But when the States Reorganisation Commission was formed, we know that it was definitely decided by the Government that language shall not be the only criterion upon which the new States -would be formed but that it would be only one of the criteria on which "the States may be formed. The other criteria will be administrative convenience, economic and cultural development of people and the security of the State. Therefore when it is the inherent right of the people to say with which particular State they wish to live, if they feel that culturally and from other points of view they are more allied with the people of one province than with another, I see no reason why their demand should not be conceded.

If it were the demands of a few politicians, I would certainly not have minded it, but I see that various resolutions have been passed by various bodies in that territory. They bave held meetings and voiced this sentiment that they wish to join with U.P. Personally, I think that a very large proportion of the people of Vindhya Pradesh are those who have gone there from U.P. and both from the point of view of language and culture, they are more allied to U. P. than to the other non-Hindi-speaking area of Madhya Pradesh. Even the Chief Minister of that State, Shri Ravi Shankar Shukla, is from U. P. and there are many other Ministers also who belong to U. P. Under such circumstances, it would not have been wrong on the part of the Government if they had joined certain portions of "Vindhya Pradesh to Uttar Pradesh.

If some portions of Vindhya Pradesh do not want to join with U. P., nobody quarrels with them and are welcome to remain where they are. But if a large majority of the population of one particular area does -want to join with U. P., I do not see any reason why they should not be allowed to do so. Whether U. P. is large or small, is immaterial for that purpose. That the area of U. P. will increase by their coming in should not be a matter of concern to anybody. It has been explained by various speakers that it is not only U. P. which will be benefited by their coming, but it will be that particular area itself which will be benefited by being joined to U. P. We find that the Pradesh Congress Committee of Vindhya Pradesh itself passed a resolution to this effect that it should be permuted to join with U. P. In the three districts of Baghelkhand which now wish *to* come in, the three district congress committees themselves have passed resolutions individually for being merged with U. P. Does it not show that it is the wish of the people and it is not the doing of one or two politicians?

Madam, if that is the position, why deny them the right which they want? As the hon. Home Minister has stated, it cannot be the policy of the Government to compel the people who live in a particular area, to merge themselves with a particular area when they do not want to do so. That being so, I have no doubt that if k is the wish of Baghelkhand to join with U. P., the Government of India will not stand in its way. And when that is so, I would humbly submit that it is absolutely necessary that item No. 13, definition of territories as defined in the Bill, must be altered to give scope for the inclusion of Baghelkhand. Otherwise, it will not be possible for the Government to accede to the wish of those people.

Then, Madam, I come to clause 6. Under the Constitution, the provision is that each State shall have a Governor. Under the proposed amendment in clause 6, it is intended to add a proviso to the effect that the same person may be appointed as Governor for two or more States. I wholeheartedly welcome this proposal. I think the office of Governor is such that he has ample time to look after the affairs of more than one State even though they may be

(Pandit S. S. N. Tankha. big States like U. P. The entire work of administration of the State is carried on largely through the Chief Minister and the Ministers of the Cabinet; the Governor merely exercises a right of supervision, so to say, over them. And that being so, I do not see why it cannot be possible for one person to act as the Governor of two or more States. Some of the existing States—you will remember, Madam—have been considerably reduced in size, for example, the State of West Bengal. It was a large State at one time and there was one Governor for it. Now, the State has been reduced to half its size and yet it has a Governor. I would welcome if it would be possible for one Governor to be appointed for the States of both West Bengal and Bihar. Similarly, there can be other States also. For instance, Maharashtra and Gujarat. The two States which we are now forming can have a common Governor. Formerly also, these two States were under the Bombay Presidency and they had one Governor. Therefore, there is no reason why one Governor cannot now be appointed for the States of Maharashtra and Gujarat, and if Bombay City is also included in it, then the entire area may be under one Governor. I do not know if it will be possible under the present provisions—when the city of Bombay is to be centrally administered—to so arrange things that the Governor be given some duties regarding the administration of the centrally administered Bombay City. If that can be possible under the present provisions, or by a modification of the law, I think, it will be a good thing to do. According to the present provisions, it is possible for one Public Service Commission to be appointed for more than one State and I presume, it is because of th's that no change is being made under the present Bill. Because I am inclined to think that it is the intention of the Government of India that Public Service Commissions also should be appointed for more than one State, as far as practicable.

Then, Madam, I come to the question of the appointment of High Court judges and that is clause 12. Formerly, before our Constitution came into being, the High Court judges—permanent judges of the High Court I mean, not the temporary judges of a particular High Court—were required to execute an agreement whereby they were to agree not to practice in the area of the country which was governed by that High Court. When the Constitution camr* into being, it brought about a change according to which the right of practice was taken away from the High Court judges. At the same time, a small change was made in their salaries. The High Court judges formerly used to draw Rs. 4,000 per month. Under the Constitution, the new entrants' salary has been brought down to Rs. 3,500.

I am not able to say definitely as-to which of these provisions is responsible for bringing down the standard of the persons who have, since the passing of the Constitution, been appointed judges. Without meaning any disrespect to the hon. judges who occupy the benches of the various High Courts at the present time, I am inclined to think that there has been a considerable deterioration in the calibre of the people who have been found available for appointment. Personally, I think that this cutting down of the salaries by Rs. 500 has not so much affected the standard and the calibre as the taking away of the right of practice from them. Therefore, I am very glad that the Government has seen its way now to extend that right to them again and to say that High Court judges shall henceforth be entitled to practise in other High Courts and in the Supreme Court. Whatever objection could have been taken against their practice in the High Courts, I could well understand it. But to debar them from practising in the Supreme Court seems to me to be meaningless. The reason why a retired judge is debarred from practising in that High Court is that

the judiciary is influenced by his pre- . sence and it is feared that because of his dominating personality and presence, cases may not be decided in the right manner. But it cannot be said that the judges of the Supreme Court would in any way be affected by the presence of eminent retired judges of the High Court coming for practice before them. We have seen so many cases. Even now, so many eminent retired High Court judges are practising in the Supreme Court and the Supreme Court's decisions have in *no* way been affected bj their presence or by their arguments on behalf of their clients.

Clause 13 of the Bill is to the effect that a compensatory allowance which was to be allowed to the High Court judges on their transfer from one High Court to the other is to be discontinued. The other provisions of the Bill also I heartily welcome. It is only rarely that High Court judges are transferred from one place to another and wherever they have been transferred, they have been transferred as Chief Justices of other High Courts. I know at least of two instances of hon. judges from my own High Court being sent out as Chief Justices of other High Courts. They have naturally to be paid the compensatory allowance as was provided. But I do not think that the discontinuance of this allowance will in any way create any hardship to them. Moreover, I do not think that there is any harm in doing away with this provision.

From my own point of view, I am inclined to think that it would be better if High Court judges, at the time of their appointment, are not posted in the area of their own residence, but are sent out to other High Courts. That is to say, their initial appointment should be in a High Court other than Jheir own. The advantage of this will be that on retirement, it will be possible for them to return to their homes and live there and practise. Whereas if the appointment, is made in their own High Court, then on retirement, they are compelled to go out of their own State to practise. You will realise that in old age, nobody likes the idea of leaving his hearth and home, while in the early part of one's career, one does not mind the difficulties or privations which may stand in one's way. Therefore, I would make this humble suggestion to the Government and I trust that they will give due consideration to it. It is possible that the High Court judges may not agree to it, because they may not like the idea of being sent out; they will have to wait till their retirement, and nobody knows what may happen thereafter. But speaking for myself, I prefer this point of view. Therefore, I made this suggestion.

Clause 15 is for extending the jurisdiction of one High Court over *her* territories This provision too cry welcome. But at the same time, I have not been able to understand how, from the Government's point of view, it can be beneficial, practically. As you know, there are great arrears in all High Courts, whether they are small or big. The arrears of cases in them are too heavy and cannot be finished in spite of the strength of judges being fixed at the maximum which is permissible under the Constitution. When that is so, suppose the jurisdiction of one High Court is extended over the jurisdiction of another State also, how will that cure matters? And if it is intended that additional High Court judges will have to be appointed on the extension of the jurisdiction of that High Court, then, from every practical point of view, there is no economy, no saving and no utility. The utility can only be i£ it is possible to have one High Court for two States. But if you have to increase the number of judges to double the present strength, then where is the point in having one High Court in one area or in two areas? Sometimes, you will have two High Courts in two< States.

Then, this brings me to another matter connected with this, namely,

[Pandit S. S. N. Tankha.J that some of the High Courts had not yet been given the number ol judges which are permissible to them under the Constitution. Why that has not been done, have not been able to understand. The strength *ol* judges is not being increased in spite of the fact that there are heavy arrears in them. Even casual vacancies are not being filled up. Why that is not being done? If there has been no work, I could well have understood that but in the present state of things, I think, even ihe maximum strength of judges provided under the Constitution is insufficient for the speedy disposal of the number of cases which they have on their record.

One other matter regarding ihe High Court judges, which I would like to bring to the Home Minister's notice, is the appointment of *ad hoc* judges. The Constitution provided for the appointment of retired judges who had already retired from the High Court, as High Court judges. They were asked to sit on the bencli to dispose of certain work, and it "was expected that they would ba given the pay and allowances which a judge of the High Court was entitled to. But what do I find? 1 find that some of the High Court judges are doing honorary work. Is that at all right? We know what the institution of honorary magistrates has been. Do we expect or do we want our High Court judges also to go down to that level? After all, if you want a person to give his time, to give his talent, to give his energy, you must pay him for it and there is no point in appointing honorary judges. If you have to appoint such persons, appoint young-men, new persons instead of old retired judges who are prepared to work without any remuneration. In connection with the cutting down of the compensatory allowance of the High Court judges. I have one misgiving on the point namely, that it may work against judicial integrity and may bring pressure on the judges by the Executive. Because of the power that a High Court judge from one area can be transferred to another without any compensatory allowance, there will be a sword of democles hanging on the heads of the High Court judges, that if they do not act according to the wishes of the Government, they will be packed off from their States. This will not be in the best interests of judicial independence. Therefore, I would suggest—not that I am against that provision, I am in its favour— but what I would suggest is that the Executive Government will not be entitled to transfer the judges from one High Court to the other, but it is only the Supreme Court or the Chief Justice of the Supreme Court who may be given that right. That is to say, on the recommendation of the Central Government, the Chief Justice of the Supreme Court alene may pass orders for transfer of the judges from one court to the other, and if this is done, that fear of mine will have no substantial ground. With these words, Madam, I support the Bill as it is before the House.

SHRI R. C. GUPTA: Madarn, this Bill is a necessary corollary to the States Reorganisation Bill which we have today referred to the Joint Select Committee. The motion for reference of this Bill to the seme Select Committee is a wise decision because the matters are so inter-connected that the same Joint Select Committee personnel might deal with it better and also because most of the provisions in this Constitution Amendment Bill appertain to the States Reorganisation Bill. There are a few points which I would like to mention, and one of the most important points that this Bill deals with, is with respect to the High Court judges.

There are some very welcome provisions in this Bill. The first one is that the retired judges of the High Court have been given the right to practise in other High Courts and the Supreme Court. Up to this time, the retired High Court judges were debarred from practising in any High Court. This had adversely affected

the personnel in the various High Courts. The eminent advocates d'd not like to become High Court judges because, after a few years' service as judges, they would be debarred from practising for ever and this was a great handicap. This Bill makes a departure and permits *the* High Court judges to practise in other High Courts as well as in tie Supreme Court. Therefore, thiy is a very welcome amendment wnich >s being suggested by this Bill. Another point which deserves consideration is mentioned by clause 22—the High Court judges, so far as their emoluments are concerned, have been •classified under two heads. In certain States, the High Court judges would get higher salary than in others. In the three States of Keraia, Mysore and Rajasthan, the Chief Justice would get Rs. 3,000 and the puisne judges would get Rs. 2,500, while in the rest of the country, the Chief Justice would get Rs. 4,000 a month and the puisne judges would get Rs. 3,500. I don't see any justification for this. If Rs. 4,000 is the salary good enough for a Chief Justice in any other High Court, the salary should be the same for these States also. I think, this distinction has been based solely on financial grounds, but there is really no justification for this, specially in view of the fact that we have already included a provision under which two or more States can have one High Court. If any one of these States cannot bear, the burden of extra payment to the High Court judges at the scale which we have provided for other States, it would be much better that two States are grouped together and salaries are paid at the same scale. I do not see any justification for this departure. I "hope the Select Committee will take •"this fact into consideration.

Even the salaries which have been suggested for other States, namely Rs. 4,000 a month for Chief Justice, and Rs. 3,500 for any other judge, was not considered to be sufficiently -attractive.

I would submit that this will not attract eminent advocates or other good lawyers, who would like to work as judges, in spite of the fact that they would now be permitted to practise after retirement. Therefore, this point also has to be taken into consideration by the Select Committee and there should be one scale of salary for all the High Courts judges and the Chief Justices. So far as the present Chief Justice of Rajasthan High Court is concerned, I know that he gets a salary of Rs. 4,500 and that salary is guaranteed and he would continue to get that salary as long as he continues to be the Chief Justice of Rajasthan High Court. Therefore, it will not make much difference in the case of Rajasthan. A couple of lakhs of expenditure this side or that side should not deter the Government from effecting this very necessary reform.

There is another point connected with the recruitment of judges. It is a well known fact that the large number of High Courts, Judicional Commissioner's Courts and Chief Courts, which have been established, have led to an enormous growth of case laws and the result is that you will find conflicting decisions of various courts. This only adds to the difficulties of the litigants, the lawyers and the judges. More time is spent in arriving at decisions on the cases and litigation is also protected unduly. Therefore, it would be worthwhile to reduce the number of High Courts, but at the same time, the emoluments of the judges should be made really attractive. The number of High Courts should not be more than what is absolutely necessary. Therefore, economy can be effected by reducing the number of High Courts. But the Government concerned should increase the emoluments of the judges. Kerala is a very small State and the High Court cases in Kerala might go to Madras or some other neighbouring State. I am just speaking by way of illustration. It would be

[Shri R. C. Gupta.] for the Governments of the respective States to come to an agreement and to have one High Court for two or more States.

In this connection, Sir, I would like I to make one suggestion. In clause 15, the words used are:

"Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more States or for two or more States and a Union territory."

Here, I would invite special attention to the words "or for two or more States and a Union territory" occurring in lines 32-33. I suggest that it should be changed to "or for one or more States and a Union territory". That is to say, instead of two or more States you should say one or more States, so that it might be possible to have one High Court for one State and one Union Territory. If you retain the present wording, you would exclude the case of a Union Territory and a State having a common High Court. Therefore, if you change "two" into "one" that would facilitate matters and there would be the possibility of one common High Court for one State and Union Territory.

Madam, there is a provision already existing about the transfer of judges from one High Court to another. But this power to transfer them was rarely exercised in the past. I am of the opinion that this power should be exercised more often than has been the case in the past. Now the clause relating to compensatory allowance on the ground of transfer from one High Court to another has been omitted or is being omitted. It would be in the fitness of things that some of the judges from one High Court are transferred to another High Court. That would add to the dignity of the High Court and would also bring in fresh outlook from one High Court to another. It would also, add accor- *)* ding to me, to the clarity of the judgements, and it would bring in the traditions of other High Courts. That would be a distinct advantage for the litigants and to the public in general.

Another very welcome provision has been made with regard to the appointment of additional judges. It is a serious reflection on the administration that cases are not disposed of for ten or twelve years in the High Courts. You will find in High Courts cases pending for ten or even twelve years. The number of pending cases in the Allahabad High Court is enormous. Shri Sapru, who was a judge of the High Court till recently, has informed the House that about 25,000 cases are pending disposal. It is not possible for the present number of judges—and their number is 24—to cope up with these arrears. Therefore, the provision for the appointment of additional judges would be a wholesome provision and this provision should be utilised especially so far as the Allahabad High Court is concerned. This High Court requires at least ten or twelve more judges, for about five years, in order to clear up the arrears, for these arrears have accumulated over such a long time.

While I welcome this provision about the appointment of additional judges, I find two omissions. One of them is that no age-limit has been prescribed for these additional judges. I think, an age-limit must be prescribed. You may put it at 65, for that is the age-limit for the Supreme Court judges. Above the age of 65, no judge should be appointed, whether additional or otherwise, because after all, age has got a certain effect on the mental conditions of a particular person who is being called upon to decide very intricate question of law and facts. Therefore, this omission should be rectified. An age limit for additional judges should be fixed at 65.

In clause 14, it is laid down that the period for which an additional judge may be appointed should *not*

exceed two years. It does not necessarily mean that the same person can- 1 not be appointed twice or thrice after j a certain gap. To make myself clear, I say, suppose a man is appointed as 1 an additional judge on 1st January 1956 for two years. He should retire on the 1st January 1958. He is relieved for a month or two, and then he is again appointed for two years more and so on. This may be repeated. I think, this point must be made clear. Whether the period is two or three years, I do not mind. A maximum limit should be prescribed for the total service as an additional judge for a person whose age is 60. No person who attains the age of 65 should be appointed as an additional judge.

In this connection, I may also point out another thing. So far, the prac tice has been for lawyers not to be appointed as additional judges. Pre viously, about fifteen or twenty years ago, lawyers used to be appointed as additional judges, but the present Constitution puts a complete ban on the appointment of such persons, because once a person is appointed as a judge, he continues to be a perma nent judge and could not go back to his profession. For that reason, the services of lawyers are not available for appointment as additional judges. I hope that something will be done and the old practice will be followed for drafting eminent lawyers. Law yers who have completed the age of 60 but not the age of 65 may also be considered for appointment as addi tional judges for the disposal of the huge arrears that have been accumu lating,

Another provision has been made by clause 10. Up to this time, under article 216 of the Constitution, the maximum number of judges for each High Court was to be prescribed by the President and unless the Presi- j dent alters that limit, the number of judges could not be increased. In practice, this has been found to be unworkable and, therefore, the pro- j viso to article 216 has been amended. 1 This is also a very handy amendment 1 because, after the acceptance of this amendment, the President would be entitled to appoint any number of judges to cope with the arrears or the other work that may be before a particular High Court. This is so far as the judiciary is concerned.

Now, I have something to say with regard to the establishment of new legislative councils, the upper chambers, in the States. Provision has been made in clause 7 for Madras and Mysore to have legislative councils, but I find that Andhra-Telangana has not been mentioned. Andhra-Telangana is as big a State as Mysore and there is no reason why there should be no legislative council for Andhra-Telangana. It would be much better if clause 7 is so worded that legislative councils may be established in some other places also.

SHRI AKBAR ALI KHAN (Hyderabad): Both the Andhra and Hyderabad Assemblies have suggested the formation of a legislative council.

SHRI R. C. GUPTA: This amendment ig necessary; that is what I feel. In clause 7, Andhra-Telangana should be included so far as the establishment of legislative council is concerned.

Clause 21 contains provision for the appointment of regional committees so far as the States of Andhra-Telangana and Punjab are concerned. Amendments to the Constitution are resented by the Members and the public outside. Therefore, I will place one suggestion before the Joint Select Committee. Would it not be better that this clause 21 should be so worded in *1* general way that if necessary, in the case of any other State, such regional committees may be appointed by the President? Unless this is done, a further amendment to the Consti- tution would be necessary if the need is felt at any future stage in any other State for the appointment of a regional committee. This is another suggestion which I would like the Joint Select Committee to consider.

[Shri R. C. Gupta.] Sub-clauses (c) and (d) of clause 3 really relate to Parts A, B and C States. Now, this distinction is sought to be removed. Therefore, I think, these two, sub-clause^could be group ed together and the purpose will be served. It is only a suggestion for wording it properly. It can easily be done by a suitable change in the phraseology of this particular clause.

Clause 14 is another clause which needs a little more consideration. I feel that nothing has been said as to why this amendment is considered necessary, but it is probably due to the fact that some difficulty has been experienced in the actual working of the Constitution which reads as follows: —

> "Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends."

Unless a strong case is made out for this amendment, it seems to me to be a matter of far reaching importance to be passed as it is. The hon. Home Minister has been silent over this and I do not know what the reasons are for this change.

So far as the amendment of the various entries in the Various Lists is concerned, I have compared the new ones and I think, they are very useful. I think some more amendment may be necessary with regard to entry 42 of the Concurrent List. Entry 42 relates to the method of compensation and this particular portion seems to have been dropped. I do not know whether it is in view of amendment of article 31 of the Constitution or otherwise. The entry 42 of the Concurrent List reads like this:

> "Principles on which compensation for properly acquired or requisitioned for the purposes of the Union or of a State or for any other public purpose is to be deter-| mined, and the form and the manner in which such compensation is to be given".

These words would now disappear if the proposed amendment is accepted. So far as the principle is concerned, who is to decide it and under what powers? How will the principles be decided unless power is exercised under some article or under article „ 31 of the Constitution as amended last year? I think, some provision may be necessary for this purpose. It is a very important matter that a principle should be laid down for determination of compensation.

These are all the suggestions which I wanted to make for the Select Committee. I have nothing more to add except to say that the Select Committee should go into these questions carefully and see that the necessary amendments are made and the salaries of the judges of all High Courts are placed on the same level. There should be no distinction whatsover in the salary of a judge of one High Court and another.

SHRI H. N. KUNZRU (Uttar Pradesh) : Madam Vice-Chairman, as the Statement of Objects and Reasons shows, this Bill deals not merely with such changes in the Constitution as are necessary to implement the scheme of the reorganisation of States, but with certain other amendments also, for instance, amendments to the Constitution relating to the High Courts, Hight Court judges, executive power of the Union and the States, etc. I am therefore surprised that a matter of great importance which was discussed in this House in May 1953 has been completely ignored by Government. When the Bill, called the Comptroller and Auditor-General (Conditions of Service) Bill, was discussed here in May 1953, the question was whether it was open to Parliament to extend the period of service of an Auditor-General and whether it

was consistent with article 148 of the Constitution. We were told that the Attorney-General was of the view that there was nothing in article 148 which debarred Parliament from taking such a step. I then suggested that as it was a matter of the first importance that the independence of the Auditor-General should be ensured, steps should be taken to amend article 148 so that the Government may not, with the majority at its back, be able to increase the term of service of an Auditor-General who was in their good books. The Finance Minister winding up the debate said, "As regards the observations that fell from Dr. Kunzru, I think he has made a very important point." He then went on to say, "Under the law as it stood at present, the period of sex-vice of an Auditor-General could not merely be increased but could also be shortened, and if, this were done, this too might affect the independence of the Auditor-General." He closed his speech with the following observations, "It is my personal view-Government have not considered this matter—that very serious attention should be given to this state of affairs, and one should not run the risk of terminating prematurely, shall we say, the appointment of a Comptroller and Auditor-General, who can only be removed in accordance with this elaborate procedure of article 124(4). So we take note of the point that has been made by Dr. Kunzru."

Now I should like to konw from my hon. friend, Shri Datar, whether this has received the attention of the Government. If it has not, I think the amendment of article 148 should be taken in hand as early as possible. The matter is of the utmost importance. It is laid down in the Constitution how long a judge of a Supreme Court can serve, but the period of service of an Auditor-General is not specified. I think, that this matter is of as great an importance as that of the period of service of the Supreme Court judges and should be dealt with in the same way as the period of service of the Supreme Court judges has been dealt with.

Now, coming to the provisions of the Bill, the first point I should like to refer to is the inclusion of Tripura among the Union territories. The S.R.C. recommended that Tripura should be merged in Assam. Now, when the Commission visited Assam,

[MR. DEPUTY CHAIRMAN in the Chair.]

I thought that the inclusion of Tripura in Assam would be welcomed both in official and non-official circles. I was therefore surprised to learn from the Home Minister that the people both in Assam and in Tripura were unfavourable to the inclusion of Tripura in Assam. What is this change due to? How is it that both officials and non-officials have chang-j ed their opinion on this point? They did not want that Tripura should be compelled to join Assam, but they thought that it would be a good thing if it voluntarily agreed to become a part of Assam. Something mu-t have happened to make the people of Assam change their opinion. But we have not been told what the reason for this sudden change of opinion was. Was it due to any official or non-official pressure put on Assam, or was j it due to any other reason? Assam was prepared to welcome the entry not merely of Tripura but also of Manipur into it. It is, therefore, difficult for us to understand how both officials and non-officials, how both the Government and the people of Assam turned against the proposal made by the S. R. C. practically with their approval.

The next point, Sir, that I should like to refer to are the new articles proposed to be substituted for articles 239 and 240, which is referred to in clause 16 of the Bill. The first part of the proposed new article 239 is identical with the provision in the existing article 239. But the proviso says that the President may, by regulation made under article 240, constitute for any such territory a council of advisers to the Chief Commissioner or other authority with such functions an may be specified in the

[Shri H. N. Kunzru.] regulation. Both articles 239 and 240 deal with Union territories and the proviso enable ihe President to have a council of advisers in a Union territory governed by a Chief Commissioner or some other authority with such functions as may be specified in the regulation. Now, I should like to know why it has been considered necessary to empower the President to administer the Union territories only through a council of advisers to the Chief Commissioners. Is it intended in an indirect manner to revert to the state of things that exists at present in some Part C States? Is it intended to create again a legislative council in some Union territory, for instance, in Bombay, which might seem to occupy a special position in the eyes of the Government?

SHRI J. S. BISHT (Uttar Pradesh): They would be purely advisory bodies.

SHRI H. N. KUNZRU:,They may be purely advisory bodies but the President who, for instance, creates a body of Ministers cannot deal with their recommendations in the same way as he might deal with the recommendations of council of advisers. If the Government thinks that the case of Bombay should be dealt with in a special way, then I think that it ought to be included in Maharashtra. It ought to form part of larger State. The principle that if a Union territory wants to have representation in a State legislature, it should join the neighbouring State should hold good in the case of Bombay also. There is no reason for departing from this principle and the Government are deluding themselves if they think that they can govern Bombay with the goodwill of the people so long as they maintain the present arrangement.

Now, I pass on to the new article 240. I shall read out the new article so that hon. Members may easily understand how it will affect the Union territories. This article says:

> "The President may make regulations for the peace and good government of any Union territory and any regulation so made may repeal or amend any law made by Parliament or any existing law which is for the time being applicable to any such territory and, when promulgated by the President shall have the same force and effect as an Act of Parliament which applies to such territory."

Now, this is a reproduction of a provision in the existing constitution relating to Part D territories. The territories included in Part D of the First Schedule at present are only the Andaman and Nicobar Islands. The President has therefore been given the power of making regulations for their peace and good government having the effect of Acts of Parliament. But I cannot understand how Union territories like Delhi and Bombay are to be allowed to be administered by the President in accordance with this article. The fact that there are territories of various degrees of importance which will all be known as Union territories in future is no reason for virtually taking away the control of Parliament, for eliminating the control of Parliament over them and entrusting the President with legislative power with regard to them. Sir, Chief Commissioner's Provinces existed even during the British regime. There was a number of Provinces like Delhi, Ajmer-Merwara, British Baluchistan, Coorg, Andaman and Nicobar Islands etc. but they were not all dealt with in the same way. The Governor-General was given the power of making regulations for the peace and good government of British Baluchistan and the Andaman and Nicobar Islands only. Legislation with regard to the other Chief Commissionerships was passed by the central legislature. The provisions relating to the Chief Commissionerships are contained in sections 94 to 96 of the Government of India

Act, 1935. Why can't the problem of the future government of the Union territories, so far as legislation is concerned, be dealt with in the same way as sections 94 to 96 of the Government of India Act, 1935, dealt with the Chief Commissioners' Provinces? The States Reorganisation Commission has dealt with this matter in' paragraph 287 of its Report, which hon. Members will find on page 79 of the Report. The Commission said:

> "The 'territories' may include the existing Part C States which are not to be merged and Part D territories. Provision may be made on the lines of Section 94 to 96 of the Government of India Act, 1935, for the President to exercise regulation making power in respect of some of the 'territories'. As stated earlier, this is the main distinction existing between the Part C States and other territories and a provision to that effect will enable the central executive to deal with these areas in an appropriate manner."

Now, why have the Government departed from the recommendation made by the S. R. C. and the procedure already in force in those Part C States which will become Union Territories under the Bill that we are considering? I think that there is no reason whatsoever why a city like Delhi should be governed under regulations made by the President. This is adding to the discontent that already exists here. Parliament has been able to pass legislation in regard to some of those areas which were formerly Part C States, but which will now be called Union Territories. There is no reason why the existing power of Parliament should be taken away from it.

I now come to clause 20 which refers to the insertion of a new article 350A. This article relates to facilities for instruction in the mother-tongue at the primary stage. The opening words of the new article are or proposed under the article are: "It shall be the endeavour of every State and of every local authority within the State to provide adequate facili ties for instruction in the mother-tongue at the primary stage..... etc." Now, it is clear from the language that this is no more than a Directive Principle of State Policy. Indeed, these words "it shall be the endeavour of" occur in article 43 of the Constitution which forms part of the Chapter containing the Directive Principles of State Policy. This will give no protection if the States choose to ignore this provision; the minorities will have no remedy against it. This provision can become a reality only if the power conferred on the President to issue such directions to any State as he considers necessary or proper for securing the provision of such facilities is fully given effect to. This is part of the proposed new article 350A.

MR. DEPUTY CHAIRMAN: It is there. The President may issue.

SHRI H. N. KUNZRU: That is what I was saying. This article will have no value unless the power proposed to be conferred on the President by this article is seriously taken into account and fully made use of when necessary. At the present time, the President has power to issue directions to the States with regard to the use of minority language in connection with the administration under article 347. But it is well known that not a single direction under this article has been issued by the President. But if the power that will be conferred on the President by this new article is allowed to remain in abeyance, as the power conferred on him by article 347, the linguistic minorities In a State will have no reason to feel gratful to the Central Government for its solicitude about the interests of their children.

Now, Sir, I come to the next clause which substitutes a new article for the existing article 371. This new article deals with the establishment of regional committees in the Punjab and Andhra-Telangana. A great deal of discussion has already taken place about the functions and powers of these committees. I would not, there-

[Shri H. N. Kunzru.] fore, like to take up the time of the House by dwelling in any detail on the functions proposed to be assigned to them. Some safeguards have been inserted which should tend to remove some of the apprehensions that were entertained earlier when negotiations were going on between the Government and the interested parties in the Punjab. But there is one function assigned to the regional committees which is of very great importance. I refer to the' functions relating to local self-Governmcnt or village administration including Panchayats which will be entrusted to the regional committees in future. This is a matter of great importance and if the Panchayat administration is not impartial or efficient, this may result in serious oppression of the minorities. The State Government is required to carry out the recommendations *ol* the regional committees and where it is unable to do so, the Governor is asked to decide between the regional committees and the State Government. Now, Sir, suppose the two regional committees that will be formed in the Punjab make very dissimilar recommendations with regard to the subject of village administration and village Panchayats to the State Government, what will its position be? Whatever the Government may do, it is obvious that this will tend to create friction between the Punjabi-speaking and the Hindi-speaking regions on the one side and the Government on the other.

It may also create friction between these two regions themselves. I think, therefore, that this particular point deserves a little more attention and that the importance of this particular provision should be realised more clearly than I fear it is at present. I do not want to oppose the establishment of regional committees just now. Experience will show how they are worked. Let us hope that they will prove successful and remove all causes of dissatisfaction. But we cannot be sure in this and there is a danger that they may be worked in such a manner as to create further discontent. I think, therefore, that the two State-Governments concerned ought not to be made quite as helpless as they are now in dealing with the recommendations of the regional committees.

DR. R. B. GOUR: Why do you have this for these two States only? Why not have it for U.P. also?

SHRI H. N. KUNZRU: U.P. does not want these regional committees. My hon. friends who constantly refer to U.P. do not realise that they will gain their interest much less by hating any State than by trying to put forward their case fairly and moderately.

AN HON. MEMBER: We are sympathising with you.

SHRI H. N. KUNZRU: There is one other point in connection with the safeguards proposed by the Commission that I should like to refer to. The Commission suggested that "the Government of India should adopt, in consultation with the State Governments, a clear code to govern the use of different languages at different levels of State administrations and take steps under Article 347, to ensure that this code is followed." The Home Minister said, I think both here and another place, that the safeguards recommended by the Commission had been accepted by Government. Well, we should like to know whether this particular recommendation has been accepted. If a code has been adopted in consultation with the State Governments, then I think, a copy of it should be supplied to Members of Parliament before further discussion takes place either on the States Reorganisation Bill or on the Constitution (Amendment) Bill. We should like to know what the code is and whether it fully gives effect to the recommendations of the Commission.

Article 347 is already there. But it is necessary that the State Governments ought to be informed at the stage that, if they fail to observe the code that may have been adopted in consultation with them, they will compel the President to make use *of* the power conferred on hirn by article 347. I emphasise this point so that

there may be no reluctance on the part of the President or rather of the Central Government to make use of article 347 for the protection of the linguistic rights of the minorities in the States.

Sir, the Home Minister speaking in another place referred also to the Commission's recommendation with regard to the different provisions made in different States with regard to domicile, etc. I gathered from what he has said that, in this respect too, the Central Government had agreed with the view of the States Reorganisation Commission' I should like to know whether this inference is correct. If so, what action has been taken or is proposed to be taken by the Central Government so that citizens of India may be citizens of every State in future and may enjoy the 'full rights of citizenship whereijver they may live?

Sir, I should like to refer very briefly to clause 22 which deals with the salaries of the judges of High Courts. With ihe exception of the judges of the High Courts of Kerala, Mysore and Rajasthan, all the other judges will be placed on the same scale of salary. I welcome this change. I hope that the Central Government will be able to persuade the States of Kerala, Mysore and Rajasthan to accept the provisions for the salaries of Chief Justices and the other judges in respect of all other States. Indeed, I understand that Rajasthan has fallen in line already with the proposals of the Central Government. If so, only Kerala and Mysore have to be persuaded to accept them. I wish the Government all success in its efforts to prevail upon them to provide the same conditions of service for their judges as will be provided for the judges of other High Courts. This will have one great advantage. It will be that judges may be freely transferred then from one State to another. The States Reorganisation Commission attached no little importance to this matter. Indeed, it recommended that one-third of the judges of every High Court should be recruited from outside the State. Now, if there is a uniform scale of salary for the judges of all the High Courts, then it will be possible for the President, in exercise of the power which he already enjoys, to transfer judges to see that the rece .emendation of the States Reorganisation Commission is given effect to. I think, thii will have an excellent psychological effect and will be of great practical value to the States themselves. ' -

There are two other recommendations of the S. R. C. in respect of which I should like to know the attitude of the Government. One of those recommendations is that recruitment to the Public Service Commissions serving even single States should be made by the President, as in the case of appointments to Joint Public Service Commissions. Judging from what has appeared in the newspapers, this recommendation of the Commission has not found favour with the States, but is the matter closed or is the Central Government doing what it can in order to persuade the States to accept the Commission's recommendations? If we want to strengthen the unity of India to make every State realise that it is part of a big country, then I think the presence of officers from all parts of India in every State is very desirable. The psychological effect of such a thing will not be small. If it makes the people of the State, even in a small measure, think of their local questions from a broader stand-point, than they do at present, we shall have reason to congratulate ourselves on the good result produced by the adoption of the commission's recommendations.

These are all the provisions of the Constitution Amendment Bill and the recommendations of the Commission that I wanted to draw the attention of the House and the Government too. I hope that so far as the Central Government is concerned, it has not decided to reject any of those recommendations of the Commission that I have referred to, and that it -is doing what it can, in spite of the present 1 discouraging circumstances, to per-

[Shri H. N. Kunzru.] suade the States to accept the Commission's recommendations so that it may be visibly clear to people living in all States that they are part of this glorious country which we call India.

SHRI P. S. RAJAGOPAL NAIDU (Madras): Mr. Deputy Chairman, after listening to the very learned speech of Pandit Kunzru, there is very little left for subsequent speakers to comment much upon this Constitution Amendment Bill. Sir, there are one or two other matters which the previous speakers had not touched upon and which I would like to mention briefly because it affects the State of Madras. Sir, I shall deal with clause 18. The Travancore-Cochin Government had an obligation to contribute annually a sum of Rs. 51 lakhs to the Travancore Devaswom Fund. We find that under the S. R. Bill, the same liability of the Travancore-Cochin Government is imposed upon the Kerala State to be formed, but the liability is reduced from Rs. 51 lakhs to a sum of Rs. 46.5 lakhs—that is a reduction by Rs. 4.5 lakhs. I don't find in the Bill that any amount is to be paid to the Government of Madras with regard to the temples that exists in the five taluks of the present Travancore-Cochin Government that is to come to Madras. Sir, I would like to allude briefly to the history of these temples in general in the Travancore-Cochin State.

As most of us know, most of the South Indian temples have enormous landed properties and some of these temples have enormous incomes also. In 1811, these landed properties were taken over by the State and the then Maharaja of Travancore took over the responsibility of maintaining these temples. We find that when this Government integrated with one Union, an agreement was entered into, in the year 1949, and under article 8 of the Covenant entered into by the Rulers of Travancore-Cochin in May 1949 for / the formation of the United States of j Travancore-Cochin, it was provided that Travancore's obligation to contribute a sum of Rs. 51 lakhs to the I Travancore Dewaswom was to be continued. What I would like to say is this. I was told that as many as 1500 temples are situated in these five Tamil taluks that are to come to Madars State, and I was told also that it comes to nearly Rs. 20 lakhs annually to maintain these temples. It is also said that most the lands that are gifted to these temples, which once formed the property of these temples, are situated mostly outside the area of these five taluks. Whereas the entire landed property still remains in the future Kerala State, the liability to maintain these temples would come over to the Madras State. I was told that there is a sum of nearly a crore of rupees available in this Travancore Dewaswom fund. I wish that some provision has been made *im:* in this Bill for the transfer of a portion of this amount to the Madras Government so that the Madras Government will be in a position to maintain these temples. We now find, we get the liability—no doubt it is a very sacred liability because we get very valuable temples,—but nevertheless to maintain the temples, it costs much more and some of the assets that are legitimately and legally due to the Madras State for the maintenance of these 1500 temples should also be transferred to Madras State.

I shall next deal with clause 20, that is, certain safeguards that are made to the linguistic minorities in the States. My friend Pandit Kunzru had very well put it, that it is only a direction that is given to the States.

SHRI H. N. KUNZRU: Recommendatory provision.

SHRI P. S. RAJAGOPAL NAIDU: It is a recommendatory provision. Strictly speaking, it should find a place in the Directive Principles of State policy and I could have very well appreciated if this amendment found a place somewhere in that chapter which deals with the Directive Principles of State Policy. In Part II or so, it should have found a place, but instead we find that It finds a place under article 350, as a new article 3 50A.

It deals with facilities being offered to linguistic minorities only with regard to primary education. I would have been very happy if certain safeguards had been made for the linguistic minorities in the States, not only for primary education, but also for secondary and other types of higher education, for university education etc. But I do not know why safeguards have been suggested only to the extent of the primary education. Suppose a child belonging to the linguistic minority studies up to the elemetary school stage in his or her mother-tongue, what is to happen to that child if he or she wants to study in the high school and further on in the college classes?

THE PARLIAMENTARY SECRETARY TO THE MINISTER FOR EXTERNAL AFFAIRS (SHRIMATI LAKSHMI MENON) : The regional language is there.

SHRI P. S. RAJAGOPAL NAIDU: My hon. friend Shrmati Lakshmi Menon, who is an educationist herself besides being a Parliamentary Secretary, says that the child can study in the regional language. That means that that child must learn two languages. Does my hon. friend suggest that that particular child who has to learn all her lessons in the mother-tongue in the primary stage, must study the regional language also besides the national language? That is what it means.

SHRIMATI LAKSHMI MENON: That is what is done also.

SHRI P. S. RAJAGOPAL NAIDU: That is not always so. It is not always done particularly in the border areas where they study only one language or the other. I can say for myself, for I am from Madras State and I am in a border area, and there I studied only Telugu and ne Tamil. I learnt Tamil after I left college. So this is not always done. So I say, let the same facilities be guaranteed for the linguistic minorities not only in the primary stage, but also in the secondary and the university stages. What dees it matter

i if one out of six or seven sections of each class in the high school and one or two sections in the college are opened for the linguistic minorities? There is nothing wrong about it. But what is the method pursued by the various States? There they are pursuing a policy of slowly doing away with the minority language. Every State Government is slowly doing it. I am glad that there is this provision in the Constitution. But I would have been very happy if it had not been only as a recommendatory article.

Then, there should also be certain safeguards for the linguistic minorities with regard to the services in the State. Not only for education, but also for the services, there should be certain safeguards provided for them. I would have been very happy if the Bill had been drafted as had been recommended by the States Reorganisation Commission, wherein, if I remember apright, they had recommended that this power is to be vested in the Governor. I find here that the President can only recommend to the executive authorities of the States in respect of the safeguards for the minorities. I shall not dilate more *on* this particular clause.

Next, I proceed to clause 15 where it is stated that there can be one High Court for two or more States. This at first sounds a reasonable arrangement to have. But whereas when we had a large number of States in our country we had one High Court for each State, now when the number of States is reduced, when we are going to have a minimum number of States in our country, when the areas or the territories of the States are enlarged considerably, I cannot understand why there should be such a provision made like this, for a High Court to have jurisdiction over two or three States. I wish there was no such amendment at all, as it would certainly be congenial to have a High Court for every State under the future set-up. I can understand such an arrangement in the case of a Union territory, as we call it, like

[Shri P. S. Rajagopal Naidu.] Delhi or Bombay. I do not want each Union territory to have a separate High Court. I would very much desire the neighbouring State to have the jurisdiction of its High Court extended to. the neighbouring Union territory. The High Court of Uttar Pradesh can have its jurisdiction extended to the Union territory of Delhi or perhaps the Maharashtra High Court can have its area of jurisdiction extended to Bombay City. But I cannot understand why one High Court should function for two or three States, particularly when the size of each State is going to be so big and when the States are to be reduced in their number.

SHRI H. P. SAKSENA: The number of judges may be increased.

SHRI P. S. RAJAGOPAL NAIDU: Sir, I next take up clause 12 which seeks to amend article 220 of the Constitution. As the present article stands, it prohibits a retired High Court judge from practising. That is to say, once he retires, he cannot practise. But now provision is being made to enable the retired High Court judges to practise in such other High Courts where they had not presided, or in the Supreme Court of India. I do not know why the Government of India should be so very sympathetic towards these retired High Court judges. Why such special sympathy should be shown to these retired judges, a sympathy that is n#t shown to other retired government officials. Give them as much pension as you like, after they retire. When they retire on Rs. 3,500 or Rs. 4,000, give them a pension of Rs. 1,000/-. I would have no objection at all. But to enable them to practise elsewhere would certainly be to deprive the juniors from coming up in the profession. After all, one should have opportunities in life and such opportunities are really lacking so far as junior advocates in our country are concerned.

Another point about these High Court judges is this. Though there is a provision in our Constitution to enable the High Court judges to be transferred from one court to another, I do not think it has really been pursued or practised anywhere in our country; not even a beginning has been made-anywhere. There was the question of payment of compensatory allowance. I remember, Dr. Katju, when he was. Home Minister, probably in reply to a debate or in answer to a question, said that these judges have to be paid compensatory allowances if transferred from one High Court to another and so he asked, "Why lose money by paying this compensatory allowance to these judges?" I am glad that this principle of paying this allowance is being done away with in the present amendment. It is now laid down that even if a judge is transferred from *one* High Court to another, no compensatory allowance need be paid and that is a welcome provision. But it should not rest merely on paper. It should be put in practice and a judge from one High Court should be transferred to another High Court. This is necessary. We know how judges develop, some of us who have been practising know it well, how judges develop a sort of—shall I say a kind of favouritism? They appear to like certain advocates and show them all favour and some advocates are disliked and they develop towards them a certain hatred. That is because a judge presides in the same High Court for ten years or even more. If the judge is transferred from one High Court to another, we can certainly put an end to this sort of thing. The Government of India should seriously consider transferring judges from one court to another, especially now that there is to be no payment of compensatory allowance.

MR. DEPUTY CHAIRMAN: Mr. Naidu, the debate should end at five. There are some more speakers and you have taken more than fifteen minutes.

SHRI P. S. RAJAGOPAL NAIDU: Only five more minutes, Sir, I have just one or two points more to submit.

I do not know what is the sanctity in doing away with acting judges and j introducing in their place temporary ' judges and additional judges. I cannot understand what really is tha difference between an acting judge and a temporary judge or an additional judge. An acting judge, under the present provisions of article 224, has all the privileges and powers, and jurisdiction of any other High Court judge, except that he shall not be "deemed" to be a judge of 4 P.M. the High Court. This is what the present article says. By changing the name 'acting judge' into a 'temporary and additional judge' this additional power, namely, that he shall be deemed also to be a High Court judge is conferred. That is the only difference. I do not know if it is merely for the purpose of upgrading them as High Court judges that this amendment has been brought in and I fail to see why it should be accepted by the House.

Lastly, Sir, I am glad my hon. friend, Pandit Kunzru, did really touch upon the question of the salary of High Court judges. Several other Members had also raised that point. There should be no distinction between the salary of a Kerala High Court judge and a judge of the Madras High Court, especially when the judges can be transferred from one State to another. I wish there should b>e uniform scales of pay of all the High Court judges in India.

श्री रामेश्वर अग्निभोज (मध्य प्रदेश) : उपाध्यक्ष महोदय, मुझे इस विधेयक के विषय में बहुत थोड़ा कहना है। इससे पूर्व कि हम इस विधेयक को प्रवर समिति में भेजे जाने के प्रस्ताव को पास कर दें और समिति के विचार के लिये भेज दें, मैं केवल दो बातें कहना चाहता हूं।

सब से पहली बात यह है कि प्रत्येक देश में जहां पर प्रजातंत्र राज्य चलता है, यह आवश्यक होता है कि दो सदन हों। यही कारण है कि हमने अपने राष्ट्र के लिये दो सदनों की व्यवस्था रखी है। दोनों सदनों में जनता द्वारा ही चुने हुये लोग आते हैं; परन्तु दूसरे सदन का उद्देश्य यह होता है कि उसमें अनुभवी और अधिक से अधिक विद्वान और चुने हुये योग्य व्यक्ति आयें, जो कि एक प्रकार से हमारे देश के नवनीत, अर्थात् मक्खन हों। दूसरी बात यह है कि ऐसे भी लोग होते हैं जो पैसे की कमी के कारण चुनाव में खड़े नहीं हो सकते, या ऐसे विद्वान लोग जो किसी विशेष क्षेत्र में अपना अनुभव रखते हैं जैसे कि टेकनिशियन और विशेषज्ञ लोग जो राजनीति के क्षेत्र में विशेष भाग लिये हुये नहीं होते, और इसलिये भी वे चुनाव नहीं लड़ सकते। राजनीति के क्षेत्र में भाग न लेने के कारण ऐसे लोग संसद में आने से वंचित रह जाते हैं। उनके लिये यह और भी आवश्यक है कि हम अपर हाउस की व्यवस्था के द्वारा मार्ग खोल दें।

दूसरी अच्छी बात यह है कि इसमें प्रपोर्शनल रिप्रेजेंटेशन रखा गया है, जिससे कि लोग अनुपात से इस सदन में आ सकते हैं। अगर सब प्रांतों में दो हो जायेंगे तो इससे यह लाभ होगा कि कोई भी काम जल्दबाजी में नहीं होगा और न बिना सोचे समझे किया जा सकेगा। प्रत्येक प्रजातंत्र देश में यह आवश्यक है कि हम जल्दबाजी में कोई ऐसा कदम न उठायें जिससे कि सम्पूर्ण राष्ट्र खतरे में पड़ जाये और इस लिये भी यह आवश्यक है कि देश के प्रत्येक प्रान्त में दो सदन रहने चाहियें। अभी हमारे देश के कुछ सूबों में दो सदन हैं, और कुछ सूबों में नहीं हैं। मैं होम मिनिस्ट्री को इस बात के लिए बधाई देना चाहता हूं कि भविष्य में जो नया मध्य प्रदेश बनने वाला है उसमें उन्होंने दो सदनों की व्यवस्था कर दी है। परन्तु मेरा कहना यह है कि जिन प्रान्तों को हम छोटे प्रान्त कहते हैं उन्हें छोटा प्रान्त न समझा जाय। बड़े और छोटे प्रान्त का झाड़ा, उत्तर और दक्षिण का झगड़ा, तब ही पैदा होता है जब हम एक प्रान्त को बड़ा समझते हैं और दूसरे को हीन समझते हैं। हमारे राष्ट्र में पहले ९ बड़ी बड़ी स्टेट्स थीं, कमीशनरीज थीं, ६०० रजवाड़े थे, उनके अलग अलग

[श्री रामेश्वर अग्निभोज]

हाईकोर्ट थे, जो आज सब नष्ट हो गए हैं। ऐसी स्थिति में प्रत्येक राज्य को आप पूर्ण अधिकार दें, और छोटे बड़े का भेद हमेशा के लिए मिटा दें। अत : मैं यह चाहूंगा कि प्रत्येक राज्य में दो सदन हों, जिससे कि वे लोग जो राजनीति में भाग न लेने के कारण, या किसी अन्य कारण से संसद् में नहीं आ जो सकते हैं उनका आना आसान हो जाय। अगर हमने इस तरह व्यवस्था कर दी तो वे लोग जो पिछड़े हुए प्रान्त में रहते हैं वे यहां आकर अपने अनुभवों द्वारा जनता की सेवा कर सकेंगे।

आप इसी सदन में देख सकते हैं कि हमारे बहुत से सदस्य ऐसे होंगे कि यदि वे चुनाव लड़ें तो यहां नहीं आ सकते। आप सदन के माननीय सदस्य श्री कुंजरू साहब को ही ले लीजिये, क्या वे हमें आसानी के साथ उपलब्ध हो सकते थे ? यदि यहां पर दूसरा सदन नहीं होता तो हमारे माननीय श्री के० सी० रेड्डी, सरदार स्वर्ण सिंह, श्री लाल बहादुर शास्त्री और श्री गोविन्द बल्लभ पंत जैसे विद्वान लोग नहीं आ सकते थे। दूसरा सदन होने की वजह से आज ये लोग केन्द्रीय मंत्रि-मंडल में हैं और उनकी सेवाओं का लाभ देश को मिल रहा है।

एक माननीय सदस्य : क्या वे लोग इलैक्शन नहीं लड़ सकते थे ?

श्री रामेश्वर अग्निभोज : लड़ सकते थे, किन्तु बहुत से ऐसे लोग भी हैं जो इलैक्शन लड़ने के बाद हार जाते हैं। ऐसे सज्जन और विद्वान लोगों को हम जनता की सेवा करने के लिये दूसरे सदन में ही उपस्थित कर सकते हैं। अगर किसी राज्य से यह आवाज आती है कि वहां दो सदन न होने चाहिये तो यह एक गलत बात है। मेरा सुझाव तो यह है कि इस बिल में इस तरह की व्यवस्था होनी चाहिये जिससे हर प्रांत में दो सदन हो जायं।

तीसरी बात जो मुझे कहनी है वह यह है कि हमारे संविधान में लोक सभा के सदस्यों की संख्या ५०० रखी गई है और राज्य सभा के लिये २५० की अधिकतम सीमा है। लोक सभा में आज ४९९ सदस्य हैं और राज्य सभा में २१९ जबकि उसकी अधिकतम संख्या २५० है। संविधान के मुताबिक राज्य सभा में इस समय ३१ आदमी कम हैं। इस बिल में जो व्यवस्था की गई है उसके अनुसार राज्य सभा की सदस्य संख्या २३४ है, इस तरह से १६ सदस्यों की संख्या कम हो गई है। इसलिये मैं प्रार्थना करूंगा कि संविधान में राज्य सभा के लिये जितने सदस्यों की व्यवस्था की गई है उतने ही रखे जायें। नये विधान के अनुसार जो १५ या १६ सदस्यों की कमी की गई है उसको दूर कर दिया जाय और संविधान के अनुसार जो वर्तमान संख्या निर्धारित की गई है उसको रहने दिया जाय। हम हर दो साल में राज्य सभा के लिये चुनाव करते हैं। हर उस प्रांत में, जहां से राज्य सभा के लिये प्रतिनिधित्व कम है, एक एक या दो दो प्रतिनिधि बढ़ा दिये जायं। इस संबंध में मेरा सुझाव यह है कि निम्नलिखित प्रांतों में राज्य सभा की सदस्य संख्या इस प्रकार बढ़ाई जाय।

राज्य का नाम	वर्तमान सदस्य संख्या	प्रस्तावित सदस्य संख्या
आसाम	७	९
बिहार	२३	२४
गुजरात	११	१२
मध्य प्रदेश	१६	१८
मद्रास	१७	१८
महाराष्ट्र	१७	१८
उड़ीसा	१०	१२
पंजाब	११	१२

SHRI H. C. DASAPPA (Mysore): Mysore is 12.

SHRI R. U. AGNIBHOJ: Yes, but 12 is divisible by 6.

इस तरह से आप राजस्थान की १० से १२ जगहें कर सकते हैं और उत्तर प्रदेश की ३४ से ३६ जगहें कर सकते हैं।

श्री ज० रा० कपूर (उत्तर प्रदेश) : धन्यवाद।

श्री रामेश्वर अग्निभोज : इस तरह हम कुल मिलाकर १५ सदस्यों को राज्य सभा में जोड़ सकते हैं। बारह सदस्य प्रेसिडेंट साहब द्वारा नामिनेटेड होंगे, और इस प्रकार २४६ सदस्य राज्य सभा में हो जायेंगे। मेरी प्रार्थना यह है कि आप कृपा करके इस चीज को बहुत ही महत्वपूर्ण दृष्टि से देखिये। यदि ऐसा हम नहीं करते हैं तो यह समझा जायगा कि हमने राज्य सभा के साथ अन्याय किया।

इसके बाद मैं यह कहूंगा कि हाई कोर्ट का भेद भाव भी हमें मिटा देना चाहिये। डाक्टर अम्बेदकर ने कहा था कि उत्तर और दक्षिण का झगड़ा होता है और होने का भय रहता है। पंत जी ने भी अपने भाषण में कहा कि ऐसा हम कोई कार्य नहीं करेंगे जिससे यह भेद या खाई बढ़े। तो फिर हम केरल हाई कोर्ट के जज को क्यों कम तनख्वाह दें, और दूसरे हाई कोर्ट के जज को क्यों ज्यादा दें? केरल, कर्नाटक, तामिलनाड, मैसूर या जहां कहीं हाई कोर्ट के जज हैं, जब उनका एक जगह से दूसरी जगह तबादला हो सकता है, जब उनकी नजीरें हिन्दुस्तान में कहीं भी मानी जा सकती हैं, तो मैं समझता हूं कि उनकी तनख्वाह एक होनी चाहिये। यदि हमने इसमें कुछ भी फेर बदल किया तो जो लीडिंग केसेज होंगे उनमें दूसरे हाई कोर्ट उनकी नजीरों की इज्जत नहीं करेंगे। इस प्रकार एक हीनता की भावना पैदा होगी।

इस लिये मेरी प्रार्थना है कि हाई कोर्ट के जजों की एक ही तनख्वाह और एक ही स्टेटस होना चाहिये, राज्य सभा के सदस्यों की संख्या बढ़नी चाहिये और हर प्रांत में दो सदन होने चाहियें।

MR. DEPUTY CHAIRMAN: Yes, Mr. Bisht; just take ten minutes.

SHRI J. S. BISHT: I thank you forgiving me this opportunity, but I would beg of the House for a little indulgence and crave you for permission to speak a little longer inasmuch as I had no opportunity in the States Reorganisation Bill. Anyhow, I shall try to be very short.

Sir, the main objective laid before us by the States Reorganisation Commission was that in reorganising the States our aim should be that the unity, the security and the integrity of India should not be affected. To that effect, they made many recommendations. Now in this Constitution, there are certain vital points which must be embodied in order to ensure that the unity is not in any way adversely affected. What are those factors that unified the different parts of India under the British rule? One of the main factors that unified this country was the uniformity of our laws, the great Anglo-Indian codes as they were called, the Penal Code, the Law of Contract, the Law of Transfer of Property, the Civil Procedure Code, the Criminal Procedure Code and all those other great laws which were administered from one end of the country to the other in a uniform manner. And, Sir, the second most important factor was the judicial system, which was not subject to the control of the executive, completely independent, impartial and just, and which endeared the people of India to this judiciary. You may go from Cape Comorin to the northernmost corner of the Himalayas. You may ask the most ignorant villager. He may criticise the Government, the Ministry or the legislature, but you will never hear a complaint against the High Courts or the Supreme Court. There is such an implicit faith in the justice that they get from those High Courts. It should be the objective of our Constitution to see that that faith is not in any way shaken.

[Shri J. S. Bisht]

Sir, the experience of the last seven years of the working of this Constitution has been that the standard of our High Court judges has been falling, and the main reason of it is that there are certain very rigid provisions put in the Constitution with regard to recruitment, retirement and salary of the High Court judges. Sir, the age limit that has been put down in clause 11 of this amendment is sixty years, that is, "until he attains the age of sixty years." I submit for the consideration of the Joint Select Committee that there should be some change in this, that a man should be entitled to remain a judge of the High Court until he has completed thirty-five years of service in a State or he has attained the age of sixty-five years, whichever is less.

I am suggesting this formula merely because there are judges in the High Courts who hav^e been recruited from the services, the Indian Civil Service, or the Provincial Judicial Service, and there are judges who are recruited directly from the bar. Therefore, -if you put in some such formula it will automatically retire those people after thirty-five years of service who are recruited from the services. The 35 years limit is applicable to the members of the Indian Civil Service; they can serve for full 35 years. People who are recruited from the judicial service, from munsiffs and civil judges, they too can be retired after they have put in 35 years of service. "That would be wholesome because people who have been in harness for a long period of 35 years cannot be expected to render much better service after they have done that amount of work, but people who are recruited directly from the bar to the bench are to be enabled to serve up to the age of sixty-five years, and that will attract a much better class of lawyers.

Today, as you know, if you want to attract the best talent from the bar, you must give attractive terms. It is no use dangling before them all those platitudes with regard *to people serving their country, or doing this or doing that, because successful lawyers in the bar in the various High Courts, are able to command a practise of Rs. 10,000 and Rs. 15,000 a month, and they can go on practising till they are able to work. But, many of them are prepared to make some sacrifice and come over to the bench, provided the terms are not very harsh, and if you allow them to serve upto the age of sixty-five years you will go a very long way in meeting one of the grievances that are trotted out by these people.

The second point is with regard to clause 12. I do not know what the draftsmen mean by that, but they say, "No person who, after the commencement of this Constitution, has held office as a permanent judge of a High Court shall plead or act in any court or before any authority in India, except the Supreme Court and the other High Courts." It is a roundabout way of saying the same thing, instead of saying plainly that they can practise in the Supreme Court and in the High Courts in which they have not served. That should be plain enough, and this, Sir, is a wholesome provision which is very welcome, because that will enable them to go and practise in other High Courts in which they have not acted as judges. If you allow these two provisions to go in, that is, to allow them to serve up to the age of sixty-five years, and to practise in other High Courts, you will go a long way in helping the recruitment of a better class of people to the bench.

The third point which would attract them is the salary. I refer to clause 22 wherein the salary of the various judges has been shown. I would appeal that there should be one uniform standard for the salary of judges throughout India, especially because there is a provision now that they can be transferred from one place to another. In this connection, Sir, I would invite the attention of this hon.

House to Part I and Part II of the Third Schedule of the Constitution of the Republic of Pakistan. They have ' framed this Constitution only this ' year; it came on the 29th February ! 1956. Therein in Part I, they have laid down the salary for the Chief Justice of Pakistan as Rs. 5,500 and of any other judge *of* the Supreme Court, Rs. 5,100. In Part II, for the High Court judges, they have laid down the salary for the Chief Justice of the High Court as Rs. 5,000 per month and for the judges, Rs. 4,000 per month. That was also, if you will remember, Sir, the scale prevailing in this country before this Constitution came into •force. There, they have profited by our example and they have not reduced thu salary of judges.

I submit that it is high time that after the experience that we have gained in this country during this period, we should fix the salary of High Court judges at Rs. 4,000 the salary of the Chief Justice of a High Court at Rs. 5,000, the salary of the judges of the Supreme Court at Rs. 5,100 and the salary of the Chief Justice at Rs. 5,^00, so that all these complaints with regard to the inadequacy of their remuneration will vanish. Alter all, the Pakistan Government is not richer than the Government of India. The total budget of Pakistan is only Rs. 130 crores, as against Rs. 550 crores of this Indian Republic. There is, therefore, no reason why we should not give these salaries. After all, the total sum involved will be very little and if our objective is that our High Courts should retain and maintain the very high standard we have in this country, and retain and maintain the confidence of the people in their ability, in their competence, in their impartiality, we should not grudge this little lift in salaries. I, therefore, submit that if we have this small lift in salary and also raise the age of retirement to 65 which is the limit for the Supreme Court judges—and I do not see why there should be any distinction between them—if these things are done, I am sure the High Courts in India 42 RSD.—5.

will not fail to attract the best talent available in the various bars of the country.

SHRI H. C. DASAPPA: But our idea is to have a socialist structure.

SHRI J. S. BISHT: That is also the objective of other countries. Merely having a slogan does not make any difference. There is no free democratic country in the world today which does not want to lift all its people upwards. Whether you say it in so many words or not, the objective is the same. Even the United States of America, which is supposed to be a capitalist country, is giving a standard of life to its people which we may not attain even in 100 years.

Now, Sir, I come to another point which is equally vital for maintaining tlie unity of this country. One of the main instruments in forging the unity of this country has been the one language that has been prevalent in India throughout the length and breadth of the country, and that is the English language. Now, with the creation of these linguistic States, whether we like it or not, it is based on linguism, the chances are that the regional language will become practically the national language of that State. It will become the language of the colleges, of the universities, of the Schools, of the State Administration, of the High Court and so on. The i-esult will be that in a period of 15 or 20 years, probably our children will not be able to understand one another. It will bring about a sort of disintegration of our minds and hearts and that will be more damaging than even this physical disintegration. Today, if we meet together—wherever you may be. you may go to Poona, Bombay, Madras or Calcutta—all educated people are able to talk to each other on the same level in the intellectual plane, in the psychological plane, in the spiritual plane, and in the cultural plane.

DR. RAGHUBIR SINH (Madhya Bharat): What is the answer to that?

SHRI J. S. BISHT: It is the language that has brought us closer. I there fore submit that there should be some amendment to article 343 which lays down a period of fifteen years. I am sure that this will have to be amend ed one day. We are today in the midst of all this agitation and all this bitterness.....

MR. DEPUTY CHAIRMAN: A Separate Commission is going into that question.

SHRI J. S. BISHT: .....on the question of this linguism. That Com mission is only with regard to official language. Whatever may be the findings of that Commission, what I am submitting is this, that there must be a very minor amendment that in place of 15 years we may substitute a period of 30 years. Again, I invite your attention to the provision that has been made in the Constitution of Pakistan. They have learnt.....

SHRI JASPAT ROY KAPOOR: Let us not follow Pakistan.

MR. DEPUTY CHAIRMAN: These remarks are all beyond the scope of this Bill.

SHRI J. S. BISHT: I am submitting this because the point was raised by Dr. Kunzru that threre are certain recommendations that have been made in this matter, that when you are dividing the country into so many compartments on a linguistic basis, you must also put in some antidotes which will arrest this fragmentation of the mind and heart of the people. *(Interruption.)* My mother-tongue is Hindi and I may tell my friends that in my own part of the county in Kumaon Hills even Urdu has never been adopted. Hindi has always been the court language and official language. In fact, in other parts of U.P., Urdu has been the court language. Therefore, I want Hindi more than you want, but you must take a realistic view. When we know that in South India there is such vehement opposition, we must give a Little time to them so that these people may not have any legitimate grievance that they are being deprived of opportunities in the services and so on. There may be difficulties even in High Courts, in seeing the judgments of different courts. And what will be the position in the Supreme Court? After all, Hindi will come one day; let it come gradually. What is the harm? We have waited for so many years—500 years; can't we wait for another 30 years? The Heavens are not going to fall.

I say that the unity of India, the integrity of India is much more important than Hindi. Hindi cannot be maintained by force of arms. It has to be done by love, by patience. And if we make a little concession for the benefit of our brethren in the South of India, there is no harm. After all, when the Constitution was framed, it was the honeymoon of inde-pendence and in that atmosphere we probably agreed on 15 years. But we are having second thoughts now, and on second thoughts, seeing all this bitterness—there in the South, Hindi name-boards are being wiped clean and they ventilate their grievance that way—there is no very great harm if we extend this period. I, therefore, strongly submit that a period of 30 years should be substituted for the existing period of 15 years.

The third point I have is with regard to the creation of legislative councils. In the States Reorganisation Bill they have not provided for legislative councils for Andhra Pradesh, Assam, Gujarat and Rajasthan. These are all important provinces. I am one of those who have got a great faith in these second chambers, because it has been the experience of democracies throughout the world that second chambers are very necessary. We must not jump to any conclusions on the basis of our short experience of about five or six years under this new Constitution. Luckily today, the Congress Party is very strong and it has

got a majority everywhere. That .is why we are not able to realise the value of these second chambers,. but this may not be the position after -fifteen or twenty years. Even the People's Party founded by Kamal Pasha in the Republic of Turkey was defeated after 25 years. After all, in •a democratic atmosphere, other parties are bound to *come* up some day, and it may be that in different States (different parties may be in power; -some in a majority at some place, another at another place, and so on. It is at that time that people will Tealise the value of these second ^chambers. In a gust of emotion, some •dazzling personality may capture the imagination of the people and may sweep off the electorate in one single election and then force all sorts of (drastic legislation which people may .resent on second thoughts.

Sir, "Von Papen who was once the 'Chancellor, of Germany has written fhis memoawB after his retirement and be says that the greatest mistake that .Dr. Preus made in writing his Wiemar 'Constitution, which was supposed to ;be the last word on democracy, was ^that he failed to provide a second ^chamber in the Parliament of Germany, and he says that when Hitler • came into power, what Hitler found was that there was no second chamber to oppose his will, and immediately fhe got His majority, he -got an Act /passed in that single-chamber Parliament which abdicated all its power of legislation and everything in favour of Hitler. That was how Hilter became legally the dictator m that country. Von Papen says that had there been a second chamber there, there would inever have been that 'Hitlerite dictatorship, and Europe and the world would have been saved all this havoc and destruction. Sir, these are the lessons of history even in our lifetime. So I submit -that second chambers should be provided for all these States.

Lastly, there is only one point, and dt is this. Some of our members from Baghelkhand who wanted to come to U.P. slipped out later on merely because they were told that in U.P. there was one M.L.A. for a population of a lakh and thirty thousand, whereas in Madhya Pradesh there will be an M.L.A. for every 80,000 of the population, so that there will be a higher representation and a larger number of M.L.As, if they remained with Madhya Pradesh. What you provide here is that the maximum number should be 500 but you must see that there is uniformity in representation in the legislatures of provincial assemblies, based on population, so that whether they go to this State or that they should not be affected by these extra-neous consideration, but that they should be able to judge the position *on its own merits. With these words I support this motion.

MR. DEPUTY CHAIRMAN: Mr. Kapoor, ten minutes,

SHRI JASPAT ROY KAPOOR: I will try to meet your wishes, Sir, and if I failed on some previous occasiion, i hope I will succeed on this occasion. At the outset, I would like to place on record our appreciation of the diligent manner in which.... Where is Mr. Parikh? He as a Member of the Joint Committee has been following the discussion on this Bill. He has been here throughout the day. I assume, he has only just now gone away, and I do not find many other .Members of the Joint Committee.

SHRI V. K. DHAGE (Hyderabad): I am here.

SOME HON. MEMBERS: Mr. Dhage is here. Capt. Awadhesh Pratap Singh is here.

SHRI JASPAT ROY KAPOOR: He must necessarily be here. I am very-glad, at least three or four Members are here, but I wish more Members of the Joint Committee were here, and we should have it as a convention that as many Members of the Select Committee should be here as pos sible .....

PROF. G. RANGA (Andhra): Is this all part of his ten. minutes?

SHRI JASPAT ROY KAPOOR: I hope this will not be included. Today,. I am speaking in a rather encouraging mood, because yesterday, Members from Baghelkhand and Uttar Pradesh, raised the question of the merger of Baghelkhand.

MR. DEPUTY CHAIRMAN: Don't raise it again now.

SHRI JASPAT ROY KAPOOR: I am not referring to it any more, but I feel very much encouraged today, from the statement made by the hon. Pandit Govind Ballabh Pant, laying down the principle, or accepting the principle that no citizens of any part of a State shall by any coercion or against their will be forced to merge themselves with any State.

SHRI AKBAR ALI KHAN: It applies to U. P. and not to Telangana?

SHRI JASPAT ROY KAPOOR: It applies to every part of the country. If the citizens of Telangana do not want to go anywhere, if they emphasise this fact before the Select Committee, I have no doubt that their wishes will be acceded to.

SHRI B. C. GHOSE (West Bengal): How?

SHRI JASPAT ROY KAPOOR: U.P would not become very much bigger then. And may I in this connection refer to the remarks made yesterday by Dr. Ambedkar that U.P. is expanding like a reptile? It may be so, but he does not seem to know the nature of a reptile. It may be a big reptile. But even if you cut it ihta pieces—two or more pieces—even then the reptile lives. Cut it into two, three or four pieces, unless you smash its head, kill it outright, it continues to live. This is a consequential Bill and, therefore, most of the subjects covered by it arise out of the Bill which we have already referred to a Select Committee. But then there are some other provisions in this Bill which have nothing to do with the Bill which has already been referred to Select Committee and I am glad to find herein some very useful provisions, which would lead to. the unit.r and solidarity of this country. One provision is that there may be a common Governor for two or more States. I very much wish that the whole Union had only fb e Governors, one-for each zone- Then, Sir,. I am in agreement withi my friend, Mr. Bisht, that there should, be legislative councils for all the-States in, the country. I need not. dilate on that point. When you are providing for a Legislative council for-Madhya Pradesh, I wish, that, you had* similarly provided for legislative-councils in a number of other States,, Rajasthan and such other States.

Then, Sir, I come to the question of the High Courts. It is a good provi sion that in this Bill we can have common High Courts for two or more States. But then, I find that with, regard to the appointment of judges,, it is provided that retired High Court judges may be permitted to practise- in the Supreme Court or in any other High Court. This question, you will' remember, was very well thrashed out in the Constituent Assembly, and* after full consideration, specially we- had come to the conclusion that High Court judges, when they are holding permanent appointments, should not be permitted[1] to practise in any other law court. That was a very salutary provision and I do not think it is: necessary or desirable to abolish that provision. Judges of the High Court retire at the age of sixty. They will[1] get their pension all right, and should' not the society expect' all these retired" High Court judges—after the ripe old' age of sixty, when they will be earn ing pension also—that they shouldt serve the society and join the Bharat Sevak Samaj? Even otherwise, these- retired[1] High Court judges are so much in demand in the country for being: appointed as members of this commis sion and" that,.....

PROT.. *G,* RANGA; Tribunals..

SHRI JASPAT BOY KAPOOR: .... that there is hardly any necessity for giving them another facility. This facility, I submit, is neither in the interests of the retired High Court judges— I mean their spiritual interest—nor in the interests of the country at large. So far as Supreme Court judges are [Concerned, even though there is no provision in the Constitution that they shall not practise after retirement, the convention is there, and it is a very healthy convention. They have been iollowing this contention, even though it is an unwritten convention. I would, therefore, suggest that the High Court judges should also follow this convention, the more so, because it has been ihere so far in the Constitution itself.

Just as we haive provided for com-jmon Governors and common High Courts I wish we had also provided for common Public Service Commis sions. I know that there is already a provision in our Constitution to the effect—under article 315 to which I suppose your attention has just been drawn by the Secretary—that if two or more States want to have a com mon Public Service Commission, then they .can have it But the procedure laid down in it is a very cumbrous one, .namely, that the Legislative Assemb lies of all those States, and also sepa rately the Legislative Councils of all those States—if there are Legislative "Councils also—all of them should decide that they want to have a joint Public Service Commission. Though the provision has already been there, I am not aware of advantage having been taken of this provision by any two or three States.....

PROF. G. RANGA: They do not want it evidently.

SHRI JASPAT ROY KAPOOR: Evidently, they do not want it. But since we want it, since it is desirable in the country's interest, since the S.R.C. Report has suggested it in order to preserve the unity of the country, it is necessary, I think, that we should have an amending provision in this Bill to the effect that it should be open to the President to appoint a common Public Service Commission for two or more States. None need be afraid about it. *(Interruption.)* I find some hon. Members demurring and dissenting from it.

SHRI H. C. DASAPPA: May I know with whom the hon. Member would like to go?

SHRI JASPAT ROY KAPOOR: Speaking for myself, I would like to go with everybody. It would be very good and I would be happy, if we have only one all-India Public Service Commission and a few branches of it —one Public Service Commission with different branches of it in different parts of the country. I would be prepared to be particularly with Mr. Dasappa. And in this connection, may I submit that I very much like the suggestion made yesterday by Dr. Ambedkar that we should have a second capital—might be, in some modified form it can be accepted? If we cannot have a second capital, let us have a sitting of Parliament, one sitting in a year in the South, and certainly it would be welcome to us if that sitting is held, if not always, on some occasion, in the State of Mr. Dasappa.....

SHRI B. C. GHOSE: In different cities in different years.

SHRI JASPAT ROY KAPOOR: Well, I will leave it to my friend, Mr. Ghose, to have his final say in the matter and I for one will abide by it.

Sir, may I refer to the very healthy provision that has been made in this Bill regarding safeguards for linguistic minorities? My hon. friend, Dr. Kunzru, does not seem to be satisfied with this and he says that it is merely a directive. But then I would like to draw his attention to the fact that this directive is not merely an ordinary directive like the other directives in the Constitution under the chapter "Directive Principles". It is proposed to be added to article 350, which is in.

Lbhn Jaspat Kay Kapoor.] chapter IV, the heading being "Special Directives". These special directives under this chapter are not of the same, ordinary type of directives as we have in the earlier chapter in the Constitution, relating to "Directive Principles". This will not be a matter of principle only, but this will be a directive of duty cast upon the various States, which duty has got to be performed by them as the duty under article 350 and article 351. So, nobody need be afraid that this is merely an expression of a pious wish. It has got to be implemented by the States concerned.

Then, Dr. Kunzru referred to article 347 of the Constitution and said that though that article is there, yet it has not been made use of by the President so far and similarly, this new article 35uA may not be made use of. So far as article 347 is concerned, it lays down that if a demand is made on behalf of any substantial proportion of the population of a State, desiring the use of any language, then, of course, the President may issue a directive to that State to adopt that particular language. There it says tliat a demand must be made, but here, under article 350A, which we are now proposing, it will be the duty of the State itself, without any demand being made by anybody, to implement the provisions of article 350A. That disposes of the point raised by my hon. friend, Dr. Kunzru.

A point was raised by my hon. friend, Mr. Ramachandra Gupta, relating to clause 17 and he said, he was not able to follow as to what was the particular necessity for its incorporation in the measure. I would submit that, if he cares to read the Statement of Objects and Reasons, he will find why it has been considered necessary to propose incorporation of clause 17. Whereas under article 258, so far it has been open to the President to issue directives to the State officers to do a particular thing, no such provision existed so far authorising the Governor of any State to direct the Union officers to do anything. Now that we have many development projects which extend their operations beyond one State, it is necessary that the Governor should also have the power, in consultation with and with, the permission of the Central Government, to issue necessary directions to> the Central Government officers to da> a particular thing.

I do not propose: to take any more time of the House because I want to. adhere to the promise that I made initially that I would abide by your wishes. I would only like to say one. or two things mare very briefly.

There is a provision! made for regional committees, but I do not find: any provision made for zonal councils, though it has been mentioned in the other Bill. I do not know whether it was necessary or not to have' any provision relating to that here; perhaps, not. Even if it is not, it is. something mere useful and better and] I hope that these zonal councils are only the first step in the formation of five States in this country, doing! away with smaller States notwithstanding what Dr. Ambedkar said yesterday-contrary to what his expressed views-were when the Constitution was in the making. And in that connection, I only express my gratification to find that the State of Jammu and Kashmir-has also been specifically included in-one of the zones, because this shows-that we are hereafter going to deal' with the Jammu and Kashmir State in the same manner in which, we deal with any other State.

I have many things to say, But' I' would not and I resume my seat;. Thank you.

THE MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI B. N. DATAR) : Mr. Deputy Chairman, we have had a very interesting debate on the constitutional points raised by a-number of hon. friends, especially in connection with the Constitution-(Amendment) Bill. We had a general* debate regarding the reorganisation of'

States and I was just wondering whether a discussion on the Constitution (Amendment) Bill would form a supplementary debate on the provisions of the States Reorganisation Bill. I must express my gratitude to hon. Members for having kept their discussions within the limits of the Constitution amendment. A number of very valuable suggestions have been made and I would very briefly deal with them for the purpose of pointing out what the Government's stand is. Because ultimately, when the matter goes to the Joint Select Committee, naturally, the whole position is reviewed. The Government side also is placed before the Joint Select Committee and then, the recommendations of the Joint Select Committee are generally accepted by the Govern-ent, as also by hon. Members, subject to the Government's right to bring in an amendment, and subject also to the hon. Members' rights to seek amendments. Therefore, what naturally we have to consider at the present time is the point why Govern-ment have taken a certain stand so far as the present Bill in general is concerned, or so far as four or five important points, around which all this debate generally has veered, are concerned.

Firstly, a number of suggestions, perhaps of a contradictory nature also, were made so far as the . High Court judges were concerned. And in the present Bill, clauses 11, 12, 15 and 22 mainly relate to what is proposed to be done so far as the various questions regarding High Court judges are concerned. In the first place, it was suggested by my hon. friend, Shri Bisht, that the salaries of High Court judges should be raised, so as to bring them in conformity with what has been done in Pakistan. So far that is concerned, I may point out to my hon. friend that there can be no prospect of any enhancement in the pay of our highly paid officers, at least so far as the general line is concerned. Even at present, we must note that the High Court judges are paid fairly satisfactorily—in a more satisfactory manner than other classes of holders of equivalent offices. This is because we attach the greatest importance to maintaining the independence of the High Court judges, and that is the reason why it would be found that even though the Constitution has reduced the pay, it has brought it down only to a small extent, by about Rs. 500 in the case of the Chief Justice of India, the judges of the Supreme Court, the Chief Justices of the various High Courts, as also of the other judges, especially so far as Part A States are concerned. So these pays are fairly satisfactory, and as I can see, there can be no prospect of enhancing these salaries at all. So far as these salaries are concerned, we should ordinarily take it that they are fair salaries, they are satisfactory salaries, and therefore, it would not be proper to expect any enhancement of these salaries. That is point No. 1.

Then it was contended that the age of retirement should be further increased from 60 to 65. The hon. Member is aware that so far as all other services are concerned, generally the age of retirement has been put down at 55. There was a proposal about two or three years ago, when a question arose as to whether the age of retirement should be raised to 58. Now, after full consideration, the Government came to the conclusion that the age of retirement for our gazetted officers should remain only at 55. There are certain very important considerations and the considerations are, as I pointed out the other day that on the one hand, we require the services of officers who have a long stretch of experience and who have also a maturity of judgment. On the other hand, we have also to take into account that others, more younger than these officers, should also have a chance. Therefore, if we raise the age only on one consideration, that would take away or deny the opportunity to *youngsters, and* that is the reason why we are anxious to limit these ages—so far as the High Court

[Shri B. N. Datar.] judges are concerned, it has been put down at 60, and so far as the district judges and others are concerned, it is oniy at 55. That point has to be noted and only in the case of Supreme Court judges, the age of superannuation has been put down at 65. If we go on raising it, though one object would be fulfilled to a certain extent, the other object would prove abortive in the sense that a number of persons will not have the opportunity at all.

SHRI J. S. BISHT: Is the hon. Minister aware that both in England and America, the age of retirement of Government public servants, even of gazetted ranks, is 60?

SHRI B. N. DATAR: May I point out to the hon. Member that the Government of India are aware of the conditions there. There the conditions are entirely different and here we have to take into account the tropical conditions in India, as also the need for providing avenues for promotion 30 far as the other persons are concerned. So, taking all the circumstances into account, this age has been fixed down, and I am afraid, we cannot accept any proposal for enhancing the age from 60 to any further period or to 65 in the case of others. Therefore, so far as these ages are concerned, they have to remain as they are, because the decision has been taken after a mature consideration of all the pros and cons of the subject. But I may point out to the hon. Member that sometimes there arises a difficulty where, if a judge has to retire at 60 as he has to, then in certain cases, it ought to be open to us to take advantage of such judges. That is the reason why in one of the clauses it has been stated that the age of 60 would apply ordinarily to other judges but not to additional or acting judges and the hon. Member will kindly find in clause 11 that we have made this provision:

> "shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty years."

So, that is the way in which it is open to the Government to avail themselves of the experience and also the mature judgment of such retired officers. Beyond that, it must be understood very clearly that it would not be possible to make a general increase so far as the retiring age is concerned.

Then it was contended that there were two views. One was that the retired judges of the High Court shou! -[1]. not be allowed to practise. The other was that they should be allowed to practise. My friend Shri Sapru pointed out that though he did not desire that a retired High Court judge should appear before a district judge, still it ought to be open to him to practise before a tribunal. Now let us .....

SHRI P. N. SAPRU: What I said was that the amended provision will enable a High Court judge to practise before the Supreme Court or a High Court, of which he was not a judge. But I wanted to know whether it would enable him to practise before a district judge or a High Court other than the one of which he was a member.

SHRI B. N. DATAR: No, Sir. It will not be. In fact .....

SHHI P. N. SAPHU: That is the point I raised.

SHRI B. N. DATAR: If I remt-mber aright, the hon. Member also mentioned that it ought to be open to him to appear before a judicial tribunal. Now so far as this is concerned, we do desire that a retired High Court judge should not appear before a district judge, and we also desire that they should not appear before tribu-. nals or other similar courts, and for a very important reason. In the first place under the Act that was passed only two years ago, regarding the conditions of service of the High Court judges in Part A States, which would

now apply to all high Court judges, it would be found that even if a High Court judge has worked only for a few days, then also he will be entitled to a minimum pension of Rs. 6,000. Therefore, Rs. 6,000 is one of the avenues or means by which the judge can carry on his livelihood. That is one. Secondly, it was contended that no permission should be granted to practise at all. Now, I may point out to the hon. Member.....

SHRI R. C. GUPTA: May I inform the hon. Minister that even now the retired judges of High Court are appearing before the tribunals and I have myself appeared along with them before the election tribunals.

SHRI B. N. DATAR: I cannot make a reference to what is done—whether it is regular or irregular. So far as our desire is concerned, we have made it very clear that these retired High Court judges can practise before a High Court in which they were not judges, and before the Supreme Court.

SHRI R. C. GUPTA: Is there any - provision debarring the retired High Court Judges?

SHRI B. N. DATAR: This itself is the provision. Therefore, I am pointing out. On the one hand, as I stated, it was pointed out that they should 'have no right to practise at all. I was pointing out here that oftentimes we come across great difficulties where senior lawyers, senior advocates are not prepared to accept the post of a High Court judge. This has occurred on a number of occasions, and perhaps Mr. Bisht had this in view when he contended that the quality of the work is deteriorating. I am not accepting that position because we try our best. The President tries his best to see that the best person is appointed, but if, for example, the Chief Justice of a particular High Court has to make a recommendation solely on the ground of merit and if the offer is not acceptable or is not likely to "be acceptable by the advocate who has the longest tenure, and who was almost at the top of the bar, then naturally, the Chief Justice has to accept the second best and ultimately, he has to recommend him to the President. The matter comes to us and we have to appoint a person who is the second best. That is the reason why a relaxation has been made in the rule, so that, if, for example, after retirement, a High Court judge was formerly an advocate, and if he desires to practise, it should be open to him. There is no desire to give him special terms, but this is what can be called a concession to reality.

5 P.M.

That is the reason why one Member suggested the other day and very rightly suggested, that when there is the offer of a High Court judgeship to an advocate, he should consider it as a privilege, and should not take into account any monetary sacrifice that may result if he joined the bench. Let us hope that this tradition will gradually develop. A further inducement has heen offered for what it is worth. It was contended by some that if a retired High Court judge were to go to another area and practise before a High Court, he would get no clientele at all. But that is a matter which depends entirely on his own ability, experience and the manner in which he gets his clientele. It is not our concern. But we have given him an opening and I am confident that as a result of this opening, we shall have the willingness of a number of senior advocates who would come forward to accept the offer of a High Court judgeship, when it is made to them. That is the reason why the provisions relating to High Court judges have been made in the manner in which they have been described in the various clauses that I have referred to, namely, clauses 11, 12 and 15 and also clause 22.

Something was said by Dr. Kvtneru about the areas which were the Part C States and which are now to be territories. So far as the wording

[Shri B. N. Datar.] of clause 16 is concerned, he contended that the words "or other authority" mentioned there in that clause, made him doubtful about the utility of this expression. I may point out that it is a fact that so far as Part C States were concerned, or so far as the new territories are concerned, it is well-known that they are not in the same state of development. But so far as the making of the rules is concerned, the rules ought to be made on the basis that all these are to be treated as Union territories. You will find that certain discretion has been vested in the President and therefore, in a proper case, perhaps we shall have to make some special things say about Bombay, or about Delhi. So far as Delhi is concerned, it has its own problems, having been the capital of India. So far as Bombay is concerned, even when it becomes a territory, it is entitled to some consideration in view of its very brilliant and eminent past.

Therefore, even though we have taken a broad rule which is applicable to all the seven territories, still it should be understood very clearly that a large amount of discretion has been left to the President. Objection was raised that the President might repeal or amend any law. But so far as the President's rule is concerned, it should be understood that it is Parliament's rule and that whatever the President does always comes before Parliament and Parliament will have the fullest say even when there is recourse to emergency provisions and the President's rule. Therefore, it should not be understood that the President or the Government of India, which advises him, would be acting in an arbitrary manner;. These are the provisions which have been made for use in all the territories, but subject to the discretion that is vested in the President, so far as the particular provisions and the particular areas are concerned. Therefore, I would point out to the hon. House that there lias been no desire to give any greater power for the President or the Government. But if these powers are there, if he has got the power of making Regulations, if he has got certain other powers, it does not necessarily mean that in all these cases the President will be exercising these powers and in an arbitrary manner. The President's rule even over these territories is subject to the control of Parliament.

Therefore, I would submit that so-far as the wording is concerned, no objection need be taken, because there is no desire to give more power. In fact, if there is any desire, then the desire lies the other way, because we are a popular government and we do desire to satisfy the legitimate aspirations of the people not only of Part A and Part B, but also of Part C States. They are also our own people, and if for certain reasons, they went under the Centre and became Union territories, still I would submit that the rule there would be as good as possible and the rule will be a popular rule in the' sense that ultimately, it is Parliament whose views are supreme. This is so far as Part C States are concerned.

Reference was made by Dr. Kunzru to regional councils, and he pointed out the possibility of the abuse of one rule. Government will look into this very interesting suggestion, for the desire of the Government is that in no case should there be any~ injustice either to the minority party, or even to the majority party, because the scales have to be held even. The-hon. Members of this House will understand that the principle of regional councils was originally meant for the Punjab, where the problems were, more or less, of a special nature, because on the one hand, there was what was known as the Hindi-speaking region, and on the other hand, there was the Punjabi-speaking: region. As some people humorously put it, it was a quarrel of the scripts. Whatever it be, there were certaim circumstances and people desired that

there ought to be an arrangement which would work well, which would work satisfactorily to the minorities, as also to the majority in all regions of the Punjab.

You will find that in view of that desire, that there ought to be the largest measure of satisfaction, this arrangement has been introduced also in the Andhra-Telangana area. So far as Andhra-Telangana is concerned, the language is the same. The people are the same—Telugus or Andhra people. Still, the fear was expressed by the people of Telangana, because they were comparatively backward, when compared to the Andhra area, and they wanted some safeguards. Therefore, even in the case of the Andhra area, even though the language was one and •identical, still regional councils have been established, because the desire is not merely to do good things, but to satisfy the people that things are being done in a good way and through proper channels. Therefore, I would submit that so far as the regional councils are concerned, or such bodies are concerned, they are purposely evolved for the purpose of meeting the abjections that a class of people is likely to be affected adversely by the other class, which according to the former is better placed. That is the reason why this system of regional councils has been evolved.

Considerable time was taken up by a number of hon. Members in pointing out that there was need for second chambers. So far as the need for second chambers is con cerned, I would request the hon. Members of this House to consider the views of the lower houses in the various legislatures. In some of these legislatures, resolutions have already been passed that there ought to be no bi-cameral legislatures at all. If I remember aright, the Bombay Assembly has passed such a rule. Therefore, we must understand that so far as bi-cameral legislatures are concerned, it is a matter on which there is a large volume of difference of opinion.

Secondly, whatever it be, it is not necessary at this stage to go into the larger question, because when actually abolition of second chambers is insisted upon, then this hon. House is seized of the matter, and then the matter has to be treated according to the provisions in the Constitution, and then we might consider the larger question. But so far as the scheme of continuing the councils is concerned, what the Government have done is that they have also remembered that in the re-adjustment of the States, or in the reformation of new States, if there was a council anywhere, that council is kept. That is the principle followed, namely maintenance of *status quo.*

It may be pointed out that there was no second chamber so far as Andhra-Telangana was concerned. The House will kindly understand that we have Andhra which is a Part A State. This has no legislative council. The present Hyderabad State, from which the new States will be formed, has no legislative council either. That is the reason why we state so far as the present Bill is concerned, that the arrangement should be on the existing basis, and as such we have not provided a council. Government and the Joint Committee would consider this question and also take into account the views of the legislatures of Andhra and Hyderabad, before a final ' decision is taken. Government have no views one way or the other, because this is a question which concerns the States most. As such, their views have to have a dominant position and Government would be guided—I am sure the Joint Committee also would be guided—by the views of the States.

My hon. friend, Dr. Kunzru made a reference to Tripura. I looked into the Report of the States Reorganisation Commission. While dealing

[Shri B. N. Datar.] with Tripura, I find the Members of this Commission have not- made any reference to the wishes of the people of Tripura at all; they have based their recommendations for the merger of Tripura on considerations other than those of the wishes of the people. That becomes very clear from paragraphs 710 to 713.

SHRI H. N. KUNZRU: What about Assam? I referred only to Assam, not to Tripura.

SHRI B. N. DATAR: So far as Assam is concerned, nothing has been said in the Report about the willingness of Assam.

SHKI H. N. KUNZRU: I have stated .a fact which cannot be challenged.

SHRI B. N. DATAR: Assam also did not express its desire to have this State within its territories, and even if it has said it, Government would not have considered the question of merging it unless Government found that there was a general desire on the part of the people of Tripura that Tripura should be merged with Assam, because, with other cases and with other circumstances, the wishes of the people have also to be taken into account. What is the criterion in these eases? We had a very long debate in this House, as also in the other House, and hon. Members must have seen that a very large number of people, people from Tripura and certain other places also, desired that Tripura should continue to remain a territory, as it is now a Part C State. Government also received representations. Government also made enquiries and found out that so far as Tripura was concerned, there was no strong opinion in favour of the merger of Tripura with Assam. So far as Assam was concerned, I may point out to my hon. friend that after the publication of this Report, there was some opinion in Assam to the effect that this State might merge in it, but that was not sufficient, that could not be conclusive. Therefore, Government had to take this decision, namely, that Tripura should continue as a Union Territory.

SHRI H. N. KUNZRU: Have Government decided the future of Himachal Pradesh with the consent of the people of Himachal Pradesh?

SHRI B. N. DATAR: That is so. In fact, we have recieved so many representftlvi^vs.We have received numerous representations to the effect that they ought not to be joined to the Punjab.

SHRI K. S. HEGDE: Even yesterday, the Chief Minister of that State said that.

SHRI B. N. DATAR: May I point out to the hon. Member that the legislature of Himachal Pradesh has appointed, what they call, a negotiating committee. That committee met me as also a number of our leaders the other day and they said that they were not prepared to join Punjab.

SHRI H. N. KUNZRU: My question was this: Have you made Himachal Pradesh a Union territory with the consent of the people of Himachal Pradesh?

SHRI B. N. DATAR: More or less with the consent of the people, I must say that. Let this question be analysed further. Now, the first point is that the people of Himachal Pradesh did not want to join Punjab. That point has to be understood very clearly and, therefore, it was pointed out to them on behalf of our leaders that their desire to remain separate implied their possibly becoming a Union territory, in which there will be no popular rule in the sense in which we understand it. They have reckoned the cost and have stated that it did not matter even if they had to remain a Union territory, but that they were not prepared to merge with Punjab. Now, they are asking that some elective element should be introduced so far as the council of advisers is concerned, and that is the

question which the Government are considering now. I would assure my hon. friend that so far as Himachal Pradesh is concerned, the articulate opinion is against joining * Punjab. Having deeided that way, they are naturally prepared to accept the implications of that, namely, that they might remain as a Union terri tory. They are now asking for cer tain popular representation. That apart, they have reckoned the cost of their refusal to join Punjab.

DR. ANUP SINGH (Punjab): May I ask one question? If the people of Himachal Pradesh, at least the articulate opinion, according to the Minister are against merger with Punjab, how can the Home Minister make a categorical statement, as he did today, that eventually Himachal Pradesh will have to merge with Punjab? What makes him think that eventually the people of Himachal Pradesh will be reconciled?

SHRI H N. KUNZRU: Home Minister.

SHRI B. N. DATAR: We shall carry on the process of inducement to these people and, in the course of five years, we shall induce these people to join Punjab because it is in their own interest. If they are not prepared at present then we shall allow them their say and, as the hon. Home Minister said, within the five years, Jet us hope that our powers of persuasion are strong and effective enough to induce them to join Punjab. That is the position so far as this State is concerned.

My hon. friend Shri Rajagopal Naidu, made reference to Devaswoms. So far as this matter is concerned, I would point out what the real position is. The existing arrangement is that a sum of Rs. 51 lakhs per annum is charged on the revenues of Travancore-Cochin by article 238 (10) (ii) of the Constitution. This provision was introduced after an agreement or a covenant entered into between the former Cochin Govern-ment ana tne lormer Travancore Government and the Government of India. Six lakhs of rupees out of this is for the Padmanabhaswami Temple which will be in Kerala. Out of the balance, Rs. 40 5 lakhs have been allotted to Keraia and Rs. 4-5 lakhs to Madras, on the basis of the distribution of registered land. Now, this Devaswom income comes out of the registered land in Travancore and: the Tamil areas. Rs. 46'5 lakhs is the sum charged on the revenues of Kerala by the proposed article 290. There is no provision for charging Rs. 4-5 lakhs on the Madras revenues and the matter is under consideration. Both the registered lands and the temples will be in the proposed Madras State after the transfer of these five taluks. Whether this sum can be charged on the Madras State revenues and whether this could be revised so that a greater amount may be made available to the temples in the Tamil taluks, is still being discussed with Madras. The final decision will be taken-in consultation with; the Madras Government.

SHRI P. S. RAJAGOPAL NAIDUr What is to happen to the one crore of rupees still available from the Devaswom fund? Are we going to gat a percentage of that fund also?

SHRI B. N. DATAR: Naturally-That question will be taken up when the assets and liabilities are distributed. What we have done here is *to* split up the sum charged on the revenues of the Travancore-Cochin State and also to reduce the charge from Rs. 51 lakhs to Rs. 44 lakhs because the registered lands, in respect of which a proportionate income-will arise, would go to Madras and" the temples also would be going to-Madras. So this is the position so far as Devaswom lands are concerned.

So far as linguistic minorities are-concerned, Sir, we have got clause-20, and my hon. friend may refer to> the language, "It shall be the endeavour of every State". This is the language which has been used in the

[Shri B. JN. Datar.J Constitution, and then even the Directive Principles, Sir, have to be given effect to, and I am quite confident that the rights safeguarded, so far as the minorities are concerned, will receive due recognition.

Then a general question was put to me by my friend, Dr. Kunzru, as to what *te* the attitude of the Government uo far as the other recommendations of the S.R.C. are concerned. So far as those recommendations are
. concerned, Sir, on the whole they are very good and useful recommend-
. ations, and the attitude or the approach of the Government is to accept or to induce the State Governments to accept as many of them as are possible. Sir, we are trying our
'best and we are carrying on our negotiations with the State Governments on the basis that at least prima facie they are very good and progressive suggestions, and they have to be
. given due effect to.

Then, Sir, he made a reference also rto other questions. They were with regard to domicile. So far as domicile is concerned, Sir, we have got now the citizenship Act. We have also got the provisions of the Con-: stitution so far as the rights of citizen ship or the accrual to the right of • citizenship is concerned. It may be found that we have not got a double .citizenship at all. The citizenship is common and any citizen of India from . any part can go to any other part subject to certain restrictions, and in article 16 (3) it has been pointed out that so far as certain domiciliary restrictions are concerned, when they bear on the question of admission to Government service, there are actual ly certain rules. In some States there are executive rules. The Punjab High Court has held that the executive rules are not binding on Government. There are also other laws which are made under the authority of the law or laws then existing in those States. So far as .these rules are concerned, now it has been laid down in article 35 of the Constitution that until the Parliament amends the rules or maites other rules, in So far as these rules, which have the force of law in certain States are concerned, they have an operative value. Now, after this, Govenment have taken up this matter with the various State Governments and we are also fortified by the opinion expressed by the S.R.C, and Government will consider the views of all the State Governments. In fact, I answered a question either in this House or in the other that after considering the whole question, Government would take a decision, and if Government considers that any amendment in the law of the States is required, then Government will undertake necessary legislation.

Sir, I have answered almost all the questions.

SHRI H. N. KUNZRU: What about the code that was to be prepared in consultation with the State Governments, the code to be adopted in consultation with the State Governments and to be observed by them?

SHRI B. N. DATAR: Sir, Govern ment are carrying on negotiations on various points so far as these ques tions are concerned. The recom mendations of the S.R.C, are mani fold and they are very important, and therefore, Sir, within a short time, we cannot come to conclusions on all the points, especially when so many States are concerned, and I would inf orm the hon. Member that we are trying our best, and as against the reorganisation of States, and as against the importance that has been given to one language to a certain extent, Government are introducing safe guards either in the law to the extent that it is necessary, or otherwise in the rules, or in the domiciliary rules in the various States, so that an anti dote would be provided to let the people, whatever might be their language, live happily and have full rights in whichever State they are living and whatever might be the

"predominant language in that area because, as Mr. Bisht has pointed out, the aim that the Government have
'before them is to see that the integrity
•of the nation and the solidarity of the nation is not broken up in spite
• of our concessions to the needs for reorganisation, and the reorganisation also is being proceeded with on a rational basis, and therefore, Sir, I would lastly point out to the hon. House that Government are fully alive
'to the need for taking proper action
:for consolidating the nation so far as the different States are concerned, and
-on the whole, I was extremely happy to find that either so far as the States Reorganisation Bill is concerned or so far as this Constitution (Amendment) "Bill is concerned, we have a very large majority to support, and I am grateful to the hon. Members who "have made certain very valuable and constructive suggestions. They will
"be duly considered by the Joint Select Committee and Government's •approach also would be as sympathetic as possible. *(Cheers.)*

MR. DEPUTY CHAIRMAN: The •question is:

> "That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses -on the Bill further to amend the (Constitution of India, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—
>
> 1. Shri Chandulal P. Parikh.
> 2. Shri Biswanath Das.
> 3. Shri K. Madhava Menon.
> 4. Capt. Awadhesh Pratap Singh.
> 5. Dr. Anup Singh.
> 6. Shri A. Satyanarayana Raju.
> 7. Shri M. D. Tumpalliwar.
> 8. Shri K. S. Hegde.
> 9. Shri Tarkeshwar Pande.
> 10. Shri T. R. Deogirikar.
> 11. Dr. P. Subbarayan.
> 12. Shri J. V. K. Vallabharao.
> 13. Shri V. K. Dhage.
> 14. Shri Kishen Chand.
> 15. Shri Surendra Mahanty.
> 16. Kakasaheb Kalelkar.
> 17. Shri Govind Ballabh Paat *(the Mover)."*

The motion was adopted.

Mr. DEPUTY CHAIRMAN: Tke House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at twenty-seven minutes past five of the clock till eleven of the clock on Thursday, the 3rd May, 1956.