

personnel and those people are actually retrenched for whom no alternative employment is available.

(d) The scheme has been put into effect.

PROGRESS OF THE CENTRAL ROAD RESEARCH INSTITUTE, DELHI

132. SHRI GOVINDA REDDY: Will the Minister for NATURAL RESOURCES AND SCIENTIFIC RESEARCH be pleased to state:

(a) the progress made by the Central Road Research Institute in its work;

(b) the results achieved;

(c) the expenditure incurred on the Institute so far; and

(d) what is the personnel at present employed by the Institute and what is their respective salaries?

THE MINISTER FOR EDUCATION AND NATURAL RESOURCES AND SCIENTIFIC RESEARCH (MAULANA ABUL KALAM AZAD): (a) to (d). Statements giving the required information are laid on the Table of the House. [See Appendix V, Annexure Nos. 66, 67 and 68.]

PAPERS LAID ON THE TABLE

REPORT OF THE COMMODITY CONTROL COMMITTEE, 1953 AND COMMERCE AND INDUSTRY MINISTRY RESOLUTION

THE MINISTER FOR COMMERCE (SHRI D. P. KARMARKAR): Sir, I lay on the Table the Report of the Commodity Controls Committee, 1953, together with a copy of the Ministry of Commerce and Industry Resolution thereon. [Placed in Library. See No. IV. S.O.(172).]

THE ANDHRA STATE BILL, 1953—
continued

SHRI RAJAGOPAL NAIDU (Madras): Mr. Chairman, Sir, let not the House mistake me if this amendment comes from me. Simply because I happen to get two years time, let it not be thought that I want a reshuffle of the members who hail from the Madras State, to my possible advantage. I have got substantial reasons behind to substantiate that clause No. 10 is opposed to all fundamentals, opposed to law, and opposed to principles. Sir, we all know that Madras State has been allotted 27 seats in the Council of States and without consulting these 27 Members, their areas have been allocated—9 for the Andhra State and 18 for the residuary Madras State. I request the Members of the House kindly to see the First Schedule which is on page 24 of the Bill.

Part I deals with Andhra Members of the Council of States, and Part II deals with Madras Members of the Council of States. Sir, it is a mystery we are not in a position to know on what basis this allocation has been made—9 for Andhra and 18 for Madras. Is it based on vocation or is it based on the property that is held by the Members in the residuary State of Madras or Andhra, or is it based upon where their voting is? It is for the hon. Minister to say what is the principle that has been adopted when this division has been made as 9 and 18. Secondly, we find that when this division is made, it is only the Members of the residuary State of Madras who stand to suffer and it is certainly a gain for the Andhra State Members. We find that so far as the residuary Madras State is concerned, out of the 18 Members, in the first category there are six Members, that is, those who secured six years in the ballot; in the second category there are seven Members, that is, those who secured four years; and in the third category, there are five Members, that is, those who secured two years. We find in clause No. 10 that of those of Residuary State who

secured four years, that is, those who are in the second category by ballot, one of them is pushed down to the third category. And, so far as the Andhra State is concerned, one is pushed up from the second category to the first category. We find under clause 10(4) in the Bill, "the term of office of each of the three Members to be elected by the elected members of the Legislative Assembly of Andhra under section 9 shall expire on the 2nd day of April 1956". Sir, Andhra is to get three more Members under the Bill, and the strength of Andhra after the appointed day will be 12, and the strength of the residuary Madras State will remain at 18. We find these three are to vacate the seats on a particular day, namely, 2nd April 1956. Now, if they were to be kept in the second category, so far as Andhra is concerned, the figure then would be five. That is the reason why that one from the category No. II is pushed up to the I category.

Sir, we find under the Constitution, in article 83, that "the Council of States shall not be subject to dissolution, but as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law". Parliament has enacted what is called the Representation of the People Act with which all of us are very familiar. In Section 154 sub-section (2), it says: "the term of office of a member of the Council of States, other than a member chosen to fill a casual vacancy, shall be six years, but upon the first constitution of the Council of States the President shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter". What we find is that so far as the three Members who are elected after the appointed day are concerned, their term of office is fixed as 2nd April

1956. I feel that because they are elected after the first constitution, their period should be fixed only for six years; you cannot in this Bill fix their term to expire on 2nd April 1956. The Representation of the People Act is very clear that the term of office of a Member of the Council of States other than a Member chosen to fill a casual vacancy shall be for six years, but what we find here is that their term is fixed as four years. In my opinion, it cannot be considered by any stretch of imagination that these three Members who are to be chosen now are chosen against casual vacancies, because a casual vacancy would arise if any person resigns or dies or any such thing happens; and if he is elected in what is called a bye-election—in which case only it will be considered to be filling a casual vacancy—he will have only that period which the incumbent of that particular office had. But in this particular case it is not a casual vacancy and it will not be a bye-election but what is called a primary election. It will only be a general election and it can never be considered any longer as a casual vacancy, in which case their term will remain fixed.

In this particular case by virtue of an order passed by the President in consultation with the Election Commissioner, that is, the Council of States (Term of Office of Members) Order, 1952, the total number, i.e., 27 was divided into three categories and the first category was allotted six years, the second four years and the third two years. Under paragraph 3 of that Order, the Member or Members of each group were placed in each of the said three categories determined by the Election Commission by drawing lots in public in such manner as it deemed fit, after notifying in the Gazette of India the time and place at which the lots had been drawn; and the term of office of a Member shall expire on the second day of April 1958, 1956 or 1954, according as he is placed in the first, second or third category.

[Shri Rajagopal Naidu.]

Sir, I lay stress upon the mandatory provision of this particular Order, namely, that the term of office of a Member shall expire on the 2nd April 1958, 1956 or 1954 according as he is placed in the first, second or third category. Now, what we find is, this particular Order is given the go-by. Those who fall in the second category, so far as Madras is concerned, are seven in number; and though their period has been fixed as four years under this particular Order, yet by giving the go-by to this mandatory provision, the period is to be brought down to two years. That in my opinion is not fair or legal. I do not think there can be any kind of legislation which will reduce the period of a particular Member. It might be all right if it were to his advantage, but if it is to his disadvantage, in my opinion, this cannot be done.

Again take, for instance, the Legislative Council of Madras. So far as the Madras State is concerned, they had fixed 46 seats originally. In the Bill that was sent to the Madras Legislature, on page 26, in the Fourth Schedule we find only 46 names, but now in the Bill that is introduced in this House we find there are 51 Members in the Fourth Schedule. Five more names have been added. Those names have been recommended by the Madras Legislature and adopted here when the Bill was introduced in the House of the People. Sir, I do not know under what principle only 46 names were first suggested and under what principle five more names have been added. Did the Home Ministry consult these 27 Members or the 73 Members of the Legislative Council of Madras before they classified them as belonging to the Andhra area or to the residuary State? Absolutely nothing to our knowledge. How did these five members who were originally classified as belonging to Andhra come to be included in the residuary Madras State? We find the names of B. V. Subrahmanyam, S. Srinivasa Rao, Mohamad Raza Khan, G. Venkatachalam and M. Satyanarayana; these five

names were not in the original Bill but have been included. Sir, I know for certain that at least some of them are prominent residents of Andhra. Some of them are holding offices in the Andhra Congress Committee. At any rate, about one of these five I am certain that he has absolutely no property in the residuary State of Madras. How then have these persons been included in the residuary Madras State? What is the basis on which the seats have been allotted? If only the members had been consulted, all this confusion would not have arisen. Then, Sir, out of the 12 members who were nominated, so far as the Madras Legislative Council is concerned, we find 11 have been allotted to the residuary State of Madras and only one has been left out, because the Andhra State will have no Upper House.

My next point would be—what is the provision of law under which the period of a particular member may be increased or reduced after it has been once balloted? I find there is no specific provision in the Constitution, but it may be argued that it comes under article 4. Yesterday mention was made about articles 2 and 3. Article 2 deals with establishment of new States and article 3 deals with the formation of new States and alteration of areas, boundaries or names of existing States. Now, this Bill has been introduced by virtue of the power given to the Government under article 3 of the Constitution. What article 4 deals with is laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters. Sir, could it be said that the pushing up or pushing down of the term of Members of the Council of States or members of the Legislative Councils would amount to supplemental, incidental or consequential provisions with respect to the formation of the new States? The First Schedule deals with the States and the territories of India; it gives the names of the Part A States, Part B States, Part C States and Part D

States. The Fourth Schedule deals with allocation of seats in the Council of States. I may very well agree with the hon. the Home Minister if the Fourth Schedule is amended by virtue of the power given to the Government under article 4, by inserting the name 'Andhra' and opposite to that allotting a certain number of seats in the Council of States and altering the number of seats allotted to Madras. I can very well understand if that amendment alone is made. But how the term of office of the members to be elected for the Andhra State is to be determined and how the term of office of the Members of the Council of States so far as the residuary State of Madras is concerned can be refixed or reallotted is a thing which, in my opinion, was never contemplated under article 4 of the Constitution. There are specific and mandatory provisions under the Council of States (Term of Office of Members) Order, 1952, which specifically and categorically says that the period of a particular Member shall expire on a particular day. So I cannot imagine for a moment that by making a provision similar to clause 10 of the Andhra Bill the period of a Member of the Council of States can be reduced or increased. It is only for this purpose that I have tabled this amendment, because otherwise confusion will certainly arise; confusion in two ways, namely, whether the election of the three additional Members for the Andhra State could be called election to fill casual vacancies or whether it can be called a bye-election. Yesterday I wanted to speak on that, but unfortunately I was not given an opportunity to speak on clause 9. What do we find in clause 9 of the Bill? It relates to bye-election to fill vacancies. It says:

"As soon as may be after the appointed day, there shall be held a bye-election to fill the vacancies existing on the appointed day in the seats allotted to the State of Andhra in the Council of States."

They have to fill up three more seats. These three seats are not casual

vacancies, because for the first time by virtue of this enactment, i.e., The Andhra State Bill, their number is increased from nine to twelve, and so it cannot be construed a bye-election. Bye-election would come only when the seat had already been filled but fell vacant subsequently and had to be filled up again. Then only is it a bye-election, not otherwise. It cannot be conceived as filling up a casual vacancy. If that much is conceded, even if any candidate is elected for the first time in a general election he should come in for six years under section 154 of the Representation of the People Act. I am opposed to using of the word 'bye-election' to these vacancies. We find bye-elections are dealt with in Part IX of Representation of the People Act. Part IX of the Representation of the People Act deals with bye-elections. Section 147 runs as follows:

"147. Casual vacancies in Council of States.—When before the expiration of the term of office of a member elected to the Council of States, his seat becomes vacant or is declared vacant or his election to the Council of States is declared void, the Election Commission shall by a notification in the *Gazette of India* call upon the elected members of the Legislative Assembly or members of the electoral college concerned or the elected members of the Coorg Legislative Council, the case may be, to elect a person for the purpose of filling such vacancy so caused before such date as may be specified....."

So, the word "bye-election" is used only to fill a casual vacancy under the People's Representation Act and the word 'bye-election' cannot be used for filling up seats on a permanent basis. The filling up of these three seats would amount to a general election. The filling up of these three seats would amount to a primary election. The filling up of these seats would never amount to a bye-election. It is only in the case of bye-elections that the period is always fixed. The filling up of these three

[Shri Rajagopal Naidu.] additional seats, so far as Andhra is concerned, would never be considered as the filling up of seats for casual vacancies. Sir, because there was so much of confusion in this, I suggested that the whole thing should be reshuffled. The Council of States (Term of office of Members) Order, 1952, should first of all be repealed if this clause 10 is to be given effect to. So long as the Council of States (Term of office of Members) Order, 1952, is in force, I do not think that clause 10, even if it is passed into law, could be considered as valid, because it runs counter to the period that is fixed. Clause 10 of the Bill runs counter to the provisions of the Council of States (Term of office of Members) Order, 1952. It is only for this reason that I suggest that there should be reshuffling of the whole thing and that reshuffling should be made after these three Members are elected to the Andhra Legislature, in which case there will be 12 Members for Andhra and 18 Members for Madras. And there can be two separate ballots, one for Andhra and one for the residuary State of Madras. As it is, with the formation of this Andhra State, it is only the members of the residuary State that stand to suffer, because one of the seven who are placed in the second category has to be pulled down to two years period. And on the other hand, so far as Andhra is concerned, they stand to gain, because one of the Members who gets four years period is pushed up to the period of six years. Sir, it is only to avoid all this confusion and hardship to the Members of the residuary State, and also to avoid certain violation of the principles laid down in the Constitution, in the Representation of the People Act and in the Council of States (Term of office of Members) Order, 1952, that I suggest that there should be reshuffling of the whole thing. So long as there is no provision repealing the Council of States (Term of office of Members) Order, 1952, provided for in clause 10 of the Andhra State Bill, it would certainly be a

violation of the principles of law passed by the Parliament.

SHRI RAMA RAO (Madras): Mr. Chairman, I am in the same unfortunate position as my hon. friend Mr. Naidu. I am in the two years list; therefore I feel strongly that this provision of the Schedule is not fair. I have very little to add to what Mr. Naidu has said by way of legal argument. In fact, I should be very glad to see how the combined legal intelligence of Dr. Katju and Mr. Biswas is going to meet the sound and powerful arguments he has advanced. So far as I see the things as a layman, there is a clash between law and equity. The Constitution lays down the system of rotation. Perfectly true. But we did not foresee the creation of the Andhra State then. Is it the idea that I, having been associated with this movement for the last forty years, should be its first casualty? It strikes me as rather unfortunate. The framers of the Bill did not even take the trouble of consulting the Members concerned and settle the question in Delhi all by themselves. It would have been good if they had followed the procedure I have suggested. What are they doing? They are pushing the element of luck and lottery a little too far. The Constitution permits that element to some extent, no doubt but it is being pushed farther by the transfer of one man from the four years list to the six years list. You are refusing to give any opportunity to the other people to try their luck. Sir, even if you redistribute, you should have some principle. The ancient Hebrews had a custom by which every ten years all the land was put in the common pool for redistribution. I would have been delighted to see that happy practice being adopted here where the new State provides an occasion for feast and festival. But nothing has been done.

May I, in the end, say that so long as sufficient importance is not attached to this Council, we shall go on making arrangements for it which

will be detrimental to its self-respect and efficient working.

Sir, one word of personal explanation. My name has been put in the Andhra list. That is as it should be. (*Interruption.*) I am a down right hundred per cent. Andhra but I must tell to the House that I got my seat in the Tamil quota of the Congress Party through the generosity of Pandit Jawaharlal Nehru and the kindness of Mr. Kamraj Nadar. I want it to go on record that I thank them immensely for their kindness and generosity.

SHRI H. D. RAJAH (Madras): Sir, in the able arguments advanced by Mr. Rajagopal Naidu, he has referred to the unconstitutional provision of clause 10 in this Bill. He has also given copious extracts from the Representation of the People Act. My grievance is only this. Sir, this disproportionate allotment of seats to the Madras State compared to the Andhra State is a very important matter on which we must focus our attention. Sir, what does this clause say? The first instalment of favouritism which the Government of India is showing towards the coming Andhra State is a very generous over-representation in the Council of States. As it is, Sir, the Madras State has 240 Legislative Assembly Members and the Andhra State is having roughly about 130 to 135. If you divide the number of Legislative Assembly Members by the number of seats allotted, you will find that every Madras State Council of States Member is to have first votes to the extent of 13, whereas the Andhra State Members have to be given only 10½. If this is the disparity by which the representation is to be given in the Council of States, I say in all humility, Sir, that it is unfair to the Madras State.

SHRI C. G. K. REDDY (Mysore): Does the hon. Member know what the number of seats allotted by the new Delimitation Commission is?

SHRI H. D. RAJAH: Sir, the new Delimitation Commission has not yet

come into existence in this sense that the Members are not elected on that basis. I am talking of the basis on which both the Legislative Assemblies are going to function after the Andhra State has come into existence. There is no such provision in this Bill that there will be a re-division, or rather a re-alignment of the Council of States Members in the State.

Secondly, Sir, what I have to say is this. In the overall position of a re-distribution or rather a re-alignment of boundaries on the basis of language again, there are going to be various divisions and sub-divisions with regard to the Madras State as well as Kerala and other States.

Therefore this section does not visualise any future or contingent possibility with regard to the allocation of members. I would therefore earnestly request the Government Benches that this clause may be deleted and that what has been done by taking a ballot strictly in proportion to the present representation should remain in force.

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU): Mr. Chairman, I am not in a position to accept this amendment, and for a very simple reason. In framing our Bill and this particular clause, we consulted the Election Commission, and due to a variety of reasons, the most important of them being the least disturbance of the existing position, they have suggested this particular way.

SHRI RAJAGOPAL NAIDU: What is the basis on which this allocation has been made?

DR. K. N. KATJU: Now, the way in which my hon. friend is moving this amendment would result in upsetting the existing position of all the Members in this Council elected from Madras. I shall just tell you what would be the exact result. You know, Sir, that under the existing rules and under the Constitution, when the general elections took place, there were 27 Members to be sent

[Dr. K. N. Katju.]

from the State of Madras. They were to be divided by lots. The Council is always in session; it is never dissolved, and we all know that after two years, there will be election for one-third of the membership. For these 27 Members, lots took place and as indicated in the First Schedule of this Bill, these 27 Members were divided into groups of 9, one group for two years, another group for four years and the third group for six years. In clause 6 of this Bill we have raised the strength of the Andhra representation in this Council from 9 to 12. The Madras representation is 18. The present strength is 27, and the residuary Madras State gets 18 Members, and there is no difficulty whatsoever about them. The Andhra representation is only 9 and therefore they have been given three more. If the House turns for one moment to the First Schedule, it will find that out of these 9 Members, there were three whose term was up to 1958, four up to 1954 and only 2 up to 1956, and what we did was that we have increased from 3 to 4 the number of Members who would be here till 1958, and then we said that the best course would be to increase the term of office of one of the two Members who are going to sit here up to 1956, from 1956 to 1958, to be drawn by lot. The result would then be that there would be four for 1958, four for 1954, and one would be left for 1956, and inasmuch as the strength is going to be raised from 9 to 12, you will have three further elections and all those three new Members who would come in would be for a term up to 1956, and the result would then be: You will have groups of four for the three terms of office. The only change that we are making is to shift one hon. Member from the group of 1956 to the group of 1958 by lot, and every other Member will know where he stands. Only one Member is shifted by lot from 1956 to 1958.

So far as Madras is concerned, there are 18 Members, and if hon. Members would look at Part II of the First

Schedule, they will find that there ought to be groups of 6, 6 and 6—three sixes. There are already six in the group of 1958. They are not touched at all. They have gone through ballot and in that ballot they have come in the group of 1958. Then they will find that in the two other groups, in the group of 1954 there are five, and in the group of 1956 there are seven. Therefore what we have done is to bring down one Member from 1956 to 1954, and this would make six in each group. One Member in the group of 1956 runs the risk of being brought, by lots, from 1956 to 1954. Otherwise, the Schedule stands as it is.

SHRI H. D. RAJAH: Why not also give three more seats to Madras?

DR. K. N. KATJU: Do you want 24?

SHRI H. D. RAJAH: 21, i.e., 18 plus 3.

DR. K. N. KATJU: So far as the amendment is concerned, I see that my hon. friend who has moved it, has said that the tenure of these people has to be disturbed. They have undergone the trouble of a ballot once, and they would undergo the risk of a ballot another time. So far as my hon. friend is concerned, as a matter of curiosity, I looked up his name in the List, and his name is No. 16 in the 1954 group.

SHRI RAJAGOPAL NAIDU: I said that in the very beginning.

DR. K. N. KATJU: He is in the 1954 List and he ought to know where he stands. Now, the question is, why jeopardise a man whose tenure of office is up to 1958? He remains with a sense of security that he will remain till 1958. My hon. friend says, "No, no. Undermine that security".

SHRI C. G. K. REDDY: Is it social security or political security?

DR. K. N. KATJU: Lots may favour them or may not favour them. I don't

want that to be done. Therefore, in consultation with the Election Commissioner, the most independent and impartial officer that the Constitution has provided, we looked into this matter, and we decided that the best way would be to give three more men to Andhradesh who would be there till 1956, and to increase the term of one Member in the 1956 group from 1956 to 1958. So far as Madras is concerned, let everybody remain where he is, except that one Member in the 1956 group will be brought down to the 1954 group. This is fair, equitable, and the least disturbing arrangement.

SHRI RAJAGOPAL NAIDU: Absolutely illegal.

DR. K. N. KATJU: Without meaning the least offence to the hon. Member, the 1954 Members will have nothing to lose. They may gain, but they have nothing to lose. On the other hand, the 1958 men will be in great jeopardy.

SHRI P. SUNDARAYYA (Madras): On a point of order.....

DR. K. N. KATJU: Am I out of order?

SHRI P. SUNDARAYYA: Let the hon. Minister answer the legal points and not make light of the points raised. He should take them more seriously.

SHRI RAJAGOPAL NAIDU: What is the law under which this is done?

DR. K. N. KATJU: We are making new laws in Parliament.

SHRI H. D. RAJAH: But this is inconsistent with the Constitution.

DR. K. N. KATJU: Sir, I am unable to accept the amendment and I suggest that the House should pass the clause as it stands.

SHRI RAJAGOPAL NAIDU: Sir, I want one clarification. I had a high opinion of the able advocacy of our Home Minister but I am sorry to say that though he was an able lawyer himself, he was not able to meet the

points raised by me. He said so far as Andhra was concerned, in category 2 there were only two Members. So the three that are to be elected are placed in the second category and afterwards it should be re-ballotted and one should be pushed up to six years. My question is, if you don't want any re-allocation, why, out of the three Members who are to be elected, did you not place two in the second category and one in the first category so far as Andhra is concerned? My second point is, why should we not have a ballot so far as all the 18 Members of Madras are concerned? You say that instead of 18, by your present Bill you are disturbing the period of 7 Members because there are only 7 in the second category. What does it matter if 7 are disturbed or 18 are disturbed? It does not matter much, because there is absolutely no rationale behind it, and no reason behind it. As I had already pointed out, if this is made into law as it is, it would be in violation of the principles in the Council of States (Term of office of Members) order 1952, the Representation of the People Act, 1951 and the provisions of the Constitution.

DR. K. N. KATJU: I have nothing to add, Sir.

SHRI RAJAGOPAL NAIDU: Of course you cannot add anything.

MR. CHAIRMAN: The question is:

"23. That at page 4, for lines 1 to 18, the following be substituted, namely:—

"(10) *term of office.*—(1) The term of office of each of the Members specified in the First Schedule as determined under the Council of States (Term of office of Members) Order, 1952, shall cease to have effect on the appointed day.

(2) The term of office of Members specified in the First Schedule and the term of office of each of the three members to be elected

[Mr. Chairman.]

by the elected members of the Legislative Assembly of Andhra under section 9 shall be determined, as soon as may be, after the appointed day and before 2nd April, 1954, by lots drawn in such manner as the Chairman of the Council of States may direct."

The motion was negatived.

MR. CHAIRMAN: The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

MR. CHAIRMAN: Motion moved:

"That clauses 11 to 27 stand part of the Bill."

SHRI RAJAGOPAL NAIDU: On a point of order. Under Rule 90 of the Rules of Procedure, when a Bill is taken into consideration, it has to be put clause by clause and not all clauses clubbed together. May I read it? It reads:

"The Chairman may call each clause separately, and when the amendments relating to it have been dealt with shall put the question etc."

May I request the Chairman to put clause by clause so that if any hon. Member wishes to say anything on any particular clause, even though there are no amendments to it, he may do so.

MR. CHAIRMAN: What I would like to say is that I am prepared to give freedom so far as Members are concerned. If they want to speak on any of the clauses that I am putting here, I don't want to stifle the discussion. They are at liberty to speak. My desire is that since no amendments have been moved, if any Member wishes to say anything on any of the clauses from 11 to 27, I am not going to put them to vote until I have

heard the Members. Any discussion on any of the clauses 11 to 27?

(No hon. Member rose.)

10 A.M.

MR. CHAIRMAN: The question is:

"That clauses 11 to 27 stand part of the Bill."

The motion was adopted.

Clauses 11 to 27 were added to the Bill

MR. CHAIRMAN: Motion moved:

"That clause 28 stand part of the Bill."

There are three amendments.

SHRI P. SUNDARAYYA: Sir, I move:

"That at page 9, lines 11-12, for the word and figure 'January 1956' the word and figure 'July 1954' be substituted."

I also move:

"That at page 9, line 15, for the word 'may' the word 'shall' be substituted."

SHRI T. S. PATTABIRAMAN (Madras): Sir, I don't wish to move my amendment No. 26.

MR. CHAIRMAN: Clause 28 and the amendments are open for discussion.

SHRI P. SUNDARAYYA: Sir, I have moved my two amendments for very valid reasons. The Madras Legislative Assembly unanimously accepted that the Andhra State should have a separate High Court and it should be formed by 1st June 1954. I have moved that instead of first June, it should be from first of July. Normally the High Court in Madras does not sit in June. It sits only in July. Therefore when the High Court adjourns for its vacation in summer, which is quite a long vacation of more than 3 or 4 months, it has enough time

to divide all records connected with the High Court so that without interruption of work they can start functioning from 1st July 1954 itself. The desire of Andhras is known; they want to have a separate High Court also along with a separate State. But because some of the lawyers, to whom the hon. Minister belongs complained that.....

MR. CHAIRMAN: He is saying about the general legal profession. He does not belong to them.

DR. K. N. KATJU: Let me assure him that no lawyer has seen me about this matter. So don't make any reflection on the Home Minister.....

SHRI RAJAGOPAL NAIDU: He has forgotten law after becoming a Minister.

DR. K. N. KATJU: I don't know why the Communist Members have so much complaint against the lawyers.

SHRI P. SUNDARAYYA: Because they are the people who prepare the Preventive Detention Bill and they carry it out.

MR. CHAIRMAN: Order, order.

SHRI P. SUNDARAYYA: Sir, there is a strong suspicion among the Andhras that this High Court is not going to come into existence and that it is going to be postponed as long as possible and when the whole Madras Assembly comprising of different groups and parties have unanimously recommended that Andhra should have its own separate High Court by 1st June 1954, I don't see why Government should have come with an amendment to their own original proposal, that the High Court be formed by 1st day of January 1956. Apart from that, now Government may argue that under sub-clause (2), if the Andhra Legislative Assembly decides to have its High Court earlier than 1st January 1956, then the President can pass an order bringing the High Court into existence. Here again I have moved an amendment and here also I wish to draw the attention of the House to this. In the first draft sent to the

Madras Assembly the words are "The President shall" etc. and here that word "shall" has been omitted and conveniently the word "may" has been brought in which means it is not obligatory on the part of the President to bring the High Court into existence unless it is his own will and pleasure. But it cannot be enforced under the Act itself if the Andhra Legislative Assembly decides to have a separate High Court by the 1st July 1954. The other day during the general discussion of this Bill when I raised this point, some hon. friends on the other side said that "may" also meant "shall". Well, if that is so, I would like to know why is it that in sub-clause (4) which deals with the location of the High Court, the word used is "shall" and not "may"? So I say, it is no use quibbling with words in which lawyers may be great adepts. For these reasons I move my amendment in order to have the High Court established in any case not later than the 1st of July 1954. If the Andhra Assembly meets and decides to have it earlier than the 1st of July, it will come into existence earlier. Another important reason why I want to bring this out is the way in which the Congress Party in Andhra is manoeuvring to get hold of the Ministry in Andhra. They do not have a majority there.....

AN HON. MEMBER: Who?

SHRI P. SUNDARAYYA: The Congress Party.

SHRI GOVINDA REDDY (Mysore): What has that to do with the High Court?

SHRI T. S. PATTABIRAMAN: Has the Communist Party a majority?

SHRI P. SUNDARAYYA: The Communist Party has a greater majority than the Congress.

SHRI T. S. PATTABIRAMAN: I want to know whether you have an absolute majority.

MR. CHAIRMAN: We are not discussing the composition of the Andhra Legislature.

SHRI P. SUNDARAYYA: The way in which the Congress Party in Andhra, supported by the Central Government, is trying to capture the Ministry by hook or crook makes it very necessary that this provision should be there, because what they intend to do is this. Because they have not got and they are not assured of a clear majority, they intend not to call the Andhra Legislature at all for at least three months. The financial provisions say that the Madras Governor and the Andhra Governor can sanction finance for four months. Therefore, there is no need for the Andhra Legislature to meet for the first four months. They will only call Mr. Sanjiva Reddy or whoever be the nominee of the Congress Party to become the Chief Minister and they will form the Ministry without the sanction or support of the Andhra Legislative Assembly. The other day also in the course of the general discussion, when this question was raised, the hon. Minister said that there need be no fear that the Andhra Legislature would not be called to meet; but ultimately when we pressed him and asked whether we could take it as an assurance that the Andhra Legislature will be called on the 1st of October, then he said, "Please address that question to the Ministry itself in Andhra". That is exactly our point, that they are, by hook or crook, trying to get a Congress Ministry there without even summoning the State Legislature, on the 1st of October, even when there is such an important issue like the location of the High Court or the location of the capital. Even though these and so many other problems are there, they want to rule being a minority party, even without their having to submit to the Legislative Assembly itself. That is the reason why I say, even if you are not prepared to summon the Andhra Legislature—and that seems to be their present motive—at least in this Act itself incorporate it that whether the Andhra Legislature meets and decides regarding the establishment of the High Court or not, by an Act of Parliament and by means of a provision in the Statute itself, there shall be a separate Andhra High Court by the 1st of July 1954, because all the Andhra

Legislators and all the Members of the Madras State also have jointly discussed the preliminary draft and they have decided that Andhra should have a separate High Court on the 1st of July, 1954. That unanimous opinion expressed by them is there. Therefore there is no reason why the Government of India should not agree to put it in this Act itself, unless it be that to satisfy a few lawyers or a few judges they want to postpone it. There is no use of the hon. Minister shaking his head. There are so many skeletons in the cupboard, he knows it and we know it too. Therefore I want that the Government should accept this amendment of mine.

In this connection I would like to ask the hon. Minister how he was justified in saying that the High Court was more important for the general public than the capital, as he was saying the other day. And when I said that it was fantastic nonsense to say that, he said that he knew more about High Courts and that he still held that view, that High Courts were more important than even the capitals. Well, it may be so from the point of view of lawyers and the litigant public who fortunately, in spite of all the encouragement which the Government holds forth by having such complicated clauses and sub-clauses and continuing the imperialistic laws for so many years, have not yet become even a small majority, not to speak of an overwhelming majority. Litigants still form only a portion of the population and a small portion, and those who go up to the High Court are much less. So the High Court is not more important than the capital and I would request the hon. Minister to revise his opinion on this point, if he is capable of such revision.

Taking all these arguments, I want my amendment to be accepted by the House so that the Andhra State shall have its own separate High Court from the 1st of July 1954 and so that the Andhras may not be suspicious about the judges wanting to postpone it or about the

lawyers being behind such a move. Even in the interest of the judges themselves and in the interest of justice on which the hon. Home Minister prides himself so much, it is necessary that the Andhra High Court should be given separate existence from the 1st of July next.

SHRI H. P. SAKSENA (Uttar Pradesh): If a High Court is a bad thing why have it for the Andhras?

SHRI RAJAGOPAL NAIDU: Sir, I can never contemplate a Part A State that is to be formed coming into being without a High Court even to start with. I can think of a Part B or Part C State going without a High Court but if the Andhra State which is to be a Part A State is to come up without a High Court, then I feel that there is something wrong somewhere.

[MR. DEPUTY CHAIRMAN *in the Chair.*]

Even the Constitution, under article 214, I find, says that there shall be a High Court for each State.

DR. K. N. KATJU: There is a High Court.

SHRI RAJAGOPAL NAIDU: And article 230 deals with the jurisdiction of the High Courts and says that this can be extended to or excluded from any State specified in the First Schedule. I do not for a moment find any reason for not providing Andhra with a High Court. Is it the lack of buildings? Or is it the lack of materials? Or is it the lack of personnel?

SHRI H. D. RAJAH: Lack of talent.

SHRI RAJAGOPAL NAIDU: Or is it the lack of talent, as Shri Rajah here puts it? You could locate the capital in a place like Kurnool which as I said in my first speech, is but a glorified village, with tents pitched everywhere. When you could locate the capital which needs much more area and many more buildings in a place like Kurnool, why didn't you think of starting the High Court in a place like Vijayawada or Visakha-

patnam or any other place in the coastal areas?

You have got enough buildings to locate a High Court. After all, if a High Court is formed for Andhra it may only have about six judges, if I am correct. So, I do not understand why they had not thought of constituting a High Court even to start with.

What we find from clauses 28 to 39 in the Bill before us is that this is only an anticipatory legislation. I think all these provisions would be unnecessary and the Law Ministry should have been satisfied with sub-clause (2) of clause 40 in the Bill which says: "the jurisdiction of the High Court at Madras shall extend to the State of Andhra, and the said High Court shall, in relation to the territories of that State, continue to have such jurisdiction as it had immediately before the appointed day", and, in a separate and comprehensive Bill they could have incorporated all the provisions contained in clauses 28 to 39 so that they would have been exhaustively dealt with. Now, in these clauses 28 to 39, what do we find? There shall be a High Court for Andhra. If a High Court is constituted, what should be the number of judges? Then comes the jurisdiction of the Andhra High Court when constituted. Then comes the enrolment of advocates, whether the Andhra High Court, when constituted will, have the power to enrol or not. Then comes the practice and procedure in the Andhra High Court, when constituted. All these things would have been unnecessary because it would have been advisable to bring in a separate comprehensive Bill in regard to clauses 28 to 39. I fail to see why all these things have been added in this Bill so as to add to the burden of the House in passing this legislation. Under these circumstances, as I have already said, there should be a High Court and the Bill has not provided for a High Court. A High Court, should be provided as early as possible. I wholeheartedly support the amendment moved by Mr. Sundarayya.

SHRI T. S. PATTABIRAMAN: Sir, it is a fact that the Madras Legislature

[Shri T. S. Pattabiraman.]

has passed a resolution that the Andhra High Court should be constituted immediately on the commencement of the Andhra State itself. Though Mr. Sundarayya carried on a tirade against lawyers and law, it is absolutely necessary in a democratic State where the Constitution reigns supreme that the rule of the law must be upheld and, in that respect, when the people are to be protected from the executive's vagaries, the importance of the High Court becomes much greater. So, Sir, the constitution of a High Court and its retention in a most convenient place is absolutely necessary if democracy is to function satisfactorily. In that respect the High Court is more important as it is the custodian of the Constitution and the custodian of the rights that have been conferred on the people by the Constitution.

Sir, in this particular respect, it is better not to have passions. Let us appeal to reason. It is admitted by the Government of India also that the Andhra State shall have a High Court before 1956; it only wants a certain time to elapse. The hon. Members who have been quoting chapter and verse from the report of Mr. Justice Wanchoo with regard to the capital are not prepared to accept what Mr. Justice Wanchoo has said about the High Court. Mr. Justice Wanchoo went into this question thoroughly and.....

SHRI P. SUNDARAYYA: Government accepts what is convenient and opposes what is not convenient to it.

SHRI T. S. PATTABIRAMAN: We take the cue from you. We can say that you accept whatever is convenient to you and reject whatever is not convenient. If that is good for you, that is good for us also. That is all.

So, Sir, Mr. Justice Wanchoo has clearly said that the constitution of a separate High Court can wait for another six years or seven years or even ten years. The people of a State should have a High Court within the area of the State and it is not the intention to deny it to them, but

the question is whether there is any urgency for it. Sir, the constitution of a High Court will create so many difficulties. It is not for the lawyers alone. For example, there are a number of cases pending in the High Court and the litigants might have paid lots of money to the advocates and as court fee stamps. If all these cases are to be transferred immediately to High Court of Andhra forthwith then....

PROF. G. RANGA (Madras): It is provided for.

SHRI T. S. PATTABIRAMAN: If all the pending cases are transferred to the Andhra High Court immediately, on the 1st October, the advocates who have been paid in Madras are not going to come there.

(Interruption.)

Mr. Sundarayya thinks that he is in a Communist State, where Party rule is in existence. It is the rule of law that is in existence here. Mr. Sundarayya must be practical. There is no point in shouting, I can also shout. The question is that if the clients have spent lots of money and the advocates have been paid, they will have to pay again. Perhaps, in a few months most of the cases may be decided—these may be pending for quite a long time and they may be decided in a few months. If the High Court is to be shifted immediately, what will be the fate of those persons who have paid money to the advocates? Are they to pay the advocates again and also incur court expenses? Is that the intention of my hon. friend? Sir, apart from that, there are so many difficulties in the immediate constitution of a High Court outside the city of Madras. It is not merely the question of lawyers. They can live somehow. If they do not get on well, they can become politicians. There is that avenue open to them.

SHRI K. C. GEORGE (Travancore-Cochin): Last resort.

SHRI T. S. PATTABIRAMAN: Not that all lawyers become politicians.

They can shine anywhere. So, the lawyers, the clients and other aspects have also to be considered. The Andhra High Court shall be constituted. The Government of India has said that, but we should not hustle them; we should not precipitate matters by asking for the immediate constitution of a High Court for Andhra. In a High Court, there is the administrative side and the judicial side. All the records have to be divided; the cases have all to be transferred and it will take a long time for doing all these things. So, Sir, we will put our clients and the public of Andhra in greater difficulties by precipitating matters.

Sir, the Government of India does not say that the Andhra High Court shall not come into existence before 1956. It only fixes a deadline. If the Andhra Legislators can come to an agreement and pass a resolution about November or even October the 17th, the Government of India will be willing to have the High Court constituted in the Andhra area itself, wherever the Governor decides, in consultation with his Ministry. My hon. friend was expressing one more doubt. He said "If there is a conspiracy, and the Governor does not summon the Legislature or the Ministry does not summon the Legislature, what will be the fate?" He does not understand one thing; according to our Constitution, the Ministry has no power and it cannot go on for months together without summoning the Legislative Assembly.

SHRI ABDUL RAZAK (Travancore-Cochin): Six months is a pretty long time.

SHRI T. S. PATTABIRAMAN: Six months in the history of a nation is nothing.

SHRI ABDUL RAZAK: It is a great thing in the interests of the people.

SHRI T. S. PATTABIRAMAN: I would appeal to hon. Members not to be carried away by passion. Let there be more realism. If your arguments

have any validity, please advance them in a convincing manner. There is no use shouting.

The Ministry cannot continue constitutionally for more than six months. They will have to summon the Legislature. Mr. Sundarayya said that his was the most powerful and dominant party. The Legislators could bring in a resolution on the 17th of October or any other date on which the Andhra Legislative Assembly passes a resolution, asking for a separate Andhra High Court. When there are so many avenues open to them, we cannot simply blame the Government and say that they stand in the way of the constitution of a separate High Court. It is for the Andhra people, it is for the Andhra Legislators to come to a decision and pass a resolution.

Then, Sir, Mr. Rajagopal Naidu was pointing out one more legal difficulty. He said that the Constitution has said that every State shall have a High Court; but, there is also article 230 of the Constitution.

SHRI RAJAGOPAL NAIDU: You need only extend the jurisdiction.

SHRI T. S. PATTABIRAMAN: I will read the article for the benefit of the hon. Member.

PROF. G. RANGA: He agrees with you and then says that all these things are superfluous. All that you have to do is to say that the jurisdiction of the Madras High Court shall be extended to the Andhra Area.

SHRI T. S. PATTABIRAMAN: That has been done.

PROF. G. RANGA: You have got all these things which are superfluous.

SHRI T. S. PATTABIRAMAN: Article 230 says:

"Parliament may by law—

(a) extend the jurisdiction of a High Court to, or

(b) exclude the jurisdiction of a High Court from,

[Shri T. S. Pattabiraman.]

any State specified in the First Schedule other than, or any area not within, the State in which the High Court has its principal seat."

So powers have been taken under this section and it has been done. The Government of India does not stand in the way of the aspirations of the Andhra people but it only makes the provision that if they want to have for the Andhra State a High Court let them pass a resolution immediately and it will be implemented. So, Sir, it is only the dead-line that has been fixed and if at all there is anyone who is aggrieved by this arrangement of the Madras High Court as before continuing to have jurisdiction over the new State of Andhra also, it is only the Tamilians who are affected because there may be again Andhra invasion and Andhra domination will still be there in the High Court in the form of lawyers and all that. Even then the Tamilians do not mind it.

SHRI H. D. RAJAH: Tamil lawyers will also get money.

SHRI T. S. PATTABIRAMAN: In order to facilitate the position of the Andhra people the Tamilians are prepared to accept the position that the High Court at Madras might continue to look after the interests of Andhra also although it will be a source of inconvenience to ourselves and is contrary to the popular wishes. Still we are prepared to accommodate it in the interests of the Andhra people and in the interests of the Andhra legislators. So, Sir, I oppose all these amendments because they carry no justification with them.

SHRI H. D. RAJAH: Sir, heat has been generated in this discussion regarding this amendment. Firstly it is political. Secondly it is legal. But nobody has taken into account the disabilities of the newly-born Andhra State with regard to this High Court matter.

Sir, this composite High Court which is going to administer the law till such

time as the Andhras have a separate High Court of their own will be beset with great difficulties. I shall point out one, for instance. Suppose an Andhra gentleman comes to the High Court at Madras looking after Andhra seeking redress in respect of a certain matter, and suppose for any reason he commits contempt of the High Court. Sir, that gentleman is beyond the purview of the Andhra Government for any justice being meted out to him. The Andhra Judge in the High Court of Madras will have to seek protection from the State of Madras. That is a very anomalous position. (*Interruptions.*)

The High Court will have jurisdiction. The place where that High Court functions is outside the territory of Andhra State. That is No. 1. No. 2 is with regard to any proceedings that may be taken. Suppose a cantankerous judiciary or a cantankerous police administration of Madras State refuses to deal with those delinquents who would come from Andhra, the judges of the High Court will be left at the mercy of the common people and that is a very important matter. Another point, Sir, is with regard to the Andhra High Court. Now the argument of Mr. Pattabiraman is not perfectly correct because if the High Court is to function in Madras State, they can have all the cases dealt with without difficulty because the cases are already there and they are being continued. Fresh suits will have to be filed by the litigants from Andhra because the dates cannot be varied. On the appointed day when the High Court would shift to the other area there must be division of cases, the Judges and the lawyers and so on. If the whole Government of Madras can be divided in order to see that the Andhra State starts functioning in Kurnool, what is the difficulty in dividing the composition with regard to the High Court? Therefore the argument that it is very difficult and it will take a lot of time and that a High Court for Andhra cannot be immediately constituted is very untenable. I suspect a political motive behind it and if the wealthy Andhra lawyers practising at Madras do not

want to get out of that place to Andhra they may not do so and this will make room for others and fresh lawyers will spring up in Andhra and seek their livelihood. I think this is a concession given by our Home Minister to the plutocratic lawyers of Madras, and to the Andhra judges in the Madras High Court who have their interests deep-rooted in Madras and do not want to keep out of Madras and to go to tents and snake-infested Kurnool. This is the real position. If you really want to see that a Part A State in full-fledged form is established, the right course would be to transfer the Secretariat before the High Court is transferred, and as soon as the Secretariat begins to function, the High Court also should begin to function in the Andhra area. Another point is the provision that "the principal seat of the High Court of Andhra shall be at such place as the Governor of Andhra may, before the prescribed day, by order, appoint." But the difficulty in this regard is that our Andhra friends have got what is called the Sri Baug Pact. If the Sri Baug Pact is to be accepted, the capital must be in Rayalaseema and the High Court must be in the coastal area or the High Court must be in Rayalaseema and the capital must be in the coastal area. For obvious reasons a very useless place called Kurnool has been chosen by the Andhra Members as their capital. So naturally the location of the High Court must be somewhere in the coastal area, and wires are being pulled, I know, so that the functioning of the High Court cannot take place in the appropriate area. That is why I say that there is a political motive behind this decision. Sir, the fourth point is with regard to the summoning of the Legislative Assembly. Of course a conspiracy is being hatched.....

MR. DEPUTY CHAIRMAN: This section does not deal with that.

SHRI H. D. RAJAH: This is part of the issue because the point was raised by the Congress Benches. Mr. Sundarayya was accusing the Congress Party of not being desirous of sum-

moning the Legislature as soon as possible. At any rate from the composition of the Legislative Assembly of Andhra State it is quite patent that the Congress people there cannot have a majority. They are beset with difficulties. They cannot form a stable Government and they want to keep out all opposition as much as possible because the caste system in the Congress Party must enable only the white-capped people to be the Ministers. The difficulty now arises as to who should help them in a coalition. They are wooing people but the majority of the Members are in the opposition.

MR. DEPUTY CHAIRMAN: Are these things concerned with the High Court?

SHRI H. D. RAJAH: I want them to summon the Legislature immediately so that the chance may be given to them to choose their capital and to say when they should have the High Court and where. That is the point, Sir. If they constitute a Government immediately and they do not summon the Legislature for six months, they will not be in a position to decide where the location of the High Court should be. To that extent you are denying the Andhra Legislative Assembly the right to choose the place of the High Court. The last point is that the Ministers can do miracles even in places where they are not in a majority and where they are ruling. So the Opposition people look with a certain amount of suspicion at the way in which ministries are constituted in certain States. Therefore I would request the Government of India to hasten the summoning of the Andhra Legislature immediately and see that even the question of the High Court is decided forthwith.

SHRI K. SURYANARAYANA (Madras): Mr. Deputy Chairman! Let me put only one question to our Tamilian friends and the Minister of States. When the Tamilians and the Government of India have shown us

[Shri K. Suryanarayana.]

their generosity to have our High Court affairs conducted in the Madras High Court for some time more why did they not show us the same generosity when we asked for our capital to function at Madras for one year at least?

SHRI K. S. HEGDE (Madras): When did you ask for it?

SHRI K. SURYANARAYANA: In the beginning. In the Madras Assembly also the request was made.

SHRI P. SUNDARAYYA: The request was made in 1949.

SHRI K. SURYANARAYANA: I believe they have realised the difficulties of the lawyers and the litigants, Court birds.

SHRI RAJAGOPAL NAIDU: My friend may perhaps know that the residuary Madras State did not want that the Andhra High Court affairs should continue to be transacted in the Madras High Court.

SHRI K. SURYANARAYANA: That was the position; they did not agree to our capital being situated in Madras at least for a short period and there was a lot of objection from all sides. My contention is—Why are you allowing so many capitals in Simla when you objected to the Andhra capital being in Madras? That is why our people are not believing the Central Government. I wanted to clarify all these points. I have done, Sir.

SHRI RAMA RAO (Madras): Mr. Deputy Chairman, Sir, I want to indulge in some plain-speaking. I agree with Mr. Sundarayya, with Mr. Rajagopal Naidu, with Mr. Pattabiraman and with anybody who may speak on the subject hereafter—(Laughter)—because I hate lawyers and law courts. The speech of Mr. Sundarayya reveals a chronic malady of his party which is also shared by the majority of Andhras, at least with regard to the High Court. The position may be briefly put. My people feel that they

have been driven out of Madras without the slightest consideration of their difficulties or concession to sentiment, to humanity, to justice or to long-standing historical connections and so they are saying 'main badla loonga'. If you drive me out of Madras City, I will not allow a single pie of the Andhra litigants to be spent in Madras City, where the lawyers are Tamil or Telugu. They say that if they are out of Madras, they are out for good; if the Government is out, the High Court, too, is out.

My friend Mr. Rajah, whose speeches are full of exclamations when they are not full of interrogations, was saying that there was a conspiracy among the lawyers, that political motives were behind it and so on and so forth. I consulted, in this connection, some eminent Andhra lawyers.....

SHRI GOVINDA REDDY: You said you hated lawyers?

SHRI RAMA RAO: Sanity is missing here. They said in all bitterness that they would not leave the place though they knew their properties would heavily depreciate. That is to happen to their properties if they do not live in Madras.

There is the question of national pride. The Constitution says that Andhra, a Part A State, should have a High Court of its own. So, we should have it and have it as soon as possible. I agree with the position taken by the Government in this clause. I do not believe there is any hanky-panky in this matter as some of my Communist friends are suspecting. On the day when the Andhra Legislature comes into being, the question of the High Court will be settled.

Mr. Rajah was laughing at the Sri Baug Pact. He was saying "Why do you allow these Andhras to distribute the loaves and fishes of office....."

(Interruption.)

SHRI H. D. RAJAH: I did not say it in so many words.

SHRI RAMA RAO: I am sorry if it is not so, and I speak subject to correction. At any rate, we honour the sentiment behind the Sri Baug Pact. Under that, we have allowed our Rayalaseema friends Kurnool as the capital; under the same agreement we must have a High Court in the coastal districts. So, the question of location of the capital and High Court ought not to trouble us further.

Sir, our High Court will start well. I remember some years ago, when a Telugu gentleman was made a judge of the High Court, it was celebrated like a festival in Madras because after fifty years a Telugu man had been made a judge for the first time. Today, we have excellent lawyers and competent judges, for the work of the court. But we in Andhra would be happy to have fewer and fewer courts. We want justice with equity, we want quick justice, commonsense justice. Let us have Telugu commonsense in place of Tamilian brilliance.

SHRI GOVINDA REDDY (Mysore): Sir, I oppose the amendments. A lot of bad intentions on the part of Government have been read into the clause. The amendment is quite unnecessary. The Government of India did not want to impose any conditions in this regard on the new State. It was left to the legislators and Andhra leaders to settle this question among themselves, as also the question of the capital. Well, they could not come to an agreement about it, in much the same way as they could not come to an agreement about the capital also. They thought, Sir, that the Sri Baug Pact which has been referred to here should be honoured. The question whether the High Court should be situated in Rayalaseema or in the coastal districts, was not decided; and if supposing they had decided that the High Court should be situated either in Rayalaseema or in the coastal districts, I do not think the Government would have come in the way at all. Then, perhaps, that provision would have been incor-

porated in the Bill. So, when it is purely and obviously a failure on the part of the Andhra leaders themselves to come to an agreement or settlement in this regard, it is quite unwise, unwarranted and unjustified to read the intention into the clause that the Government of India are unwilling, for political reasons, to fix a place for locating the High Court. Mr. Justice Wanchoo has gone into this question. As the hon. Mr. Pattabiraman was saying, he has referred to it at great length, Mr. Justice Wanchoo was also examining the constitutional position referred to by Mr. Rajagopal Naidu—art. 144 and the saving clause of art. 230.

Sir, in addition to the reasons which have been given by the hon. Mr. Pattabiraman for the Government not establishing the High Court, Justice Wanchoo has also said that if a High Court is to be successfully functioning, it must have not only one good building for the High Court itself but also several other buildings. He says that a very good building which is in accordance with the dignity of the High Court should have been there and no such building was located. We all know that there is a lot of dignity attached to the High Court, and not so much for the capital as for the High Court. A certain dignity in externals also is attached to High Courts. That is why we see that while the Minister sits on an ordinary chair, the judge has an elevated platform, with gilded liverymen, etc. (*Interruption.*) Well, in any case there was no building where a full-scale High Court could be housed.

SHRI M. MANJURAN (Travancore-Cochin): It is not that.

SHRI GOVINDA REDDY: Anyway, it is to this that Mr. Justice Wanchoo has attached importance. If we concede this amendment, it means that even though the Andhras should come to a decision about the place of the High Court, they must come to a decision within the day fixed here, that is by July 1954. Supposing they accept

[Shri Govinda Reddy.]

the amendment and then by July 1954 they do not come to a decision, then, it will be obligatory on the part of the President to have a High Court. If they do not come to a decision and the President orders the setting up of the High Court, then it will be said that the Government have acted against the wishes of the Andhras, and they have imposed this unwanted condition on them. So, that part of the amendment is quite unnecessary because in the clause it says "as from the 1st day of January 1956, or such earlier date as may be appointed under sub-section (2), there shall be a separate High Court for the State of Andhra". So, it does not prevent the Government from fixing up the place of the High Court before that date provided the Andhra Legislature comes to a decision on that point.

The second amendment also, that instead of 'may', 'shall' shall be substituted, is quite unnecessary. Although the word 'may' has been put in, in the democratic set-up we must know that when the Legislature passes a resolution requesting the President to establish a High Court, the President, as the constitutional head, will not discountenance that. He cannot do it and he will not do it. Therefore, if the Legislature passes a resolution.....

AN HON. MEMBER: Does the Home Minister agree with it?

SHRI GOVINDA REDDY:certainly it will be done. Therefore the word 'shall' is not quite necessary. Supposing the word 'shall' is there and the Andhra Legislature does not come to a decision, then the President will be obliged to do it even though the Andhras may not decide anything.

SHRI M. BASAVAPUNNAIAH (Madras): Why was it changed?

SHRI GOVINDA REDDY: I have no doubt that all the intentions that you are reading into it, all the motives that you are putting into it are not warranted.

SHRI M. BASAVAPUNNAIAH: What is the charitable reading of that?

SHRI GOVINDA REDDY: We will try to give it. Regarding jurisdiction, I am afraid Mr. Rajah was entirely wrong. When the jurisdiction is extended the Andhra High Court necessarily will have jurisdiction over any Andhra residing in Madras.

SHRI H. D. RAJAH: For purposes of contempt of court? What I said was, to that extent it was diminution of jurisdiction for the Andhra State.

SHRI GOVINDA REDDY: There is no diminution. There is also a precedent of a joint High Court working for two provinces. The Orissa Province was created in 1937 whereas it did not have a High Court of its own; until 1947 there was a joint High Court for Bihar and Orissa.

SHRI H. D. RAJAH: It was before the Constitution.

SHRI GOVINDA REDDY: And I do not see why when purely as a matter of convenience a provision has been made, it should be misinterpreted and mistaken. Even now nobody can dispute that it is open to the Legislature to fix up a place for the High Court. Therefore I oppose these amendments.

SHRI K. S. HEGDE: Mr. Deputy Chairman, Sir, a good deal of heat has been generated in the discussion of this issue, which probably was entirely unnecessary. The clause in question is more of a permissive character rather than mandatory. Somehow our friends belonging to the Communist Party invariably see a ghost where none exists. They live in a theoretical world whereas the Government of the day have to work out the practical problems that are facing them. The problem before the Government of India was that the Andhra State without having any important town or city was called upon to have a capital and a High Court. The means at the disposal of the

Andhra State, its building capacity and other requirements were such that the Government of India in its best judgment came to the conclusion that it might be advisable to postpone the transfer of the High Court to some other future date, not of a very long duration. But at the same time the Government of India was anxious to respect the will of the Andhras as expressed by the Andhra legislators. For this reason two things were provided for, firstly an upper limit up to 1st January 1956 and secondly immediate creation, if so desired by the Andhra legislators. What a few friends from Andhra have been contending for is, 'Well, you have bundled us out of Madras. Let us go bag and baggage.' It is an argument of desperation and not an argument of wise counsel. Let me assure them on behalf of the residuary State of Madras—we are not at all anxious to have them in any manner whatsoever. Not that we hate them. Not at all. But if it is their sentiment that they must go, we wish them *bon voyage*. But the same attitude cannot be taken by the Government of India. The Government of India has got the prosperity of every State in view, and it must provide for it from that point of view. The Government of India probably very correctly thought that it might be in the interests of Andhras if a time-lag of two years is provided for. If this clause is put in there, it is not against the interests of the Andhras; it is not in favour of the residuary State of Madras; it is entirely in the interests of the Andhra State itself. But if they want to commit suicide, it is a right of theirs. When I listened to the debate on the subject, I was reminded of the resolution of the hon. Mr. H. V. Kamath at that time about the right to commit suicide, and this is undoubtedly what our friends are demanding today. 'It is our right; why should you come in the way?' This is the type of argument that has been advanced. I would like them to visualise for the time being the enormity—of course, nothing is impossible—but the enormity of dividing the records of the High

Court, of dividing the work of the High Court, of dividing the personnel of the High Court and of providing for them in the new set-up. In fact, for the information of my friends, I may say that even at present the High Court, for all practical purposes, is trying to divide its work into two separate compartments. If my information is correct, the High Court will be functioning in two compartments.....

SHRI RAJAGOPAL NAIDU: In two wings.

SHRI K. S. HEGDE: to the extent possible. A certain number of the judges who are likely to go to Andhra State will be forming one wing and the cases from Andhra area are likely to be transferred to that wing and in that process the records would also be divided. It is absolutely necessary to have some time. In fact, even dividing governmental papers was a Herculean task and we must congratulate and compliment the personnel who are doing it. I for one feel that they have done a task that is worthy of commendation from every quarter of this House. But if you say—'If you have done one thing, why not the other also?'—then it is different. But there is the time factor which is very important. That is the reason why Government thought that it might be advisable to go at rather a reasonable speed than break our necks.

SHRI P. SUNDARAYYA: There are still nine months for July 1954.

SHRI K. S. HEGDE: Yes, Mr. Sundarayya believes in wonders but we live in a practical world, and the difference between Mr. Sundarayya and myself is that he does not know the ABC of law and law courts but I and Dr. Katju have something to do with it. That is the best explanation I can give him so far as that goes.

SHRI GOVINDA REDDY: Not only does he not know the law, he has no respect for it also.

SHRI K. S. HEGDE: And as my hon. friend Mr. Reddy says, he has no respect for law also and that probably might be one of the reasons. But we believe in the dignity of the law and the manner in which it works. After all, in a democracy it is the rule of law that counts. Everyone knows, as Dr. Katju very rightly said, that in a democratic set-up, law and the law courts gain a great amount of precedence even over the political set-up, because the moment we lose the rule of law, we lose democracy and such persons as have faith in democracy have faith in the rule of law. We want to keep up the dignity of law so that it will command the respect of everybody. As Mr. Rajah said there will be contempt of court, but I do not like to deal with it.

SHRI H. D. RAJAH: There are lawyers and lawyers.

SHRI K. S. HEGDE: I can say for the information of my friend Mr. Rajah that if anybody tries to commit contempt of court, the High Court judges need not go to the Government; they have got plenary powers to try him and send him to jail straightaway.

SHRI H. D. RAJAH: Which Government will take him? That is the point.

SHRI K. S. HEGDE: They need not seek any assistance from the Government on that aspect. I shall leave that aside as an argument probably for lack of better argument.

Now, why did the Government change the word 'shall' to 'may'? This is rather important. In the interpretation of statutes, often times 'may' is interpreted as 'shall'. Possibly it is not known to some sections of the House. In fact when we are dealing with the rights of President or even for that matter Governor, invariably the constitutional precedent is to use the more respectable word 'may'

rather than 'shall'. It is a well accepted proposition in all the pieces of legislation. We do not use the word 'shall' when we ask our President to do it, but we use 'may', but the ordinary interpretation is in juxtaposition the word 'may' will be read as 'shall'. In constitutional set-up it is always 'shall' and not 'may'.

I may also further say that this clause is not justiciable because it is merely a recommendatory clause. Let me explain it. Supposing the President does not do it, you cannot sue him in a court of law. It is a political decision and not a judicial decision. Invariably it will be done, because the President, just as the Government has all the respect for the Constitution, has all the respect for the Constitution and will invariably, without any hesitation, carry out the wishes of the Legislature, whether right or wrong. It is only from the point of view of constitutional appropriateness that the draftsmen have thought proper to use the word 'may' rather than 'shall' and also to avoid any implication of being thought that the word 'shall' is justiciable. It is not justiciable; it is merely a recommendatory word. So then, instead of creating any heat, if my Andhra friends want to have a High Court of their own, the Government of India advises them not to hurry up in the matter, but to think over the matter calmly and dispassionately. It is for you to decide that matter and nobody is going to come in your way. But do not suspect the motives of anybody. This does not serve your purpose. Don't think that the Government will not call a session of the Legislature. After all, in a democracy, more than the wording of the statute or the letter of the law, it is the spirit of democracy that counts in many aspects. Our life is controlled by conventions. Our life is controlled by democratic institutions. And I can assure my friend, Mr. Sundarayya, and my other friends over there that we would not allow anybody to flout our Constitution. I do know that for you democracy is a

mere word. You do not believe in it. (*Interruption.*) For us democracy is our very life. And with our democracy there will certainly be preventive detention of undesirables and not of others. But I can assure my friends that they will never come to trouble if they co-operate with us in working democracy. So, Sir, with these words I commend the House to accept the clause as it is. It is in the interests of the Andhras themselves not to have the amendment carried in the House.

SHRI M. BASAVAPUNNAIAH: Mr. Deputy Chairman, I first of all had no mind to speak on the two amendments that stood in our names but when I heard some of my friends' arguments, very ably describing everything, changing 'may' into 'shall' and 'shall' into 'may' etc., I thought it worthwhile to make some observations. The hon. Member, Shri Govinda Reddy, said that there was no building for this purpose in Andhra.

SHRI GOVINDA REDDY: Mr. Justice Wanchoo said that.

SHRI M. BASAVAPUNNAIAH: We have taken Mr. Justice Wanchoo to many places. There are many zamindars who are very big and who own palatial mansions where not one High Court but several High Courts can be located.

SHRI GOVINDA REDDY: Shall I read the sentence for you?

SHRI M. BASAVAPUNNAIAH: There are many buildings there and there is no point in saying that there are no buildings and that we should wait until 1956. I should say that this is a silly excuse. We therefore insist upon it that since a new State is being created, it is proper on the part of the Government of India to have the High Court also simultaneously. It is wrong on the part of the Government of India not to have done anything so far in the matter. They say now that the job is enormous. I want to tell

them that already they had nine months available to them as this question was mooted last December and the statement of the Government of India was there as regards the Andhra Province. Since then we ought to have begun in right earnest with these arrangements and now it is not proper on their part to plead like this. We therefore have every reason to suspect the *bona fides* and the motives of the Government, because as earlier Comrade Sundarayya pointed out, the Andhra Legislature is in such a fluid position where a minority 11 A.M.

can become a majority and all sorts of tricks can be played whereby the Andhra Legislature may not be called. There is another doubt also. The more we delay it, the greater is the danger, and the demon of the Home Ministry may devour the Legislature altogether. They are now trying to manoeuvre things and I will not be surprised if another P.E.P.S.U. is created in the new Andhra State.

Now, several arguments were hurled at us by the hon. Mr. Hegde as regards the utility of law, democracy and all that. We understand your democracy. Sir, the Andhra people have properly understood their democracy—And what is our democracy?—They have given their verdict in the general elections. I need not repeat to my hon. friend as to what type of democracy we want to have. All these things were dealt with yesterday as to what type of democracy is there in our Constitution and what type of democracy we want to preach in our country. There are countries where their type of democracy is being practised and also there are countries where our type of democracy is being practised. So, let not hon. Mr. Hegde teach us the principles of democracy.

Then there is another question that really worries us. There was already a question some time back

[Shri M. Basavapunnaiiah.]
 when the Andhra University was situated in Vijayawada. A gentleman—I need not mention his name now—who was in authority there, wanted some cool and calm place suited to his own living—a climate suited to his own pleasure etc. He had taken it to a corner where 99 per cent. of the student community had to come from far off places. Instead of the central part of Andhra, he had chosen a corner and that resulted in the disruption of Andhra unity. And now if this question is left for the future, as already Shri Rajah has pointed out, it may prove to be disruptive for the unification of Andhra political leadership, and thereby further disintegrate the new State. Therefore, we say that earlier the better. If really speaking there are some difficulties in immediately shifting the whole office there, we have no objection to continue at Madras for some months. But without any reason, asking us to wait until 1956, is not proper on their part. (*Interruption*). So the point is when in the original Bill it was put “shall”, why was it changed to “may”? Where the Government is to be suspected, we must suspect them. So even now I request the Home Minister to just accept this proposition and say that “shall” or “may” matters very little and that he is going to substitute it. Then the matter ends. Instead of that, Mr. Hegde asks us to give up suspicions, to rise above everything and to leave everything to the Central Government and to believe in their *bona fides*, and then everything will be all right, according to him.

The Home Minister referred to the capital and the High Court and pleaded the greater importance of High Court than the capital. It is wrong on his part to have introduced this controversy in the debate. The executive and the judiciary are two particular aspects of a Government. There is no question of one being more important and the other being

less important. It is not all the peasants and workers who march to the capital every day, and it is not all the peasants who march to the High Court every day with their cases. It is the people who have got disputes who would take them to the High Court, and it is only the people who want their jobs done in the Secretariat who will go to the capital. That is why these are not questions of one being more important and the other being less important. The High Court has its importance and the capital has its own importance. We need both of them together. It is not we who are responsible for these disputes. It is the Congress leaders again who are responsible, who pit one party against the other; it is these Chauvinists who set the people of the coastal districts against the people of Rayalaseema. The Sri Baug Pact has been so many times referred to. It was the result of the united understanding of the people of Andhra to achieve a State of their own.

SHRI M. GOVINDA REDDY: What has Mr. Nagi Reddy got to say about the Sri Baug Pact?

SHRI M. BASAVAPUNNAIAH:
 According to the principles set out in the Sri Baug Pact, it was the responsibility of Mr. Sanjiva Reddy to have consulted both peoples, both the parties, both the sections, residing in respective tracts and then taken a decision. This is the understanding, and the whole of Andhra people should have been consulted as to where the capital should be located. But he has roused the feelings of the Rayalaseema people and he is encouraging disruption, and the hon. the Home Minister is supporting him. The objective of the Sri Baug Pact was the unification of Andhra, but now in the name of the Pact that unity is being disrupted by the Congressmen of Andhra, whose leader Dr. Katju wants at any cost to declare Sanjiva Reddy as the boss of

the Congress, even though he is in a minority.

MR. DEPUTY CHAIRMAN: You are going far beyond the clause.

SHRI M. BASAVAPUNNAIAH: The question is how far the Home Minister.....

MR. DEPUTY CHAIRMAN: Leave him alone. Come to the clause.

SHRI M. BASAVAPUNNAIAH: The question is that we want a High Court here and now. Why should we not have a High Court even now? That is my point. The objections that they are advancing are not real objections.

SHRI K. S. HEGDE: Your amendment wants to have it only in July 1954.

MR. DEPUTY CHAIRMAN: Let him go on.

SHRI M. BASAVAPUNNAIAH: Those objections are not valid, because as has been pointed out by several hon. Members, that can be done by July 1954. This kind of argument naturally arouses more suspicions in the Andhra people. The Andhra people are not happy about this. All the lawyers of Andhra who are in several hundreds want that the High Court should be established by July 1954. I would therefore request the hon. the Home Minister and my hon. friends on the other side also to consider this amendment. Because the Congress is not in a majority and because they have been defeated at the polls by the people, the party in power is conspiring to make it a majority.

SHRI K. S. HEGDE: The Congress has more Members than your party.

SHRI M. BASAVAPUNNAIAH: Unfortunately the Congress thinks that Congress is democracy and democracy is Congress.

SHRI GOVINDA REDDY: That is a fact.

SHRI M. BASAVAPUNNAIAH: But the people are not with you. They are going in different ways.

PROF. G. RANGA: I want to make a few observations. I wish to congratulate my hon. friend, Mr. Hegde, on his very reasoned speech, but I cannot extend my congratulations to the Government of India. They were not well-advised first of all to dismiss the recommendations made by the Madras Legislature in regard to the date on which the Andhra High Court should be brought into existence. They have not given satisfactory reasons. The reasons which my hon. friend, Dr. Katju, had given in the other House are reasons which any lawyer would give. While I am not prepared to dismiss those reasons, I do not think they alone are enough.

Secondly, my hon. friend, Mr. Hegde made a very relevant remark that it was the duty of the Government of India to save the Andhras from committing political or other suicide. I agree with him, but that should apply to other aspects also. When the recommendation was made in regard to the guest capital, the Government of India was not prepared to consider it. The Andhras wanted a concession but the Government was not prepared to give that concession. The Government did not yield on that point. Therefore, when the Government of India were so inconsiderate to Andhra interests and so considerate to the threats that were hurled from the other side, it does not sound so very convincing when we are told that the Government of India is anxious, in connection with this matter, to save the Andhras from all kinds of embarrassments and even to impose their will on the residuary State in order to serve the convenience of Andhras. That is exactly where we seem to be working in a kind of circle, in isolation. Now, the question of buildings was brought in. Where was the question of buildings when the location of the temporary

[Prof. G. Ranga.]

capital at Kurnool was not only decided upon but was accepted by the Central Government and is now being implemented at the behest of the Central Government in spite of the revised view expressed by the Andhra legislators who were then taking part in the deliberations in the Madras Legislative Assembly on the relevant occasion?

They did not think at all. It suited them to go ahead with the decision made earlier by the Andhra Legislators. For some reason or other it did not suit them to accept the revised view. Therefore there does not seem to be much respect that our Government is prepared to display towards democracy although it is committed to democracy. I don't deny the respect that my hon. friend, Mr. Hegde, and other friends of ours on this side of the House display towards democracy but we must also display it in our action, in our practice. That is where I find the Government of India is deficient, hopelessly deficient. Thirdly, my hon. friend, Dr. Katju, argued in favour of keeping both High Court and the capital at one and the same place. I don't deny him his right to do so but I would like him to remember the practice in his own State. He might turn round and argue by saying that it is because of the bad or unhappy experience that they have had by having the capital in Lucknow and the High Court in Allahabad that he would like to advise the Andhras to have these two offices in one and the same place.

SHRI H. P. SAKSENA: The official capital of U. P. is still Allahabad.

PROF. G. RANGA: The official capital is still in Allahabad but for convenience and also in a fictitious manner, the manner in which the lawyers would like us to have, they have their capital in Lucknow.

SHRI K. S. HEGDE: *De jure* and *de facto* capitals.

PROF. G. RANGA: Therefore I already assume his argument that their experience has been bad and therefore he would not like Andhras to go through the same bad experience. May be so. But nevertheless the Andhras would like to have these two offices in two different places, for a very good reason that was referred to by Mr. Justice Wanchoo—that has been referred to by our friend here, Mr. Basavapunnaiah and other friends, viz., that the Sri Baug Pact had served its purpose at one time in keeping these people together in regard to their fight for the State. Having got it now, they would not like to repudiate it though they would like a sensible way of looking at it and implementing it. But my hon. friend also would like to give us the same sort of exhortation. "Why do you bother about it? It has served its purpose. Now keep these two together in one and the same place." I would only like to tell him that we don't want to do that. He is not going to stand in our way, according to this phraseology but why is it then that he was so very keen for disregarding the recommendation made by the Madras Legislative Assembly, a demand that was unanimously made? If he is not really anxious to impose his will or his view of things upon the Andhras by keeping so much of time-lag here, why is it that he was not prepared to accept their decision. Surely they cannot all of them be taken to be so irresponsible, so.....

SHRI K. S. HEGDE: They might have done it in a spirit of desperation.

PROF. G. RANGA: No. It was not done in a moment of heat. It was done in a cool atmosphere in the Madras Assembly and it was not done at the bidding of the Communist or Congress Party but all of them put together they came to that decision that they should have their High Court by the 1st January 1954. Is it not?

SHRI P. SUNDARAYYA: 1st June 1954

PROF. G. RANGA: They gave themselves sufficient time. Now in their wisdom, the hon. Law Minister and the hon. Home Minister have preferred to disregard it. Still they say 'We have kept the door open'. Keeping the door open is a queer thing because they have given themselves 4 months in which they need not have to depend upon the Legislature in order to carry on the Government. I have referred to it on an earlier occasion. I gave them the warning and further warnings have come from our friends to my right. I need not agree with all that they have said by way of suggesting the various motives with which the Government might possibly take advantage of the provision in the Constitution that there can be an interval of six months between one session and another. But nevertheless there is that possibility that the legislature might not be convened for months in order to facilitate jockeying, log rolling and various other methods, in order to gain strength. There would not have been any justification for making any such suggestion or making a surmise like that and it could easily have been challenged as being uncharitable if there had been a party with a majority behind it in that Legislature that is to come into existence. When there is no party with a definite majority behind it, when some two or three parties or some non-descript elements have to come together in order to make up a majority and yet the Government is anxious to form a Ministry and they are not prepared to go beyond the usual threadbare, humdrum practice of calling some of a certain party to form a Ministry, and not getting together or making the best possible effort to get together 2 or 3 parties in order to help them to come to an agreement and then constitute a Ministry, as is being done even today in France, necessarily one just begins to wonder what is going to happen in Andhra in the next few months. Government should be prepared to come forward in an unequivocal manner and give a definite assurance here in this House to the

country, to the people, that the Andhra Legislature is going to be held not only in a constitutional manner within the four corners of the Constitution Act but also through the use of their good offices in a truly democratic fashion, in helping all such parties or all of them put together who are willing to come together and work together on the basis of a minimum democratic programme—social and economic—and parties which are willing to abide by the rule of law. I know the feelings that many of our friends cherish in regard to the intentions of some political parties. But now if in spite of these all the political parties are prepared to come forward and give us that assurance, then it should be possible for the Government to give that assurance to the masses and then say: 'Look here, there is nothing beyond this in our mind and we have provided for this particular time-lag in order to help the Andhras in the right manner'. Failing that assurance there is this scope for fear and for suspicion.

Then they have brought the question of building. A point was raised by my hon. friend Mr. Basavapunnaiiah in regard to Nuzvid. Mr. Justice Wanchoo might have gone there. Whether he had gone there or not.....

SHRI P. SUNDARAYYA: He had not gone.

PROF. RANGA: It is only 27 miles from Vijayawada. There are a number of palaces and each one of those palaces can accommodate easily 400 to 500 desks for offices and some of the palaces can serve even today as very big hostels for hundreds of people. All these are there and they are not dilapidated palaces. They are in good use and they could have been taken good advantage of. The High Court could have been located there.

SHRI K. S. HEGDE: You can take advantage of it.

PROF. G. RANGA: I am coming to that. Knowing all this, it was open to the Government of India to have taken the same decision in regard to the High Court as they had taken in regard to the capital. They did not do so. That is where I say that they have failed. Secondly in pursuance of that Sri Baug Pact itself, when they asked the legislators of Andhra to make a choice of the location of their temporary capital, as was suggested on the occasion by the President of the Provincial Congress Committee itself, they should have straightaway asked them to indicate also the place where they would like to have their High Court. I wondered and I could not get an answer as to why it was that the Government of India and the Prime Minister failed to make that recommendation to them or give that direction to them that they should make this decision at one and the same session, at the same session in which they made the decision about the temporary capital. Till today I have not been able to find any reason for this at all. In fact, reference was made to the Speaker of the Madras Legislative Assembly whether the special session, at the semi-public session, as it was called, of the Andhra legislators which was being convened by him to settle about the location of the temporary capital of Andhra—whether that session—was also competent to express its views with regard to the High Court. The Speaker had to say that the Assembly at that session should confine itself only to the directive that was received from the Prime Minister of India and it was not to consider any other matter, with the result that one thing had been settled, and in the view of so many of us in Andhra and in the view of the majority of the Andhra legislators who took part in the prolonged discussions over the reconsideration of the capital issue, a wrong decision was taken, and now we are going to a place where you are going to spend or waste, to start with, four lakhs, and much more will have to be spent—though there will be only mere tents—by way of special allowances for those officers who come and

stay there. Well, that one decision was taken. That was in pursuance of the Sri Baug Pact. All right. In pursuance of the same Pact, at the same session, if they had tried and expressed their view where the High Court should be located, they would have favoured I dare say, some place in the Northern Circars. But that opportunity was not given to them by the Government of India and I charge the Government of India with that serious omission.

Having done that, the other argument that is being brought out is that there is no accommodation available for all these lawyers to come and stay. I see one difference between deciding upon the location of a temporary capital and deciding upon the location of the High Court. In the case of the temporary capital, it was possible for the Government to give special allowances to their officers; but with regard to the High Court, it would not be possible for them to give any special allowances to the lawyers. That is the main difference that I can see. Nor would it be possible for them to allow the lawyers to—what they call—add another 50 per cent. or so to their fees. Except for that objection or that difficulty that might be there, I do not see any reason or justification whatsoever for the decision that the Government had taken, and that is a very small difficulty too. That difficulty should not have led them to take the decision that they have taken.

I will not quarrel with my hon. friend Mr. Hegde with regard to the use of the words "shall" and "may", but I cannot congratulate this Ministry and their draftsmen for having unnecessarily used the word "shall" in the first instance and afterwards allowing wisdom to dawn upon them and therefore using the word "may". They should have shown—it should have been an instinct with them—that respect to the President which the hon. Member Mr. Hegde now brings to the notice of the House, and rightly so. They did not do it

and having said that much, they say, "We leave it to your legislators," and as our Communist friends and colleagues ask, when is this legislature going to meet?

AN HON. MEMBER: Within six months.

PROF. G. RANGA: Yes, but from what date do you calculate this period of six months? That is the question or poser that I now put.

SHRI K. S. HEGDE: From the last session.

PROF. G. RANGA: That is exactly my poser to my hon. friend Dr. Katju, whether this period is going to be calculated from the last date on which the last session of the Madras Legislative Assembly met. If that is to be so, then the Andhra Assembly may meet on the 1st or 15th of January and till then they would not have any opportunity of meeting—that is to say for two and a half months—and they would have had their Ministry—and you know the turmoil and the troubles and the travails through which Andhra is going through to create a stable Ministry. In the light of all that, just imagine how it will be possible or impossible, how it will be facile or how difficult it will be for them to come to a sensible or wise or far-sighted decision with regard to the location of the High Court. Necessarily delay is bound to take place and I do not want that delay. Of course, they will turn round and say, "If there is a certain amount of delay, you are not going to lose." That is where the argument of my hon. friend Mr. Rama Rao becomes relevant. You have driven these people, so far as the capital goes, out of Madras City and such an amount of bitterness has come to grow that you will only further embitter these people by forcing them to remain in that place and telling them "It is your own foolishness; otherwise you would be able to get out of that city any day." Therefore, I do not think Government has been really well

advised in formulating the proposal in the manner in which they have done it. Nor can I congratulate them, I can only feel sorry that they should have displayed so little wisdom in regard to this matter.

MR. DEPUTY CHAIRMAN: What about the amendment? Do you support it?

PROF. G. RANGA: The amendment is a good one, Sir.

DR. K. N. KATJU: Mr. Deputy Chairman, it would be insincere on my part to deny that I have been deeply hurt, not personally, by some speeches which have been made here. I really do not know where I stand. There are suspicions. I can understand these suspicions arising in the minds—I am speaking quite frankly—of a party which is disposed to undermine the Government. But suspicions on all parts and for a variety of reasons—that I cannot understand. What is the suspicion? Just consider this on the merits. The Bill says that the Andhras shall have their High Court established as a matter of course, within 27 months, from the 1st October 1953 to the 1st of January 1956. The amendment says, reduce those 27 months to 9 months, that is to say, have it as the 1st of July 1954. The result is that for nine months, the High Court shall remain there. This is the whole mischief of which the Government of India is supposed to be the cause and for which all sorts of suspicions are being insinuated so that it may get into the Press and the Andhra people may say "Look at this mischievous Government of India. They are doing this thing and that thing in the course of these 18 months." My hon. friend Prof. Ranga.....

PROF. G. RANGA: For a thing to get into the Press, it is not necessary for a Member to make a statement here, he can make it outside also.

MR. DEPUTY CHAIRMAN: Order, order.

DR. K. N. KATJU: It is very unfair. You see I did not utter a single word to cause interruption, but the hon. Member would not allow me to proceed. I have got great respect for Prof. Ranga; but for many things that he said, I would beg him to read his own speech tomorrow morning, and he will be sorry.

AN HON. MEMBER: What did he say?

DR. K. N. KATJU: That the Assembly is not going to meet. He shares the suspicion with the Communist Party that the Assembly will not meet for six months. What about the finances? The arrangement has been made in this Bill that for four months the Governor may sanction money. There will be no financial provision after 31st January. That is the picture that he has tried to paint, that before the House assembles, some sort of Government will be there for a year or for some months and the Legislature will not be consulted, that this is a sort of a dodge which the Government of India has adopted to avoid consulting the Legislature. Sir, I do not want to take you into what happened in the other House, for it will not be quite relevant here. But you may be interested to hear that so far as this particular clause is concerned, because it had been discussed before and it had been brought forward on what my hon. friends other than the Communist Party had agreed to, so it was not even discussed on the floor of the other House. We thought we were doing something in favour of the Andhras. I do not want to travel over the whole ground once again because I have become now accustomed—in this House a little less perhaps—to such accusations. We have heard so many charges, insinuations and unkind remarks being made against lawyers, against the whole fraternity of lawyers. That has been the fate of the lawyers from days gone by, from some 2,000 years ago.

Everybody says that, and we have got a common saying in the law courts themselves. If you have no

case, abuse your opponent's attorney. You have no case and, therefore, abuse your opponent and wreak your vengeance on him. So whenever anybody abuses a lawyer, I make a mental note that he has got no case. Therefore, they abuse Dr. Katju. When Dr. Katju makes any observation, they avoid his argument because it is unanswerable. Because he is a lawyer, they start abusing him. This has been done before and they are only following a very old tradition of about 2,000 years old. But the difficulty is this. My friends of the Communist Party and even Mr. Ranga, whenever they get into a difficulty, they run out for a lawyer and plead for assistance. They plead assistance for a writ or for a habeas-corpus or for doing something, adopting a democratic process in a law court.

SHRI P. SUNDARAYYA: We have got lawyers and lawyers.

DR. K. N. KATJU: I quite appreciate that. I entirely agree that there are. There are politicians and politicians. In any profession, it is like that. There are doctors and doctors, engineers and engineers, public servants and public servants. There are lawyers and lawyers, I entirely agree. There are judges and judges. It is a divided world.

We said that 9 months is quite good. They could remain in Madras. I profess to have some knowledge about this and I can say frankly that that we thought this way: We thought that the Andhra Government will be there. They will have to make up their minds about it. Of course, you disregard my advice about the location of the High Court. I just stated what occurred to me. It is a matter entirely for you to decide. I am sorry Mr. Ranga was not here on the 1st September when the Bill was moved. He was somewhere else trying to unsettle things. That is a different matter. All I said was that it was a matter for you to decide where to have the High Court, whether

you would have it amidst the ruined palaces or existing palaces or anywhere you like, according to the Sri Baug Pact. That is a matter entirely for you to decide. I do know this much that the High Court must have a place of some dignity and a great deal of arrangements have to be made. I know that a lot of accommodation is required. There are the offices, the law library, the advocates' chambers, and others and it requires a real sort of township. You have to provide for the residences of judges; you have to provide for the residences of lawyers, the staffs, clerk and a thousand other things. So, it occurred to us that while it hurts nobody, the people interested, the Andhras, it can be located there.

You may take it from me that the President here always acts on advice and, supposing the Andhra Legislature said that they should like to have their High Court from the 1st April or 1st March 1954 or even earlier than July 1954 and supposing the President decides, who is responsible? The Government of India is responsible, the Prime Minister and his colleagues, because the President is not going to be responsible for anything he does on advice. If the Government does not do it, bring out a censure here, a vote of no-confidence, impeach the Government in the sense of holding them up to public odium.

SHRI H. D. RAJAH: Unfortunately, we cannot bring in a no-confidence motion in this House.

DR. K. N. KATJU: You know your position; why make your own position prominent in this fashion? You can bring in a resolution; you can ask a question; you can move a motion for papers and you can indicate your utter condemnation of the action of the Government of India in not advising the President to comply with the demand made by the Andhra Legislature. I have told you so many times and I do not know how I can remove this inbred suspicion. It requires a surgical operation or what,

I do not know. It seems to be some sort of a cancer which has been spreading its tentacles. How can I remove it? I have said over and over and over again; leaving aside the summoning of the Legislature about which Mr. Hegde has given a complete explanation, the moment you pass a resolution—if you want to have your own High Court in February—you can have it. As I said, how does it concern me? You have to do one thing. Pass a resolution in the Legislature. Sub-clause (4) of clause 28 says: "The principal seat of the High Court of Andhra shall be at such place as the Governor of Andhra may * * * appoint". Therefore, you cannot simply ask the President to appoint a High Court. You must also tell the President as to where the High Court should be located. You do the two things. The Legislature could name the place of the High Court or the Ministry can do it. The Ministry is nothing but the Legislature. You tell us and we will do it. How are we concerned about it? It is only your own affair. I thought to myself when the Madras Legislature's recommendation came—about which Mr. Ranga has spoken so eloquently that we were denying democracy and all that—that we were doing something in liberalising the language of the parliamentary legislation to suit your own convenience. I tell you that it never occurred to me that either a Tamilian will be hurt or an Andhra will be hurt. I said to myself: "Well, here is the recommendation". Please remember that it was 1st June. Mr. Sundarayya now thinks a little wisely that 1st June is too early.

SHRI P. SUNDARAYYA: Not at all too early.

DR. K. N. KATJU: Well, he says now 1st of July. So, I thought to myself that eight or nine months is much too short a period for a compulsory migration. Let us give them a little more time, leaving it to them to take advantage of going there whenever they liked. If they want to go away today, very well, today it is. Then

[Dr. K. N. Katju.]

comes this thing which never entered my head because, I am a lawyer. I am not a politician. I do not harbour suspicion where there is no ground whatsoever. When you talk of lawyers and lawyers, please remember that the lawyers spend their time in a particular atmosphere and the first thing that we are taught if we are to make a success in the profession is utter frankness,—to wear our heart upon our sleeve.

PROF. G. RANGA: Is that really so?

DR. K. N. KATJU: That is so.

PROF. G. RANGA: I am not referring to you, but to lawyers as a class.

DR. K. N. KATJU: Please remember this. This is what is taught to us if we want to succeed in our profession. Duplicity, insincerity, saying one thing and meaning another, getting suspicious and all that is never in our way to success in the profession. What the Judges require from you is utter frankness, truthfulness, complete sincerity, a desire to help the court in the administration of justice. There should be no question of trying to mislead anybody. These are the qualities which we want and we have learnt that in our profession. Now, as to how the politicians are, goodness knows how they are. That is for you to judge. I wish Mr. Ranga would write an essay on politicians.

PROF. G. RANGA: Bapu has already written, my friend, and I hope you are a practitioner of it.

DR. K. N. KATJU: Who?

SHRI H. D. RAJAH: Bapuji.

DR. K. N. KATJU: You mean Gandhiji?

SHRI H. D. RAJAH: The Father of the Nation.

DR. K. N. KATJU: He himself was a great statesman.

PROF. G. RANGA: He was our teacher.

DR. K. N. KATJU: I was saying that all these things that have been suggested never entered our heads. My hon. friend Mr. Ranga said that the Legislature may never be called. I thought to myself, as I said yesterday: the first thing that any Ministry will do is to ascertain the opinion of the Legislature on this debated question of the temporary capital. They will do it. They do not need any instructions from us and they will do so as soon as possible. They are sensible people. They may do it in November. But anything may come from them. But how will it come about I cannot say. That is why I cannot give you any assurance. How can I speak for anybody else? I am imagining that they are sensible people. So you have your Legislature. But then you would put this question: What shall we do if the Ministers are silent about it? Bring in a resolution.

SHRI P. SUNDARAYYA: Where?

DR. K. N. KATJU: In the Andhra Legislature. So far as this amendment is concerned I have got nothing more to say but I should like to add that if this word 'democracy' were to come forward in the form of a goddess, she would make enormous complaints against all of us because we use the word in a different sense. The word 'democracy' in Mr. Sundarayya's mouth means one thing. In Mr. Ranga's mouth it means another. In my mouth it means literally what it means, namely, obedience to the voice of the people. So far as Mr. Sundarayya is concerned, it means complete suppression of all freedom of expression, complete suppression of the press, complete suppression of all groups and associations, government by one party and nothing else. Do you mean to say that in your democracy there will be a House like this functioning

SHRI H. D. RAJAH: That is correct.

DR. K. N. KATJU: Will you have Parliamentary Sessions carried on for eight months in the year? Will you listen to criticism by members of the Government and the Ministers as I am doing every day? You will send me somewhere else.

SHRI H. D. RAJAH: You won't exist.

DR. K. N. KATJU: My hon. friend says 'you won't exist'. This is democracy that we are having now. I do not know what your democracy means. You have a concept of life which will keep us in complete darkness.

PROF. G. RANGA: Mine is Bapu's democracy.

DR. K. N. KATJU: I said in my opening speech here that the High Court is more important to the people than the seat of the executive Government. I did not say that in a light-hearted manner. I said it literally. Such a feeling exists not only today but it is continuing from the days of the British Government. The common man thinks that it is the High Court where there is a guarantee for the freedom of the individual and for the protection of his property and it may be that even the poorest villager may have to go to the High Court, whereas he may have no occasion to go to the seat of the executive Government because the Ministers go to him. I go to him. Professor Ranga goes to him. We visit our constituencies, hold public meetings and we go to the villager to keep our contact with him. The Judges do not go to him. It will be highly detrimental to the interests of this Republic if by any conduct on our part, respect for law and respect for the Judges who administer those laws is diminished. In these matters because we are working Parliamentary institutions I think that it would be better for us to learn a lesson from the British system because we have got it from them. And in the British system I know this that the King is

never discussed and the Judge is never discussed. Each is supposed to be something high and mighty and living on a sort of Olympus. He sits there and he dispenses justice according to law. And then come the poor lawyers who are the assistants in the administration of justice before the Judges. You go to any Judge—you have got brilliant Judges in Madras also. You ask every Judge and you will see how truthfully he speaks of the greatest assistance that he receives in the administration of justice from the bar. You ask any District and Sessions Judge, any Civil Judge, any High Court Judge and you will see that he says that he cannot carry on without these lawyers whereas here you hold them to public odium. Therefore I suggest to you that if you want to make democracy function we must not suggest anything by which in the minds of the people respect for law and order and respect for the Judges who uphold that law and order is diminished. I can understand Mr. Sundarayya saying so because when he speaks there is no pretence about it—there is no concealing on his part—and in his system there will be no judgments because there will be no Judges like here.

SHRI P. SUNDARAYYA: Fantastic.

DR. K. N. KATJU: You will first liquidate everybody. You may have a Judge for members of the Communist Party but you will have no Judge for other non-Communist men. (*Interruption.*) Very well, we will discuss it outside. I beg to oppose the amendments.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 9, lines 11-12, for the word and figure 'January 1956' the word and figure 'July 1954' be substituted."

The amendment was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 9, line 15 for the word 'may' the word 'shall' be substituted."

The amendment was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 28 stand part of the Bill.

The motion was adopted.

Clause 28 was added to the Bill.

Clauses 29 to 37 were added to the Bill.

MR. DEPUTY CHAIRMAN: To clause 38, I find there is an amendment by Mr. Sundarayya.

Are you moving it, Mr. Sundarayya?

SHRI P. SUNDARAYYA: I do not want to move it, Sir.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 38 stand part of the Bill."

The motion was adopted.

Clause 38 was added to the Bill.

Clauses 39 to 46 were added to the Bill.

MR. DEPUTY CHAIRMAN: Motion moved:

"That clause 47....."

SHRI P. SUNDARAYYA: I want to suggest, Sir, that if you take clause 47 at this stage then you should please take the Seventh Schedule also along with it.

MR. DEPUTY CHAIRMAN: How can that be?

SHRI P. SUNDARAYYA: Otherwise,

Sir, please postpone clause 47 for the time being as it is intimately connected with the Seventh Schedule. Clause 47 relates to the assets and liabilities. We would like to discuss them together. In the other House also the same practice was followed as it facilitated and cut short the debate. Otherwise what would happen is that there would be one set of discussions on clause 47 now and there would be another set of like discussions when we come to the Seventh Schedule. So for the present you may leave clause 47 and proceed to the other clauses.

MR. DEPUTY CHAIRMAN: Does the Home Minister agree? They want to discuss clause 47 along with the Seventh Schedule.

DR. K. N. KATJU: I have no objection.

MR. DEPUTY CHAIRMAN: So we postpone consideration of clause 47.

Clause 47 is postponed.

Coming to clause 48, I find that there are two amendments in the name of Shri Rajagopal Naidu. Are you moving them?

SHRI RAJAGOPAL NAIDU: Yes. Sir. I move:

"That at page 15, after line 26, the following be added, namely:--

"(bb) where the contract as from that day is partly for the purposes of the State of Madras and partly for the purposes of the State of Andhra, fresh contracts may be entered into from that day by the two States in regard to their respective interests in the contract, and in case their respective interests are not ascertainable, the rights and liabilities arising out of such contract shall be shared in the proportion of 64 : 36."

Sir, I also move:

"That at page 15, line 27, for the words 'in any other case' the words.

'if the contract is exclusively for the purposes of the State of Madras' be substituted."

MR. DEPUTY CHAIRMAN: Clause 48 and the amendments are now open to discussion.

SHRI RAJAGOPAL NAIDU: Sir, it is a very simple amendment which I have suggested and my amendment speaks for itself. Sir, if you read clause 48 as it stands you will find "Where before the appointed day the State of Madras has made any contract in the exercise of the executive power of that State for any purposes of the State, then such contract shall (a) if such purposes are as from that day—(i) exclusively purposes of the State of Andhra, or (ii) partly purposes of the State of Andhra and partly purposes of the State of Mysore and not purposes of the State of Madras as constituted on the appointed day be deemed to have been made in the exercise of the executive power of the State of Andhra instead of the State of Madras." But there is no provision in this clause where the contract is partly for the purposes of the State of Madras and partly for the purposes of the State of Andhra. That is why I suggest that if such a contingency arises, the contracts may be entered into from that date by the two States, namely, Andhra and Madras. In case the terms are not acceptable, the liabilities shall be divided in the proportion of 64:36; 64 for Madras and 36 for Andhra State.

Sir, this is a very simple amendment and I do not think the hon. the Home Minister will have any hesitation in accepting it.

DR. K. N. KATJU: Sir, this amendment is unnecessary because we have provided for in the Bill in sub-clause (c) of clause 48: "in any other case, continue to have effect as having been made in the exercise of the executive power of the State of Madras." That covers the case as to whether the contracts are concluded for the benefit of both the States. What we have said

here is that if the liability of the contract is exclusively for the purpose of the new Andhra State, then you substitute in the clause Andhra, if that is for Mysore, then Mysore. After this is done, if there is any division of benefits and liabilities, so far as that is concerned, it can be gone into. There is the power of the President—general power—under which if there is any dispute that arises between two states which the two states could not settle between themselves, the President can settle it. It is from that point of view that we did not put anything like that in the Bill.

SHRI RAJAGOPAL NAIDU: Sir, I desire to withdraw the amendment.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 48 stand part of the Bill."

The motion was adopted.

Clause 48 was added to the Bill

MR. DEPUTY CHAIRMAN: Motion moved:

"That clause 49 do stand part of the Bill."

SHRI H. D. RAJAH: Sir, I beg to move:

"That in clause 49 of the Bill, after sub-clause (c) the following be added, namely:—

'(d) where the liability is of such a nature involving destruction of property, the loss or compensation be shared equally between the Central Government and the State Government concerned.'

Sir, this is an amendment which, in the nature of things, should be acceptable to our hon. the Home Minister. Sir, there is a proverb in Telugu. The meaning of it is, as I understand it. "You call me brother-in-law wherever you like, but do not call me brother-in-law in the brinjal garden". The idea is, let there be actionable wrong, let

[Shri H. D. Rajah.]

there be destruction of property, loss of life due to the vacillating policy in the realignment of the territories, but such losses should be borne by the new State of Andhra and by the Madras State alone, but you shall not come to me for any relief. Do not come to share any monies. Sir, all this turmoil

which is engendered in
12 Noon. the country and all this confusion and chaos should be ascribed to the Government of India. As I said, the Indian citizen is a contributor to the general resources of India, and when law and order are seriously disturbed by the political machinations of the politicians, and if the State is not in a position to meet it firmly and effectively, in that case, what is going to happen? Not only law and order are in jeopardy but the Central Government will watch from a distance the situation without restoring law and order or doing anything. When there is loss of property, the people look to the local Ministers. As our Home Minister said the other day, two crores of rupees worth of property were destroyed before the agitation took place and the property belonged to the people. Where such loss of property has taken place, the Home Minister and the Government of India cannot simply point their finger and say like the person in the proverb: do not call me your brother-in-law now in the brinjal garden. Once the trouble is started, our malevolent forces will not keep quite. On account of the various hopes and aspirations that have been roused in the country, there will be disturbance of peace and order, especially in contiguous multi-lingual areas. So, in order to obviate the difficulties, accept the amendment and assure the people here and now that they will not be unnecessarily harassed, that you will come to their rescue and we will pay them adequate compensation in case they lose heavily.

SHRI K. S. HEGDE: What exactly is the point my hon. friend is making?

SHRI H. D. RAJAH: I want the

Government of India to step in and pay compensation and that compensation must be in equal proportion between the State concerned and the Government of India.

DR. K. N. KATJU: Mr. Deputy Chairman, it is really an astonishing, and may I add, a horrifying amendment. I do not know whether the House knows the contents of the amendment. Clause 49, under which this amendment is supposed to be added deals with claims for actionable wrong other than breach of contract and merely provides "where the cause of action arose wholly within the territories of Andhra, the State of Andhra will be responsible, if it is. Mysore, then Mysore, and so on.

SHRI K. S. HEGDE: He has not understood the meaning of 'actionable wrong'.

DR. K. N. KATJU: The meaning of 'actionable wrong' is this: supposing somebody comes and burgles my house and sets fire to it, I bring a suit against him. I may bring a criminal complaint for arson, etc. But I can certainly also claim damages against him for setting fire to my house—that is actionable wrong, libel, slander and all sorts of things. Here my hon. friend says: "Where the liability is of such a nature involving destruction of property, the loss or compensation be shared equally between the Central Government and the State Government concerned". Just consider this. This is the horrifying aspect of it—between the Central Government and the State Government concerned. Now, if somebody burns a house in Andhradesh or does something of that nature, let us say, even in Trichy, down South, then the responsibility for maintaining law and order is that of the State Government and goodness knows what the circumstances are, what the facts are, who is responsible, who is not responsible, whose acts of commission and omission have been the cause. But the Central Government must pay half. I really cannot understand the logic at all. My hon. friend is shaking his head very violently, but

that does not lessen the horror. Now what happened? In Andhradesh in December in connection with this agitation, after the death of the martyr, the whole of the Andhra population, it is said, rose up and did what? They destroyed property, looted and burnt railway stations, houses, property this that and the other and the idea is that the Andhra people whose properties have been destroyed and looted might now bring suits for damages against the Andhra Government itself and for that Dr. Katju, as Home Minister, must pay. I really cannot understand it at all.

SHRI C. G. K. REDDY: His point is that Dr. Katju is responsible for all that.

DR. K. N. KATJU: I am not saying that I have got to pay. But his proposition is that the Central Government should pay. But why, I ask? Why should the Central Government pay for this?

MR. DEPUTY CHAIRMAN: Are you really serious about this?

DR. K. N. KATJU: I am really surprised. I had always regarded my hon. friend with great admiration as very sensible and here he has put forward this astonishing proposition.

MR. DEPUTY CHAIRMAN: Do you want to press it?

SHRI H. D. RAJAH: There is no redress available and so I shall beg leave of the House to withdraw the amendment.

The amendment was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 49 stand part of the Bill."

The motion was adopted.

Clause 49 was added to the Bill.

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MR. DEPUTY CHAIRMAN: Clause 50.

Now there are two amendments, Nos. 33 and 34.

SHRI S. VENKATARAMAN (Madras): I am not moving my amendments, Sir.

SHRI RAJAGOPAL NAIDU: I would like to say a few words, Sir. I do not know why the hon. Member, having moved a very sensible amendment.....

MR. DEPUTY CHAIRMAN: He has not moved them.

SHRI RAJAGOPAL NAIDU: Yes, he has not moved the amendments. Clause 50 deals with the liability of Madras State as guarantor.....

DR. K. N. KATJU: Is he moving it?

SHRI RAJAGOPAL NAIDU: No, Sir. I am discussing the clause. We find that the Madras Government has given certain guarantees in the case of co-operative societies registered under the Madras Co-operative Societies Act, 1932. We find that the Government of Madras has given a certain guarantee to the Reserve Bank of India in some cases and in the case of land mortgage banks a certain indemnity has been guaranteed. But what we find here in clause 50 is that if immediately before the appointed day, the State of Madras is liable as guarantor in respect of any liability of a co-operative society which is registered under the Madras Co-operative Societies Act, 1932 and whose area of operations is limited to the whole or any part of the territories which on the appointed day become the territories of the State of Andhra, then as from that day the said liability of the State of Madras in respect of such guarantee shall be a liability of the State of Andhra. But societies do exist in the territories that have been transferred to Mysore also. What is to happen to the guarantee given by the Madras State in the case of those societies which remain in the territories that have been transferred to Mysore?

THE DEPUTY MINISTER FOR HOME AFFAIRS (SHRI B. N. DATAR): Sir, there are no liabilities at all so far as that portion is concerned. I may cut short the discussion, because there are no liabilities in respect of the areas transferred to Mysore.

SHRI RAJAGOPAL NAIDU: That may be. As a matter of fact, there may be no liability but what is the harm in the clause remaining there for any contingency? If any such contingency arises, then what is to happen? Of course, the hon. Minister told us just now that there is no liability at all and so that has been omitted.

Then, in the case of land mortgage banks, in the Madras State there is one bank for every taluk and in their cases the Government of Madras has given a certain amount of guarantee, because they floated debentures every time. We are now in the 56th or 57th series. Debentures amounting to crores of rupees have been floated by the land mortgage banks and that is on the guarantee given by the State of Madras. What is to happen to the guarantee given by Madras to those land mortgage bank?

SHRI K. S. HEGDE: It can be worked under clause 51.

SHRI RAJAGOPAL NAIDU: When a specific provision is made under clause 50 in regard to the liability as guarantor in the case of co-operative societies registered under the Madras Co-operative Societies Act, why should it not be extended to the land mortgage banks also, because the Government of Madras has given greater guarantee in the case of the land mortgage banks than it has given in the case of co-operative societies. In the case of co-operative societies it may amount to only about one crore or 1½ crores, but in the case of land mortgage banks the guarantee would run up to several crores of rupees. That is my impression of the whole thing. So why should we not include the land mortgage banks also along with the co-operative societies?

That is my simple suggestion and if the hon. Minister thinks there is any sense in it, I suggest he may take it. Otherwise he may reject it.

MR. DEPUTY CHAIRMAN: Any reply? There is no amendment as such.

DR. K. N. KATJU: I have not been able to follow the speech of my hon. friend, but I should like to add just one word. This is rather a technical matter dealing with Reserve Bank, co-operative societies, etc. and the House will be interested to learn that neither the Madras Legislature nor the Mysore Legislature nor the two Governments have taken the least exception to this clause as it stands. So far as Bellary taluk is concerned, it is now going to Mysore and I understand that there is no system of guarantee available there and that is why we did not mention Mysore.

SHRI RAJAGOPAL NAIDU: What about my suggestion about land mortgage banks? The Madras Government has given enormous guarantee whenever debentures have been floated by the land mortgage banks. These run into several crores of rupees.

SHRI K. S. HEGDE: It could be met in two ways. It comes under the genus of co-operative societies and any difficulty could be worked out under clause 51.

SHRI RAJAGOPAL NAIDU: My hon. friend, Mr. Hegde, is making a small mistake. The provisions of the Madras Co-operative Societies Act, 1932, do not govern the land mortgage banks. They are governed by a separate Act.

MR. DEPUTY CHAIRMAN: Anyway, you have not tabled any amendment.

The question is:

"That clause 50 stand part of the Bill."

The motion was adopted.

Clause 50 was added to the Bill.

Clauses 51 to 59 were added to the Bill.

MR. DEPUTY CHAIRMAN: Now clause 60. There is one amendment.

SHRI P. SUNDARAYYA: Sir. I beg to move:

"That at page 19, line 33, for the words 'for such period' the words 'at least for ten years' be substituted."

Sir, my amendment is with regard to certain facilities in certain State institutions. The clause reads:

"The Government of Madras and the Government of Mysore, in respect of the institutions specified in Part I and Part II, respectively, of the Ninth Schedule shall provide for the Government and the people of the State of Andhra such facilities, for such period and upon such terms and conditions as may be agreed upon between the Governments concerned by the 1st day of January 1954, or, if no agreement is reached by the said date, as may be fixed by order of the President."

Sir, the institutions in Part I and Part II of the Ninth Schedule are as follows:

"Institutions in the State of Madras:—

(1) The King Institute, Guindy.

(2) The Irrigation Research Station, Poondi.

(3) The Police Training College, Vellore.

(4) The Finger Print Bureau, Vellore."

and so on.

There are total 14 institutions in the State of Madras. And the institutions in the transferred territory are:

(1) Rayalaseema Polytechnic, Bellary.

(2) The Government Wellesley Tuberculosis Sanatorium, Bellary.

I have given other amendments to add some more institutions which have so far been commonly used and for which there is no provision in the Andhra State as is being constituted just now. I, therefore, request that the Government should extend these facilities to the people of Andhra. As regards the period for which these facilities should be given to the Andhras, it is said that the concerned Governments should agree amongst themselves by the 1st day of January 1954. If no agreement is reached by the said date, then it can be fixed by the order of the President. I cannot understand why the Government wants to show to the whole world that they are not able to come to an agreement. In the Partition Committee, where our Tamilian as well as Andhra friends were there, they had agreed to extend the same facilities for a period of 25 years. Later on some of the Tamilian friends said that the period of 25 years was too long a period. Our Communist Party says "Let it be at least for ten years." Now even on this small issue, instead of taking a quick decision, the Government wants the whole process of argument, disagreement and dispute for another three or four months. Sir, in clause 59 which we have just passed, they have provided facilities for five years for putting Andhra people in jails. Sir, the Government of Madras suggested a period of two years for this purpose, but the Government of India here comes with a proviso that five years should be the period for the Andhra State to avail of these jail facilities. So the Government is very anxious to give facilities for detaining and arresting and keeping people from Andhra in jails outside Andhra.

But when it comes to a question of educational facilities or training facilities or hospital facilities being extended to the Andhra people for a definite period, they don't fix a reasonable time, and when people start quarrelling, the Government will later on come out with its arbitration and fix

[Shri P. Sundarayya.]
a reasonable time. To avoid any trouble, I have proposed an amendment that these facilities in educational and medical institutions should be extended to the Andhras for at least a period of ten years. I think that, instead of allowing this matter to be again raked up and controversy about it set going, it will be better for the Government to accept this amendment.

SHRI RAMA RAO: Mr. Deputy Chairman, I express my profound sympathy with the amendment moved by Mr. Sundarayya. It affects every home in Andhra. Province, or no province, State or no State, the people there want to know how their children are going to be educated. The Ninth Schedule specifies a number of institutions in respect of which facilities will be given to the Andhras "for such period as may be agreed upon". Goodness knows for how long. The amendment says that the Andhras should be given the benefit of these institutions for ten years. I think it is reasonable. Take one of the institutions, the King's Institute, Guindy. It is a magnificent institute from which have come some of the best engineers of the country. Am I to understand that it would be possible for the Andhra State to build up an institution like this in a short time? Sir, in my college days, in Madras I used to see and admire the fine building in which the Engineering College was situated.

SHRI K. S. HEGDE: The King's Institute is a medical research institute.

SHRI RAMA RAO: I am sorry, I was mistaken. Yes, medical research. Medical research is not possible in the Andhra territory for a long time. Even today I see lots of people from the Telugu country going to Madras and their waiting for days to have consultations with big doctors. You will be inflicting a great injury on the poor people of Andhra by not giving them greater chances of getting their doctors trained there.

Then take the Irrigation Research Station at Poondi. It is as important

as the Poona institute of that kind. Many provincial Governments seek the advice of this institution. After all, this country has not enough irrigation research institutions.

Come to the Finger Print Bureau, Vellore. I think the work of the Finger Print Bureau is not very much. In free India, there will be fewer criminals let us hope, but I do not see why it should not continue to be stationed there for ever on a joint basis.

Then about the Government Press. As a journalist, I might throw away a whole fortune but I would not be able to purchase any machinery these days. With re-armament going on, it is becoming extremely difficult to get machines. The Andhra State should have its own Government Press. Here we know from our own experience that the Official Council Reports do not come to us for months together with all the equipment of the Government of India. It means that the Andhra State will be in much greater difficulties. This is an instance where you should have definitely divided the assets in the Bill itself and allowed the Andhras to take away their share.

Then the Textile Institute. I remember how Telugu boys used to go in the good old days to Bombay to join the V. J. T. Institute and take their chance in the rotation system. Do you believe that it would be easy for Andhra students to learn textile engineering if they are not given the facilities of this Institute in Madras for another ten years?

There are ever so many other institutions. What I am saying is that it would not be possible to build up technical and scientific institutions in a day. Don't make the Andhras suffer because of partition. It is possible that some of these institutions can be run for ever on a joint basis. Don't drive us away to far-off places like Pilani and Banaras to learn what we ought to learn in our State or at least in Madras, in the institutions that have been jointly built up. Above all, the same trouble

that we have with regard to art institutions will intensify in Andhra with regard to technical institutions. The Communal G. O. was knocked on the head by the Supreme Court, it is true, but what was the reason for that G. O.? It was because there were not a sufficient number of institutions. What will be our fate now? We will not be able to build up our own institutions in a sufficiently short time, while all the time our boys and girls will be knocking in vain at the gate to get admission at the few institutions existing. People in India are asking, 'What is the result of Swaraj? We are not able to feed and clothe our boys and girls.' We are not able to explain our failure. Tomorrow the Andhras will say "What is the result of Andhra State coming when our children cannot have opportunities to get the education they desire". I agree with Mr. Sundarayya that this is clearly a case where the Government of India should have exercised their authority peremptorily and decreed that opportunities should continue to be given for a long time to come to the Andhras for being trained in the scientific and technical institutions situated in Madras.

SHRI K. S. HEGDE: Sir, I am really surprised at the attitude taken by my friends Shri P. Sundarayya and Shri Rama Rao. So far as clause 60 is concerned, it lays down certain fundamental principles. They are that ordinarily an institution which is located within a State shall belong to that State. The second is for the convenience of the new State which has no such institution; the benefit of that institution will be shared between the residuary State of Madras and the new Andhra State. The third principle enunciated is that the terms and conditions are left to the Governments concerned and finally the Government have said that in the event of agreement not being possible, then and then only the Government of India shall give a decision in the name of the President. These are the fundamental principles that have been enunciated here. I don't think there can be any quarrel over this but what Mr.

Sundarayya wishes is to fix a period of at least 10 years.

I don't know whether it will go to the benefit of the Andhras themselves. When you fix a time limit, or a minimum time, in a case like this, it always becomes the maximum because the other Party will compel you to go out after that period because in some case it may be very much justified in claiming for a period more than 10 years. I am considering this more from an Indian point of view rather than from the point of view of Madras or Andhra. We must give better consideration for individual institutions rather than clubbing them together and say that it should be for 10 or 5 years. In fact in a matter like the Guindy Institution, the King Institute, very likely 25 years you may require. If it is the requirement of the country, by all means let us sit down, examine the matter and see if you cannot have it for 25 years, at least if you can have it for 20 years and if you and I cannot agree, the Government of India cannot be interested particularly to one party and then they will come and say for this particular institution let it be 15 or 20 years. In the case of Orissa, I know in certain cases they fixed a period of 12 years. I would like to say this that the whole thing has been fixed from December and the Government of India have been bending all their energies in the formation of the Andhra State. There are a number of things which should be considered in a more calm atmosphere taking the pros and cons into consideration, and I am quite sure the future Andhra Government and the Madras Government will come to an agreement. If they are not able to come to any agreement, the Government of India can be trusted to give a decision in the matter. I for one don't understand the suspicion of my friend Mr. Sundarayya who wants to fix a minimum period and that has no place anywhere. If at all the amendment is accepted, I can tell him that it will be detrimental to the Andhras. You have not considered the implications of your amendment. You thereby limit the period to 10 years and I feel

[Shri K. S. Hegde.]

sure in certain cases you are to claim for a longer period than 10 years. Being in the residuary Madras State we may grudge it to some extent, but the Government of India will take a more impartial view of the claim.

SHRI GOVINDA REDDY: Sir, I have only a few words to say after Mr. Hegde has spoken on this clause. At the very outset I can say that this amendment will not bring about the result which Mr. Sundarayya desires to achieve. Nobody disputes the point that these institutes which are mentioned in the Ninth Schedule are vital to the Andhras. They are institutes which will be vital to the Andhra State for a long time to come, at least some of these institutes. Therefore this clause contemplates agreement between the States concerned in which the institutes are situated—Madras, Mysore and Andhra. If Mr. Sundarayya's object is to eliminate the agreement once and for all and to provide here for a definite period, then that I can understand. But his amendment is only for the substitution of the words "at least for ten years" for the words "for such period". And the rest of the words remain, i.e., "upon such terms and conditions as may be agreed upon between the Governments concerned, etc. etc." Therefore he leaves room for agreement to be effected or entered into between the States and I do not see any reason why he should in respect of the time, bind these States or bar them from entering into an agreement.

SHRI P. SUNDARAYYA: So that it may not be less than 10 years, it may be more.

SHRI GOVINDA REDDY: But why say it when they are free to enter into an agreement with respect to other items? Maybe it is more. As Mr. Hegde was saying, these institutions have to be built up gradually, because some of them take a long time; for instance, the research institutes, they take a very long period, to be built up. So, instead of binding the Govern-

ments to a particular period of time, let us give them room for coming to an agreement. The clause provides for it and any agreement reached will be to suit the convenience of Andhra and therefore it will be to the advantage of Andhra. By introducing this amendment, we will be making it difficult for the States to come to a free agreement. That is one thing. The other point is that with these words put in, the clause does not read properly. With this amendment it will read:

"The Government of Madras and the Government of Mysore, in respect of the institutions specified in Part I and Part II, respectively, of the Ninth Schedule shall provide for the Government and the people of the State of Andhra such facilities at least for ten years...."

So it does not fit in with the language of the clause.

For these reasons, I oppose the amendment.

SHRI T. S. PATTABIRAMAN: Sir I stand up to oppose this amendment and while doing that, I want to say that this clause even as it is, is already doing a lot of harm to the residuary State of Madras. It says that the State of Andhra shall enjoy certain facilities with regard to certain institutions enumerated in the Ninth Schedule and which are situated in the residuary State of Madras. But there has not been any reciprocal arrangement with the other State, the State of Andhra. There are some institutions in Andhra which are also vital to the residuary State of Madras.

SHRI P. SUNDARAYYA: For instance?

MR. DEPUTY CHAIRMAN: He asks for instance.

SHRI T. S. PATTABIRAMAN: Why? There are the two medical colleges and there is the Tungabhadra Dam with its irrigation research stations.

MR. DEPUTY CHAIRMAN: You have no amendment.

SHRI T. S. PATTABIRAMAN: No, Sir, I have none. I am only saying that even the existing clause has done enough injustice. It says that the Andhra State will have certain rights but the same sort of facilities have not been extended to Madras or Mysore.

PROF. G. RANGA: That will do please, don't overdo it.

SHRI T. S. PATTABIRAMAN: There is already injustice and my hon. friend by means of his proposed amendment wants to continue this injustice for ten years. Sir, I feel that if this amendment is accepted, it will create a lot of hardship. If they do not want the High Court to be in that place and want it to be immediately removed, why should they insist on having these facilities extended? Moreover, the expenditure incurred on these institutions in the residuary State will be borne by the residuary State. That is why it is absolutely necessary that the terms and conditions on which the Andhra people can have certain facilities in these institutions should be left to be discussed and settled by the Governments and we should not here fix any period.

It will always be better and it will also be in the best interests of the people of the residuary State of Madras to have this settled by compromise and consultation between the respective Governments and not to impose a certain time limit.

DR. K. N. KATJU: Mr. Deputy Chairman, in addition to the consideration which have just been referred to by my hon. friend who has spoken in opposition to the amendment, there is what I may call a psychological fact to which I should like to draw the attention of the House. It is easy for us to say that people coming from Andhradesh should have facilities for reading and studying in these institutions or for taking advantage of the facilities which are offered there. I

am living in the hope that when this turmoil dies down, the young men and women coming from Andhradesh will have no difficulty in getting admission to these institutions for years and years to come. Supposing I want to send my boy to some medical institution for education, I could send him to Guindy. Similarly, they will go there. They will have equal opportunities. What I am most anxious about today is that nothing should appear to have been done by way of compulsion. You have seen for yourself, Mr. Deputy Chairman, the present prevailing atmosphere. Supposing you say that this institution must take boys from Andhradesh for ten years or twenty years? These boys go there and, in the bitterness because of a certain decision having been forced on the Tamilians or the Madras Government, they will find the living conditions extremely difficult. I want to take away that element from this particular aspect of the matter and I am very anxious that it should not be said that any decision has been forced on the Tamilians by the Government of India. So, the Government of India deliberately left that. We hoped that the two Governments will make some satisfactory arrangements and come to some amicable arrangements which will not leave any bitterness behind, and when the boys go there they will be able to live just like the inmates of the institutions. If these two Governments are unable to agree in respect of these institutions or with respect to any institution, then we would do something. You know, the Central Government tries to act as a mediator. There is no question of a compulsory decision in these matters. I am in sympathy with the object which Mr. Sundarayya has in view that these institutions should be available to the boys of Andhradesh for years and years to come but I should like to suggest that the way in which he has approached might defeat his own purpose. The way we have tried to put it in the Bill is much better, the way of commonsense, common agreement, so that there may be no trace of any hostility left behind. That is why I have been asking Mr.

[Dr. K. N. Katju.]

Sundarayya not to press the amendment to the vote.

MR. DEPUTY CHAIRMAN: Do you want to press the amendment?

SHRI P. SUNDARAYYA: Yes, Sir.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 19, line 33, for the words, 'for such period' the words 'at least for ten years' be substituted."

The amendment was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 60 stand part of the Bill."

The motion was adopted.

Clause 60 was added to the Bill.

MR. DEPUTY CHAIRMAN: Motion moved:

"That clause 61 stand part of the Bill."

Amendment No. 36 is a negative one and is disallowed.

SHRI P. SUNDARAYYA: I would like to speak, Sir.

DR. K. N. KATJU: There is no amendment there; it is a directly negative one.

MR. DEPUTY CHAIRMAN: Yes, but he wants to speak on that.

SHRI P. SUNDARAYYA: I want to state the position, because I do not want to make a similar speech in the case of clause 62.

MR. DEPUTY CHAIRMAN: In that case, I will put both of them together to the House.

MR. DEPUTY CHAIRMAN: Motion moved:

"That clause 62 stand part of the Bill."

Amendment No. 37 is a negative one and is disallowed.

Clauses 61 and 62 are open for discussion.

SHRI P. SUNDARAYYA: Sir, I oppose both these clauses because they are concerned with the administrative services at the higher level, that is, the Indian Administrative Service, the Indian Police Service, the Indian Civil Service, the Indian Service of Engineers and the Indian Forest Service.

When this question of allotting officers came to be discussed in the Madras Assembly itself, Shri Rajagopalachari and the Congress members belonging to all parties agreed to a common amendment with regard to the services. The principle agreed to was that for the Administrative Services, either of the State or of the All-India Services, those people serving only in Andhra or at least those people who know Telugu should be promoted and, if they are not able to get any further men, then only some persons may be taken from other States who do not know the Telugu language. But, this was considered only as an exception and Shri Rajagopalachari had stated in the Madras Assembly itself that though the Government of India had agreed as far as the State Services were concerned, they were not prepared to accept this principle in regard to the All-India Services. The very reason why a separate State was demanded was to enable the administration to be carried in the language of the Andhras, i. e., Telugu. Naturally, if high administrative posts are held by the people who do not know the Telugu language, then naturally the administration cannot be run in the Telugu language for years to come, nor will it be right to force these few administrative officers to learn Telugu at a late stage in their career and expect them to be efficient in the running of the administration. We are not opposed to the Government of

India's rights, the hon. Minister's rights, to appoint non-Andhras to posts in Andhra. It is not from that view that we are opposing this; the question is whether that particular officer is a Telugu speaking one or not because, the very purpose of asking for a separate State is that the administration, as far as possible and as soon as possible, is carried on in the Telugu language and, this can be done only when not only the lower ranks but the higher posts as well are manned by people who know the Telugu language. That is the main consideration which we have had all along. There is no question of disunity in this question at all. We can have an officer from any State provided he is good in Telugu, provided he can carry on the administration in Telugu, answer representations from the people as well as from the various departments. If he can do that we have no objection to taking him, but without any such provision, simply allotting officers who do not know the language at all and putting them in the cadre, especially in the higher posts, would not be meeting the wishes of the Andhra people who want to have the administration carried on in their own language.

Apart from this, Sir, I find from the Press that three officers like Shri K. P. S. Menon, Shri Hejmadi and.....

SHRI C. G. K. REDDY: Mr. Sivasankar.

SHRI P. SUNDARAYYA:.....SHRI Sivasankar have been allotted to Andhra even though they will not be available immediately. If their services are not to be available to the Andhra Government, what is the use of having their name put in the Andhra cadre? What is the use of saying that they are allotted to Andhra?

SHRI C. G. K. REDDY: It will be years before they are available and, possibly, they may never come back. Once they come here, they do not go back.

SHRI P. SUNDARAYYA: Let us have them here at the Centre instead

of showing them in the Andhra cadre. What is the use of this kind of fiction? They are in the Andhra cadre but will not be available to the Andhra State: it is another legal fiction which I would like to contest. Whatever that matter is, we want officers, even for the higher grades, to know Telugu and for the time being, they could be taken on deputation for certain periods as in the case of certain other services, but not permanently. According to clauses 61 and 62, once they are appointed, till the period of retirement they are considered as permanently appointed to the Andhra State. And there is no question of any other possibility of replacing them by people who know the Telugu language to carry on the administration and as such I oppose clauses 61 and 62.

SHRI K. S. HEGDE: I am really sorry that in our enthusiasm for linguism we had tried to go at the very root of it. If the British administration has left anything good for this land, it is only the All-India Services. (*Interruption.*)

My conception of democracy is something different from the hon. Member's. I think in terms of India as one unit, whereas my friend Mr. Reddy thinks in another way. (*Interruption.*) My friend had occasion to woo the people but they washed him off. Today he speaks of the people. So far as the people are concerned, we have met them and we shall meet them on an equal level with my hon. friend. Anyhow, let us not talk in the air. I represent the people and I speak in terms of the people. Now leaving that aside, when I think of the Public Services, the All-India Services, I am not thinking in terms of politics, but I am thinking of administration. I am not thinking merely of the I. A. S. but everyone of the All-India Services. There are people in the land who are trying to disintegrate these things. I am for All-India Services because we all belong to the Indian Union. Immediately we discarded the I. C. S. the late Sardar Patel thought in terms of the I. A. S., the All-India Police Service and other All-India Services because

[Shri K. S. Hegde.]

the administration should be carried on efficiently and impartially. I went on reading the speech of one of the leading Members of the party, to which my learned friend Mr. Reddy belongs, on the floor of the Legislature. I won't mention the name of that gentleman. He said, "Right from the Dafadar up to the Governor I shall have none but an Andhra". Not even a Telugu-speaking man but none but an Andhra.

I am quoting the very words, Sir: "I will promote a clerk to be a Collector", and "if we do not have enough Andhras, I will call the retired men". I am quoting exactly as one of the hon. Members spoke in the House. I am only quoting this for the reason that this shows to what extent the linguistic fanatic could go to what extent linguism could promote disorder in the land. Now, the only thing that can keep the unity of the land is the all-India cadre. For that reason I will put it to the hon. the Home Minister that so far as the All-India Services are concerned, as far as possible, he should try to post them in a province other than their own, lest there should be too much of provincialism as an antidote to provincialism. I always thought, Sir, that in so far as the High Court Judges are concerned, they should also be from the all-India cadre; not that I am afraid something will go wrong, but Cæsar's wife must be above suspicion. Similarly, so far as the key posts are concerned, they should be manned by All-India Service people. There would be no difficulty so far as the languages are concerned; in the Government of India services, all of them only know English; or, most of them do not know Hindi. In due course of time, everyone will know the national language. So, so far as these officers are concerned, the lack of knowledge of a language has never been in the past a limiting factor, and should not be so; it should not be a limitation in the future as well.

My hon. friend, Mr. Sundarayya, exhibited a good deal of ignorance in

allowing the All-India Services to work outside their province. I may tell him that so far as these people are concerned, they are posted outside their province for a particular period and for a particular purpose; and the Government of India sees to it that after that period and after that purpose are over, they are sent back to the original province. Only in that way is allocation made.

Now, what is more; my hon. friend, Mr. Sundarayya, tried to bring different arguments. In support he referred to the reported discussion on the Madras Resolution. It is all wrong; it is not the Telugu knowing people that have been referred to, but it is the Andhras. All that they said was, he must be an Andhra, otherwise he has no place in that country. In fact, one of my friends very jocularly remarked one day that so far as the Andhra State is concerned, it is inspired by some Telugu officials, so far as the Maharashtra State is concerned, it is inspired by politicians and so far as the Maharashtra State is concerned, it is inspired by Communists.

SHRI P. SUNDARAYYA: It is sheer slander.

SHRI K. S. HEGDE: Whatever it might be; there may be no truth in it. But one thing is certain; it is certain that officials were playing an unduly prominent part in the formation of the Andhra State. I regret it very much for the reason that they think it will be a heaven for quick promotions. In Andhra, if you are not likely to have a stable Government, at least during that period, you should be increasingly dependent upon an independent and stable administration. Please do not inject and infuse this linguistic virus which would make them unfit for good administration. You should draw upon those reserves and resources which the Government of India will be making available to you. No official outside Andhra, I may tell you, is anxious to go to Andhra, not because they do not like it, but because the conditions are such, they are so

inconvenient to the officers. With all your zeal, with all the local enthusiasm, if you have the interests of the country at heart, please do not oppose the clause. Please try to have an All-India Administrative Service.

SHRI P. SUNDARAYYA: Provided they know the language.

SHRI K. S. HEGDE: So far as language is concerned, they will learn it; they will be persuaded to learn the language to the extent necessary. Please do not make it a farce.

SHRI RAMA RAO: Mr. Deputy Chairman, you will find I have my own views on the subject. I agree at one time with Mr. Sundarayya, at another I disagree with him, because I happen to be Rama Rao. Now, on this clause I disagree with what Mr. Sundarayya has been saying. If there is one thing that is going to save this democracy and infant State it is the services more than anything else. There are two considerations with regard to their compositions. The first is that as far as possible, local aspirations should be satisfied. Secondly, we should press for the highest standards of efficiency. Sir, it has been said that whatever may be happening in Paris, whatever may be the quarrels among the French politicians, France is safe because of her civil services. In the same way, I think that whatever may happen in this unfortunate country where political stability is still uncertain—and in Andhra it may be more particularly so—it is necessary that the services should work impartially and efficiently and we should have the best material to man them. As a matter of fact I understand that few Tamilian officer wants to work in Andhra if they can help it; therefore, in the provincial services, it may become necessary to take as many Andhras as possible. It may be unfortunate to do so without regard to efficiency, but let us face the facts. As regards the All-India Services who have to work in Andhra, it is clear that they must know Telugu and they do know it. The I.A.S. too, like the old

I.C.S., has got that rule. The English man who wrote the first Telugu dictionary was Brown, an I.C.S. man. I believe as a general proposition that we should continue to have all-India services. There is no doubt that they have supplied us a steel frame; definitely an element of unity, and for a long time to come, they will supply an element of impartiality. The European I. C. S. officers in the old regime used to gibe at us: "Oh, when the Hindus and the Muslims fight, they want a European Judge." It is just possible that till we remove ourselves from the present mental condition, we shall require some impartial men in the higher ranges of the services, and let us not therefore smash the steel frame that is there. What of efficiency? You will remember that when we took over from the British, most European I. C. S. men left, and with them many men of the other All-India Services. The result was a breakdown and much inefficiency. A man who was only a deputy collector, could not possibly function efficiently as a Collector or as a Commissioner. This must be avoided in Andhra, where it becomes necessary in the interests of efficiency to have men of the All-India Services, as many as the State can take. Sir, this clause, more than anything else in this Bill, would bring satisfaction to those local services in Andhra which are expecting immediate benefits—Deputy Collectors expecting to be Collectors, etc.—and I only hope that they would be efficient and that they would not let us down. Above all, they should be impartial; they should see to it that the traditions which the British people laid down are carried on. I trust they will play a leading part in the building up of the new State.

SHRI C. G. K. REDDY: Sir, I did not intend to speak. If I wanted to offer any remarks, I would have done so only on the third reading. But my hon friend, Mr. Hegde, and to my great surprise, Mr. Rama Rao also, in their enthusiasm to support the clause

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been put forward by Mr. Sundarayya, have let fall certain very unfortunate remarks.

1 P.M.

I will especially refer to what Mr. Hegde has called the great gift of the British and what Mr. Rama Rao has chosen to tell us again that the I. C. S. was the steel frame on which we depended and on which we still continue to depend and, he hopes we will continue to depend for ever. Sir, I have no great affection for or hatred against the Services as such, but I certainly must protest against the statement that democracy is dependent on the Civil Services.

SHRI K. S. HEGDE: Surely. What doubt is there?

SHRI C. G. K. REDDY: I hope Mr. Hegde will stand by the statement that democracy depends on the Civil Services and will also be able to explain to us what he means by it. I do not know whether the Services depend on democracy or democracy depends on the Services. I am sorry that Mr. Hegde and the party to which he belongs have come to such a stage that their type of democracy will have to be buttressed more and more by the Civil Services.

SHRI K. S. HEGDE: Depending is one thing and buttressing is another. My hon. friend does not seem to understand what I said. We are dependent on the Services for administrative purposes and not for political purposes.

SHRI C. G. K. REDDY: Why should democracy depend on the Services?

SHRI RAMA RAO: The success of democracy depends on an efficient bureaucracy.

SHRI C. G. K. REDDY: It depends upon an efficient bureaucracy? I am afraid Mr. Rama Rao is forgetting everything he has learnt in his career. Probably he will even turn round and say that bureaucracy is democracy. I have

nothing against the Services as such, but I should like to support what Mr. Sundarayya incidently pointed out that such members of the Civil Services who are apportioned to Andhra and who serve there should learn the language of that area also. In fact Sir, even conceding Mr. Hegde's support to the British system of the Civil Services, after all there was a rule even in those days that such of the civil servants as are posted to particular areas must learn the language of those areas. All that Mr. Sundarayya has suggested is that those officers who are posted in that area must know the language of the area.

SHRI K. S. HEGDE: Has the hon. Member read Mr. Sundarayya's amendment? He is talking in the air.

MR. DEPUTY CHAIRMAN: It has not been moved.

SHRI C. G. K. REDDY: Although the amendment has not been moved, Mr. Sundarayya was saying that the officers who are posted to Andhra must learn the language of Andhra, i.e., Telugu. Now, if he was speaking on an amendment which was not moved I cannot be held responsible. I am trying to speak on the clause.

MR. DEPUTY CHAIRMAN: He has opposed the two clauses.

SHRI C. G. K. REDDY: He said that the civil servants who are posted to Andhra must learn the language of that area. There cannot be any objection to that, and if the hon. Minister can give us an assurance on this point, I am sure the people of Andhra will certainly be more happy about it, because I cannot accept the super-efficiency of these I. C. S. officers who once they are sent to Delhi, do not want to go back again, of whom we have any number of examples, and incidently I may draw the attention of the House to what Mr. Sundarayya said about the three officers apportioned to Andhra. But their services will not be available. Their services, if I remember aright, have not been avail-

able to any of the States for the last 5, 6 and in some cases 10 years.

SHRI K. S. HEGDE: Whose services? Mr. Hejmadi is in Madras till today.

SHRI C. G. K. REDDY: I am sorry. The two others Messrs. Menon and Sivasankar have not been available to any of the States between 6 and 10 years. There have been other glorious examples also of whom my hon. friend, the Deputy Minister, spoke the other day that they are so efficient indeed that they have been kept here sometimes for 15 years because they are so efficient that they are being transferred from one Department to the other. We must put a stop to it. If you are going to apportion these super-efficient officials to the poor Andhra State so that democracy may be dependent on their functioning there, so that the future of democracy can also be assured by those officers, we would only request that these officers may be dislodged from the seats of which they have become very fond during the last 10 years in this glorified city of Delhi and sent back to the States where really they ought to serve the people if they are really efficient.

DR. K. N. KATJU: Mr. Deputy Chairman, the picture has not been put completely before the House because clauses 61 and 62 are intimately connected with the next clause 63, and as a matter of fact, Mr. Sundarayya, while formally mentioning that he was going to vote for the deletion of clauses 61 and 62, has moved an amendment by which he wants to tack on an additional paragraph to clause 63 in so far as I. A. S., I. P. S. and other services are concerned. Therefore in 2 or 3 minutes, I would like to put the picture before the House as to what exactly happens. As you are all aware, in every State we have these All-India Services and we have the Provincial Services. The All-India Services are subject to the authority of the President. The State Services are under the administration of the Governor. Now when this Bill was

drafted, then we thought that so far as the All-India Services were concerned, they should be just as they served in any other part of India and I may say at once that in every year we recruit officers, we recruit candidates and they are trained and allocated to the different provinces, and the policy that we have been following is that a proper percentage of officers not belonging to the particular State to which they are allocated should come from outside. What we are aiming at is 50 per cent. local and 50 per cent. from outside and I may say at once that when we allocate persons from outside, then we insist that those outside persons should learn the local language. For instance, I am very familiar with the U. P. and I have appeared before Judges from Andhradesh, from Tamil Nad and they speak Urdu or Hindi as fluently as I speak them. They carry on all the proceedings, administrative offices, etc. in Urdu as fluently as we do. Similarly I expect that anyone, say from Punjab, if he is allocated to Tamil Nad must learn Tamil, otherwise he cannot possibly carry on and even in the olden days, the English people, the British officers, who were posted to Punjab, they learnt Punjabi. If they were posted to Uttar Pradesh they learnt Hindi or Urdu. Similarly if they went to Madras, then they learnt Tamil. They become complete Tamil scholars. From that point of view, there is no danger that you may have an officer from outside and he will be sitting like a God on the Olympus knowing nothing about the local language. He cannot possibly carry on and if he could not carry on in the olden days when the voice of the people was not heard so much, he cannot carry on today under the days of adult franchise and local panchayats and all those things. But this thing for the sake of unity is essential that there should be an element from outside the local State. Now we said in the Bill which we sent to Madras and Mysore that so far as the All-India Services were concerned, we will follow the old rules, viz., we will allocate to the Andhra people a certain element from

[Dr. K. N. Katju.]

outside. So far as these services are concerned, we evolved a certain formula. So far as most of these State Services were concerned, the police, judiciary, deputy collectors and so on, there was no difficulty because their number was fairly equal. But on enquiry it was found that in some special technical services, there was some difficulty, for instance, in the case of engineers, the number of Andhra engineers, it was found, might not be quite equal to the number required. Therefore we said we will allocate them and they will be allocated by the President, but we will give to these officers, after two years, one year's time, a sort of year's grace, and if they want to go back to Tamil Nad, well and good. If they do not go back to Tamil Nad, then they become permanent members of the Andhra Services. When this proposal was sent to the Madras Legislature, the prevailing atmosphere was, as my friend here was pointing out, one of Andhradesh for the Andhras, not for the people speaking Telugu, but for Andhras. And so they said, "We will have nothing to do with the Tamils." And the proposal has come as my friend Mr. Sundarayya has tried to move here, that all these things should be amalgamated and put on the same basis, that there should be no difference whatsoever, between the All-India Services and the local services or the State Services. His proposal is—you allocate only Andhras for Andhradesh and only Tamils for Tamil Nad. And if there is a scarcity of officers for running the administration and you have got to take Tamils to Andhradesh, then treat them as *pucca* members of the Tamil Nad. You may send them on deputation for one year and they must come back after one year. Now, we considered all that. We wanted to fall in with the wishes of the Government of Madras as much as we could and we thought that so far as the allocation of these State Services was concerned, it was not a very difficult matter because of the numbers. But so far as the All-India Services were concerned, we

could not possibly depart from the general principle because it was not of local application but it covered the whole of India. So clauses 61 and 62 have proceeded on that basis. We will try to make it work, but we cannot give the guarantee that no one but an Andhra will be on the All-India Services in Andhra. The hon. Member wanted to know about the knowledge of the language. Of course, the officer must know the local language. So far as the State Services are concerned—I am anticipating the discussion—in clause 63 we have adopted the Madras Government's solution, namely; that if anyone has to go on deputation, then the technical phrase used is "transfer of services for one year or two years" and then the officer comes back. I don't think there will be any administrative difficulty, and I am sure that within a few years the Andhra Government will be able to get all the servants they require for their State Services. The House will easily appreciate how difficult or impossible it is for me to change now, because we have adopted this measure after the fullest consideration. We spent days over it. We cannot possibly agree to the complete deletion of clauses 61 and 62 and the putting in of State Services and the All-India Services together. That would be a complete departure from our settled policy. Therefore, I am unable to agree with the view expressed by Mr. Sundarayya.

MR. DEPUTY CHAIRMAN: The question is:

"That clauses 61 and 62 stand part of the Bill."

The motion was adopted.

Clauses 61 and 62 were added to the Bill.

DR. K. N. KATJU: So far as clause 63 is concerned, I imagine that Mr. Sundarayya will not and cannot move his amendment. Will you just look at it?

SHRI H. N. KUNZRU: We shall discuss all that tomorrow.

DR. K. N. KATJU: If he withdraws before we adjourn.....

SHRI P. SUNDARAYYA: Where is the question of withdrawing? I am not moving it.

MR. DEPUTY CHAIRMAN: You are not moving?

SHRI P. SUNDARAYYA: No, Sir. I am not moving.

Amendment No. 38 not moved.

Clauses 63, 64 and 65 were added to the Bill.

MR. DEPUTY CHAIRMAN: We will take up clause 66 tomorrow. The House stands adjourned till 8-15 A.M. tomorrow.

The Council then adjourned till a quarter past eight of the clock on Thursday, the 10th September 1953.

Editor: ... bates,
Rajya Sabha Secretariat.