SHRI C. C. BISWAS: Sir, I move: "That the Bill be passed."

THE VICE-CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI K. B. LALL: Sir, this is the stage in which we are going to pass the Bill into an Act and I *ant to take this opportunity to say a few words. In the speeches of many of *my* friends I could discern a misunderstanding of what I said. I am glad that the Law Minister has cleared up this point. I had no intention of bringing in any personalities.

SOME HON. MEMBERS: No, No.

SHRI K. B. LALL: Of course, my friends, according to their own light, wanted to fit the cap on any head they liked. It was their responsibility. I only said what is advisable, what would be proper, what would be economically good for the country. That was the point of view that I placed before the House, and I am glad that the Law Minister has supported my stand.

THE VICE-CHAIRMAN: That point has been made clear. Do not elaborate that point further.

SHRI K. B. LALL: All the Members have referred to that point in one way or the other and they have laid stress on the impartiality of the •Chairman and the Deputy Chairman and the Speaker and the Deputy Speaker.

THE VICE-CHAIRMAN: We are all agreed on that point, Mr. Lall.

SHRI K. B. LALL: The friend who refered to my speech was interrupted by the Opposition benches. Ho said that a thing is bad whether it is from this side or that side. I am only going to appeal to him to add whether it is from this side or that side or whether it is from the Chair's side. Wherever it emanates from, it is bad. I do not say anything more than that. A thing which is bad is bad from whatever side it may be.

THE VICE-CHAIRMAN: This is all in the nature of a personal explanation which you have already given. This is not necessary.

SHRI K. B. LALL: Thank you, Sir, with these words I support the Bill.

THE VICE-CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

THE COMPTROLLER AND AUDITOR-GENERAL (CONDITIONS OF SERVICE) BILL, 1953

THE MINISTER FOR FINANCE (SHRI C. D. DESHMUKHJ : Mr. Vice-Chairman, I am quite certain that there will be a feeing of universal relief that we are now coming to relatively simple Bill which does not involve any polemic or perplexing points or point of propriety or parliamentary practice. Sir, I take it that the hon. Members have closely examined the Statement of Objects and Reasons which makes it clear why this measure is being brought forward. We first start with article 148 (3) which provides:

> "That the salary and other conditions of service of the Comptroller and Auditor-General shall be such as may be determined by Parliament by law and, until they are so determined, shall be as specified in the Second Schedule."

If we refer to Part E of the Second Schedule there we find, firstly, the salary prescribed, and, secondly, it goes on to say that the Comptroller and Auditor-General who was in office under article 377 shall receive special pay and then he shall have the same rights and responsibilities regarding leave of absence and pension and the other conditions of service by

which he was governed before. Now Ihose conditions of) service are laid down in the Audit and Accounts Order, 1936. This Order has various sections and section (2) refers to the conditions of service of what was then the office of Auditor-General. The first part of this refers to conditions of service and the second part refers to the duties and powers of the Auditor-General. The first part deals with the question of the salary of the Auditor-General and whether h3 can accept any employment, the term of his office, leave, pension and t.a. and then it goes on to safeguard his previous conditions of service. Now, so far as the salary is concerned, that is already provided for in the Schedule or in the article itself where the appointment is not under article 377.

There is also an article itself which refers to his right to accept any employment. The term of service is sought to be defined also by this Bill. That leaves the question cf leave and t.a. Pension is also sought to be regulated by this Bill -md so far as leave and t.a. is concerned, we don't see any reason why any change should be introduced. As 1 said, there is another section which deals with duties and powers of the Auditor-General which are referred to In article 149 of the Constitution. The purpose of the present measure is not to seek to define the duties and powers because the formulation of our proposals in that respect will take some little time. We are therefore concerned only with what I might call the residual matters referred to in the first clause of the second section of this Audit and Accounts Order which relates to the term of office and the pension.

[MR. DEPUTY CHIRMAN *in the* Chair.] *i*

That is why this measure appears to be only a restricted measure.

The next question is why does the Bill seek to fit the tenure in the manner that it does and why is there not any attempt to prescribe a maximum age-limit. We gave some thought to tnis matter and indeed at one time we had an idea of proposing that there should be both a term as well as a maximum age-limit but after considering the matter in all its bearings we came to the conclusion that it would be best if we contented ourselves with, in effect, extending the present period of five years to six years. There is some justification for a period of this kind. In the first place it coincides with the period which has been prescribed for Members of the Public Service Commission in article 316 (2). We also felt that if we were to fix the maximum age-limit, it might, in the prevailing circumstances, have the effect of retaining in office a Comptroller and Auditor-General longer than what would be regarded as desirable by all those who are competent to form an opinion in this matter.

The next question to be dealt with is that of pension.

PRINCIPAL DEVAPRASAD GHOSH (West Bengal): In connection with this matter of pension, may I draw the attention of the hon. Finance Minister to one serious discrepancy between a sentence in the Statement of Objects and Reasons, and subclause (b) of clause 3. In the Statement of Objects and Reasons it is stated that:

> "The Bill proposes that the tenure should be fixed at six years and that an additional pension of Bs. 600 a year be given for service in the post of Comptroller and Auditor-General subject to etc."

But sub-clause (b) of clause 3 states:

> "An additional pension of six hundred rupees per annum in respect of each completed year of service etc."

There appears to be a lacuna or an error. From the Statement of Objects and Reasons it appears that whatever be the number of years of his

[Principal Devaprasad Ghosh.]

service, his pension will be an additional Rs. 600 a year only. May we have some clarification on this?

SHRI C. D. DESHMUKH: RS. 600 a year for service means lor every year of service. It has not been spelt in that way but the object of the hon. Member should be to try and reconcile the Statement of Objects and Reasons and the actual wording of the law. It means every year. When there is a discrepancy, then the Bill itself should be taken as the -authority.

SHRI K. S. HEGDE (Madras): The Statement of Objects and Reasons is not part of a Bill.

SHRI C. D. DESHMUKH: Anyway, the intention has been clearly brought out in the Bill itself as passed now by the House of the People. It means Rs. 600 a year for every year of service subject to the maximum limit which has been prescribed there.

PRINCIPAL DEVAPRASAD GHOSH: Possibly it was an oversight in the •Statement of Objects and Reasons.

SHRI C. D. DESHMUKH: It is possibly badly drafted; I concede that.

Well, Sir, coming to this question of pension, it is very difficult to justify arithmetically any given figure for pension. The present rules are, of course, that the officer who holds the post of Comptroller and Auditor-General is entitled to the pension to which members of his service are entitled. The present Comptroller and Auditor-General, for instance, will get a pension of Rs. 791/10/8 per month. If there had been in his place a member of the Indian Civil Service, then his annuity would have been £1,000 per year and that is brought out now in this clause of the BiJl. There is, of course, a general parallelism between the office of the Comptroller and Auditor-General and the - offices of the Judges and so on. But it has been our intention not to press this similarity too far and to select some kind of a reasonable figure, and balancing all considerations we have come to the conclusion that the pension should be subject to a maximum of Rs. 12,000 per year except, of course, where the office is held by a member of the Indian Civil Service in the future, in which case the pension would be that prescribed for all members of the Indian Civil Service.

SHRI C. G. K. REDDY (Mysore): How often has this office been held before by a member of the I.C.S.?

SHRI C. D. DESHMUKH: Previous to this it was almost always held by a member of the Indian Civil Service. I believe it is correct to say that this is the first time that this office is held by a person who is not a member of the Indian Civil Service. But it is not intended to give any indication or even prognostication of the way this office will be filled in the future. But one has to provide for, if I may say ?o, a contingency.

DR. P. C. MITRA (Bihai): What is the age-limit?

SHRI C. D. DESHMUKH: Well, that is what I made out, that we have tried to prescribe an age-limit. If for instance in the future at any time, a member of the Indian Civil Service is selected, say, towards the end of his service, maybe when he is 59 or 60, then he could go on to 66. This sort of contingency appeals to be a very remote one. Usually he will be selected, maybe perhaps, two years before he is due to retire, in which case he would go on with his six-year period, till he attains the age of 64. At the moment, taking a survey of the whole field, it looks as if officers who are considerably younger are likely to be selected for the appointment in the fullness of time, and therefore, I doubt whether many of them would even attain the age of 60. They may be

61 or 62 by the time they retire, if this Bill is finally approved of by both Houses of Parliament. That, Sir, is the position. The present Auditor-General is about 59, I may add here.

There is only one more question that remains to be dealt with and that is the question of the application of this measure to the present incumbent of the office of Comptroller and Auditor-General; and I should like to make it clear that this is intended entirely in furtherance of public interest. He himself has intimated his desire at various times, tooth to the Prime Minister and to myself, to be allowed to retire. But we feel that in view of the various important matters that we have in hand, it would be a good thing to enable ourselves to continue to get assistance fjrom him for another year, so that we might now set ourselves to the task of selecting a successor and, so to speak, grooming him for the responsibilities which after a year from 15th August 1953, will devolve on him.

These, Sir, are the three points which are involved in this Bill. If there are any other issues that are raised, then. I take it, it would be more convenient to deal with them after the debate has proceeded.

SHRI K. S. HEGDE: What is the pension being paid to the High Court Judges?

SHRI C. D. DESHMUKH: The High Court Judges' pensions, Sir, are very much higher. That depends on whether they are Judges of the Supreme Court. There is in single answer that is possible. My hon. Iriend here has handed me a statement. As regards the Judges of the Supreme Court of India, for the Chief Justice the maximum is £2,000 per annum and for Puisne Judges it is £1,500 per annum. Then we go on to the Judges of the High Court and there the Chief Justice gets £1,800 per annum and the Puisne Judges £1,200 per annum. Therefore, there are usually, I say, four different grades and these are the maxima and there are certain rules which regulate the actual incidence of pension below the maximum.

I was going to say, if there are points like this which emerge from the debate, then I think it would be more convenient if I deal with them comprehensively in the course of my reply.

SHRI H. P. SAKSENA (Utter Pra. desh): I would like to have a clarifi cation, Sir. In the Statement of Ob jects and Reasons it is stated about the Comptroller and Auditor-General "..... taking into account the im portance of the post and the fact that its holder is constitutionally debarred from holding any office under the Union or State Governments, after vacating office ....." Of course, I understand that he will not be eligible to hold any office after his retirement; but will you permit him to establish an office of his own for auditing accounts, preparing balance-sheets and carrying on chamber practice as a chartered accountant?

SHRI C. G. K. REDDY: There is no constitutional restriction.

SHRI C. D. DESHMUKH: The Constitution merely says that he is debarred from holding any office under the Union or State Governments; •nd that is identical with the sort of prohibition that is placed on other offices also. So far as any private livelihood is concerned, the Constitution does not go into that matter.

SHRI RAJAGOPAL NAIDU (Madras): Something like retired High Court Judges practicing in the Supreme Court.

SHRI C. D. DESHMUKH: That is right. It is only a limited prohibition. It is not a prohibition that is universal.

DR. S. K. BHUYAN (Assam): Does the present system envisage the appointment of a non-service man, a man who has not been in service?

SHRI C. D. DESHMUKH: I do not mind, Sir, answering all these questions but, as I said, it would be more convenient *it* I answer them at the end because I have a lot to •ay on this; otherwise I shall be letting up every three minutes to ■newer different questions.

MR. DEPUTY CHAIRMAN: Motion moved:

> "That the BdU to regulate certain conditions of service of the Comptroller and Auditor-General of India, as passed by the House of the People, be taken into consideration."

DIWAN CHAMAN LALL (Punjab) :< Sir, I listened with great attention to the speech delivered by the hon. the Finance Minister on this very important subject. I do not agree with him that it is a simple matter that he has brought before the House and what I intend to say about this matter must be taken in the light purely of warning my hon. friend and the Government against doing something that they might *hs* sorry lor afterwards, both from the constitutional point of view and from the practical point of view. I am asking my hon. friend to be greatly circumspect about this matter because, as I said, I do not agree with him that it is a simple matter. I would like to ask my friend first of ail whether it is not a fact that this is the first occasion since the Auditor-General was appointed previously under the Government of India Act, 1935 or previous to that, that there has been raised the question of granting an extension. History, as far as I know —I may be mistaken and I hope my hon. friend will correct me—does not record a single instance in which a mandatory provision of the Constitution which lays down a particular limit of employment for the Auditor-General has been exceeded. I may be wrong; I am not well versed in the intricacies of the previous Government or this Government but it ig my impression that in no other case that has come up—and I have been a Member of the Legislature for many years—has there been an instance in which this mandatory provision has been exceeded. It is for the first time in the history of the Auditor-General's office that it is sought now by legislative action initiated by the executive that this time limit put down and established by the Constitution is sought to be exceeded. Now, my hon. friend, I dare say, has taken legal opinion about this matter. The second question that I would like to ask him is this: Is he completely satisfied both with the procedure adopted in obtaining legal opinion and with the context of the legal opinion that might have been obtained by him? Sir, this is an exceedingly serious matter and not a simple matter. I want to know and I have not the slightest doubt that the hoa. Minister will be able to satisfy n-.e and I hope he will be able to satisfy the House that the opinion that he has taken is not merely in reference to article 377 of the Constitution, not merely in reference to article 148,. clause 3 and clause 4, not merely in reference to the Second Schedule of the Constitution—all matters, Sir, referring to the existence of the office of the Comptroller and Auditor-General—but that he has also taken legal opinion regarding the practic* that governs a matter of this description which might arise, as lawyers know, either out of judicial decisioa or out of actual practice and if either judicial decision or practice did not permit the alteration of something that has been considered to be sacred so far, how far then legally is he justified in breaking away from the convention and breaking away from the existing practice. The issue that has arisen is a very important issue. My learned friend referred to article 377. I think hon. Members, who are not) quite familiar with the intricacies of the Constitution in relation to this particular matter that is before us, would probably be interested. Sir, if I were to enlighten them in regard to the constitutional position

as is evidenced in this book. What is the position? The position is that there are two distinct procedures laid down in reference to what applies to the Auditor-General. One series of provisions are to be found in the Constitution itself in relation to an Auditor-General who was the existing Auditor-General at the time of the change, when the Independence Act came into existence and another set of provisions apply in the Constitution to an incumbent who may come in thereafter, that is, after the original incumbent, if he has so elected, has completed his term of office. What my hon. friend is seeking to do is—I want to say all this because I want to be very helpful in this matter so that we do not commit a blunder for which we may be sorry hereafter —to apply the provisions that would apply to a new incumbent, to an incumbent who lhas come ever from holding his office previous to Independence and continues holding that office. Now, I hope the distinction is quite clear. I say and I repeat that there are certain provisions in tihe Constitution which apply solely to a man who was acting as Auditor-General and becomes under the Constitution, the Comptroller and Auditor-General of this country and there are certain provisions that apply not to him but to another Auditor-General whose conditions of service may be agreed to by a legislative measure on the floor of this House *end* who may *come* after the first incumbent, who continues, has ceased to function. Now. let me read the relevant provisions in regard to this matter. Article 377 of the Constitution says: "The Auditor-General of India holding office immediately before the commencement of this Constitution"—that is the Auditor-General that we are concerned with now because the gentleman in question, a very able officer, one of the ablest officers that India has produced for a considerable length of time— "shall, unless he has elected otherwise, become on such commencement the Comptroller and Auditor-General of India and shall thereupon 38 CSD be entitled to such salaries and to such rights in respect of leave of absence and pensions as are provid ed for under clause (3) of article 148 in respect of the Comptroller and Auditor-General of India and be entitled to continue to hold office until the expiration of his term of office"—I want those words to be clearly understood—"and be entitled to continue to hold office until the expiration of his term of cilice, as determined under the provisions which were applicable to him immediately be fore such commencement". What I submit is this that under article 377 it is perfectly clear that if the Auditor-General who was in existence then becomes the Comptroller and Auditor-General of the Republic his term of office is governed not by an Act of Parliament passed by us but is governed by the Constitution itself which lays down that he shall continue to hold office until the expiration of his term of office as determined under the provisions which were applicable to him immediately before such commencement. The term which was applicable to him immediately before such commencement was five years and you cannot, by any stretch of imagination, by passing a measure on the floor of this House turn the Ave years into six years without amending the Constitution. Sir, this is how it strikes me and as a Member of this House and as a well-wisher of my hon\. friend and of the very able Auditoir-General. it is my duty to point out that we must not be made to do a thing for which we may have to feel sorry afterwards. If the constitutional and legal position is not as simple as my hon. friend said, but so much complicated as would appear presently, then it is quite obvious that any taxpayer can go straightaway to the courts competent to deal with this matter and on the 15th of August 1953 demand of the courts a writ of *quo warranto;* and suppose the writ is granted what will be the position? Where will the Auditor-General be? Who will continue his functions? These are very serious matters, Sir, which have

[Diwan Chaman Lall.] got to be considered in the light of expert constitutional opinion being obtained. I believe that this has not been done and if done, it has not been done in the proper manner and I believe that all the facts have not been discussed as they should have Been discussed with competent law authorities. They have probably taken only one side of the view and not looked at the issue as a whole as they should have done and if they have looked at this issue as it should be done from every aspect of this matter, both constitutional and legal, and from the point of view of what is right for the State, I feel somehow or other that the opinion would have been a very different opinion. Therefore, Sir, granting that it is not a simple matter, if this interpretation is correct, then what happens? Before I go on to deal with the matter as to what happens thereafter, let me draw the attention of hon. Members to the other provisions of the Constitution which relate to the Comptroller-General. Now there is the article 148 referred to by my hon. friend. Now article 148(3) says: "The salary and other conditions of service of the Comptroller and Auditor-General shall be such as may be determined by Parliament and. until they are so determined, shall be as specified in the Second Schedule." Now this is the article under which my hon. friend comes before this House. I. take it that there is no other article empowering my hon. friend to bring this measure before this House. Tnis,

I submit, has to be read along with arti cle 377 of the Constitution which, as far as the existing incumbent is con cerned, rules 148(3) completely out of order taken under any circumstances, from applying to the existing incum bent whose term of office according to article 377 and according to Schedule

II have already been laid down in the Constitution and if a thing is laid down in the Constitution you cannot amend it by a simple Act of Parlia ment. You have got first to amend the Constitution before you alter the conditions that have been prescribed under that Constitution as controlling the Comptroller-General's office or the term of his office. Then again, Sir, 148(4) says: "The Comptroller and Auditor-General shall not be eligible for further office either under the Gov-ernment of India or under the Government of any State after he has ceased to hold his office." Now I submit that if article 377 governs the Auditor-General, the present Auditor-General —not another Auditor-General but the present Auditor-General— cannot hold any further office, and if you ex-tend his period of five years by another year you are actually extending that office and giving him a further cilice. Because his own office ceases after the completion of five years and the extension gives him a further office. You will notice. Sir. that the question of further office again is a very important and serious matter. It has certain constitutional implications and certain legal implications. There are precedents and cases which one has to look into before one can come to a decision as to what the question of further office means. These are the two relevant points in regard to the Comptroller-General.

There is one other point and that is the question of Schedule II. In Schedule II, again we come back to the same original position. In Part E of Schedule II on page 213 of the Constitution, hon. Members will find that clause (3) states: "The rights in respect of leave of absence and the other conditions of service of the Comptroller and Auditor-General of India shall be governed or shall continue to be governed, as the case may be. by the provisions which were applicable to the Auditor-General of India immediately before the commencement of this Constitution and all references in those provisions to the Governor-GeneraJ shall be construed as references to the President." Now it is quite obviou? that there is a distinction between the man who is going to be appointed after the expiry of the office of the Auditor-General, who becomes the Comptroller and Auditor-General, and the new incumbent. The result is this that as far as the A.-.iditor-Gene-

ral is concerned, he becomes the Comptroller and Auditor-General and under the Constitution the provisions which were applicable tnen apply to him. Those are the terms of his service. Now, Sir, if this is the position, it is quite obvious that a very serious matter has arisen which requires a little more careful consideration by my hon. friend.

What are the functions of the Comptroller and Auditor-General? Hon. Members will find the functions laid down. I believe, under article 151 of the Constitution. The Auditor-General. according to the provisions of the Constitution, is empowered to deal with the accounts of the Government of India. He has to'report relating to the accounts of the Union, which he shall submit to the President who shall cause them to be laid before each House of Parliament. This is with regard to Union accounts. Similar is the case with regard to States' accounts. So this is one of the most important and vital offices to be held under the Government of India. These accounts are then vetted by the Public Accounts Committee. The object is that if there are any irregularities committed, or any amount of excess •expenditure is indulged in without authority, or if there is anything wrong with the accounts of the Union, the Auditor-General is there to check it up. It is for that purpose that his salary is charged upon the Consolidated Fund. It does not depend upon the will and mood of the Exec itive Government. He is to be completely divorced from any influence that may be exercised upon him by the Executive Government. Now, in regard to this particular incumbent, I have not the slightest doubt. Everyone who has watched his work—I have watched him for many long years—will agree with me that he has been a man of great integrity, and that he has never been guilty, under any circumstances, of being influenced by any executive authority whatever and has been essentially the type of man visualised by the Constitution itself. Now, what •will happen if suddenly the Executive Government decides to give him an extension? I say by the very act of obliging him, they may be obliging themselves. Of course, I have not the slightest doubt, about all this happening but the very act of obliging him may bring him under the shadow of the Executive. It is not the spirit of the Constitution—not even the letter of the Constitution. And I submit today we have a good Government. We have got a good Comptroller-General. Tomorrow we may have a bad Government and a bad Comptroller-General. What a terrible disaster that would be for the people of this country if this particular action now were to form a precedent in the bad times that might come when bad men may be in charge! What a terrible precedent to set up! And I do submit, Sir, that it is not competent under the Constitution to do something indirectly which was really not permitted to be done directly. My hon. friend knows it. There are plenty of rulings on this point. He can refer to the constitutional rulings. I can give him one or two if he wants. It has been cleary laid down that if you have no power to act in a direct manner, you are equally debarred from acting in an indirect manner. So what my hon. friend would be doing by asking this House to agree to this particular measure is to ask this House to do something indirectly, which the law and the Constitution do not allow him to do in that manner. That, I submit, would be constitutionally wrong and legally incorrect. Now it might quite conceivably be asked: Why is it that this provision was made in the Constitution, namely article 148(3) to which I have referred?

SHRI C. G. K. REDDY: If I may interrupt him. I should like to have this information as to whether article 148 specifically precludes the operation of that particular article on the present incumbent.

DIWAN CHAM AN LALL: I am grateful to my hon. friend **for** drawing my attention to the necessity of emphasising once

[Diwan Chaman Lall.] again what I was saying. It is really a complicated matter. What I shall say, will probably satisfy my hon. friend. There is a specific provision in article 377 that the incumbent who was the Auditor-General, if he is made the Comptroller and Auditor-General under the Constitution, then the term of his office shall be governed by the terms that were applicable to him before he became the Comptroller and Auditor-General. That is the specific provision in article 377 and article 148 (3) cannot be construed to override article 377. It is only after the expiry of this particular individual's office that that particular thing will come in.

SHRI RAJAGOPAL NAIDU: And also Schedule II.

DIWAN CHAMAN LALL: Yes. Also Schedule II to which I have referred.

SHRI GOVINDA REDDY: Sir. I want to have another clarification from the hon. Member. Supposing the present incumbent was 54 years old when he became the Auditor-General.- Does the hon. Member contend that under article 377 he should have retired after the completion of his 55th year?

DIWAN CHAMAN LALL: My hon. friend will have a little patience and I shall deal with that complicated issue also regarding the age-limit of 55 *versus* the 35 years' limit of service in respect of the I.C.S. It is that particular conflict which is responsible—I might tell my hon. friend Mr. Reddy that that is the conflict which is responsible—for article 148(3) coming in because that particular conflict, Sir, could not be resolved by the Constituent Assembly when it sat down to deal with the Constitution on this particular aspect of it. I shall deal with that particular aspect of it to my hon. friend's satisfaction. Now, Sir, you will realise, as I have stated, that the objective is complete impartiality on the part of the Auditor-General. The objective is complete divorcement of the office of the Auditor-General from any influence being brought to bear on him by the executive. To take one little example. If my hon. friend takes shelter under article 148(3), then I want to ask him one question. Would it be open to him to bring in a measure on the floor of this House laying down an age-limit of 60 years for the • incumbent with the proviso that the Government might go on at their own sweet will extending his office from year to year *ad infinitum"!* If my hon. friend is correct in his interpretation of 148(3). there is nothing in the Constitution to prevent him from taking advantage of that particular article and bringing in a measure of this nature whereby the Auditor-General would be completely under the thumb of the executive for all time to come.

SHRI C. D. DESHMUKHf If Parliament approves of it.

PROF. G. RANGA (Madras): If **the** Parliament is led astray.

ft

DIWAN CHAMAN LALL: My I say. Sir, that the reply to that'is this: Par liament may approve of something that is constitutionally wrong but the courts are there to give their verdict. Are we to allow a measure to be passed which probably within the next few months will come to the courts .....

MR. DEPUTY CHAIRMAN: Will not article 148(3) give that power to Parliament?

DIWAN CHAMAN LALL: In respect of any future Auditor-General. It gives no power in respect of .....

MR. DEPUTY CHAIRMAN: Under article 148(3) cannot Parliament pass a law extending the period of the present incumbent?

DIWAN CHAMAN LALL: Not as far as the present incumbent is concerned. It comes in only after this particular individual. Let me read this particular section.

SHRI C. D. DESHMUKH: I shall give a very adequate reply to this.

DIWAN CHAMAN LALL: I have not the slightest doubt that my hon. friend will be able to give an adequate reply.

MR. DEPUTY CHAIRMAN: 377. is a transitional provision.

DIWAN CHAMAN LALL: It refers to a transitional officer. It refers to an officer who was holding office as Auditor-General. If that officer wanted to continue, it says what would happen. What would happen is this: He is entitled to continue to hold that office until the expiration of his term of office "as determined under the provisions which were applicable to him immediately before such commencement." It is not possible to get out of that. As far as the present incumbent is concerned article 37.7. has laid down the extent of his term of office and no amount of jugglery on our part can get us out of thi$_s$ difficulty. I know my hon. friend will give a reply and I hope it will be a very adequate reply, but my contention is that he cannot get out of this difficulty. We cannot amend the Constitution by a measure of this nature.

SHRI C. D. DESHMUKH: Either I can give an answer now or the discus sion can go on and the House may go on .....

SHRI H. N. KUNZRU: It is already 1.15,

MR. DEPUTY CHAIRMAN: Will the hon. Member take some more time?

DIWAN CHAMAN LALL: Yes, Sir.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 8.15 A.M. tomorrow.

The Council then adjourned till a quarter past eight of the clock on Wednesday, the 6th May 1953.

Editor of Debates, H*jya
Sabha Secretariat.