

Clauses 2 to 6, the Schedule, Clause 1, the Title and the Enacting Formula were added to the Bill

DR K N KATJU Sir, I beg to move that the Bill be passed.

MR CHAIRMAN The question is:

"That the Bill be passed"

The motion was adopted.

#### THE TRAVANCORE-COCHIN HIGH COURT (AMENDMENT) BILL, 1953

THE MINISTER FOR HOME AFFAIRS AND STATES (DR K N KATJU) Mr Chairman, I beg to move that the Bill further to amend the Travancore-Cochin High Court Act 1125, be taken into consideration

Sir, I am afraid this might prove a little more controversial, though in my opinion it is a very harmless measure. The House will recollect that the State of Travancore-Cochin consists of two States and no more. At the time of the integration there was some discussion as to the location of the headquarters for administrative purposes and as to the location of the High Court. There was a good deal of discussion about it and ultimately it was agreed after an examination by a committee, that the administrative headquarters, namely, the Secretariat and the Legislature, should be located in Trivandrum and the High Court should be located in Ernakulam, which used to be the capital of Cochin. That was done.

The maximum strength of the Travancore-Cochin High Court is eight but the present strength is seven, one Judge having recently died. I suppose the place of the lamented Judge who passed away will soon be filled.

Hon Members are fully aware of the topographical position of Travancore and Cochin. I have got a map here. The State runs really from north to south on the west coast. Ever since the establishment of the High Court at

Ernakulam there has been a grievance expressed by the people living in the southernmost part of this area. I need not say that before the integration there was a High Court in each of the States. There was a Travancore High Court established in Trivandrum, and a Cochin High Court established in Ernakulam. Now, Trivandrum is absolutely down south, and the result is that following the establishment of the High Court at Ernakulam, the litigants in Trivandrum have to come from their homes down south, up north to Ernakulam. This grievance was expressed very strongly in the State itself. As a matter of fact, the Government wanted to bring legislation there, and it would have been passed in the State itself. But legal opinion was taken and it was found that under our Constitution any law relating to the reorganisation of the High Court or anything affecting the High Court must come under the Union List and it is only Parliament that can pass the necessary legislation.

The result of this Bill can be very briefly stated. It only makes a small amendment to the original Act. Section 6 of the original Act, which is a Travancore-Cochin Act, provides that the High Court of Judicature of the United State of Travancore and Cochin shall sit at Ernakulam. Now, if this section were allowed to stand as it is, the result would be that the High Court would be incompetent to sit elsewhere. The object of the Bill is to allow the Chief Justice to establish what I may call a Circuit Court, or a Division Bench, of such Judges of the High Court, not exceeding three in number, as may from time to time be nominated by the Chief Justice, to sit in Trivandrum and—I ask Hon Members to note this—exercise, in respect of cases arising in the district of Trivandrum only—the southernmost tip of the State and nowhere else, the jurisdiction and powers conferred by the Act on a single Judge or a Division Bench of two Judges, as the Chief Justice may determine. We are most anxious that the status of the High Court of Travancore-Cochin should remain unimpaired and that it should continue to administer justice efficient-

ly and impartially as it has been doing. But it has been found in many places that justice, if it is concentrated too much in one place, gives rise to inconvenience and expense. The House will remember that recently we have passed orders to have a Circuit Court established in Delhi, and the result has been that the Chief Justice of the Punjab High Court appoints two Judges to come down to Delhi and those two learned Judges hear and dispose of cases which arise in Delhi. Similarly, in Uttar Pradesh they have got a Bench sitting at Lucknow which disposes of cases arising in Lucknow and some of the contiguous districts. In Rajasthan, the High Court sits at Jodhpur, but a Bench sits at Jaipur. Therefore, for the convenience of litigants residing in the Trivandrum district, the provision is that the Chief Justice shall send as many as three Judges—may be one, may be two, just as the exigencies of the situation may require—and those learned Judges will sit there and dispose of cases, with this restriction, that they will dispose of only such cases which can be disposed of either by one Judge sitting alone or by two Judges sitting together. If any case requires the decision of what we call in the lower courts a larger Bench, namely, three Judges, or five Judges, then that case must go to Ernakulam so that the whole High Court may deal with it. That is the upshot of it.

Now, I have noticed that some amendments have been given notice of. It will be for you, Sir, to decide as to whether those amendments, are in order. They really want to turn the Bill topsy-turvy. Instead of leaving the High Court to continue at Ernakulam, the harmless suggestion is made that the High Court should be completely transferred to Trivandrum and that at Ernakulam there should be a small Bench sitting. It is really a complete turnover of the position. I may say that the Bill which I have introduced was intended only to remove the inconvenience caused to the southernmost area. Otherwise, if you look at the distances, and hon. Members who come from that part of the country will know,

Ernakulam is a fairly central place; three districts are to the north of Ernakulam, and three districts to the south, and the distances are not long, and there is road transport, and there will be a railway built. I submit, Sir, that the Bill in its present shape will meet the requirements of the situation.

Sir, I move.

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Travancore-Cochin High Court Act, 1125, be taken into consideration."

SHRI M. MANJURAN (Travancore-Cochin): Sir, I would oppose this Bill for the reason that it was a solemn undertaking at the time of the integration of these two States and in the course of the various negotiations between the two States, that the High Court should be situated at Ernakulam and the Ordinance of the Rajpramukh promulgated in 1949 is to that effect.

Now, coming to the Bill itself, we find that there has been a lot of talk about it in the Travancore-Cochin Legislative Assembly. The Travancore-Cochin Government first thought that it would be their responsibility to pass a Bill. Then it seems under better advice from the Government of India they thought that that responsibility developed on the Government of India. But the only article in the Constitution applicable to such matters is article 225 which states as follows:—

"225. Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts,

[Shri M. Manjuran.]

shall be the same as immediately before the commencement of this Constitution."

And it seems that there has been some trouble with the Central Government because they have taken it as a matter coming within the Union List under items 78 and 79 of that List. But it should be noted that these items deal only with the question of constitution and organisation and not with the question of jurisdiction. This Bill actually involves the questions of jurisdiction and internal administration. It is a fundamental objection because unless article 225 of the Constitution is itself repealed, Parliament does not obtain the power to make any change in any of the existing High Courts as it stood before the commencement of the Constitution. I am afraid that even after all the legal advice of both these Governments there is considerable lack of understanding. Nobody can introduce any changes under the Constitution. This jurisdiction matter is entirely a State matter and not a Union matter or a Concurrent matter. The proviso to clause 2 of the Bill is quite clear. It concerns only the jurisdiction and it is entirely a State matter in terms of item 65 of the State List and the Central Government has no power whatever to introduce a Bill of this nature.

Then, Sir, it is stated in the Report of the States Ministry on page 18 that after the general election early in 1952 there has been a demand in the southern area of Travancore-Cochin for the transfer of the High Court to Trivandrum. That means in the course of 3½ years after the integration of these States there was practically no clamour over the shifting of the location of the High Court to any place.

*(Interruption)*

Sir, the States Ministry claim in their report that after the general election early in 1952 there has been a demand in the southern area of Travancore-Cochin for the transfer of the High Court to Trivandrum. This High Court which came into existence in 1949 did

not meet with anybody's criticism for the entire period of its existence. And the States Ministry's Report on page 1 states that there were certain difficulties with regard to the formation of

Ministries in Travancore-Cochin and PEPSU and this really accounts for the whole trouble of the southern parts. It was at the time of negotiations for the coalition Ministry that the States Ministry gave it up as a concession to the Tamil Nad Congress people that a portion of the High Court would be located at Trivandrum. It was not because there was any public opinion about it. Neither in the States Ministry's Report nor in the Statement of Objects and Reasons is it given that there has been any agitation in that behalf. It was true that when in 1949 this High Court was located at Ernakulam, considerable inconvenience was felt by certain lawyers who had to come from Trivandrum to Ernakulam but three and a half years have passed now and we want to send them back to Trivandrum. This is a matter which reminds one of the experiments of Mahommed Tuglak in shifting his headquarters from place to place. I am not wanting to do that. In the Statement of Objects and Reasons the Home Minister has relied very much on the distance involved and the hardship to litigants from southern parts of the State. The entire length of the State would be less than 250 miles and if for the district of Trivandrum a portion of the High Court is located there, this will serve a length of hardly 60 miles leaving out 190 miles. The Quilon district people will not be satisfied by that because the headquarters of the district of Quilon i.e., the town of Quilon is only 42 miles from Trivandrum whereas it is nearly 100 miles from Ernakulam. So I don't know what kind of law is being made applicable to the people of Quilon when a part of the High Court is being shifted to Trivandrum to cater to the needs of the litigants of the Trivandrum district. It is not going to solve any problem at all. If it were to cater for the convenience of the people, it could be taken to a central place which would be between say 120 miles of Cape Comorin

and 120 miles from Shoranur. That would be a central place. But here we are not having a central place. There is great agitation for linguistic provinces everywhere and the Central Government has been forced to concede to the constitution of an Andhra Province. Time may not be very much away when a Kerala province would come into being which means portions of Malayalam speaking area north of the present boundary of the Travancore-Cochin State should be added to the present State of Travancore-Cochin and the Tamil area which it now comprises would be detached from it, which means that Ernakulam would be the most centrally located place for a Kerala Province. To take things at very short range, in order to flatter the people of Tamilnad who, of course, maintain the present Ministry in power, would not satisfy the needs of the people of Kerala province to come. If that were to be taken into consideration, Ernakulam is the only place where the High Court could be situated. There is the port at Ernakulam and laws are being changed. It is bound to be more and more commercial laws that will operate. The income of every State now can be analysed and we will find that the income from land revenue and matters related to land is reduced comparatively and income from commercial and industrial enterprises is increasing. In that context I am afraid that not much of that importance could be attached to the portion of Travancore-Cochin which is neither industrialised nor commercially advanced. There is the Port of Cochin facing the town of Ernakulam. So the location of a High Court cannot be ruled out from there as we have got a High Court for Bombay and one for Madras. The distance of over 150 miles that the people from the southern most part will have to travel is not a great distance. The Tamil people of Trivandrum want to attach themselves to the proper Tamilnad with its Headquarters and High Court at Madras. The distance that they will have to travel will be atleast 500 miles. If their demand, for which the Tamilnad Congress has been standing all these

years and fighting the Travancore State Congress, were to be conceded, the minimum distance that they will have to travel is 500 miles and I don't understand what logic is there when the Home Minister says that they will have to travel about 150 miles to Ernakulam. That would look very strange.

With regard to judges, it was stated that the normal strength of the Travancore-Cochin High Court is 7 and out of the 4 districts, these 3 judges are going to cater to the needs of the litigants of one district. It will be an uneconomic proposition and will disable the residual part of the High Court at Ernakulam to discharge its duties properly because there will be only 4 judges for 4 districts and 3 Judges for one District and the population and area of the district of Travancore would approximate one-fifth of the State. So one-fifth of the State would get 3/7th of the number of judges where 4/5th of the State will get 4 Judges to discharge the duties that devolve on the High Court. Taking things from a point of reality, this is not something that would be called just because 1/5 of the area and population will have 3 High Court judges and 4/5th of the population and area will have 4 Judges. In ordinary arithmetical calculation I think this would be a great injustice. It would considerably increase the cost of administration of justice. New buildings will have to be hired for use and new staff will have to be employed. All these are going to cost the people unnecessary for the purpose of one out of 10,000 who will be the number of litigants. If this is the case that those litigants should be given all the conveniences and if they would not go to the High Court, the High Court should go to them, then it is a very queer theory that is being propounded here. It was suggested that if the Mountain does not go to Mahomed, then Mahomed must go to the Mountain and so our High Courts are going to the litigants and canvassing them. It is a very queer affair. Then in the State ment of Objects and Reasons it is said

[Shri M. Manjuran.]

that the Government of Travancore-Cochin gave very careful thought to the matter and came to the conclusion that the constitution of a Bench of the High Court at Trivandrum would be the best way of serving public needs. It would not be public needs but it would be the private needs of the Ministry whose precarious existence is very much concerned with this matter. Either the Government of Travancore-Cochin when they admitted a Bill which did not lie in their power, were making a rehearsal or they were not giving any thought to the subject. This compliment of the Home Minister therefore to their thinking capacity is really undeserving because they did not think over the implications of the Constitution and the particular sections by which rights were devolving on them for legislating in such matters. They have never thought out this matter because as already pointed out, article 225 of the Constitution would have the High Court functioning as it was on the day the Constitution commenced. The High Court of Travancore-Cochin was functioning at Ernakulam on the day the Constitution commenced i.e., 26th January 1950. So these are the few matters which, I feel would weigh with the Home Minister to change his attitude on this amending piece of legislation.

It is unnecessary and there is hardly any agitation. The agitation has come only after the Travancore-Cochin State Ministers went to promise their support to the Tamilnad Congress to provide a Bench of not less than 3 Judges in Trivandrum, and all matters relating there to, which has, of course, been conceded by the report of the States Ministry.

Now, there is another thing. Although there has been much done to please people of all kinds of thought—and for democracy they like to have things that way, I do not think it is very good every time to divide the High Court to please all kinds of people everywhere. The High Court, as far as possible, should be an indivisible

institution. Instances were cited of High Courts that exist at Lucknow and at Allahabad. But these were due to factors which could be brought under "history". But here the question of the integration of Travancore-Cochin is quite recent and the commitments thereof are also very recent. So if every day this Parliament as well as the State Legislatures were only to transact business of doing and undoing, I think the nation will come to a standstill. This is not very important matter. It is not a very urgent matter either. But as in the case of the child presented before Solomon to be torn between the two mothers, I would still say, if the High Court is to be torn in two, I would rather have it shifted entirely to Trivandrum than have it torn to pieces. We who belong to that part of the country do not mind its going away to Trivandrum, because the High Court should maintain its dignity. You cannot do that by splitting the High Court or by having three of the Judges sitting at Trivandrum and four of the Judges sitting at Ernakulam and making it very difficult for the ordinary functioning of the full bench and such other small normal things as single bench and division benches. The whole High Court could not be divided mathematically into constituting a full bench of three judges and division bench of two judges and a single judge of one. It requires six and so it is no good, it serves no purpose sending three judges there and leaving three people here and creating all the endless troubles. We do not know, because the hon. Minister has not given us the information, whether a lot of cases are pending, or whether people are not coming from the southern districts to Ernakulam for the disposal of their cases. There has been no complaint like that and things are going on very amicably and smoothly now. But this Bill has been introduced there because the States Ministry there wants it and they want to create all sorts of difficulties. I do hope, Sir, that the States Ministry will again go into the legal position and drop this Bill, if they want to serve the needs of the people of that State. Thank you.

SHRI RAJAGOPAL NAIDU (Madras): Mr. Chairman, I would entirely agree with the views expressed by the previous speaker on this Bill.

(MR. DEPUTY CHAIRMAN in the Chair)

There is deep politics behind the introduction of this Bill. Probably the Home Minister was not aware of the reasons for which the Government of Travancore-Cochin induced the Central Government to bring forward this Bill. Sir, it has not been brought forward with the idea of advancing the convenience of the litigant public. It is not one that is brought forward at the instance of the litigant public. On the other hand, I feel, Sir, there is the question involved of the maintenance of parity between the erstwhile Travancore and Cochin States. There is the question of maintaining the prestige, so far as the erstwhile Travancore State is concerned and also the maintenance of the *status quo* as far as the High Court is concerned with regard to the Cochin State. Sir, the present Travancore-Cochin State before the integration consisted of two States, namely the Travancore State and the Cochin State. Each of these two States, as the hon. Minister admitted, had their own separate High Courts, the Travancore State having its High Court located at Trivandrum and the Cochin High Court being located at Ernakulam. After the integration, they had only one High Court situated at Ernakulam and the administrative headquarters of the whole State was located at Trivandrum. That was because the Rajpramukh happened to be the ex-ruler of the Travancore State. So they wanted to have a sort of agreement as proposed in the case of the proposed Andhra State where if they were to respect the Sri Bagh Pact, the High Court would be in the Ceded Districts and the administrative.....

SHRI ABDUL RAZAK (Travancore-Cochin): What agreement is the hon. Member referring to?

SHRI RAJAGOPAL NAIDU: I was referring to the Sri Bagh Pact between

the Ceded Districts people and the coastal Circars people.

SHRI P. V. NARAYANA (Madras): It was given the go-by, Sir.

SHRI RAJAGOPAL NAIDU: No, even now I find there is the demand on the part of the Ceded Districts people to locate either the High Court or the administrative headquarters within the limits of the Ceded Districts. Well, Sir, it was only for this reason that the High Court was located at Ernakulam which was the headquarters of the Cochin State, and the administrative headquarters was located at Trivandrum. Sir, the hon. Home Minister has been citing some instances of one State having a sort of Circuit Court or a permanent bench located at a certain place. I think he cited Allahabad and Lucknow, and some other instances also. But may I point out to the hon. Minister that in a big State like Madras—of course, it is going to be truncated now—there is only one High Court and it is not itinerant? The Judges of the High Court do not go and sit as division benches in any place or they do not have to sit as a Circuit Court. Sir, the litigant public will have to travel nearly 700 miles if they want to come from the northernmost district of Visag to Madras City. From the south they have to travel nearly 500 miles and from the west about 500 to 600 miles. But with all that, I think they are not having Circuit Courts and they are not having any permanent Divisions sitting in some other places other than the Madras city. Therefore, I would very much desire that the hon. Home Minister should apply the principles that are being followed in major States like Madras, Bombay, Bengal and others and not quote the examples of some other smaller States. It may be that to a certain extent there may be some justification to have a Circuit Court in regard to the Uttar Pradesh because Uttar Pradesh is a very big State. But there is absolutely no justification to have such an arrangement for the Travancore-Cochin State—a permanent bench located at Trivandrum—especially as the distance between Ernakulam:

[Shri Rajagopal Naidu]  
and Trivandrum is I understand—I cannot state it with great accuracy—only about 100 to 150 miles and the distance from one end to the other end of the State is only about 200 miles.

I do not know, Sir, why the public exchequer of the State be wasted in having a sort of Division Court located in Ernakulam. On the other hand, I would very much endorse the point of view expressed by the previous speaker to let the capital and the High Court be located in one and the same place, namely, at Trivandrum so that the administrative expenditure may be reduced to a considerable extent, so that there may not be very much money spent for purposes of the administration of the High Court.

Now, Sir, I would like to mention how it is costly to the litigants to have a Division Bench located in Trivandrum. For instance, Sir, the filings will have to be done only at Ernakulam as things stand now. If they were to have a division Bench located at Trivandrum, the litigant has to engage a lawyer at Ernakulam and when it comes up for hearing at Trivandrum he has naturally to engage the same lawyer or some other lawyer and he has to go all the way from Trivandrum to Ernakulam when the case comes up for hearing. In that way, it is certainly costly to the litigant because he has to have two lawyers or even if he engages the same lawyer whom he has engaged for the purpose of the case at Ernakulam at the time of the institution of the case naturally he will demand more fees because he will have to go all the way from Ernakulam to Trivandrum when the case comes up for hearing.

Then, Sir, it is costly also to the Government also because it means T.A. to the Judges which is going to be certainly heavy. Judges will be moving very often from Ernakulam to Trivandrum and back and they should be sitting atleast for one or two days in a week or atleast for ten days in a month on the whole.

Then, Sir, they should naturally have a sort of skeleton establishment located at Trivandrum and the cost of printing of the cause list comes when there is the High Court, and, for the printing of the cause list, there should be a printing press located at Trivandrum. Along with the Judges, the stenographers and all the establishment will have to be moving constantly from place to place and all this will mean expenditure to the State. After all, as I had already submitted, the distance from Trivandrum to Ernakulam is only about 100 or 125 miles and there is absolutely no justification unless it be, as I had already said, a question of maintenance of parity between the erstwhile Travancore and the Cochin States.

My hon. friend has been referring to the Constitution. I quite see that there is some force in his argument as to why the matter should come up at all before the Central Government for the passing of this Bill. But, of course, there is no express prohibition in the Constitution and it may be said, Sir, that because in the absence of an express prohibition there is nothing prohibiting the Central Government from bringing forward this Bill. At the same time, Sir, I find that neither in the Concurrent List nor in the Union List nor in the State List any express provision is made with regard to the question of adjustment of jurisdiction within the State by the High Court and so, I personally feel that there is no harm in moving this Bill.

Then, Sir, lastly, I agree with one of the amendments that has been moved—which is there on the list—that the High Court which is now located in Ernakulam will have to be shifted to Trivandrum because in a Government where administration of justice will have to be carried on with great efficiency, where administration of justice will have to be carried on without much expenditure to the State Government, especially a tiny Part B State like Travancore-Cochin, the High Court as well as the capital should be at one and the same place and the analogy of the Sri Bagh Pact cannot be applied in

this particular case because Madras State is quite different. In Madras State, the distance from North to South is a thousand and odd miles whereas in Travancore-Cochin, the distance from North to South is only about 200 miles. So, Sir, I would suggest that let things remain as they are. Let the High Court remain at Ernakulam and the administrative headquarters at Trivandrum; but, if any change is required, let the High Court be shifted from Ernakulam to Trivandrum and let there be no Division Bench or any Circuit Court sitting from time to time or move from place to place so that no money of the State is expended on this unnecessary enterprise.

SHRI H. C. MATHUR (Rajasthan): Mr. Deputy Chairman, this innocuous looking Bill at first sight one feels may be passed without any criticism or comments but if we are to give our proper thought and careful consideration to it and examine it in the all-India context as we are supposed to, we find that it is not without insinuations: it is not without very serious implications. Well, Sir, if we look at the Statement of Objects and Reasons, we find that the only one reason on which a reliance has been put and on which the hon. the Home Minister has laid the greatest stress is the distance between Trivandrum and Ernakulam which the litigants have to cover and the inconvenience caused to them. But, Sir, as has been pointed out by the previous speakers, if we examine this in the all-India context we will find that this is perhaps the smallest distance compared to the others which people in other States have got to cover to go to the seat of the High Court and, obviously there is no justification whatsoever for opening a new Bench or making a gift of a new Bench to the people of Trivandrum. The hon. the Home Minister, while making his speech and giving illustrations, cited that we have got the seat of the High Court at Allahabad and another Bench at Lucknow. I believe, Sir, that the hon. the Home Minister is in possession of better information in respect of U.P. but, subject to correction, my information is that the Bench at Lucknow is

not being looked at with great favour by the administration of the High Court at Allahabad and it is already a fact that the Bench at Lucknow has thinned very much.

The only other instance which was cited by the hon. the Home Minister was the State of Rajasthan. There again, Sir, it is only, I might submit, a make-shift arrangement and there is already a move and, as a matter of fact, it is understood that the seat of the High Court is supposed to be at Jodhpur and this question was definitely considered by the Government of Rajasthan only during the last few months. But, as this new State is of recent formation and as it is settling down to settled principles, I think it is not proper to quote this State as an illustration or as an example to be followed elsewhere. As I submitted, if this distance is to be taken into consideration and if we pass this Bill, Parliament as a matter of fact will be committed to a certain principle; we will be accepting reasons which it would be difficult for Parliament to follow later on because there would be absolutely no reason with the Parliament to deny similar demands cropping up from all the various States. What justification, I ask, Sir, would there be with Parliament to deny similar Benches in all the various States if this criterion is accepted and if this reason is considered to be sound. I submit, Sir, on these very grounds we must allow atleast another additional sixty Benches in this huge Republic of India. On a modest estimate, Sir, I say that in the State of Rajasthan, the State of Kotah will demand one Bench of the High Court; Bikaner will demand one Bench, Udaipur will demand one Bench. All these places definitely were seats of Government; they were capitals of important States and, Sir, they had their own High Courts and people travelling from all these three places have to cover definitely a longer distance than the people from Trivandrum will have to cover going to Ernakulam or are supposed to cover.

Again, Sir, the means of communication are so poor in these States that



[Shri H. C. Mathur.]

4 P.M.

they have got to subject themselves to far greater inconveniences than the people in this State have got to. There is already a road between Trivandrum and Ernakulam and I understand a rail link is under consideration. There are greater facilities, the distance is lesser and the other reasons apply with far better force to the place which I just mentioned and if in principle we accept the present Bill and if we put our seal we will expose ourselves to a very bad position. I might also submit that in trying to solve one difficulty we are creating ten more difficulties. And, Sir, we are sacrificing high principles and sound judicial traditions at the altar of political expediency, as was pointed out by the previous speaker. If it be to meet the political situation there, as was so correctly expressed by the previous speaker, it would be most unfortunate to drag High Courts into politics. And I most respectfully submit, Sir, that this House should never permit itself to accept such a position on any account.

SHRI C. N. PILLAI (Travancore-Cochin): In supporting this Bill I think I will be dishonest to myself if I do not draw the attention of the House to certain facts which led the State Government to recommend to the Central Government to bring in a legislation of this nature. It is true, Sir, as the Home Minister has said, that there were two High Courts—one at Ernakulam, the capital of Cochin, and the other at Trivandrum, the capital of Travancore, during the time of integration. As a Member of the Committee which carried on negotiations with the representatives of Cochin about the integration, I had occasion to follow the trend of discussions about the location of the High Court in 1949. Sir, the Cochin representatives were feeling that Ernakulam would lose its importance if the seat of their Capital ceased to be there and hence they insisted that at least a High Court should be established at Ernakulam. Travancore as the major partner in the transaction graciously acceded to this proposal and the High Court was established at Ernakulam.

It is wrong to say that there was no demand before 1952 for the location of the High Court or at least a Bench of the High Court at Trivandrum. Even at the time of integration there was a hue and cry against the proposal in the southern districts, especially in the Trivandrum district. It is only natural that when a public office is shifted from a Taluque or District the people of that district will raise a hue and cry which lasts for some time and then subsides. So it is not right to say, as the Home Minister said, that there was no demand before the elections of 1952 for the location of a bench of the High Court at Trivandrum. The demand was always there but the Government there did not pay any heed and the Central Government was not approached to bring in a legislation of this nature. Now, when the Government of Travancore-Cochin have taken up this matter and approached the Central Government with a request for legislation, there must be some reason underlying this request. I agree with Shri Manjuran in most of the things he has said about this matter. It is known to this House that there is a coalition Government functioning in Travancore-Cochin today. The coalition is between the Congress Party and the Tamil Congress Party which represent the four taluks of the southern most tip of the Travancore-Cochin State. Most of the representatives from these taluks belong to the Tamil Congress and it is this coalition between the Tamil Congress Party and the Congress which is carrying on the administration in Travancore-Cochin today. Immediate removal of the High Court from Ernakulam to Trivandrum was the price demanded by the Tamil Congress for the coalition. The Congress Party had no other alternative but to submit to this demand if they wanted to carry on the administration in the State. Otherwise the coalition government would not last an hour. So at this moment—not after the General Elections in 1952—but just after the Coalition Government was formed in Travancore-Cochin the State Government was compelled to approach the Central Government with a request in this behalf. Sir,

I have absolutely no objection against this Bill. You may have a High Court in every district in Travancore-Cochin. It will be quite convenient to the people if all the four districts have a Bench of the High Court each. But this is submitting to political pressure and political blackmail. I have seen the States Ministry's Report where it is stated that the coalition Government is working quite satisfactorily. I know that this is not the occasion to say anything about it. But I may say this much that the coalition has earned such a notoriety in the State within such a short time and if the States Ministry will call for a copy of the discussions in the local legislature they will find many of the unsavoury things said about this coalition.

Now, speaking of the Trivandrum district, I don't feel that there is any necessity for a High Court in Trivandrum. Travancore-Cochin is a very small State and even distant corners in the State are not beyond 8 hours' bus travel from Ernakulam. There are so many roads and other travel facilities and I fail to see the necessity of bifurcating the High Court at Ernakulam. On this basis Madras can have a dozen High Courts. Mysore half a dozen. I can understand U.P. having two High Courts because it is a huge province. But all the same my objection is not against this Bill. You may afford every facility to the litigant public of Trivandrum district to carry on their litigation at their convenience. But to bring in a legislation of this nature at this time to prop up the Coalition is not warranted by the circumstances. It is submitting to political pressure and political blackmail and that would create a very bad precedent not only for Travancore-Cochin but for the whole of India. So I would suggest that Government should have taken into consideration all these facts before bringing in legislation of this nature.

SHRI ABDUL RAZAK: Mr. Deputy Chairman, this is a belated measure that fall very much short of the public needs in Travancore-Cochin. Before  
20 CSD.

coming to the Bill—particularly in view of the gross misrepresentation in this House made by the hon. Member immediately preceding me—I feel it my duty to recall certain conditions that were obtaining immediately prior to the day of integration of the two States of Travancore and Cochin.

Sir, the Statement of Objects and Reasons has not unfortunately given a correct account of the integration of these two States. Sir, the integration of Travancore and Cochin was effected behind the back of the legislature both in Travancore and Cochin through means of a covenant entered into by the Rulers of Travancore and Cochin, of course with the concurrence of the Government of India. Even at the time of this integration, as the learned Home Minister has pointed out, there was a High Court in Travancore and there was a sort of a Chief Court in Cochin and yet there was no mention as to the location of the High Court in this covenant. Sir, in order that hon. Members may have a correct view of things as they stood in Travancore and Cochin I wish to acquaint the hon. Members with the system, with the structure of judiciary that was obtaining in either State.

Sir, under the Cochin Chief Court with three Judges there were only 8 Munsiffs, one Sub-Judge and two District Judges. Under the Travancore High Court with 7 Judges there were 7 District Judges, 23 Additional Judges and 60 Munsiffs. From the point of view of the file, Cochin Chief Court never had more than one-tenth of the file of the Travancore High Court. The following are the figures as they stood on 10th September 1949:

	Travancore High Court	Cochin High Court
Suits in SA and AS	2,774	380
Civil Miscellaneous Petition	5,885	116
Civil Revision Petition	991	77
Session appeals	171	2

[Shri Abdul Razak.]

	Travancore High Court	Cochin High Court
Criminal Appeals	508	6
Criminal Revision Petitions	400	13

Even speaking from the current file, Sir, more than 50 per cent. of the current file of the Travancore-Cochin High Court is answered by Appeals and Petitions preferred from the four southern District Court-Centres of Nagercoil, Trivandrum, Quilon and Mavelikkara. Even then, Sir, at the time of the location of this High Court in 1949 the wishes of the legislatures functioning either in Travancore or Cochin were not ascertained on this point. On the other hand the location of the High Court was arbitrarily fixed at Ernakulam as against the declared opinion of the High Court of Travancore and the seven District Bar Associations in Travancore and it is wrong to suppose that during the last 3½ years there has not been any agitation over this arbitrary location of the High Court of Travancore-Cochin at Ernakulam. There was a great uproar throughout the country against the irresponsible Ministry that was there in power. When the time opportunity presented itself in April 1952 an hon. Member belonging to the Praja Socialist Party in the State Assembly brought in a private Bill seeking to change the seat of the High Court from Ernakulam to Trivandrum, and leave for the introduction of that Bill was obtained, on 1st April 1952. With your permission, I shall read from section 2 of this private Bill introduced in the Travancore-Cochin Assembly. It says:

"In section 2 of the Travancore Cochin High Court Act—

(1) for the word 'Ernakulam' the word 'Trivandrum' shall be substituted;

(2) The following proviso shall be added, namely, 'Provided that a Division Bench of two Judges and a single Judge of the High Court shall sit at Ernakulam'."

Sir, for the information of hon. Members of this House, I would say that when leave for the introduction of this Bill was asked for in the Travancore-Cochin Assembly, there was no such coalition as has been referred to by my hon. friend Shri C. Narayana Pillay. There was only a Congress Party in power with 44 members constituting its strength. At that time the Congress Party there opposed its very introduction, but as against the united strength of the United Front on the one hand and the Praja Socialist Party on the other, and the Travancore Tamil Nad Congress and a few independent members in the Assembly, the Congress opposition had to simply fizzle out and it did fizzle out. Leave was granted and the Bill came up for consideration in July 1952. In the meantime there was a change in the attitude of the so-called United Front of Leftists. A certain hon. Member belonging to the Cochin area tabled an amendment seeking that the seat of the High Court should not be shifted from Ernakulam to Trivandrum and that on the other hand only a Division Bench should be constituted at Trivandrum to cater to the needs of the public there. Now, I ask, Sir, in the light of these facts, how well would it lie in the mouth of my hon. friend Mr. Manjuran or for that matter of Mr. C. Narayana Pillay to say that this was recommended by the Government of Travancore-Cochin as a result of the blackmailing carried on by the Travancore Tamil Nad Congress? Sir, it is a gross misrepresentation to say so.

SHRI M. MANJURAN: When did the coalition start there?

SHRI ABDUL RAZAK: I submit that it has no relevance, Sir.

SHRI M. MANJURAN: About the time of the introduction of the Bill and I think, even earlier negotiations were going on.

SHRI ABDUL RAZAK: Then, Sir, when the Bill came up for consideration, there was a change in the attitude of the so-called United Front of Leftists

SHRI M. MANJURAN: Why so-called? (*Interruption.*)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI ABDUL RAZAK: The United Front of Leftists so-called..... (*Interruption.*)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI ABDUL RAZAK: There was a change in the attitude of the so-called United Front of Leftists, which in turn resulted in a re-alignment of groups. Some hon. Members of that Legislature wanted that the seat of the High Court itself should be shifted to Trivandrum, while certain others said that they would be satisfied with a Division Bench and a single Judge sitting at Trivandrum. Anyhow, the Government of Travancore-Cochin had to yield to this move, and it did yield. The Government in July last came out with an assurance that the Government itself would be introducing some such measure in the near future. In the meantime it was discovered that it was a Central subject and that legislation on a Central subject could only be promoted in this Parliament. So, the present Bill is the result.

But I venture in this connection to suggest that the Bill as introduced in its present form does not meet the public needs in Travancore-Cochin. Once the principle of bifurcation is accepted, and once that principle of bifurcation of the High Court is well established, particularly in view of the examples in Uttar Pradesh, in Rajasthan and in Madhya Bharat, I do not see any reason why by this amending Bill the maximum benefit should not be secured for the maximum number. As I have said already, not more than one-tenth of the current file of Travancore-Cochin is answered for by the litigants of Cochin. That being so, I ask: Why should nine-tenths of the

litigant public be forced to undertake a hazardous and unsteady journey to Ernakulam? So far as the location of the High Court at Ernakulam is concerned, even according to the Buch Committee the seat of the High Court stands condemned from the point of view of the convenience of the litigant public and of the legal profession itself. I ask: just to satisfy the sentiments of one-tenth of the population of Travancore-Cochin, why should nine-tenths of its population be coerced into undertaking a hazardous and unsteady journey to Ernakulam every time? But, as my hon. friend Shri Narayana Pillay has pointed out, political exigencies may dictate a course different from what the real conditions warrant. Political exigencies require the present Government in Travancore-Cochin to keep the seat of the High Court in Ernakulam. Political exigencies may not allow them to shift the seat of the High Court to Trivandrum. But what reason is there for them not to extend the facilities now sought to be given to the people of the district of Trivandrum to the adjoining district of Quilon also? These two districts together answer for 50 per cent. of the current file of the Travancore-Cochin High Court. Therefore, the profession of the hon. Home Minister that this Bill is intended to meet the public needs of Travancore-Cochin is only an affected profession.

SHRI GOVINDA REDDY (Mysore): Sir, when this Bill came into my hands after introduction here, I was really surprised. I thought I should acquaint myself with the position about this Bill, and with the conditions that necessitated this measure, in quarters which were concerned very closely with the Bill. There were Congressmen, non-Congressmen, and members of the party to which Mr. Abdul Razak referred; all whom I consulted were of the opinion that this Bill, for one thing, was quite unnecessary, and for the other, it was fraught with unpleasant consequences. The background of the integration of Travancore and Cochin is very pertinent in this connection and I would like to dwell on it. I am representing this point for the considera-

[Shri Govinda Reddy.]

tion of the hon. Minister in charge of the Bill because it is an important point and undesirable consequences are likely to flow from the step that we are going to take.

For the reasons that my hon. friend Mr. Manjuran referred to, there was a significance in locating the High Court at Ernakulam. When the integration was being talked about, neither Travancore nor Cochin was readily in a position to accept integration. But when it took shape, it was found that the State of Travancore would receive relatively greater importance by integration than Cochin and therefore the people of Travancore came to like the idea, whereas the people of Cochin did not like the idea. There were large sections in Cochin who did not welcome this idea. There are some sections in Cochin who are even today not reconciled to this integration although it has been effected in point of law and in point of fact.

Whatever that be, those who are responsible for promoting this idea thought it very necessary to placate the people of Cochin, and it was exactly for this reason that the High Court of Travancore and Cochin was located at Ernakulam. If the figures given by Mr. Abdul Razak are true the greater volume of work for the High Court comes from the Travancore sector and not from the Cochin sector. As against this fact, which alone should have been the determining factor in the location of the High Court, those who were responsible for the integration thought it fit to locate the High Court at Ernakulam. That indicates that the main purpose for which the High Court was located in Ernakulam was to pacify the people of Cochin who were at a disadvantage as a result of the integration. Well, this fact is still there. It is still true. Whatever be the other consequences, at least to see that perfect harmony prevails between Travancore and Cochin, it is necessary that the *status quo* should not be disturbed. It is very difficult, Sir, to say, if this is not reckoned with, what may happen to the Union of

Travancore-Cochin. I do not profess to have full knowledge of what is prevailing there, but some time ago I was there and I stayed for a pretty long time and I found that there was still some fire smouldering in the Union. And when therefore there is no perfect harmony, would it be desirable to disturb that harmony by taking a measure which is not wholly welcomed by the State? When I came to know the position from the concerned quarters, I thought that the Union Government was not fully informed of the position in taking this measure into consideration. There would still be time for the Government to consider whether it would not be desirable to take this factor into consideration and revise the necessity for this measure again in the light of what comes out from that consideration.

The other factor, Sir, which naturally is very important in this connection, is the precedent that it is going to establish. Hon. Members have spoken on the floor of this House about it and when I say that I was surprised when I got this Bill into my hands, the reason for my surprise was this. Would it be desirable to create a precedent, by breaking up the High Court into different units, into different circuit divisions? Well, this question was considered long before now and for very good reasons this principle was not encouraged. The integrity of the High Court, the status of the High Court, the dignity of the High Court and the respect and confidence which a High Court should inspire in the public if it is to serve the public, were all taken into consideration and it was decided that as a matter of general principle the breaking up of a High Court into different circuit divisions was not to be desired, was not to be encouraged. However much the Government of Travancore-Cochin may be interested in having the Division Bench there, would it be justified, would it be desirable to have such a precedent in Travancore-Cochin? Possibly the reason for the Government taking this decision may have been the pressure of Tamil Nad Congress, which I do not

know, but this is going to be a matter of fact that if this measure is passed and if a Division Bench is going to be established at Trivandrum, then a demand certainly on the part of Tamil Nad people will arise for division of the Madras High Court into different circuit Benches. Well, what would that step involve? I do not mean to say that the High Court should not be divided into different Benches and there should be no Division Bench altogether. I am not against it. The High Court may well sit in different Circuit Benches. That is a different matter altogether. But would it be justified in the circumstances prevailing today? This is another point, Sir, which the Government are well advised to consider before they pass this Bill. If not for the second reason, at least for the first reason, I think, Sir, it would not be desirable for the Government to proceed with this measure. I would like, therefore, Sir, to have the hon. Minister's opinion on these two points, as I doubt, perhaps, he may not have considered these points from the angle from which these facts are placed today before the House.

PRINCIPAL DEVAPRASAD GHOSH (West Bengal): Mr. Deputy Chairman, I confess the way in which the discussion on this Bill has developed, has been quite a revelation at least to Members like us who have come from a distant part of the country. It now looks—in fact, after listening to the speeches for about an hour and a half it seems practically crystal clear—that this measure that is proposed to be put before the House is not an administrative measure at all. It has got decidedly political implications behind it. Not that I think that political implications are anything to be ashamed of, but the fact is—and I am constrained to say as much—that our hon. Home Minister or the States Minister was not quite fair to the House in the manner in which he presented this Bill before this House. It appeared at first sight that this Bill was a simple, innocuous and more or less unimportant administrative measure, simply brought in to cater to the convenience of the public, and in res-

ponse to a public demand on account of the long distances to be traversed by litigants coming from the southern parts of the Cochin and Travancore State. But unfortunately geography is against this contention as many of the hon. Members on this side and on the other side of the House have pointed out. I am very glad to note that the discussion has cut across party affiliations, and has been very objective. As I was saying, geography is unfortunately against the contention of our hon. Minister. I think that the hon. Minister, while presenting the Objects and Reasons before the House, should have taken the House into confidence, and put all his cards on the table, and said: "Well, look here. There are some previous circumstances in this case; there is a previous history behind it; that is the history of the integration into one State of two separate States—Travancore and Cochin; compromises had to be resorted to; the State Capital was located at Trivandrum, and the High Court was set up in Ernakulam; a compromise was arrived at....."

SHRI ABDUL RAZAK: May I just correct the hon. Member? There was no such agreement entered into at any time either before or after the integration. (*Interruption.*)

MR. DEPUTY CHAIRMAN: Order, order.

PRINCIPAL DEVAPRASAD GHOSH: My hon. friend may be technically correct, but I think I am substantially right, for that was the spirit of the compromise. I should say that, if these were the facts, then at this time of the day, to advance reasons of administrative convenience on the score of 100 miles or 150 miles or 200 miles or so, is hardly fair to this House. And if it were a question of pledge that Cochin ought to be given the High Court or that in Cochin should be located the High Court, well, that pledge should not be gone back upon. It now looks as if some sort of pressure by the Travancoreans has been brought

[Principal Devaprasad Ghosh.] to bear. They seem to be thinking like this. "Now the Travancore-Cochin State is a reality. We of Travancore have got Trivandrum as its administrative capital. Let us try to bring as much of the High Court to Trivandrum as possible." This sort of infiltrating tactics is undesirable. I am not against Trivandrum as such, in view of the difficulties experienced for the bulk of the High Court cases come from Travancore. As my friend Mr. Manjuran himself has conceded, it would be administratively better if the High Court itself is located in the administrative capital of Trivandrum but it is hardly fair to this House to suggest that this Bill is only an administrative measure and is based upon nothing but the principle of administrative convenience.

Another point, Sir, which has been made out by some of my friends and which I think the hon. Minister should take very careful account of, is this that a very bad precedent would be set up, if, for reasons like these, the High Courts are sought to be truncated or bifurcated or trifurcated according to political exigencies. I have nothing more to add, Sir. In view of the circumstances which have been revealed in the course of a somewhat unexpected debate, I would request the hon. Minister to see if even at this stage it were advisable, in view of these circumstances, in view of the bad precedent that is likely to be set up, to withdraw the Bill and give further consideration to this matter. Thank you, Sir.

SHRI RAMA RAO (Madras): Mr. Deputy Chairman, our friends from Malabar have given us a regular treat to use the English idiom, by telling tales out of school. I never knew there was so much dirty linen there to wash in public. (*Interruption.*) I suppose we too (Andhras) shall have something to wash about ourselves after some time. (*Interruption.*)

Now, Sir, the first argument of some of our friends is that there has been a good deal of political pressure and

blackmailing in regard to the objects of the Bill. But if a Government feels that certain things have got to be done to appease, to satisfy, to please the people, what is wrong in it? I will not accept this argument. My friend over there has produced a good argument and that is against taking the High Court to the litigants. Surely, what is the first principle of justice? Take justice to the door of the man who seeks it. It is not fair that you ask people to travel long distances to seek justice. Take the State of Madras. It is from Chatrapur right down to Kanya Kumari and has only one High Court. It is monstrous that people who want justice should travel such long distances. The high principle involved in this Bill is thoroughly welcome and the Latin proverb says: 'He gives twice who gives quickly.' In this case it is also a matter of cheapness. Instead of engaging a lawyer in Madras paying him a thousand rupees a day, I can very well engage a local lawyer who knows my case at Bezvada or Anantapur where a Division Bench of the High Court is sitting.

Something has been talked about the dignity of the High Court. Does bifurcation mean loss of dignity? No, because, it is the same High Court sitting in sections but carrying all the same the authority of the whole High Court. There is bifurcation in a sense, but bifurcation here means judicial convenience. The London High Court does not sit at one and the same place. There are one or two Judges of that Court always travelling. The Bihar High Court used to function even in Orissa—I think it was sitting at Berhampur.

The question, next arises whether it is workable. Certainly it is workable, otherwise Dr. Katju would not have brought it here. My friends must not forget that there is a human side to this matter. When we started integration, we started somewhat tenuously, tentatively, fearfully. It was full of compromises, political compromises, constitutional compromises, moral compromises perhaps and certainly compro-

mises with regard to time and distance. This Bill marks the second stage in our progress as the process of integration was marked by several stages. All these so-called Indian States of old did not jump into our present federal polity all at once. They passed certain stages. It may be that this Bill to some extent supplies an instance of the reverse process. Down South, they said to themselves at the beginning, "You take the High Court to Ernakulam. We shall have the Government at Trivandrum". After some time they find that it is not working well and they want a change. If I were representing the interests of my friends of Ernakulam, I would say as a *quid pro quo*, "Decentralise some parts of the administration, transfer some Departments to Ernakulam". That would be a logical step, a good exchange. Instead of doing that, they are because of their political squabbles of territorial animosities, making it impossible for the poor man to get the justice he wants.

There is also involved in this a general principle of democratic progress. My friend Shri Naidu raised the question of Andhra. I raise the question of Vishala Andhra. If you don't accept the principle of the Bill today, the same objection will be raised tomorrow against us. It is not necessary and I don't see anywhere stated in any scriptures that it is necessary that the High Court, the Government and the Legislature should be sitting at one and the same place. Having borrowed British institutions, we have been going rather too far with regard to this borrowing. It may be necessary for a small country like England to have the High Court, the Courts of Appeal, the Capital, Parliament and the Cabinet and generally speaking, the Imperial set up all in London but it would not be a desirable concentration here in India. Take Vishala Andhra. It will be from Chatrapur right down to somewhere near the gates of Coimbatore, Salem or Kolar. How can you justly say that for this long stretch of territory we should have only one High Court at one place? Working in section, it may

be at Bezwada, at Anantapur, at Hyderabad. The fact remains that the High Court has thus not only to be "bifurcated" but "trifurcated." It is a superstition to say that all the capitals should be at one and the same place. I don't see any reason why in our country we should have the legislative and judicial capitals together. In fact the executive capital and the legislative capital may be at different places. Ours is not a Presidential form of Government. If it had been so, probably it would have been necessary in the interests of this country to have had a different set up. It will not be to the country's good to have all these capitals at the same place. Delhi has become a monster city and if Bengal is to improve, Calcutta, the great monster should not develop into a greater monster. Are there no big towns in Bengal where several of the Departments of the Government could be transferred so that these towns may grow into big cities so that the local and regional life may develop. We have to think therefore not in the narrow terms of our friends from Travancore-Cochin but in terms of the development of our higher polity on correct lines. Therefore, Mr. Deputy Chairman, I support the high principles of this Bill.

DR. K. N. KATJU: Mr. Deputy Chairman, I was rather sorry to hear from my hon. friend from Calcutta that I had not in my opening speech, placed the matter fairly and fully before the House. I repudiate the very gentle insinuation and I stick to what I said before viz., that the chief reason for the Bill is the administrative reason and the reason of convenience. Let us first deal not only as the Minister here but also as a lawyer with, what has been said several times here about the dignity and the status of the High Court. I think those remarks proceed upon some misapprehensions of the existing position in India. As a lawyer myself having spent 40 years in the law courts, no one can be more jealous of the dignity and the rank and status of the High Court than myself. But there are two systems under which High Courts work—



[Dr. K. N. Katju.]

system which prevails in England which we have copied and a system which prevails in the United States. Now take for instance the Allahabad High Court or better still the Calcutta High Court which has won a great name for itself during the last 150 years and a High Court with which my hon. friend from Calcutta is familiar. The Calcutta High Court consists of 20 Judges—a very important Court and a very large number—and if all these Judges were to sit together for hearing and deciding every case, then of course it would be a majestic court, for 20 Judges hearing a case and bringing their judicial mind to decide upon it. It will be really something awe-inspiring. But in our country the position is this. In this court of 20 Judges, when I go as a suitor, when I bring a suit before the Calcutta High Court, the case would be heard in the name of the High Court by one single Judge. Mr. Justice A or Mr. Justice B would hear my case. He hears the witnesses and delivers the judgment and the case comes to an end, the nineteen other Judges having had nothing to do with it. If I come on appeal, then the appeal may be heard either by two or three Judges and the case finishes, so far as the High Court is concerned. In the Allahabad High Court where we have got what is called original jurisdiction, appeals are sent to the High Court in the case of a man who has got 7 years of imprisonment—a matter of the utmost importance to him—and the appeal is heard by just one judge and finished. There is no further appeal in the High Court at all. If it is a matter of property worth Rs. 10 lakhs, when the appeal is made, it is heard by two Judges and finished. Therefore, when we are talking of the dignity and status of the court, so far as the litigant in India is concerned, though the building may be very imposing and the number of Judges may be very large, so far as the particular individual litigant is concerned, he is only concerned with those one or two judges before whom his case may be put by the order of the Chief Justice or by the Registrar.

The system in the United States of America is quite different. You know you have got the Supreme Court here and the cases are heard by two Judges many times. In America, the Supreme Court functions—not only the Supreme Court but other courts also—under what they call the quorum process. A court to an American mind means the whole court—the Supreme Court of the U.S.A. consisting of nine judges. And when I went there, all the learned Judges came together and heard a case. Every case is heard by all the nine judges. Of course, as I said, the quorum process is there, that is to say, if one judge falls ill and cannot come, the quorum of the court is seven and no case can be heard by any Court below the quorum. There, of course, you have divided the High Court from the Supreme Court and the litigant may have a legitimate complaint and say, “My case might have been heard by nine judges and the judicial experience and the judicial wisdom and judicial knowledge of all the nine judges might have been effectively brought on my case; but now I have been deprived of this great privilege and my case is being sent to and heard by seven judges only.” But this system has not been put into force here in our country. I therefore say that it is a question of whether the judge is one or two who heard the case in India. Whether they sit, let us say, in Calcutta in that building which is known as the Calcutta High Court Building, or whether they sit in Burdwan or whether they sit in Midnapore, does not make any difference.

There is another advantage. You know, Sir, there is the question of precedents. One High Court is bound by its own decisions and they are binding upon the Judges. Now, take for instance a small court. Take any court, say the Bhopal Court. The Judicial Commissioner, Bhopal, is a single judge, and the High Court in Bhopal is subject to the judgments of the Supreme Court here in Delhi. But the Judicial Commissioner, Bhopal, is bound by no judgments. Every judgment of every High Court in India has

merely persuasive authority in Bhopal. Now, that may be something very detrimental—leaving the case entirely to the discretion of one Judge. If you were to split up the High Court into different courts, then the people may think there will be tremendous confusion, two judges taking one view and two other judges taking another view and there being no uniformity. But where you have a circuit court, or where the same High Court is sitting in division benches at different places, then it is one High Court and they are bound by the decisions of the High Court. Take for instance this very Bill that is before us now. The Travancore-Cochin High Court consists of eight judges. There will be a Bench of the High Court sitting in Trivandrum and the other judges will be sitting in Cochin. The Trivandrum Bench, when it decides cases will be deciding the cases in the name of and on behalf of the whole Court and the decision given in Trivandrum will be binding on all Judges and the lesser number of Judges in Ernakulam. The dignity and status of the High Court, so far as the weight of the judgment is concerned are not affected.

Then there is another matter. You may have a big judgment. I refer to the Calcutta High Court again and if the learned Judges think, if the Chief Justice thinks that the question raised in any case is of very great general importance, of public importance, then he may direct that the case may be put before not two, but ten Judges. I can give the history of the Calcutta High Court. There was a case which was heard by twelve Judges.

THE MINISTER FOR LAW (SHRI C. C. BISWAS): Sixteen Judges.

DR. K. N. KATJU: My hon. colleague here says it was heard by 16 Judges. In the Allahabad High Court we have had cases heard by seven Judges. Similarly, in Travancore-Cochin, suppose the House approves of this Bill, when the Trivandrum Bench hears a case, if it comes to the conclusion that the case is of some difficulty or that it raises questions of great importance,

then it can refer the case or urge the Chief Justice that this case should be heard and disposed of by more Judges or all Judges of the whole Court. Then the whole case goes there and the litigants will have the advantage. I therefore, submit that this system of Circuit Courts does not and cannot possibly, in the existing circumstances in India, affect the dignity or status of the High Court in any way whatsoever. On the other hand, if anything, its status is raised.

Thirdly, Sir, you will remember that this practice has grown. I may mention two or three places in Madhya Bharat from where I come. They have got the capital at Gwalior—as a matter of fact it is now at both the places—and the High Court at Indore. A Bench sits at Gwalior and functions very well. Then comes the question of administration. In the matter of administrative convenience, if I had my way I am speaking as a lawyer in my own individual capacity—I tell you, I would appoint as many Circuit Courts as possible. But it cannot be done due to the absence of buildings. You do not find suitable buildings. Of course, it is a little more expensive. The Judges will have to be paid travelling expenses and they have to take their staff with them. But in these big Unions which have been integrated now, you have got good buildings. Go to Rajasthan. The Rajasthan High Court building in Jodhpur is one of the noblest that I have seen in India. Similarly you have got the High Court in Jaipur and there is no difficulty whatsoever in two Judges sitting here and two in Jodhpur. The same thing is applicable to Indore and Gwalior.

5 P.M.

Here, in this case, as one hon Member said, there was the Cochin Chief Court. There was the Travancore High Court; the building is there and it can be occupied with the least difficulty. Some one was saying "Don't divide the High Court. You will interfere with the status of the High Court" I have been always wondering all my life whether in the name of this centralised administration we realise what i

[Dr. K. N. Katju.]

means to a litigant in terms of worry and expense. Of course today there is the aeroplane and there is the railway and travelling has become very easy but do please take yourself back, let us say, to 100 years. Take the case of Calcutta, with undivided Bengal and Bihar and Orissa tagged on to one big province, imagine those were the days of the bullock cart and the small sailing boat and you have a small litigant with small petty suits, petty criminal revisions coming all the way from Cuttack in Orissa and crossing literally seven rivers. I do not know how many days it took to go to Calcutta for the purpose of having his suit fought and nobody ever thought of having Circuit Courts. Have you ever considered what it means in physical suffering, physical travel and difficulties and in expenditure? Justice nowadays must be brought to the home of the litigants as much as possible. Of course, if it were a question of the village panchayats, I imagine many hon. Members would share my view and have administration of justice on the spot. Of course, so far as appellate justice is concerned, it may not be possible but we must make some attempt in that direction and, therefore, this present tendency to establish Circuit Courts or to send Judges, I think, instead of being rather questioned should be encouraged. Please remember one thing;—I am speaking, as I said, from personal experience—if you have a Court consisting of two Judges coming over and over again there for ten years they might become stale; but here, take in this particular case, it is the Chief Justice who sends the Judges. What will the Chief Justice do? Probably he sends two Judges for three months, six months; then they go back and other people come. It is a continuous process of fresh minds deciding cases, listening or hearing cases. There is no possibility of stagnation on the part of judicial mind. That is a matter.....

SHRI M. MANJURAN: You advocate quick changes of Judges for fresh minds to come?

DR. K. N. KATJU: I think that is a suggestion worthy of consideration.

Then somebody said "Well, if you have the Court in one place, you have got an important and competent Bar". Now, a legend has grown of which lawyers, of course, have taken advantage from time to time that it is advocacy which wins. People forget that it is the case which wins and it is not the advocacy. Lawyers take advantage because it serves them. In my view, after 40 years of very active practice, the best way of winning a case is not to argue it. You just state the facts of the case and keep quiet and the Judge will decide the case. If there are any lawyer Members here they would find this .....

SHRI C. C. BISWAS: Even there the advocacy won, and not the case.

DR. K. N. KATJU: This is one of the deep rooted cancers, I tell you, which has gained currency that it is advocacy which wins and it is not the case which wins.

Now, I come to the administration side. I started my short opening speech by saying that when the States were integrated, the arrangement arrived at was that the seat of executive power will be at Trivandrum and the seat of the judicial power will be at Cochin and the High Court went there. Now, you look at this map. Here is Kanya Kumari, down south tip and here is Ernakulam. Trivandrum is in between. Now, what will be your own feeling if you were living at Kanya Kumari? Here is Trivandrum which has got a very good old High Court Building and you are asking, in the name of what I do not know, in the name of dignity and status of the High Court, people to travel all the way to Ernakulam passing Trivandrum on the way with a beautiful High Court building.

This legislation has been sponsored here not by my own desire; it has been sponsored at the express and intense desire of the State Government and the people of the State. If there had been no bar under the Constitution, it

would never have come here. Probably it would have been passed by Resolution. It is true that the distance from Kanya Kumari to Ernakulam is somewhere about 230 miles. It means nothing. Why should it mean?

SHRI M. MANJURAN: It is less than 200 miles.

SHRI C. N. PILLAI: It is about 120 miles.

DR. K. N. KATJU: You are mistaken; I have got the figures here. This is a place called Nagercoil. It is 175 miles from Ernakulam and Kanya Kumari is another 25 miles from it. So, it makes 200.

Don't let us talk here as Members of this honourable House. Please consider yourself as a litigant for the time being and consider what it means. I suggest, Sir, that the Bill is on principle a Bill which really ought to have the blessing of the House. My hon. friend there said that the Home Minister is setting a very dangerous precedent because the High Court may be divided up. Well, I am not terrified; as a matter of fact, I would be very happy if it happens, *namely*, many many Circuit Courts, Circuit Courts and Judges going about. Do you remember that in England for the last 600 years there has been the practice of Judges going on circuit? They go from town to town; they bring justice to the home of the people. We have had too much of this centralised administration of justice.

SHRI M. MANJURAN: Were the High Court Judges used to be itinerary?

DR. K. N. KATJU: Yes, it is High Court Judges going on circuit.

SHRI GOVINDA REDDY: My point was that it would only embarrass Government. I agree that it would serve the people better.

DR. K. N. KATJU: It would not embarrass the Government because probably there will be another Rs.

50,000 more required and the people will pay it very gladly. If you agree that it would be for the benefit of the people, what more do we require? This House is sitting here for the purposes of promotion of welfare of the people and advancement of their wishes.

I may tell you, Sir, that the result of this Bill will be that every place, excepting one, will be nearer Ernakulam, than Trivandrum.

SHRI ABDUL RAZAK: Quilon?

DR. K. N. KATJU: I said "excepting one" and there the difference is only about 40 to 50 miles. So the House, if I may put it this way, may vote for this measure with very clean and clear conscience. There is nothing really of political jugglery about it. The people want it and I think the example which is being set here is an example which has to be widely followed. That is all that I have to say.

SHRI GOVINDA REDDY: Article 225 ....

SHRI M. MANJURAN: I asked whether article 225 does not interfere with the.....

SHRI GOVINDA REDDY: This article deals with the sittings, creation of Division Benches, etc.

DR. K. N. KATJU: This Bill has become necessary because under the existing Act that was the advice given. Section 6, which hon. Members would find in the Bill, of the Act as it stands, ~~of the United State of Travancore and~~ says that the High Court of Judicature of the United State of Travancore and Cochin shall sit at Ernakulam.

It was thought that this created a bar and the High Court would not sit anywhere else and therefore this thing had to be done. And, secondly, the object of the Bill is that there must be a Division Bench or a Single Bench at Trivandrum. Legal advice was obtained and it was thought that this thing was absolutely necessary and may I suggest .....

SHRI M. MANJURAN: How is it possible?

DR. K. N. KATJU: May I suggest with great respect that I can take the opinion which is available to me. It may be unsafe for me to accept the legal opinion offered on the floor of the House.

SHRI M. MANJURAN: I want to say that item 65 of the State List provides for 'Jurisdiction and powers of all courts except the Supreme Court, with respect to any of the matters in this List'.

MR. DEPUTY CHAIRMAN: Have you read item 78 of the Union List?

SHRI M. MANJURAN: Yes, I have read that. It is about 'Constitution and organisation' only. These are the points it deals with. This is neither 'constitution' nor 'organisation' but the location of the High Court which is provided for. If you will go through the article governing the Supreme Court you will see that the Seal of the Supreme Court is differently dealt with apart from its 'constitution and organisation'.

DR. K. N. KATJU: I am speaking as a member only—not as a lawyer. Item 65 of the State List speaks of 'jurisdiction and powers of all courts'. It has nothing to do with organisation, namely where the High Court shall sit and at how many places it can sit. Item 78 of the Union List, we were advised, is the proper applicable article.

SHRI M. MANJURAN: But this Bill seems to disturb the jurisdiction of the High Court.

DR. K. N. KATJU: May I suggest that 'jurisdiction' remains the same? Jurisdiction is not touched. The only question is whether two Judges or a single Judge of the High Court at Ernakulam can hear the cases in Trivandrum or they should hear the cases at Ernakulam. Nothing to do with jurisdiction.

SHRI M. MANJURAN: But it is laid down in Article 225 that the High Courts should remain as they were on

date of the commencement of the Constitution.

SHRI C. C. BISWAS: But this article begins with the words, "subject to the provisions of this Constitution" and we are here taking action under the provisions of the Constitution?

SHRI M. MANJURAN: Under which article of the Constitution?

MR. DEPUTY CHAIRMAN: Article 225 is not in the way. The question is:

"That the Bill further to amend the Travancore-Cochin High Court Act, 1125, be taken into consideration."

The motion was adopted.

We shall now take up clause by clause consideration of the Bill. There are three amendments to Clause 2 by Shri Abdul Razak. All the amendments may be moved together.

DR. K. N. KATJU: May I raise a point of order, Sir? I would like to have your ruling whether this amendment is in order. It practically turns the Bill topsyturvy. I understand that if an amendment is a negative amendment then it is not permissible.

MR. DEPUTY CHAIRMAN: But you seek to amend section 6 by this Bill.

DR. K. N. KATJU: The thing is that the High Court shall continue at Ernakulam but it shall also sit as a Division Bench at Trivandrum. The amendment says that the High Court should itself go over to Trivandrum and a Division Bench will begin to sit in Cochin.

MR. DEPUTY CHAIRMAN: Since your Bill seeks to amend section 6 I think his amendment is also in order.

SHRI A. ABDUL RAZAK: Sir, I beg to move:

"That for clause 2 of the Bill, the following clause be substituted, namely:—

'2. Amendment of section 6, Travancore-Cochin Act No. V of 1125.—

In section 6 of the Travancore-Cochin High Court Act, 1125—

(i) for the word "Ernakulam" the word "Trivandrum" shall be substituted; and

(ii) the following proviso shall be added at the end, namely:—

"Provided that such Judges of the High Court, not exceeding three in number, as may from time to time be nominated by the Chief Justice, shall sit at Ernakulam and exercise, in respect of cases arising in the district of Trichur, the jurisdiction and powers conferred by this Act on a single Judge or a Division Bench of two Judges, as the Chief Justice may determine".

Before moving the next amendment No. 2, Sir, I seek your permission and the leave of the House to delete the word 'Kottayam' appearing therein.

MR. DEPUTY CHAIRMAN: Is it the pleasure of the House to grant him leave to make that amendment?

HON. MEMBERS: Yes, yes.

SHRI ABDUL RAZAK: Sir, I beg to move:

"That in clause 2 of the Bill, for the proposed proviso to section 6, the following new proviso be substituted, namely:—

'Provided that five Judges to be nominated by the Chief Justice from time to time, shall sit at Trivandrum and exercise, in respect of cases arising in the districts of Quilon and Trivandrum, the jurisdiction and powers conferred by this Act on a single Judge, a Division Bench of two Judges or a Full Bench of five Judges, as the Chief Justice may determine'."

"That in clause 2 of the Bill, in the proposed proviso to section 6, for the words 'district of Trivandrum' the words 'districts of Trivandrum and Quilon' be substituted."

MR. DEPUTY CHAIRMAN: Amendments moved:

"That for clause 2 of the Bill, the following clause be substituted, namely:—

'2. Amendment of section 6, Travancore-Cochin Act No. V of 1125.— In section 6 of the Travancore-Cochin High Court Act, 1125—

(i) for the word "Ernakulam" the word "Trivandrum" shall be substituted; and

(ii) the following proviso shall be added at the end, namely:—

"Provided that such Judges of the High Court, not exceeding three in number, as may from time to time be nominated by the Chief Justice, shall sit at Ernakulam and exercise, in respect of cases arising in the district of Trichur, the jurisdiction and powers conferred by this Act on a single Judge or a Division Bench of two Judges, as the Chief Justice may determine".

"That in clause 2 of the Bill, for the proposed proviso to section 6, the following new proviso be substituted, namely:—

'Provided that five Judges to be nominated by the Chief Justice from time to time, shall sit at Trivandrum and exercise, in respect of cases arising in the districts of Quilon and Trivandrum, the jurisdiction and powers conferred by this Act on a single Judge, a Division Bench of two Judges or a Full Bench of five Judges, as the Chief Justice may determine'."

"That in clause 2 of the Bill, in the proposed proviso to section 6, for the words 'district of Trivandrum' the

[Mr. Deputy Chairman.]  
words 'districts of Trivandrum and Quilon' be substituted."

SHRI ABDUL RAZAK: Sir, in moving Amendment No. 1, I hope that my friends, particularly my hon. friends Mr. Manjuran and Mr. C. Narayana will not have any objection. Notwithstanding that, there are other very strong reasons for the location of the seat of the High Court in Trivandrum. Firstly, Trivandrum happens to be the seat of the Government and as such it would be handy to have the High Court also there. I am sure that even hon. Members from the Cochin area would not stand on questions of prestige or sentiments against this. Recent experience shows that there has been in the High Court of Travancore-Cochin nearly 200 writ applications. Out of these 200 applications, if my memory is right, 98 were against the Government of Travancore-Cochin in Trivandrum. So, for the purpose of the disposal of these writ applications every time files from the Secretariat had to be flown and the Secretariat staff had also to be flown to Trivandrum and back. This means a very serious dislocation of the normal business of the Secretariat.

Secondly, the Republican Constitution requires or makes it incumbent that the Advocate-General of the State should attend the Legislative Assembly and in Travancore-Cochin the Legislative Assembly sits in Trivandrum. So every time the Legislative Assembly meets in Trivandrum, the Advocate-General, whose office is at present in Ernakulam, has to fly to Trivandrum and back. That means invariably he is not able to give a good account of himself either in the Assembly or in the High Court.

Thirdly, it is common knowledge that the State Government should have ready by its side the advice and opinion of the Chief Justice. Now the seat of the High Court being located in Ernakulam, such advice of the Chief Justice is not available to the local Government. That means so far as

this particular aspect is concerned, the local Government is deprived of the benefit of his legal knowledge.

Therefore for all these considerations, and more particularly for the consideration that not even one-tenth of the current file is answered for by the appeals preferred from the Trichur District, I submit that this amendment may be accepted.

DR. K. N. KATJU: I am unable to accept any of the amendments. The first two amendments really try to overturn the Bill completely. There is no desire on the part of the Central Government or of the State Government to move the seat of the High Court from Ernakulam to Trivandrum. It should remain there for various reasons; not only because the arrangements proceeded upon an amicable settlement with the different political parties but also because of administrative convenience and also because of convenience of the litigants. As I told the House just now, all the places in the State of Travancore-Cochin, every place excepting the Trivandrum District and portions of Quilon District, are nearer Ernakulam than Trivandrum. Trivandrum District consists, according to my information, of 21 lakhs of people and all those people now have justice brought nearer to them in Trivandrum town itself. So far as Quilon is concerned, the town of Quilon is nearly 50 miles from Trivandrum and about 90 to 92 miles from Ernakulam.

SHRI K. C. GEORGE: Quilon is only 42 miles from Trivandrum.

DR. K. N. KATJU: I am sorry, it is 42, but there are northern portions of the District which will be nearer. But anyway so far as Trivandrum District is concerned, they are definitely nearer Trivandrum and, as the House knows, there are associations and ties which bind the people of a district together. When you come to another district, the ties are not so close and a difference of 50 miles or so is not much. And all the speeches that I have heard here do not make any difference. The Bill has

been very carefully drafted and I suggest to the House that it is in consonance with the wishes of the people at large and as such it should not be touched.

MR. DEPUTY CHAIRMAN: The question is:

"That for clause 2 of the Bill, the following clause be substituted, namely:—

'2. Amendment of section 6, Travancore-Cochin Act No. V of 1125.— In section 6 of the Travancore-Cochin High Court Act, 1125—

(i) for the word "Ernakulam" the word "Trivandrum" shall be substituted; and

(ii) the following proviso shall be added at the end, namely:—

"Provided that such Judges of the High Court, not exceeding three in number, as may from time to time be nominated by the Chief Justice, shall sit at Ernakulam and exercise, in respect of cases arising in the district of Trichur, the jurisdiction and powers conferred by this Act on a single Judge or a Division Bench of two Judges, as the Chief Justice may determine'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That in clause 2 of the Bill, for the proposed proviso to section 6, the following new proviso be substituted, namely:—

'Provided that five Judges to be nominated by the Chief Justice from time to time, shall sit at Trivandrum and exercise in respect of cases arising in the districts of Quilon and Trivandrum, the jurisdiction and powers conferred by this Act on a single Judge, a Division Bench of two Judges or a Full Bench of five Judges, as the Chief Justice may determine'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That in clause 2 of the Bill, in the proposed proviso to section 6, for the words 'district of Trivandrum' the words 'districts of Trivandrum and Quilon' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

As for clause 1, there are no amendments of which notices have been received.

Clause 1, the Title and the Enacting formula were added to the Bill.

DR. K. N. KATJU: Sir, I beg to move that the Bill be passed.

SHRI RAJAGOPAL NAIDU: Sir, I have been listening to the reply given by the hon. the Home Minister with rapt attention. I only ask him this question. When there is a provision in the Constitution under article 130 enabling the Supreme Court to sit in Delhi or in such other place or places as the Chief Justice of India may, with the approval of the President, from time to time, appoint, yet, Sir, in practice why is it that the Supreme Court is sitting only at Delhi and not sitting in any other place in India? Sir, if the hon. Home Minister had convinced anybody with his arguments, he should have set an example by seeing that the Supreme Court sits not only in Delhi but in Madras, in Calcutta, and in other places. If it is a question of justice going to the litigants, and if we have to accept the principle adumbrated by the hon. Home Minister that the courts will have to seek the litigants, why should the Supreme Court always sit in Delhi and not in other places in India? If this principle has not been applied in the case of the



[Shri Rajagopal Naidu.] .

Supreme Court, if it has not been applied through the length and breadth of India, about two thousand miles north to south, and about the same number of miles east to west, why should this principle be applied in the case of a tiny little State like Travancore-Cochin. There is no logic behind this Bill. There is no reason behind it. I very strongly oppose this Bill. Of course it is going to be made into law by the thumping majority of the Government in this House. But what is the reason behind it? I fail to see the reason. I have not been convinced.

Another point which I had raised has not been answered. Probably it has been ignored by the hon. Home Minister as of smaller importance. Even in all these cases, the case will have to be filed at one place. Whether it is in first appeal or second appeal or revision, the case has to be filed only at Ernakulam where the High Court is now located. Is the hon. Home Minister going to say that all cases that are to be heard at Trivandrum will have to be filed only at Trivandrum? Does he mean to say there will be a Registrar there to receive all those cases that are filed?

I say once again that if this principle is to be applied, it should be applied to the Supreme Court of India first. The Supreme Court Judges should move from place to place, and article 130 of the Constitution should be given effect to.

SHRI K. C. GEORGE (Travancore-Cochin): Sir, I really wanted to speak on my amendment, but somehow I could not do so, and so I take this opportunity to say what I wanted to say on my amendment. The hon. Minister would have done well to accept my amendment. The Statement of Objects and Reasons states that the constitution of a Bench of the High Court at Trivandrum would be the best way of serving the public needs. And this object would have been really served had the jurisdiction of this Bench which is going to be constituted

at Trivandrum been extended to the Quilon district also. The demand of the people of Quilon and of the Bar Association there is that the Quilon district should be included within the jurisdiction of the Bench that is to be constituted at Trivandrum. Nobody loses anything by it. But that suggestion has been rejected by the Government. That only supports the argument that has been advanced by my hon. friend that this arrangement has been made simply to meet the wishes of the Tamil Nad Congress Party for political purposes. If the people of the Trivandrum district are to be given this privilege, I cannot understand why it should not be extended to the people of Quilon also. Government's unwillingness to do so only supports the argument of my hon. friend Mr. Mathai Manjuran and of my hon. friend Mr. C. Narayana Pillai that had it not been for political purposes, the question of serving the public needs would not have arisen. So, even at this late stage I would ask the hon. Minister to think over this matter and include the Quilon district also within the jurisdiction of this Bench. Trivandrum would be nearer and more convenient to the people of Quilon. Quilon is connected to Trivandrum by railway whereas there is no railway connection between Quilon and Ernakulam. Particularly important it is as for Shencottah and such places are concerned, it is a very circuitous route—it is nearly 180 miles to Ernakulam. There is no direct railway line. For the people of Shencottah, Trivandrum is very near, compared to Ernakulam and if the jurisdiction is extended to Quilon, it would be very convenient to the people of Shencottah also. The Quilon Bar Association also have demanded this. They have passed a resolution to that effect. I do not understand why that right should be denied to them.

In the name of serving the needs of the people this principle has been accepted, according to the Statement of Objects and Reasons. If this Bill has been brought for the convenience of the people, I ask why is partiality shown to some people only, unless it be for a political purpose? If it is for

a political purpose, let not the argument about serving the people's needs be advanced. If the object is to serve the people's needs, I can accept the Bill to that extent. I support it. But do it with good grace. Now it has been done very shabbily. It appears so dirty. I request the hon. Home Minister to reconsider the matter and accept this amendment. With these words, I supported the Bill to the extent I have indicated.

SHRI M. MANJURAN: Sir, the hon. Home Minister said that it was advantageous for High Courts to be moving about the country. I am only sorry that he has not brought in a Bill to legalize mobile High Courts. As a matter of fact I was very glad to know that this principle of decentralisation has been accepted by the Central Government, and that sooner or later we would have sittings of our Parliament.....

MR. DEPUTY CHAIRMAN: He expressed his personal opinion as a lawyer.

SHRI M. MANJURAN: Inflicted with personal opinion, we should reply to that.

One point that has been made out is that there has been a strong demand by the people of Travancore-Cochin. That argument has not been substantiated. I know there was some talk in the Travancore-Cochin Legislative Assembly. But this was passed on to the Centre because they would not have been able to pass the Bill there. There have been dissensions, it is very plain to see. Out of the 109 members of the Travancore-Cochin Legislative Assembly, 20 members belong to the district of Trivandrum. There would have been opposition on the part of all the remaining 89 members to this Bill. It was for that reason that the Travancore-Cochin Ministry passed on the burden of this Bill to the Central Parliament. Even if all the legal opinion that has been brought to bear on the matter had not been there, it would have been impossible for them to have got this Bill through. It was 89 against

20 CSD.

20. That a decision of a minority of the people of Travancore-Cochin should be regularised by an Act of the Central Parliament is something which is anti-democratic. There was agitation over it. The population of Travancore-Cochin today is 93 and odd lakhs. The Home Minister has mentioned that the district of Trivandrum consists of about 21 lakhs of people. What about the 70 odd lakhs of people? They oppose this Bill. And it is this Central Parliament that is legalising this for the sake of 20 lakhs of people against 70 lakhs of people, and they are teaching us elementary lessons of democracy and of mobile judiciary. These are very strange things; not that I care very much where the High Court is; it is immaterial to me. There are many occasions when political parties are put into High Court transactions. The other day, our friend Mr. Mathur stated that a certain post was given to the Opposition Member of the Rajasthan Legislative Assembly. There have been like instances of High Court Judges in the Travancore-Cochin.

\* \* \* \*

*(Expunged as ordered by the Chair.)*

Political matters are somehow entangled with judicial activities. I want only to come to that point. This is a matter in which we should leave no room for apprehension. We have got some experience in these matters and we feel that this experience would always recur. The Ministry wants a High Court to be put there and the High Court will quite likely see what the Ministry wants. There might be troubles. I am afraid of these troubles very much. I am sorry my faults are great, but greater are the faults of our administrators. Nine-thousand sq. miles is the entire area of the State. The Home Minister is saying that people will find it very difficult to move about. Two-hundred and fifty miles is the entire length of the State whereas in Rajasthan the two High Courts are catering to the needs of tens of thousands of square miles. What would be the distance for the people to come and go? As Mr. Naidu has expressed,

[Shri M. Manjuran.]

in Madras it is sometimes about 600 miles away from the litigant public. In Travancore-Cochin there is sufficient transport and cheap too. From Trivandrum it takes hardly 30 or 35 minutes to reach Ernakulam by plane. Much is made of the inconvenience caused to the litigant public. If there is any meaning in saying that the activities of the High Court will be prejudiced because the litigant public have to come from hundred miles, what happens to those who have to travel much longer distances and keep in waiting for a simple licence at the door of the Government offices in Trivandrum? It is only some portions that are farther away from Ernakulam but all the other places are nearer to Ernakulam. That means that Ernakulam is more centrally situated than Trivandrum. There are so many things which the hon. Minister has skipped over. These are matters that are affecting the political situation and I am sure that the Congress Party is going to lose most out of the bargain and out of the charity that they are going to show to the Tamil Nad Congress. In spite of Mr. Razak's enunciation and in spite of anybody's saying otherwise, we feel there were some conditions under which the Ministry of Travancore-Cochin was formed and one of those conditions was the institution of a portion of the High Court in Trivandrum. So there is no point in saying that there is no political bargaining under these considerations. Politics being a very dangerous affair it is going to be a boomerang against the Congress there. As Mr. Reddy pointed out, it is going to animate the feelings of people there. This is an unwanted Bill which would create endless puzzles and rivalries there in the Ministry and among the ordinary public. If there is anything sufficient time should be given to the people of Travancore-Cochin to express their opinion on this Bill. This opportunity has not been given to them. It has been passed against the 70 lakh people and in favour of only 20 lakhs of people. It is being passed against 88 Members of the Legislative Assembly in favour of 20 Members. It is a Bill which is

not democratic at all. In order that the Travancore-Cochin Ministry should make it convenient and should get away from the brunt of opposition which they have to face locally, they have shifted all this burden to the Central Government. Again I pointed out the possibility of the formation of the State of Kerala where the difference between the length and the breadth would be very well adjusted if the High Court were situated in Ernakulam. In view of these facts, there was absolutely no point for this temporary dislocation which would only create lasting and permanent bad blood among the people, creating local rivalries and prejudices, creating troubles and tribulations in future.

So, we still hope that the Government will be well advised to reconsider it and drop the Bill, which course is not going to bother any one, but which is certainly going to be helpful to all.

DR. K. N. KATJU: Mr. Deputy Chairman, I do not think I can add anything useful. My hon. friend who just now preceded me, has given expression to many views which, I submit, are not well-founded; and I do not want to tire the House. There is just one thing only which I should like to mention. Article 130 of the Constitution says:

"The Supreme Court shall sit in Delhi or in such other place or places as the Chief Justice of India may, with the approval of the President, from time to time, appoint."

With the approval of the President it was decided that the High Court shall sit at Ernakulam. If at that time this language had been followed in the Travancore High Court Act, then very likely this matter would not have come here at all. It would have been decided at the discretion of the Executive and on the initiative of the Chief Justice. I repeat once again that there is no sinister motive behind it. As the House knows, the population of Trivandrum itself is nearly two lakhs—one lakh and 86 thousand, and I imagine that the State Government

was motivated by considerations of convenience of these people living at the tip of our country and that is the reason for the Bill.

Mr. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

The House stands adjourned till 4 P.M. tomorrow.

The Council then adjourned till two of the clock in the afternoon on Friday, the 10th April 1953