

SHRI C. G. K. REDDY: (Mysore): Sir, when a statement is made, unfortunately we do not have any opportunity to ask questions or to discuss the matter. So, if the hon. Minister agrees that the subject is important enough, then some time may be found, when suggestions proposed from all sides of the House can go to the solving of this problem; that would probably be better especially since we do not seem to have much business.

SHRI C. C. BISWAS: Let me first obtain the information and then I shall place it on the Table and let the House make such suggestions as it wishes to make.

MOTION FOR PAPERS

SHRI H. C. MATHUR (Rajasthan): Sir, may I submit that I have given notice of a Motion for Papers.

MR. CHAIRMAN: We have to consider it, consult the Minister and then decide.

SHRI H. C. MATHUR: Sir, this is very urgent and I hope you will consider it.

THE CALCUTTA HIGH COURT (EXTENSION OF JURISDICTION) BILL, 1953

THE MINISTER FOR LAW AND
MINORITY AFFAIRS (SHRI C. C. BISWAS):
Sir, I beg to move:

"That the Bill to extend the jurisdiction of the High Court at Calcutta to Chandernagore and the Andaman and Nicobar Islands be taken into consideration."

Sir, this is a Bill which is being brought before the House in accordance with the provisions of article 230 of the Constitution. That article says that Parliament may, by law, extend the jurisdiction of the High Court to any State specified in the

First Schedule. Now, Sir, it is proposed to extend the jurisdiction of the High Court of Calcutta to two areas: the first is Chandernagore and the other is the Andaman and Nicobar Islands. Chandernagore is an acquired territory within the meaning of sub-clause (c) of clause (3) of article 1 and the Andaman and Nicobar Islands, as Members are aware, is a Part D State.

Now, Sir, I shall take up Chandernagore first. As the House is aware, Chandernagore has been transferred to India by the French. The *de facto* transfer took place as far back as the 2nd of May 1950. Thereupon the Central Government acquired jurisdiction in and in relation to the area, and Chandernagore attracted the operation of the Foreign Jurisdiction Act, 1947. Sir, that Act provides that where by treaty, agreement, grant, usage and other lawful means the Central Government acquires jurisdiction in and in relation to areas outside India, it can exercise certain powers therein specified. One of these powers is contained in section 4. It says that the Central Government may, by notification in the Official Gazette, make such orders as may seem to be expedient for the effective exercise of the foreign jurisdiction conferred by the Act. Now, in pursuance of the power, conferred by this section, the Central Government enacted an order which is known as the Chandernagore (Application of Laws) Order, 1950. It came into operation on the 2nd of May 1950. The effect of this order is this: It extended certain enactments which were in force in India to Chandernagore, and these enactments were specified in the Schedule.

A long list is given there and that includes like the Indian Penal Code, the Bengal, Agra and Assam Civil Courts Act, the Indian Evidence Act, the Criminal Procedure Code, the Civil Procedure Code, the General Clauses Act, the Preventive Detention Act, etc. Later on certain

[Shri C. C. Biswas.] other laws were also added to this list, such as the Indian Arms Act, the Prisons Act, the Indian Explosives Act, the Indian Succession Act, the Bengal Gambling Act and the Indian Limitation Act. Now there is a further provision in that Order by which the Calcutta High Court was made the High Court here. In these enactments, which I have just enumerated, there are references to 'high court'. Section 4 of the Order provides that "wherever in these enactments the words 'High Court' occur, these words shall be construed as referring to the Calcutta High Court". As a result of all this, the Calcutta High Court was given jurisdiction over Chandernagore in respect of these laws which are specified in the Schedule. Since then, Sir, the *de jure* transfer of Chandernagore has taken place. And now it is felt that as Chandernagore has become acquired territory in the full sense of that expression, action is called for under article 230 of the Constitution. Foreign jurisdiction has now ceased, and we have got to take action as contemplated in this article. That is why this Bill is being introduced for the purpose of extending the jurisdiction of the Calcutta High Court, not for the purposes of those laws only which are specified in the Order referred to, but for all purposes. That is the object of the first part of this Bill.

The second part relates to the Nicobar and Andaman Islands. These islands were so far governed by Regulation III of 1876. After Independence, Regulation II of 1950, which is called the Andaman and Nicobar Islands (Amendment) Regulation was promulgated on the 1st June 1950, and it came into operation on the 2nd June. By this Regulation the earlier Regulation of 1876 was amended, and it was *inter alia* provided by these amendments that in the application of the Code of Criminal Procedure as also of the Code of Civil Procedure to these islands, the functions of the High Court shall be

discharged by the High Court of Calcutta, so that the High Court of Calcutta became the *de facto* High Court exercising jurisdiction over these islands in respect of these Codes. On the same date two other Acts of Parliament came into operation namely, Acts I & II of 1950. There also certain amendments were made by which the words 'High Court' which occurred in those enactments were defined in their application to the Andaman and Nicobar Islands to mean the High Court at Calcutta. So the same object was aimed at both in the Regulation and in these two Acts. The result was that the Calcutta High Court acquired jurisdiction over these islands. Prior to this the functions of the High Court were discharged by the Chief Commissioner there, and the Regulation provided that all proceedings which were pending in Andaman and Nicobar before that authority at the date of this Regulation stood transferred or rather would stand transferred to the High Court at Calcutta. Then, Sir, Government were advised that having regard to the fact that the Andaman and Nicobar Islands constituted *in Part D* state, action should be taken on the basis of article 230 of the Constitution. In other words a formal Act of Parliament should be passed extending the jurisdiction of the High Court. Now, Sir, the present Bill is being presented before the House in pursuance of that advice, and it is now going to be expressly provided that the jurisdiction should not be limited only to a few enactments like the Code of Criminal Procedure and the Code of Civil Procedure, but be extended for all purposes. It is a Part D State, and a part of the territory of India and therefore all the laws which are in force in India should also be applicable to that State and the jurisdiction of the High Court should also extend in respect of all these laws. This is the object of the second part of this Bill.

Sir, there is nothing further that I can say in respect of this Bill except

to refer to one fact, and it is this. A suggestion was made by one hon. Member to me that possibly it might be advisable to make some provision whereby the litigants need not always be required to go over to Calcutta for the purpose of their cases, and that provision might be made for the deputation of one or more judges to these islands for the purpose of hearing the cases there. Well, Sir, I looked up the matter and I find that in the Andaman and Nicobar Islands (Amendment) Regulation, which was passed in 1950, there was a specific provision on this subject, and it was this: "The Chief Commissioner may either, on his own motion or on application made to him in this behalf and after holding such enquiry into the matter as he thinks fit, recommend to the High Court in Calcutta that any case or class of cases which may lie to the High Court, be heard by that Court at a place in the Andaman & Nicobar Islands, and, if the Chief Justice of the High Court in Calcutta, on receipt of such recommendation, is of opinion that it should be so heard, he may depute one or more judges of the High Court to sit at such place in the Andaman and Nicobar Islands and at such time as may be specified for the disposal of such case or class of cases." That Regulation has not been repealed and is still in force, and action may be taken in accordance with this provision. Apart from that, Sir, you will notice that the present Bill, in clause 4 thereof, provides that "Subject to the provisions of any law for the time being in force, the High Court at Calcutta, may make rules to carry out the purposes of this Act and for the purpose of effectively exercising its jurisdiction in or in relation to Chandernagore and the Andaman and Nicobar Islands". Even if there was not this provision in this Regulation, it would be open to the High Court itself to make rules whereby such Court might sit in the Andaman and Nicobar Islands for the purpose of hearing a specific case or a class of cases. Sir, I move.

MR. CHAIRMAN; Motion moved:

"That the Bill to extend the jurisdiction of the High Court at Calcutta to Chandernagore and the Andaman and Nicobar Islands be taken into consideration."

SHRI S. N. MAZUMDAR (West Bengal): Sir, with this Bill there can be no objection, but in this connection I would like to offer some suggestions to the hon. the Law Minister for his consideration. The first suggestion is that there should be a separate Bench sitting at Chandernagore, because the people of Chandernagore have got some outstanding grievances on various matters against the Government of India. I shall only briefly refer to these matters.

In 1950, the people of Chandernagore elected to join India. This decision was hailed by all sections of democratic opinion. At that time the people of Chandernagore were assured by the Government of India as well as by the Prime Minister that before any final decision is taken about the future administrative set-up of Chandernagore, people's opinion would be consulted. After the *de facto* transfer there were elections in 1951 and in those elections none of the Congress candidates could get elected. The United Front of the Progressives and Leftists captured almost all the seats. Sir, in this connection I think it will not be out of context to refer to the fact that the Municipal Assembly in Chandernagore used to enjoy greater powers than ordinary Municipalities in other places.

MR. CHAIRMAN: Mr. Mazumdar, kindly talk about this Bill; not about the Municipality, administrative setup and other things. You state if you have any objection to the extension of the jurisdiction of the High Court at Calcutta.

SHRI S. N. MAZUMDAR: Sir, I have made a suggestion and I want to refer to these matters in order to substantiate my suggestion that there is necessity for a separate Bench.

MR. CHAIRMAN: But make it relevant to the Bill. You are talking about other things. I do not think all these are relevant.

SHRI C. C. BISWAS: So far as other grievances are concerned, representations have been received regarding them and the matter is under consideration.

SHRI S. N. MAZUMDAR: Has the Government received any representation recently about the promulgation - of the Bengal Municipal Act there?

MR. CHAIRMAN: Some representations have been received stating their grievances and they are under the active consideration of Government.

SHRI S. N. MAZUMDAR. Then, Sir, I shall pass on to the other portion about the Andaman and Nicobar Islands. The hon. the Law Minister said that there were already some provisions in a previous Act by which the Chief Commissioner may recommend cases to be heard there. There were some rule-making powers granted to the Calcutta High Court and provisions for deputation of judges. But I think this is not sufficient; there should be express provision for a separate Bench sitting in Andaman and Nicobar Islands. Sir, I want to draw the attention of hon. the Law Minister to two aspects.

I myself have some experience of the Andamans. I was there in the thirties as a political convict. Of course, I had no experience of the world outside the jails. Still, I found there were many difficulties. The Andamans are 750 miles from Calcutta by sea and the passage is also very difficult, particularly during monsoon, because during the rainy season the Bay of Bengal is very violent. At that time practically there were no civil liberties in Andamans; I do not know whether fiat system is continuing. I found that such arrangements as there were, were actually travesty of justice. The jailor of the Central Jail] jpas an Honorary

Magistrate who could deal with certain cases. Of course there were not many cases, but the difficulties were there. There used to be only convict population or people who went there as relatives of convicts or some traders. But now as the Government of India has adopted a policy of settling refugees there, the population is large in the Andaman and Nicobar Islands. So if there is sufficient work, there should be a Bench but if there is not sufficient work, of course there is no necessity for forming a separate Bench. But as regards this matter the hon. the Law Minister should take into consideration the difficulties of the people. It will be almost impossible for them to come to Calcutta --expenses of putting up at Calcutta and difficulty of passage during monsoon. and one cannot say that there will not be an appeal during monsoon. During monsoon it is very difficult—I myself have had the experience of seasickness during stormy weather. I think the Law Minister should enlighten us how these difficulties could be avoided.

SHRI KISHEN CHAND (Hyderabad):

Mr. Chairman, Sir, while fully supporting this Bill, I beg to submit that, as pointed out, the people of Andaman and Nicobar Islands will find it very difficult to come to Calcutta for preferring their appeals and some sort of a circuit court or a special judge may be appointed who may sit there as and when occasion requires and hear all the appeals. I may also suggest to the hon. Minister that certain concessions should be given to the people of Andaman and Nicobar Islands in the matter of preferring such appeals—some sort of concession with regard to time lag between the previous judgment and the date for appeal, some sort of concession about the fees to be paid considering the amount of expenditure to be incurred by the people of Andaman and Nicobar Islands in reaching Calcutta for filing their appeals.

Secondly, with regard to Chander-nagore, we welcome very much that Chandernagore has joined India *de*

jure and *de facto*. This is the first place, which was held as a foreign possession, that has joined India and may I take this opportunity to say a few words about other.....

MR. CHAIRMAN: No, no.

SHRI KISHEN CHAND: out posts, because as a matter of national law and as a matter of international law, it is highly related to the question of

MR. CHAIRMAN: No, no.

SHRI KISHEN CHAND: Well, Sir, I wanted to point out that there are such pockets like Pondicherry and Goa which are an eyesore. Will it be possible that at least the jurisdiction of High Courts may be extended to them even though they are outside our.....

MR. CHAIRMAN: Impossible.

SHRI KISHEN CHAND: So, Sir, again drawing the attention of the hon. the Law Minister to the hardships of litigants in Andaman and Nicobar Islands and Chandernagore, I beg to support the Bill.

SHRI K. S. HEGDE (Madras): Sir, I want certain information. Going through Section 2 of the Bill, we find that retrospective jurisdiction to the Calcutta High Court is attempted to be conferred. It says here: "The jurisdiction of the High Court at Calcutta shall extend to Chandernagore and the Andaman and Nicobar Islands and shall, as from the 2nd day of May 1950, be deemed to have extended to Chandernagore and the said High Court shall, for all purposes, be deemed to be the High Court for Chandernagore and the Andaman and Nicobar Islands." Now I find from the Statement of Objects and Reasons that the Government of India extended the jurisdiction of the Calcutta High Court under the Foreign Jurisdiction Act, 1947. I would like to know whether the extension was a valid one or an invalid one. If it is a valid extension, then the second part of Section 2 becomes entirely

unnecessary. If it is not, it is rather painful to find that over and over again Government comes up with legislative proposals conferring retrospective jurisdiction either on courts or making valid certain acts which are otherwise invalid. In fact, it is one of the well accepted canons of law that we should not have retrospective legislation as far as possible. It must be an exceptional feature of legislation to have retrospective legislation. But now it is becoming a daily feature in all our legislative measures. Now when we are having retrospective legislation,; not merely prospective legislation, the House will be obliged to the hon. the Law Minister if he could kindly take the House into confidence and tell us why exactly this measure has become necessary and why a retrospective feature should be there. I have a feeling that there has been something wrong somewhere and it is to cover up those things that the second part of Section 2 has been introduced.

One other suggestion I would like to make is about what we have heard from hon. Members of the other side —the difficulty of coming from Andaman and Nicobar Islands to Calcutta. Would it not be convenient to confer jurisdiction on the Chief Commissioner to receive appeals and other proceedings which are intended for the Calcutta High Court, and then pass them on to the Calcutta High Court? Otherwise what would happen is this, that even for the filing of appeals the parties would have to come all the way from Andaman and Nicobar Islands to Calcutta. Their troubles would be very much minimised if the filing could be done before the Chief Commissioner and their presence or the presence of their advocates was required only at the time of the hearing of the appeal or the suit, whatever it may be. That is a suggestion which I would make to the hon. Law Minister for consideration, so that we might try to minimise the difficulties of the people.

living in the Andaman and Nicobar : Islands to the utmost extent possible.

DR. RAGHUBIR SINH (Madhya : Bharat): Mr. Chairman, nobody objects to the objects and reasons for introducing this Bill. I have only one point to raise. One part of my objection has already been covered by my friend Mr. Hegde. I have a few more things to say in this respect.

About retrospective jurisdiction, my point is this, that when we had no *de jure* jurisdiction over Chandernagore, is it right or would it be constitutionally and legally correct, for us to extend the jurisdiction of

- the High Court with retrospective effect from the date of the *de facto* transfer? I find that *de jure* transfer
- took place only on June 9, 1952. So, I think the utmost we can do, or
- should do, is to give retrospective effect to this law only with effect
- from the date on which *de jure* transfer took place. I am just raising
- this point for the consideration of the hon. Law Minister.

SHRI K. C. GEORGE (Travancore-Cochin): I also support the Bill. But I want to draw the attention of the House and of the hon. the Law Minister

to one or two instances of hardship that may be caused to litigants in Andaman and Nicobar Islands not only with regard to the filing of appeals as has been pointed out by

hon. Members here, but with regard to certain more serious cases in which bail is needed or interim injunction is needed or a stay of proceedings is needed. They are very urgent matters which cannot wait all the time that is required to go to Calcutta. Therefore, my suggestion is

- we should at least have a judge sitting continuously in those areas so that such urgent petitions may be
- disposed of. I am not very particular about a Division Bench sitting there, if some other provision could be made so that all these petitions might
- " be disposed of quickly. Otherwise, by the time an appeal is filed in the High Court in Calcutta, the person
- "Who wants bail may already have

suffered enough, or the property that is proposed to be transferred and for whose stay an order is required may already have passed hands. Therefore, some machinery is required for disposing of such petitions quickly. If the jurisdiction of the High Court is extended without making provision for these matters, it would cause very great hardship to a large number of persons. The persons who are well to do and are able to file an appeal in the High Court, will not suffer much because they may have the means to go to Calcutta quickly. But ordinary people who have no means to go as far as Calcutta will be put to great hardship and it is they who have to be protected. Therefore, I press that some provision should be made in this Bill to have at least a single judge—I do not say there should be a Division Bench—to dispose of such petitions on the spot. I am sorry I was not able to give notice of an amendment to this effect, but I hope that the hon. the Law Minister has taken note of my suggestion and will make provision accordingly.

SHRI RAJAGOPAL NAIDU (Madras): Mr. Chairman, I do not think anybody can have any objection to this Bill being made into law. What my hon. friend Mr. George was saying was: Why not have a permanent Division Bench or a single judge with powers of a Division Bench located in some place in the Andaman and Nicobar Islands? I have been trying to know a little of these islands after the introduction of this Bill. The population of Andaman and Nicobar Islands is only about 30,900 according to the 1951 census. Of that, nearly 50 per cent, forms the so-called native aboriginal races. So far as communications are concerned, we find there is only one steam boat touching Port Blair once in four weeks. One steam boat leaving Madras touches Port Blair once in four weeks, and in another four weeks it touches Calcutta, and another steam boat leaving Calcutta touches Port Blair after another four weeks. That is the communication we have with these islands. And

that is when there is a normal sea, when there is no storm in the Bay of Bengal. When there is a storm, 60m-communications are cut off, sometimes for six months.

This Bill seeks to extend the jurisdiction of the Calcutta High Court to these islands. I would certainly welcome the proposal to extend the

jurisdiction of a premier High Court such as the Calcutta High Court to the Andaman and Nicobar Islands so

as to make the administration of justice in those islands perfect. But we must consider the difficulties of the litigant public of those islands. As my hon. friend Mr. Hegde has pointed out, if one has to file an appeal or even a sort of revision petition, one has to go all the way from

Andaman and Nicobar Islands to Calcutta; or, as my hon. friend Mr. George has pointed out, if an emergent interim relief is required, one has to rush to Calcutta. I do not know whether there are any rules framed under the Regulations under which the Chief Commissioner of

Andaman and Nicobar Islands, who has so far been administering justice with regard to certain provisions of law excepting the Civil Procedure

Code and the Criminal Procedure Code and some other Acts, has been invested with full powers to dispose

of such emergent petitions. If that is not the case, I do not know what the High Court of Calcutta is going to do. because I find that that High Court has been given full powers to frame rules to carry out the purposes

of the Act and for the purpose of effectively exercising its jurisdiction. It may not be out of place for me to suggest that this Bill should explicitly say that the Calcutta High Court can constitute and organise a Bench

of judges or even one judge who can occasionally go there, say, once in two or three months, and stay there for a few days and administer justice

on the spot. On this occasion I am reminded of a similar Bill which was

discussed on the floor of this House last week, during which the hon. the Home Minister said that nowadays

justice would have to seek the homes of the litigant public as far as possible. Sir, this Bill which has been introduced today is in consonance with that observation of the hon. the Home Minister. But the justice that is being administered should, be administered more effectively and the litigant public should get very prompt and effective relief. Sir, I do not know what rules the High Court of Calcutta is going to make in this regard but we can do that by either introducing a sub-clause to clause 2 or by introducing a sub-clause to clause 4 enabling the Calcutta High Court to have a sort of a Circuit Court or a Division Bench located in Port Blair, which is the principal town of Andaman and Nicobar Islands as and when it is necessary. Sir, this is the only suggestion which I would like to make on this Bill.

DR. W. S. BURLINGAY (Madhya Pradesh): Sir, I have just one little suggestion to make with regard to the drafting of this Bill. It has been very correctly pointed out by my hon. friend Mr. Hegde that the purpose of the sentence "..... shall, as from the 2nd day of May 1950, be deemed to have extended to Chandernagore

....." is quite different from the purpose of the rest of the clause. I feel therefore. Sir, that it would have been much better if this sentence had formed into either a sub-clause or a separate clause altogether. It seems to me that proper drafting requires that so far as the various clauses are concerned, one clause can have but one object and several objects ought not to be confused together as part of the same clause. This is all I have to say.

SHRI T. V. KAMALASWAMY (Madras): Mr. Chairman. I support this Bill, but I have only one observation to make and that is that Chandernagore has been having, I think, the French system of jurisprudence and when it is changed over to the Indian system, there is likely to be some hardship caused to the people there.

[Shri T. V. Kamalawamy.] and my only suggestion is that in replacing the French system of jurisprudence by the Indian system, great care should be taken to see that the people or the litigants are not put to much inconvenience because there is a much bigger pocket in the South Pondicherry; it should not give a handle to the anti-Indian elements in Pondicherry to say that if they are merged with India, they will have some additional trouble.

SHRI C. C. BISWAS: Mr. Chairman, I will just briefly deal with the points which have been raised. First of all, so far as Chandernagore is concerned, some comment has been made regarding the drafting of clause 2.

[MR. DEPUTY CHAIRMAN in the Chair.]

Particularly, it relates to the words which occur in that clause "as from the 2nd day of May 1950". I will point out that the 2nd of May 1950 is the date of the *de facto* transfer. Before that date, Chandernagore was part of French territory in India and the laws which were applicable to it were French laws. After the *de facto* transfer it was a territory in which the Central Government acquired jurisdiction by treaty and agreement. That, as I explained in my opening remarks, attracted the operation of the Foreign Jurisdiction Act. In order that the French laws might cease to apply and the laws of India might be made applicable, action was taken under that Act. On the 1st of May, therefore, the Chandernagore (Application of Laws) Order, 1950 was promulgated. It came into force on 10 AM ^{at 2nd of May when the *de facto* transfer} took place. Under the provision of this Order, all the laws which were in force before the commencement of the Order, namely the French laws, ceased to have effect, and the Indian laws specified in the Schedule to this Order were made applicable, and as I pointed out, the list was added to later on by the inclusion of other laws. Still the whole body of

Indian laws was not applied to Chandernagore under this Order. The question also arose as to which should be the highest court of appeal after the transfer. The highest court of appeal under the French law was possibly located at Pondicherry. Some appellate authority had to be constituted in place of the French Court of Appeal. And it was proposed under the Order to make the Calcutta High Court the High Court for the purposes of administering those laws which were specified therein.

SHRI K. S. HEGDE: Was that extension valid or invalid?

SHRI C. C. BISWAS: It was valid.

(Interruption.)

I am coming to it. Because there is ample time available to us, I am not making my speech as short as I might otherwise have done. Now, under the Foreign Jurisdiction Act, "foreign jurisdiction" is defined in this way. It means "any jurisdiction which by treaty, agreement, grant, usage, sufferance or other lawful means the Central Government has for the time being in or in relation to any area outside India." So this applied to Chandernagore. It is specifically provided in section 4(1) that "The Central Government may, by notification in the Official Gazette, make such orders as may seem to it expedient for the effective exercise of any foreign jurisdiction of the Central Government." Section 4(2) then specifically provides for the making of an order for determining the law and procedure to be observed, whether by applying with or without modifications all or any of the provisions of any enactment in force in any State or otherwise as well as for determining the courts, judges, magistrates and authorities by whom, and for regulating the manner in which, any jurisdiction auxiliary or incidental to or consequential on the jurisdiction exercised under this Act is to be exercised within any State. So, Sir, action was taken under these provisions.

MR. DEPUTY CHAIRMAN: I think the hon. Minister may also refer to article 260 of the Indian Constitution

SHRI C. C. BISWAS: Yes, Sir, article 260 of the Constitution to which the Deputy Chairman has been pleased to draw my attention, runs in these terms:

"The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such agreement shall be subject to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force."

SHRI K. S. HEGDE: Sir, it is doubtful whether that will apply. It contemplates a case where the jurisdiction of the Indian courts would be extended to a foreign territory by agreement.

MR. DEPUTY CHAIRMAN: Yes, by agreement, Chandemagore became a part of India.

SHRI C. C. BISWAS: Mr. Hegde will perhaps remember that *de facto* transfer meant that there was a transfer but not a formal notification of the transfer of the territory to India. A plebiscite had been taken and the people declared themselves in favour of amalgamation with India. Now, in these circumstances it might be doubted whether action should have been taken under the provisions of the Foreign Jurisdiction Act. It might be argued that Chandemagore was not yet formally a part of the territory of India. It was still a foreign State, and therefore Indian laws could be made applicable only by negotiation or agreement, whatever it might be. At the time of this *de facto* transfer of possession, there was agreement between the Government of India and the French Government that Indian laws should be made applicable. So, action could be taken under article 260 or under the Foreign Jurisdiction

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Act. The Foreign Jurisdiction Act would strictly apply only to acquired territory, to a territory in which by agreement the Indian Government had acquired jurisdiction. Whatever it is, it is immaterial. I would assume for my present purposes that the action taken was perfectly competent.

Then came the *de jure* transfer, and the position was somewhat altered.

When Chandemagore became part of the territory of India under article 11(3) (c) "such other territories as may be acquired." Legal advice was taken by Government, and that advice was that action should now be taken to formally extend the jurisdiction of the Calcutta High Court. An Order under the Foreign Jurisdiction Act was made and as I pointed out, two Acts were passed by Parliament at the same time which *inter alia* provided for certain amendments in the Code of Civil Procedure regarding the definition of a High Court. It was

said that a High Court.....I am sorry I am mixing up. That was in reference to Andamans. Leave it aside. The position changed, as I said, after *de jure* transfer, and action is going to be taken now as proposed in the Bill. The words "from the 2nd May 1950" have been added there for this reason. Suppose there is some dispute as to whether the proceedings which were taken in pursuance of the Order made under the Foreign Jurisdiction Act were legal. To be on the safe side, these words have been inserted.

DR. RAGHUBIR SINH: The point is whether legally you can do it. Till the *de jure* transfer Chandemagore was not a part of India. Is the Indian Parliament competent to do this?

SHRI C. C. BISWAS: When the *de jure* transfer took place, the Foreign Jurisdiction Act could not apply any further.

DR. RAGHUBIR SINH: It was applied as a result of the agreement that we had entered into with the

[Dr Raghbir Singh.] French Government, but according to international law, it was not part of India till the *de jure* transfer, and so we cannot pass this.

MR. DEPUTY CHAIRMAN: Then article 260 comes into operation.

SHRI C. C. BISWAS: Suppose doubts are cast on the validity of the proceedings which were taken after the *de facto* transfer but before the *de jure* transfer; it is only for the purpose of obviating such doubts or difficulties, this is being done. There is nothing to show that you cannot have such a provision inserted by way of abundant caution. That was what was done.

SHRI K. S. HEGDE: Sir, I think it is better to clear up by certain preliminary remarks. Between 2nd May 1950 and 9th June 1952, our possession of Chandernagore was more or less by agreement with France. It was not part of India. It became part of India only on the 9th June 1952.

SHRI C. C. BISWAS: May I interrupt my hon. friend? As a matter of fact, a case was instituted in the Calcutta High Court challenging the jurisdiction of that High Court over Chandernagore after the *de facto* transfer but before the *de jure* transfer. I do not know whether that case has yet been finally decided. That itself shows that the subject was one of dispute during this period. Maybe the High Court has now decided the matter. I am sorry I have not got that information in my possession, but that itself shows that this is a question which was not free from doubt or difficulty. Possibly the High Court has given its decision in that matter. I am not quite sure, and it is therefore just as well that these words "from the 2nd May 1950" should be there, so that all these proceedings might be validated, if they were in valid. I am not suggesting that they were invalid; that is not the Government's position.

MR. DEPUTY CHAIRMAN: During this period, article 260 will come into play and will give you ample Power.

SHRI C. C. BISWAS: I am not aware what the final judgment of the Calcutta High Court is. It is possible that doubts may be raised, and it is for the purpose of safeguarding the position, the words "from the 2nd May 1950" have been inserted.

SHRI K. S. HEGDE: What I am concerned with is the legal or the legislative competence of this House to pass an enactment covering the period between the 2nd May 1950 and 9th June 1952. I perfectly follow the reasoning adopted. With regard to article 260, it refers to cases where we can extend our enactments by agreement with the *de jure* power.

MR. DEPUTY CHAIRMAN: That had been done under the Foreign Jurisdiction Act. Now, it has become part of Indian territory and so there is no question of applying the Foreign Jurisdiction Act.

SHRI K. S. HEGDE: Did it become part of our territory under the Foreign Jurisdiction Act by agreement.

MR. DEPUTY CHAIRMAN: Yes, by agreement.

SHRI K. S. HEGDE: Then, there is no question of our making this enactment.

MR. DEPUTY CHAIRMAN: We *can* do it under article 260.

SHRI K. S. HEGDE: With due respect, we are unilaterally doing it.

MR. DEPUTY CHAIRMAN: Today it is part of India. This is only by way of abundant caution.

SHRI C. C. BISWAS: The Preamble of the Foreign Jurisdiction Act says, "Whereas by treaty, agreement, grant, usage, sufferance and other lawful means, the Central Government has, and may hereafter acquire, jurisdiction in and in relation to areas as outside the provinces of India." The Preamble says that by agreement it might acquire jurisdiction, though the territory might not formally form part of the territory of India. In fact, in the present case

SHRI K. S. HEGDE: We are going by the procedure of error and correction.

SHRI RAJAGOPAL NAIDU: May I point out one fact, Sir?

SHRI C. C. BISWAS: Chandernagore was transferred by agreement on the 2nd May 1950, but till the 9th June 1952, this agreement was not ratified. Upon ratification, Chandernagore became formally part of the territory of India. By an Order the Calcutta High Court had been given jurisdiction. Now that *de jure* transfer has taken place, action is being taken on the lines suggested. It is necessary beyond doubt and dispute that the jurisdiction should operate with effect from the date of the *de facto* transfer, which was subsequently ratified on the 9th June 1952. That is the position.

SHRI K. S. HEGDE: My suggestion is: Would it not be advisable to have it in a separate clause? Otherwise several ideas are being combined. Each of those must be found in a separate sub-clause.

SHRI C. C. BISWAS: What is there? Clause 2 deals with the question of jurisdiction of the High Court in respect of Chandernagore and the Andaman and Nicobar Islands. If you say that Chandernagore should have been dealt with in a separate clause and Andaman and Nicobar Islands under a separate clause, that would be different. But if it is not against the rules of drafting to put the two together in the same clause, then what is the objection to the statement contained herein? As regards Chandernagore it will and can have effect only from the date of transfer—the date of the *de facto* transfer—which was subsequently ratified. Therefore this has got to apply with effect from 2nd May before which date Chandernagore was not anything but French territory.

SHRI K. S. HEGDE: My suggestion was that this piece of legislation contains certain prospective legislation and certain retrospective legislation.

Would it not be advisable to have prospective legislation by one clause and the retrospective legislation by another?

SHRI C. C. BISWAS: The date is mentioned. You might ask what that date signifies. That I can understand. The 2nd May is the date of transfer of Chandernagore from French Dominion to India. First there was a *de facto* transfer by agreement. That was subsequently ratified, which meant *de jure* transfer. This is the date from which the transfer was actually made.

MR. DEPUTY suggestion is with
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CHAIRMAN. His
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SHRI GOVINDA REDDY (Mysore?); There is only one idea.

SHRI C. C. BISWAS: The idea is the same. If you say that this can take effect only from the date Chandernagore formally ceased to be French territory, unless there was an agreement—and that agreement would have to provide that whereas Chandernagore was still French territory but by agreement it had been provided that the High Court would have jurisdiction—that would be different. But supposing these words were not there, the High Court would have jurisdiction over Chandernagore only from the date when it came to be transferred to India. It is only to make matters clear that the date of transfer is mentioned. It is not introducing any new idea or anything foreign to the purpose of the Act.

MR. DEPUTY CHAIRMAN: He does not mean that. Is a separate clause not necessary?

SHRI C. C. BISWAS: This clause itself was not necessary because it could not be applied to Chandernagore till it became part of India.

SHRI K. C. GEORGE. Supposing that portion is omitted; is it going to affect the jurisdiction of the High Court?

SHRI C. C. BISWAS: I cannot add -to what I have said. There it is. Some points were raised in regard to Andaman and Nicobar Islands.

SHRI RAJAGOPAL NAIDU: Before he proceeds to the Andaman and Nico-bar Islands, when we are at Cnander-nagore, I would like to point out how Jar this article 260—which has been pointed out by the Deputy Chairmfm and which seems to have been approved to this case by the hon. Minister—is applicable to this ease. Because article 260 applies to territories which don't form part of the Government of India and certain laws which are in force in India may be made applicable by virtue of certain agreements to those foreign territories outside India. So far as this particular case is concerned, we find that in 1950 there seems to have been a sort of transfer which has been term-, ed as *de facto* transfer. I am not; aware of any such thing in any Constitution as *de facto* transfer and *de jure* transfer. This seems to be a; novel thing and I don't know wnether rightly or wrongly—I can only say wrongly—the Foreign Jurisdiction Act: of 1947 seems to have been made applicable and in my opinion the ap- placability of that Act is thoroughly wrong and having committed that! mistake, we are now trying to commit another mistake of giving retrospective effect to that. Article 2>30 could never be made applicable because when there is *de facto* transfer, it, forms part of the territory of India.! Article 260 applies only to those ter-' ritories which don't form part of India. I think when some doubt; arises it is better that we clarify the' whole thing and I may even go to thei extent of suggesting to the hon. Minis-¹ ter to consult the Advocate General: and then we can consider this Bill and / proceed with this without any ambiguity or doubt.

SHRI C. C. BISWAS: I don't quite see why there should be so much difficulty about this provision. The article to which reference was made no doubt assumed that the other territory is still foreign territory. The

position is, whichever way you look at it, even if you thought that *de facto* transfer did not make it a part of India, and it still remained foreign territory, still that article would suffice to cover what has been done. As re gards the expressions *de facto* and *de jure*, the use of these expressions has possibly given rise to misunder standings. The transfer did take place on _ the date mentioned—2nd May. That was also done by agree ment. The French laws ceased to operate and everything was done in ac cordance with Indian laws and Indian procedure. That agreement was sub sequently ratified. It often hap pens that two States come to some agreement but the for mal document is executed later. In some agreements they may say "subject to ratification" in which case, unless the agreement is iatified, it does not come into effect. Supposing there is no such condition that the agreement will become operative only upon formal ratification, then the moment the actual agreement is en tered into, it becomes operative, though the formal document may be executed thereafter. That is the posi tion. Now here the *de facto* transfer took place on the 2nd May 1930 and this was subsequently ratified on the 9th June 1952. If and so long as there was not this ratification of the transfer, then the Foreign Jurisdiction Act was to apply and Government were advised to.....

SHRI GOVINDA REDDY: Before 9th June 1952, was Chandernagore a foreign territory or Indian territory? It was foreign territory for al! constitutional purposes.

SHRI C. C. BISWAS: It was Indian trritory. Only the formal documents effectuating that agreement had not been executed.

SHRI K. S. HEGDE: That is the difference between law and fact,

SHRI C. C. BISWAS: I don't say that these questions may not be raised. I said before that there was that proceeding in the Calcutta High

Court. I have not been able to ascertain whether it, has been finally disposed of or not. Having regard to that, now that we are introducing in this Bill, would it be right for us to leave the point still open for further discussion?

DR. RAGHUBIR SINH: May I ask whether the law that we are enacting now will in any way legalize anything which has been illegal? It cannot.

SHRI C. C. BISWAS: There is the matter before the High Court, and this point will certainly be raised there. But when we are legislating, we should legislate in a manner which would provide for all contingencies, and I would like to make the law safe against.....

SHRI KISHEN CHAND: May I submit that all these difficulties would be removed if from the Statement of Objects and Reasons this line "its *de facto* transfer to India" is omitted? If it is considered to be an agreement between the foreign country and India, then article 260 will apply *in toto*. Article 260 says, "The Government of India may by agreement with the Government of any territory undertake judicial functions" etc. So if it is by agreement, then this article would be made applicable. All this difficulty has arisen because of the words "*de facto*" transfer that I just now referred to.

SHRI C. C. BISWAS: But the Statement of Objects and Reasons will not form part of the Act. It is there only for the purpose of explaining the object of the Bill and you should supplement it by the statement that I have made here on behalf of the Government. I have given the facts fully here now. I am not quite sure all these should have been incorporated in the Statement of Objects and Reasons. These statements are meant to be brief and as far as possible, in a concise form. I have sometimes departed from this practice as for instance, in proposed Representation of the People (Amendment) Bill, which will be shortly before this

House, and which is about to be introduced in the other House. There I have made the Statement of Objects and Reasons very elaborate—running to over 8 or 9 pages—and possibly objection will be taken to it on the very ground of its being too lengthy. I do not know how to please all the Members. If it is short, they say it is too short; if it is more elaborate, they say it is too long. However, leaving that apart, I do admit that when I read the Statement of Objects and Reasons—I was not in charge of the Bill, the Home Minister was in charge of it and as you know, I am only sponsoring it here—I did not quite appreciate what was the significance of this date, and I had to send for the file and go into all the facts. These I have now placed before the House, lest hon. Members should similarly be misled, as I had been misled in the first instance. The Bill, as it is, makes the position perfectly clear, and I do not think you can find anything to find fault with—even on the ground that it is not in accordance with the rules of drafting.

SHRI RAJAGOPAL NAIDU: One last doubt I would like to get cleared.....

MR. DEPUTY CHAIRMAN: You seem to have too many doubts.

SHRI C. C. BISWAS: I confess I shall not be able to clear every doubt of hon. Members here. I do not claim to possess either the necessary knowledge, nor do I claim.....

SHRI RAJAGOPAL NAIDU: Just one doubt, Sir.

SHRI C. C. BISWAS: I confess my inability to solve all these doubts. Then I come to the other part of the Bill dealing with the Andaman and Nicobar Islands. The only suggestion that has been made with regard to these islands is that it should be made easier for the people there to have their cases heard and disposed of by the highest authority. Perfectly true, but I do not think it is practical politics to locate a Division Bench permanently throughout the year in these islands. But power is given to

I Shri C. C. Biswas.] the High Court to make the necessary rules which will minimise the difficulties of these persons. In fact in the old Regulation there was a similar provision and I do not think that Regulation will become invalid now because of this Bill that we are going to pass. This Regulation is still in force. There it is provided in the new section 14A which was introduced by that Regulation:

"Subject to the previous approval of the Central Government, the High Court of Calcutta may make rules for the purpose of regulation and procedure in civil or criminal appeals which may be brought before it, including the admission of such appeals."

That is the point referred to by hon. Members—that appeals should be allowed to be accepted by the Chief Commissioner there on behalf of the High Court. So provision for the admission of such appeals, for the delegation of such judicial and quasi-judicial functions etc. is all there, just as in the High Court you have the Registrar who is given certain powers which used to be formerly with the judges themselves. For instance, there is the question of the extending or the period of notice or extending the period for the preparation of paper books. These things used formerly to be the functions of the judges themselves sitting in the "Loazima division" as it was called in Calcutta. Now all these things have been transferred to the Registrar, and the judges' time is saved that way. It may be possible by rules to make provisions for these facilities, and for all the preliminary processes to be gone through there on the spot in the island and

SHRI K. S. HEGDE: I don't think it can be extended to the

SHRI C. C. BISWAS: It all depends. So far as judicial functions are concerned, it will not do to transfer them to some other authority. The High

Court cannot delegate its authority to the Chief Commissioner or to the district judge or to somebody else. There you have to make up your mind and make a choice between whether the Andaman and Nicobar Islands will continue to be ruled by the Chief Commissioners as before, exercising the functions of the High Court, or whether they would have a full fledged High Court dealing with these matters. In view of the distances and the unsatisfactory state of the communications and transport, there is bound to be difficulty. Every attempt will, however, be made in framing the rules to meet all the requirements; but judicial functions can be exercised only by the judges. It is not practical politics to have a Division Bench sitting all the time there. But there is provision in this Regulation that whenever the Chief Justice desires and thinks it necessary that one or more judges should go over and sit there for a certain limited time, say for two or three months, then they will go, and that is the utmost that can be done under the present circumstances.

Let us hope that not merely for the benefit of litigants, but also for the sake of Members of Parliament who frequently have to apply for leave of absence due to being held up in the Andaman and Nicobar Islands for want of transport

DR. RAGHUBIR SINH: That is in the other House.

SHRI C. C. BISWAS: Well, I do hope that such applications will not be necessary, and something will be done in the near future to bring the Andaman and Nicobar Islands much nearer.

SHRI RAJAGOPAL NAIDU: With regard to the rule-making powers, I find in clause 4:

"Subject to the provisions of any law for the time being in force, the High Court at Calcutta may make rules to carry out the purposes of this Act and for the purpose of effectively exercising its jurisdiction in or in relation to Chandernagore."

My suggestion is that we should also reserve power to frame rules to be made under this Act so that if anything is necessary we can make the required rules. As it is, the rule-making powers have been delegated completely to the Calcutta High Court.

SHRI C. C. BISWAS: The matter relates to the exclusive jurisdiction of the High Court and the High Court is the proper authority to whom rule making powers should be given in this behalf. I do not think this House should impose rules on the High Court and.....

DR. RAGHUBIR SINH: Where is the scope for that?

SHRI C. C. BISWAS: This House will not, I suppose, like to interfere with the High Courts in the exercise of their jurisdiction. They are the best authorities to frame the rules for the proper conduct of their business.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to extend the jurisdiction of the High Court at Calcutta to Chandernagore and the Andaman and Nicobar Islands be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration.

There are no amendments of which notice has been received.

Clauses 2, 3 and 4 were added to the Bill.

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

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

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI K. S. HEGDE: I take this opportunity, Sir, to make one suggestion about a practice which prevails in several other legislatures. We have been finding that there are a number of drafting mistakes in several of the Bills that are coming before the House and I would like to suggest that the hon. the Law Minister may be pleased to move the House and, probably, the other House as well, to appoint a small Drafting Committee which could scrutinise the Bill when drafted by the Law Department and make suggestions. At the stage when the Bill comes before the House, there is neither the time nor the patience on the part of the Government to accept even reasonable suggestions for improving the Bill in question. I can appreciate to some extent the psychology lying behind this attitude. Once having come to the House with a Bill, there is anxiety on the part of Government to say that they have been right even when inwardly convinced that there may be some mistake here or there. That is what is called prestige—a factor that would always be there and, apart from it, the rush of work on several occasions would be so great that even if there are some mistakes, we would like to go ahead thinking that if necessary we will amend it later. In fact, in one of the Select Committees where I was sitting, I had an occasion to discuss with the officers of the Law Department. In fact I suggested one or two minor amendments with a view to improving the Bill; then, I was told, 'Sir, if you suggest these things now, the course of discussion will drag on. We will amend the Bill if necessary at a later stage'. This is the attitude to some extent shown by the Government in this House as well as the other House. After all, when a Legislature passes a Bill, it must be as good, as best as possible and it must be artistic. At present all sense of art is lost. Probably the quantum of work may be the reason.

MR. DEPUTY CHAIRMAN: It is rather legalistic,

SHRI K. S. HEGDE: It is rather the legal art and I think the Law Minister, an ex-judge of the High Court will be in the.....

(Interruption by Shri C. C. Biswas.)

..... know of things and, as an ex-judge he probably had occasion to criticise the draftsmanship of some Bills. So, why not set an example?

SHRI C. C. BISWAS: If there is an expert on draftsmanship in this House, I would gladly avail myself of his services. No doubt I know that the legal.....

PROF. G. RANGA (Madras): The best thing is to invite them.

SHRI H. P. SAKSENA (Uttar Pradesh): We are not here to draft your Bills.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI C. C. BISWAS: To improve the drafting of my Bills.

SHRI K. S. HEGDE: It will not be possible for a lawyer Member to be a better draftsman than the draftsman but, you must also understand that more heads are better than one

SHRI C. C. BISWAS; But too many cooks may be spoiling the broth.

SHRI K. S. HEGDE: With you there as a guardian angel, you can see that the broth is not spoiled. At the same time, if you place it before a Committee with some experts on drafting, that Committee would be able to suggest certain changes which in a cooler atmosphere you might be in a mood to accept. When the Government come to the House, necessarily there is an excited atmosphere; naturally you close your minds to the suggestions and often times say, "Well, I don't understand your point of view". We hope that we will be able to persuade the.....

SHRI C. C. BISWAS: Do you mean to suggest that even when the Minister understands, he still maintains that he does not understand?

SHRI K. S. HEGDE: So that the Ministers can understand us and we can make ourselves understood by the Ministers. That is why, Sir, I suggest this; it is a practice prevailing in a number of legislatures. You appoint a small Drafting Committee; that Committee will go through the Bill and make, if necessary, suggestions. If you please, you can accept it and thereby.....

MR. DEPUTY CHAIRMAN: Which is the legislature that has got a Drafting Committee?

SHRI K. S. HEGDE: If the Deputy Chairman wants, I am perfectly willing to give the names. A number of legislatures are having, especially in the Continent.

PROF. G. RANGA: Prof. Laski himself was making the suggestion.

SHRI K. S. HEGDE: Prof. Laski gives the names of the legislatures where they are having Drafting Committees.

MR. DEPUTY CHAIRMAN: After all, these are suggestions for action.

SHRI K. S. HEGDE: Yes, and it does not require any amendment of the Constitution. There is no difficulty at all.

MR. DEPUTY CHAIRMAN; Nor any amendments to this Bill.

SHRI K. S. HEGDE: We are in the third reading of the Bill with a lot of time hanging over us.

MR. DEPUTY CHAIRMAN: The cat is out of the bag.

SHRI K. S. HEGDE: We are making suggestions to the hon. Minister to consider whether it is not possible to constitute a Committee to supervise the drafting and make necessary change in the Bills.

SHRI C. C. BISWAS: Sir, I am thankful to my hon. friend.....

MR. DEPUTY CHAIRMAN: Mr. Vaidya wants to say something.

SHRI KANHAIYALAL D. VAIDYA (Madhya Bharat): A few words, Sir.

SHRI C. C. BISWAS: I am thankful not only to Mr. Hegde but.....

MR. DEPUTY CHAIRMAN: Mr. Vaidya wants to say something.

SHRI KANHAIYA LAL D. VAIDYA:

श्री कन्हैयालाल डी. वैद्य : उपाध्यक्ष महोदय, इस बिल पर जो बहस इस समय हुई उस से एक बात यह स्पष्ट हो गई है कि अगर यह बिल सेलेक्ट कमेटी (Select committee) के सामने जाता तो जो प्रश्न इस सम्बन्ध में उठाये गये थे वे अच्छी तरह से समझ में आ जाते। इस सदन द्वारा जो बिल पास हो कर निचली सदन में जाते हैं वहां पर अधिक सुधार का अवसर नहीं आता है।

दूसरा मुझाब तीसरी रीडिंग (reading) में मैं यह देना चाहूंगा और जैसा कि अभी हमारे माननीय मंत्री महोदय जी ने कहा कि अन्डमन और निकोबार के लिए एक बेंच (Bench) हमेशा के लिए स्थाई रूप में नहीं रह सकता है। ठीक है, मैं भी इस चीज को उचित नहीं मानता किन्तु कुछ दिन पहिले इस हाउस में ट्रावनकोर कोचीन के हाईकोर्ट (High Court) के एक बेंच को एक्सटेन्ड (extend) करने के लिए एक बिल इस हाउस द्वारा पास किया गया था और माननीय गृह मंत्री श्री काटजू ने उस बिल को रखा था। उन्होंने उस समय इस बात को स्वीकार किया था और उन्होंने स्वयं कहा था कि दूसरे देशों में इस प्रकार के कोर्ट होते हैं जो कि दूर स्थानों में जा कर कार्य करते हैं, क्या यह बात इस स्थान के लिये सम्भव नहीं हो सकती है। इस

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बिल में इस तरह का कोई विधान नहीं है कि वहां पर इस तरह कोई कोर्ट कायम किया जा सके। फिर भी जो नियम बनाया जा रहा है उस में इस तरह की व्यवस्था की जा सकती है कि कलकत्ता हाई कोर्ट का एक या अधिक जज उतने समय के लिए वहां पर जाया करें जब कि वहां पर अपील सुनने का समय आवे। पिछले दिनों जब ट्रावनकोर कोचीन हाईकोर्ट बिल वहां पर रक्खा गया था तो यह बतलाया गया था कि २०० मील से कम दूरी के अन्दर जनता की सुविधा के लिए एक बेंच कायम किया जा रहा है। हमारे ला मिनिस्टर साहब ने यह बात स्वीकार की है कि कलकत्ता से अन्डमन निकोबार की दूरी ७५० मील के करीब है। मैं समझता हूं कि हिन्दुस्तान के किसी भी प्रान्त में हाईकोर्ट इतनी दूरी पर नहीं है जितनी दूरी पर अन्डमन और निकोबार की जनता के लिए रखा जा रहा है। अन्डमन और निकोबार द्वीप अपनी एक कहानी रखते हैं। वहां का शासन पार्ट डी [part (D)] के नाते एक पिछड़ा वर्ग का शासन है, इसलिए यह हमारे लिए परम आवश्यक है कि वहां की जनता की सहूलियत के लिए वहां की जनता को योग्य बनाने के लिए जितना भी मुलभ और सस्ता न्याय हो सके दिया जाय। इस विषय में जो भी मुझाब सदस्यों की ओर से दिये गये हैं उन्हें केन्द्रीय सरकार को ध्यान में रखना चाहिये।

माननीय ला मिनिस्टर साहब को इस बात का ध्यान अवश्य रखना चाहिये कि कलकत्ता हाई कोर्ट के नियम बनाते समय वह इस बात का अवश्य खयाल रखें कि अन्डमन और निकोबार की जनता की सुविधा के लिए इस तरह की व्यवस्था हो जाय कि वहां कुछ समय के लिए एक बेंच वहां की जनता की अपीलों को सुन लिया करे जिससे कि लोगों को कलकत्ता आने जाने की असुविधा न होने पावे।

[Shri Kanhaiya Lai D. Vaidya.]

अगर सरकार की ओर से वहाँ की जनता के लिए सस्ते और सुलभ न्याय की व्यवस्था हो गई तो वहाँ की जनता के दिल में यह भावना दृढ़ हो जायगी कि हिन्दुस्तान के साथ सम्बन्ध होने के कारण हम को हर प्रकार की सहूलियत मिल रही है। मुझे आशा है कि माननीय मंत्री जी इस तरह की व्यवस्था अवश्य कर देंगे।

[For English translation, see Appendix IV, Annexure No. 152.]

SHRI C. C. BISWAS: Sir, I must first express my thanks to the Members of this House for helping to keep us occupied so long. I thought it would be over in a little over fifteen minutes.

SHRI GOVINDA REDDY: You have had your say.

SHRI C. G. K. REDDY (Mysore): The Leader of the House was led in the matter.

SHRI C. C. BISWAS: As regards the suggestion which my hon. friend, Mr. Hegde, has made, I think, if I may do so with respect, I may offer a better and a more practical suggestion. Of course, in these days of democracy, there are Members in this House drawn from all vocations, professions and so on, and many of them put forward amendments which possibly are not in the best legal form. Sometimes amendments are sprung almost on the floor of the House. They are accepted and then those amendments become a part of the Bill. I should have liked that a rule was made by which all the amendments that might be accepted by the House should all be referred back to a committee, and the whole Bill should be examined in a manner which will make the amendments fit into the rest of the Bill. It is common experience, and it is the experience which I had as a Judge that certain parts of an Act seem to be inconsistent with certain other parts. When

the matter was enquired into as to how it happened, it appeared that those parts had been moved in the House and then and there accepted without any examination, without considering the bearing of those parts on other parts of the Bill. As a matter of fact, I remember, a long time ago, having read an article by Sir Alladi Krishnaswami Iyer—unfortunately he is missing here for many days—in which he made the suggestion that in these days of democracy amendments should be allowed to be moved in any form which would express the mind of the mover, but then it should be the duty of some legal committee, whether it is a committee of the House or a Committee of the Ministry, whichever it is, to examine these amendments with reference to the rest of the Bill, and that after that is done, the complete corrected Bill should be again brought before the House for its final acceptance. In that case the chances of accidental or casual errors would be minimised to the greatest extent. That is a more sensible suggestion. But some of my hon. friends here suggested that in framing the Bill we should have a small committee. Sir, the Ministry cannot divest itself of its responsibility.....

PROF. G. RANGA: It is only a matter of detail. You frame the Bill and you make yourself responsible for the principle underlying the Bill and the clauses of it. What was suggested was that only in putting it together into proper shape you consult this committee, and that is not interfering with your policy.

SHRI C. C. BISWAS: If I follow my hon. friend aright it means this. The Bill is drafted by the draftsmen before it is placed before the House. It is referred to a Standing Committee. Very good.

PROF. G. RANGA. The small standing Committee according to your suggestion may be empowered later on also to look into those amendment!.

that come from the Members of the House and then put them into shape.

SHRI C. C. BISWAS: The Ministry would only be too pleased and too thankful to be relieved of a part of its duties. You do not know how hard pressed they are. It is all very well here for my friends to say all manner of things against them. That is not fair. I know the draftsmen, I mean many draftsmen in our Ministry, and those who are there have got to make themselves responsible for the proper drafting of the Bills. That is a long and laborious process and you do not know how many stages a Bill passes through before the Bill assumes a final shape and then is presented before the House. If you read the notings in respect of this very Bill itself, you would see in respect of how many points questions were raised by this Ministry, that Ministry and so on and so forth. They had to be adjusted and we had to examine them carefully and then a final shape hammered out. All this takes time. (*Interruption.*)

Therefore I do not know at what stage the services of my friends here on a small drafting committee might be utilised. At the last stage?

AN HON. MEMBER: At the last stage.

SHRI C. C. BISWAS: Last stage? That might mean reopening the whole matter.

PROF. G. RANGA: No, no.

SHRI C. C. BISWAS: May not be in this case, but in some cases that may happen and the drafting Committee may introduce some new ideas and if those ideas are discarded at that moment you could say 'This is showing disrespect to the Committee and so on and so forth.' Therefore these are the inherent difficulties.

PROF. G. RANGA: They never examine the language.

SHRI C. C. BISWAS: It is not a fact, but the drafting branch of the Ministry would like to be relieved of its duties as much as possible.

SHRI K. S. HEGDE: We are not relieving them of their duties, Sir. After they draft them, they will be considered by a committee.

SHRI C. C. BISWAS: However, Sir, there are practical difficulties in the suggestion. Then again you forget that lawyers never agree with each other, and it is their profession to differ from each other. There is the tendency among them to pull in opposite directions and in that case you can never see the end of your labours. At the same time, as you all know, lawyers are a necessary evil in every walk of life, social, legal and so on.

I am thankful to my friends who have made suggestions and they will be considered. That is all I have got to say.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

We will take up the Income-tax (Amendment) Bill to-morrow in addition to the other two Bills. Two days will be allotted for discussion. Amendments can be sent till 3 o'clock to-morrow.

AN HON. MEMBER: We have not got the Bill, Sir.

MR. DEPUTY CHAIRMAN: You are getting it immediately.

The House stands adjourned till

A.M. to-morrow.

The Council then adjourned till a quarter past eight of the clock on