

[Shri D. P. Karmarkar.]

Gripe Water were placed before me and I was asked which was the right one and which was the wrong one. Having never taken Gripe Water myself, I was unable to say which was the spurious drug. So there is this question of adulteration of drugs etc. It is most important that our consumers, the people who are sick, get the right type of medicines, the right type of curative appliances. One of the principal objects of the present Bill is to see that things are made available to consumers at a reasonable cost. So many of these things cost so much as a result of the import duty. Sometimes the import duty is sixty per cent. Over and above the import duty you have to have a margin for the wholesaler, a margin for the retailer, and so on. The other day, I found that the medicine was costing three times its price in England. This is due mainly to the fact that the importer has to pay duty, and there are also the incidental expenses to be added. So the present Bill has been made with a view to eliminating these importation costs so that the indigenous manufacturer might open up a patent in the case of food articles, curative appliances, drugs, medicines, etc. This is an aspect of the question which we very often forget. Therefore, Sir, I ask the co-operation of this House and the public. Unless public co-operation is mobilised in a constructive way in respect of articles like food, drugs, medicines, curative appliances, etc., I think we would be failing in our duty, as a Government of the people, if we do not enlist the co-operation of the public in an effort like this. Sir, I move that the Bill be passed.

SHRI RAMA RAO : Sir, by virtue of this enactment, do Government reserve to themselves the powers to see that proper prices do prevail ?

SHRI D. P. KARMARKAR : Sir, as my hon. friend is doubtless aware, regulation of prices is done by another Act, but so far as the object of this Bill is concerned, it is not only to make things available within the

country, but also to see that they are available at proper prices. That is one of the cardinal objects.

SHRI RAMA RAO : May I ask whether, by granting licences under this Act, Government have powers to insist upon certain prices being kept. Have the Government any control before they issue the licences to regulate prices ?

SHRI D. P. KARMARKAR : In respect of this, the Tariff Commission will go into the question of prices. This matter also comes with in the purview of the Industries Development Bill to see that proper prices are fixed. But we cannot fix the prices of articles under the Patents Law. It will however be a matter for anxious consideration of the Government to see that prices are one of the criteria in the administration of the law.

SHRI K. C. GEORGE (Travancore-Cochin) : Is there any arrangement, made under the law, for checking the quality of the goods, before licences are issued ?

SHRI D. P. KARMARKAR : That is regulated by the present Act and the Health Act is doing its best for quality control. But in spite of that measure, I want that before a licence is given, certainly, Government should weigh all factors, their financial position, their reputation and so it will be always the anxiety of the Government that qualities are maintained under the law.

MR. CHAIRMAN : The question is :

That the Bill further to amend the Indian Patents and Designs Act, 1911, as passed by the House of the People, be passed.

The motion was adopted.

THE MYSORE HIGH COURT (EXTENSION OF JURISDICTION TO COORG) BILL, 1952

THE MINISTER FOR HOME
AFFAIRS AND STATES (DR. K. N.
KATJU) : Sir, I beg to move :

That the Bill to extend the jurisdiction of the High Court of Mysore to the State of Coorg and to provide for matters connected therewith, as passed by the House of the People, be taken into consideration.

Mr. Chairman, this Bill is a very simple one. As the House may be aware, Coorg is one of the smallest States. Formerly, there used to be a Judicial Commissioner who was the highest judicial authority. That was found to be inconvenient and so in 1948, by an enactment the final appellate authority was transferred to Madras and at present, appeals, that is, final appeals, are taken to Madras by the Coorg litigants. In the neighbouring State of Mysore, we have a very efficient judiciary, if I may say so, and a competent High Court. It is very near Coorg. In order to go to Madras, you have to pass through Mysore and Bangalore. The language is also common. Therefore, the object of this Bill is that the appellate authority which is at present vested in the Madras High Court should now be changed and vested in the Mysore High Court. We have to bring this legislation before Parliament because we are dealing with High Courts. Both the Governments have agreed to the proposal and arrangements have been made in that direction.

I should like to make one point clear. This Bill is intended to have no effect on any other matters which relate to courts and their administration. It means what the name implies, namely, that the appellate authority shall vest with the Mysore High Court instead of the Madras High Court. The Bill only deals with that. The rest of the provisions, namely clauses 4 and 5, are only consequential and deal with enactments or decrees and judgments passed already by the Madras High Court. I hope the House will approve of this Bill.

MR. CHAIRMAN : Motion moved :

That the Bill to extend the jurisdiction of the High Court of Mysore to the State of Coorg and to provide for matters connected therewith, as passed by the House of the People, be taken into consideration.

SHRI S. MAHANTY (Orissa) : Sir, the Bill under discussion seeks to provide for matters connected with the bringing of Coorg under the jurisdiction of the Mysore High Court.

Sir, as we all know, Coorg is a C class State enjoying a C class democracy, and God save Coorg if a D class judiciary is going to be imposed upon her. The Bill is to extend the jurisdiction of the Mysore High Court to Coorg and to provide for matters connected therewith. Whatever it may be, what I intend to submit before this hon. House is that on this occasion the hon. the Home Minister should reiterate once again his faith in the independence of the judiciary. Sir, in the meantime, certain affairs have taken place somewhere in this Indian Dominion which have made us lose all our faith in the independence of our judiciary. Sir,.....

MR. CHAIRMAN : Please confine your remarks to this particular Bill.

SHRI S. MAHANTY : Yes, Sir, I am coming to it. Sir, in the last session, the hon. the Home Minister paid a great tribute to the judiciary. It is because his intellectual development has taken place in an atmosphere of independent judiciary and has drawn inspiration from its traditions. An independent judiciary is the life-blood of democracy. When the executive is in the hands of parties, the only safeguard for those outside the party is the judiciary. But when that too is sought to be corrupted or is enslaved, then the last vista of a rule of law is lost. Sir, this House will be astounded to learn about an instance which I may here mention. It is a case where a Judge acted more as a Congressman than as a High Court Judge.

SHRI K. S. HEGDE (Madras) : On a point of order. Is it relevant at all ?

MR. CHAIRMAN : You see you have taken a minute or two. It is not a question of the independence of the judiciary or the interference of the executive or the wearers of the khaddar caps. We have nothing to do with all these matters.

SHRI S. MAHANTY : The Bill is meant to provide for matters connected with a High Court. That is why I speak about the independence of the judiciary. What I intended to tell this House is that this House will be astounded to learn that on 26th August 1952, somewhere in this independent, Sovereign Democratic Republic of India a meeting presided over by the Governor of a State and attended by high judicial officers and executives of the State Government was held for the purpose of disposing of criminal cases. If we are going to get this sort of judiciary, then, God save the people from them.

Sir, really matters have come to that stage that in my own place, in the State of Orissa, we have absolutely lost all faith in justice and you know what will happen when people lose their faith in justice. I might have been found irrelevant. I beg to be excused for it. We all know this is only a simple Bill and we can pass it in five minutes. But why I took this occasion to say a few words is to impress upon the Home Minister that he should reiterate once again that such state of affairs will not be repeated again.

SHRI C. G. K. REDDY (Mysore) : Sir, I hope what I have to say will not bring out any interruption because I am going to concentrate my attention over this innocuous Bill which extends the jurisdiction of the honourable High Court of Mysore. In the Statement of Objects and Reasons and the introductory remarks that the hon. Minister has passed in this House today, I find he has in the main stated two reasons for bringing this Bill before this House and ordinarily those reasons would be very valid and very strong reasons against which no Member of this House or any member of the public outside would have any objection. He said, Sir, that Coorg is very near Mysore and therefore it would be more convenient for the people of Coorg to get the justice that they want in the State of Mysore. We know, Sir, that it is one of the

accepted principles of jurisprudence that we must get not only justice but speedy justice. Speedy justice means not that we will be able to reach the High Court to which we are attached in a matter of two hours than in a matter of 24 hours. I do not think that connotes the real meaning of speedy justice. Speedy justice should mean that the people who go to whatever High Court that they are attached to, should get justice and that speedily. I submit that the High Court of Mysore has never administered speedy justice to the people of Mysore.

SHRI GOVINDA REDDY (Mysore) : Question.

SHRI C. G. K. REDDY : Yes, my hon. friend will say 'question'. But I shall answer his question even before his chance comes, in my speech.

Now, Sir, I do not think that the people of Coorg have deserved the infliction of the High Court of Mysore on them. Sir, he also said, I think, that the question of language also comes, the same language is there and therefore justice in Coorg would be better administered by the High Court of Mysore. But that is not a very sound argument because there are other people who speak Kannada in the State of Madras who are attached to the High Court of Madras. Now, Sir, when I say that the High Court of Mysore has not given speedy justice, I also mean not only 'speedy' but 'justice' as well.

DR. K. N. KATJU : May I, Sir, respectfully invite your attention and submit that it is not desirable that reflection should be made on any High Court in regard to the administration of justice or individual judges?

SHRI C. G. K. REDDY : I am very thankful to the hon. Minister for that but I would assure him that I would be the last person to cast any reflection on an institution which should be looked upon with the greatest respect. But in this particular case it gives me considerable

pan that I should say something which people have so far dared not say in Mysore. I think it is perfectly relevant because I find that the High Court of Mysore has not conducted itself in a manner which ought to ensure justice to the people of Mysore.

SHRI GOVINDA REDDY : I beg to submit in this connection that the Member is not in order because the question of the competency of the High Court of Mysore is not relevant here. If the hon. Member has any grievance against the High Court of Mysore, there are other remedies open to him under the Constitution for getting redress.

SHRI C. G. K. REDDY : Sir, I am perfectly aware of the constitutional provisions that I cannot question the conduct of a judge of a High Court except on a substantive motion. When the time comes—and I hope the time will soon come—it may be necessary for me to bring forward a substantive motion in that respect. But I am not casting any reflection on a judge of the High Court of Mysore and I am merely speaking about the manner in which the High Court of Mysore has been administering justice to the people of Mysore. I will confine myself.....

MR. CHAIRMAN : I think, Mr. Reddy, there is a provision in the Constitution in article 211 which says :

“No. discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.”

SHRI H. D. RAJAH (Madras) : That pertains to the States.

MR. CHAIRMAN : But the sense of it is clear that we should not question here in any Legislature the conduct of a High Court as such or of any High Court Judge. All that I say is that you can do so on an independent motion.

SHRI C. G. K. REDDY : Sir, I do not intend to bring into question the conduct because the constitutional provision is there.

PROF. G. RANGA (Madras) : If I am not interrupting the hon. Member, the only point is this, Sir. We may be controlled by such a provision in regard to the Supreme Court here but so far as the High Courts are concerned, there must be some forum where their general conduct might have to be referred to.

MR. CHAIRMAN : All that I say is that that may be done on an independent motion but not in this indirect way.

SHRI C. G. K. REDDY : I won't say anything until you have given me a final ruling on the line that I am taking. The hon. Minister may be assured that I am not going to cast any reflection.....(*Interruption*).

When the Government brings a legislation especially in respect of the extension of the jurisdiction of any State agency—this is a State agency—then naturally we have to say something about the State agency if we are to give our support to a Bill of that nature. Otherwise the Bill need not be discussed at all. The Bill could be an executive order. I do not see how the introduction of a legislation of this type could take place if the hon. Members present here cannot express any opinion on the State agency, namely, the High Court of Mysore, whose jurisdiction is intended to be extended. Now, Sir, I shall realise my responsibility and I will also act with the Home Minister's intentions of seeing to it that justice is not impaired by casting reflections on the agency which purveys justice. But I will have to say something to establish my contention that the people of Mysore are not getting speedy justice and therefore we should not inflict this non-speedy justice on the poor people of Coorg.

[Shri C. G. K. Reddy.]

Sir, I will confine my remarks by saying something—I do not know whether he is aware that during the last two years not one *writ of mandamus*, *habeas corpus* or any other writ has been decided by the most honourable High Court of Mysore. I may also say—it may surprise him.....

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DR. K. N. KATJU : With your permission, may I respectfully submit that my hon. friend in spite of saying that he is not going to cast any reflection on the High Court, has been doing it repeatedly and has disregarded your ruling ?

MR. CHAIRMAN : You have conveyed your point. I think your whole point is that speedy justice is not being administered by the Mysore High Court. You want to get into details.

SHRI H. D. RAJAH : But it is a fact.

MR. CHAIRMAN : All that I say is that if you want to discuss that in detail, you may have an independent motion. On this motion be as brief as possible.

SHRI C. G. K. REDDY : How can I impress my arguments on the hon. Members present here if I do not...

MR. CHAIRMAN : If you do not want the extension to be granted, say that you do not want it because you feel that speedy justice will not be meted out. You have made your statement.

SHRI C. G. K. REDDY : I will have to elaborate it.

MR. CHAIRMAN : Well, I am afraid you will have to be very brief, as brief as it is necessary.

SHRI C. G. K. REDDY : There is also another point. The hon. Member said there has been no case. I can show him a number of cases where leave for appeal has been hanging

in the High Court and which has been refused. Not one case has come to the Supreme Court of India through the High Court of Mysore.

SHRI K. S. HEGDE : On a point of order. Is it not questioning the judicial decision of the High Court ?

MR. CHAIRMAN : Be brief.

SHRI C. G. K. REDDY : With all these interruptions I lose my trend of thought. I can assure my hon. friend Mr. Hegde that I am as anxious to see that our people get justice.

SHRI GOVINDA REDDY : Only the hon. Member is not relevant.

MR. CHAIRMAN : You will have a chance of answering and he will not interrupt you then.

SHRI C. G. K. REDDY : If the hon. House will kindly allow me to proceed, it will help. I know it appears to be a very highly controversial measure although the hon. Minister thought that it was going to have an easy passage. By the fact it is controversial, there is something in it. Even during those British times as I understood it, the High Court of Madras would give speedy justice. As such as an appeal went from anybody, immediately justice would come. I may quote an example (*Interruption*). The hon. Minister says it is irrelevant but it is necessary that when you bring in a measure of this type, when there is something behind this measure, I have to say something. I would therefore most earnestly appeal to the hon. Minister to listen to me patiently and see if I have made out a case. Of course he has decided to push through this legislation but give me an opportunity to state my case.

In 1944 I knew much less of law than I think I know at the present moment. At that time I was in the Vellore central jail. Something happened inside the jail and I sent in an appeal to the High Court of

Madras. Within 48 hours I got a reply and the High Court of Madras gave me facilities to represent my case. But let us see what happens in the year of grace 1951. Again I was in jail and I sent in an application saying that I had been wrongly arrested and detained. The letter was not sent by the jail authorities. I asked them to send a telegram. They did not send it. I gave another petition to the High Court saying that the jail authorities should be hauled in for contempt of court. That letter was not sent. The answer of the jail authorities was that unless they got the orders from the Deputy Commissioner and the Government of Mysore, they would not be able to forward that application. Eventually, I don't know what happened—the Government must have given permission after 7 days. A writ for *habeas corpus* was stopped for 7 days in spite of the fact that I had appealed to the High Court to take contempt of court proceedings against the jail authorities.

The hon. Minister knows, even in those black days of 1941, 1942, 1943, 1944, 1945 and upto 1947 what would have happened to the jail authorities if they did such a thing. After fifteen days I was released by the magistrate who held that I had been wrongly arrested and detained.

A month after I was released, this writ was discussed in the High Court of Mysore and the High Court said that the Government had no business to forward this application. They should not waste the time of the High Court by forwarding this application. I think I know some law—which has been refuted by my hon. friend—probably I don't know what the law of the land today is, but, I do think that when a prisoner appeals to the High Court that he has been wrongfully detained, no power on earth can stop that appeal reaching that High Court and yet that appeal was stopped by the Government for a long time and when it did allow that appeal to go

through, the hon. High Court of Mysore said that the appeal should never have been forwarded. I am sure the hon. Home Minister will throw better light on it.

Now, Sir, this is one particular instance and I have also added to it by telling the hon. Home Minister that no writ has ever been decided by the High Court of Mysore. If it has ever been decided, it was decided at a time when it was highly infructuous, when the need had gone. In every case of *habeas corpus* it has been decided when no decision was necessary, when the prisoner was released or when he was dead.

Now I am sure the hon. Home Minister will not contend that the Government of Mysore is the most benign Government in the whole of India and the people there don't have any necessity of asking for a writ from the High Court. If that is his contention, I have nothing to say. If he thinks that the Government of Mysore errs as often at least as the Governments of Madras or Bombay or any other State, then it is possible that the people there would be asking for relief from the High Court and the High Court would have to give the relief. But in spite of the fact that there have been many instances of Governments acting against the liberties of the citizens, when writs have been moved in the High Court they have never been decided.

SHRI J. R. KAPOOR (Uttar Pradesh) : For how long have they been pending ?

SHRI C. G. K. REDDY : The hon. High Court of Mysore takes its own time.

SHRI J. R. KAPOOR : I would like to know the period.

SHRI C. G. K. REDDY : I gave an example to the hon. Member—my own case where it was kept pending until after the prisoner was released and then it said that it is no more

[Shri C. G. K. Reddy.]
 necessary because he has been released.
 I may quote another instance if you
 will allow me.

MR. CHAIRMAN : I think, Mr.
 Reddy, the discussion so far as the
 delay in justice is concerned is quite
 all right. You have said that speedy
 justice is not available and you have
 quoted an instance where there has
 been a delay which made the writ
 unnecessary or superfluous.

SHRI C. G. K. REDDY : I said
 there has been not one instance where a
 writ has been decided, where any
 relief has been given by them.

MR. CHAIRMAN : Proceed to the
 next point.

SHRI C. G. K. REDDY : I may
 say—I don't know whether there will be
 any loud protest. There was another
habeas corpus petition.....

MR. CHAIRMAN : I did not
 mean next illustration. The next con-
 sideration.

SHRI C. G. K. REDDY : Not
 only are writs disallowed by the High
 Court but it pains me very much to
 say that highly irrelevant things are
 also brought in when such things are
 being decided.

MR. CHAIRMAN : In the High
 Court or in the House ?

SHRI C. G. K. REDDY : I hope
 I am perfectly relevant.

DR. K. N. KATJU : The whole
 speech is irrelevant.

SHRI C. G. K. REDDY : Does
 he mean irrelevant or inconvenient....

SHRI B. RATH (Orissa) : May I
 know as to who has to decide the
 relevance or irrelevancy ? Is it your-
 self or the hon. Home Minister ?

MR. CHAIRMAN : Mr. Reddy, be
 brief.

SHRI C. G. K. REDDY : I have
 many things to say. The hon.
 Minister has not the patience. So
 many of my hon. friends take up the
 cudgels and I have lost my trend of
 thought.

MR. CHAIRMAN : You have not
 lost the trend. You are not so weak
 in intelligence as to lose the trend by
 these interruptions.

SHRI C. G. K. REDDY : I have
 a feeling, and a very genuine feeling,
 that the hon. Minister has decided
 himself that what I say is highly ir-
 relevant—I would say highly incon-
 venient to him—and therefore he is
 not going to take any notice of it.
 But I should like to say this very de-
 finitely, that this is a matter on which it
 is not possible ordinarily to make a
 complaint, and therefore, I have taken
 this opportunity of bringing to the
 notice of the hon. Minister that this
 is what is happening in the High Court
 of Mysore. Now, I would like to
 have an assurance from the
 hon. Home Minister on this matter.
 There is only one remedy to correct
 this. Will he be able to assure me
 that he will so arrange matters that
 there will be inter-transfers of judges
 between Mysore and other States ?
 If that is done, this defect may be
 corrected. If it is not corrected,
 then the same thing will go on. It
 is not as if the hon. Minister—in spite
 of his saying that my remarks are ir-
 relevant—does not know the feelings
 of many people in the State of Mysore
 regarding the manner in which justice
 is being administered by the High
 Court of Mysore. If he does not
 know, then I cannot help it. But
 it is common knowledge throughout
 India that there is a feeling that the
 High Court of Mysore does not give
 speedy justice. Therefore, unless he
 assures me that he will so arrange mat-
 ters and have transfers between the
 High Court of Mysore and other High
 Courts, I must take upon myself the
 painful duty of opposing this so-called
 innocuous Bill, in the name of the
 people of Coorg, though unfortunately
 I do not represent them here. But I do
 feel that the people of Coorg who

are an extremely charming and fine people, have not committed any sin that.

SHRI H. D. RAJAH : Infliction.

SHRI C. G. K. REDDY : That this infliction on the people should take place through this Bill.

SHRI K. S. HEGDE : Sir,

*MR. CHAIRMAN : I tell you one need not imitate the other.

SHRI K. S. HEGDE : Sir, I thought there was nothing to be said except in support of this Bill. But it has become the fashion with some sections of this House to oppose any measure that comes up because they are in the Opposition. Now, Mr. Reddy very correctly said that he does not represent Coorg, that he does not know the Coorg mind and yet he thinks he is saving the people of Coorg from deceiving themselves. But I may say that this Bill has been brought before the House at the request of the Government of Coorg and at the request of the people of Coorg. It may be well worth knowing even for Mr. Reddy that so far as Coorg is concerned, geographically.....

SHRI C. G. K. REDDY : Does the hon. Member represent Coorg ?

SHRI K. S. HEGDE : No, but I know Coorg much better than you do.

SHRI S. MAHANTY : Is he addressing the Chair, Sir ?

SHRI K. S. HEGDE : I may tell my hon. friend that there has been an agitation in Coorg, by the people there, that so far as judicial jurisdiction is concerned, it must be merged with the Mysore State. I may also enlighten my hon. friend that there is a large section of the people in Coorg who think that the merger of their area with the State of Mysore would be in the best interests of Coorg. I may also tell my hon. friends who come from outside that even in the district ad-

joining Coorg, *i.e.*, my district there is a feeling that not only Coorg but they also should be merged with Mysore.

SHRI C. G. K. REDDY : South Kanara ?

SHRI K. S. HEGDE : Yes, that South Kanara too should be merged with Mysore. Sir, I am a lawyer and a practising lawyer. I don't know if my hon. friend is a lawyer ; he may be a lawyer, but not a practising one. And I can say that as far as delay in justice is concerned, that is a virtue not peculiar to Mysore alone, but it is a virtue common to all the High Courts. I may tell him that even in Madras High Court—one of the best High Courts of the land with very good judges—there are appeals pending for six years and more. Possibly Mr. Reddy does not know.

SHRI C. G. K. REDDY : I was talking about writs. I know about appeals.

SHRI K. S. HEGDE : And so far as Mysore is concerned, Bangalore where the High Court is situated is about 170 miles from Coorg whereas Madras is nearly 500 miles away. And there is no railway connection between Coorg and Madras. More than that, there is another difficulty which clientele will certainly experience is that of language. However much one might speak against linguistic ideas or formation of linguistic provinces, the language difficulties are always there and if you can iron them all out it will all be to the good. All the documents in Coorg being in Kannada, if the appeals go to the High Court of Madras where probably no judge knows the Kannada language, the judge will not be able to decide the case properly. So far as the Mysore High Court is concerned, practically all the judges know Kannada. Moreover, Coorg and Mysore more or less form one integral geographical unit, not only a geographical unit but also a cultural and linguistic unit as well.

[Shri K. S. Hegde.]

This occasion, Sir, has been availed of for slinging mud at the judiciary. There is, I know, a sense of frustration among several people. My hon. friend from Orissa said that some judge had made some remark. But I can assure him that our judges are by and large, far superior not merely in intelligence but even in integrity if you compare them with the judges in any other part of the world.

SHRI C. G. K. REDDY : Yes, I agree, by and large, they are.

SHRI K. S. HEGDE : Exceptions there may be, and they only go to prove the rule. Our judges can stand comparison with judges of any other place, not even excluding England which has got the best judiciary in the world. Our judges are brought up in the traditions of British jurisprudence and they are trying their best to uphold the same traditions. It will be very painful indeed, if irresponsible remarks are made about the judges on the floor of the House, as they are not here to answer them, unfortunately.

Mr. Reddy quoted his own case in which he says the judges did not give the right decision. That is what a party usually feels, but we always presume that the judgment of the court is correct.

So far as irrelevancy is concerned, not only have the judges said that the petition was irrelevant, but even the speech he made here shows the irrelevancy, and so this virtue was seen not only in the High Court but here as well. Mr. Reddy wanted to be the judge in his own case.

SHRI C. G. K. REDDY : You are a good lawyer, I am sure.

SHRI K. S. HEGDE : If he thinks that the judgment on his petition is not correct, and constitutes himself as a judge in his own cause I am afraid he is not a good lawyer and he can never be a good judge.

SHRI C. G. K. REDDY : Thank God, I am not.

SHRI K. S. HEGDE : Sir coming to the Bill itself, I find that there is some little defect in its drafting. I do not know why the hon. Minister has in clause 4 of the Bill sought to give retrospective effect to it in the case of pending litigations, to be transferred from Madras to Mysore. So far as the pending litigations are concerned, the clientele have already gone to the High Court and engaged lawyers and paid the fees as well and if the cases are to be transferred that would cause a lot of trouble to the parties. Their difficulties we can very easily imagine and the hon. Minister, Dr. Katju, a big lawyer himself, will very well know that in engaging lawyers of the High Court one has to pay a few hundreds or in some cases a few thousands as fees. Having done that once at Madras, if the case is transferred to Mysore, the clientele will have to engage another senior lawyer in Mysore and it is not the practice with lawyers to return the fee if the case is transferred.

There is still another difficulty. These cases now in Madras when they are transferred to Mysore will be given new numbers—20 of 1953 or some such number will be given to a case and after the long delay at Madras, the Mysore High Court will take another five years and in this way there will be considerable avoidable delay. I do not know what exactly necessitated the provision for the transfer of pending cases.

Barring these few points, nobody will ever deny that Government is taking the right step in bringing this Bill up for the amalgamation of Coorg with Mysore so far as the judiciary is concerned. This step is in the right direction and I hope ultimately it will result in the merging of Coorg with Mysore and the Kannada speaking people into one State. Now, very bitter things having been said about the Mysore judiciary, by my hon. friend Mr. Reddy,—I believe

it must be his personal experience—but so far as we know the Mysore High Court is as efficient and as honest as any other High Court is and I don't think there is any particular feature of the Mysore High Court which calls for criticism. There are, of course, individuals who, having lost their case, blame the Court. I don't know whether Mr. Reddy has suffered like that. But, whatever that may be, I don't think it is fair to offer criticism of the Mysore High Court and I don't think the House will have any difficulty in accepting the Bill. If the hon. Minister for Home Affairs is prepared to delete section 4, probably it would be for the good of the people of Coorg. With that slight modification, I commend this Bill for the acceptance of this House.

SHRI KISHEN CHAND (Hyderabad) : May I ask for one clarification from the hon. Minister ? Will the hon. Minister be pleased to say whether the appointment of District Magistrates which is normally done by the High Court or at least on the recommendations of the High Court, will in Coorg be appointed by the Mysore High Court or the Government of Coorg ? Normally, the transfer of District Magistrates from one District to another is also made by the High Court. In this case, will this transfer be done by the Mysore High Court or by Government ?

DR. K. N. KATJU : May I answer that question at the end or now ?

MR. CHAIRMAN : As you please.

SHRI KISHEN CHAND : I would like to have it now, because...

DR. K. N. KATJU : So far as administrative matters are concerned, this Bill has nothing to do. They will be left to the administrative Governments. We just want the transfer of the jurisdiction from one High Court to another High Court.

SHRI RAJAGOPAL NAIDU (Madras) : Mr. Chairman, of course,

as between the Madras High Court and the Mysore High Court, it is certain that the Mysore High Court is nearer to the litigant public of the Coorg State. One fact has to be borne in mind, that is, so far as the Madras High Court is concerned, there are districts in the North like Visakhapatnam and Srikakulam, and, in the South, Tirunelveli in the South West, Canara and other areas where from the litigant public come to Madras High Court. This comes to nearly more than 500 or 600 miles. So, from that point of view, I may submit that Coorg is not farther to the Madras High Court than either South Canara and Visakhapatnam or Tirunelveli.

SHRI C. G. K. REDDY : Politics are nearer.

SHRI RAJAGOPAL NAIDU : So far as the second point, the language point, is concerned, it has been said by the mover of this Bill that it will be very easy for the litigant public because Kannada is the official language of Mysore State. May I point out, Sir, that it is the procedure in the High Courts, in whatever language documents are, to translate them into English and present them to the High Court Judges. So, even on that point, I don't think the hon. Minister is correct in saying that it is for the benefit of the language that the litigations are to be transferred to the Mysore High Court.

Then, Sir, I would like to refer to another provision in the Constitution article, 241 (1). It says "Parliament may by law constitute a High Court for a State specified in Part C of the First Schedule or declare any court in any such State to be a High Court for all or any of the purposes of this Constitution". Coorg being a Part C State, may I ask the hon. Minister, why the provisions of article 241(1) may not be invoked and why a separate High Court be not constituted for the State of Coorg or, at any rate, have any existing Court in Coorg converted into a High Court ?

SHRI K. S. HEGDE : Coorg has just one judge.

SHRI RAJAGOPAL NAIDU : Whatever it is, it is for the hon. Minister to say that. A High Court may contain 14 judges as the Madras High Court or it may contain 3 or 4 or 6. It is a High Court if you give that court the powers of a High Court. Naturally, the Coorg High Court may consist of one judge and it does not mean that it should have 14 as the Madras High Court. From that point of view, why not call any court in Coorg a High Court and why should not provisions of article 241(1) be invoked ?

Then, Sir, I entirely agree with the observations of my hon. friend, Mr. Hegde that clause 4 of this Bill should be deleted because it will certainly work out hardship to the litigant public, so far as the pending cases in the Madras High Court are concerned. The litigant public would have already spent some money on the litigation ; they would have paid monies to the lawyers and all that and if these cases are to be transferred to Mysore High Court, as the hon. Minister would be aware, that Court will certainly give a new number there. Supposing these cases are transferred in the beginning of the year 1953, they will be construed as the cases of 1953 in the Mysore High Court ; they will never be construed as the cases of 1945 or 1946 in which year the appeals were instituted in the Madras High Court. So, I would submit, Sir, that clause 4 be completely deleted or, if it were to remain, high priority should be given to these cases and these cases should be construed as the cases of that particular year in which they were lodged in the Madras High Court. If that direction is given to the Mysore High Court that at least would be sufficient.

There was a heated debate over this point, viz., that nothing can be said about any particular judge of the Supreme Court or of any particular High Court on the floor of this House.

I would also like to make a few observations with regard to the Madras High Court in which I was once practising. Now, I would invite the Chair's attention to article 121. It says : "No discussion shall take place in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties except upon a motion for presenting an address to the President praying for the removal of the Judge as hereinafter provided". Article 211, which was read out a little while ago says : "No discussion shall take place in the Legislature of a State with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties". We are not concerned, in this House, with article 211, but, we are primarily concerned with article 121 and coming to article 121, we cannot discuss the conduct of any judge ; but, that does not mean, Sir, that we cannot discuss the conduct of a Court, the administrative set up of a High Court, how the judiciary is functioning in a particular High Court. We need not criticise or say anything about any particular judge.

SHRI C. G. K. REDDY : I never said that.

SHRI RAJAGOPAL NAIDU : Coming to the working of the judiciary, I feel it is absolutely necessary for me to state one or two things for the guidance of the hon. Minister for Law. The one observation, I would like to make, Sir, is this : It has been the practice in several High Courts, when the father is sitting as the Judge of the High Court, for his son to practise before him, his son-in-law to practise before him, brother-in-law to practise before him. Is it not high time, Sir, that we put a stop to this practice ? You may ask the judge to cease to be a judge or the son should not appear before him in that High Court, in his Court or in any other Court of the same High Court. I may point out scores of instances, Sir, where such things are happening not only in

Madras High Court but in other High Courts too. It is high time that our hon. Minister made enquiries to see whether any son of a High Court Judge is practising in the same Court before him ; if he happens to be a Chief Justice, whether he is practising before him or in another Court in the same High Court. I am giving this fact only with a view to seeing that justice does not suffer simply because the son of that particular High Court Judge practises in his own court.

Then, I want to give you certain other instances also. As many as 20 or 22 second appeals are being disposed of in one day.

DR. K. N. KATJU : May I just ask where ?

SHRI RAJAGOPAL NAIDU : Madras.

DR. K. N. KATJU : My hon. friend is discussing the Madras High Court and its working. Is that all relevant to the Bill ?

SHRI RAJAGOPAL NAIDU : Yes, Sir.

MR. CHAIRMAN : We are concerned about the extension of the jurisdiction of the Mysore High Court to Coorg and, as far as possible, let us limit our attention to this and not discuss the administrative set up of the judicial machinery in the country at large. This is what he means.

SHRI RAJAGOPAL NAIDU : I will stop with one or two observations. There are instances in the Madras High Court of as many as 22 or 23 second appeals disposed of in a day. Advocates humorously remarked that it was not a second appeal, but a second's appeal.

MR. CHAIRMAN : It will be a relief to the litigant—speedier justice.

SHRI RAJAGOPAL NAIDU : I agree with the observations of the Chair. I have come across instances

of sick judges, judges who could not walk by themselves, who had to seek the support of others, who had to be carried on somebody's shoulders, administering justice. Because this Bill is being discussed, I think it is my duty to inform the hon. Home Minister that these things will have to be rectified soon. The Madras High Court has the tradition of being one of the best High Courts in India, and I think that that tradition should be maintained, and we should see to it that there is no deterioration or degeneration in any respect.

I limit my observations to clause 4 of the Bill. If the jurisdiction of the Madras High Court is taken away and given to the Mysore High Court, I have no objection at all, but precedence should be given to appeals that are transferred from the Madras High Court to the Mysore High Court as far as the order in which the appeals are taken up, is concerned, and they should not be given new numbers and taken up after a long time.

SHRI H. D. RAJAH : On a point of information, Sir. The hon. Home Minister said that this Bill had been introduced at the request of the Coorg Government. Is it that the Coorg Government do not desire to have a High Court of their own, or is it that they want a High Court which is near to them ? According to the provisions of the Constitution, even a Part B State can have a High Court of its own. I would like to know from the Home Minister whether the Government of Coorg wanted only a shifting of the jurisdiction from one place to another, and whether they did not want a High Court for Coorg at all.

SHRI KRISHNA MOORTHY RAO (Mysore) : Mr. Chairman, Sir, my hon. friend Mr. Reddy was very solicitous about the people of Coorg. Obviously neither Mr. Reddy nor Mr. Rajah has read the Statement of Objects and Reasons. The Coorg Legislative Council, which has been elected on adult franchise, has passed a Resolution asking that the

Shri Krishna Moorthy Rao.] jurisdiction of the High Court may be changed from Madras to Mysore. It is mentioned in the Statement of Objects and Reasons. So, the people of Coorg want the jurisdiction to be changed to Mysore, and there is no substance in the argument advanced by Mr. Reddy. And Coorg is too small a State to have the luxury of a High Court of its own. The people of Coorg have cultural contacts, and even blood relationship, with the people of Mysore. And Mysore is very near to Coorg. The High Court of Mysore is very near to Coorg, and it will facilitate the speedy dispensation of justice.

Even as regards clause 4, I am sure there will be no difficulty. Many of the leading advocates of the Madras High Court have enrolled themselves as advocates of the Mysore High Court and I am sure the Mysore High Court will consider all these questions when they take up the cases that are transferred from the Madras High Court. I do not think there will be any need for anyone to pay extra fees. It is only one night's journey from Madras to Bangalore, and by air it is only an hour's journey. So, I am sure the people of Coorg will be benefited by the change of jurisdiction.

Mr. Reddy referred to the fact that there had been no writs from the Mysore High Court. It was open to him to come and challenge the orders of the Mysore High Court in the Supreme Court. An appeal does lie to the Supreme Court, and it was open to Mr. Reddy or any of his friends whose applications have been rejected by the Mysore High Court to have come to the Supreme Court and challenged those orders. Obviously they have been satisfied with the orders of the Mysore High Court. I have got the highest regard for the judges who adorn the bench of the Mysore High Court. Some of the most eminent judges adorn the bench of the Mysore High Court, and I strongly refute the allegations made by Mr. Reddy. But I want clarification on one point from the hon. Home

Minister. There are certain special Acts where reference is made to the High Court. For example, under the Income-tax Act or the Industrial Tribunals Act, appeals or references till now were to the Madras High Court. Perhaps the rules have to be changed or those Acts have to be amended. In the Schedule annexed to this Bill those Acts have not been mentioned. I want to know whether those Acts will be amended or whether the rules or regulations will be amended. I have got the Income-tax Manual. An appeal in the Coorg cases lies to the Appellate Assistant Commissioner, Coimbatore Range. Coimbatore is in Madras State. There is also an Assistant Appellate Tribunal in Bangalore. I want to know whether this change of jurisdiction will affect this jurisdiction also, because it will be anomalous if certain cases from Coorg are to go to Mysore and certain others to Madras. It would be in the interests of speedy justice and it would also be convenient to the parties if there is one integrated judicial system so far as the State of Coorg is concerned.

I would like to mention one other point. I feel that it will not be out of place if I mention the subject of the administration of High Courts. The judiciary in India has been integrated. The question of salaries and emoluments of judges and of their pension is now the concern of the Government of India. Are they to be governed by the State rules or by the rules framed by the Central Government? I think the Central Government has yet to frame rules as regards their pensions, salaries, etc., and it is better that this is attended to as early as possible. It is not relevant to this Bill, but I am mentioning it, because the administration of High Courts has come up during this debate. I would request the hon. Home Minister to look into this and leave no room for the feeling that judges in certain High Courts are superior and that judges in certain other High Courts are inferior. Let them all work with a sense of security and peace

For this purpose the framing of rules for all the High Courts is absolutely necessary, and I would request the hon. Minister to attend to this matter as early as possible.

With these words, I support the Bill and commend it for the acceptance of the House.

SHRI A. S. KHAN (Uttar Pradesh) : Sir, it was not my intention to participate in this debate, but I find that directly or indirectly certain reflections have been cast by certain hon. Members on our judiciary. I have been very closely associated in the past in a certain capacity with the judiciary of one of our States, and I think it is my duty here to stand up and tell the House that our judiciary has been very good indeed. They always maintain a very high standard of integrity and independence, and I cannot but have the greatest admiration for their profound knowledge of the Constitution and the law of the land. It is true that complaints were brought to my notice at that time that in certain courts relatives were appearing before the judges. Even there, I can tell you that the integrity of our judges is such that I for myself was quite sure that the judges were never influenced by the fact that their relatives were appearing before them on behalf of one party or the other. Sir, it is a great pity that any reflection should be cast on our judiciary. Our judiciary is really such that the country should be proud of it, and I do hope that the hon. Minister will do everything in his power to strengthen it.

I do hope that the hon. Minister in charge will do everything in his power, not to allow them to feel that they are being attacked, or undefended. I think it is good to encourage them and to tell them how greatly we appreciate their independence. They have a very difficult task. Very often they have to fight the executive. They are maligned by the executive. If people try to throw some doubts on them, they will be very much discouraged. As far as this Bill is concerned, I agree it is a good measure.

SHRI KARTAR SINGH (PEPSU) : Sir, Mr. Reddy has tried to make out a case that petitions in the High Court become infructuous due to the Courts not taking notice of the same at the proper time. But my own experience in the matter is otherwise. The High Courts do take notice where there is infringement of the rights guaranteed under the Constitution. The applications become infructuous not because there is anything wrong in the High Court, but it is otherwise. I had a case about a person on whose behalf a petition was made under article 226 of the Constitution of India for being brought up before the High Court as he was illegally and improperly detained by the police authorities. The High Court was pleased to issue notice to the authorities concerned and it had the desired effect. The detenu was released by the very persons who were alleged to have arrested him without showing his arrest. The arrested person prayed that in his case there was a violation of the rights guaranteed to him under articles 21 & 22 of the Constitution of India. As soon as the authorities that had detained him came to know of the issue of the notice by the High Court, that person was immediately released. This had only happened as the High Court was prayed to, for taking action. And on the date on which the case came up for hearing, the only statement that was made by me, as counsel, was that this application had become infructuous. So, the arguments advanced by Mr. Reddy that in many of the cases in the Mysore High Court, applications made by the arrested persons become infructuous due to any delay or wrong procedure adopted by the High Court, and not taking timely action on the same—this argument does not hold water. Rather, it sometimes happens that these applications become infructuous for the reason that a High Court takes immediate and proper steps at the earliest possible time as was done in the case referred to above, by the Pepsu High Court, where we have prompt decisions of such cases. In some cases the applications made under article 226

[Shri Kartar Singh.]
are frivolous—all sorts of applications are made in the High Court. Some applications become infructuous as the Government or the authorities concerned set things right before the application is put up for final hearing. In some cases such applications to the High Court do not lie and for that reason, they become infructuous.

So, it is not reasonable to argue that there is something wrong in the High Court because of the applications having become infructuous. Justice is fully administered by the High Courts. I support the motion.

SHRI RAMA RAO (Madras) :
Sir, I must make one point clear, that I do not hold a brief for the High Court of Mysore. But I observe this much of decency in public conduct not to make allegations against a High Court, for one thing because any grievance against a High Court or in the legislature of any State or Parliament is provided for in a specific way. The Constitution has made a special provision for it in view of the high importance the subject is given. For another thing, it means allegation against a Court which is not here to defend itself. The hon. Mr. C. G. K. Reddy has been pleased to make a reflection on the High Court of Mysore, but he has quoted no other instance except his own.

SHRI C. G. K. REDDY : I am willing to quote many other instances.

SHRI GOVINDA REDDY : There is a place for it and that is not here. I am sure the High Court will defend itself. Now, Sir, if an accused is made to judge the decisions of a Court, I am sure each one of 100 cases out of 100 cases, the accused says the decision of the Court is wrong. If the Government did not forward his representation from prison he has a grievance against the jail authorities and not at all against the Court. He has not made out any point against the Court. As the hon. Shri Krishna Moorthy

Rao says the High Court of Mysore has been quite on a par with the other Courts in the rest of India. In fact, before the High Court of Mysore was recognised as an integrated High Court for India, the President of the Union had gone into this question at great length. Mysore is a Part B State, and therefore, in the matter of integration of the courts of Part B States, the President has been pleased to go into this question and examine the case of the Mysore High Court thoroughly, and then recognise the Mysore High Court as fit to be integrated with Part A State Courts.

The second thing is, the Mysore High Court has all along been and continues to be, on a par with other Courts of Part A States in India. Mysore was administered from 1800 to 1851 by British administrators, and during that period of British administration, not only the Courts of Justice but the entire administrative structure was toned up by the British administrators to the level of the British administration that was prevalent in the British governed provinces of India, and that is continuing.

There is another, a third fact, which proves the competence of the Mysore High Court. In a majority of cases, Sir, they always recruited a retired High Court Judge of Madras State or the Chief Justice of Madras State as the Chief Justice of the High Court of Mysore until recently, until the present incumbent came to office.

All these facts should show anyone who wants to be fair in dealing with this subject that no doubts could be cast against the High Court of Mysore. If Mr. Reddy thinks that there is sufficient ground to question the competence of the High Court of Mysore, the reasons which he has advanced here on the floor of this House, will make any other High Court of any other State in India, also liable for such accusation. I hope that he will give up his unfair attitude of criticising the High Court of Mysore.

There is one other point to which I would like to refer. My hon. friend was making out a point, by taking article 121 that we could discuss here the conduct of a Court. What is stated in that article is we could discuss the conduct of a Court. Well, Sir, as the hon. Shri Hegde was pointing out the singular included the plural. If by any stretch of argument, it could be said that the conduct of a single judge cannot be discussed but the conduct of all the judges put together could be discussed, then it takes one to an absurdity. I trust the hon. Members will now realize it.

The other point that was made against this Bill was a practical difficulty and it was relating to clause 4. The very object of bringing this Bill is to provide a very convenient and expedient measure for the people of Coorg to get justice from a High Court without having to undergo the trouble of going all over to Madras. If that object is to be fulfilled, this measure must be made applicable to all the retrospective cases. There is also a practical difficulty, and that is the question of engaging lawyers. Apart from that, there is no difficulty which I can see. With these few words, I lend my support to the Bill.

DR. K. N. KATJU : Mr. Chairman, very unexpectedly for me, the debate has covered a very wide range. I should like first to deal with some of the relevant points raised. It was suggested that Coorg may have a High Court of its own. I invite the attention of the hon. Members to the fact that there used to be a Judicial Commissioner in Coorg and it was thought that having a single Judge High Court is almost an absurdity. I speak from my experience in this matter, having spent the whole of my life at the Bar, there are many cases for which it is necessary that there should be at least two judges in the Bench at the final stages. Take, for instance, a case in which a Sessions Judge is trying a case of murder and imposing a death sentence. Now,

this is a single judge trial and you get an appeal to the Judicial Commissioner and the question of life is to be dealt with by one judge. Now, I do not want to go into that. But the judicial Commissioner was abolished in 1948 and the people of Coorg and the Government came to the conclusion that they would like to have the final appellate jurisdiction transferred to a High Court. In 1948, please remember that Coorg was a Centrally administered area under the British Government, while Mysore at that time had not integrated with the Indian Union and therefore was in a way foreign territory. And you could not have integration with Mysore in 1948. Therefore they did the next best thing and they integrated the jurisdiction with the Madras High Court. This matter was considered by the people of Coorg in their Legislative Council and they came to the conclusion that Coorg had to be given to Mysore for the reason I have mentioned. The Mysore Government are agreeable. I do not know whether the hon. Members have any clear idea of the conditions of the State when we think of a High Court for it. When we think of a High Court, we had better realise what the State amounts to. The population of the State, the permanent population of Coorg is 1,80,000. There is also a fleeting population of labour employed in the coffee plantations. That works out to nearly 50,000. So, if you take the permanent and the fleeting population, it comes to 2,30,000. i.e., it is the smallest State in India, and I respectfully suggest that to talk of a High Court in the Indian Union for small units like this, it strikes me, is a novel proposition. The point is raised that there could be a High Court which could be presided over by one judge, because the State cannot afford the luxury of two judges. I do hope that the people of Coorg are not very litigant, and this 1,80,000 do not furnish adequate number of first appeals, second appeals and criminal cases and so on which could keep the High Court engaged all the time. It is not a practical proposition and that was found out and it was discarded.

[Dr. K. N. Katju.]

Then, comes the other point that was raised by my hon. friend from Coorg, namely the pending cases. Firstly, the difficulty which the hon. friend laid before the House is not very real. Secondly, the number of pending cases cannot be very large and thirdly, as I said at the other place, this Bill has been before the public for some time and I am sure that the Madras High Court have taken proper steps to see that they may be able to dispose of as much work as they can.

Something was said about the lawyers' fees. I really do not know the practice prevailing in the Madras High Court. Apart from that, when you file the appeal on behalf of the respondent, the fee that is charged is not very substantial. The fee is charged at the time when the case comes up for hearing. So, so far as substantial payment is concerned, it will come at a later stage. As my hon. friend pointed out, so far as retention is concerned, he has to go to Madras. Goodness knows how many days he has to stay there. If you are putting that question, he will say 'Mysore is good enough for me. I will stay there and I will forego the fee as I have paid to Madras lawyers.' This brings us to two points. As my hon. friend the Deputy Chairman pointed out, it is not an octopus Bill which may spread out. He asked, 'What about the B States judges?' They should be put on a par with the A State judges. That matter is engaging the attention of the Government. There, again, somebody should have to foot the Bill. There is again the matter of salaries, whether they would be able to pay the judges the salaries. I need only say that the matter is being carefully considered.

I should like to say one thing.

AN HON. MEMBER : The time is up.

MR. CHAIRMAN : I should like to know whether it is the pleasure

of the House to conclude the whole thing or whether we should adjourn.

AN. HON. MEMBER : We are likely to miss the conveyance.

MR. CHAIRMAN : The House stands adjourned to 2.30.

The Council then adjourned for lunch till half past two of the clock.

The Council re-assembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

DR. K. N. KATJU : Mr. Deputy Chairman, when the House rose, I was dwelling upon the suggestion that had been made that there might be a High Court at Coorg and the suggestion also that the judges in the Part B States should also be brought up into conformity with the judges in the Part A States. That matter has engaged the attention of the Government. But a High Court is sometimes rather a costly luxury and for a smaller State like Coorg and several others the suggestion that there should be a separate High Court would be quite impracticable. And if you permit me to say so, that will bring me to the very broad point which was discussed at such length—the independence of the judiciary and the integrity for which the Indian judiciary has now won great reputation for themselves. Integrity and impartiality in the discharge of their duties does not really depend upon salaries at all. I am not saying for one moment that the salaries should not be adequate, but my experience is that our judiciary from the highest to the lowest have stood the test of time and during the last 150 years have administered justice in this land even under the former regime regardless of all consideration of caste and creed and with the greatest impartiality that you can think of. There can be no doubt about it because I am speaking from a very wide experience and from that point of view

I may be permitted to say with all respect that I was deeply distressed to hear the comments which had been made by several hon. Members about the working of the High Courts. I am not going into the facts because I am not acquainted with them. The Constitution has, as has been pointed out, placed restrictions upon discussions in Parliament about the High Courts and about the judiciary in general. That as everybody knows, is well founded on good reasons and in the public interest but apart from this you cannot say in one breath that you do not want to question the independence of the judiciary and then go further and say that the right working of democratic institutions depends vastly upon an independent judiciary and in the same breath give expression to opinions which are calculated to bring that judiciary into contempt or to lower its prestige. I am not saying for one moment that if there is a bad judge, he should not be got rid of irrespective of the fact whether that judge occupies an elevated seat of the High Court or a lower seat in the Munsif's Court. If he is bad or corrupt or not worthy of his high office, we should get rid of him and I again speak from personal knowledge that our Indian judiciary has built up a tradition which considers a disreputable member of their service as a slur upon themselves. That is the great thing. It is the tradition which has been built up and which we should not in any way lower and I would rather depend upon that tradition, upon the members of that service, judicial service all over India to guard that their name and good faith should not be brought into question or should not be disgraced by any individual member of their service. That is the greatest feature against the bad members or the imperfect administration of justice.

My hon. friend said that he is not questioning any single judge but something about writs and something about delays. But what is all that? The High Court does not work automatically like a road roller. It works through judges—the Chief justice or the individual judges—and when you ques-

tion and criticise the working of the High Courts in any particular way, you really criticise either the Chief justice or the individual judge of that Court. And the charge should be made fairly and squarely so that it might be dealt with by that learned judge openly. As I said, I do not want to go into that matter at any great length but we lawyers are aware that in the public interest the judiciary or rather the Courts have laid down for themselves, for their protection—and not so much for their individual protection, but for the protection of the community—certain rules against what is said to be 'scandalising the Court' and 'committing contempt of the Court' and for that there are the laws of Parliament also. And if somebody were to attribute anything which is derogatory, he might be hauled up for contempt and it is a common saying that the truth of the allegation is no defence on the charge for contempt. The thing has got to be dealt with in that way.

My hon. friends have referred to many things. One hon. Member from Madras asked me whether I am aware of the sons practising before judges, nephews practising before judges, sons-in-law and so on and so forth. He was speaking about partiality. Who is not aware of that? But I say that the cure for that is an approach in a different manner. You approach the Chief Justice. There are Bar Associations—hundreds of them—throughout India. It is for them to take this matter up in a proper manner. Address the judges; wait in deputation on the judges and say that this evil has crept in. For instance I will point out—I am betraying no secret—that the late Chief Justice Kania whom we all lamented so much when he passed away, took up this matter and addressed a letter to all the High Courts throughout India saying that this was not a desirable practice and should be stopped and even before that I know in several High Courts, when the attention of the Chief Justice was drawn to this thing, prompt measures were taken to stop it. It will be too long a time for me to dwell

[DR. K. N. Katju.]

upon it because there are so many things involved. Either the father should not accept the judgeship or the son should retire from the Bar and go elsewhere. There are two sides to the picture everywhere. But what I am now emphasising is that these sorts of general animadversions and derogatory observations upon the Courts are not good. I make no distinction between the High Court and the Munsif's Court. If you go into the merits, how can anybody judge as to whether a particular decision was right or wrong? As my hon. friend said, there are very few people who do not curse the judge. They generally curse the judge and say that his judgment has always been wrong. But we always go upon the assumption that the judgment is right.

I would not take much time of this House upon this. But I was rather hurt to hear the arguments of my friends on that side. The practising advocates always insinuate the judge that he does not know the law, if the decision goes against them. But it is a matter of national interest. The basic principle, I entirely agree, is that our Constitution cannot work, our democracy cannot properly function, unless and until we have an absolutely independent and incorruptible judiciary—incorruptible Courts—to guard our freedom and we have got to safeguard that freedom. We have got to see to it that their prestige is not lowered by any observations. If there is a case, put it up properly, fairly and squarely. If there is anything disgraceful, write about it to the Chief Justice. I hope every Chief Justice will take care that his Court is above all reproach. I only wanted to say these things. They are absolutely irrelevant to the whole discussion but so much of the time was occupied before the interval and so many appeals were made to me personally by name or designation that I thought I must say something about it. I hope the House will be pleased to take into consideration this Bill and then pass it without any further discussion.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill to extend the jurisdiction of the High Court of Mysore to the State of Coorg and to provide for matters connected therewith, as passed by the House of the People, be taken into consideration.

The motion was adopted.

There are no amendments to this Bill.

Clauses 2 to 7 and the Schedule were added to the Bill.

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.

I have got to go elsewhere.

SHRI C. G. K. REDDY : I am sorry the hon. Min'ister will have to be a little inconvenienced.

DR. K. N. KATJU : If there is any answer to be made, my hon. friend the Leader of the House will reply.

SHRI C. G. K. REDDY : In that case I need not speak at all. I should like the Home Minister to be here for just 10 minutes.

DR. K. N. KATJU : On a matter of personal explanation. A Bill has been called there which I have to move and here the Leader of the House is more competent than myself to answer. He has been an advocate and a judge and he can answer.

MR. DEPUTY CHAIRMAN : You can go.

SHRI C. G. K. REDDY : Before I say anything, I want to endorse what the hon. Home Minister said regarding the judiciary and the fact that there is every reason for all of us to be proud of our judiciary. It may sound rather strange. In spite of the fact that I along with the hon. Home Minister am indeed very proud of the judiciary and its performance in this country, I should say something which may

not be exactly to the liking of the Home Minister. It is just because we are so proud of the judiciary, it is just because there is such a fine record of the judiciary that it becomes my painful duty to bring forward certain aberrations in this glory. Otherwise if our judiciary had been rotten, it would have been unnecessary for me to point out particular lapses of the judiciary. After having said that I would like to rebut a few things that have been said in reply to my original remarks. My hon. friend Mr. Hegde and so many others seem to have completely mistaken in spite of my interruption and explaining, including the hon. Home Minister, that I had brought a grievance to Parliament seeing that I had lost a case; and therefore I had said something about the High Court. If the hon. House will remember, what I said was not that I lost it. All that I said was that the High Court ordered that I had no right to move for an appeal for a writ. I would like the hon. Members to understand that I am not a litigant, I have never been in a civil case—I have been in a few criminal cases as most of us have been—politically I mean. It is not as if I am a disgruntled litigant having a grievance to nurse in Parliament. I would never do it and it was never the intention. It is not that. I only quoted one example. My hon. friend Mr. Govinda Reddy wanted me to quote many more.

SHRI GOVINDA REDDY : No, I said they were irrelevant.

MR. DEPUTY CHAIRMAN : It is not necessary at this stage to go into it.

SHRI C. G. K. REDDY : Actually I did not quote at that time because the hon. Chairman said that it was unnecessary for me to give any examples but I did say that there has not been one writ which has been decided in time by the hon. High Court of Mysore. I also said there has never been a case where the hon. High Court of Mysore has given leave for appeal to the Supreme Court. After having said that I said whenever an appeal has come to the Supreme Court, it has come after taking the leave from the Supreme

Court itself. When I have said that there are certain implications. It may be the speed with which they dispose of cases is not what it should be. So my case was if you are not going to have speedy justice, what is the use of pleading for this Bill on the basis of speedy justice? Today I think the people of Coorg are getting speedy justice in the hon. High Court of Madras. It may be that Bangalore is nearer to Coorg than Madras but I can assure, them, I am convinced that justice is far safer, surer and speedier in the High Court of Madras than it is in the High Court of Mysore. That is my case.

Regarding the substantive motion the hon. Home Minister was referring to, I am aware that the Constitution says that if we are to discuss the conduct of any High Court Judge, then it is necessary.....

MR. DEPUTY CHAIRMAN : Are you talking for the rejection of the Bill?

SHRI C. G. K. REDDY : Yes. I have explained.....

MR. DEPUTY CHAIRMAN : You have said all that and there is no necessity to explain it.

SHRI C. G. K. REDDY : Motives cannot be imputed to me and it should not go on record as having said something..... ..

MR. DEPUTY CHAIRMAN : It is not relevant here.

SHRI C. G. K. REDDY : I am trying to be relevant. I was saying that the hon. Home Minister said that we should not cast any aspersion or anything like that on a High Court. In fact it was not my intention. I only wanted to bring it to his notice and if the House will please remember, I also said that in order to correct it I did not ask the removal of any judges which I could ask only on a substantive motion nor was it my intention. I only said that the High Court of Mysore is deficient in certain respects.

[Shri C. G. K. Reddy.]

Therefore it is necessary, I said, that certain mutual transfers may be made so that the High Court of Mysore will come up to the level of other High Courts in speed and other matters which are very desirable in the dispensation of justice.

In regard to this Bill, I don't want the people of Coorg to be in the same position as the people of Mysore today. Regarding a substantive motion, after all it is much more derogatory than a reference like this. If it is going to be a substantive motion it is bound to bring down the prestige of the judges far lower than what is likely from my remarks. If a substantive motion is to be made, then we have to cast aspersions on the personal, private and public conduct of a High Court Judge. If the hon. Home Minister's intention is that he should shut out all remarks on a Bill like this, the only recourse to hon. Members would be to move a substantive motion even on flimsy causes. I don't think that the Constitution will debar any Member of the House in moving for a substantive motion against a Judge of the High Court on trivial matters. Then it would become more ugly and it would go more against the interests of justice that such an alternative should be placed before the Members. So I expected the hon. Home Minister to consider these things and possibly give us an assurance that these things will be set right. In the absence of that and when he also said that he is not aware of anything—it becomes difficult. I am sure all the hon. Members here present are aware that there have been certain complaints. Even the Home Minister has received complaints from the people of Mysore about the High Court of Mysore. The Chief Justice of India has received them. If the hon. Home Minister is going to deny the existence of such a feeling in the State of Mysore, it is no use talking on the subject. I expected some sort of a responsive reply from him but I have not received it. So the only alternative to people like us who want

to bring such grave questions to the attention of Parliament and of Government is to bring a substantive motion and I am seriously considering whether I should not do it at the earliest possible moment.

SHRI GOVINDAREDDY : Do so.

SHRI C. G. K. REDDY : I will.

SHRI B. GUPTA (West Bengal) : Sir, it was not my intention to participate in this particular debate. But the sensitive manner in which some hon. Members of the Congress Party have reacted and also the manner in which the hon. Minister has inflicted, literally a sort of jurisprudential discourse on us, compel me to say a few words at this stage of the debate.

Sir, here is a Bill which seeks to extend the area of a particular High Court. When we come to discuss such a matter here, it is quite reasonable that we should consider it from the point of view not only of jurisprudence but also from the point of view of practicability, whether such extension of the area of jurisdiction of a particular High Court should be given, or whether it should take place at all. In that discussion, naturally, certain complaints and grievances might be ventilated. But if that is to be confused with the discussion of the conduct of a particular judge or of a particular High Court, I don't see any point whatsoever in having this kind of a discussion at all. I am quite aware of the constitutional limitations and it is not my intention at all here to transgress the limits placed by the Constitution. Even so, one cannot escape the responsibility of saying a few words with regard to the judicial system, because when we discuss a Bill of this nature... — — —

MR. DEPUTY CHAIRMAN : That is beyond the point, Mr. Gupta, we are now at the third reading stage.

SHRI B. GUPTA : I am only touching on the principle.

MR. DEPUTY CHAIRMAN : No, please speak on the Bill that is before the House.

SHRI B. GUPTA : Yes, on the merits of it ; but I do not know how Dr. Katju's remarks were relevant, but naturally in your wisdom if you say I am irrelevant, I have to surrender to your judgment and I am helpless.

MR. DEPUTY CHAIRMAN : But we are at the third reading stage and I will not allow any general remarks like the ones you want to make.

SHRI B. GUPTA : Of that I am aware, Sir. It seems the Constitution is very pervasive. Well, I would only say that when the Government is going to invest a particular High Court—the High Court of Mysore—with these powers, it should take into account that certain complaints and grievances exist in the country, grievances of a general nature, if I may say so. There are all sorts of things and they are ventilated in the press, and also agitating the public mind. Having regard to these things, I hope the Government will take necessary action to give directions to the High Court. I am not making any reflection on the High Court. We have been told hereby the hon. Minister in charge of this particular Bill that it is necessary if the Constitution is to function, to have an independent and incorruptible judiciary. I am at one with him in that. Undoubtedly we should have an independent and incorruptible judiciary. But Sir, it is also our duty here to take steps so that the judiciary becomes much more independent than it is and much more incorruptible than it is and functions according to the postulates of the noblest jurisprudence. There is no point in being complacent about this matter. After all the system of jurisprudence today in the capitalistic countries is not perfect. It is a dynamic thing and it improves. So steps should be taken to improve our systems also. If I say that, it does not mean that I am casting aspersions on anyone. But being a dynamic thing, there is growth and there

is much room for still further improvement. And I may remind the hon. Members of the Congress Party that they should be a little more vigilant, a little more alert and a little more sensitive to how justice is being dispensed. Whenever a High Court passes a decree or a judgment not suitable to the executive, the executive immediately passes overnight a legislation to frustrate that Court's decree or judgment. I think those who have the responsibility for strengthening the jurisprudence, for strengthening our High Courts, to strengthen our legal system, would do well to think over this fact, that whenever a decision goes against what is considered by the party in power to be not in their interest, this is what happens. I can mention many instances from the State from which I come. I am not making any reflections on any High Court and...

MR. DEPUTY CHAIRMAN : Order, order. You are again going at a tangent, Mr. Gupta.

SHRI B. GUPTA : I am only trying to impress upon the hon. Minister the.....

MR. DEPUTY CHAIRMAN : But the Bill is of a limited scope and we are at the third reading stage. Please wind up your remarks.

SHRI B. GUPTA : Then Sir, I will put it like this. I hope Sir, when the Bill goes out of the House the hon. Members of the Congress Party would see to it that when a law like the Preventive Detention is declared illegal by the High Court the Minister in power does not set it at naught by passing an extraordinary legislation, for that is the most abominable contempt of the law where you allow the executive to set at naught the wisdom of judges. I hope Members of the Congress Party will think over this and see that justice is enshrined in its proper place.

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C. BISWAS): Sir, there has be

[Shri C. C. Biswas.]

so much irrelevant talk that I do not know that I should add to it.

In simple words, the proposal here is for the transfer of the jurisdiction of one High Court to another High Court. I can understand arguments either in support of that proposition or against it. If it is said that the Mysore High Court is not so efficient or competent as the other High Court, then that would certainly be a ground for opposing the Bill.

SHRI C. G. K. REDDY : It has been said.

SHRI C. C. BISWAS : The point to be considered is whether litigants will fare better if they are under one High Court rather than under the other. That is the point to be considered. Merely if I happen to lose a case in a High Court, I cannot say that that High Court is not good. As a matter of fact, one party or the other must lose a case and whether it is A or B is immaterial. So long as you cannot say that the court was acting on improper grounds or in an improper way or was showing partiality to one party as against the other, what is wrong? The judgment of the court may be wrong. As a matter of fact, nobody claims for one moment that the decisions of any judicial tribunal are always right. Otherwise you would not find appellate courts. If the appellate court reverses the decision of the lower court or subordinate court, it does not mean that the subordinate court is inefficient.

SHRI S. MAHANTY : Is the hon. Minister relevant, Sir?

SHRI C. C. BISWAS : No point was made by the hon. Member that the High Court was wrong in.....

SHRI C. G. K. REDDY : The decision is not the point. I may explain it again, if I am given time.

SHRI C. C. BISWAS : Therefore, if a party loses a case that is no ground

for suggesting that the High Court is not at all to be depended upon, that the people will not get justice there. Whether I get a judgment in my favour or not should not be the test of justice.

It may be that a litigant who has lost a case feels that he has not got justice, that is another matter; but, supposing, there is failure of justice, that does not justify wholesale condemnation of the court; that does not mean that the court ought not to be trusted with any judicial work. The remedy is not to say that the State should not come under the jurisdiction of that court, but steps should be taken to abolish that court or to change that court, root and branch; all the members of that tribunal should be replaced, and so on. There is a well recognised constitutional procedure for that. I should like to know whether those of my hon. friends who have appeared in the role of critics have made any attempt in that direction. Merely because you get a chance here in an indirect way to launch an attack not upon a single Judge, but upon the High Court itself, should you do that? Is that right? And, as you pointed out, Sir, this is the third reading, the only points are whether you support the Bill or you oppose it? If so, you can discuss the grounds on which you oppose or support it, but to raise general questions as to High Courts in this country, whether there are lapses on the part of individual Judges or of all the Judges, is all irrelevant to the consideration of this matter. Therefore, Sir, nothing is gained by an attempt to wash dirty linen regarding the judiciary, for which every one of us ought to have the highest respect, even though in a particular matter a Judge may go wrong. It is not right that we should take any and every opportunity to drag down the judiciary from the high position in which it stands.

PROF. G. RANGA (Madras) : Stands or ought to stand?

SHRI C. C. BISWAS : It ought to

PROF. G. RANGA : That is most important.

SHRI C. C. BISWAS : If the judiciary does not stand as high as it should, there are proper methods to bring it to the notice of Authority. But this is an indirect way, not a direct attack. It is not playing the game, if I may use that expression.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill be passed.

The motion was adopted.

SUGGESTION RE. HOURS OF SITTING OF COUNCIL

SHRI C. G. K. REDDY : May I make a submission, Sir ? We find it rather inconvenient to have two half-sessions during the day. I should like the House to consider if it would not be more convenient to start at about 1 or 2 P.M. and continue. If we start at 1 P.M., we can finish off at 5-45. That gives us more time to make some study in the morning and more time in the evening also. Now, what happens is we break at one and by the time we go and come back, it is just time enough to have lunch. I think it would be well if the House could agree to have one continuous session and $3\frac{3}{4}$ hours is not a long session. I should like the House to consider this suggestion because we find the present arrangement highly inconvenient.

PROF. G. RANGA : Let us give ourselves some time to think about it.

MR. DEPUTY CHAIRMAN : Yes. let the other Members think it over.

SHRI C. C. BISWAS : On this point, if I may make a submission. Some consideration ought to be shown for the poor Ministers. That House will start from 10-45 and continue till 1 and again assemble at 2-30 and go on till 5. It is suggested here that we sit from 1 P.M. and go on till 7 P.M. When will the poor Ministers get a little time to carry on their ordinary administrative work ?

SHRI C. G. K. REDDY : Ask the other House also.

THE MINISTER FOR REVENUE AND EXPENDITURE (SHRI MAHAVIR TYAGI) : Sir, we also take lunch.

SHRI J. R. KAPOOR : Sir, I think the difficulty has been that it will be 1 to 5-45. At present we are closing at 5. So, the hon. Minister's objection.....

MR. DEPUTY CHAIRMAN : The other House also sits.

SHRI C. C. BISWAS : They have got to take their lunch between 1 and 2-30.

(Shri J. R. Kapoor stood up.)

MR. DEPUTY CHAIRMAN : Order, order. No further discussion. Mr. Biswas.

SHRI J. R. KAPOOR : May I Sir, with your permission.....

MR. DEPUTY CHAIRMAN : I have called Mr. Biswas.

SHRI J. R. KAPOOR : I was not entering into a discussion. I only wanted to submit that this subject should not be treated as closed.

MR. DEPUTY CHAIRMAN : No. The Members will consider it.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 1952

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

That the Bill further to amend the Code of Civil Procedure, 1908, as passed by the House of the People, be taken into consideration.

Sir, the Bill is a very simple one but one does not know how simple matters have a knack of getting complicated. Sir, it seeks to amend section 44A of the Code of Civil Procedure, 1908. That section, if hon.