

Thursday, 8th February, 1951



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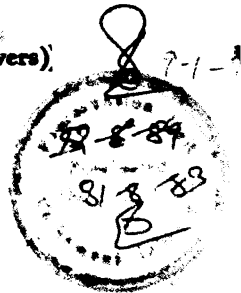
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PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

VOLUME VI, 1951



(5th February to 31st March, 1951)

Third Session (Second Part)

of the

PARLIAMENT OF INDIA

1951

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**THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT**

1269

1260

PARLIAMENT OF INDIA

Thursday, 8th February, 1951

*The House met at a Quarter to Eleven
of the Clock.*

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

POLIO

*1266. **Shri Raj Kanwar:** Will the Minister of Health be pleased to state:

(a) the total number of Polio cases throughout the country during the year 1950;

(b) the total number of deaths from Polio during the same period; and

(c) what special steps have been taken by Government in the Public Health Department to cope with this malady as a result of the recommendations of the Expert team sent by W.H.O.?

The Minister of Health (Rajkumari Amrit Kaur): (a) No exact figures regarding the total number of cases that occurred in the country are available. The cases treated in hospitals in important towns during 1950 were 961.

(b) Deaths from Poliomyelitis are not recorded separately.

(c) The recommendations of the W.H.O. Polio team are under the consideration of the Central and State Governments concerned. However, the following steps were taken to cope with this malady:

In places where polio cases occurred in the form of a mild epidemic, particularly in Bombay and Delhi, the disease was declared notifiable. Special wards were opened for isolation and treatment of patients suffering from the disease. 20 iron lungs were procured from abroad with the help of W.H.O. and U.N.I.C.E.F. and kept in four different centres to be made available in the affected areas. As regards

prevention of the disease, general sanitary precautions were taken as there are no specific methods of checking the disease.

Shri Raj Kanwar: What was the approximate number of attacks and deaths from polio in the State of Delhi during the last year?

Rajkumari Amrit Kaur: For Delhi I can give you the figures. There were 109 cases but no deaths.

Shri Raj Kanwar: Has any specific remedy been discovered for the treatment and cure of polio?

Rajkumari Amrit Kaur: No, Sir.

Shri Raj Kanwar: What was the percentage of cures effected by Ayurvedic physicians?

Rajkumari Amrit Kaur: I have no information on that point.

Shri Frank Anthony: Is it a fact that although iron lungs were made available to some of the hospitals in Delhi they could not be used as the staff did not know how to operate them?

Rajkumari Amrit Kaur: No, Sir, that is not true. I have seen them working on many an occasion.

Sardar Sochet Singh: What is the age which is more susceptible to polio incidence?

Rajkumari Amrit Kaur: Generally children from infancy to five, I believe.

Sardar B. S. Man: Have we got any special nursing homes for children effected by polio, either in the Centrally Administered areas or anywhere else in the country?

Rajkumari Amrit Kaur: We have got in Delhi a special ward for children suffering from polio cases. Bombay and Madras both have special wards.

DELIMITATION OF CONSTITUENCIES

*1267. **Shri Raj Kanwar:** Will the Minister of Law be pleased to state:

(a) the total number of Constituencies delimited in each of the Part A, Part B, and Part C States for purposes of the forthcoming general elections;

(b) how many of these Constituencies in each State are single-member and plural-member Constituencies;

(c) how many in each State are reserved for Scheduled Castes and Scheduled Tribes; and

(d) the maximum and minimum number of voters in any Constituency of a State?

The Minister of Law (Dr. Ambedkar): (a) to (d). The information wanted by the hon. Member is not available, since constituencies have not yet been finally delimited in any of the States. The work connected with the delimitation of constituencies is still in progress and so far proposals have been settled tentatively by the Election Commission only in regard to Assam, Bombay, West Bengal, Orissa, Hyderabad, Mysore, Patiala and East Punjab States Union, Saurashtra, Travancore-Cochin, Ajmer, Bhopal, Himachal Pradesh, Kutch, Manipur, Tripura and Vindhya Pradesh. As soon as the Election Commission has submitted its final proposals to the President, the necessary Orders relating to delimitation of constituencies will be made by the President and these orders will be laid before Parliament as required under section 13 of the Representation of the People Act, 1950.

Shri Raj Kanwar: By what date is the process of delimitation of constituencies likely to be finalised?

Dr. Ambedkar: I am unable to give a precise date.

Shri Raj Kanwar: Can an approximate date be given?

Dr. Ambedkar: No.

Shri Alagesan: May I know whether all the delimitation committees that have been appointed have submitted their reports, and, if so, whether they have been taken into consideration by the Election Commission in arriving at conclusions?

Dr. Ambedkar: I have no definite information, but I think that all the committees have not given their reports.

Shri Alagesan: May I understand from the answer of the hon. Law Minister that this House will be free to go into the question of the delimitation of constituencies?

Dr. Ambedkar: Of course. When the matter is placed before the House the House will have every opportunity to discuss whether any particular constituency has been properly delimited or not.

Kanwar Jaswant Singh: Has any date been fixed by the Government for this purpose?

Dr. Ambedkar: No. How can it be when the committees themselves have not reported?

Shri Dwivedi: May I know whether it is a fact that some constituencies have been demarcated for the representation of scheduled castes and scheduled tribes in Part C States?

Mr. Speaker: It is rather premature at this stage.

Shri Sidhva: May I know whether the delimitation committee of Bombay have suggested a constituency of over 750,000 voters against the provision of the Constitution?

Dr. Ambedkar: I do not think so. Even if that committee has made that recommendation it would be possible for the Parliament to reject any such provision contrary to the provisions of the Constitution.

सेठ गोविन्द दास : क्या भिन्न भिन्न प्रांतों में जो कमेटीयां मुकरर की गई हैं उनकी कोई तारीख दी गई है कि उनको अपनी रिपोर्ट फ़र्ला फ़र्ला तारीख के पहले पेश कर देनी चाहिए ?

[**Seth Govind Das:** Has any date been fixed for the submission of reports by the committees constituted in different provinces?]

Dr. Ambedkar: Well, I do not think that the Government can issue any such instructions, but so far as I know the Prime Minister did write a letter to the various committees that they should hurry up and submit their reports as quickly as possible.

Shri Tyagi: Is it a fact that the populations of various States and the constituencies therein have been calculated in relation to the number of electors which has been enrolled by the election agency?

Dr. Ambedkar: I think that matter was dealt with by a special order issued by the President under the Constitution.

Pandit Thakur Das Bhargava: Is it not correct that all these constituencies

which are reserved for the scheduled castes will be plural member constituencies?

Dr. Ambedkar: They must necessarily be, I suppose.

Shri Raj Bahadur: May I know whether it is a fact that the work of the delimitation committees in various States is impeded due to non-availability of authentic figures of voters?

Dr. Ambedkar: That is possible.

Shri T. N. Singh: Referring to Mr. Tyagi's question, may I know whether it is a fact that the population as settled by the President's order is in many cases and in many districts less than the actual population of 1941 census? Have Government got information on this point?

Mr. Speaker: I do not think this need be replied to.

Dr. M. C. Reddy: May I know whether it is a fact that a directive has been issued that there should be uniformly single-member constituencies throughout the country except in the case of scheduled castes and scheduled tribes constituencies?

Dr. Ambedkar: Yes, that is so.

MEDICAL UNIT TO KOREA

*1268. **Prof. S. N. Mishra:** Will the Minister of Defence be pleased to state:

(a) the number and categories of Indian Army personnel included in the Medical unit sent to Korea; and

(b) the services rendered by the unit so far?

The Deputy Minister of Defence (Major General Himatsinhji): (a) The Field Ambulance Unit comprised 17 Officers, 9 J.C.Os. and 300 Other Ranks, all belonging to Army Medical Corps.

(b) A full official report has not yet been received owing to delay in the receipt of surface mails from Korea, but from such signals as have been received so far it appears that the unit was put on action from the very day of their landing in Korea.

Prof. S. N. Mishra rose—

Shri Brajeshwar Prasad: Sir, I would like to point out that this question was disallowed last time.

Mr. Speaker: Order. order.

Prof. S. N. Mishra: May I know, Sir, the nature of duties that they are performing or they are expected to perform?

Major General Himatsinhji: It is a medical unit and their duty is to treat the wounded and the sick.

Prof. S. N. Mishra: May I know the amount that is spent over them per mensem?

Major General Himatsinhji: I want notice of that question.

Prof. S. N. Mishra: May I know whether anyone of them has been killed so far or has died as a result of any disease?

Major General Himatsinhji: That question has been put down by an hon. Member for a later date but I would reply to it. So far we have not received any intimation of anybody being killed or wounded but three persons have been evacuated who were sick, one of whom has since returned to the unit.

Shri Dwivedi: What is the amount of money spent on medicines?

Major General Himatsinhji: I should like to have notice of that question, as information will have to be obtained about the quantity of medicines used up.

Shrimati Velayudhan: May I know whether they are giving physical training to Koreans and Americans?

Mr. Speaker: Physical training? She has not followed the answer.

Shrimati Velayudhan: It relates to the medical corps as reported in the Press.

Shri Brajeshwar Prasad: When we met in the month of November last, I put a similar question in the form of a supplementary and it was disallowed by the hon. Speaker.

Mr. Speaker: If he shows me the proceedings, I shall be able to decide the matter.

Shri Gautam: Is this Unit working in collaboration with the Red Cross or independently?

Major General Himatsinhji: It is a Medical Unit. It works as a Field Unit and is working with the 27th Commonwealth Brigade.

SCHOLARSHIPS TO FOSTER CULTURAL RELATIONS

*1269. **Prof. S. N. Mishra:** Will the Minister of Education be pleased to state whether the scholarships to foster cultural relations sanctioned in 1949-50 will be continued in 1951 also?

The Minister of Law (Dr. Ambedkar): Yes.

Prof. S. N. Mishra: May I know whether there has been any increase in the scholarships this year?

Dr. Ambedkar: I do not think there has been an increase.

Prof. S. N. Mishra: May I know whether the same countries would be benefiting this year or another set?

Dr. Ambedkar: I think this matter will be considered by Government when the occasion arises.

FOREIGN GUESTS' ENTERTAINMENTS

*1270. **Shri Sidhva:** Will the Minister of Finance be pleased to state the amounts spent Ministry-wise during the years 1948, 1949 and 1950, each year separately, on receptions, hospitality etc., in connection with foreign guests' entertainments in India?

The Minister of Finance (Shri C. D. Deshmukh): A statement furnishing the requisite information is placed on the Table of the House. [See Appendix XI, annexure No. 1].

Shri Sidhva: The statement shows that the highest figure of Rs. 2,21,768 was spent by the Defence Ministry whereas the Prime Minister who is supposed to invite guests has only incurred an expenditure of Rs. 30,974. May I know why the Defence Ministry incurred this high expenditure, and what guests did they invite?

Shri C. D. Deshmukh: From the statement I do not see that the Defence Ministry has spent the largest amount.

Shri Sidhva: I am sorry, Sir, it is the External Affairs Ministry.

Sardar B. S. Man: May I know whether our hospitality and entertainment to our guests has always been dry or there has been a departure?

Shri C. D. Deshmukh: It has been dry, Sir.

RETRENCHMENT OF STAFF

*1271. **Shri Sidhva:** Will the Minister of Finance be pleased to state:

(a) the total number of staff retrenched during the year 1950, in various Ministries; and

(b) what is the total amount saved from this retrenchment?

The Minister of Finance (Shri C. D. Deshmukh): (a) 285, excluding the number pertaining to Industry and Supply Ministry, information regarding which is being collected.

(b) Rs. 3,50,000 (approximately) during that year.

Prof. Ranga: For the whole year?

Shri C. D. Deshmukh: Yes.

Shri Sidhva: Have these retrenched staff been re-employed somewhere else, or this is the actual saving?

Shri C. D. Deshmukh: Much of the retrenched staff has been re-employed elsewhere where there was provision for places to fill.

Shri Sidhva: What is the actual saving that it comes to then?

Shri C. D. Deshmukh: It is very difficult to calculate the actual saving, because the places which they filled were places for which sanctioned expenditure could be incurred.

Shri Sidhva: Out of those retrenched, how many were low paid staff and how many were gazetted officers? I want to know the low paid staff, the gazetted staff, the non-gazetted staff and the subordinate staff.

Shri C. D. Deshmukh: I have got the information here only by two categories: gazetted and non-gazetted.

Prof. Ranga: How many were gazetted officers?

Mr. Speaker: He has already stated 285.

Prof. Ranga: But how many of them were gazetted and how many non-gazetted?

Shri C. D. Deshmukh: The statement shows how many are gazetted and how many are non-gazetted. It also shows how many belong to the ministerial service and how many to Class IV service.

Shri Sidhva: The statement is not with us.

Shri C. D. Deshmukh: I am sorry, I was under the impression that the statement had been laid on the Table.

Mr. Speaker: If it is a short one, he may give the figures.

Shri C. D. Deshmukh: Gazetted is 33; non-gazetted (ministerial) is 160 and non-gazetted (Class IV) is 91.

Shri Tyagi: Not bad.

Dr. Parmar: What is the saving out of the gazetted staff?

लाला अचिन्तराम : क्या माननीय मंत्री कृपा करके बतलायेंगे कि रिट्रेंच्ड स्टाफ में किसप्लेस परसेन्स कितने हैं ?

[Lala Achint Ram: Will the hon. Minister be pleased to state the number of displaced persons in the retrenched staff?]

श्री सी० डी० देशमुख : यह इसमें दर्ज नहीं है।

[Shri C. D. Deshmukh: This is not stated here.]

MILITARY BANDS

*1272. Shri Sidhva: (a) Will the Minister of Defence be pleased to state what effort has been made to make the Military Bands in India popular?

(b) Is it a fact that a special military music wing has been opened for the purpose of putting regimental band on a scientific footing?

(c) If so, what is the result?

The Deputy Minister of Defence (Major General Himatsinghji): (a) Military bands are played at Ceremonial parades and are also made available for public functions if service commitments permit. The bands are also made available for performances at private functions on payment of reasonable charges.

(b) Yes.

(c) 90 persons are receiving training at the Wing, comprising bandmasters, potential bandmasters, Regimental musicians, Pipers and Drummers.

Shri Sidhva: Since this is a new Wing, I want to know whether any specific centre has been opened for this purpose and if so, where has it been opened and what is the expenditure?

Major General Himatsinghji: The Military Music Training Wing has been opened at the Army Educational Corps Centre and School, Pachmarhi. Its Director is a very well qualified musician who has received training at the Royal College of Music, Kneller Hall, where all British Military bandmasters are trained. Our Military Music Wing is being set up on a similar basis and the instruction imparted is on a scientific basis.

Shri Sidhva: What is the total expenditure?

Major General Himatsinghji: Rs. 61,100.

Shri Sidhva: What is the Director's salary?

Major General Himatsinghji: I want notice of that.

सेठ गोविन्द दास : क्या यह बात सही है कि पहले यह कोषी बैंड सार्वजनिक

बलूचों में भी दिये जाते थे, बीर कथों अन इनका सार्वजनिक बलूचों में दिया जाना बन्द कर दिया गया है?

[Seth Govind Das: Whether it is a fact that these military bands were previously lent for private functions as well and whether, now this has been stopped?]

मेजर जनरल हिमसिंग्ही: यह बात सही नहीं है।

[Major General Himatsinghji: This is not correct.]

Mr. Speaker: Order, order. The hon. Member should not carry on talk.

Dr. Deshmukh: May I know if instruction in military bands is given to the N.C.C. cadets?

Major General Himatsinghji: Yes, Sir. We are starting formation of bands for the N.C.C. cadets. First of all, we have to get the instruments and sanction of money as well.

Shri Raj Bahadur: May I know whether only western music is played and not Eastern music?

Major General Himatsinghji: No, Sir. Steps have been taken by the Army authorities in regard to Indian music which I should like to read out to you. Attempts are being made to encourage composers to try and compose music with an Indian background suitable for playing on military bands. A competition was held last year and the Commander-in-Chief awarded six prizes for the best entries by Indian composers of suitable music to be played on military bands. These compositions are being arranged at present and will be published in the near future.

TRAINING OF INDIAN ARMY OFFICERS

*1273. Dr. Ram Subhag Singh: (a) Will the Minister of Defence be pleased to state whether it is a fact that Indian Army Officers have been sent for training to various Army institutions in the Commonwealth Countries?

(b) If so, how many officers have so far been sent and to which countries of the Commonwealth?

The Deputy Minister of Defence (Major General Himatsinghji): (a) Yes.

(b) I lay a statement on the Table of the House.

STATEMENT

Number of Army Officers and the countries to which sent

Year	U.K.	Canada	Australia
1947	43	—	—
1948	32	—	—
1949	21	—	—
1950	22	1	1

Dr. Ram Subhag Singh: May I know whether the officers who have been sent abroad will attend some regular military colleges or will specialise in some particular branch of military science?

Major General Himatsinhji: The officers are sent mostly to the United Kingdom primarily with a view to training them as instructors, so that they can be employed as such in our training establishments on their return. As training facilities in India improve, and the requisite number of instructors become available, the necessity for sending Army officers abroad will diminish considerably.

Dr. Ram Subhag Singh: How long would it take Government to start such military educational centres?

Major General Himatsinhji: There are nearly forty-five institutions to which we send our officers in the United Kingdom and other Commonwealth countries. It will be impossible to give any definite date.

Shri Tyagi: May I know, Sir, what are the various ranks of the officers who have been sent for training—do they belong to junior ranks or some of them are also staff officers?

Major General Himatsinhji: From Generals downwards to other ranks. In fact they include all ranks.

Shri A. C. Guha: What is the per capita expenditure of each of these?

Major General Himatsinhji: I want notice of that, because it varies in each case.

Shri Gautam: Have the Defence Department made enquiries from countries other than Commonwealth countries to get these officers trained in those countries and if so have the Defence Department sent any officers to other countries?

Major General Himatsinhji: Sir, we send officers to the United States and Switzerland. Before we send officers to other countries we have to learn their language.

Shri Jainarain Vyas: Why did the Government think it necessary to send officers for training outside when trained officers are being retrenched in States like Rajasthan?

Major General Himatsinhji: The hon. gentleman is asking the question as a layman. We are sending officers for certain specific and technical training, facilities for which do not exist in our country; just as the Education Department sends civilians overseas.

Shri Raj Bahadur: On a point of order, Sir.

Mr. Speaker: I can anticipate the point of order of the hon. Member. Hon. Members before putting questions must study the subject.

Shri Kamath: Have any officers been sent to West Point Academy in U.S.A. for training?

Major General Himatsinhji: No, Sir. The West Point Academy is for training cadets, not officers.

Shri Kamath: Have any cadets been sent there or officers elsewhere in U.S.A.?

BROADCASTING STATIONS

*1274. **Dr. Ram Subhag Singh:** Will the Minister of Information and Broadcasting be pleased to state:

(a) the number of broadcasting stations in the country with 50 K.W. medium wave broadcasting transmitters; and

(b) the number of broadcasting stations in the country with 10 K.W. medium wave broadcasting transmitters?

The Minister of State for Information and Broadcasting (Shri Diwakar):

(a) One.

(b) One.

Dr. Ram Subhag Singh: May I know how many transmitters will be installed in the country during the course of this year?

Shri Diwakar: There is no such new proposal.

Shrimati Velayudham: May I know what is the power of the Calicut broadcasting station?

Shri Diwakar: It is 1 K.W.

Shri Dwivedi: May I know if any of these stations have been supplied with automatic recording equipment?

Shri Diwakar: Usually every station has automatic recording equipment.

INTERNATIONAL COSMIC RAY COMMISSION

*1275. **Dr. Ram Subhag Singh:** (a) Will the Minister of Natural Resources and Scientific Research be pleased to state whether it is a fact that a proposal to establish a high altitude cosmic ray research station in the Himalayas was discussed in Bombay by the International Cosmic Ray Commission of which India is also a Member?

(b) If so, has the Commission arrived at any decision?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) Yes Sir.

(b) It has been ascertained that the International Cosmic Ray Commission would welcome the establishment of such stations anywhere in the world through the financial aid of the respective governments. As regards international funds, the Commission felt that these could be better utilised in ensuring a more effective use of existing stations than in building new ones. It decided to recommend that grants should be given to assist workers in all countries to travel to the existing stations for their work, as it thought this would be more economical and result in better use of the workers' time.

Dr. Ram Subhag Singh: May I know whether the UNESCO will give some financial assistance for establishing these research stations?

Shri Sri Prakasa: I am afraid I cannot give an answer on behalf of the UNESCO.

Shri T. N. Singh: Have Government any idea as to what it will cost them if they establish a Cosmic Ray Research Station on the Himalayas?

Shri Sri Prakasa: The capital cost would be Rs. 40 lakhs and recurring expenditure Rs. 2½ lakhs per annum.

Dr. Ram Subhag Singh: May I know the number of other cosmic ray research stations which exist in this country?

Shri Sri Prakasa: None at present at any high altitude.

I. C. S. OFFICERS

*1276. **Pandit M. B. Bhargava:** Will the Minister of Home Affairs be pleased to state:

(a) the number of I.C.S. officers who were in the service of the Gov-

ernment of India in August 1947, prior to the partition of the country;

(b) the number of Muslim I.C.S. officers prior to the partition of the country and the number out of those who opted for Pakistan; and

(c) the number of I.C.S. officers who are at present in the employment of the Government of India?

The Minister of Home Affairs (Shri Rajagopalachari): (a) to (c). Two Statements are laid on the Table of House. [See Appendix XI, annexure No. 2.]

Pandit M. B. Bhargava: How many non-Indian I.C.S. officers are in service today?

Shri Rajagopalachari: I am sorry the original question did not make that classification. I want notice of that question.

Pandit M. B. Bhargava: Are there any superannuated officers in the I.C.S.?

Shri Rajagopalachari: Possibly, Sir, but I should ask for notice.

Sardar Hukam Singh: Did all those who opted for Pakistan go away, or some of them are still in service here?

Shri Rajagopalachari: I would ask for notice for that too.

Shri Rathaswamy: May I know, Sir, how many of the I.C.S. officers were allowed to retire on proportionate pension before the attainment of independence: of them how many were Indians and how many were non-Indians?

Shri Rajagopalachari: I am sorry, Sir, that I have information relating only to the question put. Any further figures I am unable to give now.

INDUSTRIAL FINANCE CORPORATION

*1277. **Pandit M. B. Bhargava:** Will the Minister of Finance be pleased to state:

(a) the number of applications received by the Industrial Finance Corporation from the individuals or corporations in the State of Ajmer, and the amount of loans applied for therein, as also for which Industries; and

(b) how many of the aforesaid applications were accepted, how many were rejected and the reasons for rejection?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). No applications were received from individuals who are not eligible for financial accommodation from the Corporation.

Two applications for loans aggregating Rs. 11 lakhs were received from public limited companies, and both were rejected. It will not be in the public interest to disclose the industries concerned or the reasons for the rejection.

Pandit M. B. Bhargava: May I know what is the policy of the Government—to encourage applications from those Provinces which are under-developed, or to advance loans to such Provinces which are already well-developed?

Shri C. D. Deshmukh: I don't think the policy has any reference to the state of development of the State in which the industries are situated. It has reference to the credit-worthiness and the needs of the industries which apply for assistance.

Shri Jhunjhunwala: May I know whether the applications were from existing industries or from new industries to be started?

Shri C. D. Deshmukh: They were from existing industries.

Shri Krishnanand Rai: What is the net capital in hand of this Corporation at present?

Shri C. D. Deshmukh: I would refer the hon. Member to the reports which the Corporation publishes from year to year. The information will be found in its Second Annual Report.

Shri Syamandan Sahaya: Is it a fact that the policy of this Corporation is to advance loans for purchase of capital goods alone and not for meeting the working capital requirements of a public limited company?

Shri C. D. Deshmukh: I am sorry I could not answer that question without notice.

Shri Sidhva: May I know whether any industry has actually been started with the loans given to such industries?

Shri C. D. Deshmukh: Does the hon. Member mean whether the advance is given to a new industry?

Shri Sidhva: Yes.

Shri C. D. Deshmukh: No

INDUSTRIAL ENTERPRISES

*1281. **Shri Jhunjhunwala:** (a) Will the Minister of Finance be pleased to refer to the answer given to my supplementary question raised on starred question No. 991 on the 18th December, 1950, regarding industrial enterprises and state what is the actual investment in fully Government-owned concerns and in partly Government-owned concerns?

(b) Are Government losing in wholly Government owned concerns or making profits?

(c) Have Government lost or made profits, taking the investment in such concerns as a whole, till the last accounting year?

(d) What is the total amount they lost or earned?

The Minister of Finance (Shri C. D. Deshmukh): (a) The total investment made by the Government of India in fully owned industrial concerns during the period August 1947–August, 1950, is Rs. 2,740 lakhs and in partly Government owned concerns Rs. 22 lakhs.

(b) to (d). Many of the concerns are yet in the stage of construction and the question of profit and loss does not arise in their case at this stage. The only important concern which has been in production for some time is the Hindustan Aircraft Ltd; and this made a small profit of Rs. 14.5 lakhs and Rs. 5.8 lakhs in the years 1948-49 and 1949-50 respectively.

Shri Gautam: What are the causes for this reduction of profits in the Hindustan Aircraft Factory?

Shri C. D. Deshmukh: Well, it is a new concern. It has just started making profits. So it is not a question of reduction of profits as between two years. It depends on the amount of work that they undertake in a particular year.

Shri Gautam: If I am not mistaken, the figures given by the hon. Minister were Rs. 14 lakhs and odd in the first year and Rs. 5 lakhs and odd in the following year. My question was what are the causes for this reduction in the profits?

Mr. Speaker: The question is clear. The answer also is clear—the factory is in the making they manufacture various things which they sell and the sales might exceed in a particular year—but I need not explain it.

Shri T. N. Singh: Is it a fact that some of the concerns which were taken over by the Government have been handed back to the previous owners—especially on the Railway side?

Shri C. D. Deshmukh: I think the Railway Minister might be able to answer the question. I do not know.

Shri Tyagi: May I know whether the Defence industries also are included in this?

Shri C. D. Deshmukh: No. Defence industries are not included in this, except that the Hindustan Aircraft Ltd., has now been transferred to

the Ministry of Defence. I mean that the ordnance factories are not included in this.

Shri Raj Bahadur: Is it a fact that the reduction in the profits of the Hindustan Aircraft Ltd is due to some extent to the reduction in the repair and overhauling charges for the aircraft which come for repairs to the factory?

Shri C. D. Deshmukh: I am sorry I am not in a position to answer that question.

Shri A. C. Guha: Can we have a list of the fully government-owned concerns?

Shri C. D. Deshmukh: The following are fully government-owned:

Government Housing Factory.
Indian Telephone Industries.
Hydrogen Factory, Agra.
Hindustan Aircraft Limited.
Fertilizer Projects, Sindri.
Penicillin Factory.
Mathematical Instruments Office.
Indian Rare Earths Limited.
Chittaranjan Locomotive Works.

सेठ गोविन्द दास : इन फ़ैक्टरियों में से कि गवर्नमेंट की है और जो अभी बन रही है, इनमें से कितनी फ़ैक्टरियां निकट भविष्य में चलने वाली है और कितनी में अभी देर लगेगी?

[**Seth Govind Das:** Out of these Government factories and those which are still under construction, how many of them are working and how many will take time to start?]

श्री सी० डी० देशमुख : गवर्नमेंट हाउसिंग फ़ैक्टरी अब निकट भविष्य में किस ओर चलेगी या नहीं चलेगी यह तो अभी निश्चित नहीं है। वह चलेगी, लेकिन किस तौर पर चलेगी यह अभी निश्चित नहीं हुआ है। इंडियन टेलीफोन इंडस्ट्री अभी चल रही है। हायड्रोजन फ़ैक्टरी, हिन्दुस्तान एयरक्राफ्ट लिमिटेड और फ़र्टीलाइजर प्रोजेक्ट, ये निकट भविष्य में चलेंगे ऐसी उम्मीद है। पेंसिलीन फ़ैक्टरी में कुछ बिलम्ब समेता और संशोधनिकल इन्स्ट्रुमेंट्स फ़ैक्टरी तो अब से चल रही है। इंडियन रेयर अर्थ्स लिमिटेड, आधा है,

पांच छः महीने में काम शुरू करेगी और चित्तारंजन लोकोमोटिव वर्क्स की क्या हालत है, यह अभी चलने वाली है या कुछ देर लगेगी यह मालूम नहीं है।

[**Shri C. D. Deshmukh:** It has not been yet decided what will be the scope of activities of the Government Housing Factory in the near future. It will work, but it has not been decided as to what it will manufacture. The Indian Telephone Industries are working. It is hoped that the Hydrogen Factory, the Hindustan Aircraft Limited and the Fertilizer Projects will start working in the near future. The Penicillin Factory will take some time. The Mathematical Instruments Factory is already working since a long time. The Indian Rare Earths Limited will start working within five or six months. Nothing is known as to whether the Chittaranjan Locomotive Works will start working now or it will also take some time.]

DAMODAR VALLEY PROJECT (FINANCIAL SET UP)

*1282. **Shri B. R. Bhagat:** Will the Minister of Natural Resources and Scientific Research be pleased to state:

(a) whether the financial set up of the Damodar Valley Project has been recently discussed at a Conference of the participating States Governments called by the Government of India; and

(b) if so, what was the nature and scope of discussions and the decisions taken?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) Yes Sir. The last meeting of the participating governments was held on December 27, 1950 and will be continued on March 3, 1951.

(b) The discussions at the last meeting were of a general nature, and though no decisions could be taken at the December meeting, we were able to cover a good deal of ground and hope to take helpful decisions at the coming meeting in March.

Shri B. R. Bhagat: May I know whether in that Conference the hon. the Finance Minister expressed great anxiety and concern over the way the finances of the Corporation are being handled?

Shri Sri Prakasa: The hon. the Finance Minister was present at that Conference and did give his opinions on the various problems discussed.

Shri B. R. Bhagat: May I know whether it is a fact that the representatives of the Bengal Government did not

attend this Conference and if so, the reason for it?

Shri Sri Prakasa: The fact is that they were not present at the Conference. I understand the Chief Minister who wanted to be present was engaged otherwise and therefore he could not come.

Shri Shiva Rao: May I know whether he has perused the annual report of the Corporation and studied the observations of the Auditor at the end of that report?

Shri Sri Prakasa: A copy of the report was given to me only a week back and I have certainly studied with great care the remarks of the Auditor.

Shri Shiva Rao: May I know whether the Auditor has remarked that according to the present practice of the Corporation contracts are given by negotiation, without competitive tenders being called for; there is no approved Schedule of Rates for the execution of works at the various work sites; open tenders are not called for purchases made through the Central Purchasing Organization?

Shri Sri Prakasa: I have read the words as quoted by the hon. Member. I may state for the information of the House that at the Damodar Valley Corporation Conference held on 8th May 1949 a convention was established by which the Damodar Valley Corporation would send to the Government of India before conclusion any contract or agreement which the Corporation propose to enter into other than contracts or agreements arising as a result of a public call for tenders or quotations. The Damodar Valley Corporation also come to Government in cases of contracts of which the value is not definitely ascertainable at the time of the placing of the contract or the signing of the agreement. We have no information as to whether the Corporation have an approved Schedule of Rates for the execution of their works.

Shri Shiva Rao: Is it also a fact that the Auditor has pointed out that there is very little relation between the original estimates and revised estimates, as for instance, the Bokaro thermal station and the transmission line; as against the original estimate of Rs. 10 crores for the scheme the revised estimate is Rs. 20.62 crores?

Shri Sri Prakasa: At the last meeting these matters were brought to the notice of all the participating Governments and all the estimates are being revised at the present moment.

Shri Shiva Rao: Has the Auditor expressed the opinion that in view of

these variations some of the projects might prove un-economical and may have to be dropped?

Shri Sri Prakasa: That is so, Sir, and he has also added that other projects in the valley might be found more paying and might have to be taken up.

Shri Shiva Rao: In view of the disclosures made by the Auditor, some of them of a grave and disquieting character, will the hon. Minister give an assurance to this House that before he comes forward for sanction of capital expenditure in the forthcoming Budget, he will take due note of the remarks of the Auditor?

Shri Sri Prakasa: I can give that assurance readily. I am studying the report with the greatest care and I hope that any difficulties that are being experienced by the Corporation and also by the hon. Member will be removed.

Prof. Ranga: May I know in spite of the fact that the Act gives the power to Government to give directions whenever they found it necessary and in spite of all these defects, Government till now have not chosen to give even one directive to the Damodar Valley Authority.

Shri Sri Prakasa: That is not a fact. Government are always giving directives and also calling for reports.

Prof. Ranga: I am not having in my mind the usual directives that Government give to this or that authority. I have in my mind the statutory directive that Government are empowered to give when they feel necessary. I wanted to know whether Government have given in terms of that statute any directive at all to the Damodar Valley Authority?

Shri Sri Prakasa: So far as my information goes, Sir, directives that have been given so far have been of an informal nature and the directives such as are envisaged by the hon. Member have not been given.

Shri M. A. Ayyangar: May I ask the hon. Minister that when a suggestion was made by the Council of Advisers that proceedings of the meeting of the Board might be sent to the three Governments for information from time to time, they refused to send copies of the proceedings on the ground that they were an autonomous body?

Mr. Speaker: Order, order.

Shri Sri Prakasa: I am not aware of those particulars.

Shri B. R. Bhagat: May I know, Sir, whether in the Conference the Finance

Minister raised the question of the repayment of loans made to the Damodar Valley Corporation by the different Governments. If so, will the matter be pursued at the next Conference?

The Minister of Finance (Shri C. D. Deshmukh): I pointed out that a proper project report should be submitted to Government before further loans for the remaining part of the works for this year or next year are given and the idea was to ensure that loans for obviously uneconomic projects are not advanced unless there is some kind of assurance that they would have the capacity to service these loans over whatever period might be agreed upon between the Central Government and the Bengal Government, who in their turn advance money to the Corporation.

Shri Tyagi: Has the fact come to the notice of Government that least heed was paid to the advice of the Financial Adviser who was appointed by Government according to law?

Shri Sri Prakasa: According to the report of the Corporation itself, they pay every heed to the advice of the Financial Adviser, but I may add, Sir, that I myself am not satisfied with the position of the Adviser because he happens to be an employee of the Corporation itself, though he has been nominated by us. I am proposing to look very closely into the position and see if his status cannot be changed, so that his advice can be more effective.

Shri B. Das: In view of the differences between the Damodar Valley Authority and the Government of India all along, will the hon. Minister take steps to amend the Damodar Valley Corporation Act, so that the Government of India may exercise proper financial and administrative control?

Mr. Speaker: I am afraid this is a suggestion for action.

Shri Jhunjhunwala: Having regard to the fact that the estimate of thermal stations has doubled, does the Government consider it economic or uneconomic?

Shri Sri Prakasa: The estimated costs have certainly gone up and the whole position will have to be examined anew.

Shri Gautam: Is it a fact that the Damodar Valley Corporation has been buying goods in the U.S.A. without the co-operation of our Purchasing Mission in U.S.A. and have appointed their own agency? If so why?

Shri Sri Prakasa: The purchasing agency is the Directorate General in the I. and S. Ministry here and the Damodar Valley people complained that they were not able to get the goods in time through them. I am looking into this matter and we are hoping that some proper arrangements will be made so that the goods may be ordered through the Director-General here and they may be supplied in time.

Shri Sidhya: In view of the fact that the irrigation works have been started, may I know why the plans have not yet been prepared for these irrigation works and why thermal plant has actually been completed?

Shri Sri Prakasa: I fear I am not in a position yet to give a full answer to the question.

RETRENCHMENT IN MADHYA BHARAT STATE FORCES

*1283. **Shri Ghule:** Will the Minister of Defence be pleased to state the number of persons retrenched from the Madhya Bharat State Forces since the 1st of April, 1950?

Deputy Minister of Defence (Major-General Himatsinghji): I would invite the attention of the hon. Member to the answer given by me in Parliament to part (c) of Starred Question No. 788 on the 8th December 1950, on the policy regarding merger and retrenchment of personnel of the Forces of the former Indian States. The retrenchment effected in the Madhya Bharat State Forces is a part of the general scheme. It will be appreciated that it is not in the public interest to disclose the numbers retrenched from time to time, thereby revealing present strengths.

Shri Ghule: May I know what was the previous strength out of which the retrenchment was made on 1st April, 1950.

Major-General Himatsinghji: The strength of the Madhya Bharat State Forces was 8,796 on 1st April, 1950.

Shri Ghule: May I know, Sir, whether any separate provision has been made to re-absorb these retrenched persons in service?

Major-General Himatsinghji: This question has been put to me by many hon. Members during the last few days. Therefore, I should like to read out from my Docket, as it is a question of policy:

"The problem of resettlement and rehabilitation of demobilized personnel is a general one affecting all the States because we are not only reducing the

State Forces but also other units of the Indian Army. Government have agreed that financial contribution will be made towards implementation of suitable schemes of resettlement which are being drawn up. So far as State Forces are concerned, the Governments of Part B States have been requested to formulate schemes for the resettlement and rehabilitation of demobilized personnel as they have better knowledge of local problems and the nature of resettlement required. The precise nature of assistance from the Centre will depend upon the schemes to be submitted by the State Governments."

Shri Jainarain Vyas: May I know whether all these officers and men were removed from service for reasons of health?

Mr. Speaker: How does it arise?

Major-General Himatsinghji: I can repeat the same answer again that he is asking the question as a layman.

Prof. Raaga: May I draw your attention to the fact, Sir, that all of us are supposed to be laymen and not experts. Experts are not supposed to be officers of States. They are laymen. It is not right on the part of any Minister to have a fling at any of us by calling us laymen. I take very strong exception to that. I request you to protect us also.

The Prime Minister (Shri Jawaharlal Nehru): May I say, Sir, I do not understand the hon. Member's resentment and outburst on this occasion. The question asked was a question which has been answered. He said that. To call one a layman is not an insult. I protest against this protest.

Prof. Raaga: My personal explanation is only this. We do not mind being called laymen. The question that we put is to be treated as a layman's question and it deserves a proper answer, what is the implication of the answer given? I am extremely sorry to notice how the Prime Minister has taken objection to my protest because I think the Prime Minister has to defend the dignity of this House.

Mr. Speaker: The hon. Member need not get into a passion over this.

Prof. Raaga: The Prime Minister gets into a passion unnecessarily.

Mr. Speaker: Even when the Deputy Minister replied that he was a layman, my own reaction was that he never intended a fling.

Prof. Raaga: He repeats it again.

Shri Jawaharlal Nehru: To say that one is a layman is not an insult.

Prof. Raaga: Kindly read his answer again.

Shri Jawaharlal Nehru: I do think this is a serious matter that the hon. Member has raised. I take the strongest objection to what he has said. The hon. Member has accused one of the Deputy Ministers of Government for being discourteous to the House. I am positive that he was not discourteous. The question put to him was not a proper question: "Is this being done for reasons of health: are the officers and men removed for reasons of health?" I put it to the House whether that was a sarcastic question or not. The answer had been given that we wanted to take certain steps with regard to retrenchment for other reasons. Then this question is put. That is a sarcastic question. It is not a straight question. If the Deputy Minister says completely without any malice or anything that that was not a proper question, the only conclusion one can draw is that he is totally ignorant of all that is taking place.

Mr. Speaker: I do not think we need carry this matter any further. I myself carried the impression that that question was sarcastic and disallowed that question. I have no doubt in my mind. Whatever it may be, the question was put in a manner which was capable of the construction that that was a matter of joke that the forces were being retrenched on account of bad health or some such thing. That was not a proper question to be put.

Shri Gautam: The remark was repeated.

Mr. Speaker: I do not think we need carry the point further.

Shri Jainarain Vyas: On a point of personal explanation, Sir, my own information is that most of these officers and men have been retrenched on account of health reasons. I wanted to know what percentage was on account of health and what percentage on account of other reasons. I think I was right in putting this question. There was no sarcasm in it.

Mr. Speaker: We will go to the next question.

Shri Joachim Alva: With your permission, one word, Sir. I want to add that the hon. Deputy Minister has been a very competent man and has been very courteous to the House.

Mr. Speaker: Next question, Mr. Velayudhan. (The hon. Member did not rise in his seat.)

Next question, Mr. Dwivedi.

Shri K. Velayudhan: I want to ask my question, Sir.

Mr. Speaker: Order, order, it was passed over.

CHILD WELFARE CENTRE AT NOWGONG

*1285. Shri Dwivedi: Will the Minister of Health be pleased to state:

(a) the reasons for closing down the Child Welfare Centre at Nowgong in Vindhya Pradesh;

(b) what was the total monthly expense in this connection;

(c) whether any such centres are working or are likely to be opened anywhere in Vindhya Pradesh; and

(d) if so, what are those places?

The Minister of Health (Rajkumari Amrit Kaur): (a) The Child Welfare Centre at Nowgong was closed temporarily for want of a trained Health Worker.

(b) Rs. 340/- per month.

(c) and (d). Two Centres—one at Rewa and another at Nowgong—are working since November, 1950, and it is proposed to open two more Centres at Panna and Satna as soon as services of more qualified health workers are secured.

Shri Dwivedi: May I know in whose hands the building in Nowgong in which the Child Welfare Centre was held, is now?

Rajkumari Amrit Kaur: I could not answer that. I take it, it is in the hands of the Government authorities there.

Shri Dwivedi: What was the total quantity of milk supplied every month to the children at Nowgong?

Rajkumari Amrit Kaur: I cannot give that information.

Shri Sidhya: What has become of question No. 1284, Sir? It was not put.

Mr. Speaker: No. The hon. Member was called thrice. He was engaged either in enjoying what was going on in the House or he was not attentive. After having called him thrice, I called the next question. Members have got to be attentive when their questions are called.

JUNIOR HIGH SCHOOL EXAMINATION IN VINDHYA PRADESH

*1286. Shri Dwivedi: (a) Will the Minister of Education be pleased to state what is the basis of selection of

personnel for the Board of Education for Junior High School Examination in Vindhya Pradesh?

(b) Is the constitution of the Board comparable with similar Boards in Uttar Pradesh, Madhya Bharat or Rajasthan?

(c) Will Government lay on the Table of the House a copy of the constitution of the Vindhya Pradesh Education Board, and a list of the names of the members?

The Minister of Law (Dr. Ambedkar): (a) Basis of selection of Personnel for the Board of Education for Junior High School Examination in Vindhya Pradesh is as follows:

(i) 6 members nominated by the Chief Commissioner;

(ii) 3 members nominated by the Director of Education;

(iii) one member nominated by the Director of Medical and Health Services;

(iv) one member nominated by the Vindhya Pradesh Sahitya Sammelan; and

(v) the rest elected by Headmasters and teachers of High and Middle Schools.

(b) A comparative statement of the Constitution of Vindhya Pradesh and Uttar Pradesh Boards is placed on the Table of the House. [See Appendix XI, annexure No. 4.]

No information is available about the Constitution of the Education Boards in Madhya Bharat and Rajasthan.

(c) A copy of the Constitution together with a list of the names of the members is placed on the Table. [See Appendix XI, annexure No. 3.]

Shri Dwivedi: Is it not a fact that the Board of Education in Vindhya Pradesh is dominated by Government employees only?

Dr. Ambedkar: I think that would be evident from the examination of the constitution to which I have referred.

Shri Dwivedi: Would it not be possible to have other educationists and public men represented there?

Dr. Ambedkar: It is possible; I have no doubt that if representation is made in proper quarters, steps will be taken to bring about the result which my hon. friend has in mind.

RE-GROUPING OF MINISTRIES

*1287. Shri Dwivedi: Will the Minister of Home Affairs be pleased to state the number of Government employees

affected by retrenchment, transfers, or re-organisation of scales of pays and grades separately, as a result of regrouping of the Ministries of Commerce, Industry and Supply and Works, Mines and Power?

The Minister of Home Affairs (Shri Rajagopalachari): I have already mentioned the position in this regard in reply to Starred Question No. 1159 by Shri Balmiki on 5th February 1951.

The question of reorganisation of scales of pays and grades has not been considered in connection with the recent regrouping of Ministries. As regards retrenchment, transfers, etc., the required information is being analysed and will be laid on the Table in due course.

Shri Dwivedi: May I know if any I.C.S. officer has been retrenched in this connection?

Shri Rajagopalachari: I have referred to Secretaries, Deputy Secretaries, etc. As for the attack particularly on the class known as I.C.S. I will have to look into the papers.

Shri Rathnaswamy: What is the saving likely to be effected on account of this?

Shri Rajagopalachari: Even that. I have answered already. Until everything is settled, we cannot calculate the saving.

Shri Dwivedi: Do Government propose to re-group other Ministries also?

Shri Rajagopalachari: That also I have answered on the previous question.

Mr. Speaker: The Question-hour is over.

WRITTEN ANSWERS TO QUESTIONS

CINCHONA PLANTATIONS (FACILITIES)

*1278. **Shri Barman:** Will the Minister of Health be pleased to state the facilities for expansion in India of Cinchona plantations?

The Minister of Health (Rajkumari Amrit Kaur): According to a survey made in 1939, the total available area suitable for cinchona cultivation was estimated at 38,000 acres of which 6,000 acres were already under cultivation in Madras and Bengal. The Governments of these States have since extended their plantations. The Madras Government have at present about 9,300 acres under cinchona cultivation. Information is not available regarding

the present area under cultivation in Bengal. The prevailing depression in the quinine market caused by effective competition from the synthetic anti-malarials, however, has put a stop to all schemes of expansion and improvement.

STAFF TRAINING SCHOOL, A.I.R., NEW DELHI

*1279. **Shri Balmiki:** Will the Minister of Information and Broadcasting be pleased to state:

(a) how many people were given training in the Staff Training School, All-India Radio, New Delhi, during 1949-50 and 1950-51; and

(b) the expenditure incurred on this school during the same period?

The Minister of State for Information and Broadcasting (Shri Diwakar): (a) 79 in 1949-50 and 26 up to date in 1950-51.

(b) Rs. 79,674 in 1949-50 and Rs. 62,000 as anticipated for 1950-51.

RETRENCHMENT OF CLASS IV SERVANTS

*1280. **Shri Balmiki:** Will the Minister of Home Affairs be pleased to state how many Class IV Government Servants have been retrenched during 1949-50 and 1950-51 (up to date), in the various Ministries of the Government of India?

The Minister of Home Affairs (Shri Rajagopalachari): The information is being collected and will be laid on the Table of the House in due course.

INSURANCE COMPANIES

*1281. **Dr. Deshmukh:** Will the Minister of Finance be pleased to state how many Insurance Companies have wound up their business or have gone into liquidation since 1st January, 1945?

The Minister of Finance (Shri C. D. Deshmukh): The number of Insurance Companies registered under the Insurance Act, 1938, which have wound up their business or have gone into liquidation since 1st January, 1945 is Nine.

INDIAN COMPANIES ACT

*1282. **Seth Govind Das:** (a) Will the Minister of Finance be pleased to state whether Government propose to bring a Bill to amend the Indian Companies Act? If so, when?

The Minister of Finance (Shri C. D. Deshmukh): Legislation to amend the Indian Companies Act will be considered on receipt of the report of

the Committee which has been recently set up to consider the amendment of the Act. In this connection attention is invited to the answer to Question No. 1176 asked on the 5th February, 1951.

POWER PLANTS

*1290. **Shri D. S. Seth:** Will the Minister of Natural Resources and Scientific Research be pleased to state:

(a) the number of Power Plants installed in the country by the English Electric Group of Companies, the places where they are located, and the amount of the power to be generated by them separately;

(b) the names of the Managing authorities; and

(c) the purpose for which the plants have been installed?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) There is no group called the English Electric Group of companies known to us but there are 35 Electric companies whose managing agencies are predominantly foreign. Two statements showing the locations of the Power Plants and the amount of power generated and/or purchased by each plant individually in million KW. belonging to these companies, are laid on the Table of the House. [See Appendix XI, annexure No. 5.]

(b) A list giving the names of the Managing Agents, is also laid on the Table of the House. [See Appendix XI, annexure No. 6.]

(c) To supply electricity to the public.

INFLUENZA

*1291. **Shri Raj Kanwar:** (a) Will the Minister of Health be pleased to state whether any steps have been taken by the Government of India to prevent the spread into Indian territory of the influenza epidemic, which for some time past, has been sweeping Europe?

(b) If so, what are they?

The Minister of Health (Rajmari Amrit Kaur): (a) and (b). There have been reports of outbreak of clinically mild influenza epidemics in Hawaii, Japan, Canada, the United States and Europe. From the Press Release issued by the W.H.O. Regional Office in New Delhi, on the 29th January, 1951, it is gathered that the disease is not severe and complications have been rare and mortality low. There is no specific mention in the Press Release of any special danger to India. The Administrative Medical Officers of the State have

been warned to keep a close watch over any signs of outbreak of influenza in the country. I may, however, add that prevention of the spread of a disease like influenza is a difficult matter. No epidemics have been reported so far.

INDIAN SCIENTISTS ON DEPUTATION

*1292. **Shri Kishorimohan Tripathi:** (a) Will the Minister of Education be pleased to state whether the Government of India have received any requests from foreign Governments for sending Indian Scientists on deputation for specific purposes?

(b) If so, which are the countries which have made such requests?

(c) What is the number of Indian Scientists who have been sent on deputation to foreign Governments?

The Minister of Law (Dr. Ambedkar): (a) Yes.

(b) Only one such request was received from the Government of Ceylon in July 1949.

(c) One.

BROADCASTING STATION, JULLUNDER

*1293. **Giani G. S. Musafir:** Will the Minister of Information and Broadcasting be pleased to state:

(a) whether Government propose to increase the power of the Broadcasting Station at Jullunder (Punjab) (I); and

(b) if the answer to part (a) above be in the affirmative, the date by which the said decision is likely to be implemented?

The Minister of State for Information and Broadcasting (Shri Iswarkar): (a) The Eight Year Plan for Development of Broadcasting envisages a higher power medium wave transmitter of 10/20 k.w. at Jullunder, but its installation will be undertaken when funds become available.

(b) Does not arise.

DAILY AND TRAVELLING ALLOWANCES TO MEMBERS OF PARLIAMENT

*1294. **Shri Kamath:** Will the Minister of Finance be pleased to refer to the reply to starred question No. 106 asked on 17th November, 1950 and state:

(a) whether the question of payment of daily allowances at a uniform rate to Members of Parliament serving on Committees, whether Parliamentary or Governmental, has been examined;

(b) if so, whether a decision has been reached; and

(c) what allowances will be paid to Members of Parliament in such circumstances in future?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). Yes. It has been decided that in respect of Governmental Committees, Daily allowance will be regulated in accordance with Finance Ministry's Memorandum No. F. 10(2)-Est. II/47, dated the 17th October 1947 a copy of which has been placed on the Table of the House. [See Appendix XI, annexure No. 7.]

The maximum rate of daily allowance admissible under this Memorandum is Rs. 20 per day.

(c) In respect of Parliamentary Committees the rules governing the allowances of Members of Parliament continue to apply. Under these rules, a daily allowance of Rs. 40 per day is ordinarily admissible.

BROADCASTING FACILITIES

*1295. Shri Kamath: Will the Minister of Information and Broadcasting be pleased to state:

(a) whether Government have considered the question of allowing broadcasting facilities to all the parties contesting the ensuing General Elections; and

(b) if so, the decision that has been reached?

The Minister of State for Information and Broadcasting (Shri Diwakar): (a) The question will be considered when it arises.

(b) Does not arise

INTERNATIONAL ENGINEERING CONFERENCE

*1296. Shri Sivaprakasam: Will the Minister of Natural Resources and Scientific Research be pleased to state:

(a) the subjects discussed at the International Engineering Conference held recently in New Delhi; and

(b) how many delegates attended this Conference and what were the results of the conference?

The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) The following three International Conferences were held recently in New Delhi:

- (1) Sectional meeting of the World Power Conference;
- (2) Fourth Congress on Large Dams;

(3) First Congress on Irrigation and Drainages

Three pamphlets giving in detail the subjects discussed at these conferences, are laid on the Table of the House. [Copies placed in the Library, See No. P-136/51.]

Briefly they were:

(1) World Power Conference:

- (i) Utilisation of electricity in agriculture; and
- (ii) Co-ordination of the development of industries and the development of power resources.

(2) Fourth Congress on Large Dams:

- (i) Design and construction of Earth Dams and Rockfill Dams with their Core Walls and Diaphragms.
- (ii) Method for determining the maximum flood discharge that may be expected at a Dam and for which it should be designed. Selection of type, capacity, and general arrangement of temporary or permanent outlets and spillways and determination of their capacities.

(iii) Concrete for large Dams.

(iv) Sedimentation in reservoirs and related problems.

(3) First Congress on Irrigation and Drainages:

- (i) National Review of Irrigation, Development and Practice.
- (ii) Present Day Problems in Irrigation and Drainage.

In all 186 technical papers were discussed at these conferences, out of which 40 were contributed by India.

(b) 797 delegates attended the conferences, of these 20% came from abroad. The results of the conferences will be published in their respective proceedings which will be available some time later. These will be placed in the library of the House when received. The conclusions reached at the International Commission on Large Dams and the International Commission on Irrigation and Drainages are laid on the Table of the House. [See Appendix XI, annexure No. 8.]

INFLUENZA

*1298. Shri Raj Bahadur: Will the Minister of Health be pleased to state:

(a) whether it is a fact that the World Health Organisation has issued a warning regarding the possible outbreak of influenza of the pernicious type in an epidemic form; and

(b) If so, whether the warning relates to India also?

The Minister of Health (Rajkumari Amrit Kaur): (a) and (b). The hon. Member is referred to the reply given to Starred Question No. 1291 today.

ARREARS IN NAGPUR HIGH COURT

*1299. Shri P. Y. Deshpande: (a) Will the Minister of Home Affairs be pleased to state whether it is a fact, that the Government of Madhya Pradesh represented to the Central Government about the existence of huge arrears of cases in the Nagpur High Court and endorsed the demand of that Court that the number of Judges be increased from 8 to 10?

(b) Is it a fact that the Madhya Pradesh Government have accepted the financial obligation of such an addition?

(c) Is it a fact that this demand was made several months ago and has been repeated in view of the increasing arrears of cases and new petitions under Articles 226 and 227 of the Constitution?

(d) If so, what action have Government taken in the matter?

The Minister of Home Affairs (Shri Rajagopalachari): (a) On the ground of heavy arrears, the Madhya Pradesh Government supported the request of the High Court for an additional two Judges.

(b) The expenditure in respect of the salaries and allowances of Judges of a High Court is, under the Constitution, charged on the Consolidated Fund of the State.

(c) Yes.

(d) The President is required, under article 216 of the Constitution, to fix the maximum number of Judges in relation to each High Court. The proposals of State Governments have now been received, the last reply having been received only some two weeks ago, and the issue of an omnibus Order is under consideration. Government have also to take into account,

in this connection, the recommendations of the High Court Arrears Committee. The replies from all State Governments on the report of this Committee have not yet been received.

PROTECTION OF DIBRUGARH

*1300. Shri E. K. Chandhuri: (a) Will the Minister of Finance be pleased to state what assistance, if any, has been given by the Government of India for the protection of the town of Dibrugarh from erosion?

(b) Has the pecuniary assistance of a sum of Forty lakhs of rupees applied for by the State of Assam been granted by the Government?

The Minister of Finance (Shri C. D. Deshmukh): (a) Some assistance has been provided in the form of the services of geologists and engineers of the Central Government for advice on the measures necessary for the protection of the town. No other assistance has been granted so far.

(b) No. The matter is under correspondence with the State Government who have been asked to furnish the details of the plan.

OIL FIELD AND WORKS, DIGBOI

*1301. Shri K. K. Chandhuri: Will the Minister of Natural Resources and Scientific Research be pleased to state:

(a) to whom the Oil-Field and Works in Digboi in Assam belong; and

(b) if to a private company, what is the relation between the Government of Assam and the Company?

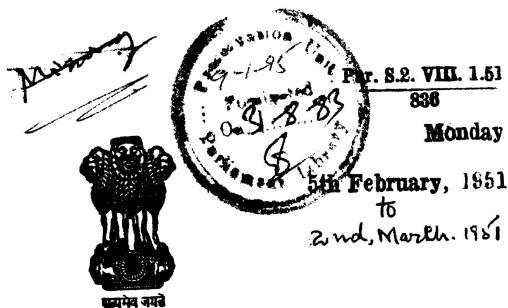
The Minister of Natural Resources and Scientific Research (Shri Sri Prakasa): (a) It is understood that the Oil-Field in Digboi belongs to the Government of Assam; and the Works on the oil field belong to Messrs. Assam Oil Company, who hold a lease for the area.

(b) The relation between the Government of Assam and the Assam Oil Company is that of lessor and lessee respectively under the terms of the Agreement executed between them.

Thursday, 8th February, 1951

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PARLIAMENTARY DEBATES

PARLIAMENT OF INDIA

OFFICIAL REPORT

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THE
PARLIAMENTARY DEBATES
(Part II—Proceedings other than Questions and Answers)
OFFICIAL REPORT

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PARLIAMENT OF INDIA

Thurday, 8th February, 1951.

*The House met at a Quarter to Eleven
of the Clock.*

[MR. SPEAKER in the Chair.]

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

PAPERS LAID ON THE TABLE

CONSTITUTION (REMOVAL OF DIFFICULTIES) ORDER NO. VII (AMENDMENT) ORDER

The Minister of Law (Dr. Ambedkar): I beg to lay on the Table a copy of the Constitution (Removal of Difficulties) Order No. VII (Amendment) Order (Made by the President on 15th January, 1951), under clause (2) of Article 392 of the Constitution. [Placed in Library. See No. P-134/51.]

CINEMATOGRAPH (CENSORSHIP) RULES

The Minister of State for Information and Broadcasting (Shri Diwakar): I beg to lay on the Table a copy of the Cinematograph (Censorship) Rules, 1951, along with a copy of the amendment to the Rules, in accordance with Section 9(5) of the Cinematograph Act, 1918. [Placed in Library. See No. P-135/51.]

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

The Minister of Home Affairs (Shri Rajagopalachari): I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration".

304 PSD.

The main object of this Bill is to extend the penal procedure to the Part B States, where a number of independent laws have been in force up till now, though shaped and modelled on the ordinary penal procedure of the rest of India. The application of the procedure on a uniform basis to Part B States would lead to the doing away of the cumbersome process of extradition with which we have been familiar with regard to the procedure against persons to be arrested in these States. That is the main object of this Bill. Incidentally a few other amendments have been put in which have been found necessary and which have been explained in the Statement of Objects and Reasons and would be self-evident on a reading of the Bill itself.

Relatively speaking, one important provision in this Bill and over which some hon. Members might be exercised is the one relating to the immunity in reference to ex-rulers of the States. Hitherto they had been enjoying a great deal of immunity and my honoured predecessor felt at the time of the political changes with regard to the States that some guarantees should be given to these ex-rulers with reference to the dignity and the privileges which they had been enjoying for a long time and hereditarily. The present proposal in this amending Bill is that the immunity should be continued in terms of the moral obligations to which we are committed and which my predecessor felt he was bound to fulfil, but hedged in with the very important condition that with the consent of the Government of India in any suitable case proceedings can be taken against any of these ex-rulers. I do not think the House would grudge the concession that is now proposed under the amendment because while on the one hand it protects them against vexatious or factious criminal proceedings, it at the same time protects society against any serious crimes on their part by the provision that

[Shri Rajagopalachari]

the Government of India could give sanction on an examination of the case.

The other provisions are of very minor importance and are only intended, so to say, to tidy up the procedure. There is for instance the clause with reference to an accused person convicted and sentenced to death. Certain new laws have been passed in recent times by which appeals have been given to persons condemned to death in more cases than in old days. It is now provided that notice should be given to the condemned person of the time within which he should file an appeal.

I do not think any further observations are called for from me at this stage. We shall deal with the amendments that are proposed, from time to time. I hope hon. Members will see that there is no question of principle on which there can be any difference of opinion in this amending Bill and we may proceed to its consideration by clauses, when the motion for consideration of the Bill is approved.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration."

Shri M. A. Ayyangar (Madras): Sir, I am exceedingly sorry I was a little late, that I was not sufficiently alert earlier. Therefore with the indulgence of the House and the indulgence of the hon. Minister in charge, I desire to move a motion for reference of this Bill to a select committee. And I do so for the following reasons. Of course, I am aware that I am very late, that I come in the eleventh or the twelfth hour. But if my arguments appeal to the hon. Minister and to the hon. Members of this House I request the want of notice may kindly be waived.

My points for making this motion are these. This amending Bill has been brought in by the Government with a view to bring about uniformity in the application of the law of Criminal Procedure in the whole of India. Various provisions of the Act, the various clauses and sections of it are sought to be amended so as to include the Part B States. But one reason why I want the Bill to be referred to a select committee is this. You will be aware that section 527 of the Criminal Procedure Code of 1898 empowered the Governor-General to transfer a case from any State or Province to any other State or Province,

whether the case was pending before a magistrate of the Province or State or before the High Court of the Province. This could be done for various reasons. We are aware of such cases as the Sivaganga case in Madras which created so much sensation. In such cases, whether launched by a private individual or by the State, the moment prosecution is launched the Government becomes the prosecutor and the complainant who wishes to withdraw a cognizable case can do so only with the permission of the Collector. Of course, it is a rudimentary principle of criminal procedure which states that the prosecution is in the interest of public administration, and for this reason it ought to be left to no private individual to wreak vengeance against another except through the agency of the State. In those circumstances, to give power to the State itself to transfer the case is not desirable. Since 1898 power was given to the Governor-General to transfer a case from one State to another. That was a peculiar power vested in the Governor-General. But somehow, after 1937, in 1949 by an adaptation and without seeking the aid of the legislature, the term Governor-General was removed and the government of the particular province was substituted for the Governor-General. Therefore by the adaptation which was done behind the back of the House under the power given in the Government of India Act, a radical change was effected for which this House was not responsible. The radical change is this. The overall control of the Government of India as arbiter holding the scales even as between State and State and citizen and citizen has been removed. The power is now vested in the Government of the Province where the case is lodged to transfer the case, if they chose, from that State to another. They can ask the prosecutor himself to withdraw the case. There may be cases where the prosecutor may in fairness send the case away when there is reasonable suspicion in the mind of the accused that justice might not be done in that court of a State, because the case might be sensational in character. There may be other cases where the executive might be interested in seeing that a man is roped in and passions may run high in the State, in which case the man is absolutely at the mercy of the executive. Therefore it was wrong on the part of the adapters to have substituted the Government of a province for the Governor-General. They should have continued the power of the Governor-General and the President would naturally have stepped into the shoes of the Governor General after the 26th

January, 1950, when the Constitution came into force. By the adaptation the Government of the Province was substituted for the Governor-General and now the Government of the State is substituted for the Government of a Province. The implication is this that it is open to that State, whether belonging to Part A or B, to transfer its case to another State.

In this connection I might say that a number of hardships are felt. All States are not of the same nature. There are States in which the old autocracy has been replaced by a representative legislature but the people have not accustomed themselves to democracy. If a word is said against the executive for the time being immediately they jump to the conclusion that the court is hostile and the executive resents it. Though we have now democracy in all States they are not on the same level. They have not yet adjusted themselves to the independence of the judiciary. Any critical remark made by the judiciary is very often resented, so much so that in some places the subordinate judiciary has to toe the line with the executive. The Fundamental Rights of the citizen have been carefully drawn up but the execution of those rights is left to the sweet discretion of the courts. It might be said that the man can go from court to court up to the Supreme Court by which time the accused will be dead either for want of money or physically. Under the circumstances my submission is that in extreme cases where the interest of justice require the transfer of a case from one State to another it ought not to be left to that State to transfer with the consent of the other State but that of an independent authority. Either the President or the Supreme Court must be empowered to make such a transfer. When we are making an adaptation, when we are bringing the Criminal Procedure Code and the Penal Law in Part B States in conformity with other States advantage must be taken of introducing the wholesome provision which existed for a number of years since 1898 in the Criminal Procedure Code.

Pandit Thakur Das Bhargava (Punjab): May I draw the attention of the hon. Member to Section 140 of the Constitution which lays down:

“Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of this Constitution as may appear to be necessary or desirable for the purpose of

enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under this Constitution.”

There was no Supreme Court before and the High Court was the highest court of appeal. Therefore the provision was there that the Governor-General was authorised to transfer cases. Now that we have the Supreme Court the Parliament is authorised to make a law whereby it can confer powers on the Supreme Court to transfer cases from one High court to another. I thought that a law under this section will meet the case which my hon. friend has in mind.

12 Noon

Shri M. A. Ayyangar: I myself suggested that for the Governor-General the President may be substituted or the Supreme Court may be clothed with that power. We are now amending the Criminal Procedure Code and no separate law is necessary for this purpose. Section 527 refers to transfer of cases from one State to another. Before the adaptation it was the Governor-General who was empowered to make such a transfer from any court within one State to another or to another State. For the Governor-General the Government of the State has been substituted. My point is that the power to transfer may be invested in the President or the Supreme Court or both of them may have concurrent jurisdiction. I entirely agree with Pandit Bhargava that section 140 clothes the Parliament with the power to empower the Supreme Court. One of the powers may be the transfer of a case from one State to another, because it is the Supreme Court in the land.

There is another point also which I would like to mention. A number of States have become autonomous and the prosecution of an individual is in the hands of the executive of the State as also the withdrawal of a case. There are cases which are motivated purely by political reasons. If the Government of a State comes into conflict with an ex-Minister—there might be conflict between one Minister and another so as to come into power—a criminal complaint can be filed against the Minister for having drawn travelling allowance or some such thing, which might have been a matter of inadvertence. The man is entirely in the hands of the State which is prosecuting him. The man concerned may have been the Chief Minister. Practically frivolous cases are launched. The moment the case is launched against the man he be-

[Shri M. A. Ayyangar]

comes an untouchable, though untouchability has been removed by the Constitution of India. Nobody talks to the man and he becomes powerless against the mighty power of the State. He has to go without any help whatever and who is the authority to which he can go? We have framed a Constitution with Fundamental Rights guaranteed. Under the Constitution the Criminal Procedure Code and the Penal Law have become concurrent subjects and power must be vested in the Central Government in proper cases for withdrawing a prosecution. Under the existing Criminal Procedure Code power is vested in the executive government of a State to withdraw a prosecution on whomsoever it might have been launched. In cases where the executive government or the party in power is interested in persecuting a person should we not have a remedy? Now that this has become a concurrent subject power must be vested in the Central Government in proper cases. The President is not alone; he acts on the advice of his Ministers who are in entire charge of the whole of India with respect to even the Criminal Procedure Code and the Penal Law. They will not normally interfere. There are exceptional cases arising out of purely political considerations. Under those circumstances power must be vested in the Central Government or the President in consultation with his Government to withdraw suitable and proper cases. I am not going out of the way in making the suggestion in regard to extreme cases. When a man is guilty of murder and is sentenced to death by a High Court the power of mercy is ultimately vested with the President. Though the Governor of a State can also exercise it, the President can also exercise that right, if the former refuses it. It is open to the supreme authority to exercise that prerogative vested with the Governor and the old Governor-General. On the same analogy these are exceptional cases where the executive government of a State, big or small, is taking action against one or two individuals. In such cases there must be some remedy, the same remedy which existed in the Criminal Procedure Code of 1898 without the adaptation,—which was done behind the back of the Legislature—should be restored. These two provisions strike me as some of the more important provisions which ought to be incorporated in this Bill. It is for that purpose and not to make a dilatory motion with a view to impede the passage of the Bill that I proposed to make a reference of the Bill to Select

Committee. Within a week or so we can have the Bill back.

There are other provisions also in the Act which have been touched. Possibly greater scrutiny might be necessary than appears on the face of it. We are sitting till the 20th April. It is not my intention to see that this measure is delayed unnecessarily. A week between now and then might not be deleterious or injurious to the passage of this Bill. Sir, if notice is waived I will move the motion. I would only request for the reaction of the hon. Minister. Otherwise as far as these two points are concerned, I will prepare suitable amendments and by the time we rise I will show them to the hon. Minister. If he is agreeable to them I will be equally satisfied. Now I am only waiting for enlightenment by the hon. Minister.

Shri Sarwate (Madhya Bharat): Sir, I want to speak on another point in this connection.

Mr. Speaker: The point that I was considering was, assuming there is a reference to the Select Committee, whether it would be competent now to touch those other sections of the Code of Criminal Procedure which are not included in the Bill for amendment.

Shri Rajagopalachari: I was going to explain that from my point of view. I was looking if any other Members were standing up to speak.

Mr. Speaker: The difficulty to my mind is that, this Bill proposes to amend certain particular sections. Now what is sought to be done by this motion for Select Committee is to treat this Bill as a Bill generally to amend the Code of Criminal Procedure and try to touch other sections which are not included in this Bill at present.

Pandit Thakur Das Bhargava: But only so far as is consistent with the object of the Bill, namely that the Part B States should have a uniform law with the Part A States. And this is a part of that scheme.

Mr. Speaker: It could be argued both ways, but the difficulty, to my mind, is that there has been a consistent string of rulings, so far as amending Bills are concerned, that you cannot touch sections in the original legislation which are not included in the amending legislation.

Shri Rajagopalachari: Apart from a mere technical point of that nature,—these technical objections have a basis of principle also and that is why very often there is a very thin line between

a technical and a substantial objection,—the point that was raised by Mr. Ananthasayanam Ayyangar is that we should have a Select Committee in order to consider one important aspect of the matter. As regards the time factor, I have very grave doubts whether Mr. Ananthasayanam Ayyangar was right when he said that we have time. We have such an abundant weight of legislative work to be done and I should not agree, unless for very substantial reasons, to taking away more time from the total time available for this Bill.

The principle that was referred to was that power should be retained for giving justice to aggrieved parties in regard to withdrawal of cases or transfer of cases. The position was different before federation and after federation. As was rightly pointed out by my hon. friend, Pandit Thakur Das Bhargava, the position of the Supreme Court and the several High Courts is now such that it would be very wrong for the executive government to retain any powers of this kind simply based on the historic fact that the Part B States were previously different Governments in full measure which they are not in that sense now. At present I feel, and I think most Members of the House would agree, that the Supreme Court and the High Courts would resent any powers being taken by the executive government as such to transfer or withdraw cases in such a manner as has been indicated by Mr. Ananthasayanam Ayyangar. Also we should bear in mind that the distribution of powers between the States and the Centre was settled before we took over the responsibility of government and this particular matter to which reference was made, namely the Governor-General's powers transferred to the State Governments in this regard, was done before the present Constitution. I do not think that in this amending Bill we should include the alteration of that distribution of powers. Here I would warmly support your own observation, Sir, that the scope of the present amending Bill would seem to exclude a consideration of a matter of that type. Any other small matter we might possibly consider but the re-distribution of the powers as between, in the first place, the executive government and the judiciary, and between the States and the Government of India, should not I think come in in a Bill of this nature and there would be very grave objection to it. The present proposal, as Mr. Ananthasayanam Ayyangar described it humorously but perhaps rightly, has come at the

twelfth hour. The Bill has been fairly well-considered to the extent that a Bill of this nature requires and I do not think it would be right to take the time of the House for a Select Committee on it. It will be discussed fully when the several amending clauses are taken up for consideration.

I submit, therefore, that I cannot agree to the suggestion made that we should have a Select Committee. I do not think we can incorporate in this Bill the provision that he has suggested both because of the respect that we should show to the judiciary and from the point of view of the respect that we should show to the distribution of powers. I think we should not reopen that question now. The emphasis which Mr. Ananthasayanam Ayyangar laid was entirely on the powers that we should reserve for the executive to withdraw prosecutions. I think the less we reserve in that way the better on the whole.

Shri M. A. Ayyangar: My hon. friend the hon. Minister has misunderstood me. I never said that this Bill has come at the twelfth hour. I wanted to characterise my own motion for reference to Select Committee as being made at the eleventh hour.

Mr. Speaker: That is exactly what he said.

Shri M. A. Ayyangar: I thought he understood me to say that his Bill is belated.

Mr. Speaker: No, no.

Shri M. A. Ayyangar: So far as the point of view expressed by you, Sir, is concerned, my answer, subject to your approval, is this. My point is that you want to extend the Criminal Procedure Code to the Part B States. In your extending it, I submit with great respect, we may extend it with such modifications as might be necessary. We want to extend this law for the purpose of bringing the Part B States into harmony with the others. But the circumstances may be such that there may be some changes required correspondingly or *mutatis mutandis* or even a little beyond the original Bill for the purpose of bringing the Part B States into line with the other States. This is a case where the original Bill with respect to its own territorial application is being modified. I agree that we ought not to go beyond those particular sections. Instead of enacting a new Code for Part B States we are saying that we are taking sections of the original Act and applying them to Part B States. On the other hand, it is open to the House

Bill

[Shri M. A. Ayyangar]

to say that these sections are not complete, are not good, are not sufficient to meet the situation, and therefore something must be added or something subtracted from what you have done. Under these circumstances, I am not going out of the way or introducing anything new.

The third point is that my hon. friend has not understood me correctly. I am not trying to substitute or take away the powers of the Supreme Court. Today the executive government has the right to transfer cases from one court to another. If on the other hand the hon. Minister had brought into existence the Supreme Court in the place of the State, I would have gladly sat down. But he is trying to keep with the executive government of the State the power which he has already given to it. If, on the other hand, his move is in that direction and my move is in the contrary direction, certainly I have no voice and I cannot justify my claim or my suggestion before this House. My only point is that I do not want that the lower executive authority should have the power. By all means, give it to a higher, a supreme and a better executive authority. Substitute the Supreme Court. Under the circumstances, from the point of view of safeguarding the rights of the individual against the oppression of a particular State, I am in line with him. I have no quarrel. On the other hand, if he is not allowing my amendment either on the ground of technicality or on the plea of lack of time, I certainly differ. So far as the question of time is concerned, I would say that in a matter which affects the rights of individuals, this time factor should not be again and again brought in, as if we are panting for time. We can sit all the 365 days in the year. It is not for the executive to come and say, "I am hard pressed for time." It is in your hands. Extend the time. It is very wrong to plead the time factor or other inconveniences of the executive when the just rights and sentiments of the public are concerned. I leave it to you, Sir, and to the hon. Minister. It is a very important matter. Today we have started a new experiment in democracy, and a small set of people entrenching themselves in power for various reasons are likely to throw to the winds all ideas of liberty and oppress various people in their States. We have got instances. I do not want to state them before the House. That is my point.

Shri Rajagopalachari: So that the position may not be left in doubt, I

have to make it clear that I stand unconvinced. Every criminal does feel oppressed when the law is moved against him and I do not think it would be proper for us not only to apply our law to the B States but also for the first time introduce a new principle by which the Executive Government at the Centre could take power to transfer cases from one court to another within another B State or from one State to another. It would not be welcomed by the Supreme Court.

Pandit Balkrishna Sharma (Uttar Pradesh): The power is there already.

Shri Sarwate: Sir, I wish to speak on the point raised by you—whether it would be proper for the motion to be made to refer the Bill to a Select Committee. I wish to show that this Bill intends to extend the Criminal Procedure Code to Part B States and in certain Part B States there are such features as are not present in the existing Criminal Procedure Code. For instance, I may point out that in Madhya Bharat and probably in Hyderabad, the executive is entirely separate from the judiciary and therefore the Magistrates are entirely separate and different from the Tehsildars or Collectors. Therefore, the criminal law in those States is adapted to these circumstances. If you want to extend this Code to those States now, sufficient provision will have to be made in it so as to adjust itself to the circumstances that exist there. In the Directive Principles themselves, it has been stated that steps should be taken to separate the judiciary from the executive and this has been done in some of the States I have mentioned. Therefore, if this whole Criminal Procedure Code is now made applicable to them, the power would vest in the Government to appoint judicial officers and they may appoint executive officers as judicial officers. As the position stands at present, in Madhya Bharat and Hyderabad, no such power vests in the Government. They have themselves curtailed their powers. Therefore, my submission is that it is perfectly within the scope of the present Bill to move that the whole Code be examined so as to adjust itself to the conditions in the Part B States. All Part B States are not so backward that the All India Criminal Procedure Code is necessarily an advance on their law and therefore it should, in a body, be made applicable to them. This seems to be the idea underlying this Bill and I object to that idea itself. Therefore, I submit that the idea being wrong in some cases, the whole procedure would have to be examined from that point of view and to do so the Select Committee would be the proper forum and not this House.

Pandit Thakur Das Bhargava: As I understand from the Statement of Objects and Reasons, the object of this Bill is to bring the Part B States into line with Part A States so far as the Criminal Procedure Code is concerned. For instance, it is stated:

"Furthermore, it is obviously desirable that criminal procedure throughout the country should be regulated by a single law. The main object of this Bill is to provide such a law by extending the Code of 1898 to Part B States and repeal the corresponding laws now in force in those States".

If it is the object of this Bill to bring Part B States and Part A States into one uniform whole, then my humble submission is that if the Bill is referred to a Select Committee an attempt shall be made there to see that all the objections which have now been put forward by Mr. Sarwate could be gone into and such other incidental matters as arise out of the object described above could also be taken into consideration.

Reference has been made by the hon. Deputy-Speaker to transfer of cases as also withdrawal of cases. In regard to withdrawal, we cannot arm the Supreme Court with the right to withdraw cases. After all, that power should rest with the executive—either the Part B States executive or the Central executive. I must submit for the consideration of this House that there is an article—article 371—of the Constitution which empowers the Central executive to exercise a sort of control over the Part B States in particular. That article reads thus:

"Notwithstanding anything in this Constitution, during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State, the Government of every State specified in Part B of the First Schedule shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President."

My humble submission is that in regard to Part B States we have got this difficulty that their administration has not been so developed nor is it so liberal as that of Part A States. In regard to the case which was particularly mentioned by the hon. Deputy-Speaker, an ex-Minister can in certain

circumstances be victimised by the Government of the day. In order to meet such cases, it is quite necessary that the Central Government should be armed with power to withdraw cases. It is now absent. Previously, our Criminal Procedure Code did not apply to Part B States. Now, as we propose that the law may be made into one uniform whole, it is but natural that such a provision be made that the Central Executive should have such powers in regard to Part B States in accordance with the principle laid down in Article 371. Nothing will be lost if an attempt is made to see in the Select Committee that the entire Criminal Procedure Code in regard to Part B States is assimilated to the procedure of the Part A States, so that any sort of objections or incongruities between the two laws may be removed and to that extent they become uniform.

The Minister of State for Transport and Railways (Shri Santhanam): Article 371 already gives the power. No further power is needed.

Mr. Speaker: I was looking at it entirely from a different point of view and after hearing all that has been said by the hon. Deputy-Speaker, Pandit Thakur Das Bhargava and Shri Sarwate, I do not stand convinced that it would be competent for us to extend the scope of the present Bill, as is sought to be done. But I am not pronouncing any ruling or opinion on that point just at present. Of course, the matter can be disposed of by me without a ruling in a very summary manner, by saying that, as this motion was not given proper notice of, I should refuse to waive notice. But then I do not like, when I do so, to be misunderstood. To me, it appears, without going into a detailed examination of the objects of the Bill that the object is is not so wide as is sought to be made out, namely, to revise the entire Code of Criminal Procedure just at this stage. I find from the Statement of Objects and Reasons that it refers to one particular inconvenience, namely, "that the warrants and summonses issued by a Court in a Part A State or Part C State against an accused person cannot be executed or served in a Part B State, and vice versa, without recourse to extradition proceedings which are entirely inappropriate." I think the chief object is to get rid of this kind of inconvenience and incidentally it is stated that "the main object of this Bill is to provide such a law extending the Code of 1898 to Part B States." I have not

[Mr. Speaker]

examined the provisions of the Bill, but I presume that they do not purport to change the entire Code of Criminal Procedure as it prevails in different Part B States.

Shri M. A. Ayyangar: This will supersede the criminal law of all those States.

Shri Rajagopalachari: The object of the present Bill is to have uniformity throughout the country. Therefore any uneven law that prevails in Part B States with regard to Criminal Procedure, not the substantive law, would stand repealed and the present Criminal Procedure would apply everywhere. As was pointed out by an hon. Member there might perhaps be an advanced system of Criminal Procedure in some particular States. But in order to achieve uniformity some sacrifices have to be made. Otherwise we will have to go through a very, very long process. Even though it may be an expert Select Committee appointed on the spot, it will take a long time. I, therefore, submit, that if the principle of uniformity is a good one, we had better go through with this principle and if any improvement is to be made on the lines on which certain experiments have been made in some Part B State or other, it is for the House to take it up for the whole of India at a suitable time.

Mr. Speaker: I do not feel so certain that the reference to the Select Committee motion should be permitted at this stage: that is my own reaction in the matter. But the burden would be on those who want me to waive the notice.

Shri M. A. Ayyangar: Would it not iron out differences? Even assuming that generally Part A States are very much advanced over Part B States, are there not certain Part B States which are very much advanced over the previous British Indian provinces? In introducing uniformity, does uniformity mean my uniformity? This is just tantamount to saying that what I follow is the model for uniformity and ought to be adopted by the rest.

Mr. Speaker: I am not concerned with the merits of the case. I do see the difficulty pointed out by the Deputy-Speaker. But the point is what is the proper procedure for us. Even with the Select Committee, there are two difficulties which I feel.

In the first instance, I am not yet quite clear about the scope of the

Bill. It requires a study of the provisions to come to a correct conclusion as to its scope; and also to decide as to whether the amendments are within the scope or outside the scope of the Bill. That is one thing for which I am not prepared now.

The second difficulty which I feel is that if the hon. Minister is not agreeable to accept his amendment, it is for the hon. Member to consider as to what chance he stands of getting his amendment through the House.

An. Hon. Member: Every chance.

Mr. Speaker: Theoretically every chance.

Therefore, I have always held that in cases of motions in respect of which due notice, or proper notice, is not given, I shall allow them, only if there is a substantial agreement. If the hon. Minister is prepared to accept the amendment, I am prepared to waive notice. If that is not so, I do not think I should be pressed to waive notice.

Shri Rajagopalachari: If this Bill is held up for the sake of revision of the whole law, it would create grave inconvenience to Government in regard to matters covered by the Bill. Matters connected with extradition and other things are just now hot and we will have to make some provision to meet the difficulties.

The other principle as to generally improving the level of the law is a good one. If in some respects the law prevailing in a Part B State is better and it is intended to extend it to the whole of India, it should be a matter for separate legislation and this Bill should not be held up for that.

Shri M. A. Ayyangar: Could this be held over till tomorrow? I have no intention of moving my amendment without the consent of Government. If you will allow some time, I intend discussing it with the hon. Minister and some of the Members with a view to arriving at an agreement.

Shri Santhanam: This Bill has been on the agenda for four days and hon. Members had ample opportunity to think over and discuss. I think we are giving up the conventions and principles of parliamentary procedure.

Shri Rajagopalachari: I would have gladly agreed to any reasonable sug-

gestion, but I think we would lose more than gain by putting off this thing for tomorrow. Knowing as I do the amount of work that is before us, I would ask my hon. friends not to press for a Select Committee. It does not rule out any improvement in the law for other purposes.

Shri Raj Bahadur (Rajasthan): There is a great constitutional difficulty, in so far as we are bound to at least not to violate the directive principles laid down in the Constitution. In so far as the States of Madhya Bharat and Hyderabad are concerned, the people there are enjoying the advantage of separation of judiciary from the executive, which is sought to be denied by this legislation. Can we take a retrograde step, a step against the Directive Principles?

Shri Rajagopalachari: There is some misapprehension in the mind of my hon. friend. The point that has been raised by the last speaker is that this will introduce a retrograde procedure in that area. It need not and it cannot, because it is entirely within the powers of the State to regulate the work of the judiciary and that of the magistracy.

Mr. Speaker: I was not a practitioner in criminal courts; so I am not clear as to how it is going to affect the separation of the judiciary and the magistracy. But that apart, in order to satisfy the Deputy-Speaker of having argued with the hon. Minister and tried to convince him, we may take up this matter at 2-30. There are only twenty-five minutes now.

Shri Naziruddin Ahmad (West Bengal): I have a constitutional difficulty to raise in regard to Section 11.

Mr. Speaker: He may argue that so far as the Bill is concerned later on. I am only concerned with the question of waiving notice so far as Select Committee motion is concerned, and as I have made it clear, unless there is a substantial agreement that the matter be referred to Select Committee, I do not propose to waive notice.

We may adjourn now and assemble at 2-30.

The House then adjourned for Lunch till Half Past Two of the Clock.

The House re-assembled after Lunch at Half Past Two of the Clock.

[MR. SPEAKER in the Chair.]

Mr. Speaker: Now we shall resume the discussion on the motion that the

Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration.

Shri Rajagopalachari: Sir, I might inform the House that we met in a very large committee during the time that you were pleased to give us and we have agreed—I have accepted in substance some of the principal amendments that they have suggested and they have agreed not to press for any Select Committee.

Shri M. A. Ayyangar: Yes, Sir. The hon. the Home Minister has been so sweet and so reasonable. And we always expected it. Only it was our fault that we did not seek him in advance and make our point of view known. I am extremely obliged to the hon. the Home Minister for having agreed to the principles and having agreed to move the amendment himself. In the circumstances I do not press my amendment for Select Committee.

Mr. Speaker: Then is there any necessity for a long speech now?

Shri Rajagopalachari: I suggest that there need not be any more speeches.

Shri Tyagi (Uttar Pradesh): I hope the other Ministers will follow the example set by the hon. the Home Minister.

Shri Naziruddin Ahmad: Sir, I have to make a point. It is about the legality of clause 11. But I want a direction whether I should raise it at this stage or when the clause is taken up.

Mr. Speaker: I think it may be done when clause 11 comes up, because the discussion will be a limited one.

Shri J. R. Kapoor (Uttar Pradesh): Sir, I desire to make a few observations. Pressed as we are for time I shall try to be as brief as possible.

I welcome this Bill particularly for the reason that it seeks to have a uniform Criminal Procedure Code for the whole country. It is the policy of uniformity of law which has been enunciated by the hon. Shri Rajaji so very ably this morning that pleases me most. For the sake of the unity and solidarity of the country it is very necessary that we should have our laws uniformly applicable to the entire country and to all the communities and to all the citizens that reside therein. It is for this reason that I particularly welcome this measure. I only wish that there should be a uni-

[Shri J. R. Kapoor]

formity of the policy in the various Ministries of the Central Government. The policy of having uniform laws which, as I said was so ably enunciated by Shri Rajaji this morning, should also be adopted, I very much wish—and I am sure that wish is shared by all the hon. Members of this House—by the other Ministries, including the Ministry of Law. We must have uniformity not only in the matter of law but in economic standards and in various other ways. If only he can persuade his other colleagues in the Cabinet to accept his sagacious advice and his wise lead to have a uniform law for the whole country and for all communities, I think it will be a very welcome day for us. I hope, Sir, he would be able to persuade the hon. the Law Minister.....

Mr. Speaker: Order, order. I do not think he should pursue it.

Shri J. R. Kapoor: Sir, I will no more pursue this point. I will close this point by expressing a hope and a wish that he may be able to persuade the hon. the Law Minister to accept this policy in the matter of the Hindu Code making it uniformly applicable to all, though on voluntary basis.

I also wish that this policy of having a uniform law were strictly adhered to even with regard to the various provisions of this amending Bill. But it appears that due care and attention have not been given to this subject though the policy has been so wisely thought of. I would refer you to clause 6 of the Bill which seeks to amend section 30 of the Criminal Procedure Code. This section 30 of the Criminal Procedure Code is a section of a discriminating nature. According to this section, the magistrates in certain parts of the country, in certain Provinces of old, could be authorised by the Provincial Governments to sentence accused persons even to transportation for life, whereas the magistrates in other parts of the country could not be invested with this authority even if the Provincial Governments so desired. The reason for that was that in the past some portions of the country were supposed to be backward; in some parts of the country there were obtaining such conditions as made it necessary to have a section like that, so that there could be speedy disposal of cases. But times have now changed. The Provinces which were supposed to be backward are surely no more backward. I therefore submit that for the sake of uniformity it would have been proper and desirable if an amendment were brought forthwith to the effect that section 30 of the Criminal Procedure Code shall be deleted.

But what do we find the hon. Minister is asking us to do? He wants us to bring within its purview some more States. Well, Sir, I would have wished that there was uniformity with regard to the applicability of this section 30 of the Criminal Procedure Code. Either apply it to the whole country or delete it altogether. Even if you apply it to the whole country, it does not mean that every single magistrate of the first class or district magistrate or collector could automatically have the power or authority to sentence an accused person to seven or ten years or transportation. He can do it only if the State Government concerned confers that power on the magistrate. So I would submit that for the sake of uniformity, either extend the operation of section 30 of the Criminal Procedure Code to the entire country, or delete it altogether. If you do not want to delete it as a matter of policy, if you feel that such a power must remain, I will not object to it. But it must be applicable to the entire country. I am given to understand that the hon. Shri Rajaji is prepared to accept an amendment which is on the Table to the effect that Hyderabad should be brought within the purview of section 30. I do not object to that. But let it be extended to the entire country. I do not see any reason why it should not be extended to the whole country. I hope this suggestion will be accepted. But if for certain reasons best known to the hon. Minister it is not acceptable to him, I would certainly emphatically and respectfully urge on him at least not to rope in Oudh in this section.

The reason why some parts of the country were included within section 30 was, as I have already said, that those Provinces were supposed to be backward provinces. Those provinces were not governed by the Governors or even the Lieutenant Governors but there we had Chief Commissioners and where there were no high courts, there were only Judicial Commissioners' courts and Oudh was one such part of the country. It was then that Oudh was also included. Now times have changed. Oudh is a progressive part of the country. It has a culture of its own. From Oudh have also come Members of this House, legal luminaries like Dr. Singh and many other eminent gentlemen and I do not think it will be seriously contended by any hon. Member that a part of the country like Oudh which comprises the capital of Uttar Pradesh, Lucknow, should be considered to be a backward part of the country. I submit, therefore that Oudh should be deleted from the operation of Section 30. There is another reason why I desire the word 'Oudh'

should be taken out and that is that it makes a very bad reading. Let me read out Section 30 as it stands: "In East Punjab, Delhi, Oudh, the Central Provinces, Coorg and Assam, and in those parts of the other States," I would particularly draw the attention of hon. Members to the words "and in those parts of the other States in which there are Deputy Commissioners or Assistant Commissioners." Now, Sir, this makes very bad reading for two reasons. Firstly it implies that Oudh is referred to as a State. The whole clause refers to States and formerly the word was "Provinces" and, of course, Oudh was then a Province. Now Oudh is neither a province nor is it a State. The State of Uttar Pradesh comprises Oudh also. Therefore, it makes very bad reading. Even if you omit the word 'Oudh' it does not go out of the provisions of Section 30 because in the Province of Oudh we have still Deputy Commissioners. Even if the word 'Oudh' is deleted it will not go out because Section 30 covers those parts of other States where there are Deputy Commissioners, and in one particular part of Uttar Pradesh there are Deputy Commissioners and that particular part is Oudh and Section 30 will still continue to be operative. It may be contended that hereafter the Government of Uttar Pradesh might not call its Deputy Commissioners as such and may give them the designation of Deputy Collectors. Possibly it may be so. But then if the Government of Uttar Pradesh is anxious to have the benefit of Section 30, it will not designate them as Deputy Collector but continue to designate them as Deputy Commissioners. The entire responsibility is of the Provincial Government. For these reasons, I would submit that the word 'Oudh' must be deleted. Nothing would be lost thereby and something would be gained in the way of better reading and for the sake of propriety etc.

My second point is a very small one and that is this that one of the objects of this Bill is to confer certain privileges on the ex-Rulers—I am sorry, Sir, I would not call them Ex-Rulers but Rulers of the former Indian States. They would not like to be called Ex-Rulers. I do not propose to give them any cause for offence. On the other hand my object is to confer certain privileges on them. I suggest therefore that in one of the relevant sections which attempts to give the Members of the Legislatures—both Central and State—the privilege of not being appointed as assessors or jurors, I would like that the Rulers of the former Indian States might also be

included. I am sure, Sir, that the suggestion of mine would be readily acceptable to hon. Shri Rajaji.

My third submission is with regard to clause 16. One of the main objects of this Bill is to give the accused person who is condemned to death an opportunity to be told by the High Court, while exercising its original criminal jurisdiction that he can prefer an appeal within a certain period. This is well and good, so far as it goes. But then, it appears to me that one thing has been left out by oversight. I may refer you, Sir, to the particular provision in the Constitution whereby we have given an accused person who is condemned to a sentence of death, by the High Court while exercising its appellate jurisdiction on an appeal against the order of acquittal from the Sessions Judge, an inherent right of preferring an appeal to the Supreme Court. This fact, Sir, seems to have been overlooked. The question is whether an accused who is condemned to death by the High Court on appeal against an order of acquittal, should not also be specifically told by the convicting judge that he is at liberty to prefer his appeal within a certain period? I am sure these suggestions of mine would be readily acceptable to the hon. Minister in charge of the Bill and I hope the amendment, notice of which I have given only this morning, would be acceptable to him and I trust that this Bill would be amended accordingly. This is all that I have to submit, Sir.

Shri K. Vaidya (Hyderabad): I welcome this Bill as the intention is to bring about uniformity all over the country, particularly in Part B States. We have got our own procedure in Hyderabad but in many respects it differs from the criminal procedure here and therefore, I welcome this Bill. I want to make one suggestion, namely, that there is a penal code in Hyderabad but the sections of that Penal Code are quite different from the sections of Indian Penal Code in India. My suggestion is that the Government should pass the other Bill and that too very early and all these Bills should be converted into Acts at the same time. Otherwise, there will be great difficulty. Some sections are included in the Criminal Procedure Code now and this Criminal Procedure Code if adopted and passed, will be made applicable to Hyderabad and there will be great confusion because the sections of the Indian Penal Code are quite different from our Indian Penal Code there. Therefore my request is that this Bill as well as the Civil Procedure Code Bill should be brought into

[Shri K. Vaidya]

force exactly on that date when the other Bill relating to the Part B States is passed and brought into force. Then there will be complete uniformity; otherwise there will be great confusion.

The other point which I would like to bring to the notice of the House is the provision contained in clause 11, sub-clause (2) of the Bill, which gives protection to the Princes. Clause (2) says:

"No court shall take cognizance of any offence alleged to have been committed by the Ruler of a former Indian State except with the previous sanction of the Central Government."

I submit that it goes against the fundamental rights given to the people. We say there is equality of rights and all that. It is said that there is article 362 of the Constitution. If you refer to article 362, it appears that article 362 is governed by article 291 of the Constitution. It is not as if all the privileges are guaranteed; those privileges are confined to the privileges granted in article 291. Article 362 runs as follows:

"In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State."

If you refer to article 291, it will be seen that that article is confined only to the privy purse or other sums, that they should be paid out of the Consolidated Fund and that there should not be any reduction and so forth. Therefore I say that if any such protection is given, it would go against the fundamental rights given to the people. In the very first page of the Constitution, equality of status is secured to the people. Why should special provision be made for them? No such special provision is to be found in the Criminal Procedure Code. There may have been certain privileges under the previous regime. Of course, they were not statutory so far as I know. There is no statutory provision in the Criminal Procedure Code; a new section is being added to that. Therefore I say that it would, in the first place, go against the very provisions of the Constitution.

The next point is this. If any offence is committed, sub-clause (2) of clause 11 provides that the previous sanction of the Central Government is necessary. Naturally it would take a long time. In serious cases, investigation and trial has to take place immediately. Otherwise, evidence may be tampered with and witnesses may be spirited away and there may be injustice.

As I said, this provision may go against the very provisions of the Constitution. It may be argued that so far as article 362 is to be interpreted, it is not only confined to those privileges conferred by article 291, but it refers generally to all the privileges, rights and dignities of the Rulers of Indian States. That cannot be, because the provision is very clear. It means to say, "as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler.....". It may be argued where was the necessity for article 362. Because, it is a principle of interpretation of statutes that when some provision is made in article 291, there is no necessity for a similar provision in article 362. There is no such similar provision in article 362. Article 362 is intended only for the exercise of power of Parliament or the Legislature of a State. The provision relates to the enactments to be passed by Parliament and the State Legislatures. In that sense, these two sections are not redundant; they are necessary. Article 362 is completely governed by article 291. Therefore, if any such provision is made in this Act, I am afraid, it would go against the Constitution. At any rate from the general point of view of equity and justice it is absolutely necessary that some provision should be made by Government so that when these Princes commit offences, particularly offences of a serious nature, there may be no delay in making the investigation, and they may be tried properly. Otherwise, the Princes are likely to take advantage of this procedure. In the former days, things were quite different. The Princes were completely under the control of the Government; they could not do anything. Now, the position is different. If any offence is committed, it is just possible that the Rulers of the former States may run away and go beyond the power of law. Therefore, such provisions are necessary so that they may be brought to book.

With these observations I recommend that this Bill be taken into consideration. I do not want to make a long speech, because the point is clear. If necessary, I have got another chance

to speak because I have moved an amendment on this point. With these words, I submit that this Bill should be taken into consideration.

Pandit Thakur Das Bhargava: I had no intention to take the time of the House in regard to this Bill; after hearing my hon. friend Mr. Jaspal Roy Kapoor and the previous speaker, I am tempted to speak.

In regard to section 30, I agree with my hon. friend Mr. Jaspal Roy Kapoor that in the interests of uniformity, we should modify section 30 in such a way as to make it applicable to the whole of India. I come from the Punjab. In the Punjab, there are magistrates under section 30 and I can say with confidence that the provision contained in section 30 is a very salutary one. If section 30 were not there, the Sessions Judges will be inundated with so much work that from the point of view of finances, it would be difficult to cope with that. At the same time, when we invest Magistrates with the powers under section 30, the necessary commitment proceedings are avoided. Section 30 cases should be given to experienced magistrates only and they will duly deal with the cases that come up before them. They are empowered to sentence a man with imprisonment for not more than seven years. Very serious cases come before them. Nothing is lost by this provision. On the contrary, I very much doubt whether the present provision of administration of justice with the aid of assessors and commitment proceedings is suited to this country. I do not know what the experience of many of the hon. Members of this House is in this matter. So far as I am concerned, I have no hesitation in saying that this system of assessors is unnecessary and it is a waste of time. Assessors have got no voice in the matter. Many of the assessors are found to be corrupt also. I am very sorry to say this; but that is a fact. Therefore, my humble submission is that if this provision is extended to the whole of India, it would be better for us. I know that this provision of section 30 was made at a time when the administration in the country was a different one. The experience that we have gained of the working of a provision like this justifies us in providing for the whole of India a provision like section 30. In whole of India, magistrates under section 30 may be appointed. So far as uniformity is to be obtained, I would rather like that instead of taking away section 30 from the rest of the provinces, the provision should be extended to the whole of India.

In regard to the other point, reference has been made by the previous

speaker to article 291 and article 362 of the Constitution. He feared that there was some constitutional difficulty. He thinks that article 362 is governed by article 291. My submission is that that is not correct. Article 362 comes in Part XIX under the heading, "Miscellaneous" where article 291 occurs in Part XII under the heading, "Finance, Property, Contracts and Suits". So far as the rights and privileges of the Rulers are concerned, these two articles 291 and 362 make one whole thing. You have to read them together to find out what rights, privileges and immunities are extended to them. I am as anxious as my hon. friend is that so far as the Rulers are concerned, so far as articles 14 and 15 of the Constitution are concerned there should be no difference between man and man. I am not in favour of giving any rights to the Rulers as apart from other persons. But, at the same time, I am very anxious that all the assurances and all the guarantees that have been given to them by our Government, should be honoured.

3 P.M.

I know that such guarantees as have been given to them are perhaps not perfectly justifiable if they are looked at from the point of view of the Fundamental Rights. But since they have once been given, I am very anxious that we should do nothing to tamper with those guarantees. According to me rights and privileges given to the Ex-Rulers of Indian States which are contained in such covenants and agreements are sacred. Such guarantees or promises given once by the Government of India, by our government should be honoured, whether they be with regard to the I. C. S. people or the Rulers or any other persons. When once we make a promise we must not retrace our steps. I do not agree with the interpretation given to articles 291 and 362 by the previous speaker. It is said that article 291 (1) guarantees the privy purse to the Ruler and that article 362 being governed by 291 (1) no rights and privileges remain alive. My reading of the articles is not that. With your permission, Sir, I will read out the two articles. Article 362 says:

"In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State."

[Pandit Thakur Das Bhargava]

My friend's contention is that in so far as these words are there—"such covenant or agreement as is referred to in clause (1) of article 291" therefore the concession contained in article 291 is the only thing that is guaranteed. But according to me, you have to refer to the covenants and agreements referred to in 291 (1) to find what the dignities, privileges etc. conferred by these covenants are, and they have been safeguarded by article 362. Therefore, - I feel that the provisions of this Bill are quite just, and we cannot say that constitutionally we are doing anything wrong, that any of the provisions contained in this Bill go contrary to the articles in our Constitution. The Rulers are entitled to these dignities and privileges and you cannot give them anything less, once having given them the guarantee. I feel that the provisions are according to the assurances or covenants which the Rulers have got from us.

Sir, that is all that I have got to submit.

Shri Shiv Charan Lal (Uttar Pradesh): I feel that it will be against our Constitution to allow section 30 of the Criminal Procedure Code to remain, because you cannot empower certain magistrates in certain areas to do certain things while we are not giving the same powers to magistrates in other areas. You have given the power to magistrates in the Punjab and in certain other areas to decide cases and award a sentence of transportation for life, and in other cases such powers are not given to the magistrates. It is possible that when the Code was enacted, these areas were backward, but now that fifty years have elapsed since then, we cannot say that these areas are still backward. There are no more *taluqdars* in Oudh and there are no more such persons of influence and therefore there is no reason whatsoever to differentiate Oudh from the rest of Uttar Pradesh. To apply section 30 to the people of Oudh will not be just.

As regards the Punjab, my friend Pandit Thakur Das Bhargava seems to be satisfied that the magistrates are doing their work properly. Perhaps that is his experience after working before them as a criminal lawyer. But I am surprised and I cannot understand how a magistrate who has the power to give the sentence of transportation for life to a man can do justice in such cases.

Pandit Thakur Das Bhargava: May I point out that a magistrate under section 30 cannot give a sentence of transportation for life.

Shri Shiv Charan Lal: The Criminal Procedure Code provides that a first class magistrate can give a person a sentence up to 2 years and after that the case has got to go before a sessions judge, because the latter is considered more experienced and of a more balanced mind.

I would further submit that section 30 will also be against articles 14 and 15 of the Constitution. Article 14 reads thus:

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

And article 15 says:

"The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them."

If a man lives in the Punjab or in Oudh, you cannot allow him to be given a punishment by a magistrate there which a person in some other part of India will not get. Therefore I appeal to the hon. Home Minister that the whole of this section 30 should be deleted. There is no need to continue this section.

Clause 24 of the Bill speaks about Schedule II and says—

"in the fifth column relating to the second item, after the words "Except in cases" the words "not relating to fire-arms" shall be inserted."

May I point out, Sir, that after the insertion of these words, the meaning becomes somewhat ambiguous? In the relevant clause, which reads thus:

"If punishable with imprisonment for 3 years and upwards, but less than 7."

The words "not relating to fire-arms" are sought to be inserted. I do not know how the words will read then, and how the meaning of them will be clear. The Home Minister himself wants that cases under the fire-arms should not be bailable now. Then the whole of it starting from "Except in cases" should be deleted. Otherwise it makes the meaning ambiguous.

Shri J. R. Kapoor: But cases relating to ammunitions will remain bailable.

Shri Shiv Charan Lal: No, that will not be the meaning.

Shri Rajagopalachari: May I suggest that such detailed arguments about the clauses may come when the amendments are proceeded with? We need not argue about them now when we have not even begun consideration by clauses.

Shri Shiv Charan Lal: I would also like the hon. Home Minister to let us know whether according to the provisions here notices or summons can be served by one High Court on some person living under the jurisdiction of another High Court. The House will remember that the Allahabad High Court issued summons on Mr. Horniman which the Bombay High Court refused to serve. I would like to know if provisions have been made in this Bill for such exigencies.

Sir, that is all I have to submit.

Shri Raj Bahadur: It is with a view to express my doubt about the constitutional propriety of exempting the Rulers of the former Indian States from the ordinary operation of the law and of placing them under the category of public servants, that I have risen to say a few words. It is obvious that so far as the covenants and agreements arrived at between the Princes and our Government are concerned, we as a Government and as a Parliament should respect them and honour them. I am not one of those who believe that they are mere scraps of paper. But so far as these covenants and agreements are concerned it is common knowledge that the privileges and other rights mentioned therein are more often than not very vague. Article 362 of the Constitution does not by itself confer a positive right on the Princes. It is only a sort of a restriction, a condition on the powers of the Parliament as such. What is the restriction? The article says:

"In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State."

Thus article 362 does not confer upon them any privileges or additional rights as such. It only says that whenever we are out to exercise our function of law-making or the Government is out to exercise its function of

an executive nature, due regard should be had to the assurances and guarantees. We do not know what those rights are and how far the covenants are explicit and definite with regard to those rights and privileges. Article 362 by itself does not enjoin upon us to confer any additional rights upon them. What the Bill seeks to do is that it is going to confer an additional right upon them which under the covenants or the Constitution we are not called upon to do. As a matter of fact when the framers of the Constitution say that our Constitution shall guarantee equality of opportunity and status, to confer additional rights would definitely go behind and beyond the letter and spirit of the Constitution.

If a person who comes within the definition of a Ruler commits an offence against a private citizen of India and if the latter wants to prosecute the Ruler by way of a complaint before a magistrate, the ordinary law will not help him. He shall have to go to Government and he can prosecute only if and when the sanction is given to him. Therefore equality before the law, under Article 14 goes away. As such, article 362 does not bind us to do that. Therefore in all humility may I say that the provisions contained in clause 11 are *ultra vires* of the Constitution. The Constitution does not permit us to confer additional rights.

There is another point of view by which I would like to judge or examine the proposition. This particular clause of the Bill seems to have been drafted on the analogy of section 197 of the Criminal Procedure Code and it is obvious that public servants, such as judges or other officials of the Government are exempted from the ordinary operation of the law by virtue of the office they hold. The section says:

"When any person who is a Judge within the meaning of section 19 of the Indian Penal Code or when any Magistrate or when any public servant who is not removable from his office save by or with the sanction of a Provincial Government or some higher authority, is accused of any offence..."

That means that a public servant can also be removed from office and the exemption applies only so long as he is in the service of the Government. As soon as he is removed from service the exemption is not there. In the case of a Ruler from the time he is recognised up to his death there is no question of his removal. That is also a point worth consideration. Apart from that, the moment we place a

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Ruler in the same category as a public servant, it is obvious that the term Ruler connotes an official position and he becomes a person who is supposed to be holding an office. The same idea is borne out by the definition of Ruler and Indian State given in sub-clause (a) of clause 11:

“Former Indian State’ means any such Indian State as the Central Government may, by notification in the Official Gazette specify for the purposes of this section;”

Here may I say that to me it is rather galling that we still shall have to refer to the same old names and thus revive their memory, whereas our Constitution speaks of the States only as Parts A, B and C States. The definition of a Ruler as given here is:

“Ruler’, in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the purposes of the Constitution.”

Thus he becomes an office-bearer and if he is placed in the same category as a public servant, it would mean that he will not be entitled to the privilege of standing for election to any of the legislatures or Parliament. Let us make up our mind once for all whether we are going to consider a Ruler as one who holds an office or not. If that is done and we decide that he be held to be holding an office I would have no grievance at all against exempting a Ruler from the ordinary operation of the law. In case he is going to be exempted here from the ordinary operation of law without any decision in this behalf then it will be going beyond the scope of article 362. It would mean conferring upon a person known as Ruler an additional privilege which is not guaranteed by the Constitution and it would be against the letter and spirit of the Constitution. As such this clause needs to be reconsidered and I am very doubtful if it can be sustained before a court of law

So far as section 30 is concerned it is obvious that it is a shortest procedure for trying cases which are ordinarily sessions cases. Generally people like to be tried by a better forum whenever it is possible. Section 30 is a sort of a handicap as well as a privilege at the same time. It is a handicap in so far as the Criminal Procedure Code does not contemplate any separation of judicial and executive powers and the magistrate holds judicial and executive powers and duties at the same time.

As such it is always on the mind of the accused that some executive influence might be brought to bear on his trial. Therefore section 30 is not held in great favour. Apart from that in a sessions trial one gets so many advantages which are well known. Therefore, as has been pointed out, if section 30 were to be done away with it would have meant no harm. So long as we are unable to secure the separation of the judiciary from the executive it is proper that section 30 should be done away with.

As regards the issuing of commissions and the redrafting and modification of sections 503 and 504 I am in wholehearted agreement with the provisions brought out, because formerly so many difficulties have been experienced and they will now be obviated by the enactment of the provision before us.

As regards the other parts of the Bill as pointed by my hon. friend Mr. Sarwate there are some States which are far in advance so far as separation of executive from judiciary is concerned and we should not go a step backward in that direction at least so far as those States are concerned.

Pandit Munishwar Datt Upadhyay (Uttar Pradesh): As it appears from the Statement of Objects and Reasons the object of the Bill is laudable no doubt. We want to have a uniform law for all the States, which is very good, and on that account I think this Bill is a desirable one. Otherwise there are certain aspects which are objectionable in this Bill. I have objection to two points which I shall presently touch. There are certain other provisions in the Bill as for instance clause 21 relating to the examination of witnesses by commission and the clause relating to the sentence of death passed by a sessions judge or by a High Court. There was the drawback that when the sentence was passed by the High Court in its original jurisdiction they did not tell the accused that he could file an appeal within a certain period of limitation. That too is being provided for. That is all very good. But the objection that I have to this Bill is that a provision is made here to the effect that the offences under section 19 of the Arms Act should be made non-bailable. Up till now these offences were bailable. It might be argued that bails are granted even in cases where offences are non-bailable but that depends upon the discretion of the court and sometimes in the case of firearms the courts are very strict and it is very difficult to get bail. So, I think it would not be justified now

in 1951 to say that there should be no bail for persons who have committed offences under section 19 of the Arms Act. Section 19 of the Arms Act pertains to possession of arms by persons who have no licence for holding such arms. So, I would submit that this provision is not justified.

The other point to which I have objection is that the Ex-Rulers of the States should be arrested after sanction has been obtained from the Central Government. My fear is that it is very likely that if the arrest is to be made for certain very serious offences, after the sanction has been obtained, there might be delay and some of the Ex-Rulers who may be guilty of very serious offences might be out of reach by the time the sanction is obtained. Promises have been made and assurances given by the Government to these Ex-Rulers that they will have a privileged position. Those promises may be kept, the assurances may be made good, I have no objection to that. But to arrest them for serious offences, only after sanction has been obtained would, I think, not be justified. There should be some provision whereby some sort of restraint should be put on them before they go out of our reach. Sometimes it is likely that they might be guilty of very serious offences and they might try to escape, and it is also likely that the sanction to arrest may not be obtained so soon. Therefore, if the provision is allowed to remain there might arise some difficulty at sometime or other. In the statement of objects and reasons I find that it is said that this provision is meant to protect the Rulers of Indian States from vexatious criminal proceedings. Nobody can have any objection to that. I would submit that any person should be protected from vexatious criminal proceedings. To that nobody can have any objection. As regards trial also some special arrangement is provided for for the trial of the Rulers. I do not have any objection there also. But what I object to is that they cannot be detained, they cannot be touched, they cannot be restrained, their movements cannot be controlled unless sanction has been received from the Central Government. That sanction may be delayed. And it is likely that this lacuna here might be used or misused by the Ex-Rulers.

Besides that I find that the other provisions that are made in this Bill are welcome except one which was stressed upon by my hon. friend Mr. Jaspal Roy Kapoor that Oudh must be deleted. Of course, I will not take time on that point as it has been very well argued.

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Shri Rajagopalachari: Sir, regarding the points raised with reference to section 30, the matter was very fully considered. Both aspects were very much before Government. Uniformity could be secured in either of two ways—one by applying section 30 to every area, the other by removing section 30 from the Code. The question is which would be the best way to deal with the situation. Pandit Thakur Das Bhargava very clearly explained the need for section 30. The present *status quo* is retained in the present amendment Act with regard to section 30. Wherever the special powers have been conferred upon certain magistrates due to the special circumstances of such areas, those powers are retained under the present amendment. Where they have not been found necessary to be conferred, new powers are not proposed to be given by reason of the uniform application of section 30. Therefore, I submit to the House that we have pursued the middle way in regard to this matter. It is well-known that though uniformity is a good principle, the situation with regard to crime and pendency of cases and the like varies from place to place, especially in the areas which were not brought under the uniform law of the land till now. That is the only defence and I think it is an adequate defence, I submit to the House, in respect of that.

With regard to the question of the privilege of Ex-Rulers, the position was very thoroughly examined. Both points have been put before the House by hon. Members and more than one Member has spoken on the subject. The question is this: shall we at this stage immediately following the merger and the removal from authority of these Rulers, at once put them in the ordinary category and apply the rigorous principle of equality before the law against them, or shall we follow the course proposed in this amending Bill which is the middle way, namely that wherever the Government of India looks into the matter and sanctions the proceedings the cases shall be taken cognizance of? An opportunity is given to the Government of India to see that vexatious attempts are not made on frivolous grounds to bring these old Rulers immediately under harassing difficulties by persons who have a motive or who may have a grudge, or something to satisfy on account of their previous administration. When any person in great authority is suddenly removed from that position of authority the position is very peculiar and the criminal law in this country is often a matter that can be exploited for pur-

[Pandit Munishwar Datt Upadhyay] poses of harassment. Therefore, I submit that my honourable predecessor was right in maintaining his ground very firmly in regard to this matter, and I do not think we can be right in setting his opinion aside at this stage. And exercising my own judgment, I do not see any reason for altering the position in regard to this matter. After all, as it has been pointed out, the immunity is very much restricted. The Government of India may be trusted to act swiftly where any grave crime has been committed and there is reason to think that a crime has been committed by any particular Ex-Ruler. The position with regard to the civil law was that no proceedings could be taken except under certain circumstances even with the consent of the Government of India. That will be dealt with by my hon. colleague in the course of the next Bill. In regard to the criminal law the Ex-Rulers were completely immune. We have now made them liable with the consent of the Government of India to be proceeded against. Regarding the fear expressed by one hon. Member that these Ex-Rulers may run away after committing a grave crime and that it would be very difficult to catch them, that therefore the power of arrest must be there, and so on, the hon. Members must see the language of the law as it stands and as it is sought to be amended. It is the cognizance of the case that is barred and the consent of the Government of India is necessary. For arrest and things like that, the provisions are very general and are not in any manner affected by the provisions of this Bill. If hon. Members will examine the Code of Criminal Procedure they will find that even without the cognizance of a case, where grave crime is suspected to have been committed the Police have ample authority to deal with any person. Therefore, there is no such immunity as has been imagined. The person who commits murder can easily be caught in spite of the amendment that we are proposing. Any person may be arrested, whoever he may be, and the case can be investigated into. Therefore, there need be no apprehension that we are extending to any Ex-Ruler anything very remarkable or wonderful by this Bill. It is only as a practical measure that in the immediate stage that has followed through dethronement, so to say, there are a number of motives in operation and we wish to give them adequate and not too much immunity and protection.

With regard to the other clauses, they will all come up in the course of the amendments.

I might mention for the information of the House that the rule with regard to the notice to be given to the condemned prisoner, with regard to the transfer of cases to which Mr. Ananthasayanam Ayyangar referred and with regard to the maintenance of the position where there has been already an experiment in advance of the rest of India with regard to powers being given to the Judges rather than to the District Magistrates—in regard to all these three matters, I am getting amendments ready, which will give complete satisfaction to the House.

I move therefore once again that the House do take the Bill into consideration.

Mr. Speaker: The question is:

“that the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

New Clause 3A

Mr. Speaker: Does Mr. Vaidya propose to move his amendment regarding New Clause 3A?

Shri K. Vaidya: If Part B States are taken into consideration, I do not want to move it.

Shri Rajagopalachari: His point is about other laws. I think my hon. colleague is going immediately to introduce a Bill with reference to all laws and automatically this defect will be corrected. Also I might add that with reference to the question of date we have provided that before a notification by the Central Government the law does not come immediately into effect. So, this difficulty will not arise.

Shri K. Vaidya: In view of this assurance, I do not propose to move my amendment.

Clause 4 was added to the Bill.

New Clause 4A

Mr. Speaker: What about Mr. Sarwate's amendment to add New Clause 4A?

Shri Sarwate: I may be allowed to move this amendment after the amendment of the hon. Mover, because it relates to that portion to which he has made reference. If this amendment meets my purpose, I may not move mine.

Shri Rajagopalachari: I might assure my hon. friend that the new amendment which is being drafted—it has not come to me finally yet—will completely satisfy his point. He may take my assurance.

Shri Sarwate: I do not move it.

Clause 5 was added to the Bill.

Clause 6.—(Amendment of section 30.)

Amendment made:

In part (i) of clause 6, in the proposed amendment to section 30, after the words "Madhya Bharat" insert the word "Hyderabad".

—[Shri K. Vaidya.]

Shri J. R. Kapoor: What is the hon. Minister's reaction to my suggestion that the word "Oudh" be omitted, because it is redundant and unnecessary?

Shri Rajagopalachari: As I had some doubts after the hon. Member's speech, I made enquiries about Oudh. It seems necessary to retain it, because as the administration now stands there are Deputy Commissioners there and it is for the State of Uttar Pradesh not to transfer the power and soon they may change the name. It is not necessary for us to amend the position. It had better be left more appropriately to the State itself.

Mr. Speaker: The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Shri Sarwate: I may be allowed to move my amendment, if necessary, after the hon. Minister has moved his amendment to clause 25.

Shri Rajagopalachari: This is the amendment which I propose moving to clause 25:

To clause 25 add the following sub-clause:

"(4) Where under any law in force in a Part B State immediately before the commencement of this Act a Sessions Judge has been empowered to exercise all or any of the powers of a District Magistrate, then, notwithstanding anything contained in sub-section (1), that law shall, in so far as it purports to confer such powers on any Sessions Judge, continue to have effect as if enacted

in the said Code, and nothing in the said Code shall be deemed to transfer to any District Magistrate in that State any of the powers so exercisable by a Sessions Judge."

Mr. Speaker: In any case, the hon. Member can suggest an amendment to this amendment, if necessary. Meanwhile I shall put clauses 7 to 10 to the House.

Clauses 7 to 10 were added to the Bill

Clause 11.—(Insertion of New Section 197-A.)

Shri Naziruddin Ahmad: Sir, I have a point of order to make with regard to clause 11.

There are various sub-clauses in this clause, but the most important sub-clause is sub-clause (2) to the proposed section 197A which says:

"(2) No court shall take cognizance of any offence alleged to have been committed by the Ruler of a former Indian State except with the previous sanction of the Central Government."

Sir, I submit that this provision is *ultra vires* of the Constitution. The relevant article of the Constitution is Article 14 which runs as follows:

"The State shall not deny to any person equality before the law or equal protection of the law within the territory of India."

This article ensures equal protection to all. When an offence has been committed against a person the ordinary right of the man is to proceed against the offender in a criminal court. Now this right which is guaranteed by article 14, is going to be affected. I am in sympathy with the sentiments that lie behind clause 11, but my contention is that it is *ultra vires*, and this House, in view of article 14, has no jurisdiction to pass this clause.

Sir, article 14 has been taken from the Constitution of the United States of America, which provides that

"The State shall not deny to any person equality before the law."

With regard to this provision in the American Constitution there are certain very important rulings given by the Supreme Court which are cited in

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annotation on the Constitution of India by Aggarwala and Aiyar. An eminent Judge held: "The Constitution may give equal right to all, special privileges to none." In another case, *Barbier v. Connolly*, Justice Field held: "All persons should be equally entitled not only to pursue their happiness and acquire and enjoy property, but also that they should have like access to the courts of the country....." There are several similar rulings, but I do not want to repeat them.

Now, Sir, there are provisions in the Code of Criminal Procedure relating to sanctions and complaints as a prerequisite condition for cognizance by a court of law. They are Sections 195 to 197. This clause, if accepted will add another section 197A. It is, therefore, necessary to consider the surrounding sections. The point which I am driving at is that there are, of course, passages in these sections prohibiting a court from taking cognizance, but there are no discriminations of any kind in those sections. Section 195, for instance says:

"No Court shall take cognizance of any offence . . ."

It does not give any privilege to any individual committing the offence. Again section 196 says that no Court shall take cognizance of an offence committed by an officer of Government acting under orders of Government.

Coming to Section 197, which is somewhat similar to the present section, it says:

"A Judge, or a Magistrate or a high public servant cannot be prosecuted for any offence committed in the discharge of his official duties . . ."

There the protection is for the officer who does something in the discharge of his duties, and the protection lasts so long as the officer holds that position and no further.

With regard to the proposed new section, it does not prohibit the cognizance by a court of law with regard to offences but with regard to offenders, not occupying for the time being any official position but after they have lost their official position. With regard to the protection of judges, magistrates and high officials, the principle underlying the prevention of cognizance of criminal courts is this that they have to discharge unpleasant duties and unless they are protected for the time being, the discharge of duty independently by them would be jeopardised. But no individual is protected, and no individual who does not

purport to act in his official capacity is protected. In our Constitution itself we have made provisions of a similar nature. A study of that would show that we are going much further than what we have provided for.

I draw the attention of the House to clause (2) of article 361 which says:

"No criminal proceedings whatsoever shall be instituted or continued against the President, or the Governor or Rajpramukh of a State, in any court during his term of office".

It is to preserve the power and the dignity of the official so long as he holds that office that no criminal proceedings shall be instituted against him. The protection is given to these high dignitaries only during their term of office.

Then I come to the next clause of the article, clause (3), which says:

"No process for the arrest or imprisonment of the President, or the Governor or Rajpramukh of a State, shall issue from any court during his term of office."

So the protection is confined to the period during which he holds office and the purpose is obvious. It protects certain officials from interference with the discharge of their duties or with the dignity which must be attached to those high offices, in order to enable them to function properly. In this case we have gone much further than the protection given to these high officials. We are giving protection to a Ruler of a former State. Those Rulers who are not Rajpramukhs are no longer Rulers. They do not hold any office today. And the section makes it clear that they were the Rulers of former Indian States. Those States have gone, those officers also are liquidated. They are, I submit, individuals. And one individual cannot be permitted to be higher than another individual in the eye of the law. The law knows no distinction between man and man on any ground except the grounds of justice and fair-play. There should be no protection of any person apart from these grounds. I ask when the President, the Governor or the Rajpramukh can be prosecuted after they lay down their office, or are removed from office, what earthly reason is there to provide for exemption in the case of Rulers, who are no longer Rulers. The policy which governs our attitude towards them so long as they are a ruling power is absolutely clear and

can be defended on principles. But I do not see the least reason why this protection should be given to persons who have lost their office, who are no longer in office. That protection would be much in excess of that provided to our highest officials and highest dignitaries under the Constitution. Sir, the Speaker of this House does not enjoy any privilege of this character. A Minister does not enjoy a privilege of this character. Nor does a humble Member of this House. I do not know why and on what principle we should extend to them this privilege. They have lost office. If they have committed any offence it is possible that the Government may refuse to grant sanction, and in that case the right to approach a court of law would be jeopardised and denied. Every individual has the right granted to him by article 14 to approach a court of law and get justice. This proposed sub-clause of the proposed section 197A will empower the Government to refuse the sanction, and refuse justice to a man. It may be that a complainant may be actuated by improper motives. It may be that false cases may be instituted against the Ex-Ruler. But false cases may be instituted against anybody. There is ample sanction in the law against such an action. If a false criminal case is instituted, there is a remedy for malicious prosecution in a civil court. Again, compensation may be given by the court under section 350 of the Criminal Procedure Code. Then again, there are prosecutions by the court under section 211 and section 182 and many other sections of the Indian Penal Code in case of false and vexatious proceedings. So I think on principle as well as on constitutional grounds this proposed section has no legs to stand upon. The sub-clause which I have read is an essential clause and the others are merely ancillary thereto and hang round it. Therefore if the sub-clause goes the whole of the proposed section goes. I submit that the constitutional protection given to the complainant, a man who is injured, has got to be respected. In case a very serious crime has been committed, the Ex-Ruler would be prosecuted by the police. He would not be under the disciplinary jurisdiction of the States, and also of the Centre. There is reasonable ground for believing that they would not prosecute unless there is ample material. There is ample safeguard against frivolous and vexatious proceedings in serious cases. In small cases there is the ordinary procedure and an Ex-Ruler should be satisfied with the guarantees which are available to any Member in this House.

I therefore submit that this clause 11 cannot stand in view of this Constitutional provision. It may be that we have gone a bit too far in declaring Fundamental Rights. But having declared them and having provided that all laws which are in existence or which may be passed hereafter, in so far as they are inconsistent with the Fundamental Rights, shall to the extent of the inconsistency be null and void—having provided that—I think this clause has no legs to stand upon.

4 P.M.

Mr. Speaker: As regards the constitutional aspect of the point of order, I think I might clear the ground instead of allowing any further argument on this point and taking up the time of the House. As I have once expressed before, the Chair will not be willing to disallow any measure or any clause being considered by the House on its own merits and the House coming to its own decision, except in cases, where the matter is so obviously *ultra vires*. It is properly the function of the Judiciary to decide on complicated points of that type and come to any conclusion as to whether a particular clause or a particular measure is *ultra vires* or is inconsistent with the Constitution. If I felt in this case that the matter is very clear, I should not shirk the responsibility of deciding it myself, but I must frankly admit that the question that is posed is not so simple as it appears to be at first sight. I think the Constitution has to be read as a whole and Article 14 will, therefore, have to be read along with Article 291 as also Article 362. I have been considering this point, as this point of view was urged by Members before; and to me it appears that the real point of dispute is as to what exactly is the meaning of the words "as is referred to in clause 1 of Article 291" and that is the real bone of contention, to my mind. One side has urged that it is restricted to the Privy Purse mentioned in Article 291. Now could it be said that the covenant or agreement is necessarily contemplated to be coterminus with the agreement as to the Privy Purse? If you come to the conclusion that it is, then, of course, it is clear sailing, but if you come to the conclusion that the covenant or agreement may or may not be co-extensive, it may be more extensive than what is provided for in Article 291, then the matter stands entirely differently, and it is very difficult to say as to how this provision would either be inconsistent with or contrary to the provisions of the Constitution. I have my own reasons, but I do not think I need go into them to hold that it does not *prima facie* appear to be

[Mr. Speaker]

so inconsistent as it is sought to be made but as I said, I should not like to decide this point. I should like to leave it to the House to come to its own decision. The House itself has heard the arguments. One further point which I may point out is that, it seems to have been assumed that there is an absolute bar to all prosecutions. I think it is not the case. There is no absolute bar. Only a procedural bar is kept and the provisions are not really substantive from that point of view as giving exemptions to cases but the provisions seem to me to be procedural so that in the matter of prosecution, they have to follow a certain procedure and then the legal consequences follow. That seems to be the whole position. I do not think we need take up the time of the House by arguing this matter of Constitutional difficulty. Of course, on the merits the House may discuss this clause and the House may accept it, it may reject it, it may amend it or it may do whatever it likes with the clause.

So far as the point of order raised is concerned this is the position of the Chair. I am not going to admit that point of order and throw out Clause 11 as something which ought not have been placed before the House.

Shri J. R. Kapoor: Sir, I would like to have enlightenment on one point from the hon. Minister as to whether the covenants and agreements do contain any provision to the effect that the Ruler shall not be prosecuted in a court of law except with the previous sanction of the Central Government. I want to know whether the covenants or agreements contain any such provision. According to the view just expressed by you, you said that these two alternative meanings are possible. So even if Article 291 is not co-extensive with the subject matter, as mentioned in Article 291, the question arises as to whether the covenants themselves do contain any such clauses according to which such a protection is given to the Rulers. If even in the covenants there is no such protection given, Article 362, whatever extended interpretation is given to it, does not cover the point.

Shri Rajagopalachari: The matter is quite clear that if Article 362 is to be applied, the personal rights, privileges and dignities form the most important part of the things that have to be protected. The covenants do not necessarily go into 1, 2, 3, in detail but there is reference to personal rights, dignities, privileges and I might mention that the Rulers as well as

the Government attach a great deal of importance to privileges like appearance in court and prosecution. They are the most important part of the privileges that were to be protected. The Government have no doubt in their minds as to the interpretation of the promises made, and I think the House would do well to take the interpretation of the Government, as they themselves were parties to the covenants on the one part with the Rulers on the other part. These two have insisted on it and it would not be right to interpret away the meaning of that which was accepted by both sides at a particular time. On that basis, as I have already explained my predecessor had very insistently required that this provision should be made and I do not think that apart from the question of point of order which has been disposed of by you, Sir, on the merits there would be any doubt as to the obligation that rests upon us to fulfil.

On the point of order, Sir, you have fully explained the position. It is a mixed question of merits. I would ask hon. Members to read Articles 14, 15 and 16 of the Constitution with great care. This, I think, they have not done. Equality is not to be interpreted in the negative way. Article 14 says: "The State shall not deny to any person equality before the law". I would like to know whether in this or in any of the provisions here, we have denied to any one equality of law. Articles 14, 15 and 16 are all cases where the rights of equality are protected against denial. Here there is no question of denial to any person of any equality. I think we are overstraining the meaning of articles 14, 15 and 16 in raising a point of order in this connection. Procedural differences are almost always to be taken for granted in equality. For instance any sanction for prosecution can be argued out of court under the extended meaning of equality that is now referred to. I do not think, Sir, there is any doubt with regard to either the meaning of Articles, 14, 15 and 16 or Article 362. I think it would be dishonourable for the Government to allow at this stage of affairs parties to bring up criminal prosecutions against these Rulers. Reference was made in the course of the argument by one Member to the position of public servants. Were not these Rulers public servants till most recently and the position that arises out of the exercise of power must be kept in mind when we are making laws and Article 362 says in express terms: "In the exercise of the power of Parliament or of the Legislature of a State to make laws..." This, I suggest,

should be kept in mind. It cannot have any other meaning than that we may and should provide things of this nature.

[MR. DEPUTY-SPEAKER *in the Chair*]

Shri Naziruddin Ahmad: Sir, in view of the impatience disclosed in the House, I shall be very short and deal with one or two points. I shall be really short, no fear about that. It is said that the Rulers when they were Rulers were public servants. When they committed offences or are alleged to have committed offences in the course of the discharge of their duty as such, they should be protected. But, sub-clause (2) which is a disputed sub-clause, goes much further than this. It seeks to protect against offences of any kind whatsoever, offences committed after they ceased to be Rulers. I will now read the sub-clause. It runs as follows:

"No court shall take cognizance of any offence alleged to have been committed by the Ruler of a former Indian State except with the previous sanction of the Central Government."

They are Rulers of former Indian States. They commit offences today. They would also be protected. On what principle? If the President cannot be protected for an offence committed during his term of office after he leaves office, much less can he be protected when he commits an offence after he leaves office. What reason is there to extend this protection?

Shri Rajagopalachari: In view of the promise made as to brevity, may I suggest that he need not repeat what has already been said?

Shri Naziruddin Ahmad: I think I am not repeating. The point is on the merits. I have not said this before. On the merits, you protect him not merely for an offence committed by him in the discharge of his office as such, but for any offence committed outside his State, and offences committed after he ceased to be the holder of the office. That is going much beyond the so-called necessity of protecting such officers in the discharge of their official duties. These are the two points that I wished to submit on the merits.

Shri D. D. Pant (Uttar Pradesh): I am not at all convinced with the reply that the hon. Home Minister gave when he wound up the debate for taking the Bill into consideration. He said that these Rulers or ex-Rulers, as I call them—they are in fact ex-

Rulers—are not immune from arrest by the police. That means that no protection is going to be given to them against police harassment. But, when it comes to a court of law, which is always regarded as a higher office and a more honourable authority than the police, protection is being granted to them. I was surprised, in fact, to hear this sort of an argument from an acute intellect like that of the hon. Home Minister. However, by objection to this clause is that it goes to create classes and discriminate against individual and individual. Are we again going to have those Roman institutions of patricians and plebians, to whom different sets of laws were applied. It offends against the very sense of human equality and equality of all before a court of law which is guaranteed by the Constitution. That is my main objection.

The Home Minister said that they were public servants. Public servants are granted this immunity or these privileges when they commit offences during the course of their duties. In that case only privilege is granted to them; not always. I am surprised, Sir that this piece of legislation which is being introduced, should have missed the eye of the hon. Law Minister also and that he, who has been trying to oppose the privileges of all classes, should have agreed to this sort of provision being made for Ex-Rulers.

Minister of Law (Dr. Ambedkar): It is a very small departure.

Shri D. D. Pant: It may be very small to start with; but it may ultimately develop into a sinus and invade the whole body like a cancer. These privileges may be extended to others also. My respectful submission is that this discrimination between man and man which is being sought to be made by this section should not be allowed by this House and this clause must be very toughly opposed by all.

Mr. Deputy-Speaker: The hon. Minister.

Shri Sarwate: I wish to make a submission, Sir.

Mr. Deputy-Speaker: Has there not been a sufficient discussion?

Shri Sarwate: I have a real difficulty, which it would be better if I brought it to the notice of the hon. Minister and got it clarified. May I proceed, Sir?

Mr. Deputy-Speaker: Yes.

Shri Sarwate: According to the Covenant which has been entered into with the Rulers, the Ruler of each covenanting State shall be entitled to all the personal privileges, dignities and titles enjoyed by them. If we are to really abide by these covenants, that would mean that they enjoy all the privileges which they did before. That is to say, when they were Rulers, they were exempt from any prosecution in the State. By the comity of international relationship, they were exempt from prosecution outside the State also. It comes to this that for any offence, they were not punishable and they were not triable. If this guarantee is to be observed in reality, this clause in the present Bill is superfluous, because permission can never be granted by the President. If a Ruler is exempt from all trials, then, no Central Government can grant the necessary permission for his trial. On the other hand, if it is maintained that the President can give such a permission, it means that the guarantee is not to be observed on certain occasions, but on certain occasions only. That would mean that there is something in the Constitution which allows this to be done. Let us see what is the meaning to be put on article 362 of the Constitution. Article 362 runs thus:

"In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had.....etc."

It is not said that the guarantee or assurance shall be complied with on all occasions, irrespective of the emergency or irrespective of the gravity of the occasion. It is only stated, 'due regard shall be had'. My question is whether the words "due regard should be had" mean that on certain occasions, these guarantees will be observed and on certain others they will not be observed? Is the provision in Constitution to be taken only as an indication as a guide?

And then the question arises, what is a personal privilege? Are these personal privileges, to belong to him only while he was a Ruler? Why were those privileges given? They were given because according to the theory of law, every Ruler is above the law. The King can do no wrong and he cannot be tried, because he happens to be the King. He was above the law and could not be controlled by the law. Now does it mean that even if he is no more a Ruler he would

still be above the law? The position may be interpreted in this manner that while he was the Ruler he could enjoy certain privileges because of his kingship. But as soon as that kingship disappeared, he would be without those privileges. Or are we to continue only some of the privileges, as for instance the payment of the privy purse or *salamis* which are personal to them, because even after they ceased to be Rulers, out of certain courtesy or regard to their previous position we want them to have these privileges? Perhaps this is what is meant by the words "due regard" in the Constitution. But the hon. Home Minister may kindly make the position clear in his explanation. Is it meant that in certain cases permission will be and shall be granted and in some other cases it shall be refused? My objection is not removed by saying that the courts would not take cognisance until the permission is given. Will the whole Criminal Procedure Code be automatically put into operation if 'due regard' is to be given to privileges, no Ruler can be arrested even now. We must be clear in our minds and the House must be clear in its mind when it accepts clause 11 as to what is really meant. Is it meant that the Ruler having ceased to be King, is amenable to the Criminal Law of the land, but that only certain provisions are made to see that certain precautions are taken, namely that the sanction of the President is obtained? Is it that only criminal proceedings which are of a vexatious nature would not be permitted against the ex-Ruler? That is to say will the President, in the normal course give this permission? We would like to have a clear assurance from the Home Minister as to what is meant by the words "due regard" in this connection.

Shri Rajagopalachari: I can give this clear assurance to the last speaker that by this amendment Government will have the opportunity to look *prima facie* into the matter of the charge that is brought against an ex-Ruler, and as the Home Minister for the time being, I can tell him that sanction will be given where there is a good and proper case, and sanction will not be given where there is no such case. I do not think the last speaker desires any more assurance. This is only an assurance as to the executive policy. The question we are concerned with is whether this clause should be in the law. I submit that for the reasons that have been explained repeatedly, I feel that it is necessary and I would beg the House to accept this clause.

Mr. Deputy-Speaker: The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clauses 12 to 17 were added to the Bill

Clause 18.—(Amendment of Section 371).

Shri Rajagopalachari: I beg to move: For clause 18 substitute the following:

"18. Amendment of section 371, Act V of 1898.—For sub-section (3) of section 371 of the said Code, the following sub-section shall be substituted, namely:

'(3) When the accused is sentenced to death by any court and an appeal lies from such judgment as of right, the court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred."

This would cover the case of the amendments brought forward with reference to appeal on sentence of death passed or appeal against acquittal. In such cases there is appeal to the Supreme Court. Therefore, this clause covers those cases also. Therefore there would be no difficulty. All the proposed amendments have been included in the comprehensive phraseology of the amendment that is now proposed.

Mr. Deputy-Speaker: Amendment moved:

For clause 18 substitute the following:

"18. Amendment of section 371, Act V of 1898.—For sub-section (3) of section 371 of the said Code, the following sub-section shall be substituted, namely:

'(3) When the accused is sentenced to death by any court and an appeal lies from such judgment as of right, the court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred."

I suppose everyone is satisfied and there is no further argument. I shall put the clause to the House. The question is:

For clause 18 substitute the following:

"18. Amendment of section 371, Act V of 1898.—For sub-section (3) of section 371 of the said Code.

the following sub-section shall be substituted, namely:

'(3) When the accused is sentenced to death by any court and an appeal lies from such judgment as of right, the court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 18, as amended, stand part of the Bill."

The motion was adopted.

Clause 18, as amended, was added to the Bill

Clauses 19 to 21 were added to the Bill

New Clause 21A.

Shri Rajagopalachari: I beg to move:

After clause 21 insert the following:

"21A. Amendment of section 527, Act V of 1898.—In sub-section (1) of section 527 of the said Code,

(i) for the words 'State Government' the words "Central Government" shall be substituted; and

(ii) the proviso shall be omitted."

This, Sir, is with reference to the point that was raised by you on the floor of the House to provide that where there is ground or reason for transferring a case from the jurisdiction of one High Court to another wherever it may be, the Central Government shall exercise the powers which they were formerly exercising and which were taken away in 1937 in view of the jurisdiction of the State Governments at the time. At present the position is easier and this provision would be satisfactory to meet the difficulties of any case where a transfer would be desirable in the public interest, from the jurisdiction of one High court to that of another.

Shri Venkataraman (Madras): Sir, I have an amendment to this clause to the effect that for the words "Central Government" the words "Supreme Court" be substituted.

Mr. Deputy-Speaker: Let me first place it before the House. Amendment moved:

After clause 21 insert the following:

"21A. Amendment of section 527, Act V of 1898.—In sub-section (1) of section 527 of the said Code,

[Mr. Deputy-Speaker]

(i) for the words "State Government" the words "Central Government" shall be substituted; and

(ii) the proviso shall be omitted."

Shri Venkataraman: Sir, may I say one word, because I feel strongly about it? Sir, it is one of the principles of our State policy that as far as possible separation of the powers should be introduced. In the Criminal Procedure Code, the power to transfer cases is vested with the High Court under section 526. If we are really going to give power to transfer cases from one State to another the proper authority which can have that power should be the Supreme Court and not the Central Government. In fact I can envisage a situation where there will be a lot of political pressure being brought to bear on the Minister in charge of that department; he will also be subject to answer interpellations in the House as to why a particular right was exercised or not exercised. For all these reasons I think the Supreme Court should be the proper authority which should be vested with the power of transferring cases from one Province to another.

Pandit Thakur Das Bhargava: The point made by my hon. friend is very important; in fact it is extremely important. So far as the question of the powers of the Supreme Court is concerned as opposed to the powers enjoyed by the head of the executive in this matter there can be no two opinions. I would very humbly submit that the new provision should not be regarded as final. If ultimately there is an assurance from the Home Minister that this matter shall be gone into further and a final decision arrived at after considering all the questions relating to it, then at this stage we may not pursue this question further. Otherwise this question is so important that it goes to the very root of the Constitution. We have framed a Constitution on the basis that the final arbiter of the destinies of this country is the judiciary and not the executive. When we were considering the powers of the Supreme Court in the Constitution we took good care to see that the necessary powers were given to the Supreme Court. The ultimate thing we wanted to say is contained in article 140 where we kept the powers in reserve so that we might enlarge these powers as occasion demanded. If the directive principle which we have enunciated in our Constitution is to have any meaning whatsoever, it means that the separation of the judiciary

from the executive will never be complete, unless this power is given to the Supreme Court. My humble submission is that this is a Bill of a restricted nature. As a matter of fact at this stage it is only restricted to Part B States. I would agree that this question may be allowed to remain as it is but on the assurance that the Home Minister does not regard it as a final decision. If he gives the assurance that on a proper occasion the Government will bring forward a Bill . . .

Shri Venkataraman: I want to ask the hon. Member how the Bill is confined only to Part B States. It is an amendment of section 527, which is applicable all over the country.

Pandit Thakur Das Bhargava: What my friend says is quite true. The Bill as it is, is only restricted to bringing about uniformity between Part A and Part B States. At the same time it is a debatable question. When we were concerned with the powers and privileges of the Supreme Court, even then this question came before us but we did not arrive at a final decision. This question was reserved under Article 140. If the House does not think that this is a proper occasion it may be left over. Otherwise my personal view is the same as that of my hon. friend. I believe that it is the Supreme Court alone which should be given this power and no other authority. It may be argued by the hon. Minister that this question requires further consideration. Therefore I am submitting that the point may be subsequently considered, if a Bill is brought forward either by a private Member or by the Government in the near future. I for one would not say that this power can be given to the President in any contingency whatever.

Shri Sivan Pillay (Travancore Cochin): Sir, Members from Part B States also may be allowed to speak on this.

Dr. Tek Chand (Punjab): Sir, I fully endorse the remarks of my learned friend Mr. Venkataraman. The question is by what authority should criminal cases pending in one State be transferred to another State. Now why should this power be given to the President, which in practice will mean the Ministry, because whatever powers are given to the President will be exercised by him on the advice of the Ministry? This will be an interference with judicial procedure by the executive, and I venture to submit it will be an interference of a very objectionable character. I therefore support

the suggestion that this power be given to the Supreme Court, which is the highest judicial authority in the land. It is obviously a judicial matter, whether a case should be tried in U. P., Madras or Bombay. If the amendment is accepted, it might lead to abuse. If someone, who is not in favour with the local executive is prosecuted, his case may be transferred, say, from U.P. to Madras or from Madras to the Punjab and this will put the accused to considerable expense and harassment. It will be a very bad precedent if the executive were to interfere with judicial matters in this manner. Further, the Bill is intended to have uniform procedure in Parts A and B States. The House will be extending the scope of the Bill if this provision is introduced not only in Part B States but also in Part A States. It is really outside the scope of the Bill, it is not proper and is most objectionable in principle.

Shri Rajagopalachari: I am glad that such strong views have been expressed in regard to this matter, which has been introduced at the last moment. I for one would have kept this matter totally outside this Bill and left the Bill as it stood but in view of the desire that was expressed that some provision should be made for transfer of cases from one State to another and in view of the present state of things in most of the Part B States I agreed that we might introduce a simple provision which was in operation for a long time before, namely that the Central Government could transfer cases from one State to another in extraordinary circumstances.

The trial of a case and the meting out of justice is one thing and the question which court or where a trial should be held. I submit with all due deference to the opinions expressed, is not a matter of judicial independence but of public interest. The executive government at the head throughout India is certainly in a position to say where a trial should be held and it does not take away any authority from the judiciary. The Central Government would transfer a case from one High Court to another and not to itself: it would transfer from one court subordinate to a High Court to another court subordinate to a High Court. Every part of the judicial work involved would be done by the judiciary. The only question involved is as to whether in extraordinary cases, if proof is given that it would mean great hardship in one place or another, then some particular judicial authority should dispose of that particular question. It is an alternative between the Supreme Court and the Central Gov-

ernment. Transfer of jurisdiction relates not only to High Court cases but even to cases before subordinate courts of one High Court to subordinate courts of another High Court. We have not asked the Supreme Court whether they would be willing to take on this work. In fact they have been gradually given more and more work day after day. Once a privilege is given to litigants to go to a court by way of an application, there would be no limit to the number of applications. But if the concession is only made after an extraordinary notification to be issued by the Central Government, the volume of work will be very limited. That is the only thing to be said in favour of it.

Now, if the House does not want this provision, we stand where we did, but if any provision is to be made now I would recommend strongly this form in which I have moved it. And let me also add, if an assurance is wanted, that this is not the final word on the subject as Pandit Bhargava said, certainly nothing is final in this world and this also can be amended. This is after all an extraordinary jurisdiction that is given and if it is found that it is utilised in a wrong way, certainly I would myself support a motion that the courts should take charge of the matter. But I do not think there is any finality as was apprehended. Therefore, the choice before the House is whether any provision should be made for transfer of cases from the jurisdiction of one State to another State, or whether the House leaves things as they are. Remember, if you do not introduce this clause as it stands at present, the State Government is exercising the function with the consent of the other State to whose jurisdiction the case has to be transferred. The only alternative really before the House is whether to allow the State Governments to exercise this function or whether the Centre should exercise it. I think there is nothing improper in the present proposal.

Shri Syamnandan Sahaya (Bihar): On a point of information. At present in the States when a case is to be transferred from one court to another who does it?—the State Government or the High Court of the State?

Shri Rajagopalachari: The High Court transfers cases from one court to another under its jurisdiction, but if a case has to be transferred beyond the territorial jurisdiction of the High Court then it is the executive that has to come in, and therefore it is that

[Shri Rajagopalachari]

originally the Governor-General in Council was doing it. Laterly the State Government with the consent of the other State Government has been doing it under the law. The position will be eased by the Central Government operating, probably after getting the consent of the various State Governments. Otherwise, the old law will continue. Therefore, in order to give a lead to the House I would beg of the House in its discretion to accept the amendment as I have suggested.

Shri Syammandan Sahaya: Did the High Courts have any difficulty in these transfers?

Mr. Deputy-Speaker: The hon. Member has not understood the point. If it is transfer of a case from one court to another within the jurisdiction of a High Court that High Court has the right. If it is a transfer from one court in a State to another court in another State, before 1941 the Governor-General as the Central authority exercised the jurisdiction between the two States and transferred it. Since 1941 the law was amended and power was vested in the provinces. Today the executive government of a particular State, not the High Court, transfers the case to another State with the consent of the other State. The only question now is whether we ought to entrust this matter to the State Government or whether in a matter concerning two States it ought to be entrusted to the Central Government as before. And the hon. Minister has further said that the question of vesting the jurisdiction in the Supreme Court will be considered later on. Under those circumstances it is for the House to make up its mind whether the Centre ought not to come into the picture.

Shri Rajagopalachari: Before the question is put, Sir, I may add that if in the working of this proposal as I have now made by way of amendment, we find any difficulty there is nothing to prevent the House from taking suitable measures to transfer the power to the Supreme Court.

Several Hon. Members: No, no.

Pandit Thakur Das Bhargava: I wanted a clear assurance that this will be subsequently considered. But the hon. Minister only says "if it is found unworkable". This assurance is not certainly enough. On principle this power should be vested in the Supreme Court. From 1941 onwards upto date there was no such court in existence in India. People could not go up to the Privy Council in every

case. And therefore there was some justification then for keeping the power with the Central Government. Now the Supreme Court is there and there is absolutely no justification why the executive government should have power in a matter of this nature which is of entirely judicial nature. Therefore, I submit that an assurance should be given that the matter will be considered again whether the present proposals are workable or not. Then I will be satisfied.

Shri Tyagi: Sir, I only want to say one thing. To depend on the assurances given to the House by a respectable and responsible person is not a good convention. Our respected Rajaji is trusted in the whole of India. So long he is there his word is law to many. But there is no certainty as to how long he will stay—he may go tomorrow. Then we may have another man who may not respect these assurances.

Shri Rajagopalachari: I would request that point not to be laboured. Apart from the assurances that I am giving to the House, the House is entitled to do things at its discretion. I am not giving any extra concession. The House can alter the law whenever it chooses and no assurance from me is necessary. But the point is that we are introducing for the first time a measure of this kind. On behalf of Government I am prepared to accept the change that is proposed in the amendment that I have read to the House, but if for any reason there is considerable doubt, I am not prepared, without further examination, to thrust this work on the Supreme Court. We have not taken necessary steps to put that weight on the Supreme Court. The whole clause will have to go. The question is whether the clause should be there or not.

Shri Shiv Charan Lal: May I make a new suggestion? The difficulty arises in this way, that there are no inherent powers so far with the Supreme Court. Under Sections 561A the High Court has the power to pass whatever orders are necessary for the sake of meeting out justice. Under article 140 this Parliament has to give some supplemental powers to the Supreme Court. They are not yet given. If the Supreme Court is given the inherent power then anything may be passed. In fact, with such powers even if the Central Government transfers a case from Madras to the Punjab, the Supreme Court will be able to transfer that case back from the Punjab to Madras. But the inherent powers are not yet given to the Supreme Court. If the inherent

powers are given to the Supreme Court then section 527 may remain as the hon. Minister suggests. That will solve the question.

Shri Rajagopalachari: The position has been very correctly explained, and therefore the objection to this section as amended should be less. But I do not want a mere majority vote like this. It is only if all objections are withdrawn and this is passed as a measure to be tried, to be worked, till either the Government finds it inconvenient or the Supreme Court agrees to take over such jurisdiction, that I would ask the House to pass it. I may also point out, repeating what the last speaker said, that this does not interfere with such powers as the Supreme Court has or will have.

Shri Ethirajulu Naidu (Mysore: Sir, I want to speak on this point.

Mr. Deputy-Speaker: Has there not been enough discussion?

Shri Ethirajulu Naidu: The matter is important and I want to make some suggestions.

Shri T. N. Singh (Uttar Pradesh): Is the hon. Member entitled to speak after the Minister's reply?

Mr. Deputy-Speaker: I have allowed him to speak.

Shri Ethirajulu Naidu: Members of this House will agree that they have had no time to study the amendment. As a matter of fact, this matter came up as a surprise and you yourself said this morning that it was coming up at the eleventh hour or the twelfth hour. It did not stop there. In the afternoon, another amendment has been put forward before the House, the implications of which we are not fully cognizant of. The issues are very vital and I am deeply indebted to my hon. friend Mr. Venkataraman for having explained the implications. The question is: are we going to have the rule of the law or are we going to have the rule of the executive? We cannot think of compromising on an issue so vital as this. Therefore, I would submit that the course suggested by the hon. the Home Minister, namely, the dropping of this particular amendment, is the most acceptable course. The point is whether the Supreme Court is to be the final arbiter or whether it should get mixed up in politics and the executive should decide the matter. These are matters that must be deeply considered. If the hon. the Home Minister is not prepared to confer the power on the

Supreme Court without consulting it, this matter may be deferred and can be dealt with separately.

Shri Rajagopalachari: Without prolonging the discussion further, I wish to say that either this section should stand as amended or the *status quo* should continue. If, on the whole, Members of the House have not made up their minds, it is better not to make a law on this point. I suggest, therefore, that this may be omitted altogether. I request the permission of the House to withdraw this amendment.

An Hon. Member: No.

Mr. Deputy-Speaker: The House will kindly understand the implications of this 'No'. If there is a single voice opposing a withdrawal motion, it has to be put to vote. Unfortunately, I was the author of all this trouble, but I am not in a position now to stand up and defend. All the same, I find that under the rules the Speaker before putting any motion to the House can make a brief statement of what has happened. To avoid any misunderstanding, particularly when an amendment of this consequence, moved as it has been by one of our leaders and the present Home Minister, has to be withdrawn. I would like to state the position. I do not want to place the Home Minister in an embarrassing position. The present position is this. It cannot be said that there are not cases which have to be transferred from one State to another State. There may be such cases. Before the amendment of the Code in 1941, the Governor-General exercised that jurisdiction. There was no Federal Court then. Later on, the position was amended and the power was given to the very State against whom an objection may be made.

Shri Ethirajulu Naidu: On a point of order, Sir.

Mr. Deputy-Speaker: There is no point of order when the Chair is on its legs. I am merely making an explanatory statement before putting it to the House. The present position is that the State is the prosecutor in any case. Even in a private case, once the case is launched for a non-cognizable offence, the State takes charge of it and the State has to withdraw. The complainant has no right to withdraw. It is only the State which can withdraw. Whether the case be by the State or by a private individual in any court in the State, the case becomes a State case. The transfer of that case from one court to another court is within the jurisdiction of the High Court in that

[Mr. Deputy-Speaker]

State, but if the case be against the State itself and if it had to be transferred from one court to another, formerly the Governor-General exercised that jurisdiction. But now the very State itself exercises that jurisdiction. So, the hon. the Home Minister says that temporarily till we take a decision as to whether this power should be given to the Supreme Court or not the Central Government may exercise that power in place of the old Governor-General, because it is the Central Government which holds the scales even between different States. This matter has been sufficiently discussed and the hon. the Home Minister wishes to withdraw his amendment.

Shri Rajagopalachari: I am sorry that you are placed in this embarrassing position. I wish you had been on the floor of the House. After wrestling with the House for such a long time, I have found that I had better drop this rather than carry it through. I do not think I should press the matter further.

Mr. Deputy-Speaker: In view of what the hon. the Home Minister has said, I am asking the House again whether it gives him permission to withdraw his amendment. I just want to clear up my mind whether the 'No' is a real 'No' or not. The question is:

"That leave be granted to the hon. the Home Minister to withdraw his amendment."

An Hon. Member: No.

Mr. Deputy-Speaker: That means that I have to put the amendment to vote. The question is:

After clause 21, insert the following:

"21A. Amendment of section 527, Act V of 1898. In sub-section (1) of section 527 of the said Code,—

(i) for the words 'State Government' the words 'Central Government' shall be substituted; and

(ii) the proviso shall be omitted.

The motion was negatived.

Clauses 22 to 24 were added to the Bill

Clause 25.—(Repeals and Savings)
Amendment made:

To clause 25, add the following sub-clause:

"(4) Where under any law in force in a Part B State immediate-

ly before the commencement of this Act a Sessions Judge has been empowered to exercise all or any of the powers of a District Magistrate, then, notwithstanding anything contained in sub-section (1) that law shall, in so far as it purports to confer such powers on any Sessions Judge, continue to have effect as if enacted in the said Code, and nothing in the said Code shall be deemed to transfer to any District Magistrate in that State any of the powers so exercisable by a Sessions Judge."

—[Shri Rajagopalachari.]

Mr. Deputy-Speaker: The question is:

"That clause 25, as amended, stand part of the Bill."

The motion was adopted.

Clause 25, as amended, was added to the Bill

Clause 1.—(Short title and commencement)

Amendment made:

In sub clause (1) of clause 1 for the figures "1950", substitute the figures: "1951".

—[Shri Rajagopalachari.]

5 P.M.

Mr. Deputy-Speaker: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Shri Rajagopalachari: I beg to move:

"That the Bill, as amended, be passed".

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

The House then adjourned till a Quarter to Eleven of the Clock on Friday, the 9th February, 1951.