

Clauses 2 and 3 and the Schedule were added to the Bill.

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

SHRI JANARDHANA POOJARY : Sir, I beg to move :

“That the Bill be passed.”

MR. DEPUTY SPEAKER : The question is :

“That the Bill be passed.”

The Motion was adopted.

GOVERNMENT OF UNION TERRITORIES (AMENDMENT) BILL, 1985.

[*English*]

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN) : I beg to move :

“That the Bill further to amend the Government of Union Territories Act, 1963, be taken into consideration.”

In the case of Legislative Assemblies of the States and both the Houses of Parliament, the Constitution has already been amended to provide for disqualification on ground of defection. The provisions of the Constitution relating to Legislative Assemblies do not apply to the Legislative Assemblies of Union Territories. The provisions contained in the Government of Union Territories Act, 1963 govern the membership of the Legislative Assemblies of the Union Territories. In order to provide for a similar disqualification for membership of Legislative Assemblies of Union Territories and to make a provision for disqualification on ground of defection, it is proposed to insert a new section 14A in the Government of Union Territories Act whereby the disqualification on ground of defection contained in the Tenth Schedule of the Constitution would become applicable to the Legislative Assemblies of the Union Territories in the form of a referential provision.

This Bill seeks to make provisions in relation to Union Territories as have already been made in the Constitution for the State Assemblies and both the Houses of Parlia-

ment after detailed deliberation and discussion in this august House.

With these words I commend this Bill for the consideration of the House.

MR. DEPUTY SPEAKER : Motion moved ;

“That the Bill further to amend the Government of Union Territories Act, 1963, be taken into consideration.”

MR. DEPUTY SPEAKER : Now I want to know how much time you want for this Bill.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI GHULAM NABI AZAD) : I think everybody has spoken on a similar Bill earlier. I think 15 minutes will be enough.

SHRI S. M. BHATTAM : There is nothing to speak about this except...

SHRI A. CHARLES (Trivandrum) : This is on similar lines as that of the Constitution Amendment Bill which was passed by the House earlier. No further discussion is necessary, but if any member wants just a clarification, that can be allowed.

MR. DEPUTY SPEAKER : If Members want to speak, I cannot shut them out.

AN HON. MEMBER : The hon. Member cannot guide the Chair.

SHRI S. M. BHATTAM (Visakhapatnam) : The Bill was passed no doubt and it was unanimously passed also. Only one point I want to raise and that is why was this contingency not visualised at that time ? Why should the Minister come with a separate Bill before the House ? With a little foresight they could have covered this aspect also at that time. Why was this not done ? This is the only request I want to make to the Minister. Why was it left out at that time ? That is all. I am not saying anything else.

SHRI S. JAIPAL REDDY (Mahbubnagar) : I have a legal clarification to seek. Earlier we got a Constitution Amendment Bill passed. This is only an amendment to an Act. I want to know whether this is legally adequate and

whether it will have the same validity as a constitutional amendment. At that time we did not think of moving an amendment to the People's Representation Act because that would not have served the purpose. Art. 19 of the Constitution would have been violated if a mere amendment to the People's Representation Act had been moved. That was the reason why we thought that a constitutional amendment was necessary. Now can an amendment to the Act serve the same purpose ?

[Translation]

SHRI ABDUL RASHID KABULI (Srinagar) : Mr. Deputy-Speaker, Sir, I welcome this Bill which is sought to be extended to the Union Territories. I agree that this Bill needs to be extended to the entire country. I want to ask, through you, why this Bill is not being extended to the Jammu and Kashmir State. Some modifications are necessary in the State Anti-Defection legislation for this purpose.

So far as the National Conference is concerned, we had made it clear even during the discussion and debate on this Bill that the National Conference is the single largest party in the Jammu and Kashmir State Assembly. We want this law to be extended to Jammu and Kashmir also. At the moment the strength of the Congress M. L. As. in the Assembly is 26. These 26 Members should come forward and support the 32 Members of the National Conference to get this Bill extended to the state and thus the people of Jammu and Kashmir should be provided relief from defection which has harmed the entire nation and has destroyed the moral values in our State. Through you, Sir, I want to tell the House that, unfortunately Jammu and Kashmir is a State which had to suffer a lot on account of defections, In 1983 a popular Government was installed there. The people had elected their representation to the Assembly of their free will under the Constitution and the representatives had formed the Government. Dr. Farooq Abdullah was elected the Chief Minister of the State. But, thereafter, 10 M. L. As. formed a separate party and formed the Government under the Chief Ministership of Mr. Ghulam Mohammad Shah, who is not a Member of the State Assembly till today. Even now he does not have the moral right to continue as

Chief Minister. During the recent Parliamentary Elections, the people of the state have rejected Mr. Ghulam Mohammad Shah. His candidate was defeated in Srinagar Parliamentary Constituency of the Jammu and Kashmir State from where I was also contesting. The security deposit of the son of Mr. Ghulam Mohammad Shah who contested the election, was forfeited there. Mr. Shah also contested for the Baramulla seat and met with the same fate. There is no doubt that in Jammu and Kashmir, two parties have emerged—the National Conference and Congress (I) and we have accepted that. Out of five seats, three have gone to the National Conference and two to the Congress (I), but none of the candidates of Mr. Ghulam Mohammad Shah has won. On this basis, I want to say that when the entire country will have the benefit of the central Anti-defection. Legislation, why should our Jammu and Kashmir State be deprived of it ? I am appealing to the conscience of the Government, through you, that this Anti-Defection Act should be extended to Jammu and Kashmir also. The National Conference declares in this august House that it welcomes this Bill and expects the Congress party to come forward and get this law extended to the State by amending the existing state legislation to dethrone the Government of defectors by withdrawing its support. A similar law should also be enacted there and elections should be held after imposing Governor's rule. This would enable the people to elect representatives of their choice and a new Government would be formed which will be a popular Government. Thus, we should also be relieved of the problem, which we have been facing since last July. The development of state has come to a standstill. Government should pay attention to this sensitive part of the country which happens to be a border State. If elections are held there immediately, it will be in the national interest and this legislation which has come up before the House for discussion should be extended to Jammu and Kashmir. National Conference would welcome this step. I expect a clarification from you on this issue.

SHRI RAM PYARE PANIKA (Roberts-ganj) : Mr. Deputy Speaker, Sir, though no discussion is required on this Bill in the House and all the members have agreed to it and I also agree to it, yet I want one or

two clarifications. Sir, as has just been pointed out by one of the Hon. Members of the Opposition, it would have been better if this Bill regarding Union Territories had been brought at the time when the Bill regarding defections was discussed in the House. But, Sir, you know that much importance is given to decentralisation in a democracy. Elections are held at various levels, e.g., District Councils, Municipal Committees, Metropolitan Councils, Municipal Boards, Town Area Committees and Gram Panchyats. It is at these levels that the virus of defection is more virulent. We have seen at many places that powerful people kidnap two or four candidates and hide them; they release them after the elections are over because in Municipal Boards there is no check on defections. The Hon. Minister would, of course, say that this is a State subject. But I want an assurance from the Central Minister whether he would advise the States and Union Territories to introduce anti-defection Bills in local bodies in the same manner as it has been brought here. And if they do not do so, then the Central Government can issue directives to these local bodies under the Directive Principles under that Article of the Constitution which governs the Panchayati Raj. I hope that I would be assured that directives would be issued to those bodies where elections are held that they should frame similar legislation at the earliest in their own States.

SHRI G. L. DOGRA (Udhampur) : Mr. Deputy Speaker, Sir, several points have been raised here. The first point was why it was not brought forward at the time when the anti-defection Bill was passed here. It could have been brought along with that. Fear has also been expressed that some loophole might remain in the Bill. There is no question of any loophole remaining there because it has been brought under the same Act. Kabuli Sahib aired his grievances about the affairs of his own State in the context of this Bill. Taking advantage of the Bill about Union Territories, he dragged in Jammu and Kashmir. Jammu and Kashmir has passed its own Bill and if that is to be amended, it would be done by the State Assembly. It cannot be done by Parliament...*(Interruptions)*. He said that injustice had been done. A case was filed in the High Court, but the petition was dismissed by the High Court and now it is pending

before the Supreme Court. Let us see what happens there. You say there has been a second split there. The Government there was formed with the help of the Congress. After winning a vote of confidence in the House, the Government is being run in a democratic manner...

(Interruptions)

SHRI ABDUL RASHID KABULI : They lost their security deposits there.

SHRI G. L. Dogra : It is because you are not there that you say that the Government has been toppled. The fault is neither yours nor mine. You ask about it from Farooq Sahib.....*(Interruptions)* Till this situation continues, one thing will be said here, another at Jammu and yet another at Srinagar. It will go on like this...*(Interruptions)* We have no special relationship with Mr. G. M. Shah. The political relationship with Farooq Sahib is to the extent that he is the son of Sheikh Sahib. You teach some method to Farooq Sahib. He...*(Interruptions)* It is correct that it is a matter of credibility. There ought to be credibility which can ensure political security of the nation.....

(Interruptions)

SHRI ABDUL RASHID KABULI : You prove at least one thing, to show that Farooq Sahib is not a patriot, He is more patriotic than you and I ...*(Interruptions)*

SHRI G. L. Dogra : I am not levelling any charges. If Farooq Sahib could convince the Home Minister we would also say that we are satisfied. We have faith but we are not satisfied with the credibility. *(Interruptions)*. I am saying that we have no conflict with you. The conflict is between two brothers-in-law and the power is in the hands of "Bahnoi" (sister's husband). We have just been raising hands. We have not done anything but have stopped you from doing a wrong thing at a time when the people had to face lathi-charge and there was a large-scale agitation. So many things happened but I want to say this much that we have no quarrel with you. You tell Farooq Sahib that he should adopt the right course; he should talk with credibility and show his credibility. *(Interruptions)*

SHRI V. TULSIRAM (Nagarkurnool) : On the one hand you want that the Minister

should reply without a discussion on this Bill and on the other you have started a discussion over it ... (Interruptions)

SHRI G. L. DOGRA : Why are you bothered about this ... (Interruptions)

SHRI V. TULSIRAM : If you raise some points, then something will be said from this side also ... (Interruptions)

SHRI G. L. DOGRA : I just want to say that here the question is one of credibility, you are unnecessarily getting panicky. You just tell Farooq Sahib that he should prove his credibility and he should implement his decisions firmly. Then there will be no problem (Interruptions) then we shall have no objection.

[English]

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN) : Mr. Deputy-Speaker, Sir, three or four points have been raised by the Hon. Members. The first point was why it did not occur to Government that this amendment was necessary when the initial Bill on Defection was introduced in this House. It is a fact that we were under the impression that having passed the Bill, it would become applicable to the Union Territories Legislatures also, but later on it was brought to our notice that unless the Union Territories Act is amended, automatically it will not be applicable and that is why this amending Bill has been brought forward.

The second point which the hon. Member Shri Reddy made was whether this would require the same kind of procedure as is laid down in Article 368. I will draw his attention to Article 239A, clause (2), of the Constitution, which clearly lays down :

“Any such law as is referred to in clause (1) shall not be deemed to be an amendment of this Constitution for the purposes of Article 368, notwithstanding that it contains any provision which amends or has the effect of amending this Constitution.”

It is very clear in this Article. I do not think, the kind of procedure which normally is required under Article 368 will be invoked in this case.

The third point that was made was about making applicable the provisions of Anti-Defection measure to Jammu and Kashmir. I am very happy that my hon. friend has raised this point here. Article 370 gives some special status to Jammu and Kashmir. It should not be a matter of convenience; on this particular issue, you want this measure to be made applicable to Jammu and Kashmir, while in the case of other legislation you would like to keep the right with you. If you are really interested in extending all the provisions of the measures passed by the Parliament to Jammu and Kashmir State, by all means, you are welcome to move such a kind of measure and I am prepared to support it. But you cannot pick and choose that which is convenient to you and which you would like to be extended to Jammu and Kashmir. My hon. friend has already replied to this point fully and I do not want to add anything more to that.

About the last point which the hon. Member has raised, he is very right, but legislation will have to be undertaken by the respective State Governments. I do not think it will be proper on the part of the Central Government to give any directive to them. Informally, we can discuss with them, but that is a different matter, but giving directive for local bodies will not be a correct proposition and I do not propose to accept that.

[Translation]

SHRI C. JANGA REDDY : Article 370 can be abrogated without their consent. What is the difficulty in doing so ?

SHRI S.B. CHAVAN : We cannot do it without their consent, our hands are tied. (Interruptions) .. It has clearly been mentioned in Article 370 of our Constitution. If you go through it, you will understand everything.

SHRI C. JANGA REDDY : You can abrogate Article 370 without their consent.

SHRI S.B. CHAVAN : We cannot do it without their consent.

SHRI C. JANGA REDDY : What is the problem ?

SHRI S.B. CHAVAN : Article 370 relates to them, please go through it, you will understand. It confers a special status on Jammu and Kashmir.

[English]

SHRI S.M. BHATTAM : How and when has the Minister discovered that the legislation passed previously has no application for Union Territories ? When did this revelation come ?

MR. DEPUTY SPEAKER : The question is :

“That the Bill further to amend the Government of Union Territories Act, 1963, be taken into consideration”

The motion was adopted.

MR. DEPUTY SPEAKER : The House will now take up clause-by-clause consideration of the Bill.

The question is :

“That Clauses 2 and 3 stand part of the Bill.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

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

SHRI S.B. CHAVAN : I beg to move :

“That the Bill be passed”.

MR. DEPUTY SPEAKER : The question is :

“That the Bill be passed.”

The motion was adopted.

MR. DEPUTY SPEAKER : The House stands adjourned to reassemble at 11.00 AM. tomorrow.

18.02. hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Wednesday March 27, 1985/
Chaitra 6, 1907 (Saka)*