

[Translation]

PROF. PREM DHUMAL (Hamirpur): Mr. Speaker, Sir, it was decided in the House in the afternoon today that this House would be adjourned *sine die* and as a result of the decision some hon. Members of our party have already left. Thus, it is my submission to pass whatever is required to be passed and then adjourn the House *sine die* today only.

MR. CHAIRMAN: Let us first complete the business today. Already some Members have left.

THE MINISTER OF STATE OF THE MINISTRY OF STEEL (SHRI SONTOSH MOHAN DEV): Unanimously it was decided and many of the Members might have left. Now we cannot reverse it.

MR. CHAIRMAN: Shri Bhogendra Jha, I understand the spirit of your suggestion. But we cannot revise the decision now. Some Members might have left already. We had already taken a decision. Now let us all cooperate and finish these items quickly.

19.26 hrs.

STATUTORY RESOLUTION RE:
DISAPPROVAL OF THE NEW
DELHI MUNICIPAL COUNCIL
ORDINANCE

AND

NEW DELHI MUNICIPAL COUNCIL
BILL

[English]

MR. CHAIRMAN: We will now take up Item Nos. 16 and 17 together.

Shri Santosh Kumar Gangwar

[Translation]

SHRI SANTOSH KUMAR GANGWAR (Bareilly): Mr. Chairman, Sir, I beg to move:

"That this House disapproves of the New Delhi Municipal Council Ordinance, 1994 (No. 8 of 1994) promulgated by the President on May 25, 1994."

Sir, in this reference, it was told earlier also that the manner in which the Government has promulgated this Ordinance is certainly not justified and that too in a democratic set up, although I felt that the hon. Minister has displayed his utmost generosity. during the discussion on the previous Bill. I would not like to go into details as our hon. Members from Delhi will express their opinions in this regard, yet I would like to mention that its first line i.e.

"The provision of the Constitution (Seventy-fourth) Amendment, 1992" were enforced from 1.6.1993 and it was required there in that law governing the municipalities should be brought in conformity with the provision of the part IXA of the Constitution and the elected representative were expected not to be elected through democratic procedure. Below it one thing more has been added here:

"and should confer on the Central Government adequate powers to supervise and have control over the NDMC."

But it is a matter of great regret that no Member of the Committee is elected,

[Shri Santosh Kumar Gangwar]

one and all are nominated. The Chairperson is a Government official and three legislators, Five Officers and the M.P. of that area have been nominated as members of this body and there is a suggestion to nominate two more persons also. None of these members is elected. Now I am unable to comprehend the whole process. It seems that the Government wants to take over the municipality. If it is so, then the issue of the Constitution (Seventy Fourth) Amendment should not be raised here. I want to submit only this much that the hon. Minister of Home Affairs should consider it. The Constitution Amendment Bill makes provision for initiation of a democratic process and delegation of power to the elected representatives who will run the administration. But what is happening here is quite contrary. We are acting against its aims and objects, I, therefore, request the hon. Minister of Home Affairs to think in this regard and consider whatever proposal are put forth by the present hon. Members of Delhi here and amend the Constitution accordingly. If this committee does not comprise of the elected representatives, it is certain that people will raise accusing finger on the Government that it does not want to have democracy in true sense. I, therefore, submit that this resolution in regard to disapproval be considered and bring about necessary amendments. It will certainly be a proper step in right direction.

[English]

MR. CHAIRMAN: Now the Minister of Home Affairs may move the Bill.

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

"That the Bill to provide for the establishment of the New Delhi Municipal Council and for matters connected thereto or incidental thereto, be taken into consideration."

The New Delhi Municipal Committee is governed by the Punjab Municipal Act, 1911 which has become an archaic piece of legislation.

The Committee on the "Reorganisation of Delhi Set-up" in its report recommended, inter alia, that "it is high time that the archaic Punjab Municipal act, 1911 as applied to NDMC is replaced by appropriate provisions in a law of Parliament for the organisation and functioning of the NDMC" and that "having regard to the importance of New Delhi area, where most of important institutions of Union Government located, the NDMC should continue to receive special treatment and the law of Parliament containing provisions for the organisation and functioning of the Municipal bodies for Delhi should make certain special provisions in this regard and should confer on the Central Government adequate powers with supervisions and control over the NDMC". The Committee further observed that there is some lack of clarity regarding the provisions of the Punjab Municipal Act, 1911, as applied to NDMC area at any point of time, since the parent Act had been amended a number of times in the Punjab. Need for a new law governing NDMC also arises from the fact that there are major differences between various functional regimes prescribed under the

Punjab Municipal Act, 1911 in comparison to those prevailing under the Delhi Municipal Act, 1957. It was generally recognised that there was need for a greater measure of commonality in the procedures adopted by the Municipal Corporation of Delhi and the NDMC in matters relating to taxation, revenue, budget, contract, accounts and audits, streets and sanitation, public health, public safety and suppression of nuisances, etc.

2. The NDMC area has the following special characteristics calling for special treatment:—

- (1) NDMC has historically come to be regarded as the seat of Central authority in the Union of India. It is the location of important buildings like Rashtrapati Bhawan, Parliament House, Supreme Court, North and South Blocks and other buildings of various international institutions, Diplomatic Missions and several Government residential colonies.
- (2) The Government of India own almost the entire land and about 80 per cent of the buildings in the NDMC area.
- (3) The private ownership of the property in this area is marginal.
- (4) Efficient functioning of the Municipal Services in this area is critical for the international image of the Country and is a factor which has an important bearing on the functioning of the Government apparatus itself.

- (5) Historically, this area has enjoyed a system of local Government very different from other parts of the National Capital Territory.

3. On account of these characteristics, it is quite evident that any scheme for the governance of this area based on conventional pattern of representative local self-Government would be unworkable and out of place because the preeminent character of this area is that it is the seat of Central Government.

4. Part IX-A has been added to the Constitution by the Constitution (Seventy-fourth Amendment) Act, 1992 with effect from 1.6.93. With the insertion of Part IX-A, Municipalities in States/Union Territories are to be constituted in terms of provisions of Part IX-A. The provision of the Delhi Municipal Corporation Act, 1957 have already been brought in conformity with the provisions of part IX-A in August, 1993. Article 243ZB provides that the provisions of IX-A shall apply to the Union Territories. It also provides that the President, by public notification, direct that the provisions of this part shall apply to any Union Territory or part thereof subject to such exceptions and modifications as he may specify in the notification. On the question whether any part of the Union Territory can be exempted from the application of the provisions of part IX-A of the Constitution, the opinion of the Attorney General of India was sought. The Attorney General has opined that it is constitutionally and legally feasible to modify the provisions relating to Municipalities included in the Constitution in respect of NDMC. It is, therefore, proposed that application of the provisions of part IX-A of the Constitution in respect of the following articles may be

[Shri S.B. Chavan]

modified as discussed against each article :—

- (1) With regard to Article 243R on Composition of Municipalities, it is proposed that the provisions of this article may be modified under article 243ZB to provide that the NDMC may have a Chairperson appointed by the Central Government in consultation with the Chief Minister, Delhi, who should be a serving Officer of the Government of India or Delhi Administration not below the rank of Joint Secretary to the Government of India and five members (with voting right) to be nominated by the Central Government, two members to be nominated in consultation with the Chief Minister, Delhi, from amongst the Lawyers, Doctors, chartered Accountants, Engineers, Business and Finance Consultants, etc. three MLAs of Delhi Legislative Assembly whose constituencies fall wholly or partly within the area of NDMC. The Member of Parliament from New Delhi area to be the special invitee without voting right and out of eleven members, there shall be at least three women members and one member belonging to Scheduled Castes. The Vice-Chairperson will be nominated by the Central Government in consultation with the Chief Minister, Delhi.
- (2) With regard to article 243W on functions, the functions of NDMC are proposed to be the same as those in respect of MCD. In addition the NDMC continue to receive water and electricity in bulk and be responsible for their distribution.
- (3) With regard to article 243Y regarding Finance Commission, it is proposed that the Finance Commission constituted under the Delhi Municipal Corporation Act, 1957 may also be responsible for the functions assigned to them in respect of NDMC.
- (4) As regards control, the Central Government may be empowered to issue directions to NDMC regarding the efficient delivery of services to the public and generally in regard Municipal Administration. Failure to comply with such directions may be a ground for its dissolution, after observing necessary procedure.
- (5) In all other matters there may be uniformity as far as possible, between the NDMC and the MCD.
- (6) *Setting-up of Committees:* The NDMC may constitute a Committee or committees under the Chairmanship of the Chairperson of the Council to advise it on any matter which the Council may refer or for discharging any power or any function of the Council or for exercising power which the Council may, by resolution, delegate.

5. The New Delhi Municipal Council Ordinance, 1994 was promulgated by the President on 25th May, 1994. The present Bill is to replace the said Ordinance.

Sir, I am sure that this Bill will be welcomed by all sections of this House. I commend this Bill for the consideration of this august House.

MR. CHAIRMAN: Motions moved:

"That this House disapproves of the New Delhi Municipal Council Ordinance, 1994 (No. 8 of 1994) promulgated by the President on May 25, 1994."

"That the Bill to provide for the establishment of the New Delhi Municipal Council and for matters connected therewith or incidental thereto, be taken into consideration."

The time allotted for this discussion is one hour. There are only five speakers so far who have given their names. Please confine to the provisions of the Bill and finish your speech within five minutes.

Now, Shri Kalka Das.

[Translation]

SHRI KALKA DAS (Karol Bagh): Mr. Chariman, Sir, the residents of Delhi and the New Delhi Municipal areas have been hoping for long that elected representatives will be included in the New Delhi Municipal Committee and solve the problems of the area. Such promises were made in the election. My

hon. colleague Shri Rajesh Khanna is sitting here. In course of his election, the Congress had promised that the Government will provide an elected body in New Delhi after it is voted to power. But the idiom holds good here "much ado about nothing."

When the New Delhi Municipal Council Act was submitted, we came to know that it will comprise of 11 nominated members only and there will be no elected member in it. If no elected member is included in a democratic set up a doubt prevails here whether it is democratic or not. The Government at Centre pledges that there is democratic set up all over the country. But it is very embarrassing to the people of Delhi & New Delhi that there is no elected member in the regional body.

As the hon. Minister of Home Affairs stated now that the people will welcome such process. But I would like to submit that if such process is enforced, the people will not spare the Government I am confident that the Congress then will never win any seat. They had promised the people of Delhi that if they are voted to power, they will introduce an elected body and provide exemption of income-tax limit up to Rs. 60,000. But nothing has happened so far, the people are regretting now and they will seek explanation at the proper time. The Representatives of people are responsible to the people and they can be asked to explain in this regard.

[English]

SHRI RAJESH KHANNA (New Delhi) : Mr. Chairman, Sir, I would like to interrupt here. I did not want to interrupt earlier but what the hon. Member is

[Shri Rajesh Khanna]

saying is relegation. I never made this promise that there will be an elected body in the NDMC. I am sorry to say that. That is my humble submission. I wanted to put the records straight.

[*Translation*]

SHRI KALKA DAS: So far as I have the information, he had made the promise that whenever he addresses the public, and it has appeared in newspaper also.

[*English*]

MR. CHAIRMAN: When the hon. Member himself is denying that, you have to accept it.

[*Translation*]

SHRI KALKA DAS: All right. Election is held even for a lower level body like panchayat and its members are elected. But here all of its 11 Members are nominated. It is embarrassing. Every political party has promised the people of Delhi that there will be an elected body in the NDMC which will solve the problems of people here. But a totally new structure has been provided here. In the past, also, its administrator used to be a serving officer of the Government of India and even today its chairperson will be a serving officer of the Government of India. Then what is the difference now. There is no change in true sense; the change has been made just to deceive the people. Now all the Members will be nominated by the Central Government of India. But who will be the elected representative of people there to entertain the grievances of the people? It is not only our opinion but it is also the opinion expressed by all political parties. There had been a

Sarkaria Committee and a Bal Kishan Committee who had studied it elaborately and concluded that half of the Members of the NDMC should be elected representatives and the other half should be nominated members.

While going through this Bill we find that the recommendation of the Sarkaria Commission which took two years to submit its report have not been adopted. That is why this body does not comprise of a single elected member. I would like to point out here that it was not only the suggestions of the Balkrishan Committee, but our Constitution has also directed to have a democratic system in the country.

In a democratic system, elections should be held but here there are no elected representatives. The main feature of the democracy is that elected representatives are accountable to the people. They formulate policies because the people have direct access to them and they are well acquainted to the difficulties of the people. Every man can see them and they know the difficulties of the people. Therefore, elected representatives formulate policies and the officials execute them but, here it is found the opposite. Here Government official will be the Chairman and the remaining Members will be nominated from three Legislative Assemblies. Members will be selected from amongst Government officials. The Central Government will select five Members in which three Members will be lady Members. No election will be held for them. Just now it has been mentioned that it would consist of a lady member belonging to the Scheduled Castes. There is no reserved constituency earmarked in the area of NDMC. If elected representatives would have been sent to Legislative Assemblies they would have

looked after the problems of the people belonging to the Scheduled Castes and Scheduled Tribes. A large number of people belonging to the Scheduled Castes reside in New Delhi. There are several colonies and clusters of these people. Only one lady will be nominated who will not be accountable to them. The Central Government is accountable to them. Who will resolve the problems of the people when there is no accountability. The people can approach the Members of three Legislative Assemblies for seeking redressal of their problems but there is no reserved constituency. When there is no reserved constituency earmarked then how their problems will be resolved. Therefore, I request you to reconsider the Bill which has been brought forward by you. It seems that the Minister of Home Affairs has brought this Bill in hurry. I think that he has not kept in mind the democratic system. I understand that he was under the false impression that everything would be acceded to which is brought by him. Therefore, I would like to warn the Government that if this Bill is passed, a big movement will be launched against the Central Government in New Delhi. We were given an assurance that elections would be held.

I would like to request that the Minister of Home Affairs should reconsider it. If he wants to take more time, he may take time. The Sarkaria Committee has stressed that there must be elected representatives. When a village Panchayat can have the elected members then why there is no provision of elected representation in the New Delhi Municipal Committee and how it is that the Presiding Officer is also among the Government officials. To whom the people will approach about their problems and as to how their problems will be resolved. The hon. Minister has not paid

any attention to it. I request that he should reconsider it and amend it properly. I totally oppose the Bill in the present form. I would like to request that at least more than 50 per cent members should be elected members, as has been done in the case of Chandigarh. The Presiding Officer should be an elected member because only elected representatives will be accountable to the people and then only the problems of the people could be solved.

I totally oppose this Bill and request the hon. Minister to reconsider it. We had dreamt that after independence we will have a democratic system but the way in which democracy is being suppressed in New Delhi is a matter of great concern and the Government should pay attention towards it.

SHRI RAM KRIPAL YADAV (Patna): Mr. Chairman, Sir, we are discussing the NDMC Bill. The intention of the Government has been to promulgate an ordinance before bringing forward a Bill in the House. In this way, the powers of the Members are being encroached upon by the Government. Our hon. Members have always been opposed to the promulgation of Ordinance. Though assurances are given time and again to rectify the practice, the Government has been snatching away our rights by way of promulgating an ordinance. This Government has totally become a Government of Ordinance.

Sir, today an hon. Member has explained as to how the Government is encroaching upon our rights which have been given to us in the democratic form of Government. The Government is handling over all the powers in the hands of bureaucrats through this NDMC Bill in New Delhi.

[Shri Ram Kripal Yadav]

Mr. Chairman, Sir, I have been a councillor of Patna Municipal Corporation for about 8-9 years. I have observed that the Municipal Corporation can work very efficiently because its elected Members look after even the small problems of the people. When there is no Municipal Corporation, the powers are enjoyed by the Administrator. This has been my experience that is the absence of Municipal Corporation the people of that city have to face several difficulties. We have observed closely that there is a pitiable condition of the people in the city where there are no elected Members. The voice of the people is not heard though they try to approach the Administrator also. In the same manner, the entire responsibility and powers are being handed over to an Official through this NDMC Bill. It will simply be an eye wash than the age a has elected. MLAs because they will remain simply as Members in the Assembly. The Government should hold elections to the NDMC and try to redress the problems of the people at large. But it has not been done. The reason behind it, as I know, is that the situation is not conducive to hold the elections since the problem of law and order prevails. This is a sensitive area also. Therefore, the elections cannot be held here. With the result, the elections have been postponed for 2-3 years and the Government has constituted this Council. In this way, the entire responsibility has been handed over only in the hands of bureaucrats.

Mr. Chairman, Sir, I submit that this N.D.M.C. Bill should definitely be amended and elected representatives should be given more responsibility which is not given in this Bill. The hon. Member has also pointed out in this regard.

In this connection, I suggest if the Government wants to solve the problems

of the people of Delhi in the right perspective, it should empower the elected Members of the Council. The Chief Administrative Officer should be made Secretary, N.D.M.C. in the capacity of an ex-officio Member. He should not be given the post of Chairman. Under the leadership of the area M.P., 60 per cent decisive power should remain in the hands of the nominated M.P. and M.L.A.s. This provision has not been kept in the present Bill. Besides, if members are not elected from amongst women and Dalits, requisite number of people belonging to these categories must be nominated. The four representatives as M.P. and M.L.A.s elected from New Delhi constituency must be given 51 per cent decisive power and the candidates who stood second and third in the elections should be made Members of the Council. Apart from it, if representatives belonging to women and Dalits are not elected, their maximum number should be nominated in the Council. The Chief Executive Officer, New Delhi Municipal Council should be made Secretary. If we follow these suggestions this Council can be made effective and Government would be able to provide relief to the people through this Council. Otherwise the power will be shifted in the hands of nominated officials.

Therefore, Mr. Chairman, Sir, through you, I would like to request the hon. Minister to amend the Bill keeping in mind the sentiments of the people of Delhi and elected Members should be empowered so that the problems of Delhites could be resolved.

[English]

SHRI HANNAN MOLLAH (Uluberia): Mr. Chairman, the hon. Minister on several occasions pleaded for the necessity of promulgation of Ordinances. But that is not a convincing

argument because they always take the plea that the time is limited and that the days are numbered and, therefore, the Ordinance has to be promulgated. They know the last date of passing a particular Act and the time within which they have to pass the law. They sleep over the matter and at the end, they will promulgate Ordinances saying that there is no time. This is a very bad argument and it shows the intention of the Government. Are we administering through the Ordinances? Anyway, the Bill at least has been introduced and now it is under discussion. As the earlier Member has pointed out, the spirit of the recommendations of the Sarkaria Commission and Balakrishnan Commission have not been honoured properly in this Bill and our major objection to this Bill is the constitution of this NDMC. Earlier also, the bureaucratic body was functioning and we know it was the den of corruption and common people ran from pillar to post for the redressal of their grievances. Most of the time, Members of Parliament and other representatives of the people had to intervene to solve most of the problems of the people.

20.00 hrs.

But, in this Bill, the hon. Home Minister is supplying the same old wine in the new bottle. As far as the constitution of the NDMC is concerned, all the members will be nominated members. Out of that, six will be bureaucrats. Out of the six bureaucrats, one will be the Chairperson. If the Vice-Chairman is one among the MLAs, it will be just undignified. The MLA may not be elected as a member of the NDMC. Otherwise, he represents the people. He is just the people's representative. He will work as

Vice-Chairman under the Chairmanship of a bureaucrat. I feel it is undignified. It is against the democratic spirit. It is just a dishonour done to that person who has already been elected by the people. Therefore, I would like to draw the attention of the hon. Minister of this flaw. The Member of Parliament will be the 12th member of NDMC like the 12th man in a Cricket team. He does not know whether he will get a chance. He does not know what role he will play. He will be a decorative piece. My friend Shri Kalka Das might have seen the film in which you promised to the people so many things and he got confused about it. In so many films you gave promises to the people saying that you would do this and that. But in the film you need not do it. Anyway, these are the problems. Coming to the point about the constitution of the NDMC, the elected Members should be there. Without that, there cannot be any democracy. Earlier also, the other Members pleaded to consider this aspect. I do not know if he has other considerations for the time being or if it is done in a hurry. But still we plead that the majority of the members should be elected. The Chairperson and the Vice-Chairman also should be from the elected members. Without that, it will be of no use.

Sir, we know the problem of Delhi. People from all over the country are coming here. Their interests, their culture and their difficulties are there. In spite of these this, people are coming from various parts of the country. So, the NDMC will have a special role to maintain the harmony among the various people coming from various provinces. Their interests should be protected. There is no doubt about that. If we want to honour democracy, then election should be held in this NDMC area and elected members should be there.

[Shri Hannan Molliah]

Secondly, the NDMC has a lot of problems. We have seen earlier also. You know the state of affairs of many things. The NDMC has already been functioning. We do not know whether there will be a miraculous change when the same type of bureaucratic body will come into being and run the affairs. We do not know how corruption will be reduced. We do not know what treatment the people would get. There are so many posh areas. Some rich people are staying here. In some parts, the Government employees are staying there. How do you compare these two places? Definitely, Discrimination will be there. There are places where Government employees and other lower income group people are residing. Definitely, there is discrimination in respect of hospitals, health centres, roads etc. These bureaucrats will do it because they have no sympathy for the common people. If there are the representatives of the people, they have something to do for those common people. Only they will be able to do justice to the people in solving the problems of the common people. There is not much time to discuss the other aspects. I would, therefore, request that the constitution of the NDMC must be reconsidered. The argument that the hon. Minister placed before us is not at all convincing. It is only an attempt to hand over this body to the bureaucrats. That will not serve the purpose.

With these words, I conclude.

SHRI B.L. SHARMA PREM (East Delhi): Sir, the proposed Bill is against the spirit of the Constitution itself. The underlying principle of the Constitution (Seventy-fourth Amendment) Bill is that local bodies will be administered by

elected representatives. A departure has been made in the case of NDMC. The entire body is nominated though three members of the Legislative Assembly of Delhi, representing constituencies which comprise the New Delhi area have been included.

Certain provisions in the New Delhi Municipal Council Bill are at variance with the provisions of the New Delhi Municipal Council Ordinance, 1994. The Ordinance provides:

(i) Section 9(3):

Each committee constituted under this section shall elect one of its members as the chairperson thereof.

(ii) Sub-section 3 of Section 13:

The Central Government shall remove the Chairperson from office if at a special meeting of the Council called for the purpose a resolution for such removal has been passed by a majority of not less than three-fifths of the total number of members.

(iii) Section 24 (1):

The quorum necessary for the transaction of business at a meeting of the Council shall be one-fifth of the total number of members.

In the Bill introduced in the Lok Sabha, the above provisions have been changed:

- (i) The Bill provides that each committee constituted by the

NDMC shall be prescribed over by the Chairperson of the Council.

- (ii) The provision relating to the removal of Chairperson from office through a resolution passed by a majority of the three-fifths of the total members of the Council has been deleted.
- (iii) As regards the quorum, the Bill provides that rules shall be framed separately.

These changes give unfettered powers to the Chairperson of the Council, that is, the Administrator, NDMC. The entire control over the Chairperson vests with the Central Government. The local Government has not much say. The Bill should be amended to give effect to the control of local Government. The Chairperson need not be only a civil servant. He should not be a bureaucrat because bureaucrats do not understand the miseries of the poor. It could be an elected representative. The Committee to be constituted by the Council should be headed by peoples' representatives. The provision for removal of Chairperson through a resolution by three-fifths of the members of the Council as provided in the Ordinance should be retained. In other words, the Chairperson should be accountable for his actions to the Council. Only if there are adequate restraints on the Chairperson, his accountability can be ensured.

In conclusion, I would request the hon. Minister to re-consider it that there should be hundred per cent elected persons from New Delhi.

[Translation]

BHRI TEJ NARAYAN SINGH

Mr. Chairman, Sir, I oppose the

way this Bill has been brought. Municipal Council must be there in Delhi but its proposed structure is contrary to the very objectives of the Bill. Even after 46 years of independence, the elected representatives of the people do not find a place in the Municipal Council. It will not be democratic, if only the Government employees hold the chair. I think that if the elected representatives of the people hold the chair, the people will have much faith on it but God knows why the Government does not rely on the elected representatives. Had the Government faith on them, it would not have made a Government officer the Chairman. One thing is clear in it that the Government makes a reference to the Mandal Commission and claims to give more and more facilities to the Adivasis and the Harijans but one can see that, there is no mention in it of the 27 per cent reservation, which is given throughout the country as per the report of the Mandal Commission. Besides, the Government does not intend to give 22¹/₂ per cent reservation to the Harijans and Adivasis. Had the Government intended so, it would not have asked inclusion of or only one person from these communities. Therefore, I urge upon the Government through you that if the Government intends to implement the Mandal Commission Report and if it wants to give 22¹/₂ per cent reservation to the Adivasis and Harijans, which they could not get even after 46 years of independence, then it should fill up the posts, as per provisions made in the Bill. If the Government does not want to include the elected representatives of the people, then the members to be included in it should be given the reservation facility.

Many things have been said by the Government regarding it. I think that it should have been brought in a much

[Shri Tej Narayan Singh]

broader way. It is not going to do anything for the people of Delhi. Delhi is not only for those, who are born at Delhi. Delhi is the capital of the country and people of all the States come to live here. They also want the facilities like, water, houses and good roads. Therefore, the scope of the Government should be enlarged. Therefore, I urge upon the Government through you, to give this Bill a second thought and being a comprehensive Bill so that the people of Delhi and the outsiders can be given protection and Delhi could make more and more development. I think that the people of Delhi had aspired that they would have more and more facilities by setting up of the Municipal Council but this Bill would prove the saying, much ado about nothing', valid. It is not going to serve any purpose. Therefore, I oppose this Bill and conclude my speech.

[English]

SHRI PAWAN KUMAR BANSAL (Chandigarh): Mr. Chairman, Sir, two major initiatives which the Government of India has taken recently about Delhi pertain to the setting up of an Assembly for the National Capital Territory of Delhi and provision of Municipal Corporation of Delhi in accordance with the provisions of Chapter IX A of the Constitution of India. Sir, those are the two major initiatives, as I said, which have met the aspirations of the people of Delhi. New Delhi, as we call it, is an area to which the hon. Home Minister alluded and which finds mention in Schedule I of the Bill and if we try to have a look at this area it comprises only three per cent of the total area of the National Capital Territory of Delhi and I suppose the population also is almost to the tune of three per cent only. And Sir, we all know that this area is the one

where you have all the offices of the Government of India.

We have the Rashtrapati Bhavan, we have the Parliament House and what is more we have the Diplomatic Missions. We all know that the land coming under the Diplomatic Missions is not within the jurisdiction of the country where those Diplomatic Missions are situated. That is the position that exists in the international law. Given that situation, I think the only course which could be chosen to govern this territory is the one over which the Central Government has the control. I, like anybody else who has spoken earlier, have firm belief that democratic principles have to be given primacy. But, given the situation that prevails in this area, with almost all the land owned by the Government of India, that is the Central Government, and over 80 per cent of the buildings being the property of the Government of India, if in that situation we were to have some sort of what you call the local self-government as we are setting up in almost all the cities of the country, a somewhat incongruous situation would develop. In that case a situation could be faced where members of that committee could say and I am sure such a situation would be definitely arise where these members would say that their writ does not run large over this area. To avoid such a situation, I suppose the best course is what the Government of India has chosen for this area. A Committee of 11 members has been postulated. To give respect to the wishes of the people who reside in this area, besides of course their right to choose the Member of Parliament and Members of the Legislative Assembly, it has been provided that the three Members of the legislative Assembly whose constituencies fell within the territorial bounds of the NDMC would be members of this Committee. I am sure they would very ably represent the viewpoint of the general public and ne

situation would arise where it would be felt that in view of the want of elected representatives this decision has not been taken or that this decision which has been taken is not in the best interest of the people. Such a situation, I am sure, would never arise. It is in these circumstances that such exceptions are called for. It is not that we are giving a bypass or we are just overlooking the democratic principles. I began with saying that maximum respect has been given to that in the case of Delhi.

Long back a question arose that since the Government of India is in Delhi, primarily for that reason the Assembly was not being considered for this area. The Congress Government, I would lay emphasis, has changed that view. We considered that since Delhi has developed over the years and the total population is about 90 lakhs or so, well an Assembly was called for. For this small area with three per cent of the people and three per cent of the area I suppose is the best situation particularly when care is taken to see that amongst those members there must be three women; that amongst those members there must be at least one Scheduled Caste person. Besides that on many things, regarding the framing of bylaws etc. it is subject to the approval of the Government of the National Capital Territory of Delhi. If a provision like that is made, you cannot just raise an allegation or an inference be drawn against the Central Government that the local people's will is not being considered.

I won't like to take any more time on this. I only want to make one submission that in view of the peculiar nature of this area comprising three per cent area of Delhi's I am again emphasizing, and not more than three lakh people, for this area understandably and rightly so there has to be full control of the Central Government.

That was the scheme of things which, I am sure, was even accepted by the hon. Chief Minister of the National Capital Territory of Delhi. I find, when I just had a cursory glance at the various provisions, there seems to be an inadvertent mistake in two provisions, that is, clauses 393 and 394 where in addition to the Central Government, the words 'or the Government' have been incorporated. I have moved an amendment to the effect that these words should be omitted. This is to harmonise what is the intent and what is the entire scope of this Bill. Subsequently also, if you see in clauses 395, 396, 397, etc., it is only the Central Government. The control has to be of the Central Government. On various other things, due primacy has been given to the local Government also. I have moved those amendments. I am sure, the hon. Minister would accept those because they would only harmonise the provisions of this Bill. With this, I support the Bill.

[Translation]

SHRI KALKA DAS: Mr. Chairman, Sir, my submission is that just now Shri Pawan Kumar Bansalji has asserted that it will have 3 Members of Legislature Assembly and one ex-officio Member of Parliament, so will it be Chaired by a Government officer?

[English]

SHRI S.B. CHAVAN: Mr. Chairman, understandably I can understand the position by some of the hon. Members knowing full well that this Government itself has given the Assembly for Delhi. The deputation which had come to me had come with the demand for a Metropolitan Council. If the Narasimha Rao Government did not have full faith in a democratic set-up, it would have given you some other pattern rather than giving

[Shri S.B. Chavan]

the Assembly, I am not sure whether the hon. Members are aware of the fact. Actually, most of the public representatives were very much opposed for giving the powers of Assembly for this National Capital of Delhi. But in spite of that, we did take the decision that we will have to give the Assembly for this area. Moreover, there seems to be some kind of misunderstanding. One hon. Member - he does not seem to be there - raised the point and gave an impression as if in the entire Delhi, there is not going to be any representative Municipal Council which, in fact, is not a fact. Actually, for more than 90 per cent of the area, there is going to be the Municipal Corporation of Delhi. It is going to be a fully elected body. It is only for the three per cent population that we are asking because of the special nature and special responsibility that we have to maintain certain standards.

All the diplomatic corps is located in this area. Most of the important buildings of the Government are located in this area. Rashtrapati Bhavan is also located in this area. Moreover, the international reputation of our country depends upon the kind of standards that we will be able to maintain for this area. That is why we would like to have a person who will be responsible.

PROF. PREM DHUMAL
(Hamirpur): Do you mean to say that the elected representatives have no standard and only the nominated members can have that standard.

MR. CHAIRMAN: That is not what he has said.

SHRI S.B. CHAVAN: I do not think that you are correctly putting words in my

mouth which I have not yet heard. That is your inference. Actually, I never meant that. The elected representatives have a definite role to play. But they can have their role in a particular area. A major part of it is under the control of the public representatives. So, you cannot possibly have any grievance as to why is it that this area has been excluded. It has taken considerable time for a kind of pattern that we should have for this New Delhi area. A large number of people had to be consulted. Public representatives also had to be consulted. Delhi representatives also had to be consulted. Ultimately, we came to this conclusion that it will be very risky if, by any chance, anything goes wrong, then, you cannot blame that this is the pattern which was adopted.

Now, we have a nominated Chairperson. He will be answerable to us. He will definitely be accountable for everything that he is doing. Moreover, we have got the power to give directions also. We can give directions to the Council that they have to maintain certain standards and implement certain schemes which, in fact, will give some special status to this area. Otherwise, there is no point if having a nominated body. So, you have to consider all the provisions in the context of the special pattern that we have adopted for the New Delhi area. That is why though the MCD Act has been literally taken over and incorporated in this Bill, I have no hesitation in admitting that there have been certain discrepancies which needed correction. That is why we have discovered this method, whereunder the removal of the Chairperson who is appointed by the Central Government is in the hands of the elected body. There is no election. All are nominated. But normally, the principle followed is that whosoever is the appointing authority has the power to

remove that person. If the Chairperson or the Deputy Chairperson appointed by the Central Government has to be removed by the Committee sitting there, then the very purpose will be defeated. That is why this amendment has to be brought in, though it is not there in the original Ordinance. I think hon. Members will be able to understand and appreciate the reason as to why this kind of an amendment has been brought in, which is slightly different from what was provided under the Act.

So also is the question of quorum. If the quorum is to be decided at one-fifth of the Members, which comes to a meagre number of eleven, it will look so ridiculous. That is why when rules are framed, the question as to how many members will form the quorum will also be decided. The question of quorum will be decided in such a way that both the nominated and the elected members will have the satisfaction that they have been able to put forth their point of view. That is the thing that we wanted to have.

These are the main points which have been raised. I don't think I need reply any other points which are not germane to the Bill under consideration. After these clarifications, I hope the apprehensions of the hon. Members will be removed and they will understand and appreciate the reason why this particular pattern has been adopted for New Delhi area. As they understand the various implications, I hope they will support the Bill.

[Translation]

SHRI SANTOSH KUMAR GANGWAR: Mr. Chairman, Sir, this disapproval proposal was not merely meant for opposing only. It seems to me that the hon. Home Minister did not have

full faith in the elected representatives. Although he has said in his speech that he had consulted all the parties on it yet I personally feel that he had not consulted even the hon. Member of this area, who belongs to his own party. Otherwise, he should have definitely spoken on it. It has been brought in such a way that even the position of the hon. Member has become a comic one. This proposal has not been brought just for opposing. As Shri Bansal ji has said that only 3 per cent people have remained which means that around 3 lakh people. They have been neglected. I would not like to make a reference to what goes on in New Delhi Municipal area due to the paucity of time. I think that the better sense will prevail on the Government and it will definitely feel that the common voter of the country has good views about the country and his contribution is full in saving the country. Keeping that in view, the Government will consider the case of the elected representatives.

I will not take much time but I would like to withdraw this proposal with this hope that the Government will bring the changes taking the Legislative Assembly and the hon. Members of Parliament from Delhi into confidence.

I seek the permission of the House to withdraw this resolution.

[English]

The Resolution was, by leave, withdrawn.

MR. CHAIRMAN: Now, I shall put the motion for consideration of the Bill to the vote of the House.

The question is:

"That the Bill to provide for the establishment of the New Delhi

[Mr. Chairman]

Municipal Council and for matters connected therewith or incidental thereto, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: We shall now take up Clause-by-Clause consideration of the Bill.

The question is:

"That clauses 2 to 392 stand part of the Bill."

The motion was adopted.

Clauses 2 to 392 were added to the Bill.

Clause 393 - Government to require Production of Documents

SHRI PAWAN KUMAR BANSAL: I beg to move:

Page 129, line 6,—

omit "or the Government" (1)

SHRI S.B. CHAVAN: I accept it.

MR. CHAIRMAN: The question is:

Page 129, line 6,—

omit "or the Government" (1)

The motion was adopted.

MR. CHAIRMAN: The question is:

"That Clause 393, as amended, stand part of the Bill."

The motion was adopted.

Clause 393, as amended, was added to the Bill.

Clause 394 — Inspection

SHRI PAWAN KUMAR BANSAL: I beg to move:

Page 129, line 13,—

omit "or the Government" (2)

SHRI S.B. CHAVAN: I accept it.

MR. CHAIRMAN: The question is:

Page 129, line 13,—

omit "or the Government" (2)

The motion was adopted.

MR. CHAIRMAN: The question is:

"That Clause 394, as amended, stand part of the Bill."

The motion was adopted.

Clause 394, as amended, was added to the Bill.

MR. CHAIRMAN: There are no amendments to Clauses 395 to 419. I shall now put Classes 395 to 415 to the vote of the House.

The question is:

"That Clauses 395 to 419 stand part of the Bill."

The motion was adopted.

Clauses 395 to 419 were added to the Bill.

MR. CHAIRMAN: The question is:

"That First to Tenth Schedules stand part of the Bill."

The motion was adopted.

First to Tenth Schedule were added to the Bill.

MR. CHAIRMAN: The question is:

"That Clause 1, the Enacting Formula and the long Title stand part of the Bill."

The motion was adopted.

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

MR. CHAIRMAN: The Minister may now move that the Bill, as amended, be passed.

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

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

MR. CHAIRMAN: The question is:

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

The motion was adopted.

20.35 hrs.

[English]

TRANSPLANTATION OF HUMAN ORGANS BILL - Contd.

As passed by Rajya Sabha, and as reported by the Select Committee

MR. CHAIRMAN: Now, we will go to Item No. 19. Further consideration of the

following motion moved by Shri Paban Singh Ghatowar on the 23rd December, 1993 namely:

"That the Bill to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs and for matters connected therewith or incidental thereto, as passed by Rajya Sabha and as reported by the Select Committee, be taken into consideration.."

We were discussing this Bill. The total time allotted was two hours. We have already taken half-an-hour. Now, the time left is only one hour and thirty minutes.

THE MINISTER OF WATER RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): We can pass it without any discussion.

MR. CHAIRMAN: Let us pass this Bill within half-an-hour's time.

[Translation]

DR. LAXMINARAYAN PANDEYA (Mandsaur): Mr. Chairman, Sir, there is no problem if the Government accepts the report of the Select Committee as such and then we have no objection in accepting it.

[English]

MR. CHAIRMAN: This is not the procedure.

DR. K.D. JESWANI (Kheda): The Report of the Select Committee is already